

Prior to giving outcome, I would reiterate the restrictions on reporting of this matter that no publication should identify the Officer or Person A, or should report information that would be capable of identifying the Officer or Person A.

In considering outcome, I have been advised to follow the formulation suggested by the College of Policing in cases of this type; that is, by

- assessing seriousness by considering culpability, harm, aggravating and mitigating features
- balancing the seriousness of the conduct against personal mitigation, remorse, and good character evidence.
- Where the circumstances permit, issuing the lowest sanction which satisfies the requirement to maintain public confidence

Bearing in mind at all times that the purpose of outcomes in misconduct proceedings is to protect the public, maintain high professional standards, and preserve public confidence

In considering these factors I have reviewed the custody video of the interaction. I have had regard to the officer's record of service.

Seriousness

Culpability:

The officer was solely responsible for the conduct. It is correct to say that Person A was rude, and had been rude to the Officer's colleagues. However, it is difficult to see how the comments that were made, as unpleasant as they were, amounted to a significant provocation. The comments were not directed at the Officer. This was not a flashpoint. There was not a sudden escalation. Person A had been shouting and making random rude comments throughout the period of detention. Immediately prior to the interaction, Person A is not shouting but is making random rude comments about the United Kingdom.

The Officer did not blurt out the comment about getting back on the boat. There were prior remarks. Whilst Person A was at the desk under the supervision of PS Bryan, just prior to the Officer intervening, the Officer appears to make comment to the effect of *'let's get this fucking man out of here'*. The Officer then stated *'had enough of listening to your drivel bullshit'*.

The Officer is an experienced custody sergeant. It would be ingrained into him from his professional experience when to engage with detainees who are behaving abusively. There was no need for the Officer to involve himself in the removal of Person A which would ordinarily be the role of the detention officer and GeoAmey. Immediately prior,

Person A was at the desk being dealt with by PS Bryan. He described himself as being frustrated, but it just appears that he lost patience with the situation. That does not appear to me to be a significant level of provocation.

The investigation report indicates that the matter was reported by a colleague within the detention centre. This indicates that it was apparent to others that these comments were not acceptable, and I commend the actions of the colleague in bringing this to light.

The level of culpability is therefore high.

Harm:

There is harm caused by the potential damage to public confidence. The public are rightly concerned that the Police carry out their duties with consent and fairness. The public would be dismayed that Police officers, especially those who are line managers, make discriminatory comments against the public, particularly detainees.

Accordingly, harm including potential harm, is therefore high.

Aggravating:

The main aggravating aspects relate to the officer's seniority within custody, which I have already raised as being relevant to culpability. I therefore take care not to double count.

Mitigating:

This was a short interaction. This does not significantly reduce the seriousness, however, given that I am required to treat all discriminatory conduct, particularly conscious discriminatory conduct, as being especially serious.

I balance that against the following considerations:

The officer has admitted the conduct, and has expressed remorse. The conduct was recorded and therefore was not realistically capable of significant dispute. I acknowledge the remorse that has been expressed.

I take account of the fact that the officer has referred to medical treatment that he has received previously, and that he had ceased medication some months before this incident. I balance that with the fact that he was at work and fit to work at that time.

The officer has provided extensive character testimony in this case which sets out in detail his previous good work and that he is evidently a well liked officer who is thought of as capable and fair in how he deals with other detainees. There is no previous evidence of him behaving in a similar fashion. I recognise that this was a one-off incident with no previous indicators of similar conduct.

The Police (Conduct) Regulations 2020 as amended state that where I have found gross misconduct, I may only issue an outcome other than dismissal in exceptional circumstances.

I am invited to consider that exceptional circumstances arise as a result of:

- (a) The one-off nature of the incident,
- (b) The challenging context and the abusive behaviour of Person A
- (c) The officer's medical situation at the time
- (d) The officer's character evidence
- (e) The officer's remorse, apology, and the fact that the comments were not motivated by prejudice.

I do not consider that the brevity of an instance of discriminatory conduct is a significant mitigating factor. It is the absence of a more serious aggravating factor.

Person A was abusive, and rude, but the video evidence does not show the Officer reacting to a threat or particular frustration. It appears that he lost patience and decided to intervene when there were a number of other officers present.

The officer had previously been receiving medical treatment but had ended that treatment and was at work. I have not been advised of any particular factors that had increased the effect of his condition.

I am mindful that character evidence, although strong, should have less weight attached to it where the conduct is likely to cause particular damage to public confidence.

I note that there is no previous evidence of discriminatory behaviour on the part of the officer. I can give him credit for his record of service but it does not seem to me that an absence of previous findings of misconduct would amount to an exceptional circumstance.

I note the officer's remorse and apology but these cannot amount to exceptional circumstances.

Accordingly, I do not find that exceptional circumstances exist. Therefore, the outcome is dismissal without notice.

The Officer's details will be added to the Police barred list. The Officer has the right of appeal against this decision by providing notice in writing to the Office of the PCC within ten working days of receiving this written decision.