



## **ACCELERATED MISCONDUCT HEARING**

### **NOTIFICATION of OUTCOME**

#### **Regulation 63**

|                                     |                                                   |
|-------------------------------------|---------------------------------------------------|
| <b>Hearing of a case concerning</b> | DCI 2006 Michael Cooper                           |
| <b>Date of Hearing</b>              | 29 August 2024                                    |
| <b>Name of Person conducting</b>    | Chief Constable Paul Gibson (Lincolnshire Police) |

#### **The Decisions of the Hearing**

| Number | Alleged Misconduct (taken from Reg 51)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 | Plea | Outcome |
|--------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---------|
| 1      | <p>Nature of alleged breach:</p> <p>Between June 2021 and 28<sup>th</sup> September 2021 your conduct breached the standards of professional behaviour in respect of your use of police vehicle AE65 FHU;</p> <p><b>1. FACTS</b></p> <p>1.1 At all material times you were a Chief Inspector within Derbyshire police, with direct line manager responsibilities over police officers and police staff.</p> <p>1.2 As a Chief Inspector within Derbyshire police, you were not only required to abide by the Standards of Professional Behaviour required of all police officers, you were also obliged to promote those Standards as a leader.</p> <p>1.3 In January 2021 you undertook a posting within the Serious Crime and Intelligence department with responsibility for overseeing the Serious Crime Unit (SCU), Dedicated Source Unit (DSU), Economic Crime unit (ECU), and Modern Slavery/Human Trafficking team (MSHT).</p> |      |         |

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |  |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|  | <p>1.4 At all material times</p> <p>1.4.1</p> <p>the use of Derbyshire Constabulary vehicles was subject to a restriction that <i>'vehicles operated on behalf of the force shall only be used for official authorised duties in execution of policing activities and business...the only exemption to this is where a vehicle is allocated as part of any employee's terms and conditions of employment, or in exceptional circumstances on individual occasions that may be linked to an operational deployment, residential business commitment outside the force area, or urgent welfare need agreed by a senior officer.'</i> In addition, <i>'under no circumstances should police vehicles be used to provide any unauthorised transport of passengers'.</i></p> <p>1.4.2</p> <p>You were in receipt of an allowance which was paid to you in recognition of the need for you to use your own vehicle and intended to compensate you for using your own vehicle and the need to maintain your vehicle to ensure it was suitable to be used in the course of your duty ('essential user allowance'). Accordingly, you should have been using your own vehicle for any work-related travel.</p> <p>1.5 The MSHT had the use of two unmarked police vehicles, one of which had the registration AE65 FHU.</p> <p>1.6 Your office base was split between Heage Road and Derbyshire Police HQ. You were entitled to work from home when not at those sites or otherwise required to attend a separate location in accordance with your duties.</p> <p>1.7 In June 2021 an incident room was set up within the MSHT office. Around that time you requested the use of a vehicle from DS Wright. DS Wright indicated that AE65 FHU was one the vehicles.</p> <p>1.8 Between June and 28<sup>th</sup> September 2021 you used AE65 FHU other than in accordance with official authorised duties</p> |  |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

|  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |  |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|
|  | <p>on up to eighteen occasions. On the following dates you had use of the vehicle but did not attend any Derbyshire Constabulary site:</p> <p>1.8.1 29<sup>th</sup> June 2021</p> <p>1.8.2 29<sup>th</sup> July 2021</p> <p>1.8.3 11<sup>th</sup> August 2021</p> <p>1.8.4 13<sup>th</sup> August 2021</p> <p>1.8.5 13<sup>th</sup> August 2021</p> <p>1.8.6 8<sup>th</sup> September 2021</p> <p>1.8.7 10<sup>th</sup> September 2021</p> <p>1.8.8 27<sup>th</sup> September 2021</p> <p>1.9 Further or alternatively, there was no good reason for you to have the use of AE65 FHU when you were in receipt of essential user allowance and your use of the vehicle was an unreasonable exploitation of a Force asset for your own benefit.</p> <p>1.10 Further or alternatively, you breached the policy at 1.4.1 by carrying unauthorised passengers in the police vehicle.</p> <p><b>2. PARTICULARS OF MISCONDUCT</b></p> <p>2.1 the conduct at paragraphs 1.6 to 1.9</p> <p>2.1.1 failed to comply with a reasonable instruction</p> <p>2.1.2 was dishonest and/or otherwise represented a lack of integrity</p> <p>2.1.3 was likely to undermine public confidence in the Police</p> <p><b>3. REASONS THAT THE CONDUCT AMOUNTS TO GROSS MISCONDUCT</b></p> <p>3.1 the conduct was seriously inappropriate</p> <p>3.2 the conduct was repeated</p> <p>3.3 the conduct involved a dishonest exploitation of Force assets for your own personal benefit and/or convenience</p> <p><b>4. STANDARDS OF PROFESSIONAL BEHAVIOUR</b></p> <p>4.1 Orders and Instructions</p> <p>4.2 Honesty and Integrity</p> <p>4.3 Discreditable Conduct</p> |  |  |
|--|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--|--|

The reasons for the decision as to finding:

### **Preliminary Matters**

I was informed before the hearing, following a meeting between Counsel representatives for the Appropriate Authority, the Officer and independent legal Counsel, that the officer would not be attending and had handed in their resignation. I have seen this document, signed by former DCI Cooper and accepted by DCC Simon Blatchly. The case therefore needs to be considered under the former officer regulations. In practical terms the procedure is the same, what differs are the outcomes available.

Counsel has confirmed that the former officer is aware of the hearing today and decided not to attend and I am satisfied in the circumstances to proceed in his absence.

In the regulation 54 response, an application was to be made that the hearing should be stayed in light of possible criminal proceedings, in the alternative it should be heard in private and that the former officer has had insufficient time to prepare evidence for his defence. Counsel for the former officer has confirmed that this application is no longer pursued, save for an application of anonymity in terms of publication of findings and any outcome. I will deal with this matter subsequently.

Additionally, it was indicated in discussions between Counsel that there were two other applications to be made:

- Firstly, that the Special Conditions for an Accelerated Misconduct Hearing (AMH) were not met, and the case should therefore be referred to the Part 4 process.
- Secondly, and in the alternative that the case be adjourned to be heard at a neutral venue as a reasonable adjustment, considering physical and mental health issues.

Counsel for the former officer has subsequently confirmed that neither of those submissions are now pursued.

I then heard the substantive hearing with representations from Counsel for both parties.

When considering this case, I have applied the following legal principles:

- The burden of proof, irrespective of any admissions by the former officer, is on the Appropriate Authority.
- Standard of proof is on the balance of probabilities.
- The Home Office Guidance and relevant case law remind me that I should be looking for cogent evidence in supporting of both finding and outcome.
- I have taken into account that the officer is previously of good character. This has been considered in light of the assessment of the propensity of the former officer to commit the misconduct alleged in addition to the individual's credibility.

I am also aware that there is a separate criminal investigation into the former officer, although I am unaware of the specific details. These criminal matters are separate and distinct from the misconduct matters. My deliberations regarding findings and outcome are restricted to the matters presented at the AMH and within the associated papers only.

### **Finding**

In determining the fact of the case, Counsel representing the former officer has confirmed that following his resignation, he admits the various uses of the vehicle other than in

accordance with the policy, including carrying passengers and the utilisation of fuel paid for by Derbyshire Constabulary, whilst receiving an essential user allowance for the use of his own car for employment purposes.

The former officer also admits the breach of the three standards cited and that they each amount to gross misconduct. It is still for the Appropriate Authority to prove the points to the relevant standard of proof concerned, despite the admissions, and for me to rule as to the facts of the case and make a ruling as to finding.

Considering the evidence as a whole, including that presented in the case, and the admissions by the former officer, I formally find that the Appropriate Authority has proven, on the balance of probabilities, that the circumstances amount to breaching the standards of:

1.1 Orders and Instructions

1.2 Honesty and Integrity

1.3 Discreditable Conduct

In considering these breaches of standards, I find that the circumstances alleged amount to gross misconduct on all three standards. The conduct is serious, protracted and exploited his position to use the vehicle for personal gain. If the public were aware of the full circumstances, it would cause an erosion of trust to public confidence and significant damage to the reputation of the police. This behaviour therefore warrants a potential outcome of dismissal and therefore represents gross misconduct.

The reasons for the decision as to outcome:

**Purpose of Police Misconduct Procedures:**

The purpose of the police misconduct regime is threefold:

1. To maintain public confidence in, and the reputation of, the police service.
2. To uphold high standards in policing and to deter misconduct.
3. To protect the public and maintain the high standards and good reputation of the policing profession and to ensure police officers are 'held accountable' so public confidence is not eroded.

I will now consider the staged approach to determine the outcome:

**Culpability:**

Culpability denotes the officer's blameworthiness or responsibility for their actions. The more culpable or blameworthy the behaviour in question, the more serious the misconduct and the more severe the likely outcome.

These were intentional acts that were deliberate and solely his responsibility.

The actions were an abuse of his position.

The acts were persistent in nature over a significant timeframe.

**Harm:**

I accept there is no physical harm in this case. However, the actions did represent an abuse and exploitation of scarce force resources.

The former officer was a senior member of the Constabulary and is therefore a role model. These facts, should they be known to members of the Constabulary, would create a significant erosion of trust in good leadership and appropriate standards in policing.

If the public were to be aware of the behaviours in this case, this would cause a similar erosion of public trust and confidence, which is an essential pillar for policing with the consent of the public we serve.

**Aggravating factors:**

These were intentional acts that were deliberate and solely his responsibility.

The actions were an abuse of his position and a significant deviation from the expected standards and the Code of Ethics.

The acts were persistent in nature over a significant timeframe.

There is no evidence of remorse.

The officer made no significant early admissions to his wrongdoing.

**Mitigating factors:**

I note the service record of the officer and he is previously of good character.

Although, as I have stated, this has been considered in relation to propensity and credibility, I find that the evidence presented undermines this. I consider that there are no mitigating factors of note.

**Outcome:**

**In considering the outcome, I have taken into account all of the above factors. I note that there are only two options open to me: no further action, or that the officer would have been dismissed had he not ceased to be a member of the police force.**

**The outcome is that former DCI Cooper would have been dismissed had he still been serving.**

**As such, it is necessary that the former officer is placed on the College of Policing's barred list as soon as practicable.**

In considering the application for anonymity in terms of the reporting this finding, I have read the documents submitted by the former officer's Counsel regarding medical issues to support this application. As I have been advised, the case law which gives guidance on the derogation from the principles of open justice state that this should be substantiated by clear and cogent evidence. Having read the documents concerned, I am not convinced that the evidence is clear or cogent and therefore I do not authorise the application for anonymity.

I have been advised that there is no right of appeal in light of the admission of gross misconduct by the former officer.

Signature of Chair



Chief Constable Paul Gibson (Lincolnshire Police)

Date **29 August 2024**

### **Notification of finding, outcome and right of appeal to a police appeals tribunal**

I confirm I have been notified of the decisions of the Accelerated Misconduct Hearing

I also confirm that I have been notified of my right of appeal to a Police Appeals Tribunal and have received a copy of Form PAT1

I am also aware that the above outcome (if applicable) may cause my vetting status to be reviewed.

Signed .....(Officer concerned)      Date:                      2024

Detective Chief Inspector 2006 Michael Cooper

### **Entitlement to a Police Appeals Tribunal**

Where there has been a finding of gross misconduct and disciplinary action has been imposed under Regulation 62 you have a right of appeal to a Police Appeals Tribunal

Your request must be made in writing to:

Police and Crime Commissioner Nicolle Ndiweni  
Derbyshire Constabulary HQ  
Butterley Hall  
Ripley  
Derbyshire  
DE5 3RS

before the end of **10** working days beginning with the first working day after you have been supplied with a written copy of the relevant decision.