

On 21-23 December 2020 Officer 'A' appeared at a misconduct hearing which was conducted by Legally Qualified Chair, Muzamil Khan.

The breach of the Standards of Professional Behaviour alleged was as follows:

- a) During the course of the investigation of Op Australia, Officer 'A' failed to include all of the CCTV footage provided by Financial Investigator Smith on disclosure schedules in compliance with the CPIA 1996, compromising the criminal investigation. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Duties and Responsibilities, & Discreditable Conduct
- b) During the course of the investigation of Op Australia, Officer 'A' failed to disclose three discs containing mobile phone data in compliance with the CPIA 1996, compromising the criminal investigation. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Duties and Responsibilities, & Discreditable Conduct
- c) On the 1 May 2019, Officer 'A' emailed Financial Investigator Smith asking her not to mention that the CCTV existed. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Honesty and Integrity, & Discreditable Conduct

It was found that the conduct amounted to gross misconduct and the following was imposed with effect from 23/12/2020 - **Dismissal without Notice**

Decision

The allegations

The allegations in this matter are set out in the Regulation 21 Notice, namely;

Officer 'A' joined Sussex Police as a Police Constable on the 3 April 2006. At the time the below allegations were made, Officer 'A' was serving as a Detective within the Brighton Community Investigations Team (CIT), where Officer 'A' had worked for 5 years. As a Detective Constable with 13 years' experience, Officer 'A' was aware of the Standards of Professional Behaviour that should be upheld by every officer.

In July 2017, Officer 'A' was allocated an investigation under the name of 'Op Australia', an investigation into the supply of methyl amphetamine hydrochloride (crystal meth), a Class A controlled substance, into the Brighton and Hove area between 31 December 2012 and 5 December 2017. The investigation involved seven suspects. During the course of the investigation, controlled drugs to the value of between £60,000 - £70,000 had been seized by Sussex Police.

As an investigating officer involved in this operation, Officer 'A' were responsible for collating and reviewing evidential material to prepare a case file to present to the Crown Prosecution Service. In April 2017, as well as being the Officer in the Case (OIC) for the investigation, Officer 'A' also took on the role of disclosure officer. As an

OIC and disclosure officer, Officer 'A' was obliged to comply with the Criminal Procedure and Investigations Act 1996 ('CPIA') throughout the investigation.

During the investigation, a Financial Investigator was appointed to undertake financial enquires, gather intelligence and conduct a money laundering investigation, running parallel to the criminal investigation. During the course of the investigation CCTV was obtain from a number of banks which were provided to Officer 'A' by the Financial Investigator.

The criminal trial for Op Australia commenced on the 23 April 2019. On the 1 May 2019, Officer 'A' emailed the Financial Investigator advising that Officer 'A' had not included the CCTV evidence within the disclosure schedules required under the CPIA and Officer 'A' had not reviewed the CCTV. Officer 'A' further asked the Financial Investigator not to mention that the CCTV existed before she was due to give evidence for the criminal trial. As a result of the failure to disclose the CCTV and Officer 'A's actions in inviting the Financial Investigator to conceal the existence of CCTV, the criminal trial was found to be tainted and an abuse of process, resulting in the prosecution being withdrawn.

It is alleged that Officer 'A' conduct has breached the Standards of Professional Behaviour and amounts to gross misconduct as follows:-

- a. During the course of the investigation of Operation Australia, Officer 'A' failed to include all of the CCTV footage provided by Financial Investigator Smith on disclosure schedules in compliance with the CPIA 1996, compromising the criminal investigation. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Duties and Responsibilities, & Discreditable Conduct
- b. During the course of the investigation of Operation Australia, Officer 'A' failed to disclose three discs containing mobile phone data in compliance with the CPIA 1996, compromising the criminal investigation. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Duties and Responsibilities, & Discreditable Conduct
- c. On the 1 May 2019, Officer 'A' emailed Financial Investigator Smith asking her not to mention that the CCTV existed. Such behaviour amounts to a breach of the following Standards of Professional Behaviour: Honesty and Integrity, & Discreditable Conduct

Burden and Standard of Proof

1. The burden of proof rests with the Appropriate Authority and the standard of proof is the civil standard, that is to say, on the balance of probabilities. The Panel applied this standard when considering the facts of the case.
2. The first task for the panel is to determine the issues in the complaint and determine whether the allegations are proved. If so, does the conduct complained of amount to misconduct or gross misconduct.
3. The Appropriate Authority state that the standards that apply in this matter are Duties and Responsibilities, Discreditable Conduct, Honesty and Integrity.

4. The Panel has had regard to The Police (Conduct) Regulations 2012 – the Standards of Professional Behaviour, Home Office Guidance and the Police Code of Ethics.

Background and context

5. The Officer has accepted that she did breach the standards of professional behaviour in respect of allegations a and b and that her behaviour amounts to misconduct only and not gross misconduct. She denies allegation c.
6. In May 2017, Officer 'A' was allocated to Operation Australia. She was unable to join the case until July 2017 due to other work commitments. The Financial Investigator had already been allocated to the investigation by the time Officer 'A' was allocated to Operation Australia.
7. The responsibility for disclosure was delegated to the Prosecution Case Worker (PCW). His primary role was to produce schedules of evidence which would be used at trials. He left the team in April 2017 and a Force decision was taken not to replace him.
8. The Officer said that as a result of the PCW leaving, the responsibilities of the disclosure officer passed to her. She said that she had some limited training on disclosure, but she learnt on the job. She said she had confidence in her role as disclosure officer.
9. Operation Australia which was a Sussex Police operation that targeted suppliers of class A drugs in Brighton and Hove. The operation concentrated on the supply of methylamphetamine hydrochloride (crystal meth). It was one of the first operations within Brighton and Hove. The conspiracy involved 6 defendants and was said to have taken place over a 5 year period, between 31.12.2012 to 5.12.2017. Police searches in 2017 revealed that the drugs had a street value of approximately £60,000 to £70,00.
10. The Organised Crime Investigation Team (OCIT) was tasked with tackling the supply of heroin and crack cocaine in Brighton in 2012 and then subsequently expanded its remit to tackling organised crime in Brighton and Hove often related to drug related crime but also other crimes such as theft. In 2016/2017, the name of the team changed to CIT.
11. Officer 'A' joined Sussex Police in 2006 and worked for the Organised Crime Investigation team (OCIT) in Brighton for about 5 years prior to Operation Australia trial in April 2019. Officer 'A' was the officer in charge (OIC) for preparing the case file, gathering evidence and presenting it for a charging decision.
12. Her first entry as OIC for Operation Australia was 27.7.2017. The investigation plan for Operation Australia was dated 13.7.2017.
13. DI Wakeford explained that Officer 'A' also took on the role of disclosure Officer 'A's well as OIC. The Panel was told that as OIC her role would be to gather evidence that was advantageous for the Prosecution. As disclosure officer she would have a different role which would be to review evidence that had to be disclosed to the Defence team. There is a tension between those two roles. Officer 'A' stated she understood that this was one of the first operations where the OIC was also responsible for disclosure. She stated she did not regard taking on both roles as being a problem. Officer 'A' stated that this was the first time she had carried out the

formal disclosure officer role and she understood that this was one of the first operations where the OIC was also the disclosure officer. She stated she did not regard both roles as being a problem. She stated that she had been OIC on 6 previous cases. It is the Panel's understanding that without a dedicated disclosure officer on those cases the responsibility for disclosure would fall to the OIC.

14. The material gathered for Operation Australia was described as "vast" and there were various complexities because the drug was new to Brighton CIT and little was known about its dangers. It is estimated that there were a "couple of thousand" documents which led to the CPS having to bid for junior Counsel to assist in the case.
15. Officer 'A' was working on other operations at the time when Operation Australia was in its early stages. Officer 'A' also worked on drug death investigations and assisted with other live operations throughout Operation Australia. She said she became more involved in Operation Australia close to the investigation stage.
16. On 6.12.2017, the gathering evidence phase ended and Officer 'A' started to prepare for the trial. She said she became very busy and had the work that previously would have been completed by the PCW to do as well as her 'own' work.
17. Officer 'A' highlighted difficulties with communicating with the CPS, namely when a request was made to have close liaison with a dedicated CPS reviewing officer, the request was turned down. The CPS responded by stating that this is not a case where they would hold such a meeting, even though the CPS did subsequently have to bid for a junior Counsel because of the amount of evidence.
18. Disruption was caused to the physical storing of evidence by moving evidence from within Brighton CIT to a lockable storage room. Officer 'A' was not present when that move occurred in September/October 2017.
19. Officer 'A' said she had a long period to put the case together for trial (December 2017 – April 2019). She went to the CPS when she said she was ready for trial and her focus was on being thorough. She felt she was on top of the work. She said she would have preferred help but did not ask for it as she felt capable and motivated to do it.
20. The Financial Investigator (FI) was tasked with obtaining the account monitoring orders (AMO's) for the suspect being investigated. That led to the bank CCTV being obtained and from that a money trail could be established. The evidence of the AMO's was said to link the drug dealing with the cash deposits made by the Defendants and was a central part of the prosecution of the Defendants.
21. The trial commenced on 23.4.2019 and was subsequently stayed on the grounds of abuse of process on 8.7.2019.

Allegation 1

22. The officer believes that she was only ever aware of 3 discs of bank CCTV. She believed that these all related to a third party who was not a defendant in the trial. She believed that the material would not meet the disclosure test.
23. The Officer 'A' accepts that she failed to include all of the CCTV footage provided by the FI on disclosure schedules in compliance with the CPIA 1996. She accepts that amounts to misconduct but not gross misconduct.

24. The Officer says she had no recollection of the bank CCTV that was subsequently discovered and was not aware of it. The Officer recalls seeing no entry in the Operational Log in relation to it, nor any exhibit reference, nor any reference on any other electronic system, nor any report made upon its contents.
25. The Panel is however satisfied that in the period leading up to the trial there was regular contact between the Officer, the FI and CPS lawyer about what evidence was relevant and what evidence needed to be disclosed to the Defence.
26. The National Disclosure Standards sets out what each schedule is to be used for.
27. The MG6C schedule is to be used in Crown Court cases, i.e. those cases which are indictable only, not suitable for summary trial or the defendant has elected trial in the Crown Court. All relevant non-sensitive unused material must be included on the MG6C.
28. The MG6D schedule should be used to reveal to the prosecutor the existence of relevant unused material which the officer believes is sensitive.
29. The MG6E is used to bring to the prosecutor's attention any material that could reasonably be considered capable of undermining the prosecution case or of assisting the case for the defence.
30. Officer 'A' and FI had responsibility for their own schedules of evidence. The numerous email exchanges show the Officer was alert to the need to disclose evidence to the Defence as required by the National Disclosure Standards. In addition to the other schedules provided, on 12.3.2019 the Officer prepared an MG6D Schedule of Sensitive Unused Material. That was in response to a specific enquiry.
31. On 29.12.2017 the Officer made an entry in her Investigator's Notebook that referred to the 'bank CCTV'.
32. Officer 'A' accepts that the bank CCTV should have been reviewed, analysed and if deemed relevant, disclosed.

Allegation 2

33. The Officer 'A' accepts that the note on the discs was in her handwriting. The seizure of and existence of the phones was apparent from their entry on the MG12 exhibit list. The note was made to remind the officer to disclose them. By oversight the officer says she forgot and did not disclose them. Officer 'A' accepts that amounts to misconduct.

Allegation 3

34. On the 1 May 2019, the Officer emailed the FI asking her not to mention that the CCTV existed. The Officer denies that her behaviour amounts to misconduct or gross misconduct. It is not denied that she did send the email. The Officer said it was her practice to review the relevant material for each witness prior to them giving evidence at trial. In the second week of the trial she said she did that for the evidence of the FI. The Officer said she wanted to make sure that as a witness she had any physical exhibits she might need or any other material she was unaware of. The Officer explained she wanted to make sure there was no such material but felt it better to ask this in a way that would not be seen as a direct question, criticism or challenge. She instead she intended to question it obliquely. The Officer consistently maintained

that she did not intend to give any direction to the FI to conceal material. She said the phrase “if you could not mention it exists” was not meant seriously. The Officer regrets what she described as her clumsy language.

35. During this hearing, the Officer provided a number of explanations as to why she sent the FI those emails and why she expressed herself as she did. She said that she was trying to be sarcastic and jocular and wanted to be sensitive to the pressures that the FI was under, as she thought the FI was under stress and unwell. Despite being given several opportunities by the Panel to explain why she chose to use the words “if you could not mention it exists!” and how that would be sensitive to the FI, she was unable to do so. The Panel heard differing accounts as to the degree of responsibility Officer ‘A’ and FI had for their own schedules of evidence and disclosure. In fact the only specific element of dispute of responsibility from the trial or investigation appears to be that of the bank CCTV. The numerous email exchanges show the Officer was alert to the need to disclose evidence to the Defence as required by the CPIA and relevant codes.
36. She said that she did not know about the bank CCTV. But her role as OIC and disclosure officer meant she had the ultimate responsibility for providing the schedules for the trial, which would include both used and unused material.
37. The evidence provided shows how the Officer was simultaneously fulfilling her role as OIC and as disclosure officer. This is because the emails to the FI and prosecuting lawyer show how she was alert to the evidence that was needed to prove the conspiracy allegations which was the culmination of the investigation and had produced the “vast” amount of evidence. She said during the hearing that of the total evidence amassed in Operation Australia, one-third was subsequently used at the trial and two-thirds was not. As OIC and disclosure officer, her role was to collate, assess and schedule the evidence in accordance with CPIA and disclosure guidelines.
38. The Officer said she was not aware of the bank CCTV discs because those would be the responsibility of the FI and would be scheduled by the FI. But the emails produced and included in the hearing bundle show the bank CCTV was discussed both directly and indirectly with the Officer over a period of time and leading up to the trial.
39. The Officer stated that she did not accept some elements of DS Mepham’s account of the meeting she had with him on 2.5.2020 and what he recorded in his statement. However, the Panel preferred the account he gave as it was consistent with the other evidence provided and was not consistent with the explanation provided by the Officer. For example, the officer challenged whether she had said she had ‘failed’ to review/ disclose, but the subsequent words indicating she ‘simply did not have capacity to undertake this task’ are clearly an attempt to justify or explain a course of action or inaction – and support the position that she knew she had made a mistake or omission i.e. had ‘failed’. DS Mepham’s account is also consistent with the content of the emails the officer sent to the FI on 1.5.2019 and 2.5.2019.
40. The Officer maintained that her emails to the FI on 1.5.2019, not to include CCTV evidence, were clumsy and poorly worded. The email from the Officer on 1.5.2019, about not listing bank CCTV in the evidence or on the unused schedule as she had barely looked at and not to mention it, follows an earlier enquiry made the prosecuting lawyer on 6.3.2019 who was responding to an enquiry from one of the defence Counsel about evidence that had not been served or disclosed as unused material. The email chain on 6.3.2019 shows that the bank CCTV was not the only

evidence that the Officer had failed to disclose to the Defence. As a result of the enquiry on 6.3.2019, the officer prepared the MG6D Schedule of sensitive unused material on 12.3.2019. On 9.4.2019, after she had started her new role in SOCU, she nonetheless made an entry in her Investigator's notebook about "Barclays Cam" (or Barclays Card, which is what the Officer said it might mean). On 15.4.2019, defence Counsel asked the Prosecution to confirm that there had been service of 'all unused on all parties' and that led to the Officer preparing the MG6E on 16.4.2019. It appears that it was a result of the enquiry made by PC Wood on 24.4.2019 about whether an Unused Material Warning had been sent out just after the trial started that the Officer on 1.5.2019 sent the email to the FI about her not having listed any bank CCTV or on the unused schedule and not to mention it.

41. The Officer maintains that she believed that the discs that she was aware of were not relevant material and therefore not disclosable. But the evidence, specifically that of DS Mephram, and the emails between Officer 'A' and the FI (1.5.2019 and 2.5.2019) make it clear that she had not reviewed (or had somebody else review) the material and therefore she knew she could not actually say whether it was 'relevant' material. This therefore represented a breach of the disclosure requirements and could have a significant potential impact on both her personally and the trial. The desire to 'cover up' this error appears the clearest and most obvious explanation for the statement in the email '... if Officer 'A' could not mention it exists!' Other attempts by the Officer to explain the motive behind these words (to elicit information, 'sarcastic' and 'jocular') are without credibility and contrary to the evidence.
42. The Panel is satisfied that the Officer was aware of the bank CCTV and she was aware of the need to review, assess and if relevant to disclose that evidence. The Panel agrees with the AA that the email sent to the FI on 1.5.2019 was in an attempt to conceal the fact that the bank CCTV had been overlooked. The Panel regarded this as a deliberate attempt to conceal evidence which should have been disclosed to the defence and included in a schedule of unused material.
43. The Panel is satisfied that the evidence shows that not only did the Officer fail to schedule the bank CCTV, but also that she was aware of it and the ongoing duty to disclose relevant unused evidence to the defence. Had it been the case that the Officer had only missed that evidence, it is arguable that that error could have been remedied and that is what the CPS argued at the trial before the proceedings were stayed.
44. Prior to emailing the FI on 1.5.2019, the Officer had effectively been playing catch-up. The emails show that she produced schedules of unused material on 12.3.2019 and 24.4.2019 as a result of direct enquiries made by the defence. Her email to the FI on 1.5.2019 also shows that she realised she had failed to schedule the bank CCTV which she had seen. The Officer said she was not aware of the reason why she was taken off Operation Australia mid-trial, but the Panel is satisfied that she could not have failed to realise that it was her emails to the FI that had led to that decision. This is because DS Mephram described how the Officer "without prompting then eluded (sic) to the fact that there was banking CCTV material in existence which she had failed to review/disclose".
45. DI Wakeford said that at no time was she concerned that the Officer was under pressure because of the amount of work that was needed for Operation Australia. The Panel notes that the trial preparation phase was some 15 months long. At no time did the Officer report any concerns about being under pressure of work. Despite that, attempts were made at the hearing by Officer 'A' and also by DI Wakeford to attribute any failures in how Operation Australia was prepared for trial to a number of

factors. These included that there was no longer a dedicated disclosure officer, the Officer did not have access to the Altia computer system, the request for a CPS reviewing lawyer was declined and the evidence in the case was vast.

46. The Panel was also provided with medical evidence relating to the Officer which it was suggested might have had an impact on her performance and behaviour at the material time. That was relevant because it might possibly explain why she sent the emails to the FI on 1.5.2019 and 2.5.2019 and support her view that the emails were mistakes. However, the Officer did not refer to her performance being affected by her medical conditions at the material time and the Panel was not provided with details about any report having been made to her line manager about the effect of her medical conditions on her ability to perform her role. During the hearing, the Officer was asked directly about the impact of her medical conditions. She told the Panel that the only real impact was on her spelling. The Panel noted that at times during the hearing the Officer was tearful and emotional.
47. At no point has Officer 'A' accepted that she had responsibility for the bank CCTV evidence despite meeting with DS Mephram on 2.5.2019 when she handed that evidence to him. She was then interviewed by the IOPC on a number of occasions and, even then and throughout the hearing, she failed to acknowledge that she was responsible for that evidence.
48. The Officer has not argued that the tension in her roles as OIC or disclosure officer led to her failing to disclose evidence or emailing the FI in the terms she did.
49. Having been alerted to the concerns raised by the FI, the Officer had the opportunity to correct the mistake she said she made by sending the email on 1.5.2019 to the FI, but instead she compounded that mistake by sending a further email on 2.5.2019. The Panel is satisfied that the two emails taken individually and together show how the Officer was trying to influence the FI not to mention the CCTV evidence. In the email on 2.5.2019 to the FI, the Officer referred to evidence she was aware of which she ignored, she chose not to view and, although suspecting that there was further evidence, she chose not to make any enquiries about it.
50. In summary, the Panel recognises that the behaviour in allegations a and b are admitted. The content of allegation a goes towards allegation c in that the Officer knew of her responsibility to review, assess and disclose bank CCTV. This is supported by the evidence of the email traffic, the evidence from the Officer 'A' and DS Mephram and the evidence of the emails sent to the FI on 1.5.2019 and 2.5.2019. That evidence makes it clear that the officer knew of her responsibility and she failed to discharge that responsibility. The Officer's attempt to justify or explain her activity or inactivity reinforce that conclusion. Her attempt to deflect this is the only rationale for the words "if you could not mention it exists!"
51. The Panel finds on the Officer's own admission that allegations a and b are proved.
52. The Panel is also satisfied that allegation c is proved.
53. The Panel finds that the Officer's behaviour does breach the standards of professional behaviour, namely Duties and Responsibilities, Discreditable Conduct and Honesty and Integrity;

Duties and Responsibilities – "Police officers are diligent in the exercise of their duties and responsibilities. Police officers have a responsibility to give appropriate

cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.”

Discreditable conduct – “Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty”.

Honesty and Integrity – “Police officers are honest, act with integrity and do not compromise or abuse their position.”

54. The Panel has gone on to consider whether the Officer's behaviour amounts to gross misconduct, which means “a breach of the Standards of Professional Behaviour so serious that dismissal would be justified”. The Panel finds that the emails the Officer sent on 1.5.2019 and 2.5.2019 were designed to persuade the FI not to mention the bank CCTV evidence which the Officer was aware of but which she had not viewed or scheduled. It was suggested on the Officer's behalf that that evidence would not need to be disclosed because it would not meet the disclosure test. However, that assessment could only be made once the evidence had been viewed whereas she was trying to conceal it. It is the Panel's view that whilst the original mistake in failing to disclose material was less serious in terms of misconduct, the subsequent attempt to 'cover up' the mistake was very serious and is at the heart of these proceedings.
55. It was also suggested that the decision to stay the trial for abuse of process could not be attributed to the Officer's conduct. But actually, that was precisely the reason the trial judge gave and explained that “to insist this is an isolated discreet (sic) failure by arguably the most important police officer in this large investigation which only involves discs that have now revealed no useful evidence for the defence, entirely misses the point”. In the view of the Panel, the 'point' is of course that any (however 'isolated') element of perceived dishonesty or lack of integrity by a police officer in a trial undermines the whole criminal justice process and public confidence in that process and the police service itself.
56. The AA drew a distinction between dishonest behaviour and a lack of integrity. The Panel was invited to consider the decision in *Ivey v Genting Casinos* [2017] 3 WLR 1212 when considering whether the Officer was dishonest. The Panel has considered the Officer's subjective knowledge or belief as to the facts and applied the objective standards of ordinary decent people. The Panel is satisfied that the Officer's instinct was dishonest. The Officer's evidence does not satisfy us that even now she understands the consequences or appreciates the significance of her behaviour. Had the Officer paused to think about the email she sent to the FI she would have realised how her behaviour would be regarded and she compounded that, or at best failed to 'correct' that by sending a further email to the FI the following day. The Panel is satisfied that Officer 'A' acted in a knowing, calculated and deliberate way. The Panel was not provided with a clear explanation why the Officer chose to use the form of words she did in the email on 1.5.2019. In the absence of any credible explanation from Officer 'A' about her reason for emailing the FI, the motive is likely to have been her wish to 'cover up' her failure to assess the bank CCTV evidence.
57. The element of dishonesty takes the Officer's behaviour beyond misconduct and the breaches, taken as a whole, amount to gross misconduct because the breaches are so serious as to justify dismissal.

Outcome

58. When deciding on outcome, the Panel must adhere to the College of Policing *Guidance on Outcomes in Police Misconduct Proceedings* and follow the staged approach to reaching the appropriate sanction.
- a. Assess the seriousness of the misconduct.
 - b. Remind itself of the purpose of the Police misconduct regime.
 - c. Determine the sanction most appropriate to the purpose.
59. The Panel considered that the purpose of police misconduct proceedings is threefold:
- i. To maintain confidence in and the reputation of the police service.
 - ii. To uphold high standards in policing and deter misconduct.
 - iii. To protect the public
60. The Panel was satisfied that whilst the Officer's misconduct was so serious that dismissal might well be justified, it reminded itself that dismissal is not automatic when gross misconduct is proved. Whether or not dismissal or some lesser sanction is appropriate will depend on the facts of the case having assessed the level of seriousness.

Culpability

61. The Officer 'A' accepted the factual basis for allegations a and b but not allegation c. The Panel has nonetheless found that the Officer's conduct in relation to allegation c was intentional, deliberate and targeted because the Officer sent the email on 1.5.2019 and compounded that by sending the further email on 2.5.2019. The Officer was both OIC and disclosure Officer 'A' and therefore had specific responsibilities in Operation Australia and the subsequent trial. The Panel is satisfied that she would also have been aware of the potential consequences of asking the FI not to mention the bank CCTV in the trial and the harm was foreseeable.
62. The Panel was provided with two letters from the Officer's GP which referred to her medical conditions. The Panel was mindful that physiological and psychological disorders can fluctuate and the Panel was careful not to make assumptions as the effects may not have been easily recognisable at the time. The Panel considered whether the Officer's culpability was reduced by reason of her medical conditions. The Officer said that her spelling and also her memory was affected by her medical conditions and the panel was provided with an email within which she suggested her memory was affected by her hormones. The Panel do not regard her memory issues as relevant when she intentionally and deliberately chose to email the FI on 1.5.2019 and which forms the basis of allegation c. The evidence presented did not indicate that the Officer's medical conditions resulted in her judgement being impaired at the material time and it was not argued that it was affected at the time. The Panel is satisfied that the Officer was able to make a rational choice as was evident from the content of the emails sent on 1.5.2019 and 2.5.2019 and she was able to understand nature and consequences of her actions.
63. The Panel was invited to consider the applicability of the Equality Act 2010 because of the Officer's medical conditions specifically in respect of the Officer's culpability (and not solely as personal mitigation). The Panel was told that the additional role of disclosure officer had caused the Officer stress. Also, the Panel was provided with evidence about how the Officer had suffered from the effects of the menopause and as a result she had acted out of character. The Officer's GP referred to how any symptoms might be vague as that was a feature of the condition. The Panel considered the applicability of the Equality Act and was satisfied that the Officer's mental health

(disability) was a protected characteristic. However, the Officer did not indicate it was brought to the attention of her line manager or the Police force, at the time, and it was not argued that her culpability was affected or that she was discriminated against.

64. The Panel found the Officer's behaviour as dishonest and she failed to give proper disclosure in a criminal prosecution. Therefore, the Officer's culpability is regarded as especially serious.
65. The Panel assessed the degree of the Officer's culpability in this matter as high.

Harm

66. The Panel found that the Officer's behaviour did cause actual harm. The FI expressed concern about what was being asked of her in the email dated 1.5.2019. Also, following the email the Officer sent to her on 2.5.2019, the FI felt it appropriate to report the matter to the prosecuting lawyer. The trial judge was forthright in the views she expressed when deciding the stay the trial for abuse of process. There has also been reputational harm to Sussex Police and in its ability to detect and investigate crime which has undermined public confidence in it because the behaviour took place during the execution of her duties. The Officer's behaviour undermined confidence in the trial and wider criminal justice process and has been widely reported in the media.
67. It was argued on the Officer's behalf that the harm caused (or potentially caused) was limited because the specific evidence that the Officer was attempting to conceal was of limited evidential value. The Panel disagreed and the Officer's dishonesty is regarded as very serious regardless of the value of the evidence. Any element of dishonesty or lack of integrity by a Police officer in a trial undermines the whole criminal justice process and public confidence in that process and the Police Service itself.
68. The Panel assessed the harm caused as high.

Aggravating factors

69. The Panel referred to the non-exhaustive list in the Guidance and considered them alongside the facts.
70. The issue of disclosure is a matter of public concern as highlighted in the Mouncher Enquiry. The Panel found that the Officer sought to conceal the bank CCTV evidence. There is no ambiguity in her email. She potentially had the opportunity to remedy the email she sent on 1.5.2019, but instead of contacting the FI and explaining that she had made a mistake, the Officer compounded her behaviour by emailing the FI again on 2.5.2019. The Officer repeated how she had not looked at evidence when that was her role as OIC and as disclosure officer. She was asked in interviews and at the hearing to explain her behaviour but only said that the email sent to the FI on 1.5.2019 was meant to be sarcastic and jocular. The Panel did not regard that explanation as either satisfactory or providing any context as to why she sent the email to the FI who was to give evidence in court. The Panel regarded the request she made to have one purpose namely, to conceal the Officer's failures.
71. The Officer referred to difficulty with structuring sentences and the words used were not what she meant. But the Officer had the opportunity to recover the situation when she emailed the FI on 2.5.2019 but did not do so. The Officer did not admit allegation

c and sought to attribute blame on a number of other issues including resources, the system, the role and responsibility of others and her medical conditions.

72. The issues that gave rise to the allegations are not limited to isolated incidents but relates to conduct with regards to the CCTV footage, discs containing mobile data and emails over a period of time.

Operational dishonesty

73. The Panel regarded the Officer's behaviour as amounting to operational dishonesty. In *Chief Constable of Dorset v PAT, Salter* [2011] EWHC 3366 (Admin) Burnett J. stated that 'honesty and integrity in the conduct of Police officers in any investigation are fundamental to the proper workings of the criminal justice system'. 'The damage done by the lack of integrity in connection with the investigation of an alleged offence may be enormous.' He concluded: '.... Leaving the force would be the almost inevitable outcome in cases involving operational dishonesty'.

Mitigation

74. The Panel was told that the Officer joined the Police force in 2006. The Officer has no convictions or disciplinary outcomes.
75. The Panel accepts that the Officer's behaviour was not premeditated.
76. The Panel recognised that Operation Australia was a large complex matter. This was the first time she had to act as a disclosure Officer 'A's well as being OIC.
77. References and commendations have provided to the Panel in support of the Officer, which the Panel has read and considered. The Tribunal is mindful of the decision in *R. (on the application of Williams) v Police Appeals Tribunal* [2016] EWHC 2708 (Admin) which reiterates the relative lack of weight to be attached to personal mitigation, however impressive, when balanced against the public interest in maintaining public confidence in the police service
78. The Panel assessed the overall seriousness of the Officer's misconduct as high.

Deciding Sanction

79. The Panel was mindful of the *College of Policing Outcomes Guidance which states at para 2.9: "Be aware of and to adhere to human rights and equality legislation. In determining the appropriate outcome to impose, have regard to the principle of proportionality, weighing the interests of the public with those of the office"*.
80. As required by the Guidance on Outcomes, we considered the least serious outcome available that would meet the threefold purpose of the misconduct regime.
81. The Panel considered the Officer's service and experience and considered whether it might be possible to deal with this matter by way of a final written warning. The Officer has many years of service and experience but at no point did she report any difficulties in being able to perform the dual role of OIC and disclosure officer. The Panel was not told that because of the size of the case that the Officer was not able to perform their role/s.

82. Taking its assessment of the seriousness of the allegations, the Panel's finding of dishonesty into account and mitigation, the Panel is satisfied that in these particular circumstances dismissal without notice is a proportionate response and outcome.