



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs S Inott  
**Respondent:** The Chief Constable of Leicestershire Constabulary

**Heard at:** Leicester Hearing Centre, 5a New Walk, Leicester, LE1 6TE  
By cloud video platform

**On:**

**Before:** Employment Judge Adkinson sitting with  
Mrs J Barrowclough  
Mrs L Lowe

## Appearances

**For the Claimant:** Mr A Rozycki of Counsel

**For the Respondent:** Mr J Allsop of Counsel

## JUDGMENT

After hearing from the Claimant and the Respondent, and considering the evidence, the Tribunal unanimously orders that

1. The Claimant's dismissal was not unfair. Therefore the claim for unfair dismissal fails and is dismissed,
2. The Claimant had committed acts of gross misconduct. Therefore the claim for wrongful dismissal fails and is dismissed, and
3. All claims for discrimination arising from a disability fail and are dismissed.

## REASONS

### Introduction

1. Following early conciliation between 5 October 2019 and 7 October 2019, the Claimant on 10 December 2019 presented her claim to the Employment Tribunal.
2. In that claim, the Claimant (Mrs Inott) says that she has been unfairly dismissed from her job as a Police Community Support Officer (PCSO) and

has been subjected to acts of discrimination arising from her disability. She alleges that at all material times she has been disabled by reason of anxiety, complex Post Traumatic Stress Disorder (cPTSD) and Emotionally Unstable Personality Disorder (EUPD). The Claimant also alleges that she has been wrongfully dismissed from her role.

3. The Respondent (who we will call “the Leicestershire Police” for simplicity) resists these claims.
4. Initially, they disputed the Claimant’s disability but now accept that since 7 July 2019 she has been disabled because of cPTSD and EUPD. They say that her anxiety was in response to the situation in which she found herself and so not a disability, although they concede they were aware of that anxiety since August 2017. They further allege that in fact everything derives and arises from Mrs Inott’s dependency on alcohol. The Respondent denies they were aware of cPTSD until 10 September 2019 when it appeared for the first time on a doctor’s fit note.
5. In any event, Leicestershire Police deny discrimination and unfair dismissal in any event. They suggest that if compensation is appropriate, it should be reduced to reflect the possibility that they would have fairly and without discriminating dismissed her in any event. They also allege (in relation to unfair dismissal) her conduct that led to dismissal was culpable and blameworthy and should therefore result in a reduction in compensation. Leicestershire Police say that Mrs Inott was guilty of gross misconduct and therefore summary dismissal is justified.

## Hearing

6. At the hearing, the Claimant was represented by Mr Rozycki (Counsel) and the Respondent was represented by Mr Allsop (Counsel). The Tribunal would like to express its gratitude to both for the help that they have given to the Tribunal during the course of this case and the efficiency with which they have conducted their respective party’s case.
7. The Tribunal heard the following evidence. On behalf of the Claimant, we heard from Mrs Inott herself. On behalf of Leicestershire Police, we heard from the following:
  - 7.1. Mr Roman Nykolyszyn. He was at all relevant times a Human Resources Business Partner with the Leicestershire Police;
  - 7.2. Police Constable (PC) Emma Kirkland (sometimes identified as PC Jayne in the documents), who acted as Mrs Inott’s Welfare Officer from January 2019;
  - 7.3. Chief Inspector (CI) Emma Maxwell, who became Mrs Inott’s second line manager from January 2018 until her dismissal, and who also provided welfare support;
  - 7.4. Detective Sergeant (DS) Jo Fyson, who supervised the investigation into Mrs Inott’s alleged misconduct. She was not the investigating officer. That was Detective Constable (DC) Allingham. DC Allingham is on a career break. DC Fyson was familiar with the investigation therefore and its findings;

- 7.5. Chief Superintendent (CS) Adam Streets. He has served with the police for over 25 years. He is responsible for the majority of frontline uniform policing across Leicestershire. He was responsible for a number of meetings to make sure that Leicestershire Police could provide support to Mrs Inott depending on what was happening and might happen throughout the process;
  - 7.6. Assistant Chief Officer (ACO) Paul Dawkins. He conducted the disciplinary hearing and took the decision to dismiss; and
  - 7.7. Chief Constable (CC) Simon Cole who dealt with and subsequently dismissed the appeal against ACO Dawkins' decision to dismiss Mrs Inott summarily.
8. We have taken into account all the oral evidence that we have heard.
  9. The Tribunal had before it a bundle of documents that totals approximately 1,300 pages. We have taken into account all the documents to which we have been referred.
  10. Each party prepared skeleton arguments and supplemented those with oral submissions at the conclusion of the case. We have taken those into account.
  11. There was an agreed cast list, an agreed chronology and an agreed list of issues, which we have also taken into account and for which we are grateful.
  12. The hearing itself proceeded by way of the video link. There were a few technical issues during the hearing. However, they were very quickly resolved. We do not believe these had any substantial impact on the case.
  13. One of the bigger issues that had occurred during the hearing was that Mrs Inott did not seem to have the bundle of documents that had been prepared. The Tribunal had to pause from time to time while the papers were either sent over to Mrs Inott by email or overnight. There is no real explanation as to why this was necessary. The Tribunal did not feel that there is any need to enquire into it however because, notwithstanding those delays, the Tribunal proceeded according to schedule.
  14. The Tribunal sat each day from approximately 10 am until 4 pm with one hour being taken for lunch and regular breaks, roughly every hour, in accordance with Health and Safety Executive guidelines about taking breaks away from screens. No reasonable adjustments were requested
  15. Neither party has suggested that the hearing was unfair in any way. The Tribunal is satisfied that the hearing was fair to both parties.
  16. Because of the detail in the case, the Tribunal reserved its decision. We discussed the case and reached our conclusions on the last day listed for the hearing. The decision was dictated for typing on 28 May 2021. The delay finalising it and sending it out arises from the impact on administrative and typing resources arising from illness and the impact of the Covid-19 pandemic and from the lack of judicial availability because of other cases in the system.

**Preliminary issue – the Claimant applying to call Dr Southall to give oral evidence and to rely on a new report of 11 February 2021**

17. Mrs Inott is being treated for her cPTSD and EUPD by Dr Southall. Dr Southall is a specialist psychotherapist. She diagnosed Mrs Inott as having cPTSD and EUPD. Dr Southall confirmed in Mrs Inott's appeal against dismissal that she is not medically qualified.
18. Mrs Inott wanted to rely on a report that Dr Southall had prepared and call Dr Southall to give evidence. She said it is necessary to enable the Tribunal to truly understand the nature and effect of the cPTSD and EUPD so that it can truly understand the things that arise from them when assessing disability, discrimination or fairness of the process.
19. Leicestershire Police opposed it. They said procedurally it was unfair. The application was too late, put them at a disadvantage because they had not prepared on the basis that there would be an expert, that the Claimant had had plenty of time to seek to call her or submit a report and they had been denied an opportunity to call their own. They also said it was unnecessary because Dr Southall had prepared reports about cPTSD and EUPD that did appear in the bundle and could be referred to.
20. After hearing from both parties we dismissed the application to allow Mrs Inott either to adduce a new report from Dr Southall or to call her to give oral evidence. Our reasons were as follows:
21. We noted Dr Southall was not just Mrs Inott's psychotherapist: she had also been involved in the case itself, both providing information in the run-up to the disciplinary hearing (that is the subject of this case) and also attending and providing evidence at her appeal hearing. Therefore her potential role as an expert witness and/or witness of fact would or should have been apparent from the start.
22. We also noted the procedural history. After the case was presented to the Tribunal on 19 March 2020, Employment Judge Heap held a case management discussion at which both the Respondent and Claimant attended and were represented. In that Case Management Order, Judge Heap commented at paragraph 14 that it was conceivable that disability might not be conceded, and that consideration would have to be given to that possibility. She said that if it remains in dispute, there may be three options:
  - 22.1. Firstly, the instruction of a medical expert, either jointly or on a single basis but preferably the former if one is to be instructed (applying **De Keyser Ltd v Wilson [2001] IRLR 324 EAT**). She also made the comment that if there were to be an expert report, there would need to be a timetable for the report to be obtained. At that point, the Claimant said that she was limited as to her means and was unlikely to wish to obtain an expert report.
  - 22.2. Secondly, the parties should consider if there is currently enough material for the Tribunal to determine disability.

22.3. Thirdly, the parties should consider whether disability should be considered at an Open Attended Preliminary Hearing or at the full merits hearing.

23. The Learned Judge then continued to say:

“15. The Orders below reflect that the parties will notify the Tribunal of their views in respect of the options to deal with the disability question in the event that disability remains in dispute and on the issue of a Preliminary hearing. If it transpires that there is to be further medical evidence and the issue of disability still remains in dispute after that point, then again the parties can thereafter express a view on whether a Preliminary hearing would be of assistance. ...”

24. She then went on to give directions, the most relevant is direction at paragraph 2.3:

“2.3 If disability remains in dispute then the parties must both write to the Tribunal by no later than 11<sup>th</sup> June 2020 to set out their proposed way forward to deal with the question of disability having regard to the issues set out at paragraph 14 above.” (That being the paragraph I have just quoted).

25. The relevant subsequent correspondence was as follows. On 16 October 2020, Mrs Inott’s Solicitors wrote to the Tribunal saying:

“We write with reference to the above matter and note that the Respondent has not conceded that the Claimant is a disabled person for the purposes of the Equality Act 2010.

“We disagree that an independent expert needs to be instructed as the Respondent has been provided with ample medical evidence and documentary evidence from the Claimant’s counsellor which clearly provide detailed information.

“We are content for this matter to be dealt with at the substantive hearing and disagree that a medical expert needs to be instructed. Given that the Claim is an unfair dismissal claim too, the matter of disability discrimination can be dealt with at the main hearing.

...”

26. That was followed on 20 October 2020 with a letter from her Solicitors that said:

“We refer to the matter and specifically our ongoing duty of disclosure. Accordingly, we attach a report that was provided to our client after the documents relating to the issue of disability, had been submitted to the Employment Tribunal and the Respondent.

“We now enclose a report from Dr Southall who is a specialist psychological therapist. It is our understanding that the Respondent already has this report, but we would now invite the Respondent to reconsider its position on the issue of disability. Given that there is ample time before the hearing next year, we do not believe that a further preliminary hearing is necessary, but the Respondent is invited to reconsider its position and we would have

no objections to them amending their letter relating to disability within a period of 28 days.”

27. The report attached is dated 17 August 2020 and clearly was written for the purpose of criminal proceedings that Mrs Inott was facing.
28. The report attached then dealt not just with her cPTSD and EUPD but also with its interaction with criminal proceedings. That report is part of the medical bundle and there was no objection to Mrs Inott relying on that report.
29. On 23 October 2020, the Tribunal said that the issue of disability therefore would be decided at the final hearing.
30. On 11 February 2021, Dr Southall prepared a further medical report clearly written and addressed to the issues that the Tribunal would have to engage with and in particular with the question of whether or not the Claimant was disabled and how a disability manifested itself at material times. It is that report that the Claimant seeks to rely upon and which they seek permission for Dr Southall to attend and give oral evidence to.
31. However, that report was not disclosed to the Respondent until 16 April 2021. There is no sensible explanation for the delay. On receipt of that disclosure, Leicestershire Police made plain they objected to Dr Southall being called as a witness.
32. On 29 April 2021 the Claimant then made an application for her to be called. In that letter to the Tribunal, it says, so far as relevant:  

“It is important to note that in October 2020 and at the last preliminary hearing/directions hearing, the Claimant did say that she would not call any expert witnesses. That was based upon the fact that she could not afford to call an expert witness. Dr Southall, in mid-February of this year, offered her services to Mrs Inott on a pro bono basis which meant the situation had changed. Upon exchanging witness statements, it became apparent that the Respondent objected to Dr Southall giving evidence on the basis that she is an expert witness.”
33. There was no explanation in that letter as to why the enquiry had not been made of Dr Southall giving evidence pro bono between Employment Judge Heap’s directions hearing on 19 March 2020 and 11 February 2021, or indeed in particular in October 2020 when Mrs Inott knew she would be relying on Dr Southall’s report prepared for the purpose of criminal proceedings.
34. There was no explanation why Mrs Inott had changed her position as to the need of an expert witness from that in October 2020 when she did not think one was necessary.
35. There was no explanation why there was a delay from 11 February 2021 to 16 April 2021 when they finally let the Respondent know that they were planning to call Dr Southall as a witness, or until 29 April 2021 when the matter was canvassed finally before the Tribunal, or

36. The only development of any note since then regarding this application is that the Respondent had now conceded that the Claimant was disabled by reason of complex cPTSD and EUPD since 7 July 2019.
37. The Claimant relied upon the overriding objective in **rule 2** which provides that the Tribunal must deal with cases fairly and justly and that involves, so far as practicable, ensuring the parties are on an equal footing, dealing with cases in a way that is proportionate to complexity and importance of the issues, avoiding unnecessary formality and seeking flexibility in the proceedings, avoiding delay so far as compatible with proper consideration of the issues and saving expense.
38. In terms of the admissibility of expert evidence, the principle is the same as in the **Civil Procedure Rules, Rule 35(1)**: expert evidence is only admissible if it is reasonably necessary to resolve the issues in the proceedings (see **Abertawe Bro Morgannwg University Local Health Board v Morgan UKEAT/0320/15/DM**).
39. Considering the above, we rejected the application for the following reasons:
  - 39.1. The issue of expert evidence was flagged up back in March 2020 by Employment Judge Heap. Therefore, the parties were both aware to the potential need for expert evidence. Judge Heap also emphasised the usual rule that where expert evidence was required, it should be given by a single joint expert instructed by both of the parties as is of course the principle in **De Keyser Ltd v Wilson [2001] IRLR 324, EAT**.
  - 39.2. There was no reason why in October 2020 Mrs Inott did not think it was necessary but changed her mind by 11 February 2021 at the latest. Mrs Inott pointed to her means. However that does not explain the change in stance because she never said in October her finances were why she felt no expert report was needed. In any case there was no explanation as to why Dr Southall was not approached to give evidence pro bono in the runup to February 2021 or why another expert has not been approached.
  - 39.3. We do not believe the evidence is reasonably necessary. Dr Southall's report that she prepared for the criminal proceedings is in the medical bundle. There was nothing to stop Mrs Inott relying upon that in support of her contention that she was disabled prior to 7 July 2019. In any event given all the medical notes, that Mrs Inott herself felt that the expert evidence was not necessary and her change of heart is not explained, we do not see why it is reasonably necessary now.
  - 39.4. Thirdly, we deprecated the way in which the application has been made. Mrs Inott knew Dr Southall would be able to give evidence since 11 February 2021 at the latest. Her delay to 29 April 2021 was unjustified. She has deprived the parties the opportunity to instruct an independent single joint expert contrary to the proper procedure. She has kept quiet about Dr Southall's evidence for no good reason. She has denied Leicestershire Police the

chance to prepare to deal with it or call their own evidence. To admit it would mean the parties were not on an equal footing. Any prejudice the Claimant suffered was down to her own conduct of her case.

39.5. If we did admit it then it would almost inevitably result in further delay to these proceedings. The Respondent at the very least would need to be given an opportunity to consider the evidence and prepare cross-examination and it is most likely we think that they would probably apply either to call their own expert or for a single joint expert. Those issues would also increase of course the expense.

39.6. Finally, we are concerned about the ability of Dr Southall to give actual expert evidence. Dr Southall is not independent. She is also a factual witness. It is difficult to see how properly she can be objective and dispassionate as would be expected of an expert witness.

### **List of issues**

40. During the hearing, Mrs Inott withdrew one of the allegations. With that amendment, the Tribunal is still satisfied the agreed list of issues identified what we had to determine. Neither party suggested that there had been any substantial change.

41. The parties and Tribunal agreed that, except as set out below, remedy would be dealt with separately.

42. Therefore, the issues before the Tribunal are as follows:

### ***Disability***

43.

43.1. Was the Claimant disabled at all material times because of her cPTSD, EUPD and/or anxiety (noting that the Respondent concede the Claimant was disabled on account of cPTSD and EUPD from 7 July 2019)?

43.2. If so, did the Respondent know or could they have reasonably been expected to know that the Claimant had one or more of the disabilities?

43.3. If so, from when?

### ***Disability discrimination – section 15 Equality Act 2010***

44.

44.1. Did the Respondent treat the Claimant unfavourably by:

44.1.1. invoking the investigation proceedings against her?

44.1.2. invoking disciplinary proceedings against her?

44.1.3. suspending her from work on 26 April 2019? or

44.1.4. dismissing her on 17 September 2019?



- 44.2. If so, was the unfavourable treatment because of something arising from the Claimant's disability or disabilities? A subsidiary issue to this is whether it was due to alcohol dependency or some other factor.
- 44.3. If so, can the Respondent show that the unfavourable treatment was a proportionate means of achieving a legitimate aim.
- 44.4. Are the claims part of a continuing act? If not, which allegations are out of time and is it just and equitable to extend time in respect of those allegations?

***Unfair dismissal***

45.

- 45.1. Did the Respondent honestly believe the Claimant had committed misconduct?
- 45.2. Was the belief based upon reasonable grounds?
- 45.3. Did the Respondent carry out a reasonable investigation into the Claimant's misconduct? In particular, the Claimant's allegation is that there was a failure to carry out a reasonable investigation into the link between her mental health and her conduct.
- 45.4. Was the dismissal within the range of reasonable responses?
- 45.5. Was the overall procedure fair? In particular, the Claimant takes issue with the decision not to postpone the disciplinary hearing.

***Wrongful dismissal***

46.

- 46.1. Has the Respondent shown that the Claimant was guilty of gross misconduct and therefore entitled to dismiss her summarily?

***Remedy so far as it relates to the liability issue***

47. If it is appropriate for us to decide:

- 47.1. Should there be a reduction in any compensation to reflect the possibility that if the Respondent had followed a fair procedure, the Claimant would have been dismissed in any event and/or if the Respondent had followed a non-discriminatory procedure, the Claimant would have been dismissed in any event?
- 47.2. So far as unfair dismissal is concerned, has the Claimant contributed to her dismissal such that it would be just and equitable to reduce her compensation? If so, by how much?

**Findings of fact**

***Witnesses generally***

48. Before going into the facts, we will set out our views of the witnesses generally because we have taken this into account when evaluating the evidence and deciding what to accept or reject.

49. We start with the Respondent's witnesses. The Tribunal believed that each of the Respondent's witnesses was credible in the evidence that they gave and that they were both telling the Tribunal what they honestly believed to be the truth and were seeking to help the Tribunal come to a just conclusion. The evidence that they gave was straightforward and consistent with the documents. They answered questions directly and they made concessions where it was appropriate to do so.
50. The Tribunal was particularly impressed by the evidence of CC Cole. He was prepared to concede that he too had had concerns about the merits of the decision made at the disciplinary hearing to dismiss Mrs Inott. We were also very impressed as to his clear reasoning as to why he believed Mrs Inott's conduct was so serious that only summary dismissal was appropriate. We also appreciated that he knew the limits of his knowledge and expertise on mental health.
51. We now consider Mrs Inott as a witness. We did not find her to be a credible witness. Our concerns were as follows.
52. Mr Allsop asked clear focused questions on the various issues she had raised. Her answers to questions put by Mr Allsop were often very long but not actually answers to the questions posed. Instead they were answers to questions that she would prefer to be answering. There was often a lot of repetition of her case that, in short, she was not to blame for what happened. Having considered the guidance in the **Equal Treatment Benchbook** about mental health conditions, the Tribunal recognises that a person who has cPTSD and EUPD may well have difficulty expressing themselves with the fluency and precision that might otherwise be anticipated. That said, an even allowing for that, the problem remains that there was a consistent theme of not answering the question or simply repeating her view that she was not to blame. We also took into account that at no point was it suggested by anyone (including Mrs Inott herself) that the cross-examination was unfair or improper. We had no concerns about the style or manner of cross-examination.
53. The Tribunal had the following particular concerns about the Claimant's evidence.
- 53.1. Whilst Mrs Inott was readily prepared to suggest that blame lay with the Warwickshire Police, Leicestershire Police, her doctors, the support services offered, hospitals or those who represented her in criminal proceedings (amongst others), at no point did she even hint that she accepted any culpability on her own part. She accepted that alcohol played a factor in a lot of the misconduct that was the subject of these disciplinary proceedings but there is no acknowledgment anywhere that she had chosen to consume that alcohol. We understand her explanation that alcohol helped to numb the emotional pain caused by the cPTSD and EUPD and general anxiety. We understand why she might feel the desire to take a substance (like alcohol) in those circumstances. Nonetheless, there was no evidence that those conditions made her consume alcohol (i.e. denied her free-will

to choose). It was ultimately a choice but this was not recognised by her.

- 53.2. There was also the incongruity in her evidence. She denied any element of alcohol dependence or its involvement in her poor behaviour, but it was an inescapable common feature in all the poor behaviour that led to her dismissal.
- 53.3. She appeared to pick and choose which pieces of evidence she preferred, ignoring the less favourable pieces. She was very clear to rely on totality of the evidence of Dr Southall, who had made the diagnosis of cPTSD and EUPD, but sought to disown the actual medical evidence from Dr A Naz, (an Acting Consultant Psychiatrist) who on 9 July 2019 diagnosed the EUPD initially (which she accepted), recurrent depression (about which she is neutral for the purpose of this claim) and her alcohol dependence (which she refutes).
- 53.4. The Tribunal was concerned that Mrs Inott played down some matters and, by oversight, had not always told us the truth. In what may be generous on our part, we assumed that because she was so focused on her case that she was not to blame, she overlooked a few, albeit, important matters and so was not lying as such, but was simply wrong, and would have realised if she stopped to think about things for a moment. We are prepared to make this assumption because some of what Mrs Inott told us is clearly supported by the documents and stands up to scrutiny and besides, little benefit derives from detailed enquiry into the question. The untruth that particularly struck the Tribunal was this:
- 53.4.1. Mrs Inott said in cross-examination that she had no convictions since she started therapy with Dr Southall.
- 53.4.2. The therapy with Dr Southall began in August 2019.
- 53.4.3. In July 2020, she pleaded guilty at the Warwickshire Magistrates' Court to being drunk and disorderly.
- 53.4.4. In late 2020, she pleaded guilty at Coventry Magistrates' Court to the persistent use of a public electronic communications medium with the purpose of causing needless anxiety or inconvenience.
- 53.4.5. When challenged, she again attempted to explain them away by saying that the fault lay elsewhere either because she had not received sufficient treatment from health services or, in the case of the latter conviction at Coventry Magistrates Court, alleging it was the fault of the NHS paramedic who had assaulted her and the police for not taking the alleged assault seriously. She never acknowledged that her consequent behaviour of making the repeated telephone calls that gave rise to the charge

to which she pleaded guilty was her own choice and fault.

- 53.5. If she could tell this untruth the Tribunal cannot help but be concerned what else she had similarly overlooked in her evidence to us. Furthermore her explanations again demonstrate her propensity to blame everyone but herself
- 53.6. This was particularly apparent when she repeatedly took the opportunity to play down her own choice to consume alcohol, which was a common feature in all the misconduct.
54. The Tribunal was also struck by how she refused to acknowledge the support she had been given. In her evidence-in-chief set out in a witness statement of 106 pages, she made no mention of the fact that personal support was provided to by PC Kirkland or CI Maxwell right up until her appeal failed. In contrast, there were in numerous examples of hundreds of text messages that had passed between either PC Kirkland or CI Maxwell in their roles of personal support officers on the one part and Mrs Inott on the other.
55. After being cross-examined about this, she accepted that they provided support but said it was no more than their job and so it was not worthy of mention. We found that somewhat surprising because it is plainly obviously worth mentioning as it is an important part of the factual matrix.
56. The Tribunal is not going to set out the texts, but we noted that they were being sent at all hours when PC Kirkland and CI Maxwell were both on and off duty; they are emotionally heavy in content and they were always responded to by the recipients very quickly. We thought to say it was not worthy of mentioning was unfair and did not recognise the sacrifices that these 2 officers were making by responding to them around their day job and even when off duty. We thought any reasonable person would acknowledge they went far beyond what could reasonably be expected of them. Given the level of support that was being offered, we are concerned that Mrs Inott played it down and did not recognise it. It suggested to us that Mrs Inott (we assume without deciding, unconsciously) did not recognise or refused to acknowledge the support she actually received or was offered. It meant that we were not able to accept her allegations about lack of support so readily.
57. The Tribunal was also concerned about the way that Mrs Inott's memory appeared to work. For example, there was an incident at a hospital where a member of staff alleged that she was behaving appallingly. We will come to this later. Mrs Inott alleged that at this time she was suffering a dissociative episode that can often occur with cPTSD or EUPD and so could neither remember nor be responsible for her actions. Somewhat suspiciously, her state changed for just enough of a period to allow her to be sure when members of hospital staff were exaggerating. We acknowledge that cPTSD can cause dissociative states, especially if intoxicated, but cannot accept its switches on and off with such precision like she alleges. There is no evidence that supported that assertion and it

fits more with the general timbre of her evidence that she acknowledges no fault on her part.

58. Furthermore, there appears to be inconsistency in Mrs Inott's case which concerned us and undermined her credibility in our view. In her evidence - in-chief (paragraph 11 of her witness statement) she said:

"... I therefore have never stated that the Respondent is purely to blame for the state that I ended up in. I should have been offered support in order that I could deal with those issues [i.e. being stressed and depressed] in order to move forward with my job."

59. In contrast in her claim to the Tribunal she said in paragraph 6 of the Grounds of Complaint (that are signed by her):

"In January 2017, the Claimant began to experience mental health problems which were believed to stem from the failure to deal with the previous incidents [they are incidents at Warwickshire Police] in a suitable manner. In other words, the Claimant had not been provided with any support from her Employer with regards to the incidents and she began to suffer from [cPTSD]. The Respondent was aware that the Claimant was not receiving any help from the NHS. The Claimant began to drink to cope with the stress that she was under. This then led to her behaving badly and on 28<sup>th</sup> December 2018, an allegation was made against the Claimant for a potential breach of the Standards of Professional Behaviour."

60. It seemed to us that in her claim she was entirely blaming Leicestershire Police for the situation in which she found herself and for their failure to provide support but changed her position in her evidence. There is no explanation for the change. The inconsistency on its own might not be that significant but, feeding in with everything else, showed us how Mrs Inott's evidence changes over time.

61. Finally, the Claimant suggested that she was pressurised to return to work when she was not fit to do so. This is in direct contrast with a report written by the Arden Mental Health Assessment Team who worked with Mrs Inott, and again undermines her credibility. The team wrote as follows:

"[Mrs Inott] stated that she however enjoys her job as a PCSO in Hinckley, a role she had done for 9 years, and feels supported by her manager and colleagues; yesterday worked 8 - 5. Does think she leads almost a double life as when puts uniform on her professionalism kicks in. On returning home she was concerned to hear that [redacted] surgery had still not happened and drank 2 bottles of Red Wine, laid in bed thinking of everything and impulsively took 9 Gabapentin belonging to [redacted]; did not wish to die but "get away from my problems for a short while". Texted her friend the word Gabapentin and then went to sleep, planned to go to work today. Friend rang her this morning and asked her what she had done and encouraged her to attend A&E."

**Dr Southall**

62. Mrs Inott is being treated for her anxiety, cPTSD and EUPD by Dr Southall. She is not medically qualified but is a qualified psychotherapist. She works with the Staffordshire Police providing therapeutic treatment to officers and

employees. Dr Southall did not give evidence (as noted above) and (after our preliminary ruling) there was no report expressly written by her for these proceedings. Whatever our reasoning below we want to be clear that we have been given no reason to doubt Dr Southall's honesty, expertise or abilities, and nothing in this judgment should be read as a criticism of her personally or professionally.

***Facts - introduction***

63. With those observations in mind we make the following findings of fact on the balance of probabilities.

***Background to the case generally and disability in particular***

64. Mrs Inott told us about a number of events in her life that she alleges led to her having cPTSD, anxiety and EUPD.

64.1. She says that her first marriage was abusive towards her;

64.2. She said that both her children had had their own, particular, difficult problems personal to them, but which had impacted on the family;

64.3. Her husband suffered significant illnesses in 2016 and 2017 that had long term impacts on him and had impacted on the family too;

64.4. She alleged a doctor whom she had seen about her mental health had not provided medical treatment which delayed access to care;

65. More significantly Mrs Inott used to be a PCSO with Warwickshire Police. She alleges that she was the victim of several acts of sexual harassment about which she raised a number of complaints. She alleges that those responsible resigned rather than face disciplinary proceedings. She alleges that in consequence she was victimised by others for making the complaints in the first place. She says it is why she transferred to Leicestershire Police in 2011.

66. The Tribunal has not heard direct evidence from anyone involved in these allegations. In particular Warwickshire Police are separate and distinct from Leicestershire Police (whatever Mrs Inott thinks about that). They were not a party to these proceedings and have not had a chance to contest the allegations. She did not present claims against them at the time.

67. We make no findings of fact about these matters. We cannot properly do so. However we do not think we need to in any event. What is important is that Mrs Inott had mental ill health and (wherever the truth lies about her history or its cause) these allegations feature in the background to that.

***Disability***

68. It has been conceded that from 7 July 2019, Mrs Inott was disabled by reason of EUPD and cPTSD.

69. We understand cPTSD to be a condition where people experience symptoms of PTSD along with additional symptoms such as difficulty controlling emotions and being angry or distrustful towards the world;

constant feelings of emptiness; hopelessness; being worthless or being completely different towards other people and feeling like nobody can understand what has happened to you. It has potential symptoms of dissociative state (such as depersonalisation or derealisation) and physical symptoms) such as headaches and dizziness and chest pains). It is often accompanied by regular suicidal feelings.

70. It is the Tribunal's understanding that EUPD arises from emotionally unstable, anxiety ridden and self-destructive behaviour that can involve a rapid cycle between moods from despair to euphoria in a short time. It is common for people with EUPD to seek to treat themselves with things such as alcohol. However there is no suggestion that the EUPD somehow removes free will from the person with it – the decision to drink or not is a free choice albeit to be taken in an emotionally demanding environment
71. We have considered the whole medical evidence and consider the following matters particularly significant and present a fair picture of her health.
72. Her General Practitioner's (GP's) notes record the following
  - 72.1. In October 2017, she reported there had been stress at home. She was prescribed Sertraline. She said that she was struggling to cope and had been to the Accident and Emergency Department after a threat of suicide. She reported that she was struggling to get aftercare and that she had been on Citalopram for a period of 4 years with no effect. She reported also that she was seeing a counsellor through her workplace, Leicestershire Police, and that she had been to see occupational health and they were keeping off frontline duties.
  - 72.2. On 6 November 2017, she saw her general practitioner who recorded that she had attempted suicide. She had a psychologist appointment following and had occupational health appointment too. She said that she did not know what happened with the suicide attempt, she had just done it, it seemed quite spontaneous. It records that she is on Sertraline but says she still felt slightly anxious. She again went on to describe her difficulties that she was facing in her family life.
  - 72.3. On 4 January 2018, she was suffering ongoing low mood and that she had been drinking one bottle of wine per night. Again she discussed problems at home. She was changed from Sertraline to Fluoxetine tablets.
  - 72.4. On 12 January 2018, she was seeing an improvement in mood but still not sleeping but had reduced her drinking and felt better as a result.
  - 72.5. On 2 February 2018, her anxiety with depression was getting on well with the Fluoxetine. She was planning to go back to work now that she had reduced her alcohol right down.
  - 72.6. On 27 February 2018, she had much improved on the higher dose of Fluoxetine. She had been off work for two weeks having been back to work only four days in the last six months and

planning to have some time off as annual leave and return to work in late March.

- 72.7. On 18 March 2018 at a depression interim review meeting, she reported she had had a further episode of drinking, provoked by the fact she felt a friend had let her down and that she was unsupported and that she had been let down by a number of people over the years, but still nonetheless was still keen to get back to work.
- 72.8. On 22 May 2018, her GP noted she reported a number of issues at home; that she was still taking Fluoxetine to treat her depression with anxiety; that she had been to see a psychiatrist who had reported that there was no role for the Mental Health Team at that particular point.
- 72.9. On 22 June 2018, her GP reported she was doing better than before and that she was continuing to take medication to deal with her depression with anxiety.
- 72.10. On 6 August 2018, her GP recorded that the Claimant was suffering with low mood because of problems at home. The GP reported Mrs Inott describing a dysfunctional family life and that she and her husband at that time were drinking. She was educated on the effects of alcohol on mood and given a plan to try and stop drinking on impulse.
- 72.11. On 18 September 2018, Mrs Inott reported that she had had a recent admission to the Emergency Department and had been abusive to staff; had alcohol prior to this happening. She described her mood as going up and down and that she had appointment with the Mental Health Team coming up in October. She continued to take to take the anti-depressant tablets that she had been prescribed and to remain off the alcohol.
- 72.12. On 22 October 2018, her medication was extended.
- 72.13. On 27 November 2018, there was a further review with her GP for anxiety with depression. He noted that there had been no dips in mood; that she was stable on her current medication; that she had been much better since she had taken control of herself and started having help with alcohol. She described herself as barely drinking now and in a much better mood as a result. She went on to describe that her children were both getting fed up with her and her boss at work had had words about her about her conduct. She described this as a wake-up call for her to make changes.
- 72.14. On 10 December 2018, she attended another review. Her GP noted that she had had several attendances at the Accident and Emergency Department and the Caludon Centre (a mental health care facility at University Hospital Coventry and Warwickshire) regarding her mental health. The latest incident was noted. She had climbed onto a roof. Warwickshire Police (the police force who covered where she lived) and ambulance



attended. She stated that she did not drink but when the mood lowers, her only release is to drink alcohol. She also described conflicts in her marriage and that she had had an episode of being extremely angry. She described that at one moment, her mood was extremely elevated and the next moment was extremely low.

- 72.15. There was a further mental health review on 3 January 2019 – what the GP describes as a very long consultation with Mrs Inott. He describes that since he last saw her, she had had two breakdowns fuelled by alcohol. In one she ended up on the roof of a neighbour's house with no intention to harm herself, although she had no idea why she was up there. She describes that the police were involved to bring her down. In a second incident, she had been arrested and ended up spending the night in the police cells, again after consuming alcohol. Later she was charged with public order offences. Mrs Inott said that she had read an article which suggested that taking anti-depressants could cause her to consume more alcohol and that she thought this was relevant. She was still in a low mood. She challenged the GP as to why the information in this article was not in the public domain for clinicians. Her GP explained to her that the reasons for drinking too much alcohol are multiple and might include habit, a lack of self-control. Mrs Inott accepted this. The GP recorded that MRS Inott accepted that rather than blaming the anti-depressants, alcohol was not helping her situation in any way and therefore she needed to completely abstain. She complained that she believed no one helped her because she drank. The GP explained that mental health services would assess her but it would become harder with alcohol problems to get a clear picture. It was agreed that she would follow a plan of alcohol abstinence and await a mental health appointment but continue to take the anti-depressants. We note as an aside this is another example of Mrs Inott looking elsewhere than to herself for justification of what is occurring.
- 72.16. On 23 January 2019, there was an interim depression review. Again, Mrs Inott raised the issue of the anti-depressants causing drinking to excess. Again, her GP reminded her that whatever the cause, drinking alcohol was not going to be the answer and was going to make things worse. She described how she managed to abstain for 5 days but then started to have one glass of alcohol and then more. She described also that she had chosen to reduce her anti-depressants and felt better and suggested that, with the GP's consent, she would continue to reduce them and then stop. She said that it did not matter what caused her alcohol consumption because neither was helping. It was explained to her that she needed to completely abstain from alcohol and distract herself, for example with exercise.
- 72.17. On 6 February 2019, there was a further depression interim review. It was noted that she was no worse now she was off

Fluoxetine but had had further alcohol binges which resulted in admission under the Mental Health Act 1983. The trigger for drinking to excess was described as the extreme stress that she felt she was suffering. She had an appointment with a psychiatrist arranged.

72.18. On 1 March 2019, the GP noted there was a depression interim review, although this time it is now labelled as alcohol disorder monitoring. She described how she was on a different anti-depressant and that her mood though was still low and that she was getting anxious, particularly as she had meetings the next week regarding her return to work.

72.19. On 18 April 2019, there was an emergency appointment regarding a mental health review and there being lots of problems. She described that she consumed alcohol when she had low mood and was stressed, saying it was her only option. She described it as not being a physical addiction to alcohol so she could go for days and weeks without using it but used it as an emotional crutch. She described how by that point she had been bound over for breach of the peace. She said that she felt desperate to get some help and that no one was helping her for managing her emotional support. There was a long discussion about the use of alcohol as a crutch and the effect on mood and how it escalated risky behaviour, for example overdoses, and advised her not to have alcohol in the house. The GP said that no one was forcing her to drink alcohol and it was a choice that she was making for herself and it was impacting on her life. She was advised to contact integrated care for support and her depressants were increased.

72.20. On 6 May 2019, it appears that there was an issue in relation to alcohol problems taking the medication and she had been advised for drinking too much and as a result had ended up being seen by an ambulance which involved the police attending as well.

72.21. Finally, on 15 August 2019, she attended a review of her anxiety and depression. The GP noted bruises on her arms, legs and forehead from arrest the previous night when she was drunk and hiding. She said she was taken to Accident and Emergency Department and then detained in a cell overnight where she banged her head on the window. She described how she was continuing to take her anti-depressants and it appears that she had overdosed on it. She had been presented with a large file relating to disciplinary proceedings that the Leicestershire Police had already begun. She was advised to continue to work with the Mental Health Team and to build on the current support that she had and said that she should continue to avoid alcohol.

73. Furthermore, the medical notes disclosed Dr A Naz saw Mrs Inott for an assessment on 26 June 2019. In his letter of 9 July 2019 he diagnosed that she had EUPD, recurrent depression and alcohol dependence. In his letter

he identified the presenting complaints as emotional instability for a long time, depression since 2000, alcohol abuse or dependence for 2 years, that she had gone through a lot of psychosocial traumatic events during the last few years, there having been repeated suicidal attempts that were impulsive acts over the last 2 years when drunk but that she believed that her drinking alcohol was under control at present.

74. Under the heading “History of Presenting Complaints” he wrote:

“... She understood how she has turned to alcohol in excess and has now come dependant on it. She has made numerous self-harm/suicidal attempts/overdoses; she has climbed on top of her neighbour’s roof, standing at bridges etc. this is usually when she is drunk. She was hospitalised and taken to George Elliot Hospital A&E and detained under Section 136 and assessed under the Mental Health Act 1983. She has recently taken an overdose of 38 Gabapentin on 21 June (5 days ago) but called 999 and spent one night in A&E. She states that she regrets it afterward.

“[Mrs Inott] states that her head is a mess and she has a lot of worrying thoughts. Her mood can up and down very quickly and she can become erratic quickly and can do odd things during these impulsive acts. Her mood has been better since she has been taking Duloxetine.

“[Mrs Inott] says that she has no issues with her sleep, appetite, self-care, motivation and energy at the moment. She says that she struggles to enjoy life at the moment and has episodes where she acts bizarrely. She has seen IAPT [Improving Access to Psychological Therapies] and had had Mind Counselling with no benefit.

75. On 20 April 2018, there was a mental health assessment carried out by the Arden Mental Assessment Team. The Tribunal has already alluded to this above. As well as referring to the paragraph that we have already quoted earlier, the notes recorded that there was no evidence of any acute mental illness and that she denied current thoughts or intents or plans to harm herself or others. She reported that she had not found counselling useful and decided to pay for hypnotherapy. The author, D Strudwick, recorded then that there was no role identified on assessment for mental health services and therefore she was discharged when medically fit.

76. On 28 February 2019, Dr M Chawla of an organisation called “Change, Grow, Live” (CGL) (a charity specialising in substance misuse and criminal justice intervention) reported that he had seen Mrs Inott for a prescribing review, together with her husband and a key worker. He diagnosed a harmful use of alcohol and clinical depression. Under the heading “Plan” he wrote:

“Plan:

No change in [medical prescriptions] and to d/w GP if Duloxetine needs increase in near future. 3/12. Explained about Antabuse ...”

[Antabuse is a substance that seeks to stop people from the harmful use of substances like alcohol.]

77. On 9 June 2017, Mrs Inott was referred by her Sergeant (Sergeant (Sgt) Butterworth) for an occupational health referral. He noted that she was suffering anxiety and stress due to her current homelife. Although the actual occupational health report is not dated, it appears to be shortly afterwards. The report recorded details about difficulties in her private life (to which we have already alluded) and then goes on to say:
- “... However [Mrs Inott] has chosen once more to return to full hours. [Mrs Inott] states that she enjoys coming to work to basically have a rest bite (sic) from the strains at home. Nine times out of ten [Mrs Inott] manages this well. There are no issues with her actual work. ...
- “[Mrs Inott] has previously been to see the [Forces Medical Officer (FMO)] and found the support that was afforded to her helpful.
- “[Mrs Inott] appeared tearful and drained. Things do appear to be getting to her and I have advised her to once again revisit her own GP and to report sick to allow her time to reassess the situation and give her time away from the stresses of police work. I am submitting this occupational health referral to bolster the support the organisation can afford her. [Mrs Inott] is also aware of CIC [the counselling service available to the police force officers and employees] but has not taken this up.”
78. The report from 27 June 2017 suggested that, despite her difficulties, she was able to return to work once she had recovered from an unrelated hearing issue.
79. Mrs Inott herself described regular feelings of suicide and self-harm and what she termed “dark thoughts” even on medication. She explained how the medication provided some but not total relief. She told us that without the medication things would be much worse. Mrs Inott told us that without the medication she would find it even more difficult to interact socially with people, to go out and do normal things.

### ***Mrs Inott's employment***

80. From 3 November 2008 Mrs Inott was employed as a PCSO with Warwickshire Police. For the purposes of the **Employment Rights Act 1996** her continuous employment starts from this date. From 31 October 2011 Mrs Inott was employed by the Leicestershire Police as a PCSO. Although PCSOs are employees rather than sworn constables, they do have several legal powers above and beyond those of the ordinary private citizen. These include the power to issue various fixed penalty notices; to require the names and addresses of people whom they have reason to believe have committed certain offences; the power to require names and addresses in respect of alleged anti-social behaviour; powers in respect of certain road traffic matters; the power to require people drinking in certain designated places or of a certain age to surrender alcohol; the power to seize tobacco from those under the age of 16; the power to seize drugs and require the name and address of people in possession of drugs; the powers to enter and search any premises for the purposes of saving life and limb or preventing serious damage to property and the power to seize vehicles used to cause alarm. They also have certain powers in respect of cordoned

areas; stopping and searching in authorised areas; to photograph people away from the police station and certain traffic control purposes.

81. In addition, Police Community Support Officers can, in appropriate cases, be delegated extra powers by their Chief Officer of Police. Whether that happened in this case, the Tribunal does not know and, in any case, it does not matter.
82. Thus PCSOs are more than just a face to the local police force. They are an important part of community policing but they have with that significant powers over members of the public to maintain order and enforce a number of laws.
83. Mrs Inott signed her contract of employment on 28 September 2011.

***Standards of professional behaviour***

84. Mrs Inott's contract of employment reflected this and provided the following:

“Standards of Professional Behaviour (encompassing conduct):

“Public confidence in the police service depends on police staff demonstrating the highest level of personal and professional standards of behaviour at all times. The standards of professional behaviour are as set out in the enclosed document and these reflect the expectations that the police service and the public have of you.

“A breach of these standards may damage confidence in the police service and could lead to disciplinary action, which in serious cases may result in dismissal.

“Copies of the Police Staff Council Standards of Professional Behaviour and Disciplinary procedure are enclosed with this contract and you are asked to read these documents carefully and sign to acknowledge receipt.”

85. The Standards of Professional Behaviour provided as follows at paragraph 3.1:

“3.1.1

“These standards reflect the expectations that the professional body and the public have of the behaviour of those working in policing. They originate from the ... Police Staff Council Joint Circular 54 (for police staff).

“3.1.2

“The Code has adapted the wording in the Regulations and Circular 54 so that it applies to everyone. ...

86. Under the heading “Conduct”, it read as follows:

“[The employee] will behave in a manner, whether on or off duty, which does not bring discredit on the police or undermine public confidence in policing

“9.1 As a police officer, member of police staff or other person working for the police service, you must keep in mind at all times that the public expect you to maintain the highest standards of behaviour. You must, therefore, always think about how a member of the public may regard your behaviour, whether on or off duty.

“9.2 You should ask yourself whether a particular decision, action or omission might result in members of the public losing trust and confidence in the policing profession.

“9.3 It is recognised that the test of whether behaviour has brought discredit on policing is not solely about media coverage and public perception but has regard to all the circumstances.

“Examples of meeting this standard are when you:

“ ...

“\* avoid any activities (work-related or otherwise) that may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public. ...

“\* avoid any activities that may compromise your or any colleagues position in policing or compromise a police operation.

“\* start work on time and are punctual while at work....”

87. Mrs Inott accepted that she had received those documents at the commencement of her employment and that she was aware of them.

***Disciplinary process and procedure***

88. Under disciplinary procedure it said:

“Disciplinary Procedure:

“The Leicestershire Police Authority [now the Police and Crime Commissioner for Leicestershire] has a formal procedure for dealing with matters of discipline. Should employees be dissatisfied with the outcome of any disciplinary action, there is an internal appeals procedure, details of which are available within the “Disciplinary Policy” on the Force Intranet.”

89. CC Cole explained that it was important that members of the public have reassurance and confidence in all police staff, including PCSOs, not just because of their powers over them but because PCSOs may be involved in the investigation of crimes (even if only in the background) and may well have to give evidence in criminal proceedings. He explained that if a PCSO had previous convictions then they would have to be disclosed as a matter of routine to the defence as part of the unused prosecution material because they may be relevant to the PCSO’s credibility. This could cause difficulties and embarrassment and could undermine the prosecution so that it no longer had a reasonable prospect of success. He also explained that, practically speaking, it was difficult for a PCSO who had been convicted of certain offences to deal with members of the public who were also allegedly committing similar offences because the public may feel they cannot (or do not have to) respect the authority vested in the PCSO.
90. PCSOs were subjected to a detailed disciplinary policy and procedure.
91. Paragraph 4 of the policy described “misconduct” as “a breach of the Standards of Professional Behaviour” which we referred to above. It described “gross misconduct” as “a breach of the Standards of Professional Behaviour so serious that dismissal would be justified.”
92. Under paragraph 6 “Management Action” it read as follows:

“6.1 Management action is where the role of a Police Staff or Police Officer manager is critical in ensuring early and swift intervention and effective management of Police Staff conduct. Management action is not a formal misconduct outcome but is considered part of the normal managerial process. Cases of minor misconduct are usually best dealt with by local managers by way of management action.”

93. Paragraph 6.2 provided that management action might include pointing out the failure, establishing improvement, plans and expectations for future conduct.

94. Paragraph 6.3 provided:

“6.3 If the line manager feels that the matter cannot be dealt with by means of management action then a referral should be made to the Professional Standards Department for a formal case assessment.”

95. The formal procedure provided for an assessment as to whether the alleged matters are potentially misconduct or gross misconduct. Under paragraph 7.4 it said:

“7.4 Where it is determined that the conduct if proved, would constitute gross misconduct then the matter will be investigated (unless the assessment is subsequently changed to misconduct in which case, if appropriate, no further investigation may be required.)”

It went on to say that as an investigation commences, the level of whether it is misconduct or gross misconduct can be reassessed either up or down as may be.

96. Paragraph 8 dealt with the investigation. At paragraph 8.3 said:

“8.3 The purpose of the investigation is to:

“\* Gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct.

“\* Assist the Professional Standards Department to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

“Identify any learning for the individual or organisation.”

It then went on to provide a detailed process for investigations and that a person at an investigation may be represented or have assistance from a trade union or workplace colleagues.

97. The investigation would result in an investigation report that would be sent to the Professional Standards Department (PSD). If the PSD was satisfied the investigation was complete, it would decide how to proceed.

98. Paragraph 11.1 provided that one of the scenarios in which there would be a misconduct hearing was if the PSD believed there was a case to answer in respect of gross misconduct. The maximum outcome could then be dismissal without notice.

99. There was then a detailed procedure to the conduct of the misconduct hearing in sections 11 and 12.

100. Paragraph 12.3 said:  
“12.13 Once the date and time of the meeting/hearing has been agreed or specified, the individual concerned shall attend the meeting/hearing. If the individual is unable to attend and the person(s) conducting the meeting/hearing considers the grounds to be reasonable, the individual concerned may be allowed to participate in the meeting/hearing by other means (for example by conference telephone call).”
101. Under paragraph 15, it said:  
“15. Outcomes Available at Misconduct Hearing  
“15.1 At a misconduct hearing in addition to the outcomes available above [i.e. concluding the charge was not proven, taking no further action, giving management advice, a written warning or a final written warning] the persons conducting the hearing will also have available the outcomes of:  
“\* Dismissal with notice – The notice period should be determined by the persons conducting the hearing subject to a minimum of 28 days.  
“\* Dismissal without notice – Dismissal without notice will mean the individual is dismissed from the police service with immediate effect.”
102. The policy provided for an appeal process:  
“17.14 An appeal is not a repeat of the misconduct hearing. It is to examine a particular part(s) of the misconduct case which is under question and may affect the finding or outcome.”
103. Appeals against the decision at a disciplinary hearing were dealt with by the Chief Constable sitting with a panel.
104. The policy also provided for the power of suspension. Paragraph 18.1 confirmed that an individual may be suspended from work but added:  
“18.1... The decision to suspend an individual is not a presumption of guilt and should not be seen as misconduct action against the individual concerned.  
18.2 Suspension will be with full pay and allowances.”
105. Paragraph 18.3 required a decision maker to consider whether it was possible to temporarily move someone to a new location or role within the relevant and existing terms of employment before suspending.
106. Paragraph 18.4 provided conditions on suspension:  
“18.4 The individual concerned shall not be suspended from work unless the following conditions apply:  
“\* Temporary redeployment to alternative duties or an alternative location is not appropriate in all the circumstances of the case.  
“\* It would prejudice the effective investigation of the case if the individual was not suspended.  
“\* The public interest regarding the nature of the allegation and other relevant consideration requires that he/she should be suspended.”



107. Paragraph 18.8 allowed the suspended individual, their trade union representative or a workplace companion to make representations against suspension within 7 days of the suspension taking effect or at any time during the suspension if they believed the relevant circumstances have changed.

***Mrs Inott's performance***

108. There is no suggestion that Mrs Inott did a bad job as a PCSO – in fact it seems that she was an excellent PCSO. She had received no prior formal or informal warnings in relation to her conduct. She had received a final improvement notice about her poor attendance in March 2019. That did not form part of this process or contribute to her eventual dismissal.

***Rehabilitation centres***

109. CC Cole gave evidence about a service called Flint House that had been raised during evidence. This was run by the Force Benevolent Fund which is independent of the police. It was a service to which officers could subscribe and go to if they were suffering from mental health difficulties. Traditionally it was only police officers who could subscribe but in the last 18 months other members of staff have been able to subscribe as well.
110. It is not available to the police force itself to use for staff treatment, being a separate organisation. If an officer or employee subscribed and fell mentally ill, they could attend Flint House for treatment. If they were not subscribers, they could not.

***Circumstances leading up to dismissal***

111. On 9 October 2015, Sgt Butterworth referred Mrs Inott to occupational health, noting that there had been several incidents in the workplace that had raised concerns around Mrs Inott's wellbeing and there was possibly anxiety, stress or depression.
112. Sgt Butterworth referred to the difficulties that Mrs Inott was facing in her home life and that she had been placed on a course of medication. He said that he was submitting the occupational health referral to bolster the support the organisation could afford her; that she was aware of CIC but had not taken it up.
113. The occupational health report in reply said:  
"I met with PSCO [Mrs Inott] on 19<sup>th</sup> October 2015 in relation to her recent health difficulties. ...  
"[Mrs Inott] is current experiencing symptoms of difficulty sleeping which is leading to fatigue, reduced concentration and poor memory. She states she feels her concentration is fine when she is out on her beat. [Mrs Inott] as you are aware is currently receiving appropriate treatment from her GP.  
"I have advised [Mrs Inott] to contact CIC for additional support. I would advise that she has some flexibility with finishing and starting times to allow her to get to visit her daughter ...

“I would also advise she avoids 11pm finishes for the next 2 months and finish a 10pm to allow her to regulate her sleep pattern and help with fatigue.”

114. There was a further occupational health report from an occupational health nurse on 26 February 2016 that recorded:

“[Mrs Inott] is managing her full role and informs me she is now working her full hours until 11pm and reports that she is sleeping better and that her concentration and memory are both good. She has not yet had a meeting with HR and her line manager as (sic) advised at the stress risk assessment and I would advise that this is arranged as soon as possible.

“I have asked [Mrs Inott] of the benefits of accessing CIC for some additional support and she is going to consider this. If she does decide to access them she would benefit for having time to attend if operationally possible....”

115. On 8 July 2017, Mrs Inott called the Warwickshire Police saying that she wanted to self-harm. She failed to arrive for her shift at 8 am the next day because she was hungover which suggests strongly she had been drinking the previous day and, given the pattern of behaviour we are about to go into, that she was drunk when she made the call.

116. Sgt Butterworth made a further occupational health referral on 8 June 2017. He recorded in the referral that Mrs Inott appeared to be struggling to cope with events in her private life. He said she appeared “tearful and drained”. He noted Mrs Inott attended her GP who had prescribed her medication for anxiety/depression and that she had previously been to see the Force’s Medical Officer (FMO) and found support that was afforded to her helpful. Sgt Butterworth noted that Mrs Inott was aware of CIC but still had not taken up the offer.

117. The occupational health report came back. They noted that things seemed to be improving in her private life and therefore they expected Mrs Inott to improve.

118. On 26 August 2017, Mrs Inott called the Warwickshire Police making threats to kill herself.

119. We mention at this point that during her evidence Mrs Inott repeatedly said either Warwickshire Police should not have reported any events they had to deal with involving her to Leicestershire Police (citing privacy) or that if they were able to pass information on, it meant that Leicestershire Police were liable for any legal wrongs towards her that Warwickshire Police may have committed. We observe that her legal representatives did not pursue this argument. They were correct not to pursue it. Mrs Inott’s view is wrong. If she commits acts within the territory of Warwickshire Police that might call into question her conduct or suitability to be a PCSO in another constabulary, it is plainly relevant that Warwickshire Police should inform her home constabulary. The idea that the incidents they were involved in should remain private and confidential we think is seriously misguided. Taking it to an extreme example, if she had committed a fatal offence in Warwickshire police’s territory, the idea that Leicestershire Police should not be told about it is clearly a nonsense. That must surely apply at the

lower end of the scale if there is conduct that would into question her suitability to be a PCSO, either because of ill-health, misconduct or any other reason. Mrs Inott's suggest that Leicestershire Police are therefore responsible for Warwickshire Police's alleged wrongs towards her is also misguided. They are separate legal entities and one has not acted as agent of the other to suggest any element of vicarious liability. This suggestion did concern us that it again demonstrates Mrs Inott trying to deflect attention away from her own conduct.

120. In September 2017, Mrs Inott was again referred to occupational health. This time she was seen by Dr Bhogadia, the FMO. He recorded:

"It is apparent that [Mrs Inott] is going through a difficult situational reaction, secondary to a psychosocial dynamic at work and to a lesser extent, at work. This is reflected in our discussions today and the psychometric tests completed today. [Mrs Inott] finds a focus at work which helps her deal with the circumstances in her life better. Clinically she remains fit for her role and can resume full foot patrol, with close supervision to check her welfare needs. Dynamic risk assessment is advised at all times. I understand that a WRAP [Wellness and Recovery Action Plan] is in place for her now?"

121. On about 27 September 2017, Dr Bhogadia against saw Mrs Inott and recorded:

"This was request to assess [Mrs Inott] after an apparent "escalation" in events from 15/09/2017. The issues are the same as per my last report, but this time have led to [Mrs Inott] acting impulsively in self harm which has been assessed in A&E. [Mrs Inott] has taken the appropriate measures to change her GP (has an appointment tomorrow). She also understands that she needs to be fit for her role as PCSO. She enjoys her role and stated that she does "not want to lose it". Being at work gives her focus away from home.

"She is fit for work with welfare supervision to continue."

122. On 11 October 2017, Mrs Inott called Warwickshire Police making threats to kill herself.

123. On 17 October 2017, Mrs Inott's GP signed her off for 1 month as unfit to work because of anxiety with depression.

124. On 10 February 2018, there was a report to Warwickshire Police which was disclosed to Leicestershire Police. The police summary recorded that Mrs Inott had gone missing from a public house after being there with family. She had contacted a work colleague and told them that she wanted to commit suicide. She had been found by police officers at 2345 and told the officers that she intended ending her life by throwing herself off a road bridge over the A444, which is a major road in Warwickshire. The police detained her under **Mental Health Act section 136** (which empowers police constables to remove people who reasonably appear to be "mentally disordered" (the words used and defined in the legislation) to a "place of safety"). The report continues:

"[Mrs Inott] had been quite anti and has resisted so handcuffs have been used accordingly.

“[Mrs Inott] has been accepted the Cauldon Centre, Coventry.”

125. On 9 March 2018, there was a report to the Warwickshire Police of an assault. The investigation summary records that:
- “[Mrs Inott] having consumed a bottle and a half of wine whilst on anti-depressant medication has had a verbal argument with her husband ... becoming aggressive pointing her finger in [her husband’s] face at which point [he] allegedly strangled her and threw her to the floor, there are no marks or visible injuries & she did not wish to pursue a formal complaint.”
126. The Warwickshire Police noted in their records:
127. “[Mrs Inott] is vulnerable due to her long-term mental health issues; she has suicidal tendencies and is an alcoholic. Husband has to restrain her/lock the house because otherwise [she] runs away from the home address to then try and kill herself ... Whilst at the address [Mrs Inott] repeatedly tried to jump out the upstairs window and had to be restrained by police. However upon ambulance attendance over two hours later (they had a back log of jobs) they deemed she had capacity.”
128. We pause here to note that Mrs Inott suggested repeatedly during the case that Warwickshire Police (both in this allegation above and others that we deal with below) could not properly say she was intoxicated. She relied on the fact that they did not test her blood, nor did they breathalyse her. We reject that suggestion unhesitatingly and think it a further marker of attempts to excuse or play down her conduct. It is quite apparent from context that the references in the police reports to intoxication are intoxication through alcohol (there is no suggestion of illicit drugs), i.e. what more commonly would be called “drunk”. The criminal law has long recognised that “drunk” means no more than being deprived of self-control through alcohol and is a factual question based on presentation of the accused: see **Neale v E (a minor) [1984] CLY 576 QB**. Police regularly have to deal with those intoxicated. They are trained to spot intoxication and its cause because different intoxicants may affect behaviour and risks. They can take into account information provided to them at the time e.g. about what has been consumed. They are perfectly capable of determining if someone is intoxicated. There is no threshold of alcohol in blood or breath for drunkenness like there is for having excess alcohol in one’s body when driving. The Tribunal is quite satisfied both in relation to this note and those that follow that if the police have recorded that Mrs Inott was drunk then they were entitled to do so and noted it because she was. That conclusion is often supported by her behaviour which was not that of a sober person and by details of the alcohol she had consumed.
129. On 9 May 2018, there was again a report to the police that Mrs Inott’s husband had assaulted her. It is recorded by the police that she was intoxicated again by alcohol.
130. On 27 June 2018, her GP signed Mrs Inott signed off work. Unfortunately, the note is poorly photocopied and so the Tribunal is unable to ascertain what that reason was.
131. On 28 August 2018 Mrs Inott was referred to occupational health about concerns of anxiety and emotional difficulties she was having relating to

events at home. The referral noted that she had been supported with the rearrangement of shifts, disability leave and had been offered counselling.

132. The occupational health therapist noted that at the time she was certified by her general practitioner as being sick due to anxiety and was being treated with anti-anxiety medication and attending counselling. They recommended that she be provided some flexibility in case she should at short notice need to deal with affairs at home. It was therefore suggested that she be relocated to the Hinckley area, close to her home. This is what happened.

133. On 4 November 2018, Warwickshire Police recorded that were undertaking an adult protection investigation. They reported that they attended the property on that date and that Mrs Inott was intoxicated having returned home from work at about 5 pm and had drunk a bottle of wine since coming home. It is not clear from the report when the police themselves attended.

134. On 9 November 2018, Mrs Inott contacted the police to report that her husband had locked her in the bedroom. The report noted:

“On attending, [Mrs Inott] had climbed out of the upstairs bedroom window on to the garage roof. [Mrs Inott] then crawled across the garage roof on to the neighbour bungalow roof.

“Officers spoken to [Mrs Inott’s] husband, who stated that [Mrs Inott] had been drinking and was currently suffering from a [mental health] episode. He stated that he did not lock her in the bedroom.

“Officers attempted to engage with [Mrs Inott] whilst she was on the roof, but she refused to co-operate and stated that she wanted to kill herself and jump off the roof. [Two police constables] the climbed on the roof and attempted to negotiate with [Mrs Inott] and to see that she had no physical injuries.

“Whilst on the roof, [Mrs Inott] advised that she does not feel that she is getting the help she needs and that she is ok for a time but then everything gets too much and she feels there is no point in carrying on. She is currently working as a PCSO with Leicestershire police and advised that they are aware of her mental health issues and have previously been supporting her.

“ ...

“After negotiating [Mrs Inott] began cooperating and agreed to come down off the roof and be checked over by Ambulance staff....”

135. The report also noted that:

135.1. she went with the ambulance staff voluntarily to the George Elliot Hospital,

135.2. Mrs Inott’s husband said she had consumed approximately 2 bottles of wine, and

135.3. she normally has these episodes after consuming alcohol.

136. On 28 December 2018, Mrs Inott appeared before the Warwickshire Magistrates Court. The Court’s register disclosed that the allegation was that Mrs Inott had

“... behaved in a manner whereby a breach of the peace had been committed and application will be made for an order that you enter into a recognisance without sureties to keep the peace. ...”

She admitted this and the Justices bound her over in the sum of £50 for six months to keep the peace.

137. The record shows that at the hearing she was represented by a solicitor and that she was present at the hearing. Mrs Inott has suggested in evidence that she had no idea what she was doing and that she should not have admitted it. She implies that she was badly advised. There is no evidence of this. She has not waived privilege. At the minimum we would have expected her to write to the solicitor to forewarn him that she will make this allegation and given him an opportunity to reply. We might also have expected an appeal. There is no evidence the Court itself had reason to be concerned about her welfare. The Tribunal therefore concludes that she was properly advised and properly represented throughout and that the decision that she made to plead guilty was one that she made of her own free will while aware of what she was being accused of and aware of what a guilty plea would mean.

138. The details of what led to that bind over occurred on the evening of 27 December are set out in a report that the police obtained from the Police National Computer. It read as follows:

“Summary

“Call from female, originally silent 999

“Ms Inott wanted to talk to the Crisis Team however owing to demand no connection with the mental health team

“Ms Inott is intoxicated and when Police arrived she states she doesn’t want Police owing to her issues with Warwickshire and Leicestershire Police”

“Ms Inott continues to drink alcohol and states that she will not engage with medical professionals, becoming more agitated however Officer’s believe her to have capacity

“Situation escalates with [Mrs Inott] being aggressive to Officers when she starts to push them

[Later on it is recorded she tried to grab police radios and cameras and made threats towards her family and was unpleasant to her daughter]

“Arrested to prevent breach of peace

“Detention authorised

“Assessment with [healthcare practitioner] has taken place when Ms Inott has calmed down (originally taken to the cell immediately on arrival)

“[Community psychiatric nurse] has been requested for further assessment in the morning

“[Person in custody] has been bound over the Court in the morning”

It is further recorded that she saw the mental health nurse and declined any help.

The incident was captured on body-worn video.

139. The notes confirm that the Warwickshire Police told Sgt Butterworth what had happened. He noted in reply the support that Mrs Inott had received and that Mrs Inott had by that point already accessed CIC counselling. Though we do not know the dates she accessed CIC counselling services, we are satisfied she at least knew how to access it.

140. On 31 December 2018, Leicestershire Police noted in their records that:  
“[Detective Sergeant Hames] have been sighted on the conduct assessment completed ... which is of gross misconduct and [DC Allingham] had been appointed as the [investigating officer].  
“...CI Maxwell and Sgt Butterworth [have been made] aware of the decision and provided them with a copy of the restriction notice to allow them to consider re-deployment of [Mrs Inott] whilst the investigation is ongoing.”  
“...Taking into consideration the circumstances of this incident, [Leicestershire Police] do not consider it necessary or appropriate to serve [Mrs Inott] with a notice of investigation/restrictions until she returns to work. As this action is likely to be of detriment to her health and wellbeing, [they] don't consider at this time, that the delay will put [Mrs Inott] in a position of disadvantage, taint the investigation or put the organisation or public risk.”

141. On 4 January 2019, there was a further adult protection investigation carried out by the Warwickshire Police. The investigation summary recorded:

“[Mrs Inott] has been reported to be screaming whilst sitting on the window ledge of her first-floor front bedroom. She suffers from depression and has mixed alcohol with her medication which has caused her to react in the manner described. Her husband had locked the door to prevent her from leaving to get more alcohol due to her condition. She has then decided to hang out of the window.”

On this occasion Mrs Inott's husband told the police had said that her medication was making her crave alcohol, although he stated that she is not alcohol dependant. Ambulance staff and a police officer were able to pull Mrs Inott back inside from the window ledge and the police recorded that

“she was obviously very intoxicated”.

The notes record that Mrs Inott agreed to go with the ambulance to review her medication and for a mental health assessment.

142. On 8 January 2019, DC Allingham wrote to Dr Bhogadia:

“I was wondering if you could advise me with regards to a decision on whether to contact the above staff member [Mrs Inott] whilst she is on sick leave please?”

After describing the incident of 28 December 2018 she wrote:

“The matter is quite a significant conduct matter and I will be looking to serve notices of investigation upon PCSO Inott in relation to it. I am aware

that she is current on sick leave but I am unaware of the exact nature of this or when she is likely to return to work.

"I am therefore contacting you for advice as to whether it would be appropriate to make contact with her about this matter now? Or if it would be better to wait for her return to work? Of course, I would not want to exacerbate any health issues by contacting her.

"Could you also let me know if her return to work is likely to be imminent? Any whether, (given your knowledge of her health), you think that the serving of the notices may have any detrimental effect on her? Lastly, is the nature of PCSO Inott's health something that I need to take into consideration in the way this matter is dealt with?"

143. We were not taken to Dr Bhogadia's reply but it is apparent that he said Mrs Inott could be served with the notice of investigation given what happened next.

### **2 February 2019**

144. On 2 February 2019 Leicestershire Police served her a notice of investigation that she faced disciplinary investigation.

145. On 2 February 2019 at 2000, Warwickshire Police were called out to Mrs Inott's property. Her husband had accused her of an assault occasioning actual bodily harm. The investigation summary recorded:

"[the incident involved] a husband and wife who reside together in the marital home. She is currently off work due to her mental health issues. She is a serving PCSO for Leicestershire Police.

"On Saturday 2nd February 2019 she received information from her works Sergeant that made her believe her job was at risk. This caused her a severe [Mental Health] Episode whereby she wanted to leave the house and kill herself. Her husband locked her in and she struck him on his forearms with an umbrella and scratched him. She tried to jump out of the upstairs front bedroom but was restrained by him and pulled inside by police"

The notes went on to confirm that her husband was concerned by Mrs Inott's mental health and that he did not want to press charges and added:

"... She drinks excess alcohol and this coupled with her [mental health] medication appears to present itself with her becoming emotional and aggressive."

### **Visit to the Claimant on 6 February 2019**

146. On 6 February 2019, Sgt Butterworth emailed Mr Nykolyszyn seeking a meeting in respect of Mrs Inott. He wrote:

"[PC Kirkland] and I completed a home visit today 6/2/19 on [Mrs Inott]. The aim was to introduce [Mrs Inott] to [PC Kirkland] who is to take over on the welfare role for [Mrs Inott] going forward. And to get the MGM form signed by [Mrs Inott].

"[Mrs Inott] was initially very tearful and saying that all that is happening to her is not her. She stated that if the tests come back and they say I have a



Brain tumour at least ill know what is happening to me. 18 months ago I wouldn't have thought I would have been like this now.

"[Mrs Inott] then showed us her arms and she had very deep bruising on both her upper arms stating that the security at the hospital had done that to her. They even removed the curtains out the room because they feared I was going to do something with them.

"After you called me [Mrs Inott] came home and started to get stressed out about PSD serving me papers [Mrs Inott has] never been in trouble ever and now [she] find[s] [her]self here. [She] want[s] to know what their plans are. The procedure needs explaining to me. Will [she] be suspended [she] hope[s] not. [She has] spoken to [Mr P] Kearny at unison and he knows nothing about it.

"Explain that as far as we know the plan would be to restrict [Mrs Inott] and the timeline for the outcome we couldn't say. [Mrs Inott] then said it takes ages ...

"[Mrs Inott] stated that she had gone off on one on Saturday night threatening to throw herself out of the bedroom window as [her husband] had locked her in the bedroom to stop her wondering off. She had been kicking the lounge wall in an attempt to get to the neighbours and even at some point picked up a dining room chair and threw it at the patio Door in an attempt to smash the glass to get out. The police officer that came was an arse. He told me that he would be informing Leicestershire even though what happened in Warwickshire should stay in Warwickshire. [Mrs Inott] then said that she did not play the hospital staff up saying that went she went to Hospital under the **[Mental Health Act 1983]** and the doctor down the hospital kept saying that [Mrs Inott] had capacity. [Mrs Inott] then insisted on being discharged and allowed home as the doctor had said she had capacity but that the doctor hadn't written their notes up and [Mrs Inott] had to remain at the hospital until the assessment had been completed. But eventually [Mrs Inott] was discharged and allowed home.

"...

"[Mrs Inott] then explained that she went to the CGL and they have taken bloods with a view to arranging for [Mrs Inott] to try alcohol suppressing mediation.

"Also they had arranged for [Mrs Inott] to see a psychiatrist on 18/2/19. [Mrs Inott] was also awaiting to see her GP later today but thought she could be off work for another month..."

He recorded her saying she wanted to get back to work

"as when she's at work she doesn't crave alcohol but feels when she's at home at about 4.30pm each day when cosying up on the sofa she thinks "I could do with a drink now. But it's not the drink that sends me off on one. Its stress that builds up in me and something triggers in my head I don't know what and I just flip and go off on one. When I do there is no stopping me. I have to drink.""

147. Mrs Inott told them that she had cancelled an appointment she was due to have with the FMO on 4 February 2019 because she did not feel up to it.
148. Later that afternoon, Mrs Inott sent a text message to Sgt Butterworth. It read:  
“Hi had a good chat to the doctor. She wants to wait to see what the psychiatrist suggests rather than putting me on something then change it. Thank you for coming to see me today with [Pc Kirkland]. She seems nice and sincere. I’ll email you my fit note to work so you’ll have it tomorrow.”
149. On 13 February 2019, Mrs Inott was issued with a notice of alleged breach of the Standards of Professional Behaviour. This related to the incident on 28 December 2018.
150. On 19 February 2019, DC Allingham emailed Dr Bhogadia to ask if Mrs Inott was currently fit enough to attend for an interview. He replied that it was better to wait until the Medical Guidance Meeting [MGM] had been completed as he would have a more informed view of her fitness.
151. On 22 February 2019, Dr Bhogadia reported:  
“[Mrs Inott] has mitigating reasons for why she has found herself in this situation. Clearly there needs to be a discussion around this in an MGM (06/03/19). [Mrs Inott] is clinically ready to be interviewed ... and it would be beneficial for this to occur before the MGM. It is reassuring that [Mrs Inott] now has the benefit of help from CGL and on different treatments to address the ongoing issues. I would therefore anticipate that this will help [Mrs Inott] in the long-term and for her to be able to execute the full duties that are required for her role, without any concerns which hitherto have become more problematic.”

**WRAP 23 February 2019**

152. On 23 February 2019, Leicestershire Police prepared a WRAP in consultation with Mrs Inott and CI Maxwell. She said about adjustments:  
“On the occasions I am not feeling well it helps to have a conversation with someone to tell them how I am feeling and perhaps work in company for a short while as I find it distracts me and can help to bring me out of my low mood. If on these days I am put under unnecessary pressure my stress levels will rise and possibly lead to tears or outburst which I need to avoid.  
“Should I have an episode and feel I am unable to come into work I may need to contact my line manager and book an [annual leave] day.  
“Things for management to avoid would be overloading me with work especially IT. Allow me to change my duties if none of my team would be present, and recognise if I perform well.”
153. When asked what steps could be taken towards recovery and return to work, she said:  
“I have always been happy to have contact from PS Butterworth while I have been off sick. I now have a welfare SPOC [single point of contact] PC Emma [Kirkland] who keeps in regular contact with me and keeps me updated regarding meetings, letters I may receive etc. I have found her to

be a great support as she attends meetings with me which helps if I am unable to remember or understand everything that has been said. She may also speak to people on my behalf.

“Whilst off sick it is still nice to have some contact with work colleagues as sometimes when feeling low it is a lonely place to be.

“A phased return is a big help as it is always difficult to return to work after a long period of absence and it is also important for me to be able to attend any appointments I may have.

“Flexibility regarding shifts that I work as although I want to work alongside my shift, when on a late shift they would all be out and about leaving me in the office with not many officers in the station. I would be better to work slightly earlier so there are still people around. Also flexibility allowing shift changes when I have appointments to attend.”

154. When asked “What steps can you take?” she said:

“I am currently on new medication which is being monitored by my GP.

“I am receiving counselling at CGL Nuneaton

“I have an appointment at Avenue House which is the mental health unit in Nuneaton at 11:00 on 20/03/2019.

“On occasion I may just need a bit of time to settle into work if there have been issues at home, but as suggested above just a chat and some company may be all that is needed.”

#### ***Return to work plan 12 March 2019***

155. On 12 March 2019, there was a detailed return to work plan that was prepared with Mrs Inott’s input and agreement.

#### ***MGM 6 March 2019***

156. On 6 March 2019, there was the MGM which was attended by Dr Bhogadia, PC Butterworth, Mr Nykolyszyn, PC Kirkland and Mr Hanrahan, Mrs Inott’s trade union representative from UNISON. He was authorised to speak on her behalf by Mrs Inott and had met with her and discussed matters with her beforehand.

157. In that meeting, Mr Hanrahan made a significant contribution. He said (the notes are not verbatim but we have no reason to think they do not capture the gist of what was said):

“... that there comes a time when [Mrs Inott] needs to know the consequences of her actions.

“She has seen that her arrest has had consequences – can visually see that this has happened as a result-does she actually understand what her arrest means

“[We last] met 2 weeks ago – getting help with her medication – changing her [anti-depressants]– eliminate trigger and pressures”

158. He noted that while the police cannot control some of this. The following exchange took place. While it is not clear who said what, we are satisfied it captured the gist of what was said.
- “We may end up with no mental health diagnosis and where does that put us
- “Limited opinion but [does] he thinks she is an alcoholic – yes
- “Don’t need to drink daily to be an alcoholic –
- “She knows others [are] helping – realisation she needs to change her lifestyle and that that change comes from within
- “I need to understand that whatever I put in place may not help
- “He does think that we have done everything that we possibly can
- “Swat analysis to work out best way forward
- “Alcoholism and mental are key
- “Alcohol policy? Could we use this to support?
- “[investigative proceedings] comes from a punitive base but is supportive
- “I stated that I was concerned that we could not influence the key issues in [Mrs Inott’s] life.
- “She hates the GP and cannot hear his name or see a programme with him in and not spiral out of control
- “She has a volatile relationship with [a particular family member] – this won’t change
- “She has issues with [her husband] ...
- “She has [disciplinary] issues
- “She denies being an alcoholic
- “She desperately wants a [mental health] diagnosis
- “I said that if we couldn’t help with these then how can [Mrs Inott] behaviour actually change
- “[PC Kirkand said that she [thought] the new [doctor] had diagnosed her with clinical depression
- “Dr stated that he [thought] this unlikely as you cannot assess someone with an issue with alcohol and whatever was written would be subject to question
- “Dr said that there was nothing to be done – no point in the force or unison paying for [mental health] examination as her [alcohol] abuse would [prevent] this.
- “Also said that [Mrs Inott] was looking to label issues
- “[PC Kirkland] stated she [thought Mrs Inott] wanted a diagnosis of [mental health] in order to get away with the [disciplinary] issues or provide her with a reason that would force [the] force to look after her – excuses for her behaviour”

159. A bit later it is recorded by Mr Hanrahan:  
“... she sees certain things as not being supportive – things that have happened that shouldn’t have happened but this is a learning process – if he is honest not a lot more that we could do – no magic bullet to change everything or make things better – she needs to take that initiative herself
160. Dr Bhogadia said:  
“... people with drinking issues want to blame others and to have labels”
161. Mr Hanrahan also added:  
“... culpability of others – may be people who have influence where she is – trying to seek help but now going it in any way as to get attention  
“Management limited in what we can do – she is looking to be rescued
162. On 9 March, Mrs Inott replied to Ms Maxwell and the WRAP plan, saying:  
“I have read this through and it all seems to be fine.  
“Thank you for your comments, as I have said before I cannot thank you all enough for all your support. I really am determined to get back to “normal” well as normal as I can ever be lol and get back to the role I enjoy. It has been a horrendous time but I must not allow this awful illness to control me I need to take back control of my life and I will. I will also do my best not to let you down.  
“I’ll see you on the 18<sup>th</sup>...”

***Return to work on 18 March 2019***

163. Mrs Inott returned to work on 18 March. That evening, Warwickshire Police were called out to an incident involving Mrs Inott being drunk. The log recorded the following:  
“[Mrs Inott] suffers with ongoing mental health issues that she is receiving treatment for. ... Today [Mrs Inott] has been back to work for the first time in over a year and has felt stressed as she was not met by her Inspector or Sergeant as promised. She has then returned home and the jobs she would have usually done have not been done and she is feeling pressure about returning to work but she has to because she earns the money as her Husband cannot work ...  
“Tonight however [body warm video (BWV)] was activated and [Mrs Inott] has actually [stated] she does not have thoughts of self-harm, she wants to stay in her address and wants to go to work tomorrow and she wants to earn her money. She is future planning which shows her mental state is changing from previous incidents”  
Police Sergeant Butterworth made another occupational health referral to the FMO for an update. Although it appears to be dated 19 March 2019, it is quite clear from its content that the referral must have occurred shortly after 19 April 2019 because that is when the disciplinary interview took place, although the note appears to suggest it was 9 April. We do not believe it has any material effect since it is clear what had happened.

164. In that he recorded detail about a further drunken incident that had occurred, as follows:

“As you know [Mrs Inott] is currently on restricted duties having been served gross Misconduct papers from PSD. [Mrs Inott’s] interview for this [gross misconduct] took place on Tuesday 9/4/19. Which was quite distressing for [Mrs Inott]. Following the interview [Mrs Inott] returned home and having asked her husband if they were going to do anything in the evening to destress [Mrs Inott]. [Mrs Inott’s] husband ... had forgotten that they were going to do something that evening. [Mrs Inott’s] Response to that was again to get drunk and the inevitable occurred [Mrs Inott] again Warwickshire Police in a drunken state.

“The following day Wednesday 10/4/19 whilst Insp Maxwell was talking to [Mrs Inott] over the incident on Tuesday [Mrs Inott] for the first time intimated that she was in fact an alcoholic.

“[Mrs Inott] was advised to contact Alcoholics Anonymous that evening which [Mrs Inott] attended in Atherstone but [Mrs Inott] felt uncomfortable in the session but also felt other clients on the night were far more in need of AA than [she was].

“This was the first time that [Mrs Inott] had suggested openly that she is an alcoholic.

“This referral is made to make [the FMO] aware of the latest and to allow [the FMO] to offer additional ongoing support.”

165. Dr Bhogadia reports on 29 June in response to that that the case should remain open and be subject to review.

***Investigation interview***

166. On 19 April 2019, there was the disciplinary interview that is the investigation interview to see if there may be a case to answer. The report is summarised in the misconduct investigation officer’s report and shows that at the investigation interview, not only was Detective Constable Allingham present but there was also Mrs Inott, PSI Richardson, Chris Hanrahan from UNISON and Louise Garrod as an appropriate adult and PC Kirkland as the welfare officer.

167. The full interview does not appear in the bundle, but the Tribunal is satisfied (because nobody has suggested otherwise and based its own reading) that the summary is sufficiently accurate for our purposes. The investigation interview contains a discussion about her home life and goes into quite an amount of detail about the various incidents. She is asked about any ill-health that her husband might suffer, any interactions, alleged violence between them. It carried out investigations as to other aspects of her family life, support that she has received and she goes into detail about allegations from early on in her life, which we do not need to go into suffice to say that the allegations are serious. It then records that the investigator asked Mrs Inott to tell her about her mental health. It records that Mrs Inott said:

“[Mrs Inott] stated that everything had built up over the years, her son, her daughter, the problems with Warwickshire Police, her husband’s health. She could not handle things anymore and she went to A&E for the first time

in 2016. They recommended a change to her medication. She was on an anti-depressant ... at the time. She reported her doctor to NHS England as she didn't feel that she had had the right care. The doctor said 'she just drinks copious amounts of alcohol'. And from there no one would really help her. In September, the doctor referred her to IAPT. They initially could not help her because she was suicidal. A few months on (after a few more A&E trips and visits to a psychologist) she was referred back to IAPT who said they could not help her as her scores were too low.

168. The report then goes on:

"[Mrs Inott] stated she then went onto [an different antidepressant] ... with a new doctor which drove her "bonkers", she stated it can increase your cravings for alcohol and cause you to be suicidal. She was not copying so that then she would drink (alcohol). She has tried her GP, IAPT, Caludon, A&E, Avenue House services in Nuneaton, Mind Wellbeing, CIC and the only people she has had any interaction with is 'CGL Nuneaton' which is an alcohol and drug clinic. Everyone else had said they can't help because she drinks. She feels they don't understand that she is suffering depression and not getting any help so she drinks to block it out. She stated that she only drinks because she is not getting help."

169. The investigator asked if [Mrs Inott] has been diagnosed with any mental health problems. She stated that 'Avenue House' have classed her as having 'Recurring Depressive Disorder'. The psychiatrist at CGL called it "clinical depression". The investigator asked when that diagnosis took place. Mrs Inott stated it was recent but that she had taken antidepressants since 2006. Mrs Inott confirms that she had not been diagnosed with any other mental health issues. The interview continued

"The investigator asked if alcohol had become a problem since September 2016? [Mrs Inott] stated that it did, that was her coping mechanism. She wasn't drinking all the time but if she felt stressed, she would drink. [Mrs Inott] stated that the drinking was under control now since going to the CGL group and them prescribing her medication to stop her craving alcohol ... She stated that she is drinking still but an awful lot less than she was."

170. There was then further investigation into the medication that she was taking; how much she was drinking at that moment, at which Mrs Inott says:

"... only occasionally [that she drinks] but she was not bingeing like she had been. She stated her husband won't let her have a big bottle in the house because it is too tempting for her. They are controlling it together.

"The investigator asked when the worst point with the alcohol was. [Mrs Inott] stated over last 18 months, if she was having an 'episode' she would drink 2 bottles of wine a night. But not every night,

"Superintendent [SI] Richardson asked how she would drink it during an episode. She stated she would guzzle it. A glass of wine would go in no time. When she was in that frame of mind it was the only thing that would make it go away. But she has learnt it causes more problems the next day."

171. The interview continued after a break and the investigator asked Mrs Inott to describe how she feels when she has an episode coming on:

“[Mrs Inott] stated she would feel her stress rise, like then the papers were served on her. It always used to be over the doctor, even if she just heard his name mentioned it would set her off. Her husband would sometimes bring her out of it. If that didn’t work then she would drink.

172. The investigator asked how she would feel at that point. [Mrs Inott] stated she would feel anger. The investigator asked how the alcohol would help. She stated that she has learnt from her CGL course that it is something people with depression do, to blot it all out.

173. Later in the investigation, Mrs Inott confirmed that she was the one in her house who bought the alcohol from a local store.

174. There are then questions about the events of 27 December 2018:

“When asked, [Mrs Inott] confirmed that she remembered grabbing the police radios and cameras and she remembered being threatening towards her family. She remembered that she said something unpleasant to her daughter.

“The investigator asked if she remembered threatening to punch her daughter. [Mrs Inott] stated that she only remembered it from seeing the footage but she accepted that she did do that. She stated that in the past it has been the other way around and her daughter has ‘gone for her’ but it does not make it right and she is not proud of it.

“When asked she stated that she remembers certain bits of it, the video is not quite as she remembers it. Watching the video has clarified it for her. She stated she remembers being frustrated with the paperwork, she remembers the officer asking if she wanted an ambulance and asking who she wanted help from. She remembers going for the officer’s radio. She remembers being handcuffed but not cautioned. She remembers going on about [a particular individual].

“When asked, she accepted calling her daughter an ‘autistic bitch’. She feels absolutely mortified about it. She remembers kicking the door at custody. She stated that the frame of mind she was in, it was not ideal being put in a cell, she was angry and frustrated before she went in there and putting her in there, it just exacerbated it. At the time she felt it was unfair as she had asked for help and was then arrested.”

175. When asked about her behaviour, she said it was:

“a mixture of the alcohol, the drugs, frustration and anger. She thinks it would have been better had she been taken away in an ambulance. She thought the Warwickshire police stuff had been put to bed and was in the past but it was triggered that day.”

176. Later, PSI Richardson then asked:

“... given what the officers were confronted with that day, what did she think to her arrest? And did she see her behaviour was a breach of the peace? She stated ‘yes and no’. Yes in a ‘clean cut straight forward case’. Yes because she got drunk and behaved in that way. But no because she started that day calling the crisis for help for her mental health. It wasn’t that simple. Everything led up to that. She asked for help and ended up in a



police cell. But she can't condone that behaviour at all." She added later she thought her behaviour was appalling but it was not her.

177. Further enquiries continued about events on 2 February, again enquiring into her state of mind and how she felt at the time and why she acted as she did. She said she had drunk red wine. She said she would never behave as she did. She described it not as an assault but an "accident, trying to get out". She was shown photos of her husband's bruises. It was suggested he had hit him with a walking stick. She said she would not do that "in her right mind" and commented he bruised more easily because of his medication.

**22 and 23 April 2019**

178. On 22 April 2019, Mrs Inott's daughter contacted Warwickshire Police reporting her mother had had mental health issues and was assaulting her father. The police attended and on arrival spoke to her daughter outside. She told them that her mother had consumed alcohol and had become violent towards her father when he refused to assist her to drink more. She said that she had hit her father in the stomach and in his "downstairs". Mrs Inott has left the address and was believed to be hiding in a nearby location. The officers located Mrs Inott and arrested her on suspicion of a domestic assault against her husband. Whilst under arrest Mrs Inott was taken to hospital for treatment as it was suspected she may have taken an overdose because she had told the officers she had taken too many Ibuprofen tablets.
179. The reports show that throughout her time in hospital, Mrs Inott was continually shouting, screaming and swearing in areas where members of the public were sat, claiming either the NHS, her husband, daughter and police officers had not supported her. She disclosed that she had worked for Leicestershire Police to a nurse who was trying to reason with her and calm her down. At one point, she went to the toilet and tried to self-harm which resulted in officers having to force entry to the toilet to help her.
180. Later that night, Mrs Inott became aggressive towards one of the members of the hospital staff and had to be physically restrained by the police officers.
181. She was later further arrested in relation to that under the **Public Order Act 1986 section 4**. After treatment at the hospital, Mrs Inott was taken into custody and interviewed about the assault on her husband and the public order offences at the hospital. In interview, Mrs Inott had fully admitted the public order offences and received what is called a Restorative Justice Disposal. This required her to write a letter of apology to the victim. Provided she wrote that letter of apology by a deadline so they could pass it on, no further action would be taken.
182. No further action was taken in respect of her being in breach of the court's order that she be bound over.

**Suspension from work 26 April 2019**

183. On 26 April 2019, Mrs Inott was suspended from work. The letter of suspension explained:

“The allegations are such that they challenge your compliance with the terms and conditions of your employment contract and may constitute an act of ‘gross misconduct’. As a result of this, I have made the decision that you be suspended from your duties pending the outcome of this investigation.

“Suspension is merely a holding measure and is classed as a neutral act. It is not considered to be disciplinary action and protects all parties whilst a conclusion to the issue is reached. I enclose a copy of the disciplinary procedure for your information.

“During this suspension you will be placed on full pay and you are required to be available if needed for the periods you would otherwise have been at work. This is to assist in the process as you may be required to come into the Force for meetings in respect of the allegations against you or to attend an assessment with members of the Force Occupational Health Unit. You may not take any annual leave or be otherwise unavailable during this time without the express permission of your second line manager, (Inspector Maxwell).

“It is also in your best interest, during this period of suspension, not to have any contact with anyone who may be a potential witness to this case including colleagues or members of the public.

“In the event that communication with any of your colleagues is vital, specific approval must be sought from the investigating officer via Inspector Maxwell....”

### **5 May 2019**

184. On 5 May 2019, Mrs Inott called Warwickshire Police saying that she wanted to harm herself. Warwickshire Police attended her address where they called for an ambulance to take Mrs Inott to hospital for a voluntary mental health assessment.
185. The investigatory notes record that the BWV had been reviewed and showed the following: On arrival at her home there was a glass full of a brown liquid, which could be rum and coke. Her husband pointed to this when he explained that she had been drinking. The police officers mention half a bottle of rum in relation to her intake. It also appeared that they were told an ambulance attended the day before as well. The officers were then joined by ambulance staff and they convinced Mrs Inott after some time to attend the hospital voluntarily for a mental health assessment.
186. The BWV from the officers then continued in the hospital corridor. Mrs Inott is with them and there are NHS staff and members of the public all around. Mrs Inott shouted and refused to have an assessment. One officer could be seen taking hold of her arm, pleading with her to move. At this point an ambulance staff member took her into a cubicle and Mrs Inott tried to leave. The officers obstructed her from leaving. Mrs Inott started swearing, using the word “fuck” frequently. She then shouted out, “All Warwickshire Police officers are perverts; getting their penises out”. At this point, one of the officers asked her to be quiet but she continued. The police then used force and she is arrested under the **Public Order Act 1986 section 5** and

handcuffed. From this point, Mrs Inott was abusive to both officers and shouts almost continually the same thing.

187. The incident continued for over 30 minutes and then NHS staff moved her to a resuscitation room where there were no other people. She was asked to keep quiet but she refused, shouting louder instead. At one point, she shouted out that she works for Leicestershire Police. As she had been in the hospital frequently, the staff reacted as though they knew this about her. When in the resuscitation room, the doctor tried to talk to her, but she did not listen and talked over him, swearing and using the word “fuck”. Her parting words to him were: “Fuck off”. One officer left the resuscitation room and communicated with a supervisor. The doctor was spoken to and Mrs Inott was discharged from hospital as she would not engage, was drunk and there is no medical issue.
188. She was then removed to the police custody suite at Nuneaton. When the officers tried to get her into the car, she put herself onto the ground and officers had to pick her up and place her in the car. At the other end, she refused to get out and used her body weight to obstruct them. She had to be removed by force.
189. The Magistrates’ Memorandum of Entry confirmed that Mrs Inott represented herself at the consequent hearing the next day. It records that she pleaded guilty at the first available opportunity to the offence of intention to “cause members of the public harassment, alarm or distress, used threatening, abusive or insulting words or behaviour or disorderly behaviour, thereby causing that person or another harassment, alarm or distress.” This is contrary to the **Public Order Act 1986 section 4A**. She was sentenced to a conditional discharge for 12 months, with ancillary orders made for a surcharge and prosecuting costs.
190. The register showed that:  
“Defendant’s guilty plea taken into account when imposing sentence. Reason: outside of range due to fact [defendant] has no previous convictions, due to alcohol intake and medication she was taking at the time was unaware of her offending and has voluntarily taken steps to address both her alcohol and mental health issues.”
191. An allegation that she had breached the peace was withdrawn.
192. Given the definition of the offence, the Tribunal proceeds on the assumption that by pleading guilty Mrs Inott admitted that her behaviour was done with an intention in her mind, which means that she was capable of making decisions. It must also follow therefore that suggestions that she has made in evidence (supported by a separate report prepared by Dr Southall) that this might have been a period of dissociative episode cannot stand up to scrutiny given her own free admission that she had intended to cause members of the public harassment, alarm or distress. In our view “might” is not enough to displace the presumption that she did not commit the offence. Besides Mrs Inott is not the most credible witness as we noted above. A suggestion therefore that she was unaware of her offending can only be read in light that her alcohol intake had impaired the wisdom of her judgement rather than her ability to actually make a decision to behave in

a particular way. We make no criticism of Dr Southall's opinion. However what strikes the Tribunal is that neither Dr Southall's opinion nor Mrs Inott's explanation can counter the fact that she had chosen voluntarily to drink in the first place and events flowed from her drunkenness, even if they were aggravated by cPTSD or EUPD.

193. We are satisfied that this was primarily driven by alcohol. That is evident from the BWV. Mrs Inott in her evidence specially made a point that police officers never sought to take a blood test or to breathalyse her, as though that undermined her guilty plea and the BWV. Putting aside the question of whether or not the police can force someone to take a blood test or the power to breathalyse someone except in relation to certain road traffic offences (and we cannot imagine based on what happened she would have agreed to it anyway) we reject that argument for reasons we gave earlier. It is an attempt to play down her own culpable behaviour.

***Investigation concludes 22 May 2019***

194. On 22 May 2019, DC Allingham completed her investigation. She concluded that because of the four incidents on 28 December 2018, 2 February 2019, 23 April 2019 and 5 May 2019 that there was a case to answer but that it would be tempered against any mental health diagnosis she has and consideration should be made as to what support she had been offered by the organisation to date.

195. It recognised that Mrs Inott had acknowledged that her behaviour was appalling but she believed never behave in such a way if she was mentally well. The report noted however that.

“It must be considered as to how an average member of the public would view [Mrs Inott's] behaviour even when taking into account any mental health diagnosis she has. Whilst it is accepted that police officers and staff will unfortunately suffer with mental health issues, and that they should be supported through such a time, it cannot be accepted that they go on to commit domestic assaults, verbally abuse police officers and hospital staff.”

***Fixing of disciplinary hearing***

196. A disciplinary hearing was fixed for 17 September 2019. We were not taken the letter but there is no suggestion that the invite did not remind her of her right to attend and to be accompanied by a Union representative. There is no suggestion she did not know what she was accused of. Given what happened both before the meeting, who attended and what was said in it we are satisfied that it was all in order.

***Dr Southall's report of 28 August 2019***

197. On 25 August 2019 Dr Southall of 25 August 2019 wrote to Leicestershire Police. In her report she identified Mrs Inott as having a general depressive score of 10 and a GAD score of 6, which measures general anxiety. The report confirmed that therapy was about to start and continued:

“With her complex PTSD diagnosis in mind I have grave concerns about her ability to safely attend the forthcoming hearing on 17<sup>th</sup> September in relation to her ongoing employment issues. I would recommend an adjournment if possible. This is indicated so that I can at least work to

stabilise her major symptoms and prevent the possibility of her experiencing a dissociative event at the hearing which is highly likely given her current presentation. She will also benefit from the highest amount of professional support managing the employment hearing preparation from her occupational welfare officer and federation representative. I hope this information is useful is useful and please do get in touch if any clarification is required.”

***Complex case meeting 4 September 2019***

198. On 4 September 2019, there was a complex case meeting (CCM) relating to Mrs Inott. CS Streets explained that the purpose of a complex case meeting was see what support was required and in particular to ensure they had a support in place to prepare for all possible outcomes from the disciplinary process. It was a lengthy, thorough, detailed meeting. It covered all eventualities from the possibility of no further action to summary dismissal. It runs alongside the disciplinary process but is separate from it. We are satisfied that nothing that is said in this meeting influences the disciplinary process and the disciplinary panel does not influence this process either. Mr Nykolyszyn explained, and we accept, that when a disciplinary process begins it is processed and dealt with separately. We were left with the impression that in effect “Chinese walls” are erected to keep the processes separate.
199. Mrs Inott was not in attendance at the CCM. Those who were in attendance included CS Streets, who conducted the meeting; Mr Ward (Head of Professional Standards), Ms Eaton (Senior HR Business Partner), Ms Stacey-Midgley (a Senior HR Business Partner), CI Maxwell and PC Kirkland.
- During the meeting, HR explained all possible outcomes that might occur in the case. CS Streets noted that it was most likely that the outcome was going to be one of dismissal based on his experience. Having read the whole of the notes, which run to nearly 100 pages, it is quite clear that the panel considered all the potential options, yet it is true that they did consider dismissal as being the main option. It seems to us that that was a realistic and sensible thing to do given the accusations she faced and the strength of the evidence against her. We do not think a meeting of this case can be said to demonstrate bias because of focuses mostly on preparing for the most likely outcome. That seems pragmatic.
200. In the meeting there is a referral to the fact that Leicestershire Police thought they may well find themselves the subject of an employment Tribunal claim in approximately 12 months’ time, with a possible allegation of lack of support. CI Streets therefore suggests that everyone logs or records their involvement.
201. Mrs Inott says the anticipation of Tribunal proceedings shows that the evidence from Leicestershire Police is shaped around the provision of a defence and so is not a reflection of the truth. We reject that. It seems to us perfectly sensible that the police are in a position to anticipate that litigation might result at some point in the future, just like any Respondent might, and to make sure that any records that they have got are in good order. Besides

we have the benefit of voluminous contemporary documents. None of those support the suggestion that Leicestershire Police have done nothing but seek to tell the truth because they are consistent with their case.

202. Mrs Inott goes on to suggest that CS Street's identification of a lack of support shows that the police recognised they had provided insufficient. We think there is nothing wrong in a party simply identifying a potential head of claim, even if it happens in their opinion to be wrong. Besides even if they thought they had not provided enough support, based on what we have set out in this judgment, we find as a fact that in fact they did provide enough support.

***FMO review in light of Dr Southall's report***

203. The report from Dr Southall triggered internal debate in Leicestershire Police about what to do. We do not believe that the internal correspondence shed any useful light on matters. What is important is that there was an arrangement for Mrs Inott to be reviewed by the FMO. Dr Bhogadia's report was obtained because there was some concern as to whether Dr Southall's report really justified an adjournment.

204. Dr Bhogadia carried out a review of Mrs Inott. He recorded as follows:  
“[Mrs Inott] was reviewed today as a result of the report forwarded to us by her psychotherapist ... [Mrs Inott] has been diagnosed with a combination of Emotionally Unstable Personality Disorder (EUPD) and Post-Traumatic stress (PTSD); this has complicated her mental well-being, most often manifesting itself with behaviours which have led to her drinking alcohol excessively to ‘numb’ the symptoms of the above. [Mrs Inott] will be starting therapy soon, which will hopefully address the above and enable her to better manage her stressors. She will need time for the therapy to be beneficial and she will need all the support from you to achieve this.  
“Clinically it is my view (with [Mrs Inott's] agreement), that **she is fit to attend the hearing on the 17/09/19** with her Union representative and [welfare officer] present.”

205. The report appears to bear the date 12 July 2019. It is not clear why. The appeal panel concluded it was 4 September. However the exact date does not matter since it clearly followed from Dr Southall's intervention but before the disciplinary hearing.

206. Mrs Inott says that her consent in that interview was given by coercion or under duress. The Tribunal rejects that. Given the general difficulties with the credibility of Mrs Inott's own evidence and that she clearly recollects matters in a way most favourable to her, it is more inclined to prefer the suggestion that is recorded by Dr Bhogadia that she did indeed agree to attend. In addition the Tribunal thinks it inherently unlikely that Dr Bhogadia would want to persuade or pressurise Mrs Inott to agree she is fit to attend. He has been involved in her welfare and occupational health as described earlier. Nothing in that suggests to us he is given over to improper coercion. In addition we can see no reason why he would have any interest coercing Mrs Inott to agree she was fit to attend. It made no difference to him.

207. We note that Mrs Inott sought to suggest that Mr Nykolyszyn sought to persuade Dr Bhogadia to conclude the hearing could proceed. We have considered the whole of the documents. We do not consider there is any evidence of an attempt to persuade Dr Bhogadia to come to a particular conclusion. We also think it inherently implausible that an email from Leicestershire Police's human resources business partner would be able to persuade a doctor to offer a prognosis he thought was not medically sound.
208. Besides, whether or not Mrs Inott agreed does not detract from the fact that Dr Bhogadia's own opinion was that she was fit to attend. Unlike Dr Southall, Dr Bhogadia is medically qualified. We do not know whether he has specific mental health training. However he is trained in and clearly experienced in all aspects of occupational health and how health interacts with work – which must include disciplinary processes. He is very well placed to know whether someone would or would not be able to take part in a disciplinary interview.
209. On 5 September 2019, and after considering both Dr Southall's and Dr Bhogadia's advices, ACO Dawkins decided that the disciplinary hearing would go ahead. We think he was perfectly entitled to reach the conclusion that he preferred Dr Bhogadia's opinion over Dr Southall and take into account Dr Bhogadia's medical qualification, expertise in occupational health and that Mrs Inott had agreed she would be fit to attend
210. However he made adjustments to accommodate Mrs Inott. He ruled that in addition to attending with her union representative (as was her right) she may also be accompanied by her welfare officer.
211. On what appears to be 12 September 2019, Mrs Inott sent a text message to PC Kirkland that said:  
"Hi Emma just to let you know my solicitor has sent a letter asking for a postponement due to my situation. If this is not upheld I am advised not to attend the meeting. I have to do what I have to do you would do the same I'm sure. I have to take the advice from professionals. Didn't want you to hear it from them. Xx"  
PC Kirkland undertook to make sure the letter reached the right people.
212. We conclude also from this text message that the reason Mrs Inott did not in the end attend the meeting was not because of Dr Southall's advice or her own unfitness, but because of legal advice because that is the reason given in the contemporaneous correspondence from her.

***Arrangement for Dr Southall to attend the disciplinary hearing***

213. Mr Hanrahan was again her union representative. On 12 September 2019 he submitted to the panel a copy of Dr Southall's report dated 25 August 2019. He also asked if Dr Southall would also be able to attend to provide more detail regarding Mrs Inott's recent diagnosis. He wrote in his application:  
"... It is my belief that her attendance may help bring some clarity to the panel in their understanding of the diagnosis.

I believe that Dr Southall's attendance will be of some comfort to Mrs Inott and will aid her in providing some clinical understanding.

214. On 13 September 2019, the Respondent replied:

"... I write to inform you that this has been agreed to.

"[Her attendance is] In order for Dr Southall to act as an advisor to the panel. To answer any questions that the Panel may have in relation to [Mrs Inott's] condition(s). This will be recorded. Dr Southall is not present to provide their opinion on what the potential outcome of proceedings should be or to influence those potential outcome(s). The information discussed in the presence of Dr Southall will remain confidential and are not to be shared with any other parties outside of the Hearing.

"I trust this is acceptable to you and that you will fully brief Dr Southall accordingly."

215. In fact, Dr Southall was not in the end booked to attend the hearing and did not attend.

216. Mrs Inott said that Dr Southall required some formal invite from Leicestershire Police before she would attend to give her evidence. She therefore blames her non-attendance on Leicestershire Police.

217. The reasoning to the Tribunal does not make any sense. The logical starting point must be that the responsibility for securing witnesses to attend on behalf of a party lies with that party. There is nothing in the policy or other documents to which we have been referred that suggests otherwise.

218. In this particular case we noted that Dr Southall was the therapist treating Mrs Inott. Mrs Inott had direct contact with Dr Southall. If Mrs Inott was not able to co-ordinate Dr Southall's attendance, then she would be the person best placed to put Mr Hanrahan in direct contact with Dr Southall even if only to provide Mr Hanrahan her name and address and telephone number.

We cannot understand where the idea that Dr Southall could not attend without a formal invite from Leicestershire Police comes from. It does not make any sense. The Respondent's letter of 13 September 2019 is in our view clear that responsibility lay with Mrs Inott to secure attendance. There is no undertaking that Leicestershire Police will arrange her attendance and the words "that you will fully brief Dr Southall accordingly" make it clear the responsibility lay with Mrs Inott. Mrs Inott was unable to provide any satisfactory explanation as to why it was not her responsibility or why Dr Southall required an invite.

219. We are quite satisfied on such evidence that we do have that the Respondent was perfectly prepared to allow Dr Southall to come to give evidence; that is apparent from the correspondence. There is nothing that we have been shown to suggest the responsibility for Dr Southall's non-attendance lay with Leicestershire Police. and that they have done nothing wrong and have not been obstructive otherwise in Dr Southall's attendance. If therefore Dr Southall's failure to attend is a problem, it seems to us that the fault for it lies on Mrs Inott's side and is not something that can be the blame of the Leicestershire Police.



***Disciplinary hearing 17 September 2019***

220. The disciplinary hearing took place on 17 September 2019. Mrs Inott personally did not attend. She was represented through only by Mr Hanrahan.

221. The gross misconduct hearing took place on 17 September 2019. Mr Hanrahan attended on behalf of Mrs Inott. He made a lengthy submission to the panel. We do not quote it all but cannot help but commend its thoroughness or level of detail. It is quite clear that Mr Hanrahan had not only thoroughly prepared but did an impressive job in representing Mrs Inott. We understand why Mrs Inott says there is nothing else that she could usefully have added to his submissions and commended his performance.

222. We pick out some key passages. He set out that Mrs Inott did not deny the behaviour relied on occurred but emphasised the mitigation:

“I think it’s important to acknowledge that she does accept the behaviour took place, we’re not contesting that it did. I think she’s looking to [Police Service Disciplinary] confirming that point. So I don’t intend to argue about the point with regard to did it happen, didn’t it because we’ve got some very clear evidence as to what did take place by virtue of body worn video etc. it’s pretty clear cut but there are as you would suspect, some mitigating circumstances that underpin the behaviour.”

223. He continued:

“Thank you Chair. I’ll read from this pre-prepared statements if that’s OK.

“Mrs Inott does accept her actions amount to misconduct and is unfortunate that she’s unable to attend the hearing today as she believes she’s not well enough to do so. Mrs Inott has a mental health condition for some time which has remained undiagnosed. She has attempted to get help on numerous occasions without success. As an untreated illness the condition has become more acute in recent times and this has manifested itself in episodes that have increased in intensity. Mrs Inott would say that in the absence of any support she’d attempted to manage her anxiety through the use of alcohol to deal with her symptom of illness. Mrs Inott has recently been diagnosed with Complex PTSD as it outlined in the letter of Doctor Southall dated the 25<sup>th</sup> August 2009 [that is a reference to 2019] which I believe you have copies of Chair?”

“ ...

“Contained in the letter’s a very brief synopsis of her mental health history and other probably underlining conditions. Included in the letter’s an outline of the medical regime. A much-needed programme of treatment is also recommended that covers greater self-understanding and enable to disclose her history, have her feelings validated and make sense of her pattern of thinking in relation to others. To stabilise her major symptoms, flash backs, nightmares, lack of emotional regulation, to decrease impulsive thoughts especially in self-injury and suicide, decrease impulsive behaviours including alcohol consumption moderation, improve her relations at home and outside and improve her self-esteem. The Doctor’s also recommended that Mrs Inott commences high intensity psychotherapy

which would ideally be a combination of dialectical behavioural therapy, interpersonal psychotherapy for the emotionally unstable disorder, symptoms of trauma focused cognitive behavioural therapy and eye movement, desensitisation, reprogramming for the post-traumatic stress disorder symptoms.

“ ...

“What may have been, on the face of it, ridiculous comments, have much deeper meaning when taking the PTSD into account. the behaviour of these officers had a profound and lasting effect on Mrs Inott and she has a genuine fear that she may be further abused....”

224. He commented that Mrs Inott alleged that the Police Service Discipline Team were asked to look into the events in Warwickshire Police but had not recognised their significance. He said that there was a reluctance to further examine these events and the references to them did not provide the panel with the necessary information or the impact on Mrs Inott:

“The amount of time that it has taken for this matter to be brought before the panel is unreasonable. This in itself has aggravated Mrs Inott’s condition and a clear pattern of incidents can be seen in relation to the significant interactions with the process. The delay has influenced the behaviour of Mrs Inott and caused her condition to worsen. There has been a disconnect between what the organisation says it will do with mental health issues and what it actually does. Clearly, had the matter been dealt with expeditiously, a number of the incidents that followed would not have taken place. It would be unreasonable for the employer not to take this into account when considering the outcome....”

225. His statement went on to comment that when dealing with a complex case such as Mrs Inott’s, the Leicestershire Police were ill-equipped to manage in supporting an individual and its understanding of the condition:

“... It is important to note that the first action of the employer was not to offer assistance but to put Mrs Inott through a misconduct process. There is little evidence, if at all, that an assessment of her condition has presented by the body worn video took place....

“Mrs Inott has accepted that behaviour amounts to misconduct and would say that the person in the videos is not who she is and this bears no resemblance to her actual persona. She sees the person on the screen very much as a stranger. This is not a straightforward case of misconduct. There has not been deliberate action on behalf of Mrs Inott to cause harm or breach the peace of otherwise. These have been the unfortunately consequences of a lone voice calling out in the darkness for help....”

226. He emphasised Mrs Inott’s previous good conduct and excellent discharge of her duties as a PCSO.

227. When asked about the support, Mr Hanrahan said:

“... The first steps the organisation took were to undertake a misconduct process rather than analyse it as a mental health issue. I didn’t say that there wasn’t support because quite clearly there was [Ms Maxwell and Ms Kirkland] ... provided an excellent level of support to [Mrs Inott] in very

difficult circumstances. The issue relates to the investigation and what energy was put into that process to analyse the effects of the mental health and what influence mental health issues had had on the behaviour rather than just relying on misconduct and breach of peace etc.

228. Mr Hanrahan continued passionately to argue the important distinction between focussing purely on misconduct and the need to consider her mental health in a thorough and detailed way.

229. Towards the end in closing he said:

“... What we are actually talking about is are we able to help this individual? Do we understand what’s happened to this individual? And are we in a position to move forward in a positive way to support this individual overcome their difficulties? Does the employer have an obligation to undertake that work, to a degree yes, whilst the individuals at work but at the end of the day, ... is this insurmountable, does it prevent the individual being, continue to be employed with Leicestershire Police, well that would remain to be seen and ... response to treatment etc. And as I said earlier, there is a commitment from [Mrs Inott] and there is something in place to support her in overcoming those difficulties and obviously the processes we have in place would aid her in that recovery. So, I think from the panel’s point of view it has to take into account, does it feel that the mental issues are very significant or not significant when it comes to the misconduct side of things because the misconduct has been driven by the mental health. [Police Service Discipline] would say that its alcohol fuelled, well there’s no argument that alcohol has been involved, there’s no argument alcohol has fuelled her behaviour but in the absence of treatment she believes that she was left with no alternative but to turn to alcohol to try and self-medicate. And as I said earlier, that is quite common under these circumstances. ... just to answer the question, is she taking steps to deal with the alcohol, the answer is yes. As part of the treatment with her doctor, they’ll be looking at that. I think there is also a letter that we submitted to your selves that covers support she’s had through an alcohol management service and that work continues in a different way but that, you know she’s acknowledged and she’s taking steps to deal with it.”

230. We comment that the interview itself appears to us to have been conducted in a fair and open manner.

231. At the end the panel retired to consider its conclusion. After the panel returned., Officer Dawkins read out the decision:

“The panel has carefully considered all the information presented today. The panel has determined that [Mrs Inott’s] conduct failed to meet the standards of professional behaviour which states police staff behave in a manner which does not discredit the police service or undermine public confidence in the police service. Namely the specific allegations one to four which I will not read out, which has been consistent throughout the hearing. We also note that on the 7 May 2019, [Mrs Inott] formally pleaded guilty to an allegation amounting to an offence under the **Public Order Act 1986**. We have considered and taken into account any aggravating or mitigating factors and have had due regard to the individual’s record of service and

references provided. Notwithstanding the above, the panel have determined that the outcome sanction is dismissal without notice. However, accepting what has been offered today by [Mrs Inott] and her representative, the panel have agreed to make a good will payment equivalent to 28 days full pay. [Mrs Inott] has the right of appeal which will be confirmed to her in writing. This concludes the hearing today. ...”

232. Mrs Inott pointed out to us that the conclusion makes no reference expressly to her mental health. We shared that concern but are satisfied that the panel did consider it, albeit it is unfortunate made no reference to it. Having heard Officer Dawkins’ evidence and having read the investigation, that this was not something to which they could simply ignore lip service. It was the core of all the arguments at the disciplinary hearing. Mr Hanrahan made significant submissions about it on behalf of Mrs Inott. Officer Dawkins’ evidence shows that he certainly was aware of it and sought to have regard to it. We think having read the report that it cannot be said that it was conducted in a way that simply paid lip service to the mental health issues.
233. The outcome was subsequently confirmed in writing.

**Appeal**

234. Mrs Inott appealed against her dismissal. Her letter of appeal was sent on 23 September 2019. The grounds of appeal were:

“I do not accept that my dismissal is fair because there has been a failure to consider other sanctions that could have been available to me in light of my clean personnel record. Prior to the series of incidents that led to my dismissal I had never been disciplined for a period of 11 years with the force.

“I am also appealing on the ground that you as my ex employer have failed to take my disability into account as I believe that the majority of the incidents have occurred due to my mental health diagnosis which you are fully aware of. I am also appealing on the grounds that you have failed to make reasonable adjustments for me in light of my mental health issues and in light of the fact that I have already provided you with medical evidence to support why I was unable to attend the Hearing.”

235. The appeal was referred to the CC Cole, who chairs a panel of him, Ms Kay Eaton (Senior HR Business Partner) and Superintendent McKinder. Under the appeal procedures, ACO Dawkins presented the employer’s case.

236. CC Cole gave some evidence about his own knowledge of mental health and about the impact of criminal convictions. He said that he had been the Chief Constable since 2010. During his time had tried to achieve two things.

236.1. Internally he sought to achieve an “order of well-being” because he was asking people to do difficult things.

236.2. He was trying to provide external support to people who came into contact with the police by using triage. This is a system that has been set up in Leicestershire Police in which the police are accompanied by mental health nurses so that people who are in mental health crises can be immediately diverted to primary or

secondary care for mental health as appropriate instead of being arrested.

237. He explained that
- 237.1. he had led the Association of Chief Police Officers on mental health between 2011 and 2014;
  - 237.2. he had carried out a role on disability awareness between 2014 and 2016.
  - 237.3. advised the Home Office on issues relating to police mental health; and
  - 237.4. he had been involved in a Police Management Dementia Task Force.
238. He accepted he had no medical qualification or formal mental health qualification although he had received an award in 2021 to recognise his work in mental health. Having heard his evidence, and taking into account that he was concerned about the original panel's lack of reference to Mrs Inott's mental health, we are satisfied he brought to the appeal some knowledge and experience on mental health and approached the case in a sympathetic but dispassionate way. We are satisfied he did not however seek to act as an expert on those matters. We believe this is the case because there is nothing in the documents or meeting notes to suggest he did, and the appeal panel also invited and had the benefit of Dr Southall's own evidence.
239. He explained that the panel approached the appeal on the basis of the question of sanctions and if the medical background had been properly considered. He was concerned, like Mrs Inott, that ACO Dawkins made no reference to her mental health in the disciplinary panel's conclusions either at the end of the hearing or in the letter detailing the outcome.
240. The panel had an agreed bundle of documents and the BWV referred to in the various police reports above.
241. The appeal panel heard from Mrs Inott, Dr Southall in person and ACO Dawkins. He confirmed that they were aware that Mrs Inott at that point had been diagnosed with cPTSD and EUPD. They also knew that Mrs Inott came before him with an impeccable record as a PCSO.
242. In the appeal hearing, Mrs Inott said:
- "I keep having to refer back to PTSD because at those times when I was committing those offences I was actually in an episode of disassociation, I didn't know where I was, I didn't know what I was doing and I would not have reacted to the Police in the way I reacted had I not had a PTSD from what happened in Warwickshire Police. Warwickshire Police coming to me, that was the trigger every single time because it all came flooding back and will not get over the fact that the walked away Scott free without an investigation, they were offered to resign, I'm paying for that mentally ten years later, I got bullied, I got ostracized, I got treated so badly after the event that I used my integrity and I reported what they had done. ... A lesser sanction should really have been a first warning because having you

worked for the Police for eleven years with an absolutely impeccable record not one single complaint, I have now been disciplined and lost my job and if you look at it, it's black it's white, nine years I'm well, I do a brilliant job. I get ill, two years I have PTSD, two years I'm ill, two years those incidents happened, I went to my GP and he refused to help me, he gave me a book to read and said he would not help me unless I read the book. ... My husband was getting more and more ill, my GP was doing faith healings ... I reported him to the GMC...."

243. We cannot and do not make any finding of fact about whether the GP was carrying out faith healing, however we have no reason to think that Mrs Inott had made that up.

244. She said that if she had been helped by that doctor, she would not now two and a half years later, having had not one bit of help from the NHS, be sitting in that seat and her mother would not be paying Dr Southall to treat her.

245. Later in the interview, the following exchange takes place:

"CC Cole: Can we move onto that then, so I suppose the question is that I have in all of this is so what would be a reasonable adjustment for you?"

"[Mrs Inott]: Well unfortunately I think it's gone on too long now, it's just making me more and more ill. I've lost my job, I've lost my income, my husband can't work I've lost everything.

"CC Cole: Okay so in the context of the decision that we've got to make.

"[Mrs Inott]: You'll have to make the decision that you think is appropriate.

"CC Cole: Yeah but what would be the reasonable adjustment I suppose is what I am trying to understand.

"[Mrs Inott]: I'll leave that to [Dr Southall].

"CC Cole: And I am happy to, cus sort of what's the appeal, you know the second bit of the appeal is about failing to take disability into account and make reasonable adjustments, so what are the reasonable adjustments that could be made, that would lead to an alternative answer reached by the panel is I supposed what I'm trying to understand that in that having someone in Policing who's got a conviction for something is tricky. It's not impossible, it's tricky, that's sort of what I'm trying to wrestle with really and I don't think anyone disputes the fact that you were unwell, you're very candid about that, there is sort of medical evidence around that as well so nobody's sort of arguing that at all.

"Dr Southall: I'll do my best to answer , I'm not a medical professional or Police Staff although I do have the benefit of working for Staffordshire Police Force, so some understanding of what can happen and I think there have been some unfortunate errors here perhaps in the lack of support for [Mrs Inott] earlier on in terms of her mental health presentation and I think then in terms of the meeting, it was my recommendation that that should be adjourned in order for us to do two things really, to give [Mrs Inott] some space in order to stabilise her mental health presentation for her to be in a better state to actually come in and answer questions directly at the hearing

but also so that we could all gain some understanding really about how PTSD operates in terms of a person's recollection after events such as the allegations that have been made in terms of her ability to correctly remember what they've done and therefore whether they can be held directly responsible and culpable in a sense. As I say I'm not a legal professional but what I can tell you is that [Mrs Inott] will have had no recollection of many of the events where she has disassociated and that's very typical presentation for people with severe complex PTSD."

246. Dr Southall went on to explain the different levels of PTSD and dissociative features where someone might lose a sense of reality. She said that (in summary) they will look like a conscious person; like someone sleepwalking presents for example; their eyes are open; they may be able to say a few things but then that is as far as it goes in terms of being fully conscious.
247. Later in the appeal, Mrs Inott said:  
"Well I think the only ... if Rebecca has suggested medical retirement that is the only thing I can say because I don't think any way possible after what I have been through with two Police Forces I could possibly come back and work for them again but at the end of the day I don't feel that the work I did for nine years until I got poorly that I should be kicked out the door as a criminal and I know a lot Police Officers go to Court and get done for this or that and the other and they all keep their jobs so my career has been ruined, my career has been ruined and Warwickshire Police and Leicestershire Police have played a part in that."
248. At the end of the hearing, rather than make a decision there and then the panel retired to make decision.
249. On 15 November 2019, CC Cole issued the formal decision of the panel. This was to dismiss the appeal.
250. In respect of the two grounds of appeal under the heading "Failure to consider other sanctions that could have been available rather than dismissal." The panel found that the disciplinary panel had considered other sanctions that would have been available rather than dismissal. The appeal panel accepted that the panel could have expressed that better in the outcome document but said having heard evidence from ACO Dawkins that they had considered whether a final written warning could suffice or it could have been dealt with differently.
251. The appeal panel accepted that the original panel had considered Mrs Inott's mental health evidence because it featured throughout the papers used at the hearing. They concluded it was clear the original panel had found themselves dealing with repeated behaviours which engaged other services beyond policing, such as the health service and that her behaviour included criminal matters resulting on one occasion in a criminal conviction.
252. The appeal panel also considered the circumstances that led to the original panel proceeding without Mrs Inott and without Dr Southall's attendance.
253. The appeal panel concluded that the original panel had done all that could reasonably be expected of it to enable Dr Southall to attend, and was right

to prefer Dr Bhogadia's opinion that Mrs Inott was fit to attend, especially as Mrs Inott had agreed to it.

254. The appeal panel concluded that this was a hugely complicated case. It concluded that considerable effort had been made to support Mrs Inott. They reflected on her personal medical circumstances and the cPTSD and EUPD but concluded that her admitted behaviour was a fundamental breach of contract warranting dismissal without notice. For them they felt the numerous needs for Warwickshire Police to become involved because of her behaviour while drunk, her repeatedly aggressive and foulmouthed behaviour especially in hospitals in front of the public where she identified herself as a police employee and 2 appearances before the Magistrates Court where on both occasions she admitted her poor behaviour showed her to be guilty of gross misconduct.

255. The appeal panel then considered if dismissal could be avoided and concluded not. In their outcome letter they wrote:

"In considering whether dismissal is appropriate given a serious breach of contract in these circumstances we are also mindful of our responsibilities towards the public. Mrs Inott does not envisage ever being well enough to resume her duties and, given the repeated episodes of discreditable conduct, the panel also feels a duty to consider how we can ensure that the public are safe. Public perception of policing and policing's reputation could be fundamentally damaged by continuing to employ somebody with a criminal conviction gained in these specific circumstances.

"In coming to our view that we should uphold the decisions made by the original panel we have very carefully considered the unique circumstances of this case. We would acknowledge that Mrs Inott worked for the force for a number of years very effectively and that her love of her job shone through. That being said we believe the original panel's decision making was reasonable and that they came to the correct conclusions."

256. In addition to the points expressed in that letter, Chief Constable Cole explained that he was concerned about the following: The effects of the conviction was that she would not necessarily pass the vetting procedure necessary to access the police systems and that in any criminal matters that she was involved in, she would have to disclose the criminal conviction, which could impact on her credibility and therefore undermine the strength of the case against a defendant. He also explained that the knowledge that a police employee had behaved like Mrs Inott could affect the police's reputation and their interaction with the public. They may feel unable to rely on her or simply not respect her authority. We accept this was part of the reasoning for their decision because it seems obvious and inherently plausible, and there is no real explanation why this would not be the case.

## Law

### *Disability*

257. The **Equality Act 2010 section 6(1)** provides:

"(1) A person (P) has a disability if—

"(a) P has a physical or mental impairment, and



“(b) the impairment has a substantial and long-term adverse effect on P’s ability to carry out normal day-to-day activities.”

258. The **Equality Act 2010 schedule 1** provides details of how to determine disabilities. In summary these are set out in the **Guidance on matters to be taken into account in determining questions relating to the definition of disability (2011)** (‘the guidance’) – to which the Tribunal should have regard (**Goodwin v Patent Office [1999] ICR 302 EAT**):

“A2. This means that, in general: • the person must have an impairment that is either physical or mental (see paragraphs A3 to A8); • the impairment must have adverse effects which are substantial (see Section B); • the substantial adverse effects must be long-term (see Section C); and • the long-term substantial adverse effects must be effects on normal day-to-day activities (see Section D)”

259. The **Equality Act 2010 (Disability) Regulations 2010 regulation 3** provides:

“3. Addictions

“(1) Subject to paragraph (2) below, addiction to alcohol, nicotine or any other substance is to be treated as not amounting to an impairment for the purposes of the Act.”

260. The appropriate time to consider disability is at the time of the alleged discriminatory acts: **Cruickshank v VAW Motorcast Ltd [2002] ICR 729 EAT**. An employment Tribunal is entitled to infer, on the basis of the evidence presented to it, that an impairment found to have existed by a medical expert at the date of a medical examination was also in existence at the time of the alleged act of discrimination: **John Grooms Housing Association v Burdett UKEAT/0937/03 EAT**.

261. Though we have had regard to the whole guidance, we found the following paragraphs of the guidance particularly helpful in this case A1 **A13-A14. Appendix**

“A3. The definition requires that the effects which a person may experience must arise from a physical or mental impairment. The term mental or physical impairment should be given its ordinary meaning. **It is not necessary for the cause of the impairment to be established, nor does the impairment have to be the result of an illness.** [our emphasis] ...

“A4. Whether a person is disabled for the purposes of the Act is generally determined by reference to the **effect** that an impairment has on that person’s ability to carry out normal day-to-day activities. ... It is not possible to provide an exhaustive list of conditions that qualify as impairments for the purposes of the Act. Any attempt to do so would inevitably become out of date as medical knowledge advanced.

“A5. A disability can arise from a wide range of impairments which can be:

“ ...

“• mental health conditions with symptoms such as anxiety, low mood, panic attacks, phobias, or unshared perceptions; eating disorders; bipolar

affective disorders; obsessive compulsive disorders; personality disorders; post-traumatic stress disorder, and some self-harming behaviour;

• mental illnesses, such as depression and schizophrenia;

“ ...

“A6. It may not always be possible, nor is it necessary, to categorise a condition as either a physical or a mental impairment. The underlying cause of the impairment may be hard to establish. There may be adverse effects which are both physical and mental in nature. Furthermore, effects of a mainly physical nature may stem from an underlying mental impairment, and vice versa.

“A7. It is not necessary to consider how an impairment is caused, even if the cause is a consequence of a condition which is excluded. For example, liver disease as a result of alcohol dependency would count as an impairment, although an addiction to alcohol itself is expressly excluded from the scope of the definition of disability in the Act. What is important to consider is the effect of an impairment, not its cause – provided that it is not an excluded condition. (See also paragraph A12 (exclusions from the definition).)

“ ...

“A12. Certain conditions are not to be regarded as impairments for the purposes of the Act.

“These are:

• addiction to, or dependency on, alcohol, ... (other than in consequence of the substance being medically prescribed);

“A13. The exclusions apply where the tendency to set fires, tendency to steal, tendency to physical or sexual abuse of other persons, exhibitionism, or voyeurism constitute an impairment in themselves. The exclusions also apply where these tendencies arise as a consequence of, or a manifestation of, an impairment that constitutes a disability for the purposes of the Act. It is important to determine the basis for the alleged discrimination. If the alleged discrimination was a result of an excluded condition, the exclusion will apply. However, if the alleged discrimination was specifically related to the actual disability which gave rise to the excluded condition, the exclusion will not apply. Whether the exclusion applies will depend on all the facts of the individual case.

“[Example:] A young man has Attention Deficit Hyperactivity Disorder (ADHD) which manifests itself in a number of ways, including exhibitionism and an inability to concentrate. The disorder, as an impairment which has a substantial and long-term adverse effect on the young person’s ability to carry out normal day-to-day activities, would be a disability for the purposes of the Act. The young man is not entitled to the protection of the Act in relation to any discrimination he experiences as a consequence of his exhibitionism, because that is an excluded condition under the Act. However, he would be protected in relation to any discrimination that he experiences in relation to the non-excluded effects of his condition, such as inability to concentrate. For example, he would be entitled to any

reasonable adjustments that are required as a consequence of those effects.

“A14. A person with an excluded condition may nevertheless be protected as a disabled person if he or she has an accompanying impairment which meets the requirements of the definition. For example, a person who is addicted to a substance such as alcohol may also have depression, or a physical impairment such as liver damage, arising from the alcohol addiction. While this person would not meet the definition simply on the basis of having an addiction, he or she may still meet the definition as a result of the effects of the depression or the liver damage”

262. There is a distinction between a mental condition such as anxiety and depression and a reaction to adverse circumstances. This does not mean the Claimant needs to prove a clinically well-recognised [mental] illness. To help the Tribunal might start with the adverse effect issues and that may inform if there is a relevant physical or mental impairment: **J v DLA Piper LLP [2010] ICR 1052 EAT.**

263. We have also found the appendix to the guidance particularly useful.

“An illustrative and non-exhaustive list of factors which, if they are experienced by a person, it would be reasonable to regard as having a substantial adverse effect on normal day-to-day activities. Whether a person satisfies the definition of a disabled person for the purposes of the Act will depend upon the full circumstances of the case. That is, whether the substantial adverse effect of the impairment on normal day-to-day activities is long term. In the following examples, the effect described should be thought of as if it were the only effect of the impairment.

“ ...

“• Frequent confused behaviour, intrusive thoughts, feelings of being controlled, or delusions;

“• Persistently wanting to avoid people or significant difficulty taking part in normal social interaction or forming social relationships, for example because of a mental health condition or disorder; ...”

### ***Discrimination arising from a disability***

264. The **Equality Act 2010 section 15** provides

“Discrimination arising from disability

“(1) A person (A) discriminates against a disabled person (B) if—

“(a) A treats B unfavourably because of something arising in consequence of B's disability, and

“(b) A cannot show that the treatment is a proportionate means of achieving a legitimate aim.

“(2) Subsection (1) does not apply if A shows that A did not know, and could not reasonably have been expected to know, that B had the disability.”

265. “Knowledge” in **sub-section (2)** relates to the disability itself, not the something that arises from it: **City of York Council v Grosset [2018] ICR 1492 CA.** Something that arises includes anything that is the result, effect

or outcome of a disabled person's disability: The code **[5.9]**. The question is whether the employer knew (or ought to have known) the following: (a) a physical or mental impairment, which has (b) a substantial and long-term adverse effect on (c) his ability to carry out normal day-to-day duties. It does not require the employer to know that as a matter of law this means that an employee is disabled within the meaning of the **Equality Act 2010**: see **Gallop v Newport City Council [2014] IRLR 211 CA**. There is no requirement that the employer knew or ought to have known of what consequences arose from the disability: **Gallop**. Where the employer does not have actual knowledge, the question is what the employer might reasonably have been expected to have known. The test is not what more might have been required of the employer: **A v Z [2019] IRLR 952 EAT**.

266. The approach to cases under **section 15** was explained in **Pnaiser v NHS England anor [2016] IRLR 170** (after referring to the previous authorities):
- 266.1. the Tribunal had to identify whether there was unfavourable treatment and by whom;
  - 266.2. it had to determine what caused the treatment. The focus was on the reason in the mind of the alleged discriminator, and an examination of the conscious or unconscious thought processes of that person might be required;
  - 266.3. the motive of the alleged discriminator in acting as he did was irrelevant;
  - 266.4. the Tribunal had to determine whether the reason was "something arising in consequence of [the Claimant's] disability", which could describe a range of causal links;
  - 266.5. that stage of the causation test involved an objective question and did not depend on the thought processes of the alleged discriminator;
  - 266.6. the knowledge required was of the disability; it did not extend to a requirement of knowledge that the "something" leading to the unfavourable treatment was a consequence of the disability.
267. In **Williams v Trustees of Swansea University Pension and Assurance Scheme anor [2019] ICR 230 UKSC** the Supreme Court suggested at [27] "I agree [...] that in most cases (including the present) little is likely to be gained by seeking to draw narrow distinctions between the word "unfavourably" in **section 15** and analogous concepts such as "disadvantage" or "detriment" found in other provisions, nor between an objective and a "subjective/objective" approach. While the passages in the Code of Practice to which [Counsel] draws attention cannot replace the statutory words, they do in my view provide helpful advice as to the relatively low threshold of disadvantage which is sufficient to trigger the requirement to justify under this section."
268. The parts of the code referred to are that the Claimant must have been put to a disadvantage (The code **[5.7]**) and that it is enough the Claimant can reasonably say they would have preferred to be treated differently (The Code **4.9**).

269. It is not a disadvantage to be able to show that one could be treated more favourably: **Williams** in the EAT (upheld on appeal).

*Proportionality of a legitimate aim (the aim being conceded)*

270. The law was summarised in **Chief Constable of West Yorkshire Police and anor v Homer [2012] ICR 704 UKSC** (a case that related to direct and indirect discrimination but we can see no reason why it would be different under **section 15**). Baroness Hale said:

“19. The approach to the justification of what would otherwise be indirect discrimination is well settled. ... It is not limited to the social policy or other objectives derived from articles 6(1), 4(1) and 2(5) of the Directive, but can encompass a real need on the part of the employer's business: **Bilka-Kaufhaus GmbH v Weber von Hartz (Case 170/84) [1987] ICR 110**.

“20. As Mummery LJ explained in **R (Elias) v Secretary of State for Defence [2006] 1 WLR 3213 at [151]**:

“the objective of the measure in question must correspond to a real need and the means used must be appropriate with a view to achieving the objective and be necessary to that end. So it is necessary to weigh the need against the seriousness of the detriment to the disadvantaged group.’

“He went on, at [165], to commend the three-stage test for determining proportionality derived from **de Freitas v Permanent Secretary of Ministry of Agriculture, Fisheries, Lands and Housing [1999] 1 AC 69, 80**:

“First, is the objective sufficiently important to justify limiting a fundamental right? Secondly, is the measure rationally connected to the objective? Thirdly, are the means chosen no more than is necessary to accomplish the objective?’

“As the Court of Appeal held in **Hardy & Hansons plc v Lax [2005] ICR 1565 at [31]-[32]**, it is not enough that a reasonable employer might think the criterion justified. The Tribunal itself has to weigh the real needs of the undertaking, against the discriminatory effects of the requirement.”

271. Furthermore it was said in **Barry v Midland Bank plc 1999 ICR 859 UKHL** that

“[T]he ground relied upon as justification must be of sufficient importance for the Tribunal court to regard this as overriding the disparate impact of the difference in treatment, either in whole or in part. The more serious the disparate impact on women, or men as the case may be, the more cogent must be the objective justification.”

***Burden of proof: Equality Act 2010***

272. The **Equality Act 2010 section 136** sets out the way that the burden of proof operates in claims under the legislation, and was explained in **Igen Ltd anors v Wong anors [2005] IRLR 258 CA; Efobi v Royal Mail Group Ltd [2019] 2 All ER 917 CA; Hewage v Grampian Health Board [2012] ICR 1054 UKSC** and **Madarassy v Nomura International plc [2007] ICR 867 CA**.

273. At the first stage, the Tribunal must consider whether the Claimant has proved facts on the balance of probabilities from which the Tribunal could properly conclude that the Respondent has committed an unlawful act of discrimination or harassment. The Tribunal presumes there is an absence of an adequate explanation for the Respondent at this stage.
274. It is not enough for a Claimant to show merely that they have been treated less favourably than the comparator and for them point to a protected characteristic: **Madarassy; Efobi**. There must instead be some evidential basis on which the Tribunal could properly infer that the protected characteristic either consciously or subconsciously was the course of the treatment.
275. The Tribunal may look at the circumstances and, in appropriate cases, draw inferences from breaches of, for example, codes of practice or policies.
276. If the Claimant succeeds in showing that there is, on the face of it, unlawful discrimination or harassment, then the Tribunal must uphold the claim unless the Respondent proves that it did not commit or was not to be treated as having committed the alleged act. The standard of proof is the balance of probabilities. It does not matter if the conduct was unreasonable or not sensible: The question is if the conduct was discriminatory.

***Time limits for claims under the Equality Act 2010 and continuing acts***

277. The **Equality Act 2010 section 123** requires a claim to be presented within 3 months of the act complained of, or such other period as the Tribunal thinks just and equitable. Where there is conduct extending over a period of time, time runs from the end of that period. To decide if there was a continuing act, the Tribunal must look at the ongoing state of affairs to determine if the Claimant was treated less favourably over that period.
278. We remind ourselves that there is a public interest in enforcing time limits. Ultimately the Tribunal has a broad discretion when weighing up all the circumstances, but length of delay and reasons for it are always relevant, as is the prejudice to the Respondent if a claim that is out of time is allowed to proceed: **Abertawe Bro Morgannwg University Local Health Board v Morgan [2018] ICR 1194 CA**.

***Unfair dismissal***

279. The **Employment Rights Act 1996 section 111** entitles a person who has been employed for a sufficient period to bring a claim for unfair dismissal
280. **Employment Rights Act 1996 section 98** provides (so far as relevant):
- “(1) In determining ... whether the dismissal of an employee is fair or unfair, it is for the employer to show—
- “(a) the reason (or, if more than one, the principal reason) for the dismissal, and
- “(b) that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held.
- “(2) A reason falls within this subsection if it—

“ ...

“(b) relates to the conduct of the employee,

“ ...

“(4) Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer)—

“(a) depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and

“(b) shall be determined in accordance with equity and the substantial merits of the case.

“ ... ”

281. The employer bears the burden of proving on the balance of probabilities that the Claimant was dismissed for misconduct. If the if the employer fails to persuade the Tribunal that had a genuine belief in the employee's misconduct, then the dismissal is unfair.
282. When it comes to reasonableness the burden of proof is neutral. The Tribunal should consider all the circumstances including the employer's size and administrative resources.
283. The Tribunal has had regard to **British Home Stores Ltd v Burchell [1980] ICR 303 EAT; Iceland Frozen Foods Ltd v Jones [1993] ICR 17 EAT; Foley v Post Office [2000] IRLR 82 CA** and **Sainsbury's Supermarkets Limited v Hitt [2003] IRLR 23 CA**.
284. The Tribunal understands of the effect of these cases is as follows:
- 284.1. Was there a reasonable basis for the Respondent's belief?
- 284.2. Was that based upon a reasonable investigation?
- 284.3. Was the procedure that the employer followed within the “range of reasonable responses” open to the employer?
- 284.4. Was the decision to dismiss summarily within the “range of reasonable responses” open to the employer?
285. The Tribunal is not entitled to substitute its own view for that of the employer.
286. The Tribunal is entitled to consider and measure the employer's conduct and decision against the employer's own disciplinary or conduct codes.
287. In some cases there may be a need of an employer to investigate background to conduct and a failure to do so may make a dismissal unfair: **Chamberlain Vinyl Products v Patel [1996] ICR 113 EAT**.
288. The Claimant also referred us to the need for a serious investigation in the case of serious allegations with serious consequences (**Salford Royal NHS Foundation Trust v Roldan [2010] ICR 1457 CA**) and the need to consider the character of the act when deciding whether to dismiss

**(Sandwell & West Birmingham Hospitals NHS Trust v Westwood UKEAT/0032/09 EAT).**

289. The **ACAS Code of Practice on Disciplinary and Grievance Procedures** sets out the basic requirements for fairness applicable in most conduct cases. The **Trade Union and Labour Relations (Consolidation) Act 1992 section 207A** requires a Tribunal to have regard to that code.
290. The code identifies the following key steps in any disciplinary procedure:
- 290.1. carry out an investigation to establish the facts of each case;
  - 290.2. inform the employee of the problem;
  - 290.3. hold a meeting with the employee to discuss the problem;
  - 290.4. allow the employee to be accompanied at the meeting;
  - 290.5. decide on appropriate action; and
  - 290.6. provide employees with an opportunity to appeal.
291. Despite the code of practice and guidelines in the cases, ultimately each case must turn on its own facts and be broadly assessed in accordance with the equity and substantial merits: **Jefferson (Commercial) LLP v Westgate UKEAT/0128/12 EAT; Bailey v BP Oil Kent Refinery [1980] ICR 642 CA.**
292. In terms of criminal convictions and their impact on the range of reasonable responses, the Tribunal notes:
- 292.1. Potential damage to an employer's reputation can be an important factor: **Gunn v British Waterways Board UKEAT/0138/81 EAT;**
  - 292.2. The nature of the job can be an important factor: **Moore v C and A Modes [1981] IRLR 71 EAT;**
  - 292.3. It is relevant to consider the impact between offence(s) and employment whether the offence is during employment or outside of it so long as it affects the employee or likely to affect them when doing their work: **CJD v Royal Bank of Scotland [2014] IRLR 25 CSIH, Thomson v Alloa Motor Company Ltd [1983] IRLR 403 EAT, Singh v London Country Bus services Ltd [1976] IRLR 176 EAT** and the Code paragraph 31.

***Wrongful dismissal and gross misconduct***

293. Dismissal without notice (or with inadequate notice) is wrongful unless the employer can show that summary dismissal was justified because of the employee's repudiatory breach of contract, or that it had a contractual right to make a payment in lieu of notice.
294. Gross misconduct is conduct that:  
'must so undermine the trust and confidence which is inherent in the particular contract of employment that the employer should no longer be required to retain the employee in his employment'. See **Briscoe v Lubrizol Ltd 2002 IRLR 607 CA.**



295. Unlike unfair dismissal, the Tribunal must be satisfied that there is actual gross misconduct, and can take into account all the evidence available, including that which comes to light after dismissal: **Williams v Leeds United Football Club 2015 IRLR 383, QBD, Boston Deep Sea Fishing and Ice Co v Ansell 1888 39 ChD 339, CA.**
296. The employee's conduct must be viewed objectively, so he might commit gross misconduct even without an intention to do so: **Briscoe v Lubrizol Ltd 2002 IRLR 607 CA.**
297. When assessing the conduct, factors such the nature of the employment and the employee's past conduct will be relevant: **Pepper v Webb 1969 1 WLR 514 CA, Wilson v Racher 1974 ICR 428, CA.**
298. Motive for dismissing for gross misconduct is irrelevant: **Williams v Leeds United Football Club 2015 IRLR 383, QBD.**
299. It is for the Respondent to show the Claimant committed an act of gross misconduct.

## Conclusions

### ***Disability and knowledge***

*Was the Claimant disabled at all material times because of her cPTSD, EUPD and/or anxiety (noting that the Respondent concede the Claimant was disabled on account of cPTSD and EUPD from 7 July 2019)?*

300. The Tribunal concludes that the Claimant was disabled at all material times because of anxiety and, as conceded, by reason of cPTSD and EUPD from 7 July 2019. We think the suggestion she was not disabled because of anxiety is plainly contradicted by the evidence.
301. Because there was a suggestion that the anxiety was a response to a situation, we started with the question of whether there was a substantial adverse impact on normal day-to-day activities that lasted 12 months or more. The records begin in October 2017 and show continuous mental health problems throughout up 7 July 2019, her dismissal and appeal.
302. Her medical notes also make repeated references throughout that period to self-harm, thoughts of suicide. Mrs Inott herself spoke of "dark thoughts" and personal stressors
303. Applying the guidance, we think that these matters clearly have a substantial impact on normal day-to-day activities. We conclude that having thoughts like that makes it implausible to suggest they do not.
304. We noted that the term anxiety and depression are used, sometimes simultaneously, sometimes one instead of the other. We think nothing turns on that. We appreciate anxiety and depression are separate. We also know from our own experience of disability-related claims that depression and anxiety often arise together. What persuades us that there is nothing in the variation of the term use is that the symptomology and treatment all follow the same pattern.
305. Leicestershire Police point out many of the issues that gave rise to dismissal arose from her self-medication with alcohol. They said she was

dependent on that and so could not be classed as disabled. We reject that proposition, having considered the guidance that makes it clear that one must carefully delineate between excluded and non-excluded matters. We note repeated references to alcohol dependence. However there is nothing in the medical notes or evidence that shows her anxiety or consequences of it stemmed from that. Rather, the notes appear to show things stemmed from her anxiety. We conclude that the medical notes and her evidence show to us the anxiety came first and problems stemmed from that. Her self-medication with alcohol arose from her own attempts to treat her anxiety. In other words it is secondary to the anxiety and not the cause of the symptomology that arises from anxiety.

306. We therefore have someone who has symptomology that has a long-term substantial adverse impact on her normal day-to-day activities. Applying **J**, we conclude therefore that we can infer that there was the mental impairment that caused this, and that mental impairment was what she labelled anxiety.
307. We add one caveat to this. The disability of anxiety does not mean that the consumption of alcohol is a consequence of that disability. In fact we conclude that is not a consequence but a choice on her part. We understand why someone in Mrs Inott's position may want to self-medicate away the pain of her anxiety, cPTSD and EUPD. However, there is no suggestion anywhere in the medical evidence that her decision to drink was involuntarily driven by these impairments. Instead, it was a conscious choice on her part to do that. The medical notes show that she also knew that it might interact with her medication. We cannot ignore the fact therefore that when she took the decision to drink, she was consciously taking the risk of becoming drunk, particularly whilst taking anti-depressants and the consequences therefore that would flow from being drunk.

*If so, did the Respondent know or could they have reasonably been expected to know that the Claimant had one or more of the disabilities? If so, from when?*

308. Leicestershire could not be expected to have known of her cPTSD or EUPD until they received the report of Dr Southall. The fact of the matter is that nobody until Dr Naz on 9 July 2019 diagnoses EUPD. These are complex matters that even her GP does not pick up on with the benefit of their medical training and access to medical resources. We do not think that the Claimant's behaviour or conduct would be enough to even prompt thoughts in the reasonable employer that the Claimant might have cPTSD or EUPD.
309. That however is an irrelevance because we have a different view about the anxiety. We are satisfied that the police knew or ought to have known about it at all material times from 9 June 2017 at the very least. The significant medical notes show an ongoing state of poor mental health. While we appreciate that she performed well in her role as PCSO we think it inherently plausible this showed itself at work in some way. There is direct evidence however that it did come up. On 9 June 2017, Sgt Butterworth referred Mrs Inott to occupational health noting she was suffering anxiety and stress. This is supported by the contemporaneous medical notes. We know that Leicestershire Police did not see this as a one-off referral. We

know also that they knew of regular problems outside of work because of the reports from Warwickshire Police. Sgt Butterworth was her line manager to all intents and purposes and so we conclude if he knew and referred to the force's occupation health services, then it follows that Leicestershire Police must be taken to know. There would be no good reason for them not to know.

***Unfavourable treatment arising from a disability***

*Did the Respondent treat the Claimant unfavourably by:*

*...invoking the investigation proceedings against her?*

310. We have considered these separately but it is convenient to set out our conclusions together.
311. The Tribunal's conclusion is that this is not unfavourable treatment.
312. The invocation of the investigation is no more than an act to establish what the factual circumstances are. We recognise that Mrs Inott subjectively would want to be on the receiving end of a disciplinary investigation. We do not believe however that such an objection is reasonable. A reasonable employee would recognise that where allegations have been made against them, it is appropriate to investigate the matter to determine the facts. We noted that the ACAS Code of Practice says as a minimum step there should be an investigation. The employer is doing no more than following than following a fair procedure.
313. It follows the allegation that this amounted to discrimination arising as a consequence of disability should be dismissed.

*...and/or suspending her from work on 26 April 2019?*

314. We considered this carefully. Eventually we were persuaded this was not unfavourable treatment. We do not doubt that Mrs Inott did not welcome it. However a reasonable person would recognise its appropriateness. While suspended it reduced the possibility of Mrs Inott doing something that interfered with her work and therefore further adding to the accusations against her. In addition as paragraph 18.1 of the disciplinary policy made clear, suspension was not an assumption of guilt and was with full pay. She remained supported by her welfare officers throughout and so was isolated from her employer or support as might happen.
315. It follows the allegation that this amounted to discrimination arising as a consequence of disability should be dismissed.

*...invoking disciplinary proceedings against her?*

316. After very careful consideration and on balance, we were persuaded by the police that this cannot be described as unfavourable either. On her own admission Mrs Inott had committed serious acts that were plainly capable of amounting to gross misconduct. Had she considered the matter reasonably she would see such proceedings were inevitable. Moreover this case had a complex background to it. She needed a thorough opportunity to present that evidence and explain why she thought her admitted conduct warranted something other than dismissal. The disciplinary proceedings provided the best opportunity to do that.

317. It follows the allegation that this amounted to discrimination arising as a consequence of disability should be dismissed.

*...dismissing her on 17 September 2019?*

318. Dismissal is clearly unfavourable treatment.

*If so, was the unfavourable treatment because of something arising from the Claimant's disability or disabilities? A subsidiary issue to this is whether it was due to alcohol dependency or some other factor.*

319. In our conclusion her dismissal did not from her disability. If we were wrong about the commencement of the investigation, the suspension or the invocation of disciplinary proceedings not being unfavourable treatment, we have concluded they did not arise from her disability either.

320. Based on the findings of fact it is apparent that all her behaviour that led ultimately to her dismissal occurred at a time when she was drunk. We acknowledge she disputes that but the contemporaneous evidence from others clearly shows it to be the case. It also tallies with the medical evidence of alcohol dependency. Her evidence is unreliable as we explained above. We do not believe the same can be said of the police or the doctor's opinions. We have regard to Dr Southall's reports but note that it was prepared long after the events she discussed. We also note she is not medically trained and that causes us to have some further doubts on issues that in our opinion are for doctors. We do not doubt her knowledge of mental health generally or psychotherapy, but we do not believe she is sufficiently qualified to carry out a forensic reconstruction of the medical or biological cause of a person's behaviour at a particular time. In any case it must be set against the numerous police reports that repeatedly show that Mrs Inott was drunk. Many also refer to information provided to them about how much alcohol she had consumed.

321. Mrs Inott drank to avoid the emotional pain she felt. But as we noted above there is nothing in either the medical evidence of Dr Southall's reports that suggests that Mrs Inott consumed alcohol against her will (for example in an autonomous state). Everything points to her consumption of alcohol as a free choice made by her. We do not doubt for one moment the suffering caused by the anxiety (whichever is the appropriate label) and the cPTSD or EUPD but they did not compel her to drink. There is no credible explanation about why it must have been the anxiety, cPTSD or EUPD that caused her behaviour and that her simultaneous intoxication on alcohol was a complete irrelevance. We do not accept she was having dissociative states solely because of the anxiety, cPTSD and EUPD because they only occurred when she was intoxicated, and the consumption of alcohol was a free choice. If the disabilities were triggers, we would expect to have seen evidence of her having such an experience when she had not been consuming alcohol. There is no such evidence.

322. Therefore, it is not the case that these incidents came about because of her cPTSD or EUPD or because of her anxiety, they came about in short because she was drunk and out of control. She had undertaken a voluntary risk of consuming alcohol, and while drunk this behaviour came about.

323. In any case, we cannot see even if we remove the alcohol element how cPTSD, EUPD or anxiety/depression gives rise to the events that led to the disciplinary proceedings.
324. We do not believe we therefore have to specifically decide whether in fact she is alcohol-dependant. All that matters for our purposes is that alcohol, not disabilities, was the cause.
325. Therefore, as a matter of fact the claims for discrimination arising as a consequence of a disability must fail.

*Disability discrimination - postscript*

326. We mention 2 supplementary matters in brief:
- 326.1. Limitation: Leicestershire Police suggested these incidents could not be continuing acts because the decisions are taken at different stages by different people within Leicestershire Police and there is no evidence they communicated with each other and therefore there is no common ground. We unhesitatingly dismissed that argument. There is obvious common ground: they are officers in or employees of Leicestershire Police following its procedures. They are clearly working under the general ethos of Leicestershire Police's working practices. Even if they are individuals, we find it incredible to suggest that they should all be treated as completely independent from each other. Therefore, they should be treated as a continuing act. The claims would therefore be in time but fail on the merits.
- 326.2. Justification: The Respondent relied on the following legitimate aims (quoting from the Respondent's skeleton argument):
- 326.2.1. Ensuring that the standards of professional behaviour were maintained to ensure the operational efficiency and integrity of the police service;
- 326.2.1. Ensuring that the public confidence in the police service was not undermined by or the police service discredited by the conduct of a PCSO, in this case the Claimant.
- 326.3. We would have accepted that these are legitimate aims. The behaviour of a PCSO reflects on the police and can impact on how the public perceive the police and interact with them. The public may lose respect or feel the police cannot be trusted. As CC Cole explained, they can also impact on any proceedings in which the impugned employee is involved by potentially undermining the prospect of success.
- 326.4. We conclude that the police therefore acted proportionately in starting an investigation, suspending the Claimant, commencing disciplinary proceedings and eventually dismissing her. Her behaviour was reprehensible. She identified herself with the police during these incidents to the public. She was bound over once and convicted of a public order offence on another occasion. Her behaviour was repeated. It is reasonable to

conclude that nothing short of dismissal would have addressed the problem.

- 326.5. Therefore we would have dismissed the discrimination claims in any event because the conduct was a proportionate means of achieving a legitimate aim.

### **Unfair dismissal**

*Did the Respondent honestly believe the Claimant had committed misconduct?*

327. Considering the detailed investigation, the disciplinary hearing and in particular the appeal hearing, and the Claimant's admitted conduct, there can be no doubt that Leicestershire Police honestly believed that she was guilty of misconduct.

*Was the belief based upon reasonable grounds?*

328. Yes. Mrs Inott admitted the conduct. In addition there were numerous reports from Warwickshire Police about her conduct some of which was captured on BWV. She also admitted she had breached the peace and agreed to the Magistrates' binding her over to keep the peace, and she was then convicted on her own admission of an offence under the **Public Order Act 1986 section 4A**. Her behaviour included her being drunk and behaving badly towards hospital staff and in front of members of the public at hospital where she has said abusive things about the Warwickshire Police whilst drunk and identified herself as being an employee of Leicestershire Police. There have also been a number of occasions where the police have had to be called out because she has threatened self-harm or there have been allegations and counter allegations of domestic violence. Drink is a common theme to all of them.

*Did the Respondent carry out a reasonable investigation into the Claimant's misconduct? In particular, the Claimant's allegation is that there was a failure to carry out a reasonable investigation into the link between her mental health and her conduct.*

329. Yes. In particular, we are quite satisfied considering the investigation that it covered in detailed all the serious alleged misconduct and enquired sufficiently into her mental health situation. As we set out in the facts, the investigation covered not just her own mental health but also that of other and covered the background. We do not believe a reasonable employer would have carried out more investigation in the circumstances, bearing in mind the employer is at this stage establishing the facts.

*Was the overall procedure fair? In particular, the Claimant takes issue with the decision not to postpone the disciplinary hearing.*

330. We disagree that the decision not to postpone the hearing makes the procedure unfair. Leicestershire Police had the report from Dr Southall. It was reasonable of them to seek the advice from the FMO who was specialised in medicine and occupational health. Given the expertise of their FMO it is the act of the reasonable employer to prefer the opinion of their FMO over that of the Claimant's own therapist. This is more so when the FMO noted that Mrs Inott herself agreed she was fit to attend. One must also reflect on the fact that the disciplinary panel said that she could attend with her personal welfare officer as support (in addition to her union

representative) and agreed to hear evidence from her therapist, Dr Southall at the hearing. In our opinion these are all adjustments made by a reasonable employer. We also believe that the real reason the Claimant did not attend was because of legal advice given her text message to PC Kirkland on 12 September.

331. We reflect for a moment of the fact that although the police let Dr Southall attend, she in fact did not. That is not the fault of Leicestershire Police. We note that at no point did the Claimant ask for the matter to be adjourned to enable Dr Southall to attend.
332. In any case, there are other further matters that we think important to fairness
- 332.1. The Claimant accepted there was nothing she could have added to what Mr Hanrahan said on her behalf. It is difficult to see how postponing the hearing would have made any material difference, therefore.
- 332.2. The Claimant attended the appeal hearing and was able to put forward her case.
- 332.3. Dr Southall attended the appeal hearing and gave detailed evidence, so evidence not available for the disciplinary hearing was available at the appeal stage.
- 332.4. The appeal hearing investigated expressly the issue of the impact of her mental health on matters. We do not accept the disciplinary panel failed to, but if we were wrong, it was corrected on appeal.
- 332.5. However, in any case at the appeal hearing any defect would have been rectified because Dr Southall was there to provide her evidence as a therapist for the appeal panel to take into account.
333. We have also compared the process followed to the ACAS Code of Practice. We consider Leicestershire Police's procedure followed it at all stages.
334. We have considered whether the fact these events occurred off duty is a relevant factor. As we have said, we think the argument that Warwickshire Police should not have told Leicestershire Police about these events is misguided. However we recognise that in-work and outside of work are different. In this case however the nature of her job means that what happens in her private life can have real and significant impact in her work life. It can affect her interaction with members of the public and could adversely affect investigations as we have set out in more detail above. A reasonable employer in this situation and in the Respondent's area of work would be entitled to take this into account and consider it pointed towards summary dismissal.
335. We think also that the Respondent is reasonably entitled to consider that reputational damage is a factor justifying dismissal summarily. As CC Cole explained in evidence, the fact she has behaved this way may undermine public confidence in the police and affect her ability to deal with the public. We note that she made clear in the hospital incident that she worked for

Leicestershire Police to the members of the public there. Finally we note that her behaviour may mean she could no longer pass the vetting process.

*Was the dismissal within the range of reasonable responses?*

336. Yes. She admitted herself through Mr Hanrahan that she was guilty of gross misconduct. Given her own admission it is somewhat difficult to see how it could be argued otherwise.
337. Besides the fact is that she works in law enforcement. The public expect to be able to rely on her to uphold law and order. The public expect she should be able to command authority over others given she has legal powers over members of the public that are not possessed by the public at large. Her work may involve her giving evidence in court proceedings that may result in conviction or civil action (e.g. an anti-social behaviour injunction). Conduct and integrity as described in the standards of professional behaviour are at the heart of her contract of employment, as her contract makes clear.
338. Therefore, for a law enforcement officer to be bound over for breaching the peace while intoxicated, to be convicted on her own admission of an offence under section 4A of the Public Order Act, committed whilst intoxicated, to have shouted abuse at NHS staff and in general in front of the public at a hospital (with the added factor she identified herself as an working for the police), to behave in a way after intoxication that results in the police having to attend upon her are all contrary to those key elements of conduct and integrity described in the standards of professional behaviour and key to her contract. The totality of the incidents we have described above undermine the very essence of her role. That clearly undermines the trust and confidence between her and her employer so that the police were entitled to dismiss her summarily.
339. We recognise the fact that if one is convicted it does not necessarily mean that they can no longer work in a law enforcement function. Here though it goes beyond one summary conviction. This is part of a continuing trend.
340. Given all the evidence available to them, they were entitled to recognise the common theme of drink. There is nothing that Mrs Inott produced to show her drinking was anything but a free choice.
341. We recognise also that Mrs Inott did admit that she was guilty of gross misconduct. We recognise that she had complex mental health needs. However a reasonable employer in law enforcement like Leicestershire Police would be well entitled to say that they are not sufficient mitigation against summary dismissal.
342. It was suggested by Ms Inott that other responses could have been appropriate. We accept that is a possibility but of course we cannot substitute our decision for that of the employer. Our decision is that summary dismissal was reasonable in this case.
343. One suggestion that Mrs Inott relied upon the use of the management action as set out in paragraph 6.1 of the disciplinary process and procedure. The policy says it is suitable for minor misconduct. This is not by any means minor misconduct. Even if the mental health were strong mitigation, we



think no reasonable employer would have done anything but invoke a formal detailed process. We do not think a reasonable employer would have even contemplated what MRs Inott suggested.

344. Ultimately, this is a person in a law enforcement role with powers over members of the public whose conduct had involved numerous involvements of the police and had resulted in a bind over and a criminal conviction. We think a law enforcement body reasonable employer in the Chief Constable's situation could well have dismissed for gross misconduct.
345. The dismissal was therefore fair. The claim for unfair dismissal must be dismissed.

*“Polkey” and contributory fault*

346. We decided that in the circumstances it would be too artificial to go on to consider theoretical reductions for the possibility of non-discriminatory or fair dismissal in any event and/or contributory fault. However we would be inclined to the view

***Has the Respondent shown that the Claimant was guilty of gross misconduct and therefore entitled to dismiss her summarily?***

347. Yes. She admitted herself through Mr Hanrahan that she was guilty of gross misconduct. Given her own admission it is somewhat difficult to see how it could be argued otherwise.
348. We also repeat our conclusions about whether the dismissal was fair or unfair in all the circumstances. We believe that they show her conduct went to the heart of the contract and fundamentally breached it.
349. It follows therefore that that claim must be dismissed as well.

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Employment Judge Adkinson

Date: 30 July 2021

JUDGMENT SENT TO THE PARTIES ON

5 August 2021

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FOR THE TRIBUNAL OFFICE

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