

## APPEAL DECISION

22 February 2019

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<b>PRSB REFERENCE NO.:</b>	A01/2019
<b>POSITION DETAILS:</b>	Sergeant Western Region Division 5
<b>POSITION ADVERTISED IN GAZETTE:</b>	7 January 2019
<b>SELECTION ADVERTISED IN GAZETTE:</b>	4 February 2019
<b>APPELLANT:</b>	Senior Constable S. Gray
<b>SELECTEE:</b>	Senior Constable P. White
<b>SELECTION PANEL REPRESENTATIVE:</b>	Inspector F. Pink
<b>DATE OF HEARING:</b>	18 February 2019
<b>HEARD BY:</b>	Dr R Green, Member of the Review Division

<b>OUTCOME:</b>	Disallowed
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## **The legislation and the Board's approach to deciding the outcome of the appeal**

Sections 31 and 34 of the Act respectively empower the Chief Commissioner to promote a police officer to a higher rank or transfer a police officer on application or request. Section 141 of the *Victoria Police Act 2013* provides for a police officer to appeal such a decision to the Police Registration and Services Board (the Board) if he or she applied and considers they have a better claim on the grounds of *superior efficiency, or equal efficiency and greater seniority*. These are the only grounds for appeal. Regulation 54 of the *Victoria Police Regulations 2014* provides that unless the Board otherwise determines, the person is not entitled to appeal if he or she did not satisfy any specified qualifications, eligibility criteria or time-in-position requirements.

'Efficiency' is defined for this purpose in section 4 (1): "*merit, diligence, good conduct, quality of service, mental capacity and physical fitness*" (that is, personal qualities and performance record) as well as the "*aptitude and special qualifications necessary for the discharge of the duties of the position in question*" (that is, general suitability, and the skills, knowledge and capabilities needed for the specific position).

The position documentation describes the duties, any required qualifications, eligibility requirements or time in position requirements and the Key Selection Criteria (KSC) for the position. This is the key framework by which the PRSB will assess 'aptitude' for the position. The Position Profile also provides information about particular needs for the position or location. The Board may also consider relevant frameworks of general application within Victoria Police which describe desirable leadership and other attributes, policing capabilities, training, professional development or experience of officers at different ranks or for certain types of roles.

The appeal is a 're-hearing' (section 144). The Board will consider all of the information in the selection file as well as information obtained and submissions made in the hearing and will then make its own decision, independently and afresh.

Section 141 prohibits a police officer from lodging an appeal if he or she has already lodged four appeals in the current financial year. The appeal in this matter is validly brought.

## **Documents considered**

I examined the following documents before the hearing:

- ✓ The Gazette references to advertisement and publication of the position,
- ✓ Position Description,
- ✓ Position Profile; and

- ✓ Selection Panel Report including questions and responses, short-listing matrix and scoring (for those interviewed).

The following documents were reviewed for the Appellant and the Selectee:

- ✓ VP Form 25: Candidate Profile including service history and submission addressing the Key Selection Criteria,
- ✓ Summary probity check from Professional Standards Command,
- ✓ Personal Development Assessment Reports (PDAs) (current and preceding cycle), and
- ✓ (For the Selectee only) a short referee report confirming suitability for appointment.

The Selection Panel considered 5 applications for this sergeant position, and 3 candidates (including the Appellant and the Selectee) were short-listed and interviewed.

The Position Profile highlighted the following needs of the position and attributes of an ideal candidate: The Position Profile highlighted the needs of the position and attributes of an ideal candidate, and Inspector Pink expanded on this in the appeal. He advised there was a cohort of long-serving sergeants who were in some ways resistant to change and to aspects of organisational direction. The selected candidate would need to be able to work cooperatively while being resilient and able to show integrity, innovation and initiative. The key attributes sought are:

- Strong supervisory skills and record;
- Resourcefulness and resilience,
- The ability to deal with the challenges of rostering, travel, and supervision over a large area including one-member stations;
- Sound character;
- Ability to build strong community relationships;
- Management of custody and court security; and
- Emergency management (noting remoteness, alpine regions, flood and weather-prone environment).

### **Assessment of 'efficiency'**

#### **The Appellant: Senior Constable GRAY**

**Career Overview:** Senior Constable GRAY joined Victoria Police in 2006, after previously working in the computing and real estate industries. He performed general duties initially at Laverton and Altona North, and then for two years at Bairnsdale, including in associated one-person stations. He performed general duties for two years then performed duties as a detective senior constable at

Melbourne West CIU (2011-2014) and then Port Phillip CIU. He worked in the Boroondara High Volume Recidivist Crime Team and was awarded a Divisional commendation for the number of offenders processed and stolen goods recovered. He was upgraded to acting sergeant at Werribee from January 2017 and has been upgraded almost continuously since that time within the PSA, including Corio, Geelong and Werribee. He holds an Advanced Diploma Public Safety (Investigations). His six **written KSC** answers were scored by the Panel as not demonstrated for KSC 1 (policing skills), 2 (supports unit strategy), 5 (communicated effectively) and 6 (drive and integrity), and as demonstrated for KSC 3 (achieves results) and 4 (builds productive working relationships). The examples provided in the KSC document are all solid examples of initiative and achievement, but may not be as directly relevant as they could be to the specific KSC (capability) being sought to be demonstrated, which may explain why the Panel has scored some as not meeting the required standard. We encourage the Appellant to review the Transfer and Promotion Unit guide to the KSCs (available on the intranet) and seek advice to ensure his examples are more directly highlighting the relevant KSC/capability. For the purpose of this appeal, we have considered the examples provided in a more holistic manner.

His current **PDA** (November 2017 to current) does not disclose supervisor ratings but includes a number of verified examples of areas where he was shown initiative to identify risk and resolve problems. His supervisor indicated he has provided 'active and intrusive supervision' and has the ability to recognise when to seek advice. For 2016/2017 (early in his acting sergeant roles) his PDA various positive entries and included (as expected) development goals and assessed him as being 'at level' for all capabilities. The Appellant indicated how he had responded to some of the development goals listed, and noted the initiatives as recorded on the PDA. We encourage the Appellant to actively use his PDA to set learning and development goals and demonstrate his achievements as this will benefit him in future selection processes.

In his **presentation** in the appeal hearing, he highlighted the variety of roles held including at very busy stations, and his expertise as a detective, including his recognised achievement in solving crimes. He emphasised his enjoyment of mentoring and supervision, being selected to undertake this role in a number of stations including DTWs, and his management of large and diverse staff groups. He highlighted an initiative he had taken to improve processes and systems relating to the printing of ePDRs as well as changes to the DDT system to provide MDTs in real time. He emphasised his experience in dealing with critical incidents and emergencies and his training in emergency management and ICCS, and also his custody management experience.

The first **interview-style question** related to challenging unacceptable behaviour. His example related to his challenging a section sergeant in relation to his handling of a difficult 'recidivist' complainant about police actions. He explained to the sergeant that the members complained of had felt not listened to, thought the sergeant was 'appeasing' the complainant. They were very unhappy and threatening to 'go off the van'. He explained how he spoke to the sergeant respectfully about the concerns and then brought the sergeant and members together so they could see each other's perspectives, and that his intervention was appreciated by those members and other sergeants as the situation had been heading 'out of control'. I was not clear from the answer what aspects of the sergeant's handling of the complaint were considered to be inappropriate and were also concerned that his intervention, as described to us, could have been perceived as undermining rather than supporting that sergeant, who was clearly faced with a difficult situation. The second question related to what methods he used as a supervisor to ensure his team met benchmarks and standards. He noted the existence of Harpers and its use of flags, but could have better articulated how he used this application strategically as a monitoring and management tool to ensure performance and targets were met across the team, including what he did if a 'flag' was shown. He said he used brief books and regular PDA meetings and face to face discussions with his 'corro crew' to discuss their needs for development, and that he used Safe-T-net to monitor welfare and mental health. He added that he met with his officer in charge to ensure his standards and station goals were being met. The Appellant might benefit from further experience with the Harpers application and from seeking guidance or mentoring from high-performing sergeants about their methods. The final question related to stakeholder engagement to achieve Victoria Police objectives. His example related to the local university notifying police of missing persons, when their internal systems were not showing where the student was. He explained how he used his IT skills to help staff use their existing software systems to monitor the whereabouts of students and staff and that this reduced the notification of missing persons and use of police resources. He also explained to staff the criteria for when police would be involved in a missing person matter. While this was an example of solving a problem, it was not a strong example of building a collaborative engagement in order to achieve policing goals.

'Good conduct' is one of the elements of 'efficiency'. There were several complaints recorded in the Appellant's probity record, which were found 'not substantiated' or 'not resolved'. After discussion in a closed hearing and hearing from the local panel representative, I conclude there is nothing raised in that report that would prevent the Appellant's future promotion.

### **The Selectee: Senior Constable WHITE**

Senior Constable WHITE graduated from the Academy in 2007 and apart from 3 years working in drug operations in Melbourne, and an upgrading stint in Wodonga SOCIT/CIU, she has worked from Wangaratta in crime investigation roles, including a number of stints as an acting sergeant in SOCIT, CIU, and as acting sergeant in general duties. She qualified as a detective in 2013. She has completed a good range of online and other training courses.

Her written **KSC responses** were assessed as meeting the standard required in 4 of 6 KSC and as not meeting the standard required in 2 KSC. I agree with the assessment of the Panel.

Her **PDA**s disclosed solid work performance (showing at level for all capabilities), supported by verified entries from several sources. Comments include her enthusiastic approach and willingness to take on new challenges, and that she is a valued and respected member.

At **interview**, the Panel scored the Selectee's answers as meeting the standard required in 4 of 4 answers. The Panel report commented on the Selectee's drive and ambition, leadership and perseverance in dealing with difficult situations, her strong focus on engagement with the community and ability to change poor work cultures, concluding he possessed the right skills and attributes for this role in Donald.

In the **appeal**, she highlighted her strong emergency management skills. This included skills gained in 18 years as a CFA volunteer when living in a small farming community, where she held the rank of second lieutenant in the volunteer brigade, and gained extensive experience in bushfire management. Before joining Victoria Police she worked as a farmer and had a background in mechanics. Within Victoria Police, she had experience in flood management including working in the Queensland floods. She also highlighted her investigation skills in areas including drugs, major crime, volume crime and sexual offences. She noted the value of these skills given the distances involved in working in this area. She showed awareness and knowledge of strategies to combat road trauma; victim-centric policing, and the importance of engaging with partner agencies. She was keen to engage with the local community including schools, businesses, Eye Watch, and community groups and had started making such contacts. She was keen to engage with youth (including disengaged youth) by implementing a schools program in the area.

I asked the Selectee three **interview-style questions**. The first question asked for a time when she 'thought outside the box'. Her example was a clever initiative to identify a suspect in large scale thefts. The second question asked him about dealing with conflict between colleagues. Her example showed good inter-personal skills and a willingness to step-in to play a positive role to ensure better

communication and inclusiveness within the team. The third question related to the needs of the role in increasing community engagement. Her example showed enthusiasm to bring ideas and new initiatives and to work with the community to identify their needs. She noted her achievements in her short career in policing, her enthusiasm to work hard and not rest on her laurels.

Senior Constable White's probity check was considered. She has a number of compliments and no complaints on her record.

### **Decision**

I have carefully considered the selection file, and the information provided in the hearing, including responses to my questions. In some aspects the two candidates are not apart: they have similar PDA reports and their written KSC were not far apart. They are both well-suited to joining a small rural community and making a positive contribution in the role. I find however that the Appellant has not established that he is superior or equal efficiency to the Selectee. The key factors which have influenced my decision are:

- The Selectee showed great enthusiasm and the capacity to engage the community and bring new ideas and initiatives to benefit the community. She was able to highlight aspects of his experience which would be of particular value in the position, including extensive investigative experience and emergency management skills, including through 18 years in the CFA.
- While acknowledging the Appellant's experience and solid performance, I agree with the Panel's comment that he did not demonstrate ("sell") his experience and skills well, and not as well as the Selectee did on this occasion. His outline of his claims for the position was mainly to list the duties of a uniform sergeant. I would expect any sergeant to have that experience and capabilities, so this did not assist me to understand his particular claims to being a stronger candidate. He did touch on areas where he had held portfolio responsibility, such as the DTW role in training junior members. The Appellant's claim to this role would have been stronger if he had provided other particular examples showing his skills, experience, strengths and areas of interest. This approach would benefit the Appellant in future selection processes.
- In relation to leading and managing members, a supportive approach is important. So too is driving good performance from team members and ensuring accountability for service delivery in serving the community. The Appellant's answers to several questions focussed on the first aspect (supportive). He may need to strengthen his skills in this second aspect of management and leadership or to better highlight this second component in future selection processes. I have placed some weight to the adverse comments of the Panel concerning the Appellant's

'disappointing' interview answer on the KSC of 'drive and integrity'. Responding to inappropriate behaviour is a vital leadership capability in Victoria Police especially at the Sergeant rank.

I have considered all of the available information concerning both candidates holistically. On this occasion, the Appellant did not demonstrate the same standard of strategic-thinking, initiative or the same level of relevant skills as show by the Selectee. In conclusion, after weighing these competing considerations, I am satisfied that:

- The Appellant Senior Constable GRAY has not demonstrated superior efficiency to the Selectee Senior Constable WHITE, and accordingly his appeal is disallowed.

Dr Rachael Green, Member of the Review Division

20 February 2019