

Accelerated Misconduct Proceedings in relation to PC 2458 Andrew Harkison.

Record of Findings

Introduction

On 6th August 2024, I chaired an Accelerated Misconduct Hearing in relation to PC 2458 Andrew Harkison, a serving Civil Nuclear Constabulary police officer.

The hearing was conducted pursuant to the Police (Conduct) Regulations 2020 (the Regulations). PC Harkison was referred to an accelerated misconduct hearing by the Superintendent for Vetting, PSD and Cultural Change as the delegated Appropriate Authority, which I have delegated under regulation 2(3) of the Regulations.

The hearing was held in public and no preliminary matters were raised by the parties for me to consider.

Attendees

PC Harkison was supported by his Civil Nuclear Police Federation representative PC Darren Adams.

Also, present were:

Ms Erin Kyle-Davidson, CNC Legal Department.

Guy Landerburg on behalf of the Appropriate Authority

Barnabas Branston, my appointed legal adviser

Andrew Evans, CNC Hearings Manager

Daniel Riddle, observer

Victoria Bartlett, CNC Head of Communications

Allegations

On 19 April 2024 PC Harkison pleaded guilty to two criminal charges, namely of being in charge of a dog which was dangerously out of control, contrary to section 3 of the Dangerous Dogs Act 1991 and received a suspended sentence of 10 months' imprisonment with a requirement to carry out 240 hours of unpaid work and disqualification from having custody of a dog for a period of 5 years at Workington Magistrates Court.

The two charges related to the following incidents:

1. On 13 March 2023, whilst off duty PC Harkison was in control of a police dog by the name of Atlas. He lost control of the police dog which bit another dog and a member of the public, resulting in injuries being sustained.
2. On 16th April 2023, whilst off duty PC Harkison was in control of a police dog by the name of Atlas. He lost control of the police dog resulting in the dog biting another dog and a member of the public resulting in serious injuries being sustained.

The Misconduct charges against him relate to his criminal convictions and amount to allegations of Discreditable Conduct.

Officers response

PC Harkison accepted that his criminal convictions amount to Discreditable Conduct and meet the threshold for Gross Misconduct.

During the course of the Hearing, I questioned PC Harkison asking him whether his formal general police dog training, with police dog Atlas, commenced between incident 1, on 13th March 2023, and incident 2, on 16th April 2023. He confirmed that it did, I then asked him why he had not reported incident 1, either immediately after it happened, or to the training staff when his training commenced. His response was that the victim of incident 1, Mr Walker, and his wife, did not want him to report it. He failed to report incident 1 upon commencement of his training as he was concerned that PD Atlas may be removed from training, and he wanted to “give the dog a chance”. He did tell the trainers that PD Atlas was aggressive towards other dogs, he did not mention that it had bitten Mr Walker.

PC Harkison accepted that incident 2, resulting in serious injuries to Ms Gilmour, may not have happened had he reported incident 1.

It is a matter of fact that PC Harkison was convicted of the two counts listed above, having pled guilty and he has admitted that his convictions amount to Discreditable Conduct and that this amounts to Gross Misconduct. I therefore came to the decision that the conduct amounts to Gross Misconduct.

Submissions on sanction

I then provided PC Harkison and PC Adams the opportunity to present PC Harkison’s antecedents and any mitigation they wished to provide to assist me in deciding upon sanction. In response PC Adams handed me a printout of an email, describing PC Harkison’s service history.

Views on sanction

I adjourned to consider sanction, when the Hearing resumed, I referred the parties to the College of Policing Guidance on outcomes in police misconduct proceedings.

Referring to paragraph 2.3 I set out the threefold purpose of police misconduct proceedings, namely.

1. To maintain public confidence in, and the reputation of, the police service.
2. To uphold high standards in policing
3. To protect the public

I then referred to my responsibility to consider the seriousness of the matter and in doing so I was assisted by 4.9 of the guidance which sets out the four elements that must be considered.

1. Culpability

2. Harm
3. Aggravating Factors
4. Mitigating Factors

1. Culpability

Culpability denotes the officer's blameworthiness for their actions. In this case PC Harkison has pleaded guilty to two criminal offences relating to his failure to control a dangerous dog, resulting in injury to one member of the public and serious injury to a second. He continues to accept responsibility, and, in this regard, he accepts and is culpable. Culpability is more serious where the officer could reasonably have foreseen the consequences of his actions.

2. Harm

It is a matter of fact that Mr Walker was injured to his hand as a result of a bite from PD Atlas. His injuries were relatively minor and were treated by Mr Walker's wife. In the second incident, Mrs Gilmour was seriously injured to her calf and hands, this necessitated hospitalisation and corrective surgery. I have not seen the Magistrate's Court bundle but assume that psychological harm is also referenced.

The harm to the victims, particularly Mrs Gilmour, is therefore serious.

I also have to take into account the harm caused to public confidence. PC Harkison's failure to control a dangerous dog, his conviction and suspended prison sentence will undoubtedly undermine public confidence in the Civil Nuclear Constabulary, and in the police service as a whole. This is at a time when public confidence in policing has already been seriously undermined by numerous high-profile cases of criminal offending and misconduct.

3. Aggravating Factors

The fact that PC Harkison failed to report incident 1, either straight away as he should have done, or when his training commenced, is an aggravating factor. In the interests of the police dog, he kept quiet. Had he not done so it is likely that remedial action would have been taken, preventing incident 2 and the serious harm caused to Mrs Gilmour.

4. Mitigating Factors

I had provided PC Harkison and PC Adams the opportunity to present PC Harkison's antecedents and any mitigation they wished to provide to assist me in deciding upon sanction. In response PC Adams handed me a printout of an email, describing PC Harkison's service history. I accept that PC Harkison has an unblemished career history, and he has served in the military and the police service. I am aware from the Guidance that personal mitigation does not outweigh the seriousness of the conduct or the public interest.

In considering mitigating factors, I accept that PC Harkison has cooperated with the criminal and misconduct investigations. He has shown remorse and is genuinely sorry

for what has happened. This remorse and accepting of responsibility provide him with credit.

I also accept in mitigation, the fact that PC Harkison, despite handling explosive detection dogs in the military and the police, was not trained and experienced in handling a general purpose police dog. He alleged that the slip lead, he was issued with, has the "stop" missing which may have contributed to incident 2. I accepted that they may be shortcomings on behalf of the Constabulary in this regard.

Outcome

I referred to Section 2.8 of the Guidance and my responsibility to consider the least severe sanctions open to me, in this case a final written warning. In considering a final written warning, I have taken into account the seriousness of the conduct and the impact on the victims. The conduct is serious in that it has resulted in serious injury to a member of the public, and criminal convictions, and a suspended prison sentence for a serving police officer. In addition, the impact in terms of harm to the victims, and to public confidence is serious and, as a result, I discounted a final written warning as an appropriate or proportionate sanction.

Having taken the above factors into account I concluded that PC Harkison's conduct was so serious that nothing less than dismissal, with immediate effect, would be sufficient in order to maintain public confidence. I informed PC Harkison that he is dismissed with immediate effect.

I also informed him that he would receive a record of my decision within five working days and that he has the right to appeal my decision within 10 working days, beginning with the first working day after the day on which he is provided with the written outcome. A public notice of the outcome will be published on the CNC website in accordance with regulation 63(5) of the Regulations.

The Hearing concluded.

Simon Chesterman OBE QPM
Chief Constable