

IN THE POLICE CONDUCT PANEL

IN THE MATTER OF THE POLICE ACT 1996

**AND IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020
(AS AMENDED)**

BETWEEN:

THE CHIEF CONSTABLE OF THE CIVIL NUCLEAR CONSTABULARY

The Appropriate Authority

AND

FORMER PC 3372 LUKE ENEAS

The Officer

**NOTIFICATION AND REPORT OF THE OUTCOME UNDER REGULATION 40
OF THE POLICE CONDUCT REGULATIONS 2020**

Chair:	ACC Michael Vance
ILQA :	Derek Marshall
IPM:	Amanda Harvey
	Carolyn Graham
AA Solicitor:	Erin Kyle-Davidson
Fed Rep:	
IO:	Mark Toker
Hearings Co-Ord:	Andrew Evans

1. This is a case which in other police forces would have been proceeded with as an Accelerated Hearing. The Civil Nuclear Police does not presently have the capacity to follow this procedure. The (former) Officer has resigned and has not served a Regulation 31 notice nor taken any part in the proceedings so this case therefore proceeds under the “former Officer” regime.
2. The first task of the Panel therefore was to determine whether the case should proceed in the absence of the Officer. They were advised by the ILQA that they may do so if satisfied that he knew of the proceedings, had no good reason for his non-attendance or had chosen not to attend and that it was fair just and reasonable to proceed, given the over-riding objective of the proceedings, which is to protect the public and maintain public confidence, uphold the highest standards of professional behaviour in the police service and to deter wrongdoing. The Panel therefore considered the correspondence in the bundle passing between the AA and the Officer at pages 75 to 80 and were satisfied that he knew about the proceedings, had been properly served with all the documents and had chosen not to attend. The hearing would therefore proceed in his absence.
3. The single allegation against the Officer is one of discreditable conduct arising out of an incident on 4 May 2025. He had been off duty and driving his VW motor car within the Cumbria area when he was stopped by traffic officers following them noticing his erratic driving, including driving on the wrong side of the road . He was found to be covered in blood and a roadside breath test showed his breath-alcohol level to be 89mg of alcohol in 100ml of breath. The legal limit is 35 mg. He was therefore arrested and taken to Workington police station where the lower of the two evidential breath tests recorded an alcohol level of 90mg in 100 ml of breath. He was charged with an offence of driving over the prescribed limit contrary to section 5 of the Road Traffic Act 1988 and on 2 June 2025 was convicted before the Workington Magistrates Court on his plea of “Guilty” to the charge and sentenced to a Community Order and Disqualification from Driving.
4. The Panel was advised by the ILQA that Police Misconduct proceedings are essentially civil proceedings according to the law (Kuzmin v GMC [2019] EWHC 2129 (Admin) (paragraph 34) and that Section 11 of the Civil Evidence Act 1968 therefore applies. This states that:

(1) In any civil proceedings the fact that a person has been convicted of an offence by or before any court in the United Kingdomshallbe admissible in evidence for the purpose of proving, where to do so is relevant to any issue in those

proceedings, that he committed that offence, whether he was so convicted upon a plea of guilty or otherwise and whether or not he is a party to the civil proceedings; but no conviction other than a subsisting one shall be admissible in evidence by virtue of this section.

(2) In any civil proceedings in which by virtue of this section a person is proved to have been convicted of an offence by or before any court in the United Kingdom or

(a) he shall be taken to have committed that offence unless the contrary is proved; and

(b) without prejudice to the reception of any other admissible evidence for the purpose of identifying the facts on which the conviction was based, the contents of any document which is admissible as evidence of the conviction, and the contents of the information, complaint, indictment or charge-sheet on which the person in question was convicted, shall be admissible in evidence for that purpose.

(3) Nothing in this section shall prejudice the operation of section 13 of this Act or any other enactment whereby a conviction or a finding of fact in any criminal proceedings is for the purposes of any other proceedings made conclusive evidence of any fact.

(4) Where in any civil proceedings the contents of any document are admissible in evidence by virtue of subsection (2) above, a copy of that document, or of the material part thereof, purporting to be certified or otherwise authenticated by or on behalf of the court or authority having custody of that document shall be admissible in evidence and shall be taken to be a true copy of that document or part unless the contrary is shown.

5. An unsigned copy of the Certificate of Conviction appears in the bundle and a signed certificate was subsequently obtained by the AA and supplied separately. The Panel nevertheless were advised that it was necessary for them to consider the facts afresh, in particular because it is incumbent upon them to consider their seriousness. Regulation 41(15) of the 2020 Regulations provides as follows:

The person or persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts—

(a) in the case of a misconduct meeting, to misconduct or not, or

(b) in the case of a misconduct hearing, to misconduct, gross misconduct or neither.

And sub-rule 16 states

The person or persons conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless—

(a) they are satisfied on the balance of probabilities that this is the case, or

(b) the officer admits it is the case.^[11]_[SEP]

“Misconduct” is defined in the 2020 regulations as

a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action

and “Gross Misconduct” is defined as

a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal

Review of the evidence

6. The fact of the Officer’s driving whilst above the legal limit for having consumed alcohol and his subsequent guilty plea and conviction is self-evident. The Panel had no doubt that the AA has sufficiently proved their case. The certificate of conviction, the statement of the traffic

officer PC Swinbanks in the bundle at p37 and the printouts of the breath/alcohol samples all lead to this one inevitable conclusion.

7. The Panel was also satisfied that the alleged breach of the required standards of professional behaviour had been established. The Home Officer Guidance says this:

2.15 Discredit can be brought on the police by an act itself or because public confidence in the police is undermined or is perceived to be undermined. In general, it should be the actual underlying conduct of the police officer that is considered under the misconduct procedures, whether the conduct occurred on or off-duty. However, where a police officer has been convicted of or cautioned for a criminal offence, that alone may lead to discipline or vetting action irrespective of the nature of the conduct itself.

8. It was obvious to the Panel that police officers do not break the law, especially in circumstances where their doing so may endanger the public. The 2024 Guidance on Ethical Behaviour states that Officers must

“do nothing, whether related to work or not, that damages the relationship of trust and confidence with the public”.

The Guidance has specific reference to unlawful behaviour and states that Officers will be considered to have brought the service into discredit and disrepute where they are subject to

“arrest, any legal processing in connection with an allegation of criminal conduct, a summons for an offence, a penalty notice for disorder, an endorsable fixed penalty notice for a road traffic offence, a charge or caution for an offence by any law enforcement agency or a conviction, sentence or condition imposed by any Court”.

Drink driving has the potential to cause death or really serious injury. In the Panel’s judgment this was plainly discreditable conduct and a breach of the required standards of professional behaviour.

9. Whether this amounts to gross misconduct as alleged by the AA involves an assessment of the seriousness of the incident. All drinking and driving is serious but the Panel observed that this Officer was between two and a half and three times over the legal limit. His driving had been observed to be erratic, he had been driving on the wrong side of the road and he had sustained some sort of injury, although it is not clear how he came by this. He was clearly very drunk indeed, and he knew it and frankly admitted it. The Panel thought that his driving represented a danger to the public and that the seriousness of this professional offence was therefore high. In the circumstances there was no other reasonable conclusion than that this represented gross misconduct.

The Outcome – Disciplinary Action

10. The Panel reminded itself of the threefold purpose of these proceedings: To maintain public confidence in the police service, to protect the public and deter wrongdoing and to maintain the highest standards of professional behaviour. The objective is not to punish the officer and the Panel should therefore do no more (although also no less) than that which is necessary to satisfy the key objectives of these proceedings. The Panel clearly understood that they must consider the seriousness of the misconduct, the purpose of sanctions and then choose an outcome which most appropriately meets that purpose. Since this is a “former officer” case the outcomes available given a finding of gross misconduct were either to record that if the officer were still serving, he would have been dismissed without notice, or to take no action.

11. The Panel therefore revisited their considerations as to the seriousness of the matter and applied the familiar fourfold analysis in the Guidance on Outcomes:

Culpability

12. As set out previously the Panel thought that there was a high level of culpability in this case. The Officer was clearly very drunk, at nearly three times the legal limit and his driving was observed to be erratic by traffic officers. This was a deliberate course of conduct and the Officer clearly knew what he was doing and that what he was doing was wrong.

Harm

13. The direct harm the Officer caused was to undermine public confidence in the Police. Officers should not break the law. The potential harm was even greater – he could have caused a very serious accident involving death or severe injury.

Aggravation

14. There are no aggravating features in this case.

Mitigation

15. The only mitigating feature in this case is that the Officer was fully compliant when ordered to stop by the traffic officers and provided breath samples without protest or excuses. He pleaded “Guilty” in the Magistrates Court and resigned straight away. No personal mitigation has been offered but the Panel took into account that this was a single event which was admitted straight away. The Panel received a copy of his service record and took this into account.

Conclusion

16. This was a serious case for all the reasons set out. In the Panel’s view, the only proper conclusion they could reach is to record that if the Officer were still serving, he would have been dismissed without notice. Nothing less would have been sufficient to protect the public or to maintain confidence in the police. Accordingly, that is their decision.


The Panel was concerned to note that there is no mechanism at present for reporting matters to the Barring Service although they understood that this is about to change. In the meanwhile however they took the view that it would be appropriate to write to the College of Policing to notify them of the outcome of proceedings such as these.



Drafted by Derek Marshall LLB. MCI Arb ILQA

College Chambers, Southampton

Revised and Approved by



Michael Vance

ACC

Chair



Amanda Harvey

Independent Panel Member



Carolyn Graham

Independent Panel Member

You have the right of appeal to the Police Appeal Tribunal under Regulation 43.

If you admitted your misconduct you may appeal against any disciplinary action imposed under Regulation 35.

If you denied your misconduct but the person conducting found that your conduct amounted to misconduct/ gross misconduct, you may appeal against that finding or any disciplinary action imposed under Regulation 35.

Any appeal must be made in writing to your local policing body within 10 working days beginning with the day following the day on which you receive this notice. (*Rule 7 Police Appeals Tribunals Rules 2008*)

Postal address:

Phone:

Fax:

Email

You may request a transcript of the proceedings (or part of the proceedings) at your original hearing in your notice of appeal.

The only grounds for appeal under this regulation are that:

- a) the finding or disciplinary action imposed was unreasonable;
- b) there is evidence that could not reasonably have been considered at the misconduct hearing which could have materially affected the finding or decision on disciplinary action; or
- c) there was a serious breach of procedures set out in the Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

Legislation governing appeals following misconduct hearings is the Police Appeals Tribunals Rules 2020

Copies: Officer
 PSD

