**MISCONDUCT HEARING OF FORMER OFFICER SEAN MCKENNA**

**HELD IN CULHAM ON 18 SEPTEMBER 2025**

**RECORD OF DETERMINATIONS**

**Introduction**

1. This is the record of determinations made by a panel at misconduct proceedings brought under the Police (Conduct) Regulations 2020 (“the Regulations”) against Former Officer Sean McKenna (“Mr McKenna”).

**The allegation**

1. The panel was referred to a Regulation 30 notice in relation to Mr McKenna which stated as follows:

“***FPC Sean McKenna*, whilst a serving member of the Civil Nuclear Constabulary your conduct is alleged to have fallen below the standard expected of a serving police officer such as to contravene the Standards of Professional Behaviour. Your conduct amounted to gross misconduct in that:**

**Allegations of Fact**

A. On 24 April 2025 you were the driver of a Black Audi SE60 KOD and reported for work at Sellafield site, having driven said vehicle to work.

B. On 24 April 2025 you were required to provide a ‘with cause’ breath test by Civil Nuclear Constabulary Police Officers.

C. A breath test was administered in the Civil Nuclear Constabulary office on Sellafield site, where you recorded 98 microgrammes of alcohol in 100 millilitres of breath which is over the prescribed limit of 35 micrograms in breath.

D. You were arrested by a Civil Nuclear Constabulary Police Officer for driving over the prescribed limit. You were taken into Workington Police Station custody suite, where you provided two evidential specimens of breath for analysis by means of an evidential breath testing device. The breath specimen reading with the lower proportion of alcohol was 100.

E. You were subsequently charged on the same day with driving over the prescribed limit, contrary to section 5 of the Road Traffic Act 1988; you were bailed to appear at Workington Magistrates Court on 13 May 2025.

F. On 13 May 2025 you pleaded guilty to an offence of driving over the prescribed limit, contrary to section 5 of the Road Traffic Act 1988.

G. On 03 June 2025 you were disqualified from holding or obtaining a driving licence for 25 Months, to be reduced by 25 Weeks if by 19 October 2026 you satisfactorily complete a course approved by the Secretary of State. You were also issued with a Community Payback Order to carry out 50 hours unpaid work within the next 12 months.

**Allegations of breach of the Standards of Professional Behaviour**

1. Your conduct, the conviction and the nature of the offence for which you have been convicted are incompatible with the role of a police officer, brings discredit to the Civil Nuclear Constabulary and undermines public confidence in it, in breach of the Standards of Professional Behaviour of Discreditable Conduct.

**Allegations of Misconduct**

2. Your conduct as alleged herein, individually and / or cumulatively amounts to gross misconduct.

1. Such matters are so serious that your dismissal would have been justified had you still been a serving officer.”

**Regulation 31 response**

1. Mr McKenna did not respond to the Regulation 30 notice.

**Representation**

1. The Appropriate Authority (‘AA’) was represented by Ms Kyle-Davidson. Mr McKenna was not present and was not represented, but after careful consideration the panel determined to proceed in his absence (see Annex A).

**The panel’s approach**

1. The Panel took the following approach:
	1. First, to consider the facts of the case and to make findings in relation to each of the facts alleged by the AA;
	2. Second, to determine whether those facts found proved constituted one or more breach(es) of the relevant Standards;
	3. Third, to determine whether the conduct found proven against Mr McKenna amounted to gross misconduct;
	4. Fourth, if appropriate, to decide what the outcome should be.
2. The panel reminded itself that the burden of proof is on the AA throughout and that the standard of proof is the balance of probabilities, namely what is more likely than not.
3. The panel also reminded itself of the Home Office Guidance and, in particular, paragraph 9.10 which reads as follows: “In deciding matters of fact, the persons conducting the misconduct meeting or hearing must apply the standard of proof required in civil cases, that is, the balance of probabilities. Conduct will be proved on the balance of probabilities if the persons conducting the meeting or hearing are satisfied by the evidence that it is more likely than not that the conduct occurred. The balance of probabilities is a single unvarying standard (i.e. there is no sliding scale). The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officer do not require a different standard of proof, merely appropriately careful consideration by the panel before it is satisfied of the matter which has to be established. The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when deciding whether, on the balance of probabilities, the conduct occurred.”
4. The panel had before it a bundle of evidence provided by the AA, which it considered both relevant to the case before it and fair to admit in the interests of justice. It was also grateful for the AA’s comprehensive Opening Note. In addition the panel was provided during the hearing with a brief record of Mr McKenna’s service with CNC.
5. No live witnesses were called.

**Character**

1. The panel noted the limited evidence before it of Mr McKenna’s service record and, in particular, the fact that it did not appear that he had previously faced misconduct proceedings. It noted that such evidence was potentially relevant to his propensity to behave in the manner alleged.

**The panel’s findings**

**Alleged facts**

*Paragraphs A, B and C*

1. Paragraph A of the Regulation 30 notice stated: “On 24 April 2025 you were the driver of a Black Audi SE60 KOD and reported for work at Sellafield site, having driven said vehicle to work.”
2. Paragraph B of the Regulation 30 notice stated: “On 24 April 2025 you were required to provide a ‘with cause’ breath test by Civil Nuclear Constabulary Police Officers.”
3. Paragraph C of the Regulation 30 notice stated: “A breath test was administered in the Civil Nuclear Constabulary office on Sellafield site, where you recorded 98 microgrammes of alcohol in 100 millilitres of breath which is over the prescribed limit of 35 micrograms in breath.”
4. In considering these allegations, the panel noted the witness statement of PS 793 Daniel Crake, dated 24 April 2025, which stated:

“At approximately 1815hrs on 24 April 2025 I was on duty in uniform at building B1870 at Sellafield. After receiving information that a person that I know to be PC 2380 Sean MCKENNA, a Civil Nuclear Constabulary police officer, may have been arriving to work over the prescribed limit for alcohol or drugs …; I alone with Acting Inspector 941 John LE JEUNE had been tasked with advising MCKENNA that he was required to attend Sellafield Occupational Health department to carry out a ‘with cause’ breath and urine test as a requirement from Sellafield Ltd. Upon MCKENNA arriving at the workplace, Acting Inspector LE JEUNE requested MCKENNA to meet with us in a private office to advise him of the requirement. After Acting Inspector LE JEUNE had advised him of the requirement and asked if he’d had anything to drink recently MCKENNA advised that he had drank ‘SOMETHING THIS MORNING’. Acting Inspector LE JEUNE then asked MCKENNA how he got to work, and MCKENNA advised that he had driven. Acting Inspector LE JEUNE suggested that he also smelled what could be intoxicating liquor. I could also smell intoxicating liquor that appeared to be from MCKENNA’S breath. I then advised MCKENNA that rather than attend the Occupational Health department, he was required to provide me with a specimen of breath via a breath test because he had advised that he had driven to work, and it was of my suspicion that he had intoxicating liquor on his breath. MCKENNA then provided a breath specimen. The breath test was conducted using Drager serial number ARPM 1596 and the display showed a reading of 98.”

1. The panel also noted the witness statement of Sergeant 141 John Le Jeune, dated 25 April 2025, which stated:

“At approximately 1815hrs on Thursday 24 April 2025, I was on duty in uniform carrying out Acting Inspector duties in the Sergeants’ office of Building 1870, Sellafield. At this time a person who I know to be PC 2380 Sean MCKENNA walked into the office for the start of his Night Shift. Acting on information received I asked MCKENNA to come into the Inspector’s office so that I could speak to him. I was also joined by PS 793 Daniel CRAKE. I explained to MCKENNA that Sellafield site had requested that he attend a ‘with cause alcohol and drug test’. I explained what this was, and asked him if he had driven to site, to which he replied ‘YES’. As I talked to him, I noticed the smell of intoxicating liquor on his breath and asked if he’d had anything to drink before coming to work. He replied, ‘I HAD SOMETHING THIS MORNING’. PS 793 CRAKE explained that he could also smell intoxicating liquor on MCKENNA’s breath and requested a specimen of breath for analysis. Having provided the specimen PS Crake showed me the display of the device and I could see that it showed 98, indicating that the proportion of alcohol in the sample of breath was above the prescribed limit.”

1. The panel also noted the memorandum of conviction which indicated that Mr McKenna subsequently pleaded guilty on 13 May 2025 at Carlisle Magistrates’ Court to the following offence:

“On 24/04/2025 at A595 Sellafield drove a motor vehicle, namely Audi A3 VRM SE60KOD on a road, namely Sellafield, after consuming so much alcohol that the proportion of it in your breath, namely 100 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.”

1. In the absence of any exceptional circumstances justifying an alternative course, the panel considered Mr McKenna’s memorandum of conviction to amount to conclusive proof of the facts on which his conviction was based. Considering it in combination with the unchallenged contemporaneous witness statements obtained by the AA, the panel was entirely satisfied that paragraphs A, B and C of the Regulation 30 notice were proved.

*Paragraph D*

1. Paragraph D of the Regulation 30 notice stated: “You were arrested by a Civil Nuclear Constabulary Police Officer for driving over the prescribed limit. You were taken into Workington Police Station custody suite, where you provided two evidential specimens of breath for analysis by means of an evidential breath testing device. The breath specimen reading with the lower proportion of alcohol was 100.”
2. In considering this allegation, the panel noted the witness statement of PS 793 Daniel Crake, dated 24 April 2025, which stated, in relation to the events that followed those described at paragraph 4 above:

“I then … arrested MCKENNA at approximately 1830hrs, cautioned him, and searched him. Acting Inspector LE JEUNE and I then escorted MCKENNA from the Sellafield site via a marked police car to the off-site main gate car park where I then administered handcuffs. We then travelled on to Workington police station where we were met by PC 2406 Thomas HUCK of Cumbria Constabulary, who I handed over custody of MCKENNA to, outside Workington Police Station.”

1. The panel also noted the witness statement of PS 941 John LE JEUNE, dated 25 April 2025, which stated, in relation to the events that followed those described at paragraph 5 above:

“At approximately 1830hrs on the same day, having explained the reading to him PS CRAKE arrested MCKENNA. Following search, PS CRAKE and I escorted MCKENNA from the Sellafield Site in a marked Police car. Once off site, we pulled into the Main Gate Search area where PS CRAKE applied handcuffs to McKENNA, and we then continued to Workington Police Station. There we were met in the Front Car Park PC 2406 Thomas HUCK of Cumbria Constabulary, who took custody of MCKENNA”.

1. The panel further noted the contemporaneous documents completed and signed by PC 2406 Thomas Huck and DC 3606 Jade Watson, which confirmed the details of the breath tests undertaken in relation to Mr McKenna at Workington Police Station, and the memorandum of conviction, which confirmed Mr McKenna’s subsequent guilty plea to the following offence:

“On 24/04/2025 at A595 Sellafield drove a motor vehicle, namely Audi A3 VRM SE60KOD on a road, namely Sellafield, after consuming so much alcohol that the proportion of it in your breath, namely 100 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit. Contrary to section 5(1)(a) of the Road Traffic Act 1988 and Schedule 2 to the Road Traffic Offenders Act 1988.”

1. In the absence of any exceptional circumstances justifying an alternative course, the panel considered Mr McKenna’s memorandum of conviction to amount to conclusive proof of the facts on which his conviction was based. Considering it in combination with the unchallenged contemporaneous witness statements and other documents obtained by the AA, the panel was entirely satisfied that paragraph D of the Regulation 30 notice was proved.

*Paragraph E*

1. Paragraph E of the Regulation 30 notice stated: “You were subsequently charged on the same day with driving over the prescribed limit, contrary to section 5 of the Road Traffic Act 1988; you were bailed to appear at Workington Magistrates Court on 13 May 2025.”
2. The panel had regard to the charge sheet and memorandum of conviction in the papers before it and was satisfied on the basis of this evidence that paragraph E of the Regulation 30 notice was proved.

*Paragraphs F and G*

1. Paragraph F of the Regulation 30 notice stated: “On 13 May 2025 you pleaded guilty to an offence of driving over the prescribed limit, contrary to section 5 of the Road Traffic Act 1988.”

1. Paragraph G of the Regulation 30 notice stated: “On 03 June 2025 you were disqualified from holding or obtaining a driving licence for 25 Months, to be reduced by 25 Weeks if by 19 October 2026 you satisfactorily complete a course approved by the Secretary of State. You were also issued with a Community Payback Order to carry out 50 hours unpaid work within the next 12 months.”
2. The panel had regard to the memorandum of conviction and was satisfied on the basis of it that paragraphs F and G of the Regulation 30 notice were proved.

**Alleged breach of the Standards**

1. The Regulation 30 notice stated: “Your conduct, the conviction and the nature of the offence for which you have been convicted are incompatible with the role of a police officer, brings discredit to the Civil Nuclear Constabulary and undermines public confidence in it, in breach of the Standards of Professional Behaviour of Discreditable Conduct.”
2. This Standard is defined in schedule 2 of the Regulations in the following terms:

“**Discreditable Conduct**

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

1. The panel noted the following paragraphs of the Home Office Guidance:

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. In all cases it must be clearly articulated how the conduct, conviction or caution discredits the police.”

2.18. “As a result of the nature of the office of constable, a police officer is always subject to the Standards of Professional Behaviour even when off-duty. As such police officers should not behave in a manner that discredits the police service or undermines public confidence at any time. Police officers must be particularly aware of the image that they portray when representing the police in an official capacity even though they may be off-duty (e.g. at a conference). In determining whether a police officer’s off-duty conduct discredits the police, the test is not whether the police officer discredits themselves but the police as a whole.”

1. The panel also noted the *Guidance for ethical and professional behaviour in policing*, which states that Police Officers must:

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

“Know that being subject to any of the following measures could bring discredit on our police service, may affect our vetting status and may result in action being taken for misconduct, depending on the circumstances of the particular matter:

* 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
* a conviction, sentence or condition imposed by any court, whether criminal or civil (excluding matrimonial proceedings, but including non-molestation orders or occupation orders) – ‘conditions imposed by any court’ would include, for example, orders to deal with anti-social behaviour, a restraining order or a bind-over.”
1. The panel was in no doubt that the facts found proved, both together and in the case of paragraphs F and G also individually, amounted to a clear breach of the Standard relating to Discreditable Conduct. In the panel’s view Mr McKenna’s conduct – for which he was convicted on a guilty plea – in driving to his place of work after consuming so much alcohol that the proportion of it in his breath, namely 100 microgrammes of alcohol in 100 millilitres of breath, exceeded the prescribed limit, had the potential both to discredit the police service and to undermine public confidence in policing. By his own admission, Mr McKenna committed a criminal offence which put the safety of other road users at risk of harm, and could have exposed others at his place of duty to a risk of harm had he not first been stopped by other officers before commencing that duty. His conviction alone plainly discredits the police given the public’s legitimate expectation that those charged with enforcing the law do not themselves break it. The panel therefore agreed with the AA that Mr McKenna’s “conduct, the conviction and the nature of the offence for which [he was] convicted are incompatible with the role of a police officer, brings discredit to the Civil Nuclear Constabulary and undermines public confidence in it, in breach of the [Standard] of Professional Behaviour of Discreditable Conduct.”

**Gross Misconduct**

1. Having found a breach of the Standards as set out above, the panel has carefully considered whether that breach amounted to gross misconduct, as was alleged by the AA. Under the Regulations, gross misconduct means a breach of the Standards of Professional Behaviour that is so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable.
2. The panel reminded itself of the full circumstances of this case and the breach of the Standards that it has found.
3. The panel was satisfied that Mr McKenna’s conduct, both taken together and also individually in relation to paragraphs F and G of the allegation, was potentially so serious that he would have been dismissed if he had not ceased to be a member of the CNC, and that it therefore amounted to gross misconduct. Police Officers are role models and are charged both with enforcing the law and, for those occupying roles such as that held at the time by Mr McKenna, ensuring the protection of highly sensitive sites of national importance. For the same reasons given in paragraph 22 above, Mr McKenna’s actions in driving to his place of work in such a role having consumed so much alcohol that the proportion of it in his breath vastly exceeded the prescribed limit, and subsequently being convicted of and sentenced for the related criminal offence on his own guilty plea, were so serious that they could not – in the panel’s judgement – be considered anything other than gross misconduct.

**Outcome**

**Principles**

1. The panel reminded itself of, and reviewed, the latest version of the Outcomes Guidance.
2. It also considered the three-stage, structured approach in *Fuglers LLP v SRA* [2014] EWHC 179 (Admin) when assessing outcome, at paragraph 28:

“There are three stages to the approach which should be adopted by a Solicitors Disciplinary Tribunal in determining sanction. The first stage is to assess the seriousness of the misconduct. The second stage is to keep in mind the purpose for which sanctions are imposed by such a tribunal. The third stage is to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.”

1. This three-stage approach is reflected in the Outcomes Guidance. As to the first stage (seriousness), the Outcomes Guidance directs attention to four central reference points, as stated in *Fuglers* at paragraph 29 and now repeated in the Outcomes Guidance at part 4:
	1. The officer’s culpability for the misconduct;
	2. The harm caused by the misconduct;
	3. The existence of any aggravating factors;
	4. The existence of any mitigating factors.
2. The second stage requires the panel to keep in mind the threefold purpose of the police misconduct regime, namely to:
	1. maintain public confidence in and the reputation of the police service;
	2. uphold high standards in policing and deter misconduct;
	3. protect the public.
3. As set out in part 4 of the Outcomes Guidance: “The most important purpose of imposing disciplinary sanctions is to maintain public confidence in and the reputation of the policing profession as a whole. This dual objective must take precedence over the specific impact that the sanction has on the individual whose misconduct is being sanctioned”.
4. As to the third stage, choosing the sanction which most appropriately fulfils that purpose, the panel noted that given that Mr McKenna is no longer employed by the police service paragraph 20.66(e) of the Home Office Guidance applies:

“[Where] there is a finding of gross misconduct and disciplinary action imposed it can only be that the former officer would have been dismissed if they had still been a member of a police force. There is no option to enforce other

sanctions such as a final written warning or reduction in rank given the

termination in the former officer’s employment status. If the panel determines

that the matter does not justify the sanction that the former officer would have

been dismissed, no action will be taken and the finding of gross misconduct

recorded.”

1. The panel reminded itself that the object of misconduct proceedings is not to punish police officers and that it should consider less severe outcomes before more severe outcomes, choosing the least severe outcome which adequately addresses the issues identified while protecting the public interest. It has kept in mind the purpose of imposing sanctions and the need to choose a sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

**Matters relevant to outcome**

1. The panel has considered again all of the relevant evidence in this case and the entirety of the factual context. It took careful account of the evidence presented to it in relation to Mr McKenna’s record of service.
2. It also carefully considered the helpful oral submissions of Ms Kyle-Davidson.

**Culpability**

1. As to Mr McKenna’s culpability, the panel considered the following to be relevant:
	1. Mr McKenna’s conduct was plainly intentional and deliberate (Outcomes Guidance, paragraph 4.10);
	2. Mr McKenna could reasonably have foreseen the harm likely to be caused by his conduct (Outcomes Guidance, paragraph 4.11);
	3. Mr McKenna was on his way to commence duty in a particularly sensitive and responsible role as an AFO at Sellafield site (Outcomes Guidance, paragraph 4.12);
	4. Mr McKenna received a criminal conviction for the conduct that is the subject of these proceedings. The Outcomes Guidance suggests that this is one situation in which an officer or former officer’s misconduct “should be considered especially serious” (Outcomes Guidance, paragraph 4.14; see also paragraphs 4.17-4.22).
2. It therefore considered Mr McKenna’s culpability to be high.

**Harm**

1. As to the harm caused by Mr McKenna’s conduct, the panel noted that there was no evidence in relation to any harm caused directly to any person. Nonetheless it considered the risk and gravity of reputational harm to the police service, and to public confidence in it, to be high (Outcomes Guidance, paragraphs 4.64, 4.66, 4.68). A reasonable, intelligent and properly informed member of the public would consider Mr McKenna’s conduct, in driving to his place of duty as an AFO at Sellafield site having consumed so much alcohol that the proportion of it in his breath vastly exceeded the prescribed limit, and subsequently being convicted of and sentenced for the related criminal offence on his own guilty plea, to significantly undermine public trust in him, in CNC, and in policing generally (Outcomes Guidance, paragraph 4.69).
2. The panel also considered that by his conduct Mr McKenna had exposed other public road users, and those within Sellafield site, to a risk of harm. Mr McKenna should have been well aware of the high risk of an accident arising from drink-driving, and of the serious harm likely to result to any other road users involved in such an accident (Outcomes Guidance, paragraph 4.68).
3. In the panel’s view Mr McKenna’s conduct also gave rise to a real and obvious risk of harm arising from the impairment likely to his ability properly and responsibly to discharge his duty as an AFO at Sellafield site having attended his place of duty after consuming such a significant quantity of alcohol that the proportion of it in his breath vastly exceeded the prescribed limit for driving.
4. In all the circumstances the panel therefore considered the harm risked by Mr McKenna’s actions to be high.

**Aggravating and mitigating factors**

1. The panel considered the relevant aggravating and mitigating factors, noting that a number of the aggravating features in particular appeared to overlap with the matters set out above and thus discounting them.
2. The panel did not consider any of the aggravating factors, listed in paragraph 4.76 of the Outcomes Guidance, to be relevant.
3. It considered the following mitigating factors to be relevant:
	1. Mr McKenna’s proven conduct involved a single episode of relatively brief duration;
	2. Mr McKenna made open admissions to officers at the time of his offending, and subsequently pleaded guilty to the criminal offence with which he was charged.

**The purpose of imposing sanctions**

1. The panel kept in mind the purpose of imposing sanctions. All three elements of this were, in the panel’s view, engaged in this case.

**Conclusion**

1. Having considered carefully all of the circumstances and in particular chapter 4

of the Outcomes Guidance, the panel concluded that disciplinary action, namely a finding that Mr McKenna would have been dismissed if he had not ceased to be an officer of CNC, was necessary. The panel found that this was the most appropriate and least severe outcome possible in the circumstances of this case.

1. The panel considered that, had Mr McKenna still been in service, the outcome of a Final Written Warning would not have been sufficient to address the significant reputational and potential physical and psychological harm risked by his misconduct. In the panel’s view the only appropriate outcome in all the circumstances was a finding that he would have been dismissed had he not already left the employment of CNC. His misconduct was directly relevant to the public standing and reputation of CNC. The panel had no doubt that it would be considered deplorable by reasonable and intelligent members of the public and fellow officers who were informed of the relevant circumstances.
2. Accordingly, the panel was satisfied that the need to maintain public confidence in and the reputation of the police service, uphold high professional standards and deter misconduct, and protect the public, officers and staff by preventing similar misconduct in the future is appropriately, and necessarily, served by the outcome of a finding that Mr McKenna would have been dismissed had he remained in police service.

**Annex A**

1. Mr McKenna was neither present nor represented at the hearing. Ms Kyle-Davidson made an application to proceed in his absence.

1. The panel accepted the legal advice provided in relation to this application and took account of the various factors referred to in it.
2. The panel noted the following account within the AA’s Opening Note of its attempts to serve Mr McKenna with the documents for, and notice of, this hearing:

“10. The AA made an enquiry on the 23 July 2025 as to the current postal address, and any other up to date contact details for the Former Officer.

11. The AA obtained an address check from Stephen Perry, a CNC Field Intelligence Officer on 28 July 2025 in advance of service of the Regulation 30 Notice. The last known address, mobile telephone number and email address were obtained [60- 61].

12. The AA emailed Stephen Perry back on the 31 July 2025 to confirm that the Court records show the former officer had a new address in Scotland, and that one would be utilised instead.

13. As set out in the hearing bundle at pages [62-67], the Former Officer has been served with the relevant material, and kept updated in relation to the proceedings, including the hearing date and location.

14. The Former Officer has been served with a Regulation 30 Notice, notice of the Chair’s direction removing the need for a Pre-Hearing and formally setting the date, time, and venue of the hearing, and notice of the misconduct hearing.

15. Contact has been made by email, and upon receiving no acknowledgement to the email set on 31 July 2025, the Regulation 30 documents were sent by Royal Mail Special Delivery, which states they were signed for by McKenna on 09 August [67]. This correspondence also included the provisional date and location of the hearing.

16. For Royal Mail Special Delivery, the name and signature captured is that of the person who accepted the parcel.

17. An RCS message was also sent by the AA using a corporate mobile phone on 17 September, stating that no communication had been received and asking the Former Officer to confirm as a matter of urgency if he was attending the hearing on 18 September. This message was read but not responded to.

18. The Former Officer did not engage during the investigation and did not provide a Regulation 18 response to allegations either.

19. A Civil Nuclear Police Federation Representative has confirmed that he is not being represented by the Federation.

20. The AA therefore anticipates that the Former Officer will not attend or be represented at this misconduct hearing.

21. Regulation 37(1) requires the Former Officer to attend the misconduct proceedings. Regulation 37(3) provides that, whether or not the ex-officers attend the hearing, they may be represented by a police friend or relevant lawyer.

22. If, as anticipated, the Former Officer does not attend the hearing, it may be conducted and concluded in his absence, whether or not he is represented (reg 37(3)(b); para 11.106 HOG).

23. The AA will invite the Panel to proceed in the absence of the Former Officer if he does not attend.”

1. The panel took account of a bundle of documents containing numerous attempts by the AA to contact Mr McKenna by email, in addition to those exhibited within the main hearing bundle.

1. The panel was satisfied on the evidence before it that proper notice had been provided to Mr McKenna of the hearing.
2. The panel noted that Mr McKenna had not responded to any of the AA’s communications with him. He had not sought an adjournment to the hearing, and the panel did not consider it likely that an adjournment would secure his attendance on a future date. There was no medical evidence before the panel that Mr McKenna was unfit to attend the hearing.
3. The panel concluded that Mr McKenna’s absence was voluntary and that he was aware that the matter could proceed in his absence. In the circumstances he had, in effect, waived his right to attend.
4. The panel considered that it was in the public interest for the hearing to take place.
5. Having decided that it was appropriate to proceed, the panel agreed to seek to ensure that the proceedings were as fair as possible in the circumstances, bearing in mind that Mr McKenna was neither present nor represented.