

IN THE POLICE MISCONDUCT HEARING

PURSUANT TO THE MINISTRY OF DEFENCE POLICE (CONDUCT,
PERFORMANCE AND APPEALS TRIBUNALS) REGULATIONS 2020

IN THE MATTER OF:
PS Peter McAnerney

DECISION OF THE PANEL

Stacey Patel (Chair)
Brian Johnston (Assessor Panel Member)
Clive Manning (Independent Panel Member)

A: INTRODUCTION

1. The misconduct hearing for PS Peter McAnerney ("the Officer") was held in public on the 24th, 27th and 28th November 2025. A notice of hearing was published in accordance with the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020 ("the 2020 Regulations").

B: THE ALLEGATIONS

2. The Panel was referred to a Regulation 29 notice in respect of PS McAnerney containing the allegations and that his conduct amounted to gross misconduct, namely:

Allegation 1

On the night of the 5th/6th August 2022, while deployed to Operation Unity on Mutual Aid at the Commonwealth Games in Birmingham, you behaved in the following way:

- i. You consumed alcohol to excess and/or allowed yourself to become intoxicated;*

Allegation 2

On the 6th August 2022, while deployed to Operation Unity on Mutual Aid at the Commonwealth Games in Birmingham, you behaved in the following way:

- i. You walked through the common parts of the accommodation between the hours of 3am and 5am while fully naked and exposed your penis;*

Allegation 3

On the night of the 5th/6th August 2022, while deployed to Operation Unity on Mutual Aid at the Commonwealth Games in Birmingham, you behaved in the following way:

You defecated, causing excrement to be deposited in various common parts of the accommodation, including any one or more of the following areas:

- (a) Upon the floor*

- (b) Upon the walls*
- (c) In a shower cubicle*
- (d) Upon the seat in the dining area*
- (e) Upon the floor of the dining area*

Your actions breached the following standards of behaviour:

Discreditable Conduct – Ministry of Defence Police officers should behave in a manner

which does not discredit the police service or undermine public confidence in it, whether on or off duty.

Authority, Respect and Courtesy

Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

Based on the information available at this time the conduct described above, if proven or admitted, has been assessed as amounting to:

Gross Misconduct

C: REPRESENTATION

- 3. The Relevant Authority (“the RA”) was represented by Katherine Hampshire of Counsel. The Officer was represented by Mr Kavanagh of KM Law
- 4. The Panel would like to thank both representatives for their assistance throughout the case, including the provision of an opening note.

D: PRELIMINARY ISSUES

- 5. On the first morning, the Officer offered partial admissions to Allegation one which was accepted by the RA. Allegation 1 thus was amended to state as follows:

Allegation 1

On the night of the 5th/6th August 2022, while deployed to Operation Unity on Mutual Aid at the Commonwealth Games in Birmingham, you behaved in the following way:

- i. You allowed yourself to become intoxicated.*

E: THE PANEL’S APPROACH

- 6. The Panel reminded itself it was: -
 - a. Required to consider the facts of the case and to make its findings of fact in relation to each of the allegations;
 - b. Determine whether those findings of fact found constitute a breach of the relevant standards;
 - c. Determine whether the conduct found proven against the Officer amounted to misconduct or gross misconduct.

7. The Panel reminded itself that the burden of proof is on the Relevant Authority throughout and the standard of proof is the balance of probabilities, namely 'what is more likely than not'.
8. The Panel have approached its decision making by keeping in mind the purpose and character of police misconduct proceedings. The primary purpose being not to punish the officer but to protect public confidence in, and the reputation of, the police service by holding officers accountable and making clear that improper behaviour will not be left unchecked. A secondary purpose is to be declaratory of high professional standards and a final purpose is to protect the public and officer and staff by preventing similar misconduct recurring in the future.
9. The Panel has also had regard to a framework of regulations and guidance, in particular the following:
 - a. The Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020 including in particular the Standards of Professional Behaviour at schedule 3;
 - b. The definition of misconduct given at Schedule 1 of the Regulations: "a breach of the Standards of Professional Behaviour so serious as to justify disciplinary action";
 - c. The definition of gross misconduct given at Schedule 1 of the Regulations: "a breach of the Standards of Professional Behaviour so serious that dismissal would be justified".
10. The Panel applied the decision of Wyn Williams J in *Chief Constable of Wiltshire v Police Appeals Tribunal (Paul Woollard Interested Party)* [2012] EWHC 3288 (Admin) and notes that in order to prove a breach of the Standard relating to Discreditable Conduct it is not necessary to prove that actual discredit has been brought to the police service; it is sufficient that the officer's behaviour had the potential to do so.

F: THE BACKGROUND

11. On the 6th August 2022 the Officer was deployed to a West Midlands Policing Operation to the Commonwealth Games. It is alleged that the Officer returned to his accommodation block whilst intoxicated and naked. He defecated on the floor and then tracked this around the block. Following the incident, the Officer was returned to the MOD Police.

G: EVIDENCE

12. The panel had been provided before the hearing with the following documents:
 - a. An agreed bundle comprising of 204 pages
 - b. A defence bundle comprising of 56 pages
 - c. CCTV covering parts of the incident.
 - d. Ms Hampshire's opening note on behalf of the RA.

H: FINDINGS OF FACT

13. The Officer admitted the amended Allegations in their entirety and therefore the Panel found all matters proved.

I: BREACH OF STANDARDS AND DECISION ON MISCONDUCT

29. Turning to the Regulation 29 Notice and the allegations found proved therein, the RA referred to the standards of Discreditable Conduct and Authority, Respect and Courtesy. The Officer admitted that his actions amounted to a breach of both these standards and this was accepted by the Panel

J: DECISION ON MISCONDUCT

30. Having found breaches of the above standards, the Panel has considered whether the breaches amount to gross misconduct – gross misconduct is defined in the Regulations as meaning a breach of the standards of professional behaviour so serious as to justify dismissal.
31. When deliberating, the Panel has reminded itself of the need to protect public confidence in and the reputation of the police service, the need to maintain high professional standards and the need to protect the public and officers and staff by preventing similar misconduct in the future.
32. The Panel heard submissions from both representatives. The Panel continued to make an assessment on seriousness based on the *College of Policing Guidance on Outcomes* (*‘the Outcomes Guidance’*) and handed down this decision orally. However, for the purposes of this report, that assessment is later in the document.
33. The Panel carefully considered the circumstances of the case and the breaches found. The Panel was particularly concerned that this was a firearms Sargeant who, on his own admission, allowed himself to become intoxicated, and was found naked in public having defecated. Even with low culpability, the harm suffered was high enough and that this coupled with several aggravating factors and limited insight, the Panel determined that this conduct was so serious that the sanction of dismissal could be justified and therefore assessed this as gross misconduct.

K: DECISION ON OUTCOME

34. Regulation 41 (14) procedure provides that when considering the question of disciplinary action, before any such question is determined, the panel:
 - a. Must have regard to the record of police service of the officer concerned.

- b. May receive evidence from any witness whose evidence would, in their opinion, assist in determining the question; and
- c. Must give the officer concerned, his police friend or lawyer, and the appropriate authority, an opportunity to make oral or written representations.

35. The Panel heard submissions from both representatives and had sight of the Officer's service record.

36. The Panel has carefully considered all of the evidence and submissions made during the course of this hearing.

37. The Panel has regard to the Guidance and reminded itself that in reaching its decision on outcome the Panel must have regard to the public interest, which includes the need to protect the public, to maintain confidence in the police service, and to declare and uphold proper standards of conduct and behaviour. References to paragraphs below are references to the Guidance. The Panel approached its decision on outcome in three stages to determining the appropriate sanction:

Stage 1: Assess the seriousness of the misconduct.

Stage 2: Keep in mind the purpose of disciplinary action

Stage 3: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

38. In assessing the seriousness of the conduct found proven the panel have had regard to 4 issues namely

- a. The Officer's culpability
- b. The harm caused by the misconduct
- c. The existence of any aggravating factors
- d. The existence of any mitigation factors

Stage 1: Seriousness of misconduct

Culpability

39. The Panel first considered if the Officer's actions were intentional and deliberate and concluded that they were not. There was no evidence before the Panel to challenge the Officer's assertion that he drank no more than 5 pints of low alcohol beer. In addition, while Officers present mentioned in their statements that PS McAnerney was a 'drinker', none mention that it was to the extent that he would regularly walk around naked and defecate in public.

40. The Panel went on to consider paragraph 4.11. The Panel determined that the Officer could not have reasonably foreseen the risk of harm. There is evidence that the Officer was on medication for 16 years and had drunk previously on that without incident, and it was not suggested by the RA that he had regularly defecated due to intoxication in public in the past. In fact, PS

Holden stated that he had previously been out with the Officer during the same deployment, and the Officer had returned to the accommodation block without incident. PC Hamilton also gives similar evidence. The other references in the statements that refer to the Officer's drinking habits are mainly hearsay and unsubstantiated and the Panel placed limited weight on these.

41. With this in mind, the Panel determined that the Officer's culpability was low.

Harm

42. In considering harm, the Panel determined this is a type of reputational harm and took into account paragraph 4.66

Harm will likely undermine public confidence in policing. Harm does not need to be suffered by a defined individual or group to undermine public confidence. Where an officer commits an act that would harm public confidence if the circumstances were known to the public, take this into account. Always take misconduct seriously that undermines discipline and good order within the police service, even if it does not result in harm to individual victims.

43. The Panel concluded that reputation harm to the force was high as if a member of the public were to hear that a Sargeant was walking around naked and defecating, they would be extremely concerned. This was highlighted by the fact there was harm to the university, and Mr Ali, a member of the public, witnessed the event. Furthermore, there was financial harm to the Commonwealth Games who had to pay the clean-up bill. However, the Panel did not place great weight on the statements provided by the other Officer's present, as their behaviour was also not exemplary in the Panel's view, and they also acted in a manner to cause reputational harm. Mr Ali stating other officers approached the male and started engaging with him and laughing at him. TPS Carr stating that he looked through his door peep hole, but 'didn't want to get involved' so stayed in his room until it calmed down. PC Lusty stated that there was a naked photo of the Officer "doing the rounds" and this is confirmed by PC McLachlan and TPS Carr. The Panel considered that sending a naked photo of a colleague to others, is extremely serious behaviour, regardless of gender. However, for the reasons previously mentioned, the Panel concluded that when considering the Officer's own actions on reputational harm, that harm was high.

Aggravating Factors

44. Turning to the aggravating factors, the Panel determined that the following apply:

- Continuing the behaviour after the Officer should have realised that it was improper.
- Multiple proven allegations and breaches of the Standards of Professional Behaviour.

- The Officer was a firearms officer with the rank of Sargeant and therefore in a position of leadership.

Mitigating factors

45. In considering mitigating factors, the Panel focused on the evidence presented in the bundle and concluded that there was genuine remorse shown in the Duty Statement, the text in exhibit MB1 and also in the statement at exhibit PM01. PS Holden also states that during his time with the Officer he did apologise to Chief Inspector Nunn. The Panel also concluded there was some limited insight demonstrated in this document where the Officer stated that he has not drunk any alcohol since this event.

Personal Mitigation

46. The Panel has also considered the Outcomes Guidance which states that personal mitigation is to be taken into account, however its impact will be limited in police misconduct hearings because of the need to maintain public confidence in the police. Mr Justice Burnett in Salter -v-The Chief Constable of Dorset [2012] EWCA Civ 1047 and [2011] EWHC 3366(Admin) at paragraph 73 concluded:

'...the correct approach for a decision maker is to recognise that a sanction which results in the officer concerned leaving the force would be the almost inevitable outcome in cases involving operational dishonesty. That terminology itself recognises that there may be exceptions. In concluding that the case is exceptional, the decision maker must identify the features of the circumstances of the misconduct which support a different conclusion, recognising that the number of such cases would be very small. The decision maker would take account of personal mitigation but must recognise its limited impact in this area.'

47. Nevertheless, the panel considered the character references that were provided on behalf of the Officer which contained many references to a lengthy unblemished career bar this incident, his dedication to duty and that the Officer has continued to work to a high standard since this incident with no repetition.

Stage 2: Keep in mind the purpose of disciplinary action

48. In considering the outcome, the Panel also bore in mind the purpose of the police misconduct regime which is threefold:

- (a) To maintain public confidence in, and the reputation of, the police service.
- (b) To uphold high standards in policing and deter misconduct.
- (c) To protect the public.

Stage 3: Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

49. The Panel considered all the available outcomes, starting with the least serious. The Panel considered whether a Final Written Warning would be suffice. The Panel bore in mind that the Allegations were admitted on the basis on “allowing yourself to become intoxicated’ rather than the more serious “were heavily intoxicated” and this was accepted by the RA.

50. Whilst the Panel noted there is no direct medical evidence from the Officer linking his behaviour specifically to his medical condition, nonetheless CI Nunn states there were “special welfare concerns” and given the out of character nature of the behaviour, the Panel find it regrettable that no drug or alcohol testing was undertaken. With this in mind, the Panel also reminded itself of its finding of low culpability and the fact there was some insight, although limited, and the Panel accepted this was a one-off incident.

51. Therefore, the Panel has concluded that a final written warning for a period of 5 years to be the most appropriate sanction. The Panel considered this to be a proportionate outcome in this case and considered that this sanction would be sufficient to maintain public confidence in the reputation of the police force as they have already marked the gravity of the officer’s conduct by its finding of Gross Misconduct.

52. **Right of Appeal.** In accordance with Regulation 42(2), the Appropriate Authority shall provide the Officer with a copy of this report and a notice of the right of appeal. The Officer is reminded he has a right to appeal to the Police Appeals Tribunal. ("PAT"). The PAT may increase or decrease any penalty or overturn our decision.

Submitted on behalf of the Panel.
01/12/2025