

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

BETWEEN:

**THE MINISTRY OF DEFENCE POLICE**

**Relevant Authority**

**-and-**

**PC BENJAMIN ASHE**

**Officer Concerned**

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**NOTICE OF OUTCOME  
POLICE MISCONDUCT HEARING**

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Officer concerned: Police Constable Benjamin Ashe

Date of hearing: 30 and 31<sup>st</sup> March 2026

Panel members: ACC Trevor Clark (Chair), Alison Abu, Mark Dent.

**Summary**

The allegation was found proved by way of admission. The panel found a breach of the professional conduct and standard, namely, discreditable conduct and subsequently found misconduct. The panel dismissed Benjamin Ashe without notice.

**Attendees**

PC Ashe attended the hearing and was represented by Eloise Emmanuel of QEB.

The RA's case was presented by Jennifer Osborne of Counsel.

The Chair was assisted by a legally qualified adviser, Natalia Constantine of 2 Harcourt Buildings.

## **Introduction**

1. The misconduct hearing for PC Benjamin Ashe (“the Officer”) was held in public between 30-31<sup>st</sup> March 2026 on Microsoft Teams. A notice of hearing was published in accordance with the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020 (“the 2020 Regulations”).

## **Allegation**

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

*It is alleged that on 5<sup>th</sup> January 2024 PC Ashe rode his Kawasaki Motorcycle (VRM ND10 ULX) without due care and attention.*

## **Professional Standards of Behaviour**

3. The Relevant Authority contended that the officer’s actions breached the Standards of Professional Behaviour as set out in in Schedule 3 of the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals Regulations 2020
  - (i) Integrity
  - (ii) Discreditable Conduct
4. It is alleged that the breaches stated above individually amount to gross misconduct. In the alternative, it is alleged that the breaches, when taken together or individually amount to gross misconduct.

## **The Panel's approach**

5. 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.
6. 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'.
7. 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.
8. 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”.

## **Background**

- 9. PC Ashe, an off-duty MDP officer, was observed by PC Gaughan (an off-duty North Yorkshire Police officer), riding a motorcycle at speed on the A629, undertaking traffic and without a visible number plate. PC Gaughan, suspecting the vehicle to be stolen, contacted police after the motorcycle stopped at a McDonald's, where PC Ashe was identified and escorted to attending officers.
- 10. Dashcam evidence showed the motorcycle undertaking PC Gaughan at approximately 66mph, with PC Gaughan subsequently reaching 77mph, and the motorcycle exceeding 70mph. PC Ashe was reported and later charged with driving without due care and attention. He pleaded guilty by post and was fined, with an additional penalty relating to the registration plate. On 11<sup>th</sup> March 2024 he was fined £307 and ancillary costs and surcharges by the Bradford Magistrates' Court and his driving licence endorsed with 6 penalty points.
- 11. In interview, PC Ashe accepted the conduct but maintained that he did not consider the manoeuvre unsafe, albeit acknowledging that it met the legal definition of careless driving. In his Regulation 30 response, he admitted the conduct but denied that it amounts to a breach of the Standards of Professional Behaviour. At the beginning of the hearing, PC Ashe admitted that his conduct breached the standard of discreditable conduct.

**Evidence**

12. The panel had been provided with the following:
  - a. A final hearing bundle (103 pages)
  - b. An opening note on behalf of the RA
  - c. The following exhibits:
    - i. PG1A
    - ii. PG2B
    - iii. PG2A
    - iv. PG1B
    - v. PG2C
    - vi. PG4
    - vii. MWC1

13. The panel also heard evidence from PC Ashe.

**PC Ashe's evidence**

14. The officer joined the Ministry of Defence Police on 10 January 2022. He obtained a full driving licence on 16 November 2011 and later qualified as a motorcyclist on 25 July 2022. The motorcycle involved in the present matter was purchased in September 2023, registered in his name and was insured. The officer was interviewed on 9 May 2024 and confirmed that he stands by the account provided during that interview.
15. The incident giving rise to the allegation occurred whilst the officer was off duty. He explained that he was riding his motorcycle in full riding kit and travelling to meet a group of friends at a McDonald's restaurant, with the intention of undertaking a recreational ride through the Yorkshire Dales.

16. Whilst travelling along the A629 dual carriageway, the officer undertook another vehicle driven by PC Gaughan. He accepts that he moved from lane 1 to lane 2 and accelerated past the vehicle, thereby carrying out an undertaking manoeuvre. At the time, the officer explained that he believed he was in full control of the motorcycle and considered the manoeuvre to be safe. He did not consider that it posed a risk to other road users or affected their speed or direction. However, with the benefit of hindsight, he accepts that the manoeuvre should not have been carried out and acknowledges how it may have been perceived.
17. In his account, the officer described following PC Gaughan's vehicle for approximately half a mile while waiting for the vehicle to return to the nearside lane. He stated that the vehicle remained in lane 2 whilst slowly approaching traffic ahead, which led to his decision to undertake. He also accepts that the registration plate on his motorcycle was not visible at the time.
18. The officer explained that he was subsequently stopped by PC Gaughan at the McDonald's location. He later received a Single Justice Procedure Notice dated 12 February 2024, charging him with driving without due care and attention. Having taken legal advice, he accepted that the elements of the offence were made out, namely that he was driving a mechanically propelled vehicle on a public road in a manner that fell below the standard expected of a competent and careful driver.
19. He entered a guilty plea at the earliest opportunity by way of the Single Justice Procedure. He did not advance personal mitigation and accepted responsibility for his actions. On 11 March 2024, he was sentenced at Bradford Magistrates' Court, receiving a fine of £307, a surcharge of £184, and costs of £90, together with six penalty points on his driving licence. He noted that he understood disqualification was a possible outcome, although this was not imposed. All financial penalties were paid promptly.

20. In his Regulation 30 response, the officer denied that his conduct amounts to gross misconduct and maintains that position. In relation to integrity, he does not accept that his conduct breached this standard, stating that he acted with honesty throughout, admitted his actions, and did not seek to conceal or mislead. However, he accepts that his conduct amounts to misconduct in respect of discreditable conduct, acknowledging that as a police officer, a criminal conviction brings discredit upon the profession.
21. During cross-examination by Ms Osborne, the officer was questioned on his Regulation 30 response and his position regarding the alleged breaches of the Standards of Professional Behaviour. He confirmed that nothing had changed between his written response and his evidence, maintaining that his denial related to gross misconduct rather than misconduct itself. He explained that, at the time of completing the Regulation 30 response, his understanding was focused on gross misconduct, whereas he now accepts that his conduct amounted to misconduct, though not gross misconduct.
22. In relation to the incident, the officer accepted that he believed PC Gaughan was travelling too slowly and that he decided to undertake in order to make progress, having waited for the vehicle to move into the nearside lane. He acknowledged that undertaking is not permitted and that the purpose of lane discipline is to ensure vehicles keep left unless overtaking.
23. The officer accepted that undertaking can be a dangerous manoeuvre and that, with hindsight, he now considers it to be dangerous. However, at the time of the incident, he did not perceive it to be unsafe. He further accepted that the manoeuvre carried a risk of causing an accident and that he was travelling in excess of the speed limit, which he acknowledged was unlawful. He maintained that speed alone is not necessarily causative of accidents but accepted that it can be a contributing factor.

24. When asked about integrity, the officer described it as doing the right thing and making the correct decisions. He accepted that, in undertaking the manoeuvre, he had made a mistake and accepted that by the definition as described by Ms Osborne his actions may fall short of what integrity is defined as. He agreed that his careless driving resulted in a criminal conviction and acknowledged that members of the public would expect police officers not to have such convictions.
25. Overall, the officer accepted the factual basis of the driving conduct, including speeding and undertaking, and acknowledged the risks associated with his actions, whilst maintaining that his conduct amounted to misconduct rather than gross misconduct.

### **Findings of Fact and breaches**

26. In making its findings of fact, careful consideration was given to all of the documentary material together with, the evidence given by PC Ashe, the submissions made by the RA, submissions made by Ms Emmanuel, Counsel for the officer, and the advice provided by the LQP.
27. The Panel reminded itself of the standard of proof and the onus on the RA to prove those facts on the balance of probabilities. Advice was further provided in relation to the statutory definition of 'misconduct' and 'gross misconduct' by reference to Regulation 2(1) of the Police (Conduct) Regulations 2020 (as amended).
28. The panel found the factual basis of the allegation is established by the Officer's criminal conviction for driving without due care and attention, which is accepted by the Officer. The Panel has therefore proceeded on the basis of the admitted facts.

29. The Panel is satisfied that the Officer's conduct amounts to a breach of the Standards of Professional Behaviour in respect of discreditable conduct. This finding is consistent with the Officer's own admission, and the Panel agrees that a police officer receiving a criminal conviction, even for a road traffic offence, brings discredit upon the profession.
30. In relation to integrity, the Panel did not find that PC Ashe's conduct amounted to a breach of that standard. The panel noted that the Officer made early and consistent admissions in interview, by virtue of his early guilty plea and when giving evidence in the hearing. The panel noted that he did not seek to conceal his actions and engaged with the process throughout.
31. Accordingly, the Panel found no breach of the standard of integrity. The Panel therefore finds that the Officer breached the Standards of Professional Behaviour in respect of discreditable conduct only.

### **Decision on Misconduct/Gross Misconduct**

32. The Panel went on to consider whether the breach amounted to misconduct or gross misconduct.
33. In assessing seriousness, the Panel considered culpability and harm. In terms of culpability, the Panel found this to be at a medium level. In reaching its decision the panel considered that the Officer's actions were not a momentary lapse; rather, they involved a deliberate decision to undertake another vehicle whilst accelerating. At the time, the officer did not consider the manoeuvre to be unsafe, despite being aware that such conduct was contrary to the law. The Panel noted that, with the benefit of hindsight, the Officer when giving evidence now accepted that the manoeuvre was unsafe. The Panel also considered the fact that the Officer had been convicted of a criminal offence. Whilst the Panel accepted that this was at the lower end of road traffic offending, it was not at the very lowest level, as reflected in the sentence imposed.

34. In terms of harm, the Panel identified reputational harm to the police service arising from the Officer's conduct and conviction. The Panel did not identify any aggravating factors. The Panel considered the Officer's explanation that PC Gaughan was travelling slowly. The Panel did not consider this to be an attempt to shift blame, but rather an explanation for the Officer's decision-making at the time.
35. The Panel identified a number of mitigating factors. This was a single incident, the Officer made early and full admissions, and he had maintained a consistent account throughout the investigation and proceedings. The Panel was satisfied that he had not sought to minimise his conduct and had taken responsibility for his actions.
36. Having considered all of the circumstances, the Panel was satisfied that the conduct amounted to misconduct, namely a breach of the Standards of Professional Behaviour that was sufficiently serious to justify disciplinary action.
37. The Panel did not find that the conduct reached the threshold of gross misconduct.

### **Decision on outcome**

38. 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.
39. The Panel heard submissions from both Ms Osborne and Ms Emmanuel and had sight of the Officer's service record. The Panel carefully considered all of the

evidence and submissions made during the course of this hearing. The panel noted that the officer had a Final Written Warning for 2 years, which had been imposed for an unrelated matter on 23<sup>rd</sup> October 2023. The panel were also informed that the date of the severity assessment for the matter before the panel, was 11<sup>th</sup> January 2024. The Panel also received legal advice from Ms Constantine, which was accepted.

40. In determining the appropriate outcome, the Panel adopted a structured and staged approach. The Panel first considered the relevant provisions of the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, in particular Regulation 41.
41. The Panel was mindful, in its decision-making, of the provisions of Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, in particular Regulation 41(3)(a)(iv) and Regulation 41(5). The Panel recognised that, by reason of a Final Written Warning being in force at the date of the severity assessment, the Regulations made dismissal an available outcome.
42. The Panel interpreted Regulation 41(8) according to the ordinary meaning of its wording, neither a written warning nor a final written warning must be given where, on the date of the severity assessment under regulation 13(1) or external procedures, the officer concerned had a final written warning in force.
43. The Panel therefore recognised that, given the existence of a live Final Written Warning at the time of the severity assessment, the available outcomes were limited. In practical terms, the Panel identified that the remaining options were dismissal or reduction in rank, the latter not being applicable in this case.
44. However, the Panel did not approach the Regulations in a rigid or mechanistic way. The Panel recognised that it retains an evaluative discretion in determining outcome, which must be exercised in accordance with principles of fairness, proportionality, and natural justice.

45. The Panel had regard to the College of Policing Guidance on Outcomes in Police Misconduct Proceedings. The Panel was mindful that the purpose of misconduct proceedings is not to be punitive, but to;
  - i. To maintain public confidence in and the reputation of the police service,
  - ii. To uphold high standards in policing and to deter misconduct, and
  - iii. To protect the public
46. The panel reminded itself that the outcome imposed can have a punitive effect which should be no more than necessary to satisfy the purpose of proceedings. In that context, the Panel considered whether there were factors which would justify a departure from the outcome that might ordinarily follow from the existence of a live Final Written Warning, at the time of the severity assessment of the separate of the misconduct matter which was before the panel.
47. The Panel had regard for the officer's record of service as shown on his personal record and any witness evidence that would assist the panel in its determination. The Panel also considered the continued nature of the Officer's conduct issues. The Officer was subject to a live Final Written Warning at the time of the criminal conviction. The existence of the Final Written Warning placed the Officer on clear notice as to the standards expected of him, and the Panel was satisfied that the further misconduct, occurring during the currency of that warning, was a significant factor in its assessment of seriousness and outcome.
48. The Panel took into account personal mitigation, however, found that there was limited material advanced in support of such mitigation. In particular, the Panel noted the absence of character evidence from colleagues or supervisors within a policing context. Whilst a single character reference was provided, the Panel considered that it carried limited weight as it did not directly relate to the Officer's professional role or performance as a police officer.
49. Having considered all of the circumstances, including the seriousness of the misconduct, the existence of the Final Written Warning, and the available mitigation, the Panel concluded that there were no sufficiently compelling factors to justify any outcome other than dismissal without notice.

50. **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.