

CM/28/25

**In the matter of a Police Misconduct Hearing pursuant to
The Police (Conduct) Regulations 2020 (as amended)**

The Civil Nuclear Constabulary

-v-

Former PC Lee Brennan 3423

REPORT UNDER REGULATION 43

OUTCOME OF A POLICE MISCONDUCT HEARING

Hearing

The hearing took place on 7 May 2026 both virtually on Microsoft Teams and in person at the Civil Nuclear Constabulary HQ, F6 Culham Campus, Abingdon, Oxfordshire, OX14 3DB

Panel

Chair: Assistant Chief Constable Michael Vance

Independent Panel Members: Susannah Dengate and Seán McHugh

Legal Advisor

Simon Barnes (Barrister)

AA Representative

Erin Kyle-Davidson (Senior Solicitor at the Civil Nuclear Constabulary)

Also present

Alastair Stenner – Head of Professional Standards Department

Andrew Evans – Hearings Manager

Emmanuel La Gona – recording the hearing

Former PC Brennan was not present or represented at the hearing.

Terminology

“AA” – the Appropriate Authority, namely the Civil Nuclear Constabulary (“CNC”)

“AFO” – Authorised Firearms Officer

“FPC Brennan” – Former PC Lee Brennan

“Regulations” the Police (Conduct) Regulations 2020 (as amended)

Background

1. The case concerns FPC Brennan’s conviction for driving to work when over the prescribed limit for alcohol. He resigned from the CNC on 21 November 2025. The allegation came to the AA’s attention on 17 October 2025, making FPC Brennan a Condition A former officer under Regulation 4.

Allegations as set out in the Regulation 30 Notice

FPC Lee Brennan, 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 17 October 2025 you reported for work at Sellafield site, having driven a vehicle to work.

B. On 17 October 2025, at approximately 0600, you attended the B520 armoury where a Civil Nuclear Constabulary Officer smelled alcohol on your breath.

C. You reported to the duty Inspector, and a breath test was administered in the Civil Nuclear Constabulary office on Sellafield site where you recorded 43 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 41.

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 24 November 2025.

F. On 24 November 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 24 November 2025 you were disqualified from holding or obtaining a driving licence for 12 months, to be reduced by 13 weeks if by 24 June 2026 you satisfactorily complete a course approved by the Secretary of State. You were also fined £120.00.

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 and Fitness For Duty.

Allegations of Misconduct

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

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

Proceeding in absence

2. FPC Brennan was not present at the hearing. He had not submitted a response to the allegations pursuant to Regulation 31, nor presented the Panel with any documents to consider. He had not responded to the misconduct allegations at all.
3. The Panel accepted the advice of the Legal Advisor that it needed to decide whether or not to proceed in the absence of FPC Brennan.
4. The Panel noted from the bundle that the chronology of the AA's correspondence with FPC Brennan about the hearing was as follows:
 - On 26 March 2026, the AA emailed FPC Brennan serving him with the Regulation 30 documents and links to the video evidence. He was advised to provide a response pursuant to Regulation 31 and was also advised that the Chair was provisionally looking at listing the hearing for 7 May 2026.
 - On 7 April 2026, the AA emailed FPC Brennan asking him to acknowledge receipt of the Regulation 30 documents. The AA also carried out an address check and obtained a postal address.
 - In a letter dated 8 April 2026, the AA wrote to FPC Brennan by tracked post at the address they had obtained. The Regulation 30 documents were enclosed and he was again advised of the provisional hearing date of 7 May 2026. He was asked to respond by 20 April 2026.
 - On 10 April 2026, the AA received confirmation that the letter had been delivered and signed for by 'E Brennan'.
 - On 20 April 2026, the AA emailed FPC Brennan to confirm to him the identity of the Legal Advisor for the hearing and asked him to confirm that he was in receipt of the Regulation 30 documents.
5. The AA advised the Panel that on 22 April 2026, FPC Brennan emailed the AA to confirm receipt of the hearing bundle sent by email on 21 April 2026 and stated that he was told by the Police Federation that he did not need to have any active participation in this part of the process. He also stated that the postal address was his previous address. The AA reminded FPC Brennan of his obligation to attend the hearing and requested confirmation as to whether he was intending to dial into the hearing. FPC Brennan replied that he had not planned on attending anything, and requested to know what happened if he did not want to dial in.
6. The AA responded on 23 April 2026, stating that in the event he did not attend the hearing, it may be conducted and concluded in his absence. The AA requested his final position on attendance and that he acknowledged receipt of all

correspondence. FPC Brennan did not provide any further response or acknowledgements.

7. The AA confirmed that the Chair's prehearing directions and subsequent notice of the listing of the hearing had been served on FPC Brennan by email . The AA stated that FPC Brennan had not responded to the AA since 22 April 2026 and the AA was confident that he had received all of the documents and notices. As such, it was submitted that there had been good service and the AA invited the Panel to proceed in his absence.
8. It was clarified that, contrary to an earlier suggestion in the AA's opening note, the amendments to Regulation 9(1)(b) by the Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025 applied to the CNC. This meant that service of documents and notices by email was permissible.
9. The Panel was satisfied that there was good service of the case papers and notice of the hearing on FPC Brennan, noting that he had responded to some of the AA's emails. The Panel was satisfied that FPC Brennan was aware of his right to be legally represented at the hearing under Regulation 8 because there was an advice note in the Regulation 30 notice to that effect, and he had also been advised by the Chair in written prehearing directions.
10. In the Panel's view, FPC Brennan had been given every opportunity to attend the hearing, the AA could not have done any more to secure his attendance, and it was in the public interest to proceed in his absence, having regard to the factors identified by the Court in GMC v Adeogba; and GMC v Visvardis [2016] EWCA Civ 162.

Evidence before the Panel

11. No witnesses were called by the AA. The Panel had been provided with a bundle of documentary evidence and video evidence which included the following:
 - Certificate of conviction from Workington Magistrates' Court.
 - Witness statement of PS Brown – she reported FPC Brennan when he arrived at the CNC armoury and she smelt alcohol on his breath.
 - Witness statement of PS Preston – he arrested FPC Brennan at the Sellafield site for suspected drink driving.
 - Witness statement of Inspector Aitken – he oversaw the breathalysing of FPC Brennan at the Sellafield site.

- Witness statement of PSD Investigator Laura Cleal – she attended Court when FPC Brennan pleaded guilty and was sentenced.
- CNC Substance Misuse Testing Policy and Procedure, August 2022.
- Video evidence, including CCTV footage from the Sellafield site showing FPC Brennan’s car arriving at the Sellafield site.
- Opening note from the AA.

Facts, Standards of Professional Behaviour and Gross Misconduct

12. The Panel received oral submissions from Ms Kyle-Davidson on behalf of the AA. She took the Panel through the written submissions in her opening note.

13. The Panel accepted the advice of the Legal Advisor and took the following approach.

- In the absence of any submissions from FPC Brennan, all of the allegations in the Regulation 30 notice were required to be proved.
- The burden of proof was on the AA and the standard of proof was the balance of probabilities.
- The balance of probabilities is a single unvarying standard - there is no sliding scale.
- The Panel must consider the totality of the evidence. That might include drawing inferences from the evidence.
- There is no provision in the Regulations for adverse inferences to be drawn as a result of a failure to attend a misconduct hearing and give oral evidence. However, in *Iqbal v Solicitors Regulation Authority* [2012] EWHC 3251 (Admin), the High Court stated that a person is entitled to decline to give evidence, but ordinarily the public would expect a professional person to give an account of their actions.
- The bundle contained statements from witnesses and other documents. All of that documentary evidence is hearsay evidence. It was for the Panel to decide what weight to give to it. In evaluating hearsay evidence, the Panel should consider the nature of the document and the circumstances in which the evidence was provided.
- Part of the allegation concerned a criminal conviction. The bundle contained a signed certificate of conviction and a statement from Investigator Cleal who attended Court and witnessed the former officer

plead guilty and receive a sentence. The Panel had sufficient evidence before it to enable it to conclude that the fact of the conviction had been proved. The Panel should take the fact of the conviction at face value and should not seek to go behind the findings of the criminal court.

- With regard to fitness for duty, the Panel was referred in particular to the CNC's Substance Misuse Testing Policy and Procedure which drew upon Home Office Circular 011/2012 and set out a presumption that a police officer is unfit to work if they have more than 13 micrograms per cent in breath - this compares with a national drink driving limit of 35 micrograms of alcohol in 100ml of breath in England and Wales.
- Gross Misconduct, for former officers means a breach of the Standards of Professional Behaviour that is so serious that the officer would have been dismissed if he had not ceased to be a member of a police force.

14. The Panel handed down the following decision orally (shown in *italics*).

With regard to the facts alleged by the AA, the Panel has carefully reviewed the evidence in the bundle and the video footage. The Panel notes that the former Officer did not submit any response to these allegations and has not sought to deny any aspects of them.

The certificate of conviction and the witness statement of Investigator Cleal prove that the former officer pleaded guilty to an offence of driving over the prescribed limit and that he received a sentence. The Panel therefore finds that element of the allegations proved.

The CCTV evidence shows that the former officer reported for work at the Sellafield site, having driven a vehicle to work. The Panel accepts the witness evidence that when the former officer attended the armoury, a Civil Nuclear Constabulary Officer smelled alcohol on his breath, a breath test was administered at the Sellafield site and he was then arrested for driving over the prescribed limit.

Accordingly, the Panel find that all of the facts alleged are proved.

With regard to the Standards of Professional Behaviour, the Panel finds that the conduct it has found proved breaches both of the standards alleged.

With regard to Discreditable Conduct, the Panel finds that driving to work whilst over the limit and then reporting for duty to collect a firearm discredits the police service and undermines public confidence in it.

With regard to Fitness for Duty, the Panel finds that, on the basis of the witness evidence and subsequent conviction, the former officer was clearly unfit for duty.

With regard to whether the conduct constitutes Gross Misconduct, the former officer had driven to work whilst over the legal limit for alcohol, thereby endangering the public on the road. He then presented at an armoury to collect a firearm with the intention to sign out a weapon and embark on a tour of duty to protect one of the country's most sensitive assets when under the influence of alcohol. The Panel is in no doubt that this is so serious as to constitute Gross Misconduct.

Outcome

15. Having found Gross Misconduct, the Panel moved on to consider whether to impose disciplinary action on FPC Brennan.
16. Ms Kyle-Davidson invited the Panel to impose disciplinary action, namely, to find that FPC Brennan would have been dismissed if still serving. She submitted that it was reasonable to conclude that, as a police officer, he would have foreseen the obvious risk of harm from his misconduct. His misconduct would undermine public confidence in the CNC because he had been driving over the limit, creating a risk of harm to other road users and to the reputation of the CNC. He had put other site workers at risk by driving on site and he attended for duty with the intention of carrying a firearm. This put both his colleagues and the public at risk. In terms of mitigating circumstances, she drew the Panel's attention to the fact that this was a single episode, he had made admissions and pleaded guilty. However, it was submitted that this did not substantively reduce the seriousness of the misconduct and the only proper outcome was disciplinary action. Ms Kyle-Davidson also read out FPC Brennan's record of service to the Panel.
17. The Panel accepted the advice of the Legal Advisor and handed down the following decision orally (in *italics* with typographical edits).

The Panel have had regard to the former officer's record of service and the submissions of the AA. The Panel has followed the approach in the College of Policing's Guidance on Outcomes.

The Panel's decision is as follows.

Culpability

The former officer reported for duty when unfit for work due to alcohol and he was subsequently convicted of driving over the prescribed limit. As a CNC police officer, he would have been fully aware of his responsibility to act in accordance with the law and to observe the standards in the CNC's Substance Misuse Testing Policy and Procedure. The Panel finds that he is fully culpable for his actions.

Harm

The misconduct is particularly harmful to the reputation of the CNC which has a nationwide role to provide armed protection to some of the nation's most sensitive assets. It is completely unacceptable and harmful to public confidence for a CNC AFO to drive to and report for duty when over the limit for alcohol.

Aggravating circumstances

The Panel did not identify any aggravating factors over and above the facts of the case itself.

Mitigating circumstances

This was a single episode, the former officer complied and pleaded guilty at Court. However, the Panel gives these factors limited weight in view of the overall seriousness of the misconduct.

Overall conclusion of seriousness

It is critical that the public has full confidence in the CNC's ability to protect nuclear sites and nuclear material. Given the CNC's national role and the high standards in its Substance Misuse Testing Policy and Procedure, the Panel finds that the misconduct is very serious.

The Panel has kept in mind the threefold purpose for imposing outcomes in police misconduct proceedings.

The Panel has not been provided with any personal mitigation.

Outcome

In light of the level of seriousness which the Panel has found, and the CNC's critically important national role, the only appropriate outcome is a finding that the former officer would have been dismissed if still serving.

Publication

18. The Panel saw no reason to depart from the usual principle that this report would be published.