

**IN THE MATTER OF POLICE MISCONDUCT PROCEEDINGS HELD UNDER THE
POLICE (CONDUCT) REGULATIONS 2020**

BETWEEN:

THE CHIEF CONSTABLE OF THE CIVIL NUCLEAR CONSTABULARY

Appropriate Authority

-and-

PC WAYNE CLARK

Officer Under Investigation

NOTICE OF OUTCOME OF POLICE MISCONDUCT HEARING

29th May 2026

Panel Chair: Richard Cawdron

Legal Counsel for the AA: Jack Palmer

Federation Representative for the Subject Officer/Officer Under Investigation: Sarah Bowden

Solicitor on behalf of the AA: Erin Kyle-Davidson

Chief Inspector PSD: Aidan Donhoe

Investigator: Becky Fox

Independent Legal Advisor: Callum Cowx

Hearing Manager: Andrew Evans

RECORD OF FINDINGS AND OUTCOME DETERMINATION

INTRODUCTION AND FACTUAL BACKGROUND

1. This misconduct hearing was heard pursuant to Regulation 49(2) of the Police Misconduct Regulations 2020. The Regulation provides that the accelerated procedure may be used if the Appropriate Authority (AA) determines that the special conditions are met. The special conditions are that:

(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that the conduct of the officer concerned constitutes gross misconduct, and

(b) it is in the public interest for the officer concerned to cease to be a member of a police force or a special constable without delay.

2. The AA has certified that the special conditions have been met. PC Clark was not in attendance.

Preliminary Matters

3. Two preliminary matters were highlighted by the Legal Advisor to the Chair as follows:

4. **Impartiality of the Chair:** This was not a matter raised by either Party or the subject of a specific application. Representations were received from the AA and the Federation Friend.

5. I have been reminded that the basic principle is, that a court or tribunal hearing a case, must be impartial and that justice “*should not only be done but should manifestly and undoubtedly be seen to be done*” (*R v Sussex Justices, ex p McCarthy [1924] 1 KB 256*).

6. In the face of no application from the Parties, I have to consider whether I should recuse myself in the interest of the case if I am aware of facts which might compromise my impartiality to such an extent that a fair hearing cannot be guaranteed.

7. The Legal Department of the CNC sits within my management portfolio. I have no management responsibility for the Professional Standards Department (PSD), and I have no prior knowledge or input into the investigation of this matter other than in my role as chairing this misconduct process. This was confirmed by Counsel for the AA having sought confirmation from the Instructing Solicitor for the AA. It would be wrong, in my view, to recuse myself from hearing this matter as I consider that actual or perceived bias is not present. Furthermore, that I can hear this matter with full objectivity.

8. **Submission of further AA Documents:** I am invited to consider if the hearing should be delayed due to the submission of further documents into the bundle before me which had not been seen by the Officer who chose not to attend the hearing. This was not the subject of an application from either party, but the Federation Friend supported a delay.

9. Having considered the documentation in question, the material provides further information on issues which are set out in the bundle rather than introducing evidence which would have a material impact on the matters I have to consider. If the Officer had been present, then he would have had the opportunity to consider the material. I consider that further delay to resolving this matter is not in the interests of either party. Therefore, the hearing will proceed.

Factual Background

10. The allegations against the Officer are set out in full in the Regulation 51 Notice which appears at pages 1 to 8 of the bundle. In summary the AA says that:

11. The conduct in question is the admission to committing a criminal offence (Adult Caution) and the nature of the offence committed is incompatible with the role of a police officer. It brings discredit to the Civil Nuclear Constabulary and undermines public confidence in it, in breach of the Standards of Professional Behaviour of Honesty and Integrity, Orders and Instructions and Discreditable Conduct.

12. In summary, PC Clark admitted the criminal offence of theft, a dishonesty offence, in stealing property belonging to the Civil Nuclear Constabulary ('CNC') in breach of the Standards of Professional Behaviour.

13. PSD investigated this matter after an individual attempted to import a respirator into Singapore which was a respirator purchased by CNC via its equipment supplier Cooneen. The Officer had, during an approximately two-year period, sold 10 respirators belonging to the CNC with sales totalling £1,630.22.

14. On 22 October 2025 the Officer was arrested by officers of Cumbria Constabulary on suspicion of theft.

15. Following the Officer's arrest, a s.19 of Police and Criminal Evidence Act (PACE) search was conducted of his home address and four respirators and a respirator part, identified by serial numbers as being the property of the CNC, were found present.

16. When interviewed under caution on 22 October 2025 the Officer stated that he had acquired the respirators from a disposal bin at the Sellafield Site. Following the interview, the Officer accepted a police caution for the offence of theft from the CNC.

17. In the Officer's response, PC Clark has cited his dyslexia and suggested that limitations in his training by the CNC were a contributory factor to his mistake that he could take the CNC property as it was for disposal. Further, he cites that there was no official policy on removing CNC property from the disposal bins. Within the bundle is material which is an ADHD assessment and some evidence indicating likely autism.

18. The factual basis of this matter is not in dispute.

Evidence

19. The evidence before me consists of a bundle of documentary evidence, Officer prepared statements, Regulation 31 response and additionally, and an Opening Note from the AA.

FINDINGS OF FACT AND STATUS OF THE CAUTION

20. All findings were made on the balance of probabilities i.e. more likely than not to have occurred. The findings are set out below. I have carefully considered the key evidence which was pertinent information to assist in assessing the specific allegations.

21. It has been asserted by PC Clark that a number of his colleagues had indicated to him that the items in the bin in question could be removed. He did not realise what he was doing was wrong, because of this, he had not considered it to be theft.

22. Further, the Officer advances that the incident was a "genuine mistake" which is compounded by his diagnosed neurodiversity. Implicitly he has advanced that this condition directly impacts his executive functioning and his cognitive understanding of property rights, abandonment, and implied consent; his actions are as a result of poor judgement, misunderstanding and a failure to understand the consequences.

23. The AA acknowledges that PC Clark is dyslexic and recently screened as highly likely to have ADHD and possibly autism. There is medical evidence in the bundle which supports this diagnosis. There is also evidence before me confirming that the CNC has made a series of reasonable adjustments in seeking to reduce the potential disadvantages to this Officer linked to his dyslexia condition.

24. I note that a police caution is not a conviction. However, it is a matter of settled law that a caution can only be administered upon a clear and unequivocal admission of guilt to the constituent elements of the criminal offence.

25. The AA asserts that it is not for a tribunal in a misconduct hearing to question a caution as a disposal to a criminal investigation. It is not within the lawful ambit of the Panel's function. However, it is appropriate for me to consider the circumstances in which the caution was given in that the Officer has asserted that taking the item was a mistake.

26. In respect of the circumstances of the caution, I consider the following is factual:

- PC Clark was legally represented at the time of the caution and must have had the impact of accepting the caution set out for him.
- It made clear that his responses could be used in misconduct proceedings.
- Cumbria Constabulary, pursuant to their legal obligations, had assessed PC Clark as being competent to accept a caution. This would include that the component parts in law were present for the caution to be given.

- There is no evidence before me that there was a request for reasonable adjustments from the Officer.

27. By accepting the caution, PC Clark admitted to the elements of theft under the Theft Act 1968. A challenge arises that the officer was not in reality accepting the *mens rea* element of dishonesty and the intention to permanently deprive the owner of the property because of his reference to mistake rather than intent.

28. As a matter of law, I cannot go behind the caution. I must treat the factual admissions made at the time the caution was administered as legally binding. The assertion that the act was a "genuine mistake" is legally incompatible with the admission required to accept a criminal caution. The factual circumstances, as set out above, surrounding the giving of the caution is compelling evidence that the Officer accepted the caution with informed consent. There is no evidence before me which suggests that his cognitive functioning had any direct impact on his ability to fully understand the consequences of what he was admitting.

29. It is self-evident that there is an overwhelming likelihood that Standards of Professional Behaviour regarding honesty, integrity and discreditable conduct are almost certainly breached where an Officer is cautioned for a criminal offence. Accordingly, I find that PC Clark has breached those standards.

30. I am in agreement with the AA's assertion that the Officer either knowingly or recklessly engaged in criminal dishonesty. Over a two-year period, PC Clark could have obtained clarity on whether he could take the items from his line management to which the answer would have been categorically no. It is clear on the face of published policy, which I have reviewed in the bundle, that at all times all kit and equipment remain the property of the CNC and should be returned to Cooneen for disposal after use. The Officer has failed to adhere to Orders and Instructions by breaching the well published policy that at all times kit and equipment remains the property of the CNC. I find that PC Clark has breached this standard by taking and disposing of property belonging to the CNC.

Assessment of Seriousness (The Four-Stage Test)

31. Having found breaches of the Standards as set out above, I now have to consider whether the breaches amounted to misconduct, gross misconduct or neither (Reg. 41(15) (as modified), para. 11.115 HOG).

32. In accordance with the [College of Policing Guidance on Outcomes](#) and established case law I have assessed the seriousness of the misconduct by considering culpability, harm, aggravating factors, and mitigating factors. I have reminded myself of the relevant definitions as follows;

33. 'Misconduct' means a breach of the Standards of Professional Behaviour that is so serious as to justify a disciplinary action.

34. 'Gross misconduct' means a breach of the Standards of Professional Behaviour that is so serious as to justify a dismissal.

35. Furthermore, the purpose of disciplinary proceedings 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.

36. The AA has submitted that the Officer's conduct amounted to gross misconduct. It was conduct so serious that the Officer's dismissal would be justified.

DETERMINATION OF MISCONDUCT OR GROSS MISCONDUCT

37. In reaching my conclusions I have taken into account the evidence before me with regard to the neurodiversity of PC Clark in respect of his intent to take the items and the potential impact of the condition on his understanding of workplace rules.

A. Culpability

38. Culpability is high. The officer engaged in a deliberate, physical act of taking property that did not belong to him.

39. I have considered the possible impact on his intent regarding the Officer's neurodiversity, as I am obliged to do so under the Equality Act 2010. I accept the medical evidence that the officer is neurodivergent. I understand that neurodiversity can cause difficulties with complex social cues or literal interpretations of instructions.

40. There is clear evidence in the bundle of unequivocal publishing of policy to all CNC officers, that at all times the kit and equipment provided to CNC officers remains the property of the CNC. It should be noted that PC Clark took a number of items over a circa two-year period.

41. There is no evidence before me which I can find that the Officer's neurodiversity negates his core understanding of right from wrong in this context. His culpability remains sustained by his formal acceptance of the criminal caution. Furthermore, I accept the summary of the

evidence as set out in the AA's opening note and reproduced below as highlighting a high degree of culpability:

- a. The CNC have obtained the Officer's Workplace Assessment [67-83]. It makes no reference to any challenges that the Officer may have to understanding the ramifications of his actions. In terms of knowledge of the law, it states that '*Wayne regularly goes over his legislation so that it is embedded*' [74]. The Appropriate Authority has exhibited the Officer's Diagnostic Assessment Report [84-112].
- b. PSD Investigator Fox produced a further statement dated 21 May 2026 [168-169]. Their enquiries showed at all material times it was clear CNC policy that kit issued to officers remained the property of the CNC (see [130 & 153]), that old items must be returned to Cooneen for disposal [129-130 & 164] and that the disposal bin from which the Officer removed the respirators was affixed with a clear sign stating 'For Disposal' at all material times [171-172].
- c. In terms of the training provided to the Officer, PSD Investigator Fox contacted PS Mike Nicholas who has reviewed the Officer's training record and determined he received numerous sessions covering theft offences [169 & 194], evidence for which may be seen in the Officer's training record at [175, 176, 177, 179, 184]. The training records also do not document any indication that any diagnosis of the Officer prevents him from comprehending the elements of theft offences.

42. The concept of property ownership, specifically that items within a clearly designated rubbish receptacle remain the property of the bin owner, is not a complex social nuance. It is a foundational tenet of law. A police officer holds a unique legal status. They are sworn to uphold the law and possess powers of arrest for dishonesty offences. The standard of understanding expected of an operational police officer regarding basic theft is absolute.

B. Harm

43. The physical and economic harm caused by removing items from a rubbish bin is minimal. The financial value of the property was relatively small (albeit it is noted that disposal of the items is also predicated on health and safety concerns) and the CNC suffered limited financial harm.

44. However, the reputational harm to the police service is profound. Public confidence in the police relies entirely on the absolute integrity of its officers. The public cannot and should not be expected to tolerate a police officer who holds a criminal caution for an offence of dishonesty.

45. The harm to the reputation of the wider force outweighs the low economic value of the items taken.

C. Aggravating Factors

The following aggravating factors are present:

- The behaviour amounted to a criminal offence, formalised via a caution. The offence involves an element of dishonesty, which directly undermines the standing and reputation of the policing profession.
- This was not an isolated incident, and several items were taken over a period of time.
- The Officer stole the respirators when it is policy that respirators may be refurbished and reused and that they are routinely tested for radiation.

D. Mitigating Factors

46. I note the following mitigating factors:

- The Officer has a previously unblemished disciplinary record.
- The Officer co-operated fully with the Professional Standards Department investigation.
- The Officer accepted a caution at the earliest opportunity.

FINDING OF GROSS MISCONDUCT

47. I have considered whether this breach amounts to misconduct or gross misconduct. Gross misconduct is defined as a breach of the Standards of Professional Behaviour so serious that dismissal would be justified.

48. Honesty and integrity are fundamental requirements of a police officer. A police officer who commits an act of theft, resulting in a criminal caution, fundamentally breaches that trust.

49. I find that the Officer's actions cross the threshold of gross misconduct.

DETERMINATION OF OUTCOME AND PROPORTIONALITY

50. The Police Misconduct Regulations 2020 as amended creates a rebuttable presumption that where gross misconduct is proven it will result in the officer being dismissed, but the law explicitly permits a lesser sanction if exceptional circumstances are proven.

51. I have to consider if the dismissal of the Officer is a proportionate response, and could the presence of neurodiversity factors constitute the "exceptional circumstances" needed to downgrade the sanction. This brings into focus my obligations under the Equality Act 2010 to avoid disproportionate penalties where disability or neurodiversity could be a factor.

52. I have considered the available outcomes under the [Police \(Conduct\) Regulations 2020](#), starting from the least severe.

53. I have considered whether a final written warning is available to me noting that reduction in rank is not.

54. As I have already indicated I can see no causal link between the Officer's neurodiversity and his belief that taking the item was permitted.

55. I conclude that no lesser sanction than dismissal can be justified in this case. The reasoning rests on the operational purpose of misconduct sanctions which are:

1. To maintain public confidence in the profession
2. To uphold the reputation of the profession
3. To protect the public.

56. An officer with a criminal caution for a dishonesty offence is operationally compromised. Their ability to give evidence in court would be perpetually challenged. This would severely limit their utility to the Constabulary and the public.

57. While I have sympathy for the Officer's neurodivergent challenges, the public interest in maintaining an uncorrupted, trusted police service must take precedence over the mitigation offered by the individual Officer.

58. The retention of an Officer who has formally admitted to a criminal act of dishonesty would severely damage public trust and confidence in the police service.

CONCLUSION

59. The only appropriate, proportionate, and lawful outcome to maintain public confidence and uphold professional standards is **dismissal without notice**.