

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

IN THE MATTER OF
Former Police Sergeant David Kay
Decision of the Chair

Hearing date: 1 September 2026

Panel Chair: Assistant Chief Constable Trevor Clark

Introduction:

1. This misconduct hearing was convened under the Ministry of Defence Police (MDP) (Conduct, Performance and Appeals Tribunals) Regulations 2020, applying the provisions relevant to former officers.
2. The case was certified for an accelerated misconduct hearing by Deputy Chief Constable Dobinson on 11 June 2026. The regulation 51 notice was dated 17 August 2026. My involvement before the hearing was limited to authorising that notice, and my authority to conduct the hearing was established.
3. The hearing took place in public via Microsoft Teams on 1 September 2026. No applications to attend had been received. I was assisted by Leanne Woodman, legal adviser. The Relevant Authority (RA) was represented by Robert Cohen, counsel, Former Police Sergeant Kay did not attend and was not represented.

Preliminary Matters

Proceeding in Absence:

4. I sought clarification of service and of the response referred to in the RA's opening note. I adjourned briefly to allow that material to be supplied and considered.
5. I considered FPS Kay's written response dated 31 January 2026, redacted to exclude matters not pursued at this hearing. It stated that he did not wish to participate in the proceedings any further. I was also informed of a February 2026 communication to DS Queen in which FPS Kay declined further information from the MDP. Notwithstanding that position, the hearing notice and bundle were served on him by email on 17 August 2026. No response to that notice was received.
6. I recognised that the January letter predated the hearing notice and did not itself establish notice of the hearing arrangements. Having considered the subsequent email service, the notification of his representation rights and his stated wish not to engage further, I was satisfied that reasonable steps had been taken to notify him and that his absence was consistent with that expressed decision. I considered it fair to proceed in his absence under regulation 57.
7. I have considered his account in interview and his written representations. His absence has not been treated as an admission or as a factor against him.

Scope of the allegation and public notice:

8. The public notice which I had approved referred to Honesty and Integrity, Orders and Instructions, and Duties and Responsibilities. The RA confirmed that the other matters had been discontinued and that only Honesty and Integrity were pursued, concerning the LinkedIn and website publications. I made clear that the hearing concerned those allegations only.
9. The RA explained briefly how the investigation had led to discovery of the publications. That background was provided to explain the circumstances, not to invite findings on the discontinued matters. Those matters played no part in my findings of wrongdoing or assessment of seriousness.

General Approach

10. I first determined the facts, then whether those facts established a breach of Honesty and Integrity, and then whether the conduct amounted to gross misconduct. I considered outcome after announcing those findings and hearing the RA's submissions on outcome.
11. The RA bore the burden of proof. I applied the balance of probabilities and distinguished admissions and evidence from the submissions made about them. I considered the publications together while determining what was proved about each.

12. I applied the two-stage dishonesty test in *Ivey v Genting Casinos* [2017] UKSC 67. I first considered FPS Kay's actual knowledge or belief about the facts. I then assessed his conduct, on those facts, by the standards of ordinary decent people. It was not necessary for him to appreciate that others would regard the conduct as dishonest.

The Allegation

13. The allegation was that, between March and June 2025, while still serving with the MDP and also working as an electrician, FPS Kay published misleading statements on his LinkedIn profile and his business website. The RA alleged that he deliberately represented that he was no longer a serving police officer to avoid discouraging people from engaging him for electrical work. Each publication was alleged to be dishonest, in breach of Honesty and Integrity, and the conduct was alleged to amount to gross misconduct.
14. The LinkedIn statement was: *"Former Metropolitan police sergeant (2004–2019) and firearms officer with the Ministry of Defence Police, where I held DV level security vetting"*.
15. The website stated: *"With 20 years of dedicated service as a police officer in London, I faced unyielding pressure and challenges head on. However as I have always had a passion for technology, combined with a long standing inclination towards engineering eventually prompted me to heed a different call"*.

Background and Evidence

16. FPS Kay had served with the Metropolitan Police before joining the MDP in May 2019. He qualified as an electrician in August 2024 and operated an electrical business. The issue before me was the way in which he described his police service when promoting that business, not whether he was entitled to carry out electrical work.
17. The evidence included the exhibited website and LinkedIn profile, Companies House records, customer reviews and FPS Kay's interview. He accepted that the business and website were his, that the photograph on the website depicted him, and that he wrote the 'About Me' text and LinkedIn profile. He denied that his conduct breached professional standards.
18. The RA submitted that the publications presented his police service as having ended when he was still serving. The RA relied on his interview explanation as evidence that the misleading presentation was deliberate and intended to obtain work.

The Former Officer's Response

19. In the January letter to the MDP, FPS Kay asked that the evidence and his interviews be considered as a whole. His letter questioned the public interest in continuing proceedings and referred to his mental wellbeing. His interview account referred to a recent diagnosis and difficulties with procedures,

communication and managing tasks. I considered those explanations; no further evidence explaining a connection with the publications was provided.

20. In interview FPS Kay described difficulties with procedures, communication, working memory and managing tasks. He said that his diagnosis provided context for his behaviour and that procedural failings were not intentional or deceptive. I considered that account as part of his explanation.

Decision on Findings of Fact and Breach

21. **Authorship and serving status:** I find that the relevant statements were published while FPS Kay remained a serving police officer. He had qualified as an electrician and was promoting his electrical business. Authorship and responsibility for publication are established principally by his admissions, supported by the documentary material.
22. In interview he said that he thought his website profile was created around the time he formed the company. I distinguish that account from proof of when the particular wording was added. I make no separate adverse finding about the occupation recorded at Companies House and do not treat company registration as establishing a continuous course of dishonesty. My findings concern the charged period.

23. **The LinkedIn and website statements:** Read as a whole, the LinkedIn sentence presented his police service as having ended. Although he had left the Metropolitan Police, he remained with the MDP. The reference to former service, followed by his MDP role and the past-tense wording, created a misleading impression of his serving status.
24. I have considered the website wording in the context of the whole "About Me" passage, including the description of a subsequent change of direction. Although a reference to 20 years' service alone would not necessarily mean that service had ended, the passage as a whole presented his police career as a completed chapter before he became an electrician. I find that this publication also misrepresented his serving status.
25. **Knowledge, purpose and dishonesty.** In interview FPS Kay said: "*Within the electrical world, if you say you are a police officer and you are going for a job as an electrician, no one is going to hire you. How can you be an electrician and be a cop?*"
26. That explains his purpose. He believed that being known as a serving officer would discourage people from hiring him. I find that he deliberately presented himself as a former officer to obtain work. His words were not an express admission of dishonesty, but I find that they support that conclusion. I reject an innocent or accidental explanation for the misleading wording.

27. FPS Kay knew that he remained a serving officer. Taking the facts as he knew them to be, I find that deliberately representing otherwise for that commercial purpose was dishonest by the standards of ordinary decent people. I find dishonesty proved in relation to both publications.
28. **Integrity and FPS Kay's explanation:** I also find a breach of integrity. FPS Kay used his lengthy police service as part of his professional presentation while deliberately misleading people about whether it was continuing. That was inconsistent with the ethical standards expected of a police officer. His experience of policing adds weight to my assessment that he understood the importance of being truthful.
29. The procedural and communication difficulties described did not explain his reason for making these statements. His own explanation was that being known as a serving officer would discourage people from hiring him. I do not find that account alters my conclusion that the publications were deliberately misleading.

Misconduct / Gross Misconduct

30. Having found the breach of Honesty and Integrity proved, I next considered whether the conduct amounted to misconduct or gross misconduct.
31. In assessing seriousness, I considered culpability, harm and the circumstances making the conduct more or less serious.

32. I assess culpability as high. FPS Kay's conduct was intentional, deliberate and planned. He chose to publish misleading statements about his serving status to obtain electrical work. There were two publications promoting the same business, rather than an isolated verbal slip.
33. I assess harm as medium. There is no evidence of direct harm to customers, and I have not assumed that customers relied on the wording or suffered financial loss. However, deliberate dishonesty by a serving police officer for commercial purposes, undermines public confidence in the honesty and trustworthiness of the police. The fact that the conduct concerned work outside policing does not remove that concern.
34. I considered FPS Kay's explanation. His account did not explain why he deliberately described his status in this way to obtain work. I have not treated his absence or denial as aggravating features, counted the same feature twice, or relied on matters investigated but discontinued.
35. Taken together, the two publications involved deliberate deception for a commercial purpose. I find this to be a breach of the standards of honesty and integrity. I find the breach so serious as to justify dismissal, I therefore find gross misconduct proved.

Decision on Outcome

36. Having announced my finding of gross misconduct, I heard the RA's submissions on outcome and considered the legal advice provided.
37. The RA submitted that dismissal was the only appropriate outcome. It acknowledged that the dishonesty was not operational but submitted that deliberate dishonesty for financial benefit undermines public trust in policing.
38. I considered FPS Kay's MDP service record and the representations available to me, including his interview account and written response. Although he did not attend or make further submissions on outcome, I took account of the personal circumstances he had already raised.
39. I followed the three-stage approach outlined in the College of Policing guidance on outcomes in police misconduct proceedings.
40. First, I considered seriousness. I adopt the assessment set out above: culpability is high and harm is medium. I also considered FPS Kay's mental wellbeing and reported diagnosis as personal circumstances. No further personal mitigation was advanced. Those matters do not outweigh the seriousness of the deliberate deception.
41. Second, I considered the purposes of the outcome: maintaining public confidence in policing, upholding professional standards and protecting the public. The purpose is not simply to punish FPS Kay.

42. Third, I considered the outcome necessary and proportionate to fulfil those purposes. FPS Kay deliberately misrepresented his serving status to obtain electrical work. In light of the seriousness of that dishonesty and its effect on public confidence, I am satisfied that dismissal would have been the appropriate and proportionate outcome had he remained serving.
43. I therefore determine that FPS Kay would have been dismissed if he had not ceased to be a member of the Ministry of Defence Police.
44. In accordance with regulation 63(5), I require the relevant authority to publish this report.

Right of Appeal

45. In accordance with regulation 63 of Schedule 1 to the Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, the RA must send FPS Kay a copy of this report, including notice of his right of appeal, as soon as practicable after receiving it.
46. FPS Kay has a right of appeal to a Police Appeals Tribunal under Schedule 5 to the Regulations. Any appeal must be brought in accordance with the applicable procedure and time limit.