

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020
IN THE MATTER OF AN ACCELERATED MISCONDUCT HEARING

POLICE CONSTABLE 6883 LANCASTER

DETERMINATION OF CHIEF CONSTABLE JOHN ROBINS

Preliminary matters

1. The accelerated misconduct hearing for Police Constable Lancaster was held in public on 29 February 2024. The Appropriate Authority was represented by Mike Percival. The Officer, who was not in attendance for the hearing, was represented by Police Federation Representative, Police Constable Claxton.
2. No representations were made prior to the hearing that it should be held otherwise than in public, accordingly the hearing was held in public.

Allegations

3. It is alleged that PC Lancaster breached the standards of professional behaviour in that:
 - i. Between 31st August and 7th September 2023, at a gymnasium, she stole cash from a wallet belonging to a personal trainer; and
 - ii. On 31st August 2023 she took a bank card from the same wallet and used it at a nearby shop to buy an item for herself; and

- iii. On 7th September 2023, she took a bank card from the same wallet and used it at a nearby shop to buy an item for herself; and
 - iv. On 20th October 2023 she admitted the conduct described in 1-3 above and accepted a conditional caution for the criminal offences of theft and fraud by false representation.
4. In summary, it is alleged that PC Lancaster's actions were a breach of the standards of professional behaviour in respect of honesty and integrity and discreditable conduct, and that this amounted to gross misconduct.
5. The burden of proof is on the Appropriate Authority to prove that the officer behaved in the manner alleged and that in doing so, she breached the standards of professional behaviour. The Appropriate Authority must further satisfy me that the manner of the breach is of such a nature or degree that it amounts to gross misconduct. The standard of proof is on the balance of probabilities.
6. In the Officer's Regulation 54 response, she states that:
- i. She fully accepts her responsibility for the offences.
 - ii. She fully accepts her actions have breached the standards of professional behaviour in relation to Honesty and Integrity and Discreditable Conduct.
 - iii. She accepts that her actions have resulted in bringing discredit to the police service.

- iv. She states that she is very embarrassed about her actions and still, to this day, has no answers as to why she has acted in such a way, but would like it to be known that she is truly remorseful and wishes to apologise sincerely to everyone involved for her actions and behaviour.
7. As the Officer was not present, and the papers are silent on this issue, I was unable to confirm whether the officer accepted her actions amounted to gross misconduct.

Determination of conduct

8. My task is to:
- i. First, determine the facts, based upon what is admitted by the officer or proven on the balance of probabilities;
 - ii. Second, determine whether on the basis of those facts the officer has breached the Standards of Professional Behaviour alleged;
 - iii. Third, decide whether the breaches found amount to gross misconduct or not;
 - iv. Fourth (dependent on the findings under (i) and (ii) above), decide what the outcome should be.

9. In making my determination, I have assessed all relevant information made available to me in the supplied bundle. It was confirmed that all parties had access to the same information, and no submissions were made to introduce additional information on the day of the hearing. I have considered all representations made on behalf of the Appropriate Authority and by the officer through her Federation Representative.
10. Before making my determination, I reminded myself of the definition of misconduct and gross misconduct as prescribed by regulation 2.
11. My findings are that, on the balance of probabilities, the allegations are proven and amount to gross misconduct.
12. The bases for my finding that the allegations were proven are:
 - i. The allegations were admitted by the officer.
 - ii. The officer accepted a conditional caution for the criminal offences of theft and fraud by false representation on 20th October 2023.

Breaches of Standards of Professional Behaviour

13. The conduct is in clear breach of the standards of professional behaviour in respect of honesty and integrity and discreditable conduct. The conduct resulted in a conditional caution as set out in the papers.
14. Further, and in my judgment more significantly, both the conduct and the subsequent caution bring serious discredit on policing in general, and on West Yorkshire Police in particular. The public rightly expects police officers to

obey and uphold the law, both on and off duty. Members of the public would be gravely concerned to know that an officer had not only stolen cash and a bank card belonging to another person, but that card was fraudulently used to buy goods, and that they had a criminal caution arising out of that conduct. The officer's behaviour undermines the public's trust in the police.

Gross misconduct

15. I remind myself that my task at this stage is to determine whether the conduct is capable of justifying dismissal. In my judgment, it clearly is. The officer has breached the criminal law. Police officers have a duty to enforce the law, not contravene it. This in itself leads to a lack of trust and confidence in both the force and the officer.

16. This misconduct exceeds the threshold of purely unacceptable or improper behaviour and reaches the threshold of being so serious that it constitutes gross misconduct. No party at the hearing argued against this view.

Outcome

17. After reaching my decision on facts, standards, and severity, the AA and the officer's representative addressed me on outcome.

Officer's Service History

18. I received a copy of the Officer's Service History, and note there is nothing of note arising from it.

19. Submissions were made by the Appropriate Authority. They referred me to the Guidance on Outcome. The Appropriate Authority submitted that only dismissal without notice is appropriate. It submitted that this was very serious conduct, which had attracted a criminal caution, and the officer's culpability was high. The Appropriate Authority submits the conduct is entirely the Officer's fault, and she provides no excuse for it. It was deliberate, intentional and criminal; stealing from a member of the public is serious. She accepted a caution, the nature and facts of which speak for themselves. It was said that as a serving police officer, she ought to have been aware of the importance of maintaining public confidence in policing. It was submitted it is wholly unacceptable of those upholding the law, to break it themselves.
20. Submissions were made on behalf of the officer. It was said on her behalf that she accepted full responsibility for her conduct and expressed regret and remorse. It was said that she is truly remorseful, and sincerely apologises for her actions and behaviour. Although she was not present to make representations of her own, I am satisfied that the Officer was aware of the hearing today and the opportunity to make any representations she wishes to make.
21. I have utilised the relevant sections of the 2023 College of Policing Document '*Guidance on Outcomes in Police Misconduct Proceedings*', in formulating the rationale for my determination.
22. The College of Policing Guidance on Outcome, applying case law, tells me to consider:
- i. Seriousness by assessing culpability and harm.
 - ii. Remind myself of the purposes of police conduct proceedings.

- iii. Select the most appropriate outcome, preferring where appropriate less serious outcomes.

Seriousness

23. I have considered the seriousness of the misconduct that gave rise to the officer's appearance at the hearing today, in accordance with the College of Policing's Guidance on Outcomes, and set out my conclusions and the reasons for them below.

Culpability

24. I have considered the Officer's culpability in this case and make the following observations:

- i. The officer is highly culpable and her conduct was intentional and deliberate. The offences occurred on more than one occasion; she was dishonest to the owners of the gym, who had allowed her to use the office because they trusted her. She breached that trust.
- ii. The conduct resulted in a criminal caution, which speaks for itself.

Harm

25. I have considered the harm caused by the officer's actions in this case and make the following observations:

- iii. There is a real risk that reputational harm was caused. A member of the public was the victim of several acts attracting criminal liability. The public properly expect high standards to be maintained by police officers. The officer has committed several criminal offences and has accepted a criminal caution. Officers are expected to uphold the law.

Aggravating Factors

26. I have carefully considered the aggravating factors listed within the guidance and any other issues outside of those which may have been said to have aggravated the actions she took. I find that because:

- iv. These are deliberate, calculated acts;
- v. There was a repetition of the offending behaviour, a week after the first offence, when the Officer must have known this behaviour was wrong;
- vi. There is an element of breach of trust as the Officer was allowed to use the office space when others were not.

27. Because of these factors, I assess the officer's culpability is more serious.

Mitigation

28. The purpose of mitigation is to reduce the seriousness of the conduct. I take into account the fact that this was a relatively short period of offending, in that it took place over the course of a week and on two occasions.

29. There is no record of relevant antecedent history and account has been taken of her unblemished police record.

Personal mitigation

30. I have taken account of the decision in *R (on the application of Williams) v Police Appeals Tribunal and another* [2016] EWHC 2708 as to the weight to be given to personal mitigation in police misconduct proceedings, in particular what is said at paragraphs 66-68 of that decision.
31. I was not provided with any character references or submissions on mitigation, beyond that which I have referenced above.
32. I have taken into account the officer's candid expression of remorse and her apology to those victims concerned.
33. In my view, however, because of the importance of maintaining public confidence in and respect for the police service, the potential of such mitigation is necessarily limited. This is a case which significantly threatens the public's confidence in, and respect for, the police service. This is because the conduct has resulted in a criminal caution which is discreditable for a police officer and the reputation of the service.

Purposes

34. I remind myself of the purpose of these proceedings set out at paragraph 2.3 of the Guidance on Outcome. They are to:
- i. Maintain public confidence in and the reputation of the police service
 - ii. Uphold high standards in policing and deter misconduct; and

iii. Protect the public.

35. My core duty here has been to ensure that whatever decision I make upholds public confidence both in West Yorkshire Police and in policing more widely. My role is not punitive as that is a duty that has already been considered and undertaken by the criminal justice system. Throughout my deliberations, I have been resolutely focused on maintaining public confidence in West Yorkshire Police.

36. I approach this case by considering the sanctions that are available:

- i. A final written warning,
- ii. Reduction in rank,
- iii. Dismissal without notice.

37. I considered these potential outcomes in order from the lowest sanction (final written warning) through to dismissal and assessed them as to how they may meet the need to fulfil the purpose of the misconduct proceedings, and the purpose of imposing sanctions.

38. In my view, any suggestion that this case could result in a final written warning would be misplaced. This officer's conduct in this case amounted to criminal conduct and resulted in a criminal caution. Reduction in rank is not relevant in this case. Police officers are charged to uphold and enforce the law. There can be no place in policing for an officer who conducts themselves in such a way.

39. Therefore, the only appropriate sanction available in this case is dismissal without notice. I have decided that PC Lancaster is dismissed without notice

40. The officer's details will be included within the Police Barred List (Regulation 3(2)(I) of the Police Barred List and Police Advisory List Regulations 2017).

41. I am aware of the officer's right to appeal in accordance with the Police Appeals Tribunal Rules 2020. The officer should provide notice of their intention to appeal to the Appropriate Authority within 10 working days of receipt of this written determination.

42. The officer is to be notified forthwith of their dismissal without notice via their Federation representative and formally via the Professional Standards Department.

43. This determination is a record of my decision.

John Robins QPM DL

Chief Constable

West Yorkshire Police

29th February 2024