

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

CONCERNING

FORMER PC 21775 HOGARTH

DECISION OF THE PANEL

1) It is alleged that Former PC Hogarth has breached the Standards of Professional Behaviour as set out in the notice in the following terms: -

Alleged Conduct

It is alleged that he breached the Standards of Professional Behaviour in that:

Allegation one

1. In 2019, he applied to join West Mercia Police. In his application form, he failed to disclose the following matters when asked:

a. That between 2008 and 2017, he was fined and received points on his licence for speeding.

b. In 2017, he was issued a Recorded Police Warning for urinating in a public place.

2. In addition, when asked in his application form to declare details of any police investigations to which he may have been subject, he provided an inaccurate and misleading account of a 2015 assault investigation to which he had been subject.

3. After he joined West Mercia Police, he continued to fail to disclose the information at paragraphs 1(b) and 2 herein and/or to correct the omissions and/or misleading statements outlined at paragraphs 1(b) and 2 herein.

4. The abovementioned conduct was dishonest, and it was contrary to the Standards of Professional Behaviour related to Honesty and Integrity and Discreditable Conduct.

Allegation two

5. In 2022, when he was a serving police constable with West Mercia Police, he applied to transfer to North Wales Police. In his application to transfer to North Wales Police, he failed to disclose the following matters when asked:

a. In May 2011, he was issued a fixed penalty notice for urinating in a public place.

b. In 2017, he was issued a Recorded Police Warning for urinating in a public place.

6. In addition, when asked in his application form to declare details of any police investigations to which he may have been subject, he provided an inaccurate and misleading account of a 2015 assault investigation to which he had been subject.

7. The abovementioned conduct was dishonest and it was contrary to the Standards of Professional Behaviour related to Honesty and Integrity and Discreditable Conduct. His conduct individually, but also taken collectively, amounts to gross misconduct, namely a breach of the Standards of Professional Behaviour that if proved is so serious that his dismissal would be justified.

Particulars of Misconduct: It is alleged that he has breached the Standards of Professional Behaviour specifically the standards relating to:

Honesty and integrity and Discreditable conduct.

It is alleged that these matters individually and/or collectively amount to gross misconduct, namely a breach of the Standards of Professional Behaviour that, if proved, is so serious that his dismissal would be justified.

2)Representation

Throughout the hearing the Appropriate Authority ('AA') has been represented by Mr Keenaghan of Counsel and the former officer by the Federation Representative, Ms Lesley Williams.

The Panel would like to thank both for their assistance in this case.

3)The Standards of Professional Behaviour are contained in Schedule 2 of The Police (Conduct) Regulations 2020 and within the Home Office Guidance of 2020:

a. Honesty and Integrity

Police officers are honest, act with integrity and do not compromise or abuse their position.

b. Discreditable Conduct

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

c. The Panel additionally considered the appropriate paragraphs pertaining to the Standards as set out in the Home Office Guidance and the Code of Ethics, to which the Guidance refers.

4) Preliminary Issues

Prior to the hearing the Chair made the following directions:

- (a) That no witnesses were required to attend the hearing and give oral evidence
- (b) That the hearing be in public
- (c) That Notice of the hearing be published.

5) The Absence of the Officer

a. Counsel for the AA applied to proceed under Regulation 37(3)(b).

b. The Panel were satisfied that the former officer was aware of the proceedings against him. He was a serving police officer when these matters came to the attention of the AA, has received both the Regulation 17 and Regulation 30 Notices and has responded to the allegations via Regulation 31.

Within his initial Regulation 31 Response, the former officer stated that he had decided not to attend the misconduct hearing due to concerns for his mental health and wellbeing.

Former PC Hogarth resigned from West Mercia Police in advance of the hearing, in April 2024.

The Panel were satisfied that the former officer had been made aware of the date of this Hearing and considered that it was both in the interests of justice and in the public interest for the Hearing to proceed and conclude in the absence of the Officer.

The former Officer provisions will apply.

6)Response to the Allegations

In his Regulation 31 Response, the former officer disputes that he was dishonest but accepts that his conduct amounts to misconduct. He denies that it amounts to gross misconduct.

7)The Panel's Approach

- a. These proceedings are brought under the Police (Conduct) Regulations 2020.
- b. The Panel determined that it was required to consider all the allegations and facts and make findings as to whether: -
 - the facts are proven on the balance of probabilities
 - which standards of professional behaviour might be engaged
 - whether the conduct amounts to misconduct or gross misconduct or neither.
- c. The Panel reminded itself that the burden of proof is on the Appropriate Authority throughout, and that the standard of proof is the balance of probability, namely what is more likely than not.
- d. The Panel also reminded itself of paragraph 11.107 from the 2020 Home Office Guidance:
It will be for the chair of the hearing to determine the course of the hearing in accordance with the principles of natural justice and fairness.

The overriding concern of the proceedings is fairness – to the officer concerned and to the AA (which may be said to represent the public interest).

e. In *Redgrave v Commissioner of Police of the Metropolis* [2003] EWCA Civ 4, Simon Brown LJ made clear that the “character and purpose” of professional regulatory proceedings was “entirely different” to that of criminal proceedings. Rather, the purpose of professional disciplinary proceedings is “to protect the public and to maintain the high standards and good reputation” of the profession. Simon Brown LJ explained that “the material before the disciplinary tribunal is likely to be different: in part because different rules of evidence are likely to apply and in part because judicial discretions may well be differently exercised – generally less strictly in the disciplinary context where at least the accused’s liberty is not at stake.

8) The Facts

In our deliberations, we make it plain that the Panel reviewed and considered the entirety of the facts and evidence presented to us. We considered at length the submissions made on behalf of the AA and the Regulation 31 Response provided by Former PC Hogarth.

9)Background

In 2019, the former officer applied to join West Mercia Police. He had approximately three years’ service in when these allegations came to light.

He was re-vetted after having his vetting refused from North Wales Police, following which they raised concerns.

10)Panel Decision

A) Allegation One

FACTS

a. The former officer accepts that he did not fully disclose all historical minor matters (speeding, fine for urinating in a public place in 2017 and the 2015 assault charge). He submits that at the relevant time he had no understanding of the vetting process and completed the form to the best of his recollection. There was no deliberate attempt to mislead.

b. His initial vetting form for West Mercia Police (WMP) was completed when he was a new recruit in 2019. The former officer did disclose a fixed penalty fine of £40/50 from an incident in Kelso Town Square over 5 years prior to his application. In addition, he provided some detail about an incident that occurred on the 6th of June 2015. He stated that he stopped an assault on a member of the public in his hometown of Kelso Town Square and that the person involved made a false allegation about him. The matter went to court but did not make it to a judge. The case was thrown out and the other party admitted lying and failed to attend court.

c. The facts in connection with the assault were investigated by North Wales Police when he applied for a transfer to them. Records show that the complainant was in the Square, Kelso and attempted to break up a separate fight. The accused (the former officer) commented on him being on crutches and this led the complainant to begin arguing with the accused. At some point he dropped his crutch which was picked up by the former officer and used to strike the complainant to the face, causing him to bite his own lip. No treatment was required by the Scottish Ambulance Service. The former officer was detained, interviewed, arrested, and charged and released for summons.

d. During his interview under caution, the former officer said that at the time he applied for WMP he had left school at 15 years old following a poor education, wasn't aware of disclosure and didn't have the knowledge he does today as a police officer about how the process works. He said he was a prison officer before joining the police but did not learn any disclosure skills or was further educated towards his application.

He stated that he should have sought further help before putting his application in to gain more understanding and should have spoken to the recruitment team and educated himself better before submitting the application. He tried to answer to the best of his knowledge and the best he could from a memory but that he should have kept it factual and he knows now he made a mistake in not doing that.

B) Decision-Allegation One

a. The Panel is entirely satisfied that Allegation One is proven on the balance of probabilities.

The panel rejects the former officer's explanation that his poor understanding of disclosure obligations was part of the reason why he did not complete his initial vetting form fully.

The wording on the vetting form is clear- You must declare any convictions, cautions, summons or fixed penalty notices. You must also declare all spent convictions. In accordance with the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975, and the Rehabilitation of Offenders (Northern Ireland) Order 1978 (Exceptions) Order 1979, spent convictions may be taken into account where National security is concerned.

b. The Panel has considered the test for dishonesty as set out in Ivey v Genting.

The Panel is satisfied that the former officer knowingly omitted relevant information and acted deliberately. As such, it does not find the former officer's explanation credible.

The form was clear and unambiguous.

Two separate incidents were omitted from his vetting form, and the assault was referred to in detail, albeit in a factual way that benefitted the officer, rather than being truthful. This suggests considerable thought rather than a lack of understanding and further, a pattern of behaviour.

The Panel has determined that his conduct was dishonest by the standards of ordinary decent people. The Panel is satisfied that members of the public would consider that this was dishonest and lacked integrity.

c. The Panel has also considered the test for integrity as set out in the case of *Wingate v Solicitors Regulation Authority* (2018) EWCA Civ 366. We are satisfied that the former officer failed to act with openness and transparency and that he failed to take the right and proper action, knowing the extent of his involvement in the 2015 assault matter and the unambiguous wording on the vetting form.

d. The former officer manipulated the facts of the assault to present himself in a more favourable light. This is an aggravating factor as it involved minimisation of adverse facts. The Panel is content to rely upon the records of the assault that were completed at the time. The former officer picked up the complainant's crutch and used it as a weapon to strike him, causing injury. He sought to present himself as a good Samaritan but was actually an aggressor. This supports the Panel's finding of deliberate dishonesty.

e. In addition, the former officer attacked the character of the complainant in the assault matter stating within his vetting form to West Mercia Police, stating that the other party admitted to lying ". The Panel notes that during his interview under caution for the 2015 assault, the former officer admitted that he had assaulted the complainant but did not recall how and did not realise at the time that he (the complainant) was disabled.

Positively asserting that the complainant made a false allegation against him and not referring to his admissions in interview was plainly dishonest and lacked integrity, potentially damaging the complainant's credibility and misleading West Mercia Police. His account of the assault in 2015 is contrary to the former officer's own admissions in interview.

f. His failure to disclose that between 2008 and 2017 he was fined and received points on his licence for speeding and that in 2017, he was issued a Recorded Police Warning for urinating in a public place was on the balance of probabilities, deliberate. The Panel refers again to the selective nature of the disclosure. He applied his mind to the disclosure requirements because he did disclose a fixed penalty fine of £40/50 from an incident in Kelso Town Square of some age, being over 5 years prior to his application.

The Recorded Police Warning for urinating in a public place was in 2017 and only two years before his application to join the Police. The Panel does not find it credible that the former officer would have forgotten about this. His recall was prompted by clear questions on the vetting form, he had the opportunity to reflect and check records or seek assistance and was reminded by the wording of the vetting form of the need for accuracy. The event was personally significant, required the officer's involvement at the time, and was of a nature that a reasonable person would be expected to recall when completing a vetting form requiring full disclosure.

g. After he joined West Mercia Police, he continued to fail to disclose relevant information and/or to correct omissions and/or misleading statements.

By the time of his application to North Wales Police in 2023, the former officer did disclose to them the speeding and 3 points pre-2017, after 2008 a parking fine and that in 2015 he was charged with assault. He also said that he "may have been given a spot fine 10-20 years ago within Kelso, Scottish borders, I cannot confirm dates, what it was in relation to or if this was even issued but within the interest of honesty and integrity, I wish to declare this may or may not be the case".

However, he did not deal with the omission of the speeding within his West Mercia vetting form and allowed inaccuracies to continue, therefore knowingly allowing incorrect information to remain on record.

Indeed, the former officer had opportunities prior to this to correct matters, as he moved through his training and gained more insight into the vetting process. The inaccurate vetting position was allowed to persist amounts to a continuing failure to disclose.

C) Allegation Two

a. In 2022, when he was a serving police constable with West Mercia Police, he applied to transfer to North Wales Police. In his application to transfer to North Wales Police, he failed to disclose the following matters when asked:

- In May 2011, he was issued a fixed penalty notice for urinating in a public place.
- In 2017, he was issued a Recorded Police Warning for urinating in a public place.

b. The former officer applied to North Wales Police in 2023, and the AA submit that he did not disclose correct/full details to them on their vetting application form.

The former officer submits that he did provide details of speeding and the 2015 assault incident. He was unaware of a second urination warning until it was identified by North Wales Police and made genuine attempts to obtain this information from Scottish authorities but was unsuccessful. His declaration of a 'spot fine that may or may not have happened' reflects honesty, not concealment.

c. North Wales Police refused the former officer's application to join them as they had concerns regarding his behaviour after he was detained, questioned and charged following an assault matter in 2015. According to the Police report the former officer made a passing comment to the victim which led to an argument and the victim dropping his crutch which was picked up by former PC Hogarth and used to strike the victim in the face. This raised concerns for North Wales Police about his response if provoked in future.

As with his application to West Mercia Police in 2019, former PC Hogarth did disclose this incident on his form but claimed he was trying to protect a member of the public from being assaulted with a crutch and feared for his safety if he didn't help.

d. Former PC Hogarth disclosed a spot fine that 'may or may not have happened' in the last 10 years which was vague in its wording. He failed to disclose the two occasions when he received penalty notices for urinating in public.

D) Decision on the Facts

a. The Panel finds allegation two proven on the balance of probabilities. Former PC Hogarth made more than one omission on his application form to North Wales Police and has provided a misleading explanation of events regarding his arrest and summons for the assault in 2015.

b. The Panel rejects former PC Hogarth's explanation that he was unaware of a second urination warning until it was identified by North Wales Police and that he made genuine attempts to obtain this information from Scottish. It further rejects his declaration of a 'spot fine that may or may not have happened' as reflecting honesty, not concealment for the following reasons: -

- The vetting form and indeed the questions asked are clear, specific and unambiguous.

- The former officer had some four years' service in by the time of this application and so had gained knowledge and experience of the vetting process and what was being asked of him.

- Guidance and/or examples to assist with answering questions on the form are provided, adding yet further clarity as to the former officer's disclosure obligations.

- The significance of the omitted information and the altering of the facts in connection with the assault in 2015 suggests that this was not accidental. The misinformation and the missing matters were obviously relevant to the purpose of the vetting process

He knew that there was something that may be relevant as he says that he attempted to obtain information from Scottish authorities and yet he failed to seek advice or explain this further.

The former officer demonstrated a pattern of adverse matters being omitted whilst other more neutral and less damaging matters were disclosed.

He had previously disclosed the 2017 penalty for urinating in a public place in his West Mercia vetting form, so demonstrated a knowledge of this matter and an understanding that it required disclosure.

His attempts to make the 2015 assault more favourable to him by altering the facts suggests a deliberate attempt to mislead.

c. The Panel has again considered the test for dishonesty as set out in *Ivey v Genting*.

The Panel is satisfied, on the balance of probabilities, that the officer knew the following at the relevant time:

- the vetting questions required disclosure of the information omitted or misrepresented;
- the omitted and misrepresented information was relevant and material to the purpose of vetting;

This finding is supported by the clear and unambiguous wording on the vetting form and the selective nature of the disclosures made by the former officer.

The Panel therefore rejects the officer's claim that he acted honestly rather than trying to conceal matters and that he attempted to obtain the relevant information.

The Panel moved on to consider whether, viewed objectively, the omissions and misrepresentation of the facts would be regarded as dishonest by the standards of ordinary decent people.

The Panel finds that deliberately withholding material information in a process that relies on self-disclosure, particularly where other matters are disclosed or partially disclosed, would plainly be regarded as dishonest by ordinary decent people.

11) Decision on the Standard relating to Discreditable Conduct

Having made findings of fact, we moved on to consider whether former PC Hogarth has breached the Standards of Professional Behaviour as alleged.

If the public were aware of his conduct, it would be likely to damage public confidence in policing. An informed and reasonable member of the public would likely be considerably disappointed that a police officer had not been full and frank during the vetting process. Vetting is designed to ensure integrity and trustworthiness. Dishonesty at that stage would inevitably undermine confidence in the former officer's ability to exercise police powers honestly and in the service's commitment to professional standards.

12) Decision on the Standard relating to Honesty and Integrity

The Panel is satisfied that the Officer breached this Standard. The Panel have considered the test for dishonesty as set out in (*Ivey v Genting Casinos (UK) Ltd (trading as Crockfords)* (2017) UKSC67).

13) Misconduct, Gross Misconduct or neither

a. The Panel is entirely satisfied that former PC Hogarth's behaviour breached the Standards in respect of Honesty and Integrity and Discreditable Conduct as alleged and that it amounts to Gross Misconduct. For the avoidance of doubt, the following factors are present: -

-This was a course of conduct rather than an isolated incident.

- Vetting is an integral part of a police force's framework of ethics and professional standards. Vetting is designed to identify individuals who are unsuitable to work within the police service. The importance of integrity in police officers is self-evident. Decisions to grant vetting clearance must be made on all known information to allow for informed and balanced recruitment decisions.

Vetting relies on self-disclosure and dishonesty undermines the entire vetting system. The Panel finds that the vetting process depends fundamentally upon the honesty and candour of officers. The vetting form required full and frank disclosure, including matters that the officer may have considered minor, historic, or unlikely to be discovered. This obligation was clear and unambiguous.

- The Panel is satisfied that the officer understood, or ought reasonably to have understood, the requirement to disclose all relevant information. The Panel finds that the officer did not make an innocent mistake. The omission was deliberate and involved either a failure to disclose or a minimisation of material information. The explanation advanced by the officer is inconsistent with the wording of the vetting form. The Panel rejects any suggestion that these matters can be explained by misunderstanding, poor recollection, or confusion. The selective nature of the disclosure, and the consistency with which adverse material was omitted or minimised, supports an inference of deliberate dishonesty.

He gave considerable thought to how he presented the facts of the assault in Kelso. The Panel finds that the officer engaged in two distinct but related forms of dishonesty in that he altered the facts of the disclosed assault to his benefit and then failed to disclose at all other relevant matters.

The former officer engaged in incremental or creeping dishonesty, where he disclosed in stages, seeking to justify his actions as a result of naivety or lack of knowledge.

Taken together, this demonstrates a conscious attempt to control the narrative presented during vetting.

Any suggestion of misunderstanding is therefore rejected.

- In connection with the assault in 2015, the former officer's alteration of the facts was not omission or carelessness. The Panel finds that this involved positive misrepresentation, designed to present the officer in a more favourable light. This is materially more serious than a failure to disclose alone.

- The Panel is satisfied that the non-disclosures were not isolated. The failure to disclose multiple incidents, alongside the misrepresentation of a disclosed one, amounts to a pattern of dishonest conduct, rather than an error in judgment relating to a single event. The Panel concludes that the officer's motivation was to avoid adverse consequences to their vetting status and career. While fear of consequences may explain the behaviour, it does not mitigate it. The officer placed personal interest above professional integrity.

- The Panel finds that the vetting process depends fundamentally upon the honesty and candour of officers. The vetting form required full and frank disclosure, including matters that the officer may have considered minor, historic, or unlikely to be discovered. This obligation was clear and unambiguous.

-The legitimacy and effectiveness of UK policing is built on relationships between the police and the public. In a consent-based policing system positive engagement with the public is crucial in building public trust and confidence. Police officers and staff have immense power by virtue of the role they hold in society. When the police fail to act with honesty and integrity or in accordance with force policies, it can have a negative impact on public confidence in the police. As Lord Bingham rightly said: "A profession's most valuable asset is its collective reputation and the confidence which that inspires" (Bolton v Law Society 1993).

The Panel consider that public confidence would be damaged to a greater extent if they were aware of former PC Hogarth's behaviour as they rightly expect officers to be honest and to act with integrity. The Panel is satisfied that dishonesty in vetting strikes at the heart of public trust in policing. A reasonable member of the public would expect a police officer to be scrupulously honest in a process designed to ensure integrity and suitability for office.

The Panel is satisfied that such conduct undermines the integrity of the vetting system. A reasonable and informed member of the public would be deeply concerned by a police officer who alters facts and withholds other relevant information when asked to self-report honestly.

14) In conclusion, the Panel is satisfied that the facts are proven on the balance of probabilities and that each of the breaches of the Professional Standards in relation to Honesty and Integrity and Discreditable Conduct individually and/or collectively amount to Gross Misconduct.

Rachel Hartland-Lane-Chair
Natalie Williams-IPM
Rachel Proctor-IPM

12th February 2026