
REGULATION 43 REPORT:

NOTIFICATION OF OUTCOME OF MISCONDUCT HEARING

PC BENNETT – CM/32/23

DETAILS AND OUTCOME OF MISCONDUCT HEARING

1. INTRODUCTION

1.1 Between 24th February and 26th February 2025 a misconduct hearing was convened to deal with allegations against PC Bennett which the Appropriate Authority (AA) assessed as amounting to gross misconduct.

1.2 The hearing panel consisted of Chair, Assistant Chief Constable Grant Wills, and Independent Panel Members (IPM), Rachel Barbour and Rebecca Howard.

1.3 The Panel were advised by Legally Qualified Adviser (LQA) Tamina Greaves.

1.4 The AA was represented by Mr Terrance Rigby of 9 St Johns Street Chambers. PC Bennett was represented by Mr Colin Banham of No.5 Chambers.

2. THE ALLEGATIONS

2.1 The breaches of the Standards of Professional Behaviour (SPB) alleged were set out in the Regulation 30 Notice as follows:

Alleged Facts

1. *It is alleged, between 23/05/2007 and 03/03/2018, that:*

1.1 *You conducted searches, on policing systems, of individuals as listed in the Schedule of Searches annexed hereto.*

1.2 *You knew or ought to have known that the searches in relation to the individuals, per the Schedule of Searches annexed hereto, were for a non-policing purpose.*

1.3 *The searches in relation to the individuals concerned were all known to you personally and/or were connected to individuals who you knew personally and was for your own personal benefit.*

2. *It is alleged, between the 23/05/2007 and 03/03/2018, that:*

2.1 *You have accessed information/records, on policing systems, of the individuals as listed in the Schedule of Access annexed hereto.*

2.2 *You knew or ought to have known that accessing the information/records in relation to the above stated individuals was for a non-policing purpose.*

2.3 *The information/records accessed were in relation to individuals who you knew and/or were connected to individuals who you knew personally and was for your own personal benefit.*

The Standards of Professional Behaviour engaged are:

- i. Orders and Instructions*
- ii. Confidentiality*
- iii. Discreditable Conduct*

Particulars of Misconduct

It is alleged that you have breached the Standards of Professional Behaviour and in particular the standards relating to:

(1) Orders and Instructions: Your behaviour as set out in the factual allegations at paragraphs 1 – 2 above has breached this standard in that you acted in breach of force policies when searching and accessing records for a non-policing purpose (Data Protection policy).

(2) Confidentiality: Your behaviour as set out in the factual allegations at paragraphs 1-2 above has breached this standard in that you acted in breach of the force's Data Protection policy when you searched and accessed records for a non-policing purpose.

(3) Discreditable Conduct: Your behaviour as set out in the factual allegations at paragraphs 1-2 above has breached this standard in that an ordinary well-informed member of the public would regard your conduct as falling far below that expected of a Police Officer. This is particularly in view of the number of occasions you have searched and accessed records for a non-policing purpose over several years. Your behaviour therefore discredits the police service and reduces public confidence in the reputation of the profession.

The AA alleged that, on nine separate dates; specifically on 23rd May 2007, 22nd June 2007, 8th January 2009, 1st February 2009, 30th March 2009, 4th April 2011, 17th February 2012, 3rd November 2013 and 3rd March 2018, PC Bennett conducted searches on police systems and/or accessed information relating to SB, JS, and GS. These individuals were personally connected to him, being his ex-wife, ex-mother-in-law, and ex-brother-in-law respectively. It was alleged that these searches were conducted without a legitimate policing purpose and for PC Bennett's personal benefit.

3. PRELIMINARY ISSUES

3.1 Prior to the hearing, the AA notified the Panel of their intention to introduce new evidence into the proceedings, namely:

- The PNC record of GS (one of the individual's PC Bennett was alleged to have conducted searches on and accessed information about from policing systems).
- The PINs list for GS, confirming the dates of his incarceration.
- The pocket notebook (PNB) of Sergeant Booth dated 3rd March 2018.

The AA acknowledged that it was an oversight on their part not to include this material in the final bundle. They argued, however, that the relevance of the material justified its admission.

3.2 The officer also sought to formally introduce the following new material:

- The PNB entry for PC Bennett dated 3rd March 2018.
- PDF image of a screenshot from the College of Policing regarding the management of information.

3.3 PC Bennett, through his representative, confirmed that he had no objection to the AA's material being admitted late. He indicated that, had he seen the material earlier, he would have sought to introduce it himself.

3.4 The AA raised no objection to the officer's additional material. They conceded that the officer had previously requested the PNB as part of the disclosure process, but it had only recently been provided to him. The officer supplied copies of the documents to the hearings officer on Wednesday, 19th February, shortly after receiving them from the AA.

3.5 The panel was reminded by the LQA of Paragraph 11.111 of the Home Office Guidance, which states:

"Any document or other material that was not submitted in advance of the hearing by the appropriate authority or the officer concerned may still be considered at the hearing at the discretion of the chair. However, the presumption should be that such documents will not be permitted unless it can be shown that they were not previously available to be submitted in advance. Any such decisions are at the chair's discretion."

3.6 The panel ruled that all five pieces of additional material could be admitted. In relation to the AA's material, the panel considered its relevance, the absence of any objection from the officer, and the need to avoid disadvantaging the officer due to the AA's oversight. Regarding the material from the officer, the screenshot was deemed to be merely informative, assisting the court's understanding of police systems, and the AA did not object to its admission. The pocket notebook was considered admissible as it had not previously been available to the officer.

4. PANEL DETERMINATION OF THE FACTS, BREACHES OF THE STANDARDS OF PROFESSIONAL BEHAVIOR AND LEVEL OF MISCONDUCT

Burden and Standard of Proof

4.1 The Panel was reminded by the LQA that the burden of proof rests with the AA and the standard of proof is the civil standard, that is to say, on the balance of probabilities. The Panel applied this standard when considering the facts of the case.

Factual Findings

4.2 During his interview under caution, in his Regulation 31 Notice, and at the misconduct hearing, the officer:

- Admitted to conducting searches and/or accessing information from police systems on each of the occasions alleged by the AA.
- Accepted that he was personally connected to SB, JS, and GS at the time of the searches/access.
- Stated that, due to his relationship with SB, JS, and GS, he sought permission and/or guidance from his sergeant before conducting any searches or accessing information. He also recorded his actions in his pocket notebook in accordance with the West Mercia Police Data Protection Policy in force at the time.
- Asserted that each search or instance of accessing information was for a policing purpose — either for the prevention or detection of crime or for the protection of the public.
- Denied accessing information from police systems for his own personal benefit.

4.3 The key evidence founding the factual allegations at paragraphs 1.1 to 2.3 of the Regulation 30 Notice were:

- Statement provided by Amy Rushton (27.11.24)
- Statement of retired police sergeant Anthony Wall
- Schedule of searches
- Exhibit ABR.1054.27112024 (depicting searches conducted and records accessed from the police GENIE system)
- PC Bennett's training record
- Record of Taped Interview of PC Bennett from 18th September 2023
- West Merica Police Data Protection Policy during the allegation period
- PNC and Pins record for GS
- Emails to Tony Way and Ian Booth

4.4 The Panel found on balance that allegations of searches on the 23rd May 2007, 22nd June 2007, 8th January 2009, 1st February 2009, 30th March 2009, 17th February 2012 and

3rd November 2013 were not proved. It felt that the AA had not sufficiently disproved the account put forwards by the Officer.

4.5 The Officer stated that on each occasion, he received information about GS from either SB or SB's son, who was a child at the time. He considered this information significant enough to warrant the submission of an intelligence report on police systems. Aware that he should not ordinarily search police records or access information related to someone with whom he had a personal connection, he claimed that he consulted his sergeant before proceeding. According to his account, his sergeant authorised him to conduct an initial enquiry on each occasion.

This enquiry involved searching for SB, JS, or GS and accessing records related to them, including crime reports, bail conditions, and IRAQs. He denied reading the contents of the documents he accessed, as identified in exhibit ABR.1054.27112024. After conducting the search, he drafted a brief intelligence note and passed it on to his sergeant, who would then determine whether the information should be formally recorded on police systems. He later documented his actions in his pocket notebook.

In reaching its conclusion the panel took the following matters into consideration:

- That the AA was unable to produce PNB's for the dates in questions. The Officer was unable to access them himself. The panel felt that the Officer should not be prejudiced because the AA was unable to produce them. The production of the PNB could have disproved the officers account that he had acted on the instructions of his Sergeant or that he had complied with the Data Protection Policy in force.
- The AA was unable to disprove that an intelligence report was made. They could not provide sufficient evidence that had an intelligence report been made and then later rejected it would have appeared in an audit.
- A point was raised regarding the timing of the document access. Several documents were opened simultaneously or within minutes of each other, with the longest gap between openings being six minutes. If these timings reflected the total duration PC Bennett was on the system, this would strongly support his claim that he merely opened the documents for the sergeant's review and did not personally examine their contents. However, if the timings only indicated when the documents were accessed and there was a mechanism allowing the officer to review them at his convenience, this would cast doubt on the truthfulness of his account.

The AA was unable to provide firm or cogent evidence that the recorded timings solely represented the moment the documents were accessed rather than the duration PC Bennett remained on the system. Nor were they able to establish how he could have reviewed the documents after accessing them via GENIE

- The AA did not clarify whether they took any steps to identify PC Bennett's sergeants throughout his service or to obtain statements from them. Doing so could have allowed the AA to challenge PC Bennett's account, particularly when officers not previously mentioned were introduced during his evidence. However, on balance, PC Bennett's inability to recall the name of an officer mentioned later was not significantly undermining, given that some of the incidents forming part of the allegations dated back as far as 17 years.
- Retired Sergeant Anthony Wall's evidence did not assist the AA in proving its case; observations the panel made of his evidence was that:
 - (i) He was unable to articulate that he was familiar with the Data Protection Policy,
 - (ii) He was unable to convey that he was certain that he did not authorise PC Bennett to carry out the initial enquiry, and
 - (iii) Sgt Wall's account overall was vague and unconvincing and did not assist the Panel in assessing the veracity of PC Bennett's account.
- The panel did not find PC Bennett to be entirely credible; there were aspects of his account that was unpersuasive. However, his explanation was plausible. Applying the civil standard of proof, the panel concluded that, as the AA had not presented sufficient evidence to disprove PC Bennett's account, it could not be dismissed.
- The panel acknowledged that the likelihood of up to five different sergeants authorising PC Bennett to conduct initial enquiries on connected persons, for the purpose of relaying intelligence seemed questionable. However, they did not find it inherently implausible. They also determined that the AA had failed to provide enough evidence to establish that the searches or access were not for a policing purpose.
- Although the case was finely balanced, the lack of sufficient evidence from the AA to contradict PC Bennett's account led the panel to find in favour of the officer regarding the occasions outlined in Para 4.4 above.

4.6 The panel found, on balance, that the allegation that the search/access to policing systems, conducted on 3rd March 2018 was not for a policing purpose and was instead for PC Bennett's personal benefit was **not** proven.

The Panel were satisfied on balance that searching GS and accessing the policing systems on that occasion was for a policing purpose.

The AA did not provide sufficient evidence to disprove the account put forward by PC Bennett.

The panel concluded, however, that the existence of a pocket notebook entry, on this occasion provided supportive evidence for this incident alone; it did not lend credibility to PC Bennett's account regarding the other dates in question. This particular incident was distinct

in that it involved actions taken, where any failure to record the matter in his PNB was more likely to be detected e.g. GS could have potentially reported that PC Bennett, being his ex-brother-in-law attended the scene.

Nevertheless, the account PC Bennett presented was supported by the fact that he had recorded accessing the GENIE records in his PNB. As a result, the panel considered it more likely than not, that the search was conducted for a policing purpose.

4.7 The panel found, on balance, that the allegation that the search/access to policing systems, conducted on 4th April 2011 was not for a policing purpose and was instead for PC Bennett's personal benefit **was** proven.

The following factors formed the Panel's decision:

- The panel determined that it was highly unlikely that, by 4th April 2011, PC Bennett was unaware that GS was in prison. This led them to doubt that his reason for searching/accessing police systems was for a legitimate policing purpose. Although PC Bennett claimed that SB had frequently provided him with information about her brother, GS, the panel found it difficult to accept that SB would not have mentioned that her brother had been sent to prison for a significant period or that PC Bennett would not have learned about GS's incarceration until 2014.
- The panel found that it was very unlikely that Sergeant McCrae, or any other sergeant, would use PC Bennett's profile to access police systems instead of logging in with their own credentials. They did not think it credible that PC Bennett would not question his sergeant about whether it was appropriate to use his own profile, especially since PC Bennett ought to have known how serious that would be.
- PC Bennett's credibility was undermined by his failure to mention the existence of Sergeant McCrae until the misconduct hearing. While the panel took the passage of time into account, they determined that it was unlikely he would have forgotten the name of the officer who had accessed material using his credentials.
- Additionally, the panel found that the explanation provided for why PC Bennett searched police systems on 4th April 2011 was vague and lacked credibility. He was unable to provide any clear justification as to how searching police systems was for a policing purpose. This vagueness extended to PC Bennett's interview, his Regulation 31 response, as well as his account during the misconduct hearing.
- Taking into account the inherent improbability of the officer's account, the Panel were satisfied that, on the balance of probabilities, the facts were found proved in relation to the incident on 4th April 2011.

4.8 Whilst the Panel was satisfied on the balance of probabilities that only one of the incidents met the threshold for the allegations to be proved, the Appropriate Authority were

not required to establish every incident listed in the annexed schedule (page 9 of the final bundle). Having considered the evidence in its entirety, the panel determined that the Appropriate Authority had proved the allegations. Accordingly, the allegations set out in paragraphs 1.1 to 2.3, as identified in the Regulation 30 Notice were found proved, and the Appropriate Authority had discharged its burden of proof.

Standards of behaviour engaged

4.9 The Panel determined that the proven allegations of searching and accessing police systems without a policing purpose breached three of the standards of professional behaviour. In reaching this decision, the Panel consulted the College of Policing Code of Ethics.

4.10 The standards breached were as follows:

i. **Orders and Instructions** – Police officers are expected to comply with all lawful orders, policies, and procedures relevant to their role. PC Bennett failed to adhere to the West Mercia Data Protection Force Policy (Version 12), which governs the appropriate handling and access of police data, thereby breaching this standard.

ii. **Confidentiality** – Officers are entrusted with access to sensitive information and are required to use it only for legitimate policing purposes. The Panel determined that PC Bennett accessed police records without a policing purpose and, as such, did so outside the proper course of his police duties, in breach of this standard.

iii. **Discreditable Conduct** – Officers must behave in a manner that maintains public confidence in the police service and upholds its professional reputation. The Panel determined that PC Bennett's conduct fell significantly below the standard expected of a police officer, to the extent that an ordinary, well-informed member of the public would find it unacceptable and damaging to the reputation of the police service.

Misconduct, Gross Misconduct or Neither

4.11 The Panel found that the above breaches crossed the disciplinary threshold, and that dismissal could be justified. His conduct therefore amounted to **gross misconduct**.

5. PANEL DETERMINATION OF OUTCOME AND REASONS

5.1 Having made its determination on the facts of the case and on finding gross misconduct the hearing moved on to deal with outcome.

5.2 The Panel heard submissions from Mr Rigby for the AA. Mr Banham provided written submissions on outcome and made oral representations on mitigation. PC Bennett conveyed a verbal apology to the Panel.

In addition, the following material was provided to the Panel:

- Numerous character references from serving officers and the officer's relatives.
- PC Bennett's service record
- Outcome report of a misconduct meeting dated 20th May 2024
- Good work emails
- PDR's

5.3 The Panel then retired to decide on outcome, and in doing so it followed the 3-stage approach laid down in the College of Policing Guidance on Outcomes.

5.4 The Panel were reminded that the outcome imposed can have a punitive effect, therefore it should be no more than is necessary to satisfy the purpose of the proceedings. It reminded itself that it must consider less severe outcomes first before considering more severe outcomes, always choosing the least severe outcome which deals adequately with the issues identified, whilst protecting the public interest. The Panel understood that if an outcome is necessary to satisfy the purpose of the proceedings, it must impose it even where this would lead to difficulties for the individual officer.

The sanctions at the Panel's disposal were:

- Final written warning (with the discretion to extend to 2-5 years)
- Summary dismissal

5.5 The Panel followed the three-stage approach as follows:

Stage 1: Assess Seriousness.

Stage 2: Remind itself of the purpose of the Police Misconduct regime.

Stage 3: Determine the sanction most appropriate to the purpose.

Seriousness

5.6 The Panel accepted that any case of gross misconduct which comes before a police misconduct hearing is to be considered a serious matter. But the Panel was reminded that its function is to decide *how* serious the gross misconduct was in this case.

Whilst the Panel found that three separate standards of professional behaviour had been breached, they all stemmed from the same set of facts. The existence of multiple breaches did not, in itself, elevate the seriousness of the misconduct. Instead, the Panel assessed the gravity of the case based on the nature and impact of the officer's actions, rather than the number of standards engaged.

5.7 The Panel assessed the level of seriousness by following the four-step approach as laid down in the Guidance on Outcomes.

Step 1: Assess Culpability.

Step 2: Assess Harm.

Step 3: Consider Aggravating Factors.

Step 4: Consider Mitigating Factors.

Culpability

5.8 The Panel assessed culpability by considering the non-exhaustive list of culpability sub-factors outlined in the *Guidance on Outcomes*, alongside any other relevant factors. In this case, the provisions on *Data Protection and Misuse* (Paragraphs 4.34–4.39) were particularly significant, as they categorise such breaches as “especially serious.”

5.9 The Panel was satisfied that PC Bennett acted deliberately and intentionally when he searched and accessed the policing systems; this was not a case of accidental or inadvertent breach.

5.10 While there was no tangible evidence of personal gain, the Panel found that the purpose of the search and access was for PC Bennett’s personal benefit; the gain being him having access to information he would not ordinarily have access to.

5.11 PC Bennett was not in a position of trust beyond that which inherently comes with being a police officer.

5.12 None of the specific culpability factors outlined in Paragraph 4.37 of the *Guidance on Outcomes* were present, such as accessing highly sensitive or classified material or disclosing information to a third party.

5.13 The Panel reminded itself of Para. 4.10 of the *Guidance on Outcomes* states: “...conduct that is intentional, deliberate, targeted or planned will generally be more culpable than conduct that has unintended consequences...”

5.14 The Panel assessed culpability along a spectrum of blameworthiness, categorised simply as low, medium, or high.

5.15 For the above reasons, the Panel found that PC Bennett’s culpability did not fall at the upper end of the spectrum. However, it was sufficiently serious to be classified as **medium** culpability.

Harm

5.16 The Panel referred itself to the harm factors suggested in the College of Policing Guidance.

5.17 The AA was unable to identify any specific harm caused to an individual. However, the Panel acknowledged that, had GS been made aware of the breach, he could have experienced distress upon learning that PC Bennett had accessed information to which he should not have had access. The Panel also found that public confidence in the police would be undermined by PC Bennett's conduct. However, they noted that if the public were aware of the context in which the breach occurred, while still serious, it would not be viewed as an example likely to provoke public outrage. The case did not represent the most egregious form of harm that could arise in a breach of this nature.

5.18 The Panel concluded that reputational harm was appropriately described as **low** for the above reasons.

Seriousness Starting Point.

5.19 Having assessed culpability and harm, the Panel decided that the starting point was best described as **low- medium.**

Aggravating Features

5.20 The breach, by its very nature, required a degree of planning; the officer must have gained a personal advantage. However, the Panel gave limited weight to these aggravating factors because, in this case, premeditation, which was closely aligned with deliberate conduct, and personal gain, which was akin to personal advantage, had already been considered as part of the Panel's overall assessment of culpability; these factors were therefore not double counted.

Mitigating Features

5.21 The Panel found that the isolated nature of the breach, it being just one incident, was a mitigating factor.

5.22 The Panel considered, as required under Paragraph 4.82 of the Guidance, the standards that were in place at the time of the breach. However, it determined that even in 2011, there would have been a clear expectation that policing systems were to be used solely for a policing purpose and not for an officer's personal benefit.

5.23 The Panel also gave PC Bennett credit for the absence of further incidents of misconduct for a significant period following this breach. However, this credit was limited, as he received a written warning in May 2024; albeit for conduct that was less serious and of a different nature.

5.24 PC Bennett could not be given credit for open admissions at an early stage, nor did he express insight or remorse during the investigation or in his response to the AA's findings. PC Bennett did convey a verbal apology, but this was only after the allegations had been found proved.

Overall Assessment of Seriousness

5.24 The Panel decided that the aggravating and mitigating features were so limited that there was no justification for any adjustment to the starting point. Therefore, the final assessment of seriousness was **Low-Medium**.

Personal Mitigation

5.25 The Panel took into account that the breach occurred early in PC Bennett's policing career and that, for approximately 13 years thereafter, he had not been found to have engaged in any misconduct. The Panel did not consider the written warning imposed in May 2024 to substantially impact the seriousness of this case. What they deemed relevant was that in 2011, PC Bennett was regarded as being of *good character*, and the subsequent warning, issued more than a decade later, related to a matter that was less serious and of a wholly dissimilar nature.

However, in accordance with long established case law, the Panel was able to give little weight to such limited personal mitigation.

The Purpose

5.26 Having assessed seriousness as **low-medium**, the Panel were reminded of the purpose of the police misconduct regime before deciding on the appropriate sanction. The threefold purpose is as follows:

- Maintaining public confidence in and the reputation of the Police Service.
- Upholding high standards in policing and deterring misconduct.
- Protecting the public.

Deciding Outcome

5.27 In accordance with the *Guidance on Outcomes*, the Panel moved to the third stage of the sanction process by considering the least severe outcome that would meet the threefold purpose of the police misconduct regime: to maintain public confidence in and uphold the reputation of the police service, to deter similar misconduct, and to protect the public.

5.28 The least severe sanction available was a Final Written Warning, and the Panel considered whether this would be sufficient to meet the objectives of the misconduct regime.

5.29 The Panel determined that a Final Written Warning lasting less than four years would not adequately serve the aims of the misconduct proceedings. Given that the breach was assessed as falling within the low-to-medium culpability range, a shorter term would not sufficiently reflect the seriousness of the misconduct or act as an effective deterrent.

5.30 The Panel considered that if the seriousness of the misconduct had been assessed as medium, a Final Written Warning of five years would have been appropriate; had the misconduct been assessed as high, summary dismissal would have been the proportionate sanction. Likewise has the seriousness been assessed as low a Final Written Warning of 3 years would have been appropriate.

5.31 On the facts of this particular case, the Panel decided that a Final Written Warning extended to a term of four years was the appropriate and proportionate sanction. This sanction was deemed necessary to uphold public confidence in West Mercia Police, deter similar misconduct by others, and ensure public protection.

Assistant Chief Constable Grant Wills – Chair

26th May 2025