

NOTIFICATION OF OUTCOME OF MISCONDUCT HEARING

Former Police Constable Russell ROBSON. On 30 April 2024 you were asked to appear at a misconduct hearing, which was conducted by:

Legally Qualified Chair: Nick HAWKINS

Independent Panel Member: Ann O'HANLON

Panel Member: Superintendent Chris MOTSON

Breach of standard(s) of professional behaviour alleged were as follows:

Your on-duty conduct has breached the Standards of Professional Behaviour.

On 9 August 2022, Cleveland Police deployed officers as part of an ongoing operation to locate and arrest two subjects in respect of a murder investigation.

A briefing took place at Guisborough Police Station. Thereafter Armed Response Units were deployed to a number of addresses in Guisborough, including Address 1 and Address 2. Those units were supported by local unarmed officers. You were one of those local officers deployed as support. You were deployed single crewed and were driving a marked police van.

You were instructed by your supervisor, PS Chambers to remain in the area on an adjacent road to the properties which the Armed Response Units were to be deployed. You were instructed by PS Chambers not to attend any of the addresses unless called to do so.

Armed Response Units attended Address 1 at approximately 1600 hours.

You were contacted by PS Chambers via a point to point call over your radio at approximately 1629 hours. PS Chambers asked why you had attended the address and who you had spoken to. You denied that you had attended the address and denied that you had spoken to anyone. PS Chambers challenged you. You again confirmed that it was not you, that you had not entered the road on which Address 1 was located and that you had not spoken with anyone.

Armed Response Units were deployed to the road on which Address 2 was located.

Particulars

2. You were asked by PS Chambers whether you had attended the road on which Address 1 was located and whether you had spoken with any person. You stated that you had not attended the road on which Address 1 was located and that you had not spoken with anyone.

That was dishonest and/ or misleading as you had attended the road on which Address 1 was located and/ or had spoken with the Person A and/ or Person C, of the suspect / Person B, whilst there.

3. You disclosed operational policing information to members of the public, Person A, the mother of a suspect Person B and Person C, the sister of a suspect in a murder investigation.

Your conduct, if proved, amounts to gross misconduct.

Your conduct has breached the following Standards of Professional Behaviour:

Honesty and Integrity (allegation 2) Confidentiality (allegation 3)

RESPONSE TO ALLEGATIONS

1. Former PC ROBSON responded formally in a Regulation 31 Response. He accepted the facts as alleged and admitted the breaches alleged. He admitted Gross Misconduct with regard to the Honesty and Integrity allegation and Misconduct with regard to the Confidentiality allegation.
2. The Appropriate Authority [AA] accepted these admissions.

PRELIMINARY MATTERS

Sensitive Mitigation

3. Mr BANHAM, on behalf of the Former Officer, submitted that there were matters of personal mitigation that should not be put in the public domain. These were set out in the Regulation 31 Response and do not need to be set out in this report. He observed that there was a member of the media in the Hearing.
4. Mr KEENAGHAN for the AA did not oppose the submission.
5. I made a formal direction that there should be no reporting that directly or indirectly identified any child associated with the Former Officer.

EVIDENCE AND SUBMISSIONS ON BEHALF OF THE APPROPRIATE AUTHORITY

6. The Panel were provided with an opening note by Mr KEENAGHAN on behalf of the AA. He stated that the case arose out of former PC ROBSON's conduct ("the Former Officer") in relation to an investigation to locate and arrest two suspects in a murder investigation.
7. On 9 August 2022, officers were deployed as part of an ongoing investigation to locate and arrest two subjects in a murder investigation. A briefing took place at Guisborough Police Station (at which the Former Officer was present) and armed response units were deployed to two addresses in Guisborough. Those armed units were supported by local unarmed units and the Former Officer was deployed as part of that support package. He was single crewed and driving a marked police van.

8. The Former Officer was instructed by his supervisor, PS CHAMBERS, to remain in the area on an adjacent road to the addresses to which the armed response units were to be deployed. There was a general instruction that the Former Officer should not attend any of the addresses unless he was called upon to do so.

9. The Former Officer in fact attended at address 1 where he came upon the mother and sister of one of the murder suspects in the street outside of the address. He spoke with them. The Former Officer asked where the suspect was. He said officers were coming to her house now and would continue to do so until the suspect was arrested. He said armed officers were all over town looking for the suspect and officers would be at her door *"today, tomorrow and every day"* until the suspect was arrested.

10. It came to the attention of other officers who had attended at the addresses that the Former Officer had attended at Address 1 and spoken with the mother and sister of one of the suspects. This information was brought to the attention of the Former Officer's supervisor, PS CHAMBERS, who immediately contacted the Former Officer and asked him why he had attended address 1 and who he had spoken with. The Former Officer said, *"he hadn't attended at the address and hadn't spoken with anyone"*. This was a lie.

11. Mr KEENAGHAN summarised the Former Officer's response, in relation to allegation one by saying that he avers that he panicked when he realised he should not have spoken to the suspect's sister. He says he *"foolishly"* told PS Chambers something that *"was not true"*.

12. In relation to allegation two, the Former Officer avers the material conversation was *"unplanned and not with any malign intent"*.

13. Mr KEENAGHAN said that the AA stood by its' initial severity assessment but took a proportionate view of matters and would not seek to persuade the Panel that the Confidentiality allegation amounted to Gross Misconduct.

14. Mr BANHAM did not take issue with the AA's opening but stressed that this was not a matter of operational dishonesty, but that the lie to PS CHAMBERS should be seen in the context of a panicked response when challenged about his behaviour. The AA did not contest this argument.

FINDINGS

15. The Panel found that:

The Factual Allegations set out in the Regulation 30 Notice is Proved.

With regard the Allegation proved, Former PC ROBSON had breached the Standards of Professional Behaviour in relation to:

Honesty and Integrity

Confidentiality

The Breach of the Standard of Professional Behaviour of Honesty and Integrity is found by the Panel to be Gross Misconduct.

The Breach of the Standard of Professional Behaviour of Confidentiality is found by the Panel to be Misconduct.

SANCTION

16. The Appropriate Authority provided Former PC ROBSON's record of service. Counsel referred the Panel to the College of Policing Guidance on Outcomes and submitted that the only appropriate sanction, had former PC ROBSON still been serving would have been dismissal without notice.
17. In his remarks Counsel pointed out factors that could be seen as mitigating towards the breach. He acknowledged the admission made by the Former Officer but did not accept that they were made at the first opportunity.

MITIGATION

18. Mr BANHAM submitted that the circumstances of the case were unique. He described Former PC ROBSON as someone who was not the most sophisticated Officer but said he had served the public for many years, was well liked, and well thought of by his colleagues and was well meaning.
19. With regard to his behaviour, he had an unplanned and surprise conversation with family members of the suspect. He made a split-second decision, which was not thought out. He was trying to do the right thing and there was nothing nefarious or corrupt about his behaviour.
20. Mr BANHAM said that the Former Officer accepted that a breach of Honesty and Integrity was serious. He had a good relationship with PS CHAMBERS but panicked when confronted by him.
21. He submitted that the Former Officer had submitted a prepared statement at an early stage. He suggested it was difficult for an otherwise honest officer to admit a breach of honesty and integrity.

22. Mr BANHAM submitted that dismissal was not a proportionate outcome and urged the Panel to look at the background circumstances. He said that the breach of confidentiality was in an operational context, but the dishonesty was not operational
23. He referred to the case of *R (on the application of Commissioner of Police for the Metropolis) v Police Appeals Tribunal* [2013] EWHC 1684 (Admin) referred to as *Naulls*. He referred specifically to paragraphs 45 and 46 of the judgement and submitted that the case was authority for the proposition that the personal circumstances of the Officer could mitigate the severity assessment. He acknowledged that, following *Williams*, personal mitigation was normally of limited value.
24. Developing the argument, Mr BANHAM submitted that culpability was much lower than it would appear on the facts alone. Similarly, harm was low and the question the Panel should consider was what would the public think if they knew the full circumstances? He submitted that the effect of the aggravating factors was reduced by stress and that the mitigating circumstances should have more weight.
25. He referred the Panel to the Regulation 31 Response for the full details of the Former Officers domestic and personal situation, but in the interests of transparency summarised the situation in this way. The Former Officer was having problems with a family member who was “off the rails”. They took custody of a family member after family proceedings, and the fact he and his wife did so showed the kind of person he is. Mr BANHAM submitted that this was different from the mitigation envisaged in *Williams*.
26. Finally, Mr BANHAM reminded that Panel that serving officers could be given a Final Written Warning of up to 5 years. This was not an option available in this case, but he argued that if the Panel would have imposed a FWW had the Former Officer still been serving, then it should not conclude that they would have dismissed him had he not ceased to be a serving Officer.

27. The Panel retired to consider the appropriate sanction and read the Service Record. At this point they were invited to return to the Hearing Room where Mr BANHAM explained that PS CHAMBERS had just attended the Hearing and wished to give character evidence on behalf of the Former Officer. He made a formal application that he should be allowed to do so. Mr KEENAGHAN did not oppose this application and the Panel agreed that they would hear from PS CHAMBERS.
28. PS CHAMBERS told the Panel he had supervised Former PC ROBSON since 2020, but he had know him before then. He knew he was going through a difficult time at home, and he got to know him really well through conversations about the situation. He said that the Former Officer was really struggling at that point and became visibly upset when talking about his circumstances.
29. PS CHAMBERS said he had been a Federation Representative and had supported many Officers at Hearings who should not have been Officers. He said that Former PC ROBSON was not one of the bad guys. He had no doubt that he had panicked when he lied, and he was not malicious. He said that he made a mistake on the day and that he “deserves a fair crack of the whip”.
30. The Panel were also provided with a bundle of character witness statements which all spoke highly of Former PC ROBSON as an Officer and as a person.

ANALYSIS

31. The Panel reminded itself that the purpose of this misconduct hearing is threefold:
- a. Firstly, to protect the public confidence in and the reputation of policing.
 - b. Secondly, to maintain the high professional standards by demonstrating to other officers that misconduct will not be tolerated.
 - c. Thirdly, to protect the public and/or officers and staff by preventing the officers from committing similar misconduct again.

32. In determining the appropriate sanction, we followed the approach set out in the College of Policing Guidance on Outcomes in Police Misconduct Proceedings [updated in August 2022] and the caselaw referred to within that document. Following that approach, we took the following matters into account when assessing the seriousness of the conduct before us.

CULPABILITY

33. The Panel considered the following matters to be relevant:

- a. Former PC ROBSON's actions were intentional and deliberate, and he was entirely responsible for his own actions.
- b. The harm, whilst unintentional, was entirely foreseeable.
- c. Whilst not a case of operational dishonesty, the lie was nonetheless on duty and following an operation.

HARM

34. The Panel considered that:

- a. There is significant reputational harm to the police service. The public expect police officers to be honest at all times and in all circumstances and if his behaviour was known to the public this undermine public confidence in policing and would cause reputational harm to the police service both locally and nationally.

AGGRAVATING FACTORS

35. The Panel reminded themselves of the dangers of “double-counting” factors under Harm and as Aggravating Factors. Having considered the Guidance on Outcomes section on Aggravating Factors the Panel found the following to be present:
- a. Former PC ROBSON continued his behaviour by not correcting his lie for three months, until he made a prepared statement. The Panel considered that he could have corrected his lie in the days following it by speaking to PS CHAMBER and admitting his lie.
 - b. There were two factual allegations and two breaches of the Standards of Professional. The Panel nonetheless reminded itself that there was only one breach that was assessed as Gross Misconduct.
 - c. There is significant national concern about the honesty and integrity of police officers.

MITIGATING FACTORS

36. The Panel considered the guidance at pages 30 and 31 of the College of Policing Guidance on Outcomes and found the following the mitigating factors listed in the guidance:
- a. The misconduct was confined to a single episode.
 - b. Former PC ROBSON admitted his lie, and his breach of confidentiality in a prepared statement submitted during his interview three months after his misconduct.
 - c. He has shown genuine remorse and insight and has accepted responsibility for his actions.
37. Having considered culpability, harm, aggravating, and mitigating features the Panel concluded that this was a very serious case.

PERSONAL MITIGATION

38. The Panel found the following personal mitigation:

- a. Former PC ROBSON served in the Royal Air Force police for 12 years and then served in the police for a further 22 years. He had received an award for bravery in 2019.
- b. Former PC ROBSON was a person of good character.
- c. Former PC ROBSON was dealing with very difficult personal circumstances at the time of his misconduct.
- d. Former PC ROBSON was highly regarded by colleagues and supervisors.

39. Whilst accepting that these matters are relevant and to Former PC ROBSON's credit, the Panel were mindful of the Court of Appeal decision in *Salter*:

'As to personal mitigation, just as an unexpectedly errant solicitor can usually refer to an unblemished past and the esteem of his colleagues, so will a police officer often be able so to do. However, because of the importance of public confidence, the potential of such mitigation is necessarily limited.'

40. The Panel also considered the words of Mr Justice Holroyde in *Williams v Police Appeal Tribunal* [2016] EWHC (Admin) at paragraph 67:

'What may vary will be the extent to which the particular gross misconduct threatens the preservation of such confidence and respect. The more it does so, the less weight can be given to personal mitigation.'

41. The Panel reminded itself of the purpose of imposing sanctions. The Panel considered the guidance contained in *R (on the application of Chief Constable West Midlands Police) v Panel Chair, Police Misconduct Panel v Officer 'A'* [2020] EWHC 1400 (Admin), 2020 at paragraph 64.

42. The Panel also reminded itself that we could only impose a sanction on a Former Officer for a breach of professional standards that amounted to gross misconduct. It therefore did not consider what the appropriate sanction would be for the breach of confidentiality and only considered the appropriate sanction for the breach of honesty and integrity.
43. The Panel considered the two options open to us. We seriously considered whether we would have imposed a Final Written Warning (for a breach of honesty and integrity) had Former PC ROBSON still been serving but we concluded that we would not have done so due to the severity of the misconduct. We therefore concluded that taking no action would be insufficient to maintain public confidence and to mark the gravity of the breach of professional standards.
44. The Panel concluded that public confidence would not have been maintained if Former PC ROBSON had been allowed to continue as a serving officer if he were still serving. Honesty and Integrity are key to a Police Officer's credibility with and authority over members of the public. Acting in a dishonest manner for personal gain is a serious matter and there should be no place in policing for an officer who acts in this manner. Accordingly, not finding that he would have been dismissed would undermine public confidence and the Panel do find that he would have been dismissed had he still been serving.

OUTCOME

As a result of this Misconduct Hearing the following was found under Regulation 42(3) (b) and imposed with effect from 30 April 2024:

“A finding that the officer concerned would have been dismissed if he had not ceased to be a member of a police force”.

In announcing sanction, the Panel Chair read out the following:

“We have taken into account everything that has been said and presented to us on Former PC ROBSON’s behalf. He was a police officer for 22 years serving the public, and he served his country in the RAF for 12 years. He was held in high regard by his colleagues and his supervisor, who gave evidence on his behalf. We acknowledge that he was dealing with a difficult personal situation at the time.

We accept that his breach of confidentiality was a case of doing the wrong thing for the right reason. This has been found to be misconduct and there can be no sanction for this breach for a former officer.

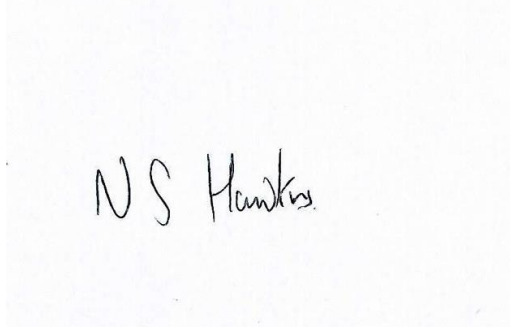
However, we have to decide on the appropriate sanction for a breach of honesty and integrity which has been admitted to be gross misconduct. We have accepted that this was not a case of operational dishonesty.

We have considered the two outcomes available to us bearing in mind our overriding duty to maintain public confidence in policing and to maintain high professional standards by demonstrating to other officers that misconduct will not be tolerated.

The public have the right to expect all police officers to behave with honesty and integrity at all times. Former PC ROBSON lied to his supervisor when confronted with questions about his actions. Whilst this might have been a spur of the moment action, he did not rectify the situation as he could have done by admitting his lie in the following days. Former PC ROBSON did not behave with honesty and integrity and there can be no place in policing for officers who behave dishonestly and lack integrity.

We gave serious consideration to whether we would have imposed a lengthy Final Written Warning had Former PC ROBSON still been serving. The Panel concluded that we would not have done so, and that public confidence would not be maintained unless we found that he would have been dismissed if he had not ceased to be a member of the police force and that is our finding.

For completeness he will be placed on the College of Policing Barred List”

A rectangular area containing a handwritten signature in black ink. The signature reads "NS Hawkins".

Nick Hawkins
Legally Qualified Chair

1 May 2024

You have a right of appeal against the finding and/or the outcome imposed at a misconduct hearing.

You may only appeal on the grounds that: -

- a) The finding or disciplinary action imposed was unreasonable.
- b) There is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action;
or
- c) There was a serious breach of the procedures set out in the regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

Should you wish to appeal you must do so in writing to the appropriate authority, clearly setting out the grounds for the appeal **within 10 working days** beginning with the first working day after the receipt of the notification of the outcome of the misconduct meeting (unless this period is extended by the appropriate authority for exceptional circumstances).

You should address your appeal to the Police Appeals' Tribunal Manager through [Directorate of Standards and Ethics of Cleveland Police](#).