

WEST YORKSHIRE POLICE FORCE

Notice of Outcome of Police Misconduct Hearing (Regulation 43 Police (Conduct) Regulations 2020)

CHAIRPERSON'S ACCOUNT

Officer concerned:	PC 4788 Manjit CHAHAL
Date of hearing:	2-3 October 2023
Name of person chairing:	Mr Karimulla Akbar Khan (LQC)
Name of panel members:	Natasha Mort (IPM) Assistant Chief Constable Osman Khan (Assessor)

The Decisions of the Hearing

Allegation No.	Allegation	Finding Proven / Not Proven	Outcome
See Regulation 30 Notice Allegations 1-5	Authority, Respect & Courtesy Discreditable Conduct	Proven based on admissions	Dismissal Without Notice

Brief Summary of Matter

1. This misconduct hearing arises from events on 18 July 2021 when PC Manjit Chahal (the Officer) whilst off duty, was involved in an altercation with Mr Hall, a male member of the public, while they were both inside the McDonalds restaurant at Leeds train station. The officer was subsequently removed by security staff. Once outside on the railway concourse, a further altercation took place with Mr Hall involving the officer and his friend, Mr Doyle. The officer continued to punch Mr Hall on several occasions. When British Transport Police (BTP) officers attended the scene, the officer was uncooperative and challenging and accused them of being racists. He refused to provide the BTP officers with his details resulting in his arrest.

1.2. The Appropriate Authority (AA) alleges in its Regulation 30 notice (filed pursuant to the Police (Conduct) Regulations 2020) that the officer's conduct breached the Standards of Professional Behaviour (SPBs) relating to Authority, Respect and Courtesy and Discreditable Conduct and amounts to gross dismissal, which is so serious that dismissal would be justified.

1.3. The Panel is grateful for the submissions and assistance provided by Mr Ian Mullarkey on behalf of the AA and Mr Ryan Donoghue on behalf of the Officer. The Officer attended the hearing. In light of his full admissions concerning the five allegations to the level of gross misconduct, no live witness evidence was directed by the Chair.

1.4. The Panel approached its fact-finding role in the following manner:

- To ascertain the facts (whether as admitted or found proven).
- To ascertain whether the facts as determined by the Panel, constitute a breach of the Standards of Professional Behaviour, as alleged;
and,
- Whether the breach of the Standards of Professional Behaviour amount to Misconduct or Gross Misconduct?
- What Disciplinary Action (sanction) is appropriate?

1.5. In deciding matters of fact, the Panel is fully cognisant that the AA brings the case and the burden of proof of proving the allegations rests with the AA. The standard of proof in misconduct proceedings is the civil standard of the balance of probabilities and the test is a simple unvarying balance of probabilities; what is more likely than not. The seriousness of the allegation of misconduct and/or the seriousness of the consequences for the officer do not require a different standard of proof, merely appropriately careful consideration by the Panel before it is satisfied of the matter which has to be established. The inherent probability or improbability of the conduct occurring is itself a matter to be taken into account when deciding whether, on the balance of probabilities, the conduct occurred. In making a decision whether the alleged conduct is proven or not, the persons conducting, or chairing will need to exercise reasonable judgment and give appropriate careful consideration to the evidence **(See Paragraphs 9.10/9.11. of the Home Office Guidance 2020).**

The Facts as Ascertained by the Panel in relation to the Regulation 30 Allegations

1.6. The Panel has carefully reviewed the Officer's Regulation 31 response and observes that he has admitted to all five allegations to the level of gross misconduct but submits that his misconduct should not result in dismissal.

1.7. In admitting the five allegations, the officer mentioned the following background facts which the Panel has noted.

- On the day in question he was out with several friends. In the course of the evening he drank six pints of lager. At the time of the incident he was merry rather than drunk.
- Whilst in McDonalds ordering some food, Mr Hall entered the restaurant (as seen on the CCTV) intoxicated and was behaving aggressively. He continued this behaviour as he approached the self-service kiosk that was being used by the officer. The officer asked him to calm down but he did not do so. The officer asked the security staff to remove him. They did nothing and the incident escalated whereby Mr Hall punched the officer to the face. This caused the officer to return punches in defence of himself.

- The officer regrets that BTP officers were called to the incident and were taken away from their other important duties.
- The CCTV demonstrates that Mr Hall was the initial aggressor and that the incident escalated primarily because of his actions.
- The officer admits the altercation continued on the railway concourse and that he continued to fight with Mr Hall male punching him several times. The situation escalated because the officer's friend and Mr Hall became engaged in an argument. His friend threw a drink at Mr Hall which caused them to start fighting. At the time the officer thought his actions were necessary and reasonable for the safety of his friend, but accepts in hindsight that he should have walked away from the incident having been ejected from McDonalds.
- The officer accepts that when the BTP officers arrived he was un-cooperative, challenging, abusive and argumentative and accused them of being racist. He now accepts there was no race-related motivation to the officers' actions and they were only doing their job.
- The officer also refused to provide his details which resulted in his arrest. On reflection, his response was due to his heightened emotional state following the altercation with Mr Hall such that he did not see the significance of providing his details.
- The officer accepts that he should have complied with the requests and regrets that he refused to co-operate with the attending officers.
- The officer accepts that he has breached the SPBs relating to Authority, Respect and Courtesy and that his actions were discreditable to the police service. He further admits that his actions amount to gross misconduct but given the specific circumstances of the incident, his misconduct should not lead to his dismissal but to a final written warning.

1.8. In light of the application of Regulation 41(16)(b), the Panel accepts the officer's factual admissions and breaches of the SPBs amounting to gross misconduct.

To Ascertain whether the Facts as determined by the Panel constitute a breach of the Standards of Professional Behaviour

1.9. The Panel has considered the proven and admitted facts and is mindful that in considering this question, it must exercise reasonable judgement and give appropriate and careful consideration to the evidence. The Panel is also aware that when applying the Standards of Professional Behaviour in any decision or misconduct hearing they shall be applied in a reasonable, transparent, objective, proportionate and fair manner and, due regard shall be paid to the nature and circumstances of a police officer's conduct, including whether his or her actions or omissions were reasonable at the time of the conduct under scrutiny. The Panel takes note that all police officers are in a position of trust and responsibility whether on or off duty.

1.10. Turning to the alleged breaches of the Standards of Professional Behaviour by the officer set out in the Regulation 30 notice, namely, Authority, Respect and Courtesy and Discreditable Conduct:

Authority, Respect and Courtesy

1.11. According to this Standard, an officer will act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

1.12. Based on the officer's factual admissions concerning all five allegations, the Panel finds the officer has breached this SPB.

Discreditable Conduct

1.13. According to this Standard, an officer will behave in a manner, whether on or off duty, which does not bring discredit on the police service or undermine public confidence in policing.

1.14. Based on the officer's factual admissions concerning all five allegations, the Panel finds the officer has breached this SPB.

Whether the breach of the Standards of Professional Behaviour amounts to Misconduct or Gross Misconduct?

1.15. Having found breaches of the Standards of Professional Behaviour, the Panel went on to consider the issue of seriousness (severity) of the proven conduct to determine whether the proven conduct amounts to 'misconduct' or 'gross misconduct'. Pursuant to Regulation 41(16)(b) of the 2020 Regulations, the officer has admitted that his conduct amounts to gross misconduct. The Panel is content to accept his admissions.

1.16. Accordingly, the Panel finds that the officer's proven conduct amounts to gross misconduct.

Finding on outcome, including any aggravating or mitigating factors affecting the seriousness of the failures in standards

1.17. The Panel heard submissions from both Counsel concerning an appropriate and proportionate outcome.

1.18. In approaching its decision-making regarding an appropriate and proportionate outcome for the officer the Panel has considered the submissions, together with the officer's record of police service in accordance with Regulation 42(14)(a) of the 2020 Regulations. The Panel has also paid close attention to the College of Policing Guidance on Outcomes in Police Misconduct Proceedings 2023 (the 'Guidance').

1.19. Of particular importance, are the following paragraphs from the Guidance:

In Paragraph 2.3: the Guidance sets out the purpose of the misconduct regime is threefold:

- *Maintaining public confidence in and the reputation of the police service*
- *Upholding high standards in policing and deterring misconduct*
- *Protecting the public*

1.20. In the context of the purpose of professional disciplinary proceedings the Panel is aware this is drawn from established case-law:

In **Bolton v Law Society [1994] 1 WLR 512**

Sir Thomas Bingham MR (as he then was) stated "*A profession's most valuable asset is its collective reputation and the confidence which that inspires.*"

In **R (Green) v Police Complaints Authority [2004] UKHL 6**

Lord Carswell stated in relation to the police service:

"Public confidence in the police is a factor of great importance in the maintenance of law and order in the manner which we regard as appropriate in our polity. If citizens feel that improper behaviour on the part of officers is left unchecked and they are not held accountable for it in a suitable manner, that confidence will be eroded".

1.21, In distilling these important principles to reach an appropriate and proportionate outcome for the Officer, the Panel is aware of the importance of following the three-stage structured approach explained by Mr Justice Popplewell in the decision of **Fuglers LLP v SRA [2014]**.

1.22. The three stages are to assess the seriousness of the misconduct; to keep in mind the purpose of imposing sanctions; and, to choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

1.23. Turning first to the issue of seriousness of the proven conduct, the Panel is mindful that in considering this issue it should have regard to officer's culpability, the harm caused by his conduct and the presence of any aggravating and/or mitigating factors.

1.24. In respect of culpability, the Panel finds the officer's initial conduct towards Mr Hall in McDonalds was in self-defence. The officer stated that Mr Hall landed the first punch and he responded to defend himself. The AA has adduced no evidence to contradict this account. However, once the officer was ejected from McDonalds onto the railway concourse, followed by Mr Hall and the officer's friend, Mr Doyle, the CCTV shows that instead of walking away from the scene the officer continued to verbally engage with Mr Hall. This action was followed by Mr Doyle throwing a drink towards Mr Hall and the officer and Mr Hall then resuming fighting which was joined in by Mr Doyle. The Panel finds the officer's conduct in resuming the fighting was deliberate and intentional and that he is solely responsible for his own actions against Mr Hall.

1.25. The CCTV shows that the officer and his friend, Mr Doyle, pursued and continued to attack Mr Hall, 'two on one' even when he was retreating. Both of them continued to punch Mr Hall when he was on the ground and had fallen over some chairs. Such action by the officer was clearly not in self-defence but was gratuitous violence against Mr Hall who was outnumbered. The CCTV shows that while the officer and Mr Doyle pursued Mr Hall across the railway concourse fighting him for several minutes, this was all done in the presence of members of the public, including young children, with many innocent bystanders having to move away or change direction in order to avoid them.

1.26. When BTP officers arrived on the scene, the officer was uncooperative, refused to provide his details and falsely accused them of racism, an allegation which turned out to be baseless. At least one member of the public overheard the officer's allegations of racism against the BTP officers. This is evident from the one member of the public shouting 'racists' at the BTP officers. Overall, the officer's proven conduct was criminal in nature notwithstanding the absence of a conviction. The College of Policing Guidance at paragraph 4.40. provides that 'misconduct involving violence ...is serious and can significantly undermine public trust in the profession.

1.27. In light of the admitted facts, the Panel finds the officer's culpability to be at the higher end of the range.

1.28. Turning to the harm caused, the fighting was conducted in a public place and even though it was not known at the time that an off duty police officer was involved, the Panel considers if the circumstances were known publicly as they are now, significant harm would very likely be caused to public confidence in policing. This is evident from the member of the public shouting 'racists' at the BTP officers. Members of the public would not expect to see off duty police officers fighting in public places or falsely accusing the police of racism as they carry out their lawful duties. Such false accusations have the potential to cause serious harm to public confidence especially amongst diverse communities. In terms of actual harm, Mr Hall also suffered facial bruises as can be seen from the photograph the Panel has received. His bruises are far more serious than those suffered by Mr Doyle or the officer who appears to have suffered no injuries at all.

1.29. In terms of aggravating factors, the Panel finds that taking deliberate or intentional steps, repeated gratuitous violence, continuing the behaviour when the officer should have realised it was improper, scale or depth of national concern over the treatment of minorities, and multiple proven allegations all constitute aggravating factors.

1.30. In respect of mitigating factors, the Panel finds that the officer's admissions, some initial but limited provocation at the early stages of the incident and evidence of limited insight, remorse and contrition all constitute mitigating factors.

1.31. Turning to the records of police service for the officer, the Panel notes that he started in service on 15 February 2021. At the time of the incident he was aged about 32 years old and still a student officer of only 5 months experience. During the misconduct proceedings he has been on restricted duties working in customer operations at the Learning and Organisational Training School, Cargate. He is of good character.

1.32. The Panel has received several testimonials on behalf of the officer. They show him to be a well-respected and much valued officer by colleagues at the Training School. By way of example, the Customer Operations Manager observed that he has not received any negative feedback from colleagues and has maintained his work to a high standard and in line with the Code of Ethics. Other testimonials speak of an officer involved in community activities and is an empathetic trusted friend and colleague.

1.33. The Panel has taken into account the character evidence as personal mitigation. In considering the appropriate weight to place on personal mitigation, the Panel has been guided by the decision of Holroyde J in the case of Williams v The Police Appeals Tribunal [2016] EWHC 2708. The judgment makes it clear that the weight to be attached to personal mitigation in any particular case is necessarily limited owing to the importance of maintaining public confidence and respect in the policing service. As stated by Holyroyde J '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'.

1.34. In light of the Panel's view that the officer's culpability is at the higher end of the scale his conduct must inevitably be seen as a threat to the preservation of public confidence and respect for the West Yorkshire Police. Accordingly, whilst accepting that personal mitigation is always relevant, given the seriousness of the admitted conduct in this case, the Panel has attached little weight to it.

1.35. The Panel next turned to consider the purpose of imposing sanctions. In this regard, the Panel is aware that an important purpose of imposing disciplinary sanctions is to maintain public confidence in and the reputation of the policing profession as a whole. This dual objective must take precedence over the specific impact that the sanction has on the individual whose misconduct is being sanctioned.

1.36. In terms of maintaining public confidence in and the reputation of the police service the fundamental question is whether an informed member of the public knowing what the Panel knows about the proven facts of the case, the officer's background and personal mitigation would consider that public confidence in the reputation of the police can be maintained by the imposition of a final written warning or whether only dismissal without notice would be sufficient to mark his conduct and maintain public confidence in, and the reputation of the police.

1.37. While the Panel accepts that each case must be decided on its specific facts and that not every case of off-duty misconduct will result in dismissal, this is a case where the officer has been found to have been involved in conduct of a criminal nature, causing facial bruising to Mr Hall and making false accusations of serious nature against fellow policing colleagues which in the Panel's view is wholly incompatible with the Code of Conduct.

1.38. The Panel has carefully considered the purpose for imposing outcomes in police misconduct proceedings and notes that core to the whole misconduct regime is the maintenance of public confidence in policing. The Panel finds that significant harm would be caused to public confidence in policing by the retention of an officer who has engaged in conduct of a criminal nature, and has then raised the race card to deflect attention from his own culpability, even where that conduct was off duty.

1.39. Although the Panel notes that the Officer has shown some limited insights regarding his conduct and has demonstrated through his testimonials his strong commitment to policing, these positive developments cannot outweigh the importance of upholding high standards in policing, deterring misconduct and protecting the public. In this regard the Panel recalls the words of Sir Thomas Bingham in the **Bolton** case when he stated that 'A profession's most valuable asset is its collective reputation and the confidence its inspires'.

1.40. The Panel heard evidence from the officer that his violent conduct was triggered by acting in the 'heat of the moment' and his false racist allegations against the investigating officers was a result of his 'heightened emotional state' from the earlier fight. The Panel also heard that he considers he has reflected and matured in the past two years and would respond more calmly if faced with similar circumstances in the future.

1.41. The Panel is unpersuaded by the officer's evidence on the basis that he appeared to be only grudgingly accepting of his responsibility for the continuation of the fight on the railway concourse. He also appeared to believe that the public would be accepting of his violent conduct. The Panel respectfully disagrees with his assessment and finds that he continues to lack the necessary insight about the impact of his behaviour and the importance that the public place on police officers demonstrating the highest standards of conduct. The officer admitted that he knew through his training the expectations of the Code of Conduct at the time of the incident. Despite his training, his behaviour was disgraceful and was the opposite to what the public are entitled to expect from a police officer. Overall, the Panel is not persuaded that if faced with a similar situation in the future, there would be no repetition of his violent conduct 'in the heat of the moment' which would put the public's safety at significant risk.

1.42. In conclusion, these proceedings are designed to protect the public, deter future misconduct, and maintain the reputation of the policing profession. The Panel has carefully considered all the relevant factors in the circumstances of the officer, PC Manjit Chahal taking care to not 'double count'.

1.43. Overall, the Panel finds that a sanction of dismissal without notice is the only appropriate and proportionate outcome in this case to reflect the seriousness of the misconduct and to protect the public.

Signed on behalf of the Panel

Mr Karimulla A Khan
Legally Qualified Chair (LQC)

02 October 2023