

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020

IN RELATION TO A SPECIAL CONSTABLE

DECISION OF CC BALHATCHET

1. This is my determination in the accelerated misconduct proceedings relating to a special constable (“SC”), who has been granted anonymity within these proceedings.
2. The Appropriate Authority was represented by Ian Mullarkey, counsel. The SC, in attendance, was represented by PS McMahon.
3. The allegations are set out in the Regulation 51 notice found separately to the hearing bundle. In summary, the AA alleges that on 13th February 2026, SC was stopped by police officers and subjected to a roadside breath test. She blew 79 micrograms of alcohol per 100 millilitres of breath, exceeding the legal limit of 35 micrograms, and was conveyed to custody where she blew 80 micrograms of alcohol per 100 millilitres of breath in the evidential sample test. She was subsequently charged with driving a motor vehicle whilst over the prescribed limit for alcohol and on 31st March 2026 she was convicted of this offence at Chelmsford Magistrates Court by her guilty plea. SC made a special reasons argument before District Judge King on 5th May 2026, which was accepted. SC was fined for the offence.
4. It is alleged that this conduct amounts to a breach of the standard of professional conduct of discreditable conduct, and amounts to a gross misconduct.
5. My task, at this first stage is to:
 - a. first, determining the facts, based upon what is admitted by the officer or proven on the balance of probabilities;

- b. second, determining whether on the basis of those facts the officer has breached the Standards of Professional Behaviour alleged;
 - c. third, deciding whether the breaches found amount to gross misconduct or not.
- 6. The fourth (dependent on the findings under (b) and (c) above), deciding what the outcome should be, is considered at stage 2.
- 7. Depending on those findings at 'Stage One' of proceedings, if the conduct is found to constitute gross misconduct, the outcomes available to me are:
 - a. That the officer is dismissed; or
 - b. If dismissal would not be justified by reason of exceptional circumstances, that a final written warning be imposed.
- 8. I remind myself of the three-fold purpose of misconduct proceedings:
 - a. to maintain public confidence in, and the reputation of, the police service,
 - b. to uphold high standards in policing and to deter misconduct, and
 - c. to protect the public.
- 9. These proceedings are not punitive, but are "centrally concerned with the reputation and standing of the profession" (Guidance on Outcomes, 2.7).

Facts

- 10. I have taken into account the Investigating Officer's Report, read all the relevant documents and in particular the account given by SC in interview and what she is recorded as having given in evidence at the 'special reasons' hearing, per the court extract.
- 11. I remind myself that it is the AA's case to prove the facts alleged on the balance of probabilities but note that in this case the facts alleged are accepted by the officer, and that they amount to gross misconduct.
- 12. I find the following facts as proven:

- a. That on 13th February 2026 in the evening, SC was at her then-partner's address ("Mr R"). The two of them were drinking together. SC drank nearly a full bottle of wine in the course of the evening.
- b. Around 9PM, an argument started between the two. SC alleges that he struck her and she feared further violence from him. I note that Mr R was subsequently arrested and interviewed by police for the incident, under suspicion of a domestic assault, but this was marked for no further action due to evidential difficulties. Whatever the exact facts of what happened at Mr R's address, I accept that SC had a legitimate and honestly held fear of domestic violence that caused her to leave the address immediately.
- c. Having left the house, she got into her own vehicle and proceeded to drive away from Chelmsford, onto the A414. I note that, on her own evidence, SC recognised that she was far too intoxicated to be legally driving the vehicle at that time, and I note from the explanation she gave to the court during her special reasons argument:
 - i. "I did not know the area well and was aiming for a local petrol station. I was looking for a well-lit area, I planned to call my dad for advice and the police as well. I had been driving for a couple of minutes, I was relieved when I saw the police and was scared embarrassed what would happen. I pulled the car straight away and they told me why they had stopped me that I had possibly been drink driving. I told them straight away I was trying to escape and I was trying to get some space between me and him and I was scared. I said I do not normally do this and it is completely against what I stand for. I cooperated with the officers."
- d. SC also said in her police station that she was aiming for "a few streets away". She was, however, stopped by police around a 20 minute drive from the address at which she had started. While she may not have known the area well, I find it difficult to accept that there was nowhere suitable for her to stop and call for support from either family/friends or the police during this time. There is evidence before me that there were two petrol stations on the A414 that she would likely have passed, and SC does not raise any challenge to this assertion in her regulation

54 response. This was a significant distance travelled while substantially over the legal limit for alcohol.

- e. At 23:34 on 13th February, Mr R made a call to the police to report that SC had driven away from the house while intoxicated. SC was stopped by police in the early hours of 14th February 2026 under suspicion of drink driving and she blew over the limit on a roadside breath test. She was conveyed to custody and blew 80 micrograms of alcohol per 100 millilitres of breath in the evidential sample test, more than twice the legal limit.
- f. She provided an account at the roadside and in interview as to the circumstances that caused her to leave Mr R's address in the way she did, which she then provided in evidence to District Judge King following her guilty plea to drink driving on 31st March 2026. She offered this, not as a defence to the charge, but as mitigation and in service of a special reasons argument that would, if successful, allow her to retain her licence. The evidence shows that this account was accepted by the judge: it is recorded by the CPS advocate that in the judge's finding "she had no other option than to leave the premises and drive off to escape domestic abuse". I do not go behind the determination of the judge in this regard.
- g. This journey, albeit without any actual injury to person or property, was fraught with danger given how far above the limit SC was. It is not clear from the evidence how much further she would have driven if she had not been stopped by police.

13. These facts are established by the written evidence, by SC's own admissions in the evidence, and per her regulation 54 responses. The fact of SC's conviction is a matter of record. I therefore find these facts proven.

Breach

- 14. Those facts being found, I move to assess whether those facts constitute a breach of the professional standards, specifically discreditable conduct.
- 15. It is widely and correctly accepted that breaking the law is incompatible with the duties and expectations placed on the police. Drink driving is an offence which risks harm to the public, and the public would not expect officers to act in such a way where they are tasked

with upholding the law. SC accepts that her conduct amounts to a breach of the professional standards. Conduct of this sort could seriously undermine public confidence in the police if it were known to them.

16. I am mindful that SC did not raise any defence in law in the criminal proceedings, opting instead to argue for 'special reasons'. It was also open to the judge to impose a discharge for the offence rather than any punitive sentence, but opted to fine her instead.

17. In my determination, I am satisfied that the standard of discreditable conduct is breached.

Seriousness

18. I remind myself of the definition of gross misconduct as prescribed by Regulation 2: "a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal".

19. In this case, the AA and SC agree that this breach amounts to gross misconduct. For completeness, my assessment of seriousness taking the staged approach prescribed by the guidance on outcomes, is as follows :

- a. Culpability: The AA, in their opening note, refer me to the following: the intentional and deliberate act of driving, and continuing to drive after the immediate threat to her person had ended; the failure to stop at any suitable and safe place along her route; and the fact that she did not take steps to call for help using her phone as soon as possible (as she said she planned to do) instead of driving. I accept each of these. I also note that it is, of course, unacceptable for police officers, who are responsible for enforcing the law, to break the law themselves. All of these point to higher culpability.
- b. Harm: I accept the factors as set out by the AA, in that:
 - i. There was a high risk of direct harm to the public during this course of conduct, with the officer being over twice the legal limit for alcohol.
 - ii. There is a high risk of reputational harm, should the public become aware that a special constable had broken the law by drunk driving, a serious

offence (though the circumstances of this particular misconduct may reduce this, were they known).

The harm in this case is therefore high.

c. Aggravating factors: I do not further aggravate the misconduct given the findings I have made in relation to culpability and harm.

d. Mitigating factors: at this stage this serves to reduce the officer's culpability. Personal mitigation is not considered at this stage. I have already set out those matters that increase culpability. I do, however, weigh those factors against the fact that this was not a pre-planned course of action and there is no evidence to suggest that SC would have gone out to commit an offence of drunk driving had she not been subject to domestic violence at her then-partner's home. It is accepted by the AA that she was a victim of such abuse, and in my view, this element substantially reduces her culpability. While the SC accepts, and I do find, that she drove for longer than she needed to in the circumstances, I do also accept her account that she was in "flight" mode, having been subjected to domestic violence immediately before the misconduct took place, and that she would not in ordinary circumstances act in this way. I therefore note, per 4.81 of the guidance, the following factors of mitigation:

- i. misconduct confined to a single episode;
- ii. any element of provocation, threat or disturbance that may have affected the officer's judgement;
- iii. stress that may have affected the officer's ability to cope with the circumstances in question;
- iv. open admissions at an early stage.

20. Overall, having assessed the seriousness of the officer's conduct, and noting her admissions, I find that it constitutes gross misconduct.

21. I then heard submission on outcome and adjourned to consider my decision.

Outcome

22. Having now heard submissions on outcome, have considered the officer's mitigation, antecedents and references, and I am ready to deliver my findings on outcome.
23. I remind myself again of the purpose of these proceedings set out at paragraph 2.3 of the Guidance on Outcome.
24. I note, and it is agreed that per the interpretation at regulation 67 of The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025, the amended Police (Conduct) Regulations 2020 apply. As such, the appropriate outcome is one of dismissal without notice unless there are exceptional circumstances that apply. I am advised that, in the absence of caselaw or guidance as to the meaning of this phrase in this context, I may give it its ordinary meaning.
25. My findings as to severity (i.e. in relation to culpability, harm, aggravating factors, and mitigating factors) remain as above.
26. I have listened carefully to the submissions made on SC's behalf as to personal mitigation, but also note the limitations of such mitigation within misconduct proceedings, per the decision in R (on the application of Williams) v Police Appeals Tribunal and in Bolton v Law Society.
27. I have considered all the factors carefully and in the circumstances of this case, exceptionally, I find that I can move away from the presumption of dismissal:
 - a. I accept that this course of conduct, while still amounting to gross misconduct, took place in circumstances which are highly unusual. I accept SC's evidence about her state of mind at the time of the misconduct, and find that a degree of latitude can be afforded to her for the distance travelled, given the immediate stress she was under.
 - b. Although she passed safe places to stop, I find that on SC's evidence, given the state of distress she was in, that the fact she did not act ideally in the circumstances is understandable. As previously set out, I accept that she was in 'flight' mode and

that her judgment was impaired. Although this cannot be entirely justified given her level of intoxication, which would also have played a part in her decision-making, there is no evidence to suggest that she would have driven if she had not been subjected to violence.

- c. I have considered that this is a case involving violence against women and girls, and that SC was in a vulnerable position at the time that she fled from her then-partner's house. I do not believe she would have driven while intoxicated unless she was in fear for her own safety.

28. The sum of these factors mean that, in my determination, the officer's dismissal is not necessary to maintain the three-fold purpose of the police misconduct regime, and exceptionally for a case of criminal misconduct, I instead impose a 2-year final written warning upon the officer.

29. You will receive the written notice of the outcome before the end of five working days.