



**Metropolitan Police Authority**

**Appendix 1**

**Summary of Misconduct Cases.**

**Home Office Guidance.**

**Police Notice 1/03, 2 January 2003.**

**Sanction Guidelines.**

## Summary of misconduct cases

Case Reference	Internal 472/01	I
<u>Summary</u> Officer arrested on 1 <sup>st</sup> November 2001, Excess Alcohol whilst driving, no other vehicles involved, stopped by Police. Lowest reading was 135. Convicted at Court on 25 <sup>th</sup> October 2002, Disqualified for 18 months, Costs only £200.		
<u>Misconduct Board</u> Held on 28 <sup>th</sup> January 2003, Sanction – <b>Dismissed</b> Aggravating factor – High Reading Mitigating - No exceptional circumstances		
<u>AC review</u> Held on 25 <sup>th</sup> April 2003 Appeal – <b>Dismissed</b>		
<u>Police Appeals Tribunal</u> Held on 29 <sup>th</sup> February 2004 Appeal – <b>Dismissed</b>		

Case Reference	Internal 201/01	
<u>Summary</u> Arrested on 10 <sup>th</sup> May 2001, excess alcohol, stopped by police driving, lowest reading was 58. Convicted on 14 <sup>th</sup> October 2002, Disqualified for 12 months, Fined £150, Costs £50.		
<u>Misconduct Board</u> This officer was required to resign on an unrelated matter on 10 <sup>th</sup> May 2002. On 16 <sup>th</sup> April 2003 a Police Tribunal allowed the appeal and re-instated the officer. During the period the officer was out of the MPS further arrested for Drink Drive, convicted on the 14 <sup>th</sup> October 2002. At a Misconduct board held on the 29 <sup>th</sup> September 2003, officer was <b>required to resign</b> on the drink drive charge dated 10 <sup>th</sup> May 2001.		
<u>AC review</u> Held on 23 <sup>rd</sup> February 2004. Appeal – <b>Dismissed</b>		
<u>Police Appeals Tribunal</u> Awaits date of hearing		

Case Reference Internal 433/02

Summary

Officer arrested 4<sup>th</sup> September 2002, excess alcohol, left the scene of the accident with roadside property. Lowest reading was 87. Convicted at court 30<sup>th</sup> September 2002. Disqualified for 24 months, Fined £400, costs £60.

Misconduct Board

Held on 17<sup>th</sup> December 2002.

Sanction – **Dismissed**

Aggravating factors - RTA, leaving the scene and high reading.

Exceptional circumstances - None

AC review

Held on 1<sup>st</sup> July 2003.

Appeal - **Dismissed**

Police Appeals Tribunal

Officer abandoned his appeal to the PAT on 9<sup>th</sup> October 2003.

Case Reference Internal 496/02

Summary

Officer arrested on 11<sup>th</sup> October 2002, stopped by police driving, lowest reading was 91. Convicted at court on 30<sup>th</sup> October 2002. Disqualified for 24 months, Fined £400, Costs £55.

Misconduct Board

Held on 28<sup>th</sup> January 2003.

Sanction – **Required to resign**

Aggravating factors - high reading.

No exceptional circumstances.

AC review

Held on the 28<sup>th</sup> March 2003.

Sanction – **Varied to Fine, 6 days pay.**

AC considered the original board had not taken proper account of the mitigation available.

Police Appeals Tribunal

N/A

Case Reference Internal 569/02
<u>Summary</u> Arrested 28 <sup>th</sup> November 2002, stopped by police. Lowest reading was 82. Convicted on 3 <sup>rd</sup> December 2002, Disqualified 24 months, Fined £400, costs £55.
<u>Misconduct Board</u> Held on 31 <sup>st</sup> March 2003. Sanction – <b>Required to resign.</b> Aggravating Factors – High reading, comments made by magistrates and distance travelled in car.
<u>AC review</u> Held on 23 <sup>rd</sup> July 2003. Sanction – <b>Varied to Fine, 5 days pay.</b> AC felt the original board had attached disproportionate weight to the aggravating factors and not sufficient credence to the mitigating factors.
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 599/02
<u>Summary</u> Officer arrested on 3 <sup>rd</sup> December 2002, stopped whilst driving, lowest reading 82. Convicted at court on 10 <sup>th</sup> December 2002, Disqualified for 24 months, Fined £300, cost £55.
<u>Misconduct Board</u> Held on 12 <sup>th</sup> February 2003. Sanction – <b>Required to resign</b> Aggravating factors – lived 2 miles from pub, offered friends home, traffic officer and high reading.
<u>AC review</u> Sanction – <b>varied to a reprimand.</b> AC felt the aggravating and mitigating were not balanced on the board.
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 34/03
<u>Summary</u> Arrested on 26 <sup>th</sup> January 2003, officer was repeat victim of crime and had chased two youths in his car that had used a gun on his house to break a window. Lowest reading 45. Convicted at court on 19 <sup>th</sup> June 2003. Court gave an Absolute Discharge – special reasons applied.
<u>Misconduct Board</u> Held on 28 <sup>th</sup> October 2003. Sanction – <b>No Further Action.</b> Board felt exceptional circumstances applied in this case.
<u>AC review</u> N/A

Police Appeals Tribunal

N/A

Case Reference Internal 48/03

Summary

Officer arrested on 7<sup>th</sup> February 2003, at road traffic accident. Lowest reading was 98. Convicted at court on 6<sup>th</sup> May 2003, Disqualified 24 months, Fined £600.

Misconduct Board

Held on 3<sup>rd</sup> December 2003

Sanction – **Fined 13 days pay.**

Did consider Home Office Guidance however felt that this case should be treated on it's merits and abundance of evidence to retain the officer in a counter terrorism role.

AC review

N/A

Police Appeals Tribunal

N/A

Case Reference Internal 119/03

Summary

Arrested on 20<sup>th</sup> March 2003, RTA car into hedge. Blood taken. Convicted at court on 30<sup>th</sup> May 2003, Disqualified for 12 months, Fined £250, costs £70.

Misconduct Board

Held on 7<sup>th</sup> May 2004.

Sanction – **Fined 13 days pay.**

Home Office Guidance considered however evidence in mitigation, including from a senior army officer, board felt it just to retain his services.

AC review

N/A

Police Appeals Tribunal

N/A

Case Reference Internal 454/03

Summary

Officer arrested on 24<sup>th</sup> July 2003, stopped whilst driving. Lowest reading was 64. Convicted at court on 20<sup>th</sup> August 2003, Disqualified for 24 months, Fine £500, costs £55.

Misconduct Board

Sanction – **Reduction in Rank.**

Board felt there were no aggravating circumstances

AC review

N/A

Police Appeals Tribunal

N/A

Case Reference	Internal 504/03
<u>Summary</u>	Officer arrested after RTA with roadside property. Lowest reading was 81. Convicted on 10 <sup>th</sup> October 2003, Disqualified for 12 months, Fined £170, costs £55.
<u>Misconduct Board</u>	Sanction – <b>Required to resign.</b> Used Home Office Guidance.
<u>AC review</u>	Sanction – <b>Varied to Fine 5 days pay.</b> Reason given –medical.
<u>Police Appeals Tribunal</u>	N/A

Case Reference	Internal 506/03
<u>Summary</u>	Officer arrested on 14 <sup>th</sup> September 2003, after being stopped for driving. Lowest reading 63. Convicted at Court, Disqualified for 16 months, fined £250, costs £55.
<u>Misconduct Board</u>	Sanction – <b>Reprimand</b> Acknowledged seriousness of offence, mitigation given about marriage break up, comments by trial judge, exemplary behaviour.
<u>AC review</u>	N/A
<u>Police Appeals Tribunal</u>	N/A

Case Reference	Internal 633/03
<u>Summary</u>	Officer arrested after accident, vehicle off the road into woods. Lowest reading 64. Convicted at court, Disqualified for 18 months, fined £160, costs £43
<u>Misconduct Board</u>	Sanction – <b>Required to resign</b> Home Office Guidance followed
<u>AC review</u>	N/A
<u>Police Appeals Tribunal</u>	N/A

Case Reference Internal 693/03
<u>Summary</u> Officer arrested after being seen driving erratically. Lowest reading 70. Convicted at court, disqualified for 18 months, Fined £400, costs £55.
<u>Misconduct Board</u> Sanction – <b>Required to resign.</b> Home Office Guidance taken into account.
<u>AC review</u> Sanction – <b>Required to resign</b>
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 25/04
<u>Summary</u> Officer arrested on 10 <sup>th</sup> January 2004, stopped driving, lowest reading was 68. Convicted at court, disqualified from driving for 12 months, Fined £300.
<u>Misconduct Board</u> Sanction – <b>Fined 13 days pay.</b> Officer had suffered three recent traumatic events in his life. Facts in mitigation deemed as exceptional.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 119/04
<u>Summary</u> Officer arrested after RTA, decamped and abusive to public and police, lowest reading was 110. Convicted at court, disqualified for 30 months, fined £500, costs £55
<u>Misconduct Board</u> Sanction – <b>Required to resign</b> Aggravating factors, RTA, abuse to public and police and high reading.
<u>AC review</u> Sanction – <b>Required to resign</b>
<u>Police Appeals Tribunal</u> Appeal awaits

Case Reference Internal 148/04
<u>Summary</u> Officer arrested after being stopped driving, lowest reading was 94. Convicted at court, disqualified for 24 months, fined £600, costs £43.
<u>Misconduct Board</u> Sanction - <b>Required to resign</b> Aggravating factor –high reading
<u>AC review</u> Sanction – <b>Required to resign</b>
<u>Police Appeals Tribunal</u> Appeal awaits.

Case Reference Internal 174/04
<u>Summary</u> Officer stopped whilst driving. Lowest reading was 67. Convicted at court, disqualified for 16 months, fined £500.
<u>Misconduct Board</u> Sanction - <b>Fined 5 days pay.</b> The board felt that the mitigating circumstances warranted the fine, especially as the officer had helped his colleagues deal with an incident on route to the station.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 214/04
<u>Summary</u> Officer arrested whilst driving, lowest reading was 158. Convicted at court Disqualified for 36 months.
<u>Misconduct Board</u> Sanction – <b>Required to resign</b> Aggravating factor –high reading.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A



Case Reference internal 221/04
<u>Summary</u> Officer arrested after a RTA, roadside property. Lowest reading was 113. Convicted at court, 2 months suspended for 2 years, disqualified for 30 months.
<u>Misconduct Board</u> Sanction – <b>Required to resign.</b> Aggravating factors -High reading, and RTA
<u>AC review</u> Sanction – <b>Required to resign</b>
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 279/04
<u>Summary</u> Officer arrested for in charge whilst unfit. Lowest reading was 96. Convicted at court.
<u>Misconduct Board</u> Sanction - <b>Fined 13 days pay</b> The board felt there were exceptional circumstances in relation to the welfare issues of the officer at the time.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 305/04
<u>Summary</u> Officer arrested after being stopped whilst driving. Lowest reading was 78. Convicted at court, disqualified for 24 months, fined £500.
<u>Misconduct Board</u> Sanction – <b>Required to Resign.</b> Aggravating factor – high reading
<u>AC review</u> Sanction – <b>Required to Resign</b>
<u>Police Appeals Tribunal</u> Awaits appeal

Case Reference Internal 334/04
<u>Summary</u> Officer arrested after being stopped driving. Lowest reading was 82. Convicted at court and disqualified from driving 20 months, fined £300, costs £35.
<u>Misconduct Board</u> Sanction – <b>Required to resign</b> High reading
<u>AC review</u> Sanction – <b>Fine 13 days pay.</b> AC found the mitigating circumstances to be exceptional. Exemplary service and specialist skills. Case to be judged on its merits.
<u>Police Appeals Tribunal</u> N/A

Case Reference internal 406/04
<u>Summary</u> Officer arrested after being stopped driving. Convicted at court, Disqualified for 30 months, fined £500.
<u>Misconduct Board</u> Sanction – <b>Reduced in rank &amp; Fined 13 days pay.</b> Board felt that the mitigating circumstances were exceptional to warrant the sanction.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 533/04
<u>Summary</u> Officer arrested after being stopped driving. Lowest reading was 74. Convicted at court , disqualified for 20 months, Fined £600, costs £50.
<u>Misconduct Board</u> Sanction – <b>Reprimand</b> Officer was suffering postnatal depression and had been hospitalised for 3 months, and only just come out. Medication was changed after offence and officer re-admitted to hospital.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 577/04
<u>Summary</u> Officer arrested after being stopped by police. Lowest reading was 74. Convicted at court, disqualified for 20 months, fined £250, costs £43.
<u>Misconduct Board</u> Sanction – <b>Fined 13 days pay.</b> Mitigating factors found to be exceptional, escaped domestic violence, drove a short distance to sleep in the car.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 653/04
<u>Summary</u> <b>Arrested on duty whilst driving a marked police vehicle.</b> Blood sample over after lowest reading was 45. Convicted at court, disqualified for 12 months, fined £300, costs £70.
<u>Misconduct Board</u> Sanction – <b>Required to resign.</b> Aggravating factors, On duty, driving a police vehicle on a emergency call.
<u>AC review</u> N/A
<u>Police Appeals Tribunal</u> N/A

Case Reference Internal 713/04
<u>Summary</u> Arrested driving his car. Lowest reading 68. Convicted at court, disqualified for 16 months, Fined £160, costs £70
<u>Misconduct Board</u> Sanction – <b>Required to resign</b>
<u>AC review</u> Awaits
<u>Police Appeals Tribunal</u>

## Home Office Guidance

### **Home Office Guidance on police officers convicted of drink driving offences. Annex N**

Under paragraph 8 of the Code of Conduct at Schedule 1 of the Police (Conduct) Regulations 2004 police officers must report any proceedings for a criminal offence taken against them and are warned that further action may be taken. Drink driving offences make up well over half the criminal offences with which police officers are charged.

#### POLICE OFFICERS CONVICTED OF DRINK DRIVING OFFENCES

The Home Office and Police Service are committed to reducing incidents of drink driving, both generally and within the Service.

The damage done to the reputation of the Service by officers convicted of these offences cannot be overstated and detracts from the credibility of the Service in this crucial area of law enforcement.

An officer convicted by a Court of a drink driving offence can expect to face a formal disciplinary hearing. The usual sanction to be applied is either dismissal or a requirement to resign to reflect the serious view which is taken, both inside the Service and by society generally.

A Discipline panel will always treat each case on its merits but officers presiding at such hearings must apply their judgement to the facts of the case to consider whether an alternative sanction could be justified. Aggravating factors in considering the seriousness of an offence include where:-

- the offence was committed on duty;
- there is an attempt to avoid arrest;
- there is an attempt to interfere with due process, particularly by leaving the scene or improperly using his position as a police officer;
- the alcohol reading is particularly high; or
- the offence derives from a traffic accident or other incident involving a member of the public.

Only in cases where none of these circumstances exist and there are exceptional circumstances should a lesser sanction be imposed. When this happens the reasons should be clearly set out and recorded.

These guidelines are to remind officers that they should expect to lose their job if convicted of a drink driving offence unless there were exceptional circumstances.

# Notices 1/03

*Thursday 2 January 2003*

## Operational

### 1 [Police officers involved in drink related driving offences](#)

This Notice restates that an officer convicted by a court of a drink driving offence will face a formal misconduct hearing.

## Administration

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See also [Item 3 of Notices 26-04 of 30 June 2004](#).

### 1 **Police officers involved in drink-related driving offences**

***(OG17/02/251) (Deputy Commissioner's Command)***

The Metropolitan Police Service (MPS) is committed to reducing incidents of drink driving, both generally and within the Service.

The damage done to the reputation of the Service by officers convicted of these offences cannot be overstated and detracts from the credibility of the Service in this crucial area of law enforcement.

Following the MPS adoption of Home Office Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures, it has become necessary to restate that an officer convicted by a court of a drink driving offence will face a formal misconduct hearing. The usual sanction to be applied is either dismissal or a requirement to resign to reflect the serious view which is taken, both inside the Service and by society generally.

A misconduct hearing will always treat each case on its merits but officers presiding at such hearings must take account of 'Aggravating factors' in

considering the seriousness of an offence. Conversely, the absence of aggravating factors will be viewed as mitigating factors.

Aggravating factors include: **(mitigating factors shown in brackets)**

- the offence was committed on duty;
- there is an attempt to avoid arrest; **(full co-operation with the arresting officer(s))**;
- there is an attempt to interfere with due process, particularly by leaving the scene or improperly using one's position as a police officer; **(full co-operation with the arresting officer(s) and subsequent procedures)**
- the alcohol reading is particularly high; **(the alcohol reading is marginally above the statutory limit)**; or
- the offence led to or involved a traffic collision or other incident involving a member of the public. **(The offence is confined to the officer and his or her vehicle)**.

Only in cases where none of these circumstances exist and there are exceptional circumstances should a lesser sanction be imposed.

The MPS will also have regard to rank as a factor, as supervising officers are required to set a good example and satisfy the 'leadership principles'.

The decision to prefer misconduct proceedings against an officer will rest with the DCS DCC8(4) for constables to chief inspectors and Commander DPS for superintendents. Cases involving members of the Association of Chief Police Officers will be referred to the Metropolitan Police Authority.

Officers engaged in police duties where the consumption of alcohol is unavoidable are reminded that they should make appropriate arrangements to ensure that they do not drive.

Enquiries about this Notice may be made to Dave Linale, Chief Inspector, DPS on extn 65330.

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**Cancel** Item 4 of Notices 23/96 of 5 June 1996 and **write** the item number and date of this Notice against it.

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**Sanction Guidance**

## NOTES OF GENERAL APPLICATION.

1. It is *not* intended that the following guidelines should bear in any way upon the issue of whether an officer has been proved to have failed to adhere to the required standard.
  
2. Wherever an officer has been found to have failed to meet the appropriate standard of conduct such that the charge has been found to have been proved, the question of selection of appropriate sanction is one for the officers conducting the hearing.
  
3. The function of the tribunal in this regard is set out in the Home Office Guidance at paragraphs 3.72 to 3.77. Nothing in the material here set out should be read so as to derogate in any manner from those provisions.
  
4. The Metropolitan Police Service must strive to ensure that there is both public and service confidence in the operation of the disciplinary system. By virtue of its size and consequent greater volume of disciplinary adjudications, the disciplinary function is more widely devolved within the Metropolitan Police Service, than in others. This creates the capacity for an element of inconsistency as between adjudicating tribunals and reviewing officers.
  
5. Established case law makes it clear that so far as achievable, like cases should be treated alike.
  
6. It is also desirable that police officers the subject of the code of conduct, are in a position to know in broad terms that certain categories of conduct are likely, *subject always to full consideration of the individual circumstance of the transgression and of the officer*, to attract sanctions of a particular level of severity.
  
7. It is with that end in mind that the Deputy Commissioner, as the officer with overall responsibility for the workings and fairness of the disciplinary system, wishes all tribunal members selected to adjudicate in disciplinary

matters to have regard, in the adjudication process on sanction, to the matters hereafter set out.

8. Where a given aspect of proved conduct can be viewed against one of the factors here set out, it ultimately remains a matter for the officers conducting the hearing to determine whether that factor in the form encountered in the case under consideration, is either aggravating, mitigating or neutral in its effect on culpability. The guidelines provide pointers towards aspects of conduct that may typically be regarded as tending towards one or other limit of the spectrum of culpability. Where the officers conducting the hearing find themselves in concurrence with the guidelines such that an aspect of proved conduct is determined by them to be either aggravating or mitigating, it is a matter for those officers to determine the degree to which that is the case.

9. Subject always to the view of the officers conducting the hearing, it is not intended that the absence of a particular mitigating factor is in itself to be regarded as aggravating, nor that the absence of an aggravating factor should itself constitute mitigation. Nor is it intended that the presence of any or any combination of factors one way or the other is determinative of any particular sanction.

10. The factors set out in the guide are not ordered in any suggested or perceived hierarchy.

11. Where an aspect of proved conduct is not catered for in the guidelines, it is for the officers conducting the hearing to bring their collective operational experience and knowledge to bear upon whether this aggravates or mitigates the conduct and the extent to which it does either.

12. Where a case is being determined by a tribunal, a decision has already been reached that the matter is not suitable for local resolution. This may be because the conduct has been viewed as too grave for this avenue, or it may be that the matter arises by way of public complaint and the Independent



Police Complaints Commission has not consented to this route. Either way, this should not in any way be taken to curtail the discretion vested in the tribunal to impose whatever sanction is considered most appropriate. The full range of sanctions is always available including the imposition of none at all. (See Guidance paragraph 3.77). It will only be after full hearing of the evidence and mitigation that a properly informed view can be taken. There will be cases where conduct, which appeared sufficiently grave to be beyond the scope of the local misconduct procedures, is determined by the discipline tribunal after full consideration to be of a lower order of gravity.

13. However, those matters the subject of tribunal adjudication will *in general* be instances of greater gravity than matters resolved without recourse to this route. It is therefore even more important to ensure that so far as achievable there is consistency in the decision making process.

14. There are important factors that are of general applicability to all breaches of the discipline code and which will be of great importance in the determination of sanction. These are not repeated under each code paragraph hereafter but will always be highly likely to be relevant to the determination of sanction by the tribunal. These include, though are not limited to the following:

1. Whether conduct proved is isolated or part of a repeated pattern.
2. Quality of officer's prior service record and appraisals.
3. Matters of individual mitigation to the officer concerned.
4. Whether officer is to be given credit for an admission of culpability.

15. The facts of a case may well indicate that the breach of a particular code of conduct is so inexcusable that removal from the service is inevitable in the absence of truly exceptional mitigation. To retain the officer in these circumstances could cause the service to practical difficulties and expose itself to potential liability in;

16.

- a. Placing the officer with colleagues who may be subject to further conduct of that type;

- b. Where the disciplinary finding would prevent the officer from participating in an evidential chain;
- c. Guarding against the negative effect on morale of colleagues by placing a person with such a finding back in the workforce.

These considerations must be applied objectively and must take account of the particular circumstances of the case and the officer concerned. The purpose of the sanctions is not to be punitive, but to protect the public interest (this includes members of the public, the reputation of the service and individuals employed within the police service), although they may have a punitive effect.

17. Those matters and others determined by the tribunal members to be relevant should always be given such weight as is considered appropriate.

18. There follow three sets of guidelines addressed to failures in standards relating to codes of conduct paragraphs One – Honesty and Integrity; Three – Politeness and Tolerance and Four – Use of Force and Abuse of Authority.

## CODE OF CONDUCT 1 – HONESTY AND INTEGRITY.

*It is of paramount importance that the public has faith in the honesty and integrity of police officers. Officers should therefore be open and truthful in their dealings; avoid being improperly beholden to any person or institution; and discharge their duties with integrity.*

1. The office of Constable carries with it as an essential adjunct, the requirement that the holder should act with honesty and integrity.
2. It will therefore frequently be the case that an officer who is found to have failed to adhere to this standard, will be rendered by that finding, unfit for continued service.
3. In determining the appropriate level of sanction in such a case, it is important to note that *whatever* the individual mitigation, the adverse finding may render the officer concerned of limited or no utility to the Metropolitan Police Service. This will arise because such a finding may be inherently inconsistent with continued service.
4. A further factor arises from what may be the officer's lack of continued utility to the Service. This can stem from the disclosure requirement in criminal proceedings of the adverse finding. It will not be desirable for an officer who has been the subject of any significant breach to be in a position where there is likely to be a need for the officer to provide evidence at court. The efficient management of the Service will in general not be served by the retention of officers for whom non-operational roles have to be provided, where the need for this stems from the officer's own failure.
5. It is necessary to reflect in sanction imposition, the considerable extent to which officers found to have failed to adhere to this standard can have a detrimental effect on the morale and motivation of other serving officers. The perceptions of other officers, while not determinative are of great importance.

6. In general, a breach of code one has the very greatest capacity to impact upon public confidence in the Police Service. This is a very important factor.

7. Breach of code of conduct one will almost invariably be a most significant matter. It is therefore important that when sanction is considered an officer's suitability for continued service should be reviewed. The integrity of the MPS requires that the future service of officers who have breached code one in a significant manner should be the subject of very full scrutiny.

8. If such an officer is to remain in the Service, it is of the first importance that the reasons for this should be fully articulated by the tribunal both at the stage of sanction imposition and in the written report.

#### FACTORS LIKELY TO BE RELEVANT.

9. Is a false declaration deliberate?

- Is the untruth one that is deliberate in the sense that the officer uttering it whether orally or in writing knows that the statement is false. This would constitute a breach of code one by striking at the core of an officer's honesty.
- Is the falsehood one that is uttered in circumstances where not actually deliberate in the sense identified above, but is nevertheless uttered without checking the true position and in the knowledge that the statement may well therefore be false. This may be better characterised as lack of integrity.

10. What is the purpose behind any given false statement?

- The most serious breach is likely to be exemplified by the provision of a false statement in contemplation of criminal or civil proceedings. The officer making such a statement will inevitably contemplate repetition thereof on oath if the matter comes before a court. A false statement that has the effect of implicating another officer in a disciplinary enquiry would usually also be in this category.

- Examples of breach of Code 1 that may ordinarily be less grave will be aggravated by false statements intended to result in financial benefit such as overtime and allowance claims. Conduct in this category will have a clear capacity to call into question an officer's future service.
  - Below this will typically be a false statement uttered in order to deflect enquiry about a one off and relatively minor breach of an officer's duty. An example would be a false statement made to a supervising officer to explain a late attendance for parade.
  - A failure to provide information when it is the officer's duty to provide such will not necessarily be of less gravity than deliberate action. A failure to report crime or serious disciplinary matters by colleagues will in many cases be as serious as the uttering of false statements.
  - A false statement that has the effect of covering up the commission of a crime or serious disciplinary offence will in general be no less serious than a false statement that wrongly implicates another.
11. Is the false statement one that concerns an officer's off-duty existence or is it uttered in an on-duty context?
- Police officers cannot be expected to wholly rise above acknowledged human frailty. Officers who make false statements in the context of personal and family relationships will not ordinarily be susceptible to disciplinary procedures. In the event that such procedures are invoked it will often not be necessary to impose the gravest sanctions.
  - However there will be instances of a Code 1 breach that although confined to an officer's personal, off-duty existence may strike at the root of his or her suitability for continued service. An example would be provided by a false claim for housing or other social fund benefit where this has not resulted in prosecution and conviction so as to render the officer susceptible to code eight proceedings.
  - The crucial issue where there is a breach of code one confined to off-duty behaviour is whether the nature of the falsehood is such as to have the capacity to infect the officer's honesty and integrity in the performance of his duties as a constable.

12. Was the false statement uttered in circumstances of spontaneity or after calculation?
  - If an officer has been impulsive in uttering a false statement and quickly makes the true position clear, this may afford substantial mitigation. Rectification will be of less significance if it occurs only as a response to being faced with contradictory material such that the falsity has become obvious.
13. Attempt to embroil other officers in a lack of candour or untruths.
  - It will be an exceptionally grave matter to seek to perpetuate a breach or contemplated breach of Code One by seeking to invoke the complicity of other officers, particularly where the target officer is junior in rank.
14. Value of any loss to another or gain to the officer.
  - It will be important to consider the extent to which a breach of Code One resulting in even low value loss and gain, may suggest an inherent unsuitability for an officer's continued service.
15. If a breach lies in the behaviour of an officer other than by the provision of a false written or oral utterance, is the behaviour such as to demonstrate corruption?
  - At the likely upper extreme of gravity may be behaviour that impacts upon the integrity of the system of informant handling or the due administration of criminal justice. Examples will be provided by the solicitation or acceptance of bribes (whether pecuniary or in kind), or shares of informant rewards.
  - Conduct will usually be grave where an officer has misappropriated property to which he has unique access by virtue of his office and where there is a high expectation that such property will be properly dealt with and accounted for. An example is provided by the system for the surrender by members of the public of items of lost property.

### CODE OF CONDUCT 3 – POLITENESS AND TOLERANCE.

*Officers should treat members of the public and colleagues with courtesy and respect, avoiding abusive or deriding attitudes or behaviour. In particular, officers must avoid: favouritism of an individual or group; all forms of harassment, victimisation or unreasonable discrimination; and overbearing conduct to a colleague, particularly to one junior in rank or service.*

1. The Metropolitan Police Service is committed to providing a working environment which is secure and free of discriminatory attitudes. Officers who are offensive to others whether by verbal or written utterance or by the display of other forms of conduct are by this, demonstrating a likely unsuitability for membership of a disciplined organisation.

2. Such unsuitability is likely to be all the more clear, where the motivation of the officer lies in a discriminatory attitude to members of the public or colleagues of a particular group whether of race, sex, sexual orientation or other.

3. There will be many cases where whatever may be the individual mitigation, the conduct is so flagrant as of itself to demonstrate inherent unsuitability for continuation of service.

4. Discriminatory attitudes that are founded upon perceptions of racial inferiority are particularly insidious. The Metropolitan Police Service embraces recommendation 57 of the Stephen Lawrence Inquiry report which states that *“allegations of racist words or acts proved to have been spoken or done by police officers should lead to disciplinary proceedings and that it should be understood that such conduct will usually merit dismissal”*.

5. The Police Complaints Authority have however perceived that the efficacy of the disciplinary system in this area, may be undermined if there is an unyielding recourse to the most grave sanctions for *any* failure in standard of this code of conduct.

6. It must be born in mind that the MPS encourage recruitment from applicants with diverse backgrounds. Many will have been employed in environments where a degree of latitude over the expression of attitudes is accepted. There is no place within the MPS for those who bring with them discriminatory attitudes. In view of the substantial element of training in this regard, it should not be readily accepted that a serving officer was unaware that the service strongly abhors both the possession and expression of such attitudes.

7. It is therefore of importance, in determining the appropriate sanction for a breach of this code of conduct, to consider whether the unacceptable behaviour found to have occurred is capable of being modified by training and constructive guidance in the future.

8. Where the tribunal determine that the behaviour or utterance was the product of malice and done with the aim of being offensive, then there will invariably be no future for the officer concerned in the service.

9. Where however, the motivation was not in this category, then the tribunal may wish to consider whether there can yet be a future for the officer concerned.

10. There will remain cases where even if the conduct or utterance was inadvertent, in the specific sense that offence or discrimination was not the desired result, the conduct is so far outside any realm of acceptability, that even an attempt at rectification by training may be entirely inappropriate.

11. Where a tribunal is considering the extent to which training may cause an officer to address prejudice it will be of particular importance to consider any material that bears upon past guidance and warnings that have been directed to the officer. It will seldom be appropriate to retain the services of an officer who has displayed unjustified prejudice to others where prior warnings or guidance to that officer have not been acted upon.



12. Where the tribunal determine that an officer displaying discriminatory attitudes continued to do so due to lack of correction by supervising officers this will be capable of amounting to some mitigation. However, this factor will be unlikely to affect the gravity of conduct that is intended to be discriminatory. The very clear stance of the Service in this area is such that suggestions that culpability can properly be shifted to supervising officers should be scrutinised with care. Such supervising officers may well be subject to disciplinary sanctions in their own right.

13. The factors set out above are applicable to the possession and expression of prejudice in relation to other population groups whether of gender, sexual orientation or others.

#### CODE OF CONDUCT 4 - USE OF FORCE AND ABUSE OF AUTHORITY.

*Officers must never knowingly use more force than is reasonable, nor should they abuse their authority.*

1. A police officer has, by virtue of his office many statutory powers that are not possessed by the public at large. The exercise of these powers confers on an officer an authority. This authority must not be misused. In order to exercise many of these powers, it will sometimes be necessary to deploy force. The use of force must not be gratuitous and when necessary is always subject to the principle of proportionality. Officers are therefore to be expected to show restraint and to make judgments as to the necessary degree of force to be deployed on any given occasion.

2. Where there is an adjudication that the expected standard has been breached that finding will be capable of calling into question the officer's suitability for continued service.

3. A failure to adhere to the standard laid down by code of conduct four will frequently render the officer concerned unfit for continued service. A significant failure will in general connote an aspect of character in an officer that is inconsistent with the high standards to be expected.

4. Police officers are in the nature of their duties frequently subject to provocation and stress. It is to be expected that they can maintain composure and restraint even in the face of this. The fact that a breach of this code has been occasioned by provocation or stress, while bearing upon culpability, may nevertheless be indicative of a temperamental unsuitability for continued service.

5. It should always be born in mind that officers who resort to the use of excessive force, or who misuse their authority whether gratuitously or for personal gain have a very deleterious effect on public confidence in the service.

6. It is therefore necessary that if officers who have failed to adhere to this standard are to continue in the service of the Metropolitan Police, the reasons for this should be clearly articulated both at the time of sanction imposition and in the written record. If it is the view of the tribunal that the officer has learned from the experience of being subjected to the disciplinary procedures, and that the officer has the capacity to exercise greater self-control in the future, then this finding should be clearly spelt out.

### FACTORS LIKELY TO BE RELEVANT.

#### Use of Force.

7. Was the use of any force completely unjustified?
8. Was use of some force justified but the extent of it not so justified?
  - As in the criminal arena it is in general to be recognised that the use of force where none was required is more serious than the use of excessive force where there was a justification for the deployment of some.
9. What was the extent of the force and its duration?
10. What injury if any was occasioned by the use of force?
11. Was the use of force gratuitous in the sense that it was deliberately deployed knowing that there was no justification for it?
  - An example of conduct likely to be at the most serious end of the spectrum would be the gratuitous use of force arising from prejudice or some perception of the need for a form of summary justice.
  - Conduct towards the lower end of the spectrum would be typified by a custody officer who while documenting an abusive though non-violent prisoner pushed the prisoner a short distance away.

12. Was the unjustified force used by a single officer or as part of a group?
  - The conduct would in general be aggravated where a number of officers join together to carry out the application of unjustified force.
13. Was the unjustified force the product of any degree of deliberation or was it a spontaneous response to provocation or other source of stress?
14. Is the unjustified use of force motivated by prejudice to any minority or racial group?
  - This would be an example of the use of gratuitous force there being no possible justification for it.
15. Was the force applied using any item that an officer is permitted by virtue of his office to carry and in respect of which there are particularly high expectations of restraint.
  - Examples are of the misuse of CS gas and ASPs.
16. If force used is excessive as a result of overreaction by the officer, is it promptly ameliorated by way of apology?
17. Is there any attempt to conceal the use of excessive force?
  - This may be by way of failure to alert custody sergeant or medical professionals.

Abuse of Authority.

18. Is the action gratuitous in being motivated by prejudice towards a minority or racial group?
  - Such conduct will tend to suggest a fundamental unsuitability for continued service.
19. If perpetrated on a fellow officer is the victim of more junior rank or otherwise of a vulnerable disposition?

20. Has the abuse of authority been perpetrated in order to secure some personal benefit to the officer or the officer's family or associates?
  - An example of this would be the misuse of the police national computer in order to find out information of personal benefit.
  
21. Multiplicity of addressees.
  - Where an officer adopts an overbearing or abusive attitude to a number of other officers or members of the public, this will tend to demonstrate an inherent aspect of character that is likely, unless capable of being remedied to be inconsistent with continued service.



## POLICE MISCONDUCT HEARING

### PRESIDING OFFICER'S ACCOUNT

Hearing of a case concerning:

Date of hearing:

Name of Presiding Officer:

Names of Assessors:

#### The Decisions of the Hearing

<b>Matter<sup>1</sup> Number</b>	<b>Code of Conduct (Heading)</b>	<b>Finding Proven / Not Proven</b>	<b>Sanction</b>

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<sup>1</sup> In order as listed on Form 164

**The Hearing's conclusions on the seriousness of the failure(s) in standards:**

Has the alleged failure(s) in standards been proven?

If proven set out the hearing's views on the seriousness of the failure(s) in standards after considering the associated aggravating and mitigating factors (which you will comment upon in later sections of this account).

Additionally any views on the failure(s) in standards should be noted here.

NB: If the alleged failure(s) in standards has not been proven there is still a need to give reasons, which explain & justify the finding. Therefore all parts of this account relating to the finding should be completed whether the alleged failure(s) is proven or not.

**The Hearing's views on aggravating factors affecting the seriousness of the failure(s) in standards:**

Aggravating factors affecting the seriousness of the failure in standards.

**The Hearing's views on mitigating factors affecting the seriousness of the failure(s) in standards:**

Mitigating factors affecting the seriousness of the failure in standards.

**The Hearing’s reasons for the decision as to finding:**

It is important that full reasoning is documented, as this will make clear to the officer concerned and any Reviewing officer how you came to your decision.

Why did you find the alleged failure in standards proven? Did the evidence come up to proof? Was there compelling evidence? Where on the sliding scale of the balance of probabilities did the evidence reach – this is important when you are considering a sanction of either dismissal, requirement to resign or reduction in rank as a higher standard of proof is required (**Home Office Guidance, Paragraph 3.75**).

The reasons given throughout the account should explain and justify the finding.

*Review the reasons for the finding and the sanction against the following test:*

- *Would a reasonable person with notice of all the facts and representations made to the hearing be able to understand the decision itself, the basis of that decision and why any conclusions were reached on disputed facts or contentious submissions?*
- *Would the officer(s) concerned with notice of all the facts and representations made to the hearing be able to properly consider whether to exercise his or her right to a Chief Officers Review in respect of any finding or sanction imposed?*

**The Hearing’s views on mitigation put forward by, or on behalf of, the officer concerned.**

Mitigating factors affecting the sanction imposed.

**The Hearing’s reasons for the decision as to sanction:**

It is important that full reasoning is documented, as this will make clear to the officer concerned and any Reviewing officer how you came to your decision.

Here reference can be made to your awareness of the MPS Guidelines on sanctioning and any relevant **Home Office Guidance, e.g. Annex N**.

You should restate your views on the seriousness of the failure in standards and the fact that you



have considered all the options open to you as laid out in Regulation 35 of the Police (Conduct) Regulations 2004.

State that you have considered the personal record of the officer concerned and any character evidence that has been presented to you (Regulation 36). Comment on your views of the same and state what affect this had on your decision as to sanction.

Give the reasoning for any credit given for a timely admission of the failure in standards. (See note 14.4 Notes of General Application.)

Signature of Presiding Officer .....

Signatures of Assessors .....

.....

Date: .....