

Former Constable Samuel SMITH

GMH – 15th July 2026

Stage one

The former officer and his representatives chose not to attend the hearing on 15th July. The panel confirmed the former officer was aware of the date of the hearing and had chosen not to attend. The panel decided that, in the interests of justice, the panel should go ahead in the absence of the former officer and that it was fair to do so.

In the absence of the former officer, the panel ensured that it had full regard for the evidence submitted by him, when making decisions in this matter.

Panel decision- Former Police Constable Smith

The task of the panel on disputed matters of fact is not, as such, to determine the truth. It is to identify what needs to be proved, by whom, in this case the Appropriate Authority, upon the basis of a correct identification and analysis of the legal rules governing the case. It must then form a judgment (doing so rationally, reasonably and impartially), for each such proposition of fact, as to whether the evidence presented at the hearing made what the party bearing the burden of proof says occurred appear – more probably than not – to be what occurred.

The law in respect of factual determinations

The burden of proving the facts pleaded rests with the appropriate authority.

The standard to which the Appropriate Authority must satisfy the panel is the simple balance of probabilities. The inherent probability or improbability of an event remains a matter to be taken into account when weighing the probabilities and deciding whether, on balance, the event occurred. Within this context, there is no room for a finding by the panel that something might have happened. The panel may decide that it did or that it did not: **Re B [2008] UKHL 35.**

Findings of fact must be based on evidence and not on speculation. The decision on whether the facts in issue have been proved to the requisite standard must be based on all of the available evidence.

In determining whether the Appropriate Authority has discharged the burden upon it, the panel looks at what has been described as ‘the broad canvas’ of the evidence before it. The role of the panel is to consider the evidence in its totality and to make findings on the balance of probabilities accordingly. Within this context, the panel must

consider each piece of evidence in the context of all of the other evidence: **Re T [2004] 2 FLR 838.**

The panel must always bear in mind that a witness may tell lies in the course of an investigation. The panel must be careful to bear in mind that a witness may lie for many reasons, such as shame, misplaced loyalty, panic, fear or distress. The fact that a witness has lied about some matters does not mean that he or she has lied about everything: **R v Lucas [1982] QB 720.**

The panel also need to consider their purpose within the misconduct regime which is:

1. to maintain public confidence and the reputation of the police service
2. to uphold high standards in policing and deter misconduct
3. to protect the public.

The Panel has heard and received all the evidence in the case. The Panel must now decide the case solely based on the evidence it has heard in the hearing room and read in the bundle the parties have agreed.

Credit/Good Character

There were no previous findings against the former officer.

Role of the panel

The role of the panel has four steps, usually approached in two stages:

Stage 1

- (a) first, determining the facts, based upon what is admitted by the former officer or proven on the balance of probabilities;
- (b) second, determining whether on the basis of those facts the former officer has breached the Standards of Professional Behaviour alleged;
- (c) third, deciding whether the breaches found amount to gross misconduct or not;

Stage 2

- (d) deciding what the outcome should be.

The four steps should not be conflated. Each requires discrete findings with sufficient reasons.

The AA brings the allegations, and it is for the AA to prove them. The standard of proof is the balance of probabilities, that is to say whether they are more likely than not to be true. The balance of probabilities is a single unvarying standard. (see the [Home Office Guidance](#) paragraph 9.10).

Legal advice

The panel received and had regard to the advice of the independent legal advisor.

The findings of fact

The panel used the same numbering below as the Regulation 30 notice.

The panel considered all of the evidence it has read, seen and heard and the submissions by counsel for the Appropriate Authority.

It was sometimes unclear from the legal bundle which of the allegations were admitted or denied. Therefore, in the absence of the former officer, and aside from allegation (e), the panel started their deliberations from the standpoint that the allegation was denied and it was therefore for the AA to prove each allegation.

By way of summary, at approximately 22.30 on September 26th 2023 a liveried GMP Transit Van (“the van”) collided with a blue Seat vehicle VRM [REDACTED] which was parked outside [REDACTED] Grove Salford causing damage. The impact was sufficient to cause the Seat to move. The van left the scene without stopping. The owner of the Seat reported the collision to GMP. The collision was captured on RING doorbell footage which the owner of the Seat supplied to GMP. When PS Wright spoke to you about this, you confirmed that you had been the driver at the relevant time but denied being aware of the collision.

The alleged breaches as set out in the Regulation 30 Notice are as follows:

a. The force of the impact between the van and the Seat was such that you were aware of the collision

The panel were able to watch the ring doorbell footage and have seen evidence of damage to the police van and the Seat. Given the damage to both vehicles and the

footage of the van colliding with the Seat causing it to move backwards and forwards, the panel find that the former officer was aware of the collision at the time it occurred. Furthermore, the footage shows the van stopping immediately upon collision and readjusting its position in the road to enable further reversing, adding further weight to the finding.

Following a discussion about the incident being referred to PSD, both Sgt Wright (p53) and Insp Ashton (p49) refer to the former officer having admitted that he knew he had hit the vehicle.

Later in his interview with PSD (P141) the former officer, when asked whether he knew he had collided with the vehicle at the time, he replied, 'Maybe, A...an inkling, yeah, until it was shown to me on that night'.

The panel find, on the balance of probabilities, this allegation is proven due to this clear evidence.

b. You failed to:

i. stop after the collision

ii. make any attempt to locate the owner of the Seat vehicle VRM [REDACTED] and exchange details with them;

and iii. report the collision pursuant to your responsibilities and obligations under S170 of the Road Traffic Act 1988

The panel find, on the balance of probabilities, this allegation is proven.

The former officer did not complete any of the above tasks. Regards (i) and (ii), the panel accept that if attending a grade one incident, there may have been good reason for some delay, but it was not followed upon in due course. In relation to (iii) reporting the collision, the former officer had numerous opportunities to do this from the moment it happened until the end of his shift and failed to do so. The panel considered the reasons advanced by the former officer in his Regulation 31 response for not reporting the matter, but finds that there was no good reason for not reporting the collision.

c. You failed to notify your supervision of the collision pursuant to your responsibilities and obligations under the Road Traffic Collision Reporting Procedure 2016

The panel find, on the balance of probabilities, this allegation is proven.

As referenced above, whilst there may have been good operational reason for the delay in notifying supervision of the collision, the former officer could have reported it informally over the radio on route to the grade one incident, should have notified PS Wright later in the night shift when he spoke to her face-to-face and should have notified both PS Wright and Insp Ashton when asked about the collision directly on the evening of 27th Sept 2023.

d. You attempted to remove the visible damage to the van by wiping it down.

The panel find, on the balance of probabilities, this allegation is not proven.

Whilst we accept, by his own admission, that the former officer wiped the van, given the severity of the documented damage, we do not find that this was an attempt to remove the damage, as this would not be possible.

e. You failed to complete the vehicle logbook.

The panel find, on the balance of probabilities, this allegation is proven.

The logbook was not completed and the former officer himself admits to not having completed it.

f. When asked about the collision by PS Wright you dishonestly denied being aware of the collision or attempting to remove the visible damage to the van by wiping it down.

Honesty and integrity

The panel will deal with this allegation in separate parts:

The AA firstly say that the former officer was dishonest in relation to denying being aware of the collision.

IVEY test

In determining dishonesty, the tribunal must use the accepted test for dishonesty, also known as the Ivey test which arises from a change in the law made by the Supreme Court in 2017.

Subsequent to the Supreme Court judgement, the High Court confirmed that the Ivey test is good law in professional conduct tribunals, such as this, in the cases of GMC V Krishnan and Uwen V GMC.

The test the tribunal needs to apply is as follows:

Firstly, the Tribunal must ascertain (subjectively) the actual state of the officer's knowledge or belief as to the facts. The reasonableness or otherwise of his belief may evidence whether he held the belief, but it is not an additional requirement that his belief must be reasonable; the question is whether it is genuinely held.

Secondly, once that has been established the Tribunal must determine whether his conduct was dishonest by applying the (objective) standards of ordinary decent people. It is not necessary for the individual to appreciate that what he has done is, by those standards, is dishonest.

Of relevance is the statement by Lord Hughes in the judgement:

"...(dishonesty is intended) to characterise what the defendant did, but in characterising it one must first ascertain his actual state of mind as to the acts in which he did it. It was not correct to postulate that the conventional objective test of dishonesty involves judging only the actions and not the state of knowledge or belief as to the facts in which they were performed. What is objectively judged is the standard of behaviour, given any known actual state of mind of the actor as to the facts."

We applied the relevant test to the dishonesty allegations:

Applying the subjective test we were assisted by the unchallenged evidence of PS Wright where she reports the former officer has denied knowledge of the collision when asked directly. The panel accepts this evidence could not be tested, and accepts the evidence of PS Wright.

We do find that the former officer knew he was being dishonest when denying knowledge of the collision given our findings above in relation to the force of the impact. Applying the objective standards of ordinary decent people it is our finding that such people would believe that what the former officer did was dishonest.

Secondly, in relation to dishonesty in 'attempting to remove the visible damage to the van by wiping it down', the panel found it would be impossible, due to the damage, to remove the visible damage. Therefore, when applying the dishonesty test, this latter aspect is not dishonesty.

g. When asked about the collision again by PS Wright in the presence of Inspector [REDACTED] Ashton, you dishonestly informed them both that you did not know about the collision before admitting being aware of it and trying to wipe the damage out of the van.

Honesty and integrity

The panel will deal with this allegation in separate parts:

The AA firstly say that the former officer was dishonest in relation to denying the collision before admitting being aware of it.

IVEY test

In determining dishonesty, the panel again used the accepted test for dishonesty.

We applied the relevant test to the dishonesty allegations:

Applying the subjective test we were assisted by the unchallenged evidence of PS Wright and Insp Ashton where they report the former officer initially denied knowledge of the collision when asked directly. The panel recognises this evidence could not be tested, but accepts their written evidence.

We do find that the former officer was dishonest in acting the way that he did when initially denying knowledge of the collision.

Applying the objective standards of ordinary decent people it is our finding that such people would believe that what the former officer did was dishonest.

Secondly, in relation to dishonesty in 'trying to wipe the damage out of the van', the panel found it would be impossible, due to the damage, to remove it. Therefore, when applying the dishonesty test, this latter aspect is not dishonesty.

Breaches of the standards of professional behaviour

In relation to these allegations, the AA says the former officer's behaviour has breached the standards of professional behaviour in relation to the following:

Honesty and Integrity

Officers must act with honesty and integrity at all times.

In terms of honesty, based on the findings above in relation to the lies told to PS Wright and Insp Ashton, on the balance of probabilities, the panel do find that the former officer has breached this standard.

In terms of integrity, the AA suggest that allegations c, d and e collectively amount to a failure to act with integrity. We found above that allegations c and e were proven, whilst allegation d was not.

As a whole and, on the balance of probabilities, the panel do find that the former officer has breached this standard.

Duties and Responsibilities

The former officer failed to comply with section 170 of the Road Traffic Act 1988 which is a failure to perform duties diligently.

On the balance of probabilities, the panel do find that the former officer has breached this standard, because he has not been diligent in the exercise of his duties

Orders and instructions

The AA say that the former officer's actions amount to failure to comply with lawful orders and instructions.

On the balance of probabilities, the panel do find that the former officer has breached this standard, by not following the relevant policies and failing to notify supervision of the collision.

Conduct

The AA say that the actions of the former officer discredits the police and undermines the public's confidence in the police.

On the balance of probabilities, the panel do find that the former officer has breached this standard, because his actions could undermine public confidence in policing.

Level of misconduct

Seriousness assessment

In assessing the seriousness of the misconduct, we have considered:

a. The officer's culpability.

In this matter, the allegations that we have found proven all concerned the direct conduct of the former officer. Whilst the collision may have been accidental, the former officer made a conscious decision to lie about it to his supervisors. He had a responsibility as a police officer to act in line with the relevant standards, policies and guidance and training available to them.

The Culpability therefore falls at the medium level of seriousness.

b. The harm caused (and the risk of harm).

There is a risk of reputational harm as the public would see this behaviour as unprofessional and unacceptable and it could undermine public confidence in the police service.

There is a risk of harm within the police service itself due to the impact this matter could have upon trust between colleagues.

It could also undermine the confidence of the vehicle owner in the police service that matters would be dealt with correctly and professionally.

The harm and risk of harm in this matter therefore falls at the level of medium seriousness.

c. The aggravating factors.

There was concealment of wrongdoing by the former officer, deviation from instructions and a failure to seek advice from a colleague or senior officer in relation to the collision. to not searching correctly. There are multiple proven allegations and breaches of the standards.

d. Mitigating factors.

The former officer made some admissions at a later stage.

In conclusion, the panel find that culpability is at the medium level and the harm and risk of harm is at the medium level.

The aggravating factors outweigh the mitigating factors and so the seriousness overall is at the **medium/high** level of seriousness.

Level of misconduct

It is alleged by the Appropriate Authority that the breaches amount to gross misconduct.

Gross misconduct means a breach of the standards of professional behaviour which is so serious as to justify dismissal.

Misconduct means a breach of the standards of professional behaviour that is so serious as to justify disciplinary action.

For a former officer, the definitions are slightly altered.

"Gross misconduct" is now defined as a breach of the standards of Professional Behaviour so serious, "that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable.

Misconduct means, conduct not so serious that the officer concerned would have been dismissed if the officer had not ceased to be a member of a police force or a special constable";

Having regard to the above and all of the matters we have heard and considered we do find that this is a matter that does fall within the definition of gross misconduct. This is due to the fact that the majority of the conduct was intentional and had the potential to impact on public confidence and on the reputation of policing.

This finding does fulfil the purpose of the misconduct regime which we reminded ourselves of when making this determination.

Outcome

The panel have considered all the submissions, the evidence, the record of service and character. We also considered the college of policing guidance on outcomes. There is no evidence of any matters of similar misconduct by the Officer during their service.

We have also considered again our purpose within the misconduct regime which is:

1. to maintain public confidence and the reputation of the police service
2. to uphold high standards in policing and deter misconduct
3. to protect the public.

In assessing the seriousness of the misconduct, we have already considered:

culpability, harm, aggravating and mitigating matters as set out above and do not repeat those findings here.

We turned our minds to this aspect once more having heard submissions.

We considered that the additional aggravating factors should be added to our finding, namely:

- The continued behaviour after the officer realised, or should have realised, that his actions were improper

The panel find that this conduct is potential criminal conduct and that his supervisors were in the early stages of an investigation when they were asking him questions about the collision. The fact that the officer lied to them means that this falls into the category of operational dishonesty, although the panel reflect that it is not at the more serious end of that spectrum.

Other than these additional matters, we did not consider that any further aggravating or mitigating matters needed to be added or removed from our previous assessment.

Our seriousness assessment therefore remains the same.

The appropriate authority says that a finding that the officer would have been dismissed is the only appropriate finding.

Having considered all the above matters and the available outcomes, the panel firstly considered whether recording a finding of gross misconduct and taking no further action was appropriate.

Having regard to the purpose and all of the matters set out above, we consider that taking no further action is not sufficient when considering the nature of the proven allegations, the purpose of the disciplinary regime and the protection of the public.

This matter concerns multiple breaches of the standards and clearly could have an impact on public confidence in policing and the reputation of the police service.

The police are in a privileged position of trust, and the public expect them to conduct themselves in the correct manner.

We therefore have concluded that the most appropriate outcome is a finding that the officer would have been dismissed had they still been a member of the police force and that this sanction does fulfil the purpose of the misconduct regime.

We note that there were no previous findings against the officer and thank the former officer for their service prior to these matters, however this past record would not allow us to impose a lesser outcome, given the serious nature of our findings.

The decision will be notified to all parties within 5 days.