

IN THE MATTER OF THE POLICE (CONDUCT) REGULATIONS 2020 (AS AMENDED)

AND IN THE MATTER OF:

**POLICE SERGEANT DAVID ROTHWELL, POLICE CONSTABLE BRENDAN COLLEY
AND POLICE CONSTABLE WILLIAM BYERS**

OUTCOME REPORT

Introduction

1. The misconduct hearing for Police Sergeant Rothwell, Police Constable Colley and Police Constable Byers ('the Officers') was held in public between 7 and 10 July 2026 at Force Headquarters, Greater Manchester Police, and a Notice was published to that effect in accordance with Regulation 36(1) of the Police (Conduct) Regulations 2020 (the 2020 Regulations). The Regulation 30 Notice served on the Officers by the Appropriate Authority (the AA) alleged that the Officers had behaved in a manner which amounted to Gross Misconduct.
2. In brief, it was alleged that on the night of 28 December 2021 the Officers were on duty and were tasked with transporting Mr Borwar Ahmed (BA) from an address in Whalley Range to Manchester Central Park Police Station. This followed the arrest of BA a short while earlier for the offences of assault occasioning bodily harm, criminal damage, and racially aggravated public disorder. These offences all related to a female complainant known to BA, and at the start of the hearing the Chair made a direction under Regulation 39 (3) (c) of the 2020 Regulations prohibiting the publication or broadcasting of any information or material that may identify either the female complainant or her residential address.
3. During the journey back to Central Park Police Station, BA – who was seated in the rear of the police van with his hands handcuffed behind his back – began to racially abuse PC Colley, who was driving the vehicle. PC Colley was repeatedly called 'monkey' and latter was subjected to further racist abuse whilst the other officers were referred to as 'white bitch' and threats were made by BA to rape their children and mothers.

4. PS Rothwell (who held the rank of constable at the time but who will hereafter be referred to as PS Rothwell), told PC Colley to stop the vehicle which he did. PS Rothwell then got out of the front passenger seat and went to the rear of the vehicle. He then opened the rear doors saying words such as "*now you fucking listen here right now fella, you fucking listen here*".
5. PS Rothwell was then alleged to have opened the doors to the caged area of the van in which BA was held and climbed in, continuing to use words such as "*shut the fuck up*". In the period that followed, it was alleged that PS Rothwell went up close to the face of BA, said words including "*enough of that racist shit*", and placed his right hand next to the right side of BA's neck.
6. When completing an internal Use of Force form later, PS Rothwell stated that he had made physical contact with the face or head area of BA because BA appeared as if he was going to spit. The AA alleged that this explanation was not credible, the use of force by PS Rothwell was not justified, and that out of anger or frustration PS Rothwell had used unnecessary and disproportionate force against a handcuffed detainee.
7. The AA alleged that PS Rothwell's conduct amounted to breaches of the Standards of Professional Behaviour (SPBs). These were the SPBs relating to "Use of Force", "Honesty and Integrity", "Authority, Respect and Courtesy", "Duties and Responsibilities", and "Discreditable Conduct".
8. The AA alleged that PC Colley, having stopped the van, left the driver's seat and came round to the rear of the vehicle. He was said to have stepped onto the rear step and looked into the cage while PS Rothwell was inside with BA. The AA's case was that PC Colley should have recognised that the actions and use of force by PS Rothwell were, or might have been, improper.
9. In those circumstances, PC Colley should have challenged PS Rothwell at the time, and/or reported his concerns to a more senior officer at a later stage, neither of which PC Colley did. The AA also alleged that PC Colley was wrong, when completing his own Use of Force form later, to have described the use of force by PS Rothwell as justified, particularly as PC Colley made no reference on the form to BA either spitting or appearing as though he was about to spit.

10. For PC Colley the AA alleged that he had breached the SPBs relating to “Honesty and Integrity”, “Challenging and Reporting Improper Conduct”, “Authority, Respect and Courtesy”, “Duties and Responsibilities”, and “Discreditable Conduct”.
11. During the journey to Central Park Police Station, PC Byers (who had been one of the original arresting officers of BA) was seated in the rear seat of the police vehicle. He was between PS Rothwell and PC Colley in the front, and BA in the cage at the back. One of his responsibilities was to keep observations of BA, a detainee in police custody. PC Byers was seemingly the only one of the three officers who was wearing a Body Worn Video (BWV) camera during the journey.
12. It was alleged that PC Byers also got out of the vehicle after it had stopped, and he also went to the area of the rear doors. His BWV had been recording the events of the journey, including the racist abuse from BA and the stopping of the vehicle at the request of PS Rothwell.
13. In the midst of the incident, with PS Rothwell with BA in the caged area and with PC Byers and PC Colley at the rear doors, PC Byers deactivated his BWV by switching off his device for a period of time which was established at the hearing as being 7 seconds. When he reactivated the BWV, initially he only put it in standby mode, before fully activating it some 30 seconds later. This led to a loss of audio for a period of just under 40 seconds.
14. PC Byers in a later explanation stated that he had turned off his BWV by mistake as he thought the initial incident was over. He said that he had walked away from the rear of the van and only switched it back on when he realised the incident was continuing.
15. The AA alleged that the actions of PC Byers were in clear breach of Force policy on the use of BWV, and that his explanation was not credible. The AA’s case was that his actions were capable of supporting an inference that he had deliberately interrupted the recording of the incident when it was at its most sensitive time, and that as a result no video or audio recording existed of the time when PS Rothwell was said to have used the force he did against BA.
16. As well as his failings in respect of the BWV, the AA asserted that PC Byers was in a similar position to PC Colley, in that he should have recognised that the actions of PS Rothwell were improper and not justified, and accordingly he should have challenged PS Rothwell at the time and/or reported them later.

17. PC Byers was alleged to have breached the SPBs relating to “Honesty and Integrity”, “Challenging and Reporting Improper Conduct”, “Duties and Responsibilities”, “Orders and Instructions”, and “Authority, Respect and Courtesy”.
18. The AA’s case was that these breaches were so serious that the dismissal of all three Officers from Greater Manchester Police would be justified, and the behaviour of each of them amounted to Gross Misconduct.
19. The Officers were interviewed by Professional Standards Department Investigators on 22 May 2024. Each gave a prepared statement and then declined to answer questions thereafter.
20. The Officers each served a Regulation 31 response in October 2025, setting out their respective positions regarding the various allegations made. None of the Officers accepted that their actions breached any of the SPBs, nor that they amount to Gross Misconduct.
21. The burden was on the AA to prove on the balance of probabilities that the Officers had behaved in the manner alleged and in doing so that they had breached the relevant SPBs. Further, the AA was required to satisfy the Panel to the same standard that the breaches were of such a nature or degree that they amounted to Misconduct or Gross Misconduct.
22. The Panel took note of the established principle that the more serious the allegation, the more persuasive the evidence would need to be to meet that standard.
23. For each officer, separately and individually, the Panel approached its task in the following stages:
 - i) Were any of the facts admitted?
 - ii) What facts had been proved by the AA on the balance of probabilities?
 - iii) Of the admitted or proved facts, had the AA satisfied the Panel on the balance of probabilities that the relevant SPBs had been breached?
 - iv) If so, had the AA satisfied the Panel on the balance of probabilities that it was Misconduct or Gross Misconduct?

24. The Panel read and carefully considered all the documentation that was submitted in advance of, and during the hearing.

Character of the Officers

25. In coming to its overall findings in this matter, the Panel took into account the fact that none of the Officers had ever previously been subject to any previous findings of misconduct or gross misconduct. In addition, the evidence of the character witnesses submitted on behalf of each of the Officers was noted.
26. What the Panel was told about the character of the Officers was taken into account when assessing the credibility of their explanations and their propensity to act in the ways alleged.

The Evidence of Borwar Ahmed

27. At a pre-hearing held on 28 November 2025, it had been directed that the witness Borwar Ahmed should, if this could be arranged, attend the misconduct hearing. As things transpired, this proved to be not possible. Although BA himself was apparently willing to give live evidence from HM Prison Thameside where he was being held, a live link could not be set up. It was not made clear whether this was due to administrative, security or other reasons.
28. At the start of the hearing, the parties agreed that adjourning the matter further would not be in the interests of justice (the allegations themselves dating back to December 2021), and accordingly the Panel determined that the matter should proceed without the live evidence of BA.
29. The Panel took into account all of the circumstances surrounding BA's evidence. This included his clearly racist and aggressive conduct as shown on the BWV footage of PC Byers from the night in question; the fact that the account that he provided in his sworn witness statement dated 12 June 2023 contained a number of aspects that were demonstrably untrue; and the fact that his account could not be tested through cross-examination by those representing the three officers.

30. The Panel determined that no weight could be attached to the contents of BA's written statement other than in respect of those matters which were either accepted by all parties, or which were fully corroborated by the other evidence in the case. Corroboration included video footage from the docking area and custody suite at Manchester Central Police Station, and medical evidence from Nurse Francesca Dunne in which she set out what she observed directly (rather than what she was told by BA).

Oral Evidence at the Hearing

31. The only witnesses to give evidence at the misconduct hearing were the three officers themselves. The Panel's assessment of the credibility and reliability of their evidence is incorporated into the findings set out below.

The Panel's Findings on the Facts of the case

32. Turning to the central factual allegations as they related to each of the three officers, the Panel found the following matters to have been proven on the balance of probabilities:

PS Rothwell

33. PS Rothwell asked PC Colley to stop the police vehicle due to the racist abuse that BA was directing at PC Colley. PS Rothwell did not explain why he did this and there was no discussion with PC Colley. The decision to stop the police vehicle was that of PS Rothwell alone.
34. The Panel accepted the explanation of PS Rothwell that his intention at that stage was to challenge BA with a view to making him stop his racist tirade.
35. There was a range of other options available at that time which PS Rothwell did not appear to consider. He could, for example, have continued to speak to BA from his position in the front passenger seat of the vehicle; he could have spoken with PC Colley, maybe exploring whether alternative transport would be appropriate; or he could have just opened the back door of the police vehicle and talked through the cage.

36. The National Decision Model issued by the College of Policing invites officers to consider any options and contingencies available before taking action. PS Rothwell did not adopt this approach, albeit the Panel recognised that PS Rothwell was making decisions in the midst of a dynamic incident during which his colleague was being subject to vile racist abuse.
37. The Panel was assisted by and followed the decision of *McCarthy v Chief Constable of Merseyside Police* [2016] EWCA Civ 1257, where it was said at paragraph 23 that:
- “a fact finder should be wary of subjecting a short period of time to close forensic analysis and with the considerable benefit of hindsight.”*
38. The Panel accepted that PS Rothwell honestly believed that removing the barrier between him and BA (in terms of the cage door) would allow for more effective communication between him and BA, despite this not in fact being the best course of action in the circumstances.
39. PS Rothwell entered the rear cage area in order to try and stop BA using the racist language that he was continuing to direct at PC Colley. In the Panel’s view, PS Rothwell had clearly lost patience with BA, no doubt understandably feeling a deep sense of revulsion at what his colleague was enduring. PS Rothwell’s mood appeared to change very quickly, and his actions as shown on the BWV showed him as being somewhat hot-headed.
40. The Panel came to the view that the actions of PS Rothwell in climbing into the cage area and using the language he did towards BA were inappropriate and unprofessional. However, the Panel did not find him to have acted in a hostile manner, and at no stage did he appear to be making any threats towards BA. The Panel did have regard to the reality of the overall situation that was developing, whereby certain customary niceties would necessarily have to be put aside.
41. In terms of what followed, the Panel was assisted by the submissions made by Counsel on behalf of the AA and PS Rothwell in terms of the legal framework against which the use of force should be assessed. It appeared to be common ground that the approach to be taken when considering a factual scenario from December 2021 was as set out in *Curwen (by his litigation friend, Curwen) v Chief Constable of Cumbria Constabulary* [2026] EWHC 115 (KB) at paragraph 109:

“The test is therefore threefold and incorporates both subjective and objective elements:

- (a) Whether the officer honestly believed it was necessary to use force at the time it was used;*
- (b) Whether that belief was objectively reasonable;*
- (c) Whether the degree and nature of the force used was no more than was objectively reasonable in the circumstances, which requires an assessment of whether it was proportionate to the overall circumstances.”*

42. The Panel considered that there was no initial risk presented by BA to the extent that physical intervention was required. However, once the door to the cage area was opened by PS Rothwell – a decision the Panel did not consider to be the best course of action, something that PS Rothwell also appeared to accept having had time to reflect on the incident – then there was an immediate risk posed to PS Rothwell of BA either spitting at him or otherwise assaulting him (through, for example, a headbutt or a kick).
43. The Panel did not reach the view that BA was in the position of anticipating immediate violence to himself, despite the impetuous response of PS Rothwell. However, PS Rothwell was entitled to form the view that BA posed a risk of immediate violence notwithstanding the fact that he was handcuffed and detained at the time. According to the information provided to the officers when they attended the initial scene, BA was alleged to be a violent person who had kicked the female complainant in the head. He was seen to have blood on his hands, and he was also regarded as being in a drunken state, continuing to behave aggressively whilst in detention.
44. In those circumstances, the Panel accepted PS Rothwell’s account that he considered it necessary for him to intervene when he was in the caged area of the van, a decision he had to make in the very limited time available to him.
45. There was no evidence to counter what PS Rothwell had to say about what he honestly believed at the time. Applying the balance of probabilities standard and having regard to all the evidence that had been put before it, the Panel regarded it as being more likely than not that PS Rothwell did have an honestly held belief that BA was going to spit at him, given that – in the evidence provided by PS Rothwell - BA had appeared to “scrunch up” his face in the split second beforehand.

46. In coming to this view on the balance of probabilities, the Panel had regard to PS Rothwell's actions in pushing BA's head to the side which were consistent with such a belief being held. Also consistent were the later actions of PS Rothwell in putting BA's head down as he led him through the custody area when back at the police station. The Panel also took note of the fact that PS Rothwell had referred to his concerns at being spat at in the witness statement he made on that night in December 2021, and also that the Covid-19 virus and associated risks were at the forefront of the minds of many during that period. When assessing the above circumstances cumulatively, the Panel's view was that, on the balance of probabilities, PS Rothwell's belief that he needed to use force was both honest and objectively reasonable.

47. The Panel found that the force used by PS Rothwell consisted of him pushing away the face of BA, and pinning this to the side of the police vehicle for a short period of time in order to prevent BA from spitting. Such a view was consistent with footage recorded on PC Byers' BWV camera prior to PC Byers turning away and the BWV being deactivated.

48. Given the findings it had made – and notwithstanding the Panel's concerns about whether the initial decision of PS Rothwell was the correct one - the Panel determined that the nature and degree of the force used by PS Rothwell was necessary (in order to prevent the risk of BA spitting) and both proportionate and objectively reasonable (PS Rothwell having used the least level of force required to achieve the objective of preventing BA from spitting).

49. Overall, the Panel was of the view that PS Rothwell did give an honest and reliable account of his actions in terms of using necessary and minimal protective force.

PC Colley

50. Having viewed the CCTV footage, it was apparent that PC Colley was sufficiently close from his position at the rear of the van to observe the nature of PS Rothwell's contact with BA. The Panel also accepted the evidence that PC Colley gave, namely that he could hear everything and that he had put his leg on the back plate of the police vehicle and tried to lean into the cage as much as he could. Also, that he did not specifically see PS Rothwell put his hand to BA's head.

51. Given that the Panel had found that the use of force by PS Rothwell was not improper the Panel found that there was no requirement for PC Colley to challenge PS Rothwell at the time, and/or to report him to supervisors later.
52. Overall, the Panel considered PC Colley to have given an honest and reliable account. He had done the right thing during the course of the hearing in correcting an error in his statement and acknowledging of his own volition that he also had BWV that night, and that he could not recall why it was not switched on.
53. The Panel was impressed by PC Colley's levels of insight, whereby he accepted that things had not been done in ways they could have been done and that if such an incident happened again, he would be more willing to challenge an officer entering a cage in the circumstances that PS Rothwell did. This level of mature reflection was all the more commendable given that during the incident, PC Colley had been subjected to the type of abhorrent racist abuse that no person should ever have to endure.

PC Byers

54. Finally turning to PC Byers, the Panel reached the view that he did know that the cage incident was still ongoing when he turned away and stopped recording on his BWV camera. There was no basis at all for him coming to the view that the encounter had ended given that PS Rothwell was clearly still dealing physically with BA and a heated exchange between the two was ongoing.
55. It appeared to the Panel that it was at the point that BA had said words to the effect of "*what are you assaulting me for?*" and "*you're hurting my head*" that the BWV of PC Byers turned away so that only the inside of the police van door and the street could be seen. This lasted a few seconds and potentially lost valuable evidence even before the stage was reached by which PC Byers turned off the BWV camera.
56. In the Panel's view, the actions of PC Byers were deliberate, both in initially turning away from the inside of the police vehicle, and then switching off the BWV camera completely. From the known circumstances, the Panel inferred that in all likelihood PC Byers did this because his perception at the time was that the events taking place in the back of the police vehicle may reflect unfavourably on his colleagues in due course.

57. By switching off his BWV camera at such a crucial time, PC Byers was clearly breaching established policy over the use of such equipment. His role was specifically one that required him to keep observations on BA during the journey back to the police custody suite. The Force policy on the use of BWV is that, where an incident occurs, officers should keep their BWV running until another place with camera coverage - a custody suite for example – is reached.
58. Notwithstanding what the Panel considered PC Byers' likely perception to have been when he turned away and then switched off the BWV, the Panel has separately found that PS Rothwell had not acted improperly in terms of the force he used against BA. Accordingly, the Panel did not consider that there was any requirement for PC Byers to challenge PS Rothwell at the time, and/or to report him to supervisors later.
59. The Panel did not regard PC Byers to have given honest, accurate accounts to explain his actions in switching off the BWV. The Panel did not consider the account that he gave in his prepared statement on 13 March 2024 (when being interviewed by PSD investigators) or during the hearing to have been truthful. Given what the Panel found to have been PC Byers' likely knowledge and belief at the material time, the Panel considered his explanation of having switched off his BWV because the incident had finished to be a dishonest one by the objective standards of ordinary, reasonable people [as per *Ivey v Genting Casinos (UK) Ltd* [2017] UKSC 67].
60. It may have been that PC Byers was motivated by a misguided sense of loyalty to his colleagues. Whatever his reasons, the Panel took the view that once he had given the account he did in 2024, he felt bound to stick to this through to the point of giving evidence at the misconduct hearing.

Standards of Professional Behaviour (SPBs)

61. The Panel then considered whether there had been a breach of the SPBs, again taking each officer in turn.

PS Rothwell

Use of Force

62. Given the facts found, the Panel determined that PS Rothwell did have an honest and reasonably held belief in the need to use force, and that the force he used was objectively necessary, reasonable and proportionate.

63. Accordingly, the conduct of PS Rothwell was not in breach of this SPB.

Honesty and Integrity

64. Since the Panel found that PS Rothwell had not used excessive force and that he had therefore not been recasting his account in an attempt to justify his actions, the Panel did not regard him as having failed to act honestly and with integrity, nor that he had compromised or abused his position.

65. The Panel therefore did not find his conduct to have breached this SPB.

Authority, Respect and Courtesy

66. In the Panel's view, PS Rothwell did not at all times conduct himself in the manner expected of a police officer. For a short period during the incident, he appeared to not display the levels of self-control and restraint required, even in the face of the appallingly provocative behaviour of BA.

67. To an extent, by confronting BA in the way he did in the caged area of the van, PS Rothwell exacerbated the already volatile situation, causing BA's conduct to rise to even higher levels of agitation. Whilst there may at times be a place for officers to use robust language in dealing with difficult individuals, PS Rothwell went beyond what might have been expected of him when dealing with a tense but not necessarily unique situation.

68. Through his actions, the Panel reached the view that PS Rothwell did not act with the required self-control and did not maintain adequate levels of respect and courtesy in his handling of BA.

69. Accordingly, the Panel considered PS Rothwell to have breached the SPB regarding Authority, Respect and Courtesy.

Duties and Responsibilities

70. PS Rothwell clearly made a mistake in choosing to exit the passenger seat and confront BA in the caged area. He did not follow the National Decision Model as meticulously as he should have done. To his credit, PS Rothwell did appear to have a good insight into where he fell short in this respect.
71. This was undoubtedly a dynamic and volatile situation. Not every lapse in diligence in the exercise of an officer's duties and responsibilities will result in a breach of the SPBs.
72. Whilst there were shortcomings in how PS Rothwell conducted himself overall, the Panel did not regard these as being sufficient to reach the threshold for breaching the Duties and Responsibilities SPB.

Discreditable Conduct

73. In the Panel's view, the public are generally fair-minded and recognise the difficult job that police officers carry out on a daily basis. The role had additional challenges during the Covid-19 period.
74. In assessing public confidence in connection with PS Rothwell's actions, the Panel considered that the public would not necessarily expect perfection from officers, especially those who are navigating their probationary period. PS Rothwell did demonstrate a reassuring willingness to learn from his mistakes.
75. Whilst it was acknowledged that the public might be disappointed to learn of some of PS Rothwell's handling of this situation, the Panel did not consider his actions to have discredited the police service or to have undermined public confidence in it.
76. Accordingly, the SPB in respect of Discreditable Conduct was not deemed to have been breached.

PC Colley

77. As set out above, the Panel did not find the conduct of PC Colley to have fallen short of expectations in any respect.

78. The Regulation 30 Notice had set out five separate SPBs that PC Colley was alleged to have breached, namely: Honesty and Integrity; Challenging and Reporting Improper Conduct; Discreditable Conduct; Duties and Responsibilities; and Authority, Respect and Courtesy.
79. By its findings the Panel determined that none of the above SPBs had been breached by PC Colley.
80. Given the passage of time since the incident in question, PC Colley's unblemished career in the meantime, and his mature reflection on how he should conduct himself as and when similar situations arise, the Panel concluded that a referral to the Reflective Practice Review Process was not necessary.
81. Accordingly, the Panel found that no action should be taken against him, and this brought the Panel's consideration of the case against PC Colley to a close.

PC Byers

Honesty and Integrity

82. The deliberate turning off of his camera by PC Byers demonstrated a lack of integrity in the view of the Panel. This was particularly so given that he had been specifically tasked with the role of observer for the journey during which BA was being conveyed to the custody suite.
83. As indicated, the Panel did not regard the evidence of PC Byers in his prepared statement and at the Misconduct Hearing to have been truthful.
84. Therefore, the Panel found PC Byers to have breached the SPB in respect of Honesty and Integrity.

Challenging and Reporting Improper Conduct

85. Given that the Panel found that the use of force by PS Rothwell was not improper, there was no requirement for PC Byers to have challenged him on this or to have reported the matter later to a supervisor.
86. The Panel therefore did not consider the SPB in respect of challenging and reporting improper conduct to have been breached.

Duties and Responsibilities

87. It was clear that PC Byers had not been diligent in the exercise of his duties and responsibilities in respect of his handling of the BWV camera (the only camera in use during the course of the journey). His explanation for what had occurred was not accepted by the Panel, and his failings were deemed as being deliberate.

88. The Panel therefore found the SPB in respect of Duties and Responsibilities to have been breached.

Orders and Instructions

89. PC Byers had breached force policy in respect of BWV footage by not leaving the camera recording to run until he and others had returned to the custody area where fixed CCTV cameras would be in place. This was a crucial failing, impacting upon an important safeguard.

90. The Panel therefore also found the Orders and Instructions SPB to have been breached.

Authority, Respect and Courtesy

91. A key aspect of this SPB is that police officers do not abuse their powers or authority, and that they respect the rights of all individuals.

92. By switching off the BWV camera in the midst of an ongoing situation, the Panel regarded PC Byers as having acted in a way that was inconsistent with the rights of a detainee in police control.

93. The Panel therefore found this SPB to also have been breached.

Misconduct or Gross Misconduct

94. Having determined that SPBs had been breached by two of the officers, the Panel went on to consider whether the conduct of PS Rothwell and PC Byers amounted to Misconduct, Gross Misconduct, or neither. When making this determination, the Panel reminded itself of the definitions of Misconduct and Gross Misconduct in section 2(1) of the 2020 Regulations.

PS Rothwell

95. The Panel found that PS Rothwell had breached one SPB, that relating to Authority, Respect and Courtesy.
96. Whilst the conduct of PS Rothwell had not always been as expected in respect of his dealings with BA, in the Panel's view this had largely flowed from an operational misjudgement; it took place during a very early stage of PS Rothwell's policing career; and lasted for a short period of time. As such, it was at the lower end of the scale of misconduct in breaching this SPB.
97. The Panel was of the view that, had it been dealt with more promptly, this was the type of case that would have been suitable for action short of formal disciplinary action, informal words of advice for example.
98. PS Rothwell had accepted that he had made a mistake on the night in question in December 2021, and he had shown some insight and a resolve to act differently should a similar incident occur again.
99. Accordingly, the Panel concluded that the Officer's conduct and his breaches of the one SPB did not amount to either Misconduct or Gross Misconduct.
100. Again, as with PC Colley, given the passage of time, his subsequent police record, and the insight into his conduct that PS Rothwell had demonstrated in the meantime, the Panel did not consider a referral to the Reflective Practice Review Process to be necessary.

PC Byers

101. PC Byers was in breach of four of the SPBs. His breaches were regarded by the Panel as being serious. His deliberate acts in respect of the BWV led to the denial of full and proper scrutiny of the incident that occurred. This was compounded by his later conduct in putting forward and maintaining an untruthful explanation for his actions.
102. Honesty is at the very core of what the public expect from police officers. Where police officers show a lack of honesty and integrity, this has the capacity to greatly damage the reputation of the police service as a whole, and to undermine public confidence in policing.

103. The Panel was significantly concerned at PC Byers considering that it was appropriate to act in the manner he did during the probationary period of his policing career.

104. Taking into account the matters that had been proved, the Panel was of the view that PC Byers' conduct was so serious as to justify dismissal. Accordingly, the Panel concluded that PC Byers' conduct and his breaches of the SPBs amounted to **Gross Misconduct**.

Outcome Decision

105. Having come to the view that PC Byers' conduct amounted to Gross Misconduct, the Panel went on to determine the appropriate outcome in terms of disciplinary action.

106. The Panel carefully considered all matters brought to its attention and was provided with PC Byers' service history which showed no previous findings of Misconduct or Gross Misconduct.

107. The Panel applied the principles set out in *R (on the application of the Chief Constable of Greater Manchester Police) v Police Misconduct Panel* [2018] 11 WL UK 822 and *R (on the application of Chief Constable West Midlands Police) v Panel Chair, Police Misconduct Panel v Officer "A" – Interested Party* [2020] EWHC 1400 (Admin) which emphasise the importance of following the structured approach as set out in the College of Policing (CoP) Guidance on Outcomes in Police Misconduct Proceedings. This approach – and the need to follow it rather than simply to purport to follow it – has been endorsed in a number of subsequent authorities.

108. In summary, the Panel:

- (i) Assessed the seriousness of the conduct and behaviour of PC Byers.
- (ii) Reminded itself of the purpose of imposing sanctions, namely:
 - Maintaining public confidence in and the reputation of the police service;
 - Upholding high standards in policing and deterring misconduct;
 - and
 - Protecting the public.
- (iii) Arrived at an Outcome which most appropriately fulfilled the purpose of

imposing sanctions in the light of the seriousness of PC Byers' conduct.

Seriousness of the Conduct and Behaviour

109. In considering the appropriate sanction, the Panel considered the following factors in line with the guidance on assessing seriousness in the CoP Guidance on Outcomes:

- The culpability borne by PC Byers for his actions
- The harm caused by PC Byers' actions
- The existence of any aggravating factors
- The existence of any mitigating factors

Culpability

110. The Panel regarded PC Byers' conduct to have been clearly deliberate and intentional in terms of turning away from the incident and turning off his BWV camera.

111. This was also, as found by the Panel, a case where the lack of integrity and subsequent dishonesty had taken place in an operational context. As such this made the case particularly serious in the Panel's view and the Panel regarded the level of culpability to be high.

Harm

112. The Panel considered the harm that PC Byers' actions may have caused or risked to others, along with the harm that was or risked being caused to the confidence of the public in policing.

113. The turning off of the camera had the potential to harm the interests of both BA and also his police colleagues, removing the availability of full and proper scrutiny of the incident.

114. The Panel went on to consider the harm caused to the wider community. In considering this issue, the Panel took into account paragraph 4.60 of the CoP Guidance which states that "*how such behaviour would be or has been perceived by the public will be relevant, whether or not the behaviour was known about at the time.*"

115. The public would rightly be concerned about the behaviour of PC Byers, both in the deliberate turning off of the BWV camera, and then the subsequent giving of untruthful accounts during a formal disciplinary process.

116. The availability of video evidence as a mechanism for properly holding the police to account is a matter that has attracted significant attention and public concern in recent times, both in respect of Greater Manchester Police and policing nationally.

117. Taking all of this into account, there was a high level of harm arising from PC Byers' actions in this case.

Aggravating Factors

118. The Panel gave consideration to the list of potential aggravating factors set out in paragraph 4.75 of the CoP Guidance which worsened or increased the seriousness of the misconduct in this case. A number of aggravating factors were found to be present, albeit the Panel took care not to double-count any factors that had already been taken into account when assessing the levels of culpability and harm. These included the taking of deliberate and intentional actions, and the local and national concerns over how the actions of police officers could and should be subject to proper scrutiny.

119. There were, however, a number of additional factors that increased the seriousness of the conduct in the Panel's view:

- i) The actions of PC Byers impacted upon an important safeguard for detainees, and this amounted to an abuse of position and authority.
- ii) PC Byers, on the Panel's findings, had sought to conceal his wrongdoing, and in this regard his misconduct was sustained through to the present hearing.

Mitigating factors

120. The Panel considered the mitigating factors set out in paragraph 4.81 of the CoP guidance to be present. There was clearly a tense disturbance taking place that may have affected PC Byers' judgement. It was also noted that the original incident had taken place some four and a half years previously, and there had been a significant delay in the Misconduct Hearing being held.

Personal Mitigation

121. Having assessed the seriousness of the Misconduct found proven, the Panel then went on to consider the personal mitigation on behalf of PC Byers.

122. Given the purpose of police misconduct hearings, the Panel kept in mind the fact that personal mitigation will carry limited weight and less than it might do in a different context. Nevertheless, the Panel did take account of the content of PC Byers' service history, which showed that he had not been the subject of any formal disciplinary findings since he joined Greater Manchester Police.

123. The Panel also took into account of evidence of PC Byers' five character witnesses, who highlighted what they regarded as being his positive qualities. For example, PC Byers was described as being honest and reliable, and demonstrating a good work ethic and sound decision-making skills.

Outcome

124. The Panel then went on to consider the outcome which would most appropriately fulfil the purposes of imposing sanctions in the light of the seriousness of PC Byers' conduct.

125. Whilst some weight was accorded to the mitigation put forward by PC Byers, the Panel also gave proper emphasis to the strong public interest in the maintenance of public confidence in policing in reaching its conclusion on outcome. The Panel kept in mind the declaratory purpose of any decision made in terms of maintaining high professional standards, and for prevention and protection purposes.

126. The Panel considered all the available outcomes, starting with the least serious. The Panel considered whether a Final Written Warning would be appropriate in this case or whether the seriousness of the case required a greater sanction. The Panel determined that a Final Written Warning would not adequately satisfy the purpose of the proceedings.

127. The Panel, after careful consideration, considered that only Dismissal without Notice would meet the purposes of police misconduct proceedings, in particular around upholding public confidence, maintaining high standards, and deterring others from such conduct.

128. Accordingly, the sanction imposed in this case was **Dismissal without Notice**.

Right of Appeal

129. The Officer has a right of appeal to the Police Appeals Tribunal. The AA was asked to provide a notice as to the procedure to be followed in that regard.

Publication of Outcome

130. In accordance with Regulations 43(1) and (6) of the 2020 Regulations, the AA was directed to publish a report of the outcome of these proceedings on its website for a period of not less than 28 days.

Organisational Learning

131. Having conducted the hearing and arrived at the above outcome, the Panel also identified some areas of organisational learning that Greater Manchester Police may wish to reflect upon. These include:

- i) *The undesirability of a situation such as this arising, with three probationer officers left to convey BA back to Central Park Police Station without a more senior officer in a supervisory role.*
- ii) *The time taken for the misconduct proceedings to be brought, and the negative impact of such delays*
- iii) *Consideration should be given to having CCTV in the caged area of police vehicles. This will provide views of the caged/cell area and the officer escort section allowing continuous monitoring of the detainee.*

ACO Jonathan Roy – Chair

Ms Susan Knowles – Independent Panel Member

Mr Mark Turner – Independent Panel Member

17 July 2026