

Ex PC Mark Allison

v

The Chief Constable of Hampshire and Isle of Wight Constabulary

RULING

1. This appeal arises from a Misconduct Hearing which took place between the 25th and the 28th of September 2023 and the 29th of February 2024. The Panel found the “bulk of the allegations proven” (Response paragraph 11) and that the breaches amounted to Gross Misconduct. The outcome was that the Applicant was dismissed from the service.
2. The allegations were in relation to two separate ‘arrest’ incidents, separated by only a week, where it was alleged that the Appellant had used unnecessary and unreasonable force. The dates of the incidents were the 24th of April 2021 and the 5th of May 2021.
3. The decision of the panel, after hearing all of the evidence including that of the Appellant, in relation to both incidents was that “the officer is responsible for the decisions that he made in assessing the risk and delivering the use of force. It is our view that the actions of the officer were intentional and deliberate albeit not planned ahead of the situation in which he found himself. The officer by nature of his role is in a position of trust and excessive use of force could be said to be an abuse of his position” (Decision of the panel 14.1 Culpability).
4. When it came to dealing with outcome “it became apparent that the Appellant sought [REDACTED] The panel accordingly agreed to adjourn the case to [REDACTED] (AA Response paragraph 12). The Appellant’s grounds state “following submissions on outcome, the panel enquired [REDACTED]

appellant at the time of the incident. The hearing was adjourned [REDACTED]
[REDACTED] (Grounds paragraph 7).

5.

[REDACTED]

[REDACTED]

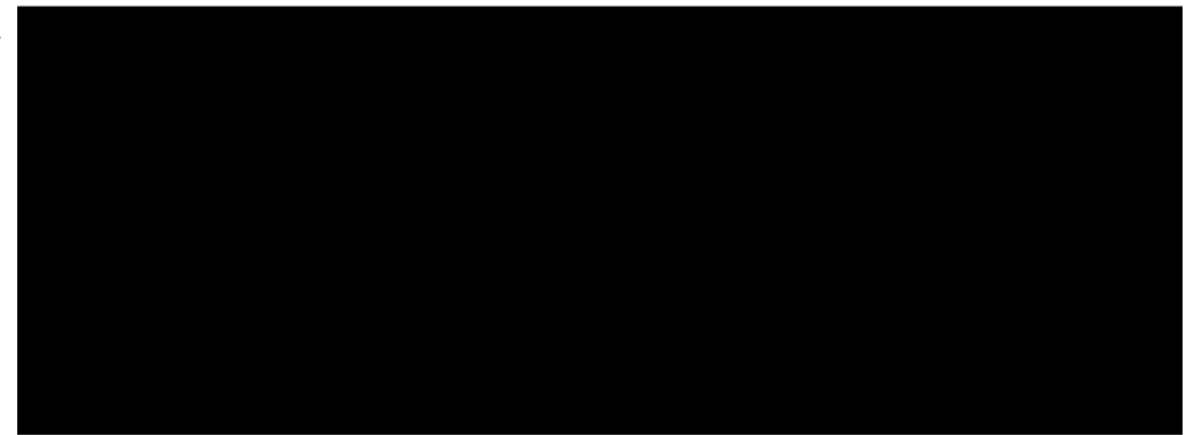
[REDACTED]



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5. Leave in this matter was granted and on the 3rd of December 2025 the PAT convened to hear the Appeal. At the start of that hearing the PAT raised a number of questions which related [REDACTED] Questions were then formulated which needed to be considered by [REDACTED] these were:

a. If you were not previously provided with the bundle of character statements and commendations, would you now please consider them and state whether or not they impact in any way upon your previously expressed opinion;

b. [REDACTED]

c. In paragraph 100 of your previous report you referred to 'other factors' that may explain PC Allison's behaviour at the time of the two incidents. Are you able to clarify what you meant by 'other factors'?

d. [REDACTED]

6. In order for [REDACTED] to provide a further report the Appeal was adjourned with the AA agreeing to fund the costs of the addendum report.

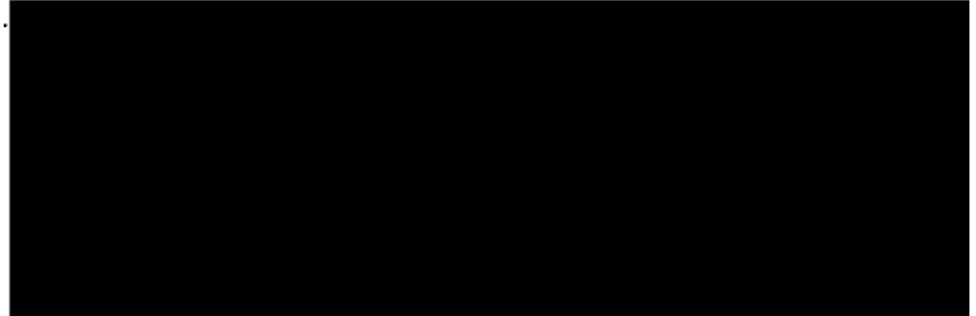
7. The addendum report is dated the 26th of January 2026. [REDACTED] views are set out in his second report and can be summarised as follows:

i. [REDACTED]

ii. [REDACTED]



iii.

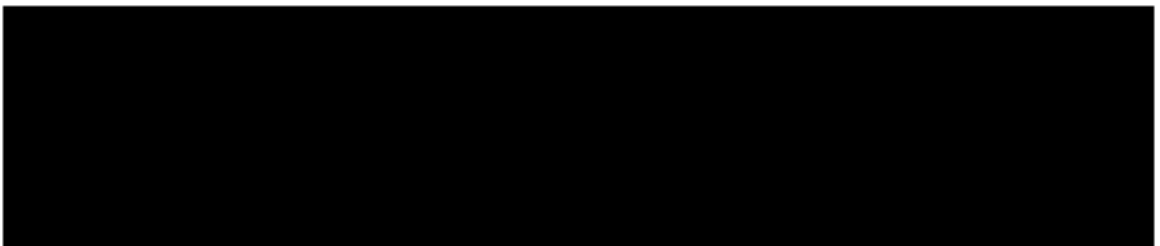


Gross Misconduct Findings

8. We have considered with care the appeal submissions before us as to the findings of Gross Misconduct [Grounds submission 1 and 2].
9. Submission 1: Suggests that the Panel failed to give sufficient reason to reject the “compelling expert evidence” regarding used of force. We disagree, the Panel had the benefit of both the expert evidence and the evidence seen by the Panel on the BWV and heard from the witnesses in person [Findings paragraph 12.30] and was entitled to view the evidence in the round to reach their decision. This submission is dismissed.
10. Submission 2. Suggests that the panel reached a decision which was outside of the case presented by the AA. The Appellant’s argument is essentially that the case was presented and confined by the AA to an allegation that the Appellant ‘robotically’ applied force on both dates. On behalf of the Respondent Mr Morley directed us to past of the case which shows that this was not the sole basis of the AA’s case and that the misconduct panel did not reach a conclusion which was outside the case presented. This submission is also dismissed.

Outcome Findings

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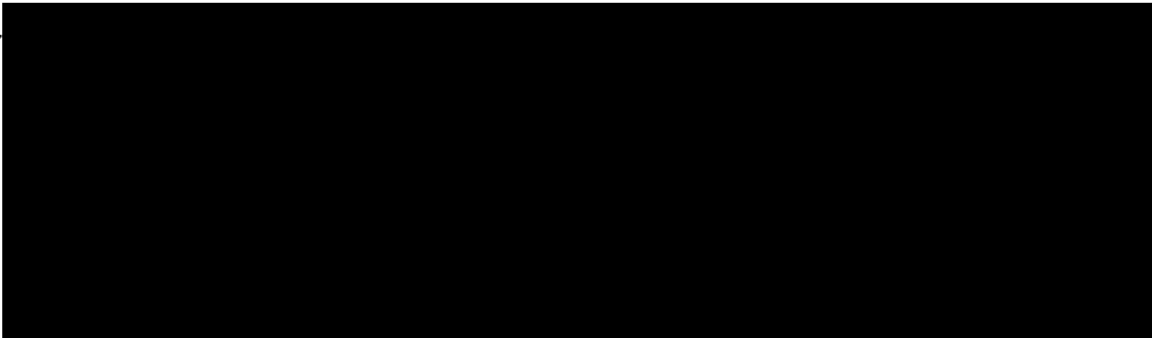


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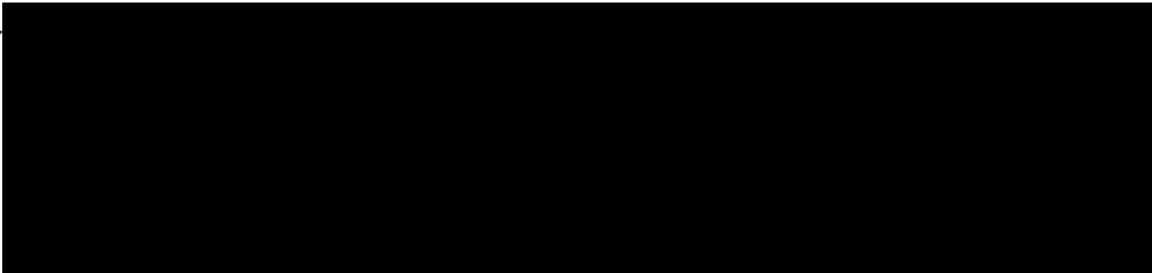


14. The PAT is therefore left in the invidious position of having to decide how properly made findings of gross misconduct can be dealt with, when evidence that the parties before agreed could have been relevant to the finding of Gross Misconduct, was not before the misconduct panel when they were making their factual findings.

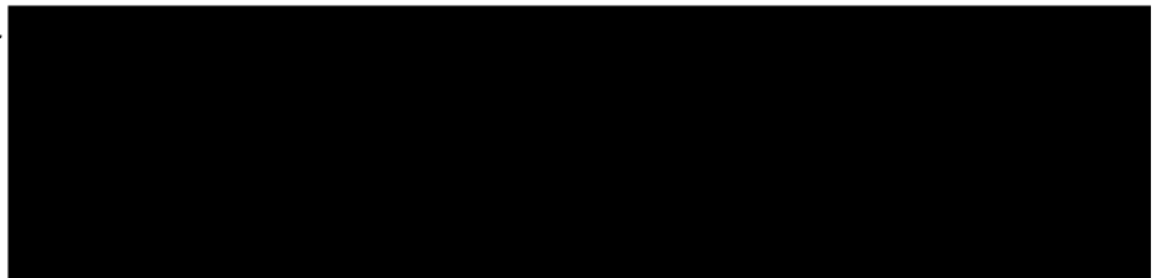
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19. Having determined that the panel's decision was unreasonable as regards outcome the PAT is permitted to substitute its own views. In our view [REDACTED] provides substantial reasons for reducing the culpability assessment for the purposes of the outcome so that the appropriate outcome in this matter is a final two-year written warning. This means that the Appellant is re-instated in the police service.

Legal Framework

20. The grounds of appeal that a Police Appeal Tribunal can consider are limited. The circumstances in which a police officer can appeal (Rule 4(4) of the PAT Rules 2020) are:

- That the finding or decision to impose disciplinary action was unreasonable
- That there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on disciplinary action, or
- That there was a breach of the procedures set out in the conduct regulation.....or unfairness which could have materially affected the finding or decision on disciplinary action.

21. When considering an appeal and the meaning of the word 'unreasonable' the task of the PAT is to review the decision taken, based on specific grounds, and determine whether the decision reached was unreasonable. A decision will be unreasonable if it is beyond the reasonable range of responses. In *R (Chief Constable of Wiltshire) v PAT and Wollard* [2012] EWHC 3288 (Admin) Wyn Williams J states (b/w paras 32 – 24) that "the issue of whether a finding or sanction was unreasonable should be determined by asking the question whether the panel in question had made a finding or imposed a sanction which was within the range of reasonable findings or sanctions upon the material before it". See also *Chief Constable of Derbyshire Constabulary v PAT* [2012] EWHC 2280.

22. The standard to be applied has been described as lower than Wednesday unreasonableness (*R (Chief Constable of Durham v PAT & Cooper* [2012] EWHC 2733 (Admin) at 6-7) or Wednesbury unreasonableness “shorn of its technicality” (*Chief Constable of Hampshire v PAT* [2012] EWHC 746 (Admin)).
23. It is also settled that the “*The Police Appeals Tribunal is only allowed and permitted to substitute its own views once it has concluded either that the approach was unreasonable, or that the conclusions of fact were unreasonable*”; *R (The Chief Constable of Durham) v Police Appeals Tribunal* [2012] EWHC 2733 (Admin).
24. In *R (app. of CC of Cleveland) v PAT & Rukin* [2017] EWHC 1286 (Admin), it was stated:

“(A) When considering whether a finding by a panel is unreasonable the PAT is not required to find it Wednesbury unreasonable as a prerequisite for overturning the decision of the panel.

(B) The PAT is not entitled to substitute its own view for that of the panel unless and until it has already reached the view for example that the finding made by the panel was unreasonable or that there was another valid basis for appeal as provided by paragraphs 4(4)(b) and/or 4(4)(c) of the Rules.

(C) The PAT is entitled to substitute its own view for that of the panel once it has concluded either that the approach the panel took was unreasonable or the appeal from the panel's decision is justified under grounds 4(4)(b) or 4(4)(c)

(D) In other words, rule 4(4) provides a gateway for an appeal. If the appellant gets through the gateway because the PAT find that the decision of the panel was for example, unreasonable or unfair then it is open to the PAT to substitute its own views for those of the panel. Thus, once the gateway is negotiated, the PAT can deal with this matter on a clean slate basis and can make an order dealing with the appellant in any way in which he could have been dealt with by the panel whose decision is appealed.”

25. The law in this matter has been revisited in *R (on the application of) Michel and Charnock v PAT* [2022] EWHC 2711 (Admin) in the judgement of Mrs Justice Heather Hallett DBE:

‘Given the finality for the disciplinary proceedings if a PAT concludes that the Panel's finding of misconduct / gross misconduct was "unreasonable" it is important that the correct test is applied and that the test does not become diluted in its application because a PAT disagrees with aspects of a Panel's

reasoning or feels that it would have arrived at a different conclusion if it had been sitting as the tribunal of fact' [at 52].

The correct approach was described as follows:

"i) The PAT must ask itself whether this finding was one that was within or outside of the range of reasonable findings that the Panel could have made;

ii) The PAT should keep in mind that the rule 4(4)(a) test is not met simply by showing a deficiency in the Panel's reasoning or a failure to consider a particular piece of evidence or similar error, if the finding of misconduct / gross misconduct was nonetheless one that the Panel could reasonably have arrived at. The question is whether that finding is unreasonable;

iii) The PAT will be careful not to substitute its own view as to what should have been the outcome of the charges. Whether the PAT agrees or disagrees with the Panel and whether it thinks it would have found the allegations proven if it had been hearing the disciplinary proceedings is not in point, as this in itself does not indicate that the Panel's finding was "unreasonable". In many circumstances, different and opposing views can both be reasonable; and

iv) The PAT should consider all of the material that was before the Panel, whether or not the Panel made express reference to it in the decision" [at 57].

26. Having considered the points set out above, the written and oral submissions we have concluded that the Panel's decision that the appropriate outcome was dismissal was outside of the range of reasonable decisions which could have been made.

Conclusion

27. Orders and Recommendations:

- i. PC Allison is to be subject to a final two-year written warning beginning from the first day of his reinstatement.
- ii. PC Allison is to be paid for the period from his dismissal to reinstatement subject to normal deductions. The parties are to agree the amount which must be calculated and reduced to reflect Mr Allison's earnings from other work he has undertaken in the 'gap' period.

iii.



28. Lastly, the PAT is grateful for the comprehensive written submissions submitted by both parties and the skilful oral submissions from Mr Morley and Mr Banham.

Sam Stein KC, Pat Chair

Commander Peter Stevens

Mr Christopher Kennedy

9th of March 2026