

IN THE MATTER OF POLICE (CONDUCT) REGULATIONS 2020

BETWEEN:

THE CHIEF CONSTABLE OF LINCOLNSHIRE POLICE

Appropriate Authority

-AND-

FORMER POLICE CONSTABLE 820 ALAN KIRKWOOD

Officer

OP GIFTED – HEARING DATE: 19 – 20 MAY 2026

CHAIR'S REPORT – FINDINGS AND REASONS

Summary of the Case

1. At the misconduct hearing between 19 – 20 May 2026, the panel found that the factual allegations proven amounted to misconduct and gross misconduct. The panel went on to find that for the gross misconduct, had the Former Officer been a serving officer, the appropriate and proportionate outcome would have been a final written warning. A finding of gross misconduct with no further action was to be recorded.

References and abbreviations

2. Page numbers referred to within this report are page numbers of the hearing bundle, unless otherwise stated.
3. In this report:

- a. the 2020 Regulations’ means the Police (Conduct) Regulations 2020. Reference to a regulation is, unless otherwise stated, to a regulation in the Police (Conduct) Regulations 2020.
 - b. the 2020 Home Office Guidance’ and ‘the Home Office Guidance’ refers to the Home Office Guidance *Conduct, Efficiency and Effectiveness: Statutory Guidance on professional Standards, performance and Integrity in Policing* (issued under section 87 and 87A of the Police Act 1996) published on 5 February 2020.
 - c. ‘the College of Policing code of ethics’ and ‘the code of ethics’ refers to the College of Policing Code of Ethics: A Code of Practice for the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales (issued under section 39A of the Police Act 1996) published in July 2014.
 - d. the College of Policing outcomes guidance’ and ‘the outcomes guidance’ refers to the College of Policing Guidance on outcomes in police misconduct proceedings (issued under section 87 the Police Act 1996) published on 17 August 2022 and updated (by having paragraph numbers added) in March 2023.
4. The following abbreviations/terms have been used within this report:
- a. AA Appropriate Authority
 - b. HOG Home Office Guidance
 - c. IO Investigating Officer
 - d. ACC Assistant Chief Constable
 - e. IPM Independent Panel Member
 - f. LQP Legally Qualified Person
 - g. PC Police Constable
 - h. PSD Professional Standards Department

Regulation 43(1) Report

5. Regulation 43(1) of the 2020 Regulations provides:

43. Notification of outcome

(1) The person conducting or chairing the misconduct proceedings must, before the end of a period of 5 working days beginning with the first working day after the completion of the misconduct hearing or misconduct meeting, submit a report to the appropriate authority or, where the functions have been delegated under regulation 26(1), to the originating authority setting out –

(a) The findings of the person or persons conducting the misconduct proceedings,

(b) The reason for that finding,

(c) Any disciplinary action imposed; whether disciplinary action for gross misconduct was imposed,

(d) Any direction that the matter shall be dealt with under the reflective practice review process.

6. This document is the 'report' submitted pursuant to Regulation 43(1) of the 2020 Regulations.

Parties, representatives, panel members and other attendees

7. The former Officer PC Kirkwood attended the misconduct hearing. Former PC Kirkwood retired on 29th January 2026. Former PC Kirkwood was represented by Ms Fiona Clancy.

8. The AA is the Chief Constable of Lincolnshire Police, represented by Ms. Liz Briggs from East Midlands Police Legal Services.

9. The Chair of the police misconduct panel is ACC 869 Nicola Mayo. The LQP is Louise Ravenscroft.
10. The IPMs are Ms. Nailah Kausar and Mr Muhammad Hussain.
11. The IO, DI 1343 James Kirk attended the misconduct hearing.
12. There were two observers in the hearing, including a representative from the IOPC and a representative of the Complainant. The Complainant did not attend the hearing.
13. No media representatives attended the misconduct hearing.
14. No witnesses attended the hearing.

Publicity, anonymity and preliminary applications

15. In advance of the misconduct hearing, the Chair made a direction for the anonymity to be given for a member of the public, not directly related to this incident, but referred to by the Former Officer.
16. No applications were received for press reporting restrictions in this hearing.
17. In accordance with Regulation 36(2), a notice of the misconduct was published by the AA on the Lincolnshire Police website.
18. By the beginning of the misconduct hearing, the Chair had not received any written representations from media representatives in accordance with Regulation 36(5).
19. During the hearing, no further applications were made by the AA or legal representatives to the Former Officer.

The Allegations and response

20. A Regulation 30 notice was served upon former Officer Kirkwood on 27th November 2025.

21. Former Officer Kirkwood was interviewed under caution on 9 February 2023.
22. A Regulation 31 response was received from the former Officer dated 19 January 2026.

Documents before the Panel

23. The misconduct panel had a hearing bundle comprising of 249 pages and a copy of the Body Worn Footage of former Officer Kirkwood, dated 3rd January 2023, 11 minutes and 32 seconds in length.
24. The content of the hearing bundle was agreed between the AA and the former Officer's representatives in advance of the misconduct hearing. No further issues relating to the content of the hearing bundle has been raised.
25. Prior to the hearing, the Panel received an opening note from the AA.

The factual allegations

26. The Chair read the Regulation 30 notice into the hearing. The Former Officer confirmed that he denied the allegations of misconduct.
27. Ms Briggs opened the case on behalf of the AA, referring to the opening note and playing parts of the Body Worn Video ('BWV') of the Former Officer.
28. During the opening submissions, Ms Clancy raised a concern that the opening submissions had strayed into closing submissions and that the information put before the Panel could be prejudicial to the Former Officer by closing the minds of the Panel. The Panel did not consider the opening remarks to be prejudicial, nor did the opening submissions influence the Panels approach to the case.
29. No witnesses were called to provide live evidence, and the Panel was invited to consider the case on the papers.
30. The IO report [pages 11-76] provided background information about the factual allegations. It said that on 3rd January 2023 officers, including the Former Officer,

responded to the report of a street robbery in Lincoln where it was reported that the victim had been kicked to the head and their bike had been stolen. Further updates included that there were 6 or 7 males involved, wearing balaclavas to cover their face.

31. The report goes on to summarise how the Former Officer approached two suspects on an electric bike where a scuffle ensues and the Former Officer was assaulted. The Former Officer attempted to give chase, fell and injured his arm. The Former Officer got back up and continued in the direction of the suspects.
32. A short while later, the Former Officer came across the Complainant, who was not involved in the reported street robbery. The Former Officer pointed his taser at the Complainant, order him to get on the ground and kicked the Complainant in the face causing a cut to the face and a suspected broken nose.

The evidence of the Former Officer

33. The Former Officer gave evidence during the hearing.
34. The Former Officer confirmed that at the time of the incident he was 60 years old and had completed approximately 20 years of police service, having previously served 24 years in the British Army. The Former Officer is now 63 years old. The Former Officer confirmed he retired from the police service on 29 January 2026 as a consequence of the misconduct investigatory process and the impact it had upon his mental health.
35. The Former Officer advised that at the time of the incident he was an officer in the Neighbourhood Policing Team ('NPT') and on 3 January 2023 he was in the Lincoln City Centre NPT office listening to the airwaves when he heard a report of a robbery of a bike in the city centre and the victim having been kicked to the head. The Former Officer confirmed that no one else in the office appeared to respond to the report, so he went out of the office to assist in attempts to detain the perpetrator utilising his local knowledge and experience.

36. The Former Officer described the route he took to place his vehicle in the best position possible to apprehend the suspects. Whilst travelling to the city centre, the Former Officer was receiving intelligence from CCTV operators and the Force Control Room (FCR) via his airwaves terminal to try and get a true account of what was going on. The Former Officer described the airwaves traffic as "a lot of chaos" with multiple people contributing to the airwaves updates.
37. The Former Officer described parking his vehicle in the 'V' of Wells Lane so he could see both directions up and down the hill. The Former Officer described this area being narrow so that it would be difficult for anyone to squeeze by.
38. The Former Officer described to the Panel not expecting the two suspects to travel towards his position and being surprised having anticipated they would continue to travel up the hill. The Former Officer described taking hold of one of the suspects and remembered receiving a punch to the head. The Former Officer described feeling that he was "*in a lot of trouble*" noting that the suspects were stronger and bigger than him and he was tired having run up the hill. The Former Officer advised he was really scared and realised the suspects had got the better of him.
39. The Former Officer described to the Panel feeling frightened as he was on his own and didn't know whether other officers were coming to assist him.
40. The Former Officer described the suspects making off and him falling to the floor hitting his elbow on the cobbles, causing a shooting pain up his arm and some pain to his leg. The Former Officer advised that he felt he may have broken his arm. The Former Officer advised that he continue to pursue the suspects despite his injuries as he felt he had the opportunity to catch the suspects.
41. The Former Officer confirmed he did send an airwaves message of "*I've been assaulted*" but at that stage had not realised his earpiece had come out.
42. The Former Officer described the situation as being dynamic and chaotic with him not knowing what was going to happen, knowing he was continuing to pursue the suspects which could have been dangerous. The Former Officer described the

threat assessment he undertook and felt he was still capable of apprehending the suspects. The Former Officer described the risks of interacting with suspects and the considerations that officers had to undertake to assess whether they had weapons, including knives or knuckle dusters, and the appropriate force that could be used to respond to these risks.

43. The Former Officer described that he had formed the view that the suspects were capable and willing to use violence. The presence of the Former Officer did not deter the suspects from using further violence against him, despite him being in uniform.

44. At the time of interacting with the Complainant, the Former Officer informed the Panel that the suspects were still on his mind. The Former Officer confirmed he "red-dotted" the Complainant with his taser and directed him to get on to the ground. The Former Officer described the Complainant as being taller and bigger than him and he honestly believed he could have been a suspect at this stage. The Former Officer described how he considered the Complainant could have still had the potential to jump up or attack him, which is why he asked him to get to the ground.

45. The Former Officer described feeling numb in his arm and that he was losing the use of his arm. The Former Officer confirmed that the injury sustained to his arm was his dominant arm and hand.

46. The Former Officer described feeling that he could have been assaulted again and didn't feel he could have operated his taser due to the pain in his hand.

47. The Former Officer told the Panel that whilst dealing with the Complainant he still felt that his personal well-being was in danger and that he was scared. In respect of the language directed towards the Complainant, the Former Officer informed the Panel that he "*might have verbalised it wrong*" but that swearing can be useful to maintain control of an individual you are detaining.

48. The Former Officer told the Panel that the Complainant was complying with his directions, but that this could have changed in a "*split-second*". The Former Officer

informed the Panel that as the Complainant was going to the ground the Complainant came into contact at the front edge of his boot where the laces were, having determined that a distraction strike was necessary to make sure the Complainant was aware that he was in control. The Former Officer described how the use of a distraction strike was a "*last resort*" with his arm feeling "*pretty numb by this time*".

49. The Former Officer accepted that the Complainant sustained a cut to his nose. The Former Officer described to the Panel using minimal force and denied breaking the Complainant's nose. The Former Officer told the Panel that he was an experienced officer who had received training on the different colour areas of the body, with the head being a "*red*" area.

50. The Former Officer told the Panel that he was "*absolutely gutted*" that a member of the public had been injured because of his actions.

51. During cross examination, the Former Officer confirmed that he had his taser drawn from his initial interaction with the suspects on the bike and the taser remained in his right hand when he came across the Complainant. The Former Officer told the Panel that the Complainant was compliant and was quite a distance from him. The Former Officer confirmed he approached the Complainant as he was going down to the ground but was too close, in his opinion, for his taser to be effective. The Former Officer said he did not hear the Complainant say he was helping the officer.

52. The Former Officer said that he was more scared than angry. The Former Officer told the Panel that anger "*wasn't at the top of the agenda*" and he was fearful of the situation he was in. The Former Officer told the Panel he was angry before but agreed that the words used to a member of the public was not appropriate.

53. The Former Officer said he "*possibly*" told the Complainant that he kicked him because he was angry.

54. The Former Officer confirmed that deploying the taser involved using a switch with no great pressure, no force and no recoil and was a simple switch. The Former

Officer agreed that he was "probably capable" of pressing the trigger but was concerned about the post deployment procedure and whether he would be able to cope with that. The Former Officer told the Panel that the post-deployment procedure was ultimately caring for the safety of the subject, but you do not have to remove the taser barbs from the subject.

55. The Former Officer told the Panel that he did not accept the evidence of the Complainant in respect of the extent of his injuries but wasn't aware he could have requested the attendance of the Complainant and had considered calling the Complainant a liar but didn't include it in his statement.

56. The Former Officer confirmed to the Panel that he was angry that he had been assaulted and was in pain. The Former Officer said he wasn't angry at the Complainant but was angry that he had made a mistake.

57. The Former Officer told the Panel that he decided to use a distraction strike as the Complainant was going down, because of the injury to his arm.

58. During the course of the evidence, reference was made to alternative proceedings involving the Former Officer. The AA requested the Panel to put this out of their minds. The Panel felt they were well able to put irrelevant and/or prejudicial matters out of their mind having determined their own procedures for the misconduct hearing.

Legal Advice

59. The Panel received and accepted the following legal advice from the LQP.

60. The Panel was advised that the onus of proof is on the AA. The standard of proof to be applied is set out at Regulation 41(16) of the 2020 Regulations, as follows:

41(16) The person or persons conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless –

(a) they are satisfied on the balance of probabilities that this is the case, or

(b) the officer admits it is the case.

61. Guidance on the standard of proof is given at paragraphs 9.10 – 9.11 of the 2020 Home Office Guidance. Findings of fact in this case should be made in accordance with the civil standard of proof: the balance of probabilities.
62. The LQP advised that the Panel should consider whether the evidence in writing is reliable in terms of proving the factual allegations, and the impact of any alleged conduct. If the panel considers the evidence to be reliable, it should decide what weight if any to attach to it.
63. The panel was advised to consider each factual allegation and particular of misconduct individually. The LQP referred the panel to the Regulation 30 notice and advised that in relation to paragraph 2.1, it will need to decide firstly whether force was used, and then whether that force was unreasonable and/or unnecessary, and/or disproportionate in all the circumstances.
64. Also, in respect of paragraph 2.2, the Panel should consider whether the alleged conduct was disrespectful and/or abusive and/or threatening towards the Complainant.
65. THE LQP provided guidance in respect of the two-limb test in respect of self-defence, namely whether the individual genuinely believed what was happening caused him to use the violence that he did (factual question) and whether the individuals' response was reasonable in all the circumstances (reasonableness). The LQP reminded the Panel of the authority of *R (on the application of Officer W80) v Director General of the Independent Office for Police Conduct and others* [2023] UKSC 24, 2023 WL, which had been referred to by both parties during the misconduct hearing, namely:

"The necessity to take action in response to an attack, or imminent attack, must be judged on the assumption that the facts were as the defendant honestly believed them to be, whether or not he was mistaken and, if he made a mistake of fact, whether or not it was reasonable for him to have done so."

66. The LQP went on to advise the panel that once it has established the facts, on a balance of probability, it should then apply Regulation 41(15) of the 2020 Regulations. This provides:

41(15) The person or persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts –

(b) In the case of a misconduct hearing, to misconduct, gross misconduct or neither.

67. Regulation 2(1) of the 2020 Regulations provides a definition of 'misconduct' as a breach of the Standards of professional Behaviour that is so serious as to justify disciplinary action.

68. Regulation 2(1) of the 2020 Regulations also provides a definition of 'gross misconduct' as a breach of the Standards of professional Behaviour that is so serious as to justify dismissal.

69. The LQP advised the panel to assess seriousness by considering whether there had been any breaches of the Standards of Professional Behaviour as set out in Schedule 2 to the 2020 Regulations. The LQP referred the panel to the alleged breaches in the Regulation notice and advised the panel, if it found any breaches, to assess whether those breaches had been a falling short of the standards or a 'serious' falling short.

70. The LQP advised the panel to return to the hearing once it had reached a decision as to whether any of the factual allegations found proven (if any) amount to misconduct, gross misconduct or neither to inform the parties of its decision.

Panel Decision on the Facts

71. The Panel considered the evidence in its entirety, including the CCTV footage and BWV footage, along with the opening submissions from Ms Briggs and the

evidence provided by the Former Officer during the course of the misconduct hearing.

72. Having carefully considered the evidence, the Panel determined on the balance of probabilities the below factual circumstances:

- a. That on 3 January 2023, the Former Officer was on duty and at approximately 6.p.m responded to a report of two suspects committing a street robbery of a bike. The Former Officer proceeded to Lincoln City Centre, single crewed, with a view of apprehending the suspects.
- b. The Former Officer attempted to apprehend the two suspects, in which a scuffle between the suspects and the Former Officer occurred. The Panel were unable to determine from the BWV whether the Former Officer was hit on the head by the suspects but accepts that the Former Officer may have been struck to the head.
- c. After the suspects made off, the Former Officer followed in pursuit but slipped, falling to the ground causing an injury to his right arm. The Panel noted the photographs provided of the Former Officers injuries [pages 27 – 29] and accept that the Former Officer must have been in pain, as a result.
- d. The Complainant provided two witness statements, dated 30 January 2023 [page 81-83] and 26 August 2023 [pages 84-86]. The Complainant was not requested by the Former Officer to attend the hearing for his evidence to be challenged.
- e. Upon coming across the Complainant at the top of Steep Hill, the Panel accepts that the Former Officer had a genuinely mistaken belief that the Complainant could be a potential suspect to the reported robbery.
- f. The Panel accepts that this belief was genuinely held and was reasonable in all the circumstances, particularly considering the fast paced nature of the incident, the proximity of the Complainant to the Former Police Officer's vehicle, the proximity of the Complainant to the suspects, and

the environmental factors being that it was dark, wet, and the Former Officer was alone at this time without his earpiece in his ear.

- g. The Panel noted that Former Officer accepts that force was used. The Panel determined that the Former Officer used force against the Complainant, namely by kicking him to the head. The Panel did not accept the Former Officers oral evidence that as a result of the force used, the Complainant only sustained a cut to his nose.
- h. The Panel considered the witness statements of PC Wold, a Personal Safety Trainer, dated 7 September 2023 [pages 90-94], DC Sedgley, use of force expert, undated [pages 116-135] and Mr Kenneth Carvallho, a health and safety consultant and use of force expert, dated 28 February 2026 [pages 219-245]. The Panel carefully consider the definition of a distraction strike provided by these three witnesses. The Panel accepts that a distraction strike can be legitimately used by a police officer, but that it was for an officer to justify the level of force applied in the circumstances.
- i. The Panel determined that the Complainant was kicked to the head by the Former Officer as the Complainant was lowering himself to the ground with his arms out and complying with the Former Officers directions. The Panel noted that the Former Officer advised in his oral evidence that it was as the Complainant was lowering himself to the ground that he considered it was necessary to use a distraction strike.
- j. The Panel did not accept that the force used by the Former Officer upon the Compliant was a necessary distraction strike in the circumstances of the Complainant lowering himself to the ground without posing a threat to the Former Officer. The Panel determined that the Former Officer did not seek to select another tactical option to detain the Complainant after the use of force had been delivered.
- k. The Panel considered the evidence of the Former Officer that a strike to an individuals' head is categorised as "red". The Panel determined that delivering force to an individual's head is high risk of causing serious injury.

- l. The Panel considered the oral evidence provided by the Former Officer during the misconduct hearing, namely that he was "scared" and in fear of further assault at the time of encountering the Complainant.
- m. However, the Panel noted the conflicting evidence that the Former Officer provided immediately after the incident, captured on the BWV [page 114]:

"And I was so angry, that's my...not my defence, it's not a defence, it's just my rationale for doing what I did and it's not right and you're the wrong one to be in, in the way, and I'm fucking, I'm so pissed off with myself, I'm really sorry."
- n. The Panel noted that when questioned by the AA about whether he said this to the Complainant, the Former Officer replied "possibly".
- o. The Panel determined on the balance of probabilities that the Former Officer was feeling both fear and anger at the time force was used against the Complainant. The Panel found at the time of the use of force upon the Complainant, the Former Officer had a loss of self-control.
- p. The Panel further considered the evidence of the Former Officer in respect of whether the Complainant was compliant. The Panel accepts that upon approaching the Complainant, the Former Officer did not hear the Complainant state, "I'm trying to help you", whilst shouting directions towards the Complainant to get on to the ground.
- q. Having carefully considered the BWV, the Panel determined that the Complainant did comply with the directions of the Former Officer, placing himself onto the ground with his arms out. The Panel further determined that at the time the Former Officer approached and was next to the Complainant, the Complainant had lowered himself down to the ground.
- r. However, the Panel did not accept that the Complainant showed "passive resistance" or that the Complainant was violent or posed a threat to the Former Officer.

- s. The Panel, having considered the evidence found on balance, that the use of force used was disproportionate, unnecessary and unreasonable in the circumstances.
- t. The Panel further determined that the Officer did call the Complainant a "fucking bastard", as heard on the BWV. The Panel considered the oral evidence of the Former Officer that "everyone swears", but considered this language was disrespectful and abusive towards the Complainant. The Panel did not find that the language was threatening towards the Complainant.

73. In view of the above, the Panel went on to consider each allegation in turn and found the following of the factual allegations in the Regulation 30 notice:-

ALLEGATION 1 – your conduct at 1.9 involved the use of force that was unnecessary, unreasonable and disproportionate

OUTCOME – PROVED

ALLEGATION 2 – your conduct at 1.9 and/or 1.10 was disrespectful, abusive and/or threatening towards SB.

OUTCOME – PROVED IN RESPECT OF 1.10 ONLY (disrespectful and abusive only)

The Panel found that they were unable to find this allegation proved in respect of paragraph 1.9 of the Regulation 30 due to the allegation not being well constructed.

ALLEGATION 3 – your conduct is likely to undermine confidence in Lincolnshire Police and the police service as a whole

OUTCOME - PROVED

Breaches of Standards of Professional Behaviour

74. The panel went on to decide whether in view of its findings on the facts, if there had been breaches of the Professional Standards of Behaviour. It had regard for the breaches alleged in the Regulation 30 Notice, specifically Use of Force, Authority, Respect & Courtesy and Discreditable Conduct. The panel also had regard to the College of Policing Code of Ethics.
75. Having determined the factual circumstances, the Panel considered the use of force used by the Former Officer in light that the Panel determined that the force was unnecessary, disproportionate and unreasonable in the circumstances. The Panel reminded themselves of the Code of Ethics in that police officers are entrusted with great responsibility to use the minimum amount of force necessary to achieve the required result.
76. The Panel determined that there had been a significant breach of the professional standard of Use of Force.
77. The Panel considered that the Former Officer initially confirmed that he was angry when interacting with the Complainant. The Panel took into consideration the BWV and the disrespectful and abusive language was used towards the Complainant. The Panel reminded itself of the account of the Complainant describing feeling, "*...humiliated about it being done in front of my partner too...he wasn't interested in listening to me. I tried to give him time to compose himself, but they did not work*" [page 83].
78. The Panel determined that there had been a significant breach of the professional standard of Authority, Respect and Courtesy.
79. The Panel went on to consider how an ordinary, well-informed member of the public would respond to the Former Officer's conduct. The Panel determined that police confidence would be diminished in Lincolnshire Police as there is an expectation that police officers will act with self-control and not in the manner that has been found proven. The Panel was mindful that members of the public would be shocked to learn of the conduct.

80. The Panel determined that there had been a significant breach of the professional standard of Discreditable Conduct.

81. Having decided that the former officer had acted in breach of these Professional Standards of Behaviour, the panel assessed whether his conduct amounts to misconduct or gross misconduct or neither.

82. The panel reminded itself that the definition of 'misconduct' is a 'breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action' and the definition of 'gross misconduct' is 'a breach of the Standards of Professional behaviour that is so serious as to justify dismissal. The College of Policing outcomes guidance on 'Assessing seriousness' (Section 4) is relevant to determining if a breach of a Standard of professional behaviour amounts to misconduct, gross misconduct or neither and the panel had regard to it.

83. Having considered the findings of the Panel in terms of the Former Officer's conduct and seriousness of his actions, the Panel made the following conclusions in respect of the proven conduct:

Allegation 1	GROSS MISCONDUCT
Allegation 2	MISCONDUCT (paragraph 1.10 only)
Allegation 3	GROSS MISCONDUCT

Outcome

84. The 'Guidance on outcomes in police misconduct proceedings' issued by the College of Policing pursuant to section 87 of the Police Act 1996 provides (paragraph 3.30) that the Conduct Regulations apply to former officers '*with some important differences in the possible sanctions and outcomes, the details of which are explained in the HOG.*'

85. The relevant paragraph of the HOG is at 20.66:

d) Where there is a finding of gross misconduct, the panel can only consider two potential outcomes; disciplinary action or no disciplinary action,

e) Where there is a finding of gross misconduct and disciplinary action imposed it can only be that the former officer would have been dismissed if they had still been a member of a police force. There is no option to enforce other sanctions .. if the panel determines that the matter does not justify the sanction that the former officer would have been dismissed, no action will be taken and the finding of gross misconduct recorded. ‘

86. Paragraph 3.33 of the Guidance on Outcomes provides:

‘Before a panel decides to impose the disciplinary action that the former officer would have been dismissed if still serving, it must follow the same process that applies to serving police officers in arriving at what the appropriate sanction would have been.’

87. At this stage of the hearing, the AA provided the panel with a copy of the former officer’s record of police service, and the panel had regard to it.

88. In accordance with regulations 42(14)(c)(iii) of the 2020 Regulations, the panel heard further oral submissions from Ms Briggs on behalf of the AA and from Ms Clancy on behalf of the former officer.

89. The panel received and accepted legal advice from the LQP. The LQP advised the panel that it should have regard to paragraph 2.66 of the HOG in terms of the available outcomes for a former police officer. The panel was also advised to refer to the College of Policing’s ‘Guidance on Outcomes in police misconduct proceedings’ and to impose an outcome that is appropriate and proportionate having regard to its assessment in terms of seriousness, culpability and harm. The LQP advised that whilst the purpose of police misconduct proceedings is not to be punitive in its approach on outcome, the interests of the profession as a whole ought to be given priority as opposed to the impact of a particular outcome for the former police officer as outlined in *Bolton v Law Society* [1994].

90. When considering outcome, the panel took into account the submissions from both parties and referred to the College of Policing outcomes guidance.

91. It noted that at paragraph 4.2, the outcomes guidance cites the case *Fuglers LLP v Solicitors Regulatory Authority* [2014] EWHC 179 (Admin) and says:

92. As Mr Justice Popplewell explained, there are three stages to determining the appropriate sanction:

- Assess the seriousness of the misconduct
- Keep in mind the purpose of imposing sanctions
- Choose the sanction which most appropriately fulfils that purpose for the seriousness of the conduct in question.

93. The Panel had regard to paragraph 4.3,

- Assess the seriousness of the proven conduct by reference to,
- The officer's culpability for the misconduct
- The harm caused by the misconduct
- The existence of any aggravating factors
- The existence of any mitigating factors

Assessing seriousness:

Culpability

94. In assessing the misconduct, the Panel found that the Former Officer's conduct in kicking the Complainant in the head had been deliberate and intentional. The Former Officer knew that a kick to the head is a high risk "red" area. The Panel found that the Former Officer did not intend to cause the injuries sustained to the Complainant, however as an experienced officer, he would have been aware of the risks of kicking an individual to the head.

95. The Panel found the Former Officer to have high culpability for his actions.

Harm

96. The Panel had regard to paragraph 4.66 of the outcomes guidance which says:

Harm does not need to be suffered by a defined individual or group to undermine public confidence. If the circumstances were known to the public take this into account.

97. The Panel reminded itself of the witness statements of the Complainant in which he expressed feeling angry and humiliated about the incident. The Complainant was physically injured because of the conduct of the Former Officer. However, the Panel found that there was limited evidence before the Panel of the physical and emotional harm caused to the Complainant but was satisfied that some harm has been caused to the Complainant.

98. The Panel considered reputational harm and reminded itself of the context of the interaction between the Former Officer and the Complainant. The Panel found that a well-informed member of the public, whilst considering the conduct of the Former Officer to be serious, would consider that the Former Officer's conduct was a momentary loss of self-control whilst pursuing a legitimate policing purpose of attempting to apprehend suspects of a robbery.

99. The Panel was satisfied that some harm would have been caused to the reputational harm of Lincolnshire Police, but the harm caused to national policing was low.

Aggravating factors

100. The College of Policing outcomes guidance at paragraph 4.76 sets out a non-exhaustive list of aggravating factors. The panel considered the submissions from the parties, the Guidance, and the circumstances of the misconduct.

101. The Panel that the conduct of the Former Officer was deliberate but was not planned or premeditated. The Panel decided that the Complainant was kicked in the head by the Former Officer whilst the Complainant was in a vulnerable position, lowering himself to the ground, with his arms up and not being able to defend himself.

102. However, the Panel found that there was an absence of medical evidence and that a Victim Personal Statement ('VPS') had not been provided to assist the

Panel. The Panel therefore found there were minimal aggravating factors that applied in this case.

Mitigating Factors

103. The College of Policing outcomes guidance at paragraph 4.76 sets out a non-exhaustive list of mitigating factors.

104. The Panel considered the submissions from the parties, the Guidance, and the circumstances of the misconduct. It decided that the following factors were mitigating features:

- The Former Officer had been a person of previous good character with over 20 years police service
- The misconduct had been confined to a single episode and had been brief in duration
- The Former Officer held a genuinely mistaken belief that the Complainant was a potential suspect
- At the time of the conduct, the Former Officer was acting in good faith, in pursuit of a legitimate police aim in pursuit of suspects of a serious offence of robbery.
- The Former Officer expressed genuine remorse immediately following the conduct, apologising to the Complainant.
- There was no evidence of any repeat behaviour since the incident.

Personal Mitigation

105. Guidance on personal mitigation is given at section 6 of the outcomes guidance. The outcomes guidance says at paragraph 6.4:

...due to the nature and purpose of disciplinary proceedings, the weight of personal mitigation will necessarily be limited.

106. The Panel gave careful consideration to the character references received by the Panel from the Former Officer highlighting his commitment to policing.

107. The Panel received and considered the police service record of the Former Officer.

Purpose of imposing sanctions

108. The College of Policing Outcomes guidance says at paragraphs 2.2 and 2.3:

2.2 When determining the appropriate outcome to impose, consider the purpose of police misconduct proceedings.

2.3 The purpose of the police misconduct regime is threefold:

(1) To maintain public confidence in, and the reputation of the police service

(2) To uphold high standards in policing and to deter misconduct

(3) To protect the public

109. The 2020 Home Office Guidance lists these ‘three over-arching purposes for police disciplinary proceedings’ at paragraph 4.26.

Findings on outcome

110. The Panel considered paragraphs 3.30 – 3.33 of the outcome guidance and the options available to it in terms of outcome.

111. Having considered the allegations that the Panel found proven, specifically the unnecessary, unreasonable and unproportionate use of force toward the Complainant, the Panel determined that had the Former Officer been a serving police officer, the proportionate and appropriate sanction to fulfil the purpose of misconduct proceedings would have been to impose a Final Written Warning.

112. As a former officer, a finding of gross misconduct is to be recorded with no further action being taken.

Right of Appeal

113. Paragraph 11.158 of the 2020 Home Office Guidance says:

A police officer has the right to appeal against the finding or outcome of a misconduct hearing to a Police Appeals Tribunal. The Officer must be informed of their right to appeal when notified out of the outcome (Regulation 43(2) of the Conduct Regulations).

114. Paragraph 9(1) of the Police Appeals Tribunals Rules 2020 provides:

Subject to rule 10, a police officer or former police officer who wishes to appeal to a tribunal must give notice of the appeal before the end of 10 working days beginning with the first working day after the day on which the officer is first supplied with a written copy of the relevant decision.

Publicity

115. In accordance with regulation 43(6) of the 2020 Regulations, this report should be published on the Lincolnshire Police website for not less than 28 days, as soon as is practicable after it receives the report and has notified the former officer concerned.

116. If the former officer exercises his right to appeal to a Police Appeals Tribunal, the AA will in due course be required to re-publish this report under regulation 26(11)(b) of the Police Appeals Tribunal Rules 2020.

ACC Mayo

Chair

Date: 22nd May 2026