

Accelerated Misconduct Hearing

Finding and Outcome

PC James BARRETT (P262383)

Date of Hearing: 18 May 2026

Professional Standards Breached:

- *Integrity*
- *Discreditable Conduct*

Appearances

Chair: Commander Andy Brittain

Legal Advisor: Mr Simon Barnes (Barrister)

Counsel for the Appropriate Authority: Ms Louise McCullough

Counsel for PC Barrett: Mr Colin Banham

PC Barrett (“Officer”) was present.

The hearing took place in public.

Allegations

Allegation 1

On 17th June 2022, 29th March 2024 and 1st October 2025, PC Barrett signed a declaration to [REDACTED] asserting that he would comply with statutory rest requirements and fitness to drive. Tachograph and CARMS data between 4th July 2025 and 2nd October 2025 proved that to be false.

Allegation 2

Between 4th July 2025 and 2nd October 2025 PC Barrett failed to comply with the legal obligations under EU Regulation 561/2006 and the Transport Act 1968 which mandate minimum rest periods for drivers. These obligations are reinforced by MPS policies on secondary employment and safe working practices.

Allegation 3

On 31st December 2025 PC James Barrett pleaded Guilty to a number of offences contrary to Section 96 (11A) of the Transport Act 1968 before the Westminster Magistrates Court

Allegation 3.1 (“Offence 2”)

Being a driver of a vehicle failing to take at least 45 hours reduced weekly rest period after 6 daily driving periods - EC

Particulars

- i. On 07/07/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely Mercedes Tourismo PSV VRM 622 DJC, took a reduced weekly rest period of less than forty five consecutive hours, namely 43 Hours and 30 minutes, after six daily driving periods ending at 7th July 2025 in contravention of Article 8(1) and (6) of the Community Drivers’ Hours Regulation.

Allegation 3.2 (“Offence 3”)

Being a driver of a motor vehicle failing to take at least 24 hours consecutive hours reduced weekly rest period after 6 daily driving periods - EC

Particulars

- ii. On 6th Jul 2025 at Gravesend in Kent, being the driver of a motor vehicle, namely Mercedes Tourismo PSV VRM G22 DJC in scope of the drivers hours regulations, took a reduced weekly rest period of less than twenty four consecutive hours, namely 22 Hours , after six daily driving periods ending on 6th July 2025 in contravention of Article 8(1) and (6) of the Community Drivers’ Hours Regulation.

Allegation 3.3 (“Offence 4”)

Drive a vehicle take less than 9 consecutive hours daily reduced rest interval - EC

Particulars

- iii. On 05/07/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely A Passenger Carrying vehicle at a later date in scope of the drivers hours regulations, failed to take a reduced daily rest period of at least nine consecutive hours, namely 7 Hours and 15 minutes, in contravention of Article 8(2) of the Community Drivers’ Hours Regulations.

Allegation 3.4 (“Offence 5”)

Being a driver of a motor vehicle failing to take at least 45 hours consecutive hours weekly rest period after 6 daily driving periods - EC

Particulars

- iv. On 15/09/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely A Passenger Carrying vehicle at a later date in scope of the drivers hours regulations, took a weekly rest period of less than forty five consecutive hours, namely 43 Hours 18 minutes , after six daily driving periods ending at 1207 on Monday 15th September 2025 in contravention of Article 8(1) and (6) of the Community Drivers’ Hours Regulation.

Allegation 3.5 (“Offence 6”)

Being a driver of a motor vehicle failing to take at least 45 hours reduced weekly rest period after 6 daily driving periods - EC

Particulars

- v. On 22/09/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely A Passenger Carrying vehicle at a later date in scope of the drivers hours regulations, took a weekly rest period of less than forty five consecutive hours, namely 36 Hours and 47 minutes, after six daily driving periods ending at 1000 on Monday 22nd September 2025 in contravention of Article 8(1) and (6) of the Community Drivers’ Hours Regulation.

Allegation 3.6 (“Offence 7”)

Being a driver of a motor vehicle failing to take at least 24 consecutive hours reduced weekly rest period after 6 daily driving periods - EC

- vi. On 19/09/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely A Passenger Carrying vehicle at a later date in scope of the drivers hours regulations, took a reduced weekly rest period of less than twenty four consecutive hours, namely 23 Hours, after six daily driving periods ending at

0447 on Friday 19th September 2025 in contravention of Article 8(1) and (6) of the Community Drivers' Hours Regulation.

Allegation 3.7 ("Offence 8")

Drive a vehicle take less than 9 consecutive hours daily reduced rest interval - EC

- vii. On 01/10/2025 at Gravesend in Kent, being the driver of a motor vehicle, namely Mercedes Tourismo PSV VRM BV74 MYJ, failed to take a reduced daily rest period of at least nine consecutive hours, namely 7 hours and 56 minutes, in contravention of Article 8(2) of the Community Drivers' Hours Regulations.

Professional Standards of Behaviour

In the circumstances, the Appropriate Authority contends that your actions breached the Standards of Professional Behaviour as set out in the Regulation 5 and Schedule 2 of the Police (Conduct) Regulations 2020 (as amended by the Police (Conduct) (Amendment) Regulations 2024, namely:

- (i) Honesty and Integrity
- (ii) Orders and Instructions; and
- (iii) Discreditable Conduct

In that your conduct may bring the police service into disrepute and damage the relationship of trust and confidence between the police and the public.

As a result of that stated herein, if proven, your conduct individually or cumulatively amounts to gross misconduct and your dismissal may be justified.

Terminology

“AA” – the Appropriate Authority, namely the Metropolitan Police Service (“MPS”)

“Regulations” – the Police (Conduct) Regulations 2020 (as amended)

“Outcomes Guidance” - Guidance on Outcomes in Police Misconduct Proceedings issued by the College of Policing

“2025 Regulations” – the Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025

Background

1. In summary, intelligence was received by the AA that police officers were working part time for a coach company undertaking driving work and were failing to record their working hours in compliance with EU Regulation 561/2006 and the Transport Act 1968. Tachograph data was obtained and analysed by a specialist unit within the AA. This was correlated with CARMS duty records and revealed infringements by three officers, one of whom was PC Barrett. The infringements involved failing to take the required rest periods from driving, and discrepancies between declarations made to the coach company and the actual hours worked.
2. PC Barrett was prosecuted and pleaded guilty to a number of offences contrary to Section 96 (11A) of the Transport Act 1968 before the Westminster Magistrates' Court.

Evidence

3. I was provided with a bundle of evidence which included:
 - a. Witness statement of [REDACTED], Transport Manager of the coach company
 - b. AA's Business Interests SOP
 - c. EU Regulation 561/2006 - relevant EU regulations underpinning s96(11A) Transport Act 1968
 - d. Declarations to the coach company signed by the Officer
 - e. Tachograph and CARMS comparison spreadsheet
 - f. Witness statement of PC Joanna Dowse who analysed the CARMS data
 - g. Witness statement of PC Dan Hives who analysed the Tachograph data
 - h. Record of the Officer's convictions by Westminster Magistrates' Court
 - i. Character evidence relating to the Officer

Facts, Standards of Professional Behaviour and Gross Misconduct

4. At the beginning of the hearing, the AA confirmed that the allegation of dishonesty was no longer being pursued and was withdrawn.
5. The Allegations were read out and the Officer was given an opportunity to set out his position, which was as follows:
6. Allegation 1 – the facts alleged were accepted. It was clarified that the declarations were not ‘false’ in the sense of being dishonest. Rather, they were incorrect.
7. Allegation 2 – was accepted.

Allegation 3 – was accepted.
8. The Officer accepted breaching the standards alleged. The breach of the standard of Integrity was accepted on the basis of not ‘doing the right thing’. Mr Banham indicated that there might be point raised in submissions about the alleged breach of the standard of Orders and Instructions. The Officer accepted that his behaviour amounted to misconduct but denied that it amounted to gross misconduct.
9. The AA presented its case. It was submitted that the Officer was a skilled driver who was fully aware of the required rest periods. His breaches of the rules led to a risk of accidents both to him and to pedestrians.
10. The Officer gave evidence.
11. In his evidence in chief, he stated that the declarations had been signed over a large time frame and were presented to him for signature sporadically – there was never a set routine for filling them in. The coach company would ask him to sign them and he would comply. The last offence was on 1 October 2025 and that was the last time he had driven a coach. He did not intend to drive coaches anymore and will let his licence lapse. He did not intend to do other work alongside policing. He did not recall signing any other declarations. The Officer spoke about his personal life and referred to his character evidence. He accepted that he had not been diligent about his compliance with the driving regulations and should have properly checked the position when he signed the forms. He fully accepted the blame for his errors.
12. The Officer went on to explain that a mitigating factor was that his police shift pattern had been six days on and four days off. He was then seconded to VCT at Lewisham and his shift pattern changed to an eight week rolling shift pattern. It was confusing moving to such a different shift pattern. He had put both shift

patterns on the calendar on his phone, which compounded his confusion. When he pleaded guilty at Court, he was not legally represented and did not know about strict liability offences at the time. He pleaded guilty because he had worked the hours alleged and took responsibility for his actions. He bitterly regretted what had happened and had learnt from it. He recognised the effect on the public and agreed that police officers should uphold the law. He would never have driven if he had thought he was too tired.

13. In cross examination, he stated that when he had previously worked as a civilian driver, all of the driving regulatory matters were handled by his employer. He had done a training course on the EU driving regulations as part of qualifying to drive coaches. He had previously worked as an operations manager at the coach company, but regulatory compliance was not part of his role. He allocated shifts to drivers but did not handle any regulatory matters – that was done by the transport manager at the company.
14. In answer to my questions, he stated that obtaining his Category D driving licence involved passing a knowledge test including tachographs. He accepted that this was his area of responsibility. He stated that he did not think to stop and check the hours he had worked. He knew the rules were there for safety and stated that he did not ignore them, it just did not occur to him. His hourly pay for driving coaches was maybe £15ph. He worked out if he was free to undertake coach work by looking at his calendar and then (mis)calculating his driving hours.
15. It was confirmed that the Officer relied on his character evidence at this stage.
16. The AA did not make any additional submissions.
17. Mr Banham made oral submissions. He adopted and referred to the detailed written submissions which he had submitted, and I had considered, in advance of the hearing. Mr Banham's oral and written submissions are summarised as follows.

Gross Misconduct

18. Mr Banham submitted that the Officer accepted the case against him (on the above basis) and had been entirely upfront and honest. The Officer accepted that he lacked integrity (again, on the above basis) but that was not the same as dishonesty which he vehemently denied. He had been convicted of strict liability offences. The nature of the declarations to the coach company were unusual and the company had had a lax structure as regards these regulatory matters. The Officer accepted that he had been aware of his legal obligations in general terms and had made errors. The Traffic Commissioner had observed that applying the regulations was difficult. The Officer had not driven a coach since 2 October 2025 and had not committed further offences. The breaches were errors resulting from confusion arising from his different shifts patterns. The Officer would never have driven if not fit to do so. He accepted that the rules were there

for a reason.

19. It was common ground that the 2025 Regulations applied, meaning that there was a presumption of dismissal under the amended Regulation 62 if Gross Misconduct were to be found. Mr Banham made legal submissions about how I should apply the test for Gross Misconduct under the amended Regulation 62. In summary, he submitted that the threshold for a finding of Gross Misconduct had effectively changed and there was now a higher bar for such a finding. He submitted that the practical application of the 2025 Regulations was that Gross Misconduct is now conduct which is so serious that dismissal must follow unless there are exceptional circumstances.
20. Mr Banham submitted that the consequence of this change is that some conduct which previously was or might have been found to be Gross Misconduct ought now to be designated as Misconduct only. In support of his submissions, Mr Banham referred me to the dicta of Dingemans J in R (on the application of Commissioner of Police for the Metropolis) v PAT (Naulls) [2013] EWHC 1684 (Admin) in which the Court stated that not every incident of Misconduct or Gross Misconduct will lead to dismissal and the fact that dismissal might be justified does not mean in every circumstance it is justified.
21. Mr Banham also referred to paragraph 2.8 of the College of Policing Guidance on Outcomes; and to the purpose underlying the amendments to the Regulations, namely, that legislative change was prompted by perceived concerns that matters found to be Gross Misconduct were not resulting in dismissal. Mr Banham argued that there was no danger to public confidence in now calibrating Gross Misconduct at the higher level, because the noted public concern was only that too many matters were being found as Gross Misconduct but not attracting dismissal. He argued that otherwise there would effectively be two definitions of Gross Misconduct applied at the facts and outcomes stages of the procedure.

Indictable Offences

22. Mr Banham contrasted the fact that the Officer had been convicted of a summary only offence with the fact that the definition of Gross Misconduct had been amended to the effect that conduct which has resulted in conviction of an indictable-only offence is to be taken to constitute a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.

Criminal Convictions

23. Mr Banham drew my attention to the sections of the Outcomes Guidance dealing with criminal convictions. He submitted that the guidance states that convictions for serious offences such as dishonesty or sexual offences are regarded as particularly serious and likely to terminate an officer's career. However, the convictions in this case were obviously not of that type. He further submitted that, even if they were of that type, this does not necessarily end an officer's career. I was referred to the cases of R (Commissioner of Police of the

Met) v PAT & Guty [2022] EWHC 1950 (Admin); and Commissioner of Police of the Metropolis v PAT & Williams [2022] EWHC 1951 (Admin), and in particular to the dicta of Heather-Williams J in Guty in which the Court emphasised that when dealing with a criminal conviction, whilst this was extremely serious for a serving police officer, a conviction may span a wide range of circumstances and a fact specific assessment is required.

Orders and Instructions

24. With regard to the Professional Standard of Orders and Instructions, it was submitted that whilst the Officer did not seek to go back on his admission, there was a question as to whether there was a breach of this standard in the circumstances of this case.

Outcomes Guidance

25. It was submitted that the Officer should be given significant credit for his admissions, insight and his cooperation.
26. With regard to my assessment of severity, my attention was drawn to the purpose of misconduct proceedings and to the threefold purpose of the police misconduct regime.

Culpability

27. It was submitted that the Officer was young in service and although he had filled out the forms deliberately, he did not intend to break the law. The conduct was not intentional, deliberate, targeted or planned, and amounted to mistakes or errors in the forms and hours worked. He had not been holding a position of trust or responsibility at the relevant time. It was submitted that this was not the type of criminal conviction that would be disclosed in criminal proceedings or would impact on the Officer's ability to work within the evidential chain.

Harm

28. It was submitted that there was no harm of the type identified in the Outcomes Guidance as being particularly serious and no other persons were affected by the conduct. It was accepted that there was some damage to the reputation of policing, but that the offence was not the sort that members of the public would be appalled by and the public would understand that the Officer had ended up being convicted for a strict liability offence. My attention was again drawn to the findings of the Traffic Commissioner who stated that the EU regulations were complex, this was not a case where the Officer was likely to have been tired to the degree where he was unfit to drive, and the Commissioner accepted that this was a case of negligence.

Aggravating Factors

29. It was accepted on behalf of the Officer that the only aggravating factor was that this was repeated behaviour over a period of time.

Mitigating Factors

30. It was submitted that the Officer had been acting in good faith but had got things wrong. There were stresses in his private life which may have affected his ability to cope with the circumstances in question. He had made admissions at an early stage and shown evidence of genuine remorse and insight.

Character

31. Mr Banham drew my attention to the material in the character bundle and submitted that it should be taken into consideration at this stage in terms of supporting the Officer's credibility and also making it less likely that he would commit any or all of the breaches.

Conclusion

32. In all of the circumstances, it was submitted by Mr Banham that the conduct was not Gross Misconduct, and the case should be remitted to be dealt with under Part 4 of the Regulations.

Legal Advice

33. I received and accepted the following advice from the Legal Advisor:

- The burden of proof is on the AA.
- The standard of proof is the balance of probabilities.
- Evidence of good character should be taken into account at this stage and is relevant to credibility and propensity.
- A finding of a lack of integrity can be made absent any dishonesty. Integrity is a broader concept than honesty - Wingate and another v Solicitors Regulation Authority; Solicitors Regulation Authority v Malins [2018] EWCA Civ 366.
- With regard to Orders and Instructions, despite the Officer's admission, I should still consider if that standard had been breached.
- "Gross Misconduct" as defined in Regulation 2 means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.
- At an Accelerated Misconduct Hearing, only Gross Misconduct may be found.
- The 2025 Regulations apply, meaning that there is a presumption of dismissal if Gross Misconduct is found.
- It was submitted on behalf of PC Barrett that, in essence, the bar for Gross Misconduct is now higher following the introduction of the presumption of dismissal in the 2025 Regulations. It was submitted that the practical effect

of the presumption of dismissal is that Gross Misconduct now means conduct which is so serious that dismissal must follow unless there are exceptional circumstances. The Legal Advisor advised that the 2025 Regulations did not make any changes to the definition of Gross Misconduct which would apply here (there is an amendment to the definition of Gross Misconduct only in relation to convictions for indictable only offences which is not relevant in this case). Parliament has not amended the definition of Gross Misconduct to include exceptional circumstances. Therefore, the legal advice was that I should apply the definition of Gross Misconduct as it currently appears in Regulation 2 and that exceptional circumstances are a factor which comes into play if the outcome stage is reached.

- When assessing the seriousness of a criminal conviction there is still room to exercise judgment, and it is a fact specific decision.
- In deciding whether any breaches of the professional standards are Gross Misconduct, I should adopt the approach in the Outcomes Guidance for assessing seriousness.
- I was referred to paragraph 4.17 onwards of the Outcomes Guidance which deals with criminal convictions.

34. I handed down the following decision which is set out below in *italics*:

I have had regard to the parties' submissions and to the Officer's character evidence.

With regard to Allegation 1, I find this proved in relation to the 1 October 2025 declaration only on the basis of the Officer's admissions and the convictions. The other declarations were signed long before the period of time covered by the CARMS and tachograph data referred to in the allegation which is relied upon by the AA to prove that those declarations were false. As such, despite the Officer's admissions, I find that the allegation is not proved so far as the declarations on 17 June 2022 and 29 March 2024 are concerned. With regard to the use of the word 'false'. I do not find that there was any deceit or dishonesty.

With regard to Allegation 2, I find this proved by virtue of the Officer's admissions and the criminal convictions, but not in relation to breach of the secondary employment policy because the AA did not direct me to a specific part of the policy in the bundle which was alleged to be breached.

With regard to Allegation 3, I find this proved on the basis of the Officer's admissions and the convictions.

With regard to the Standards of Professional Behaviour, I accept the Officer's admissions that he breached the standards of Integrity (on the basis of not doing the right thing) and Discreditable Conduct. Dishonesty is no longer pursued by the AA. I do not find a breach of the standard of Orders and Instructions because I have not found that aspect of Allegation 2 to be proved.

That leads me on to the main issue in this case which is whether or not the conduct is Gross Misconduct.

I have carefully considered the submissions put forward on behalf of the Officer that the effect of the presumption of dismissal in the 2025 Regulations raises the bar for Gross Misconduct to conduct which is so serious that dismissal must follow unless there are exceptional circumstances. However, I accept the advice of the Legal Advisor that Parliament has not changed the Regulations in this way and the definition of Gross Misconduct which I should apply is as per the Regulations as drafted, namely, that Gross Misconduct means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal.

In assessing whether or not the conduct is Gross Misconduct, I have applied the approach in the College of Policing Guidance on Outcomes for assessing seriousness.

Culpability

I find that the Officer understood the obligations placed upon him when he undertook the training to obtain his licence. However, he chose not to adequately record his hours and ensure compliance with the driving regulations.

The Officer has been convicted of multiple offences and whilst these are strict liability traffic offences, they are nonetheless important because they are directed at ensuring safety for all users of the highway. The public would be concerned to learn that off duty officers were driving in breach of these regulations, the purpose of which is to protect the public from people driving whilst they are too tired to do so. As well as being a qualified police officer, the Officer is a former professional driver who had previously held management responsibilities in the coach company. I find that this increases his level of culpability.

Harm

There is no harm to any individual, but there is harm to public confidence due to a police officer being convicted of breaching these regulations.

Aggravating circumstances

There are multiple convictions and a pattern of sustained behaviour.

Mitigating circumstances

The Officer pleaded guilty, has cooperated and demonstrated remorse and insight.

Overall assessment of seriousness

These regulations exist to keep the public safe on the roads. Multiple breaches of them is serious and the Officer is fully culpable for his actions. I therefore find that the conduct is so serious as to be Gross Misconduct.

Outcome

35. The AA provided me with the Officer's record of service and reminded me of the presumption of dismissal for Gross Misconduct.
36. Mr Banham relied upon his previous submissions which he then expanded upon. He emphasised the mitigating factors which were particularly relevant to outcome. He drew my attention to the character evidence including awards and positive testimonials from members of the public and the Officer's line management.
37. It was submitted that there was no guidance in this jurisdiction on what constituted exceptional circumstances and so it was reasonable to draw upon decisions in similar jurisdictions. Mr Banham referred me in particular to a number of decisions of the Solicitors Disciplinary Tribunal in which exceptional circumstances have been found. He submitted that the conduct in this case had occurred in the context of overlapping shift patterns on the Officer's phone which had caused considerable confusion, and there had also been a lack of oversight from the coach company. He again emphasised the voluntary nature of the Officer's disclosures to his managers when he was summoned to Court, and his full admissions. Mr Banham submitted that there were exceptional circumstances arising from this combination of factors, plus there had been a lack of benefit to the Officer from the misconduct, and no adverse effects. In all of the circumstances it was right that he should be retained as a police officer.
38. I accepted the following advice from the Legal Advisor.
- The Police (Conduct, Performance and Complaints and Misconduct) (Amendment) Regulations 2025 apply because the conduct came to the attention of the AA on 19 December 2025, after 28 May 2025 when the 2025 Regulations came into force.
 - Because Gross Misconduct had been found, I must impose disciplinary action, which must be dismissal without notice, or if I were satisfied that there are exceptional circumstances which justify it, a final written warning.
 - There is no law or guidance on what constitutes 'exceptional circumstances' so I should give the words their ordinary and natural meaning. Any such circumstances would need to have a definable quality which makes them 'exceptional'.
 - I should have regard to the Officer's record of service and his character references.
 - I should follow the approach in the Outcomes Guidance.
39. I handed down the following decision set out below in *italics*.

I have already undertaken a detailed analysis of culpability, harm, aggravating and mitigating circumstances and I do not repeat that. My overall assessment of seriousness is that breaching the driving regulations on multiple occasions is serious. I have reminded myself of the threefold purpose for imposing outcomes in police misconduct proceedings and of paragraph 4.4. of the Outcomes Guidance which states:

“The most important purpose of imposing disciplinary sanctions is to maintain public confidence in, and the reputation of, the policing profession as a whole. This dual objective must take precedence over the specific impact that the sanction has on the individual whose misconduct is being sanctioned.”

I have carefully considered the personal mitigation and character references and whether there are any exceptional circumstances which would dislodge the presumption of dismissal.

I have considered the solicitors disciplinary decisions to which I was referred, and I accept that exceptional circumstances can arise from a combination of factors. However, I return to my earlier comments that this involved multiple breaches of road safety legislation designed to ensure public safety by an Officer who not only is a police officer, but also had a background as a professional driver. I have taken on board the character evidence and I give full credit to the Officer for cooperating and for his candour, remorse and insight. However, I ask myself whether any of these factors either individually or cumulatively are of a sufficient character to be described as exceptional and I find that they are not. Therefore, absent any exceptional circumstances, the only option open to me is dismissal without notice.

Publication and Barred List

40. There is no reason to depart from the usual position that this report and the Officer’s Barred List entry are public.

Right of Appeal

41. There is a right to appeal against this decision to a Police Appeals Tribunal.

Commander Andy Brittain

Chair

20/05/2026