

IN THE POLICE APPEALS TRIBUNAL

IN THE MATTER OF THE POLICE APPEALS TRIBUNALS RULES 2020

FORMER POLICE CONSTABLE DENIZ ALI

Appellant

-V-

THE METROPOLITAN POLICE SERVICE

Respondent

DETERMINATION OF THE APPEAL AND REASONS FOR DECISION

Introduction

1. Former Police Constable Deniz Ali (“the Appellant”) appealed to the Police Appeals Tribunal (“the PAT”) against his dismissed without notice from the Metropolitan Police Service following an Accelerated Misconduct Hearing (“the AMH”) on 22 November 2023 after a finding of Gross Misconduct. We heard the appeal on the 16 May 2025. The Appellant was represented by Mr Shellard and the Respondent by Mr Goss. We would like to thank both advocates for their assistance with this appeal and their courtesy throughout.
2. The possible grounds of appeal by a former Police Officer under Rule 6(4) of the Rules are:
 - (a) that the finding or decision to impose disciplinary action was unreasonable;
 - (b) 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
 - (c) that there was a breach of the procedures set out in the Conduct Regulations, the Complaints and Misconduct Regulations or Part 2 of the 2020 Act or unfairness which could have materially affected the finding or decision on disciplinary action.

The Brief Background

3. On the 27 July 2023 the Appellant was convicted of common assault contrary to Section 39 of the Criminal Justice Act 1988 at Stratford Magistrates Court. On the 15 September 2023 he was sentenced to “150 hour community service order for 12 months”, to pay £150 compensation and costs of £630.
4. The particulars of the offence were said to be that he had assaulted Mr Edward Filade, whilst off duty following an altercation outside Brown’s adult entertainment club in Shoreditch. That he pushed him into a wall, shook him, and dragged him to the floor.
5. On 15 August 2023 the Appellant gave notice of appeal against that conviction to the Crown Court. The hearing of that appeal was listed at the Crown Court on 6 February 2024. The Appellant requested the AMH to be postponed until after the outcome of the appeal. That request was declined.
6. The AMH took place on 22 November 2023 Chaired by Assistant Commissioner Barbara Gray. The Appellant, who knew of the date of the AMH, was not present but was “supported” by his Police Federation Representative PC Niven Poliah. What was said at the AMH has assumed some importance in relation to a preliminary issue that has been raised by the Respondent.
7. The Chair decided to proceed with the AMH. No complaint is made about that. Reference was made to the Appellant’s Regulation 54 response;
The Chair said:

I am advised that the misconduct papers were served on PC Ali on 10 October 2023. He responded under the Regulation 54 Police Conduct Regulations. I believe it was within paragraph 6 of his response, he accepts that conviction does amount to misconduct. But in the following paragraph he cites that he believes it has been a miscarriage of justice. It is just a brief summary of that. [3F-G]

8. PC Emily Wells for the Appropriate Authority, the Respondent to this appeal said:

On 10 October 2023, PC Ali was served with a copy of the papers under Regulation 5. On 19 October, PC Ali submitted a written response under Regulation 54. Whilst I do not propose to read the officer's written response out in full, but we would like to draw your attention to where the officer accepts that he was found guilty of common assault and that he was given the sentence outlined above. He also accepts that being convicted of a criminal offence, and

being sentenced at court, amounts to a breach of the standards of professional behaviour amounting to gross misconduct for discreditable conduct. [9 A-C].

9. PC Poliah read out the Appellant's Regulation 54 Response. So far as is relevant it included:

I accept that being convicted of criminal offence and being sentenced at court amounts to a breach of standards of professional behaviour, amounting to gross misconduct for discreditable conduct. However, I do not accept that justice was served by me being found guilty of the offence. I pleaded not guilty, and I maintain that I am innocent. My use of force was proportionate, reasonable and necessary in the circumstances and it was therefore lawful. Although I respect the decision of the magistrate's court. I do not agree with it. On 15 August 2023 I served formal notice of appeal against my conviction. [10 F-H]

10. A finding was made at the AMH that by virtue of that conviction he had breached the Standards of Professional Behaviour in relation to Discreditable Contact and that this amounted to gross misconduct. He was dismissed without notice.
11. The Appellant says that on 6 November 2024 at Snaresbrook Crown Court his appeal against his conviction was allowed. A formal certificate from the Crown Court was provided to us dated 14 May 2025 confirming this, which has been accepted by the Respondent.
12. The Appellant appealed to the PAT on the ground under rule 6(4)(b): 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.

The Appeal Hearing

Preliminary Issue

13. The Respondent referred us to Rule 6 of the Rules. The effect of Rule 6(3) relevant to this appeal is that a former police officer "may not appeal to a tribunal against a finding [of gross misconduct] where that finding was made following acceptance by the former police officer that the officers conduct amounted to ... gross misconduct."
14. The Respondent's reason for raising this is that the Appellant in his Regulation 54 response, to which we have referred above said:

I accept that being convicted of criminal offence and being sentenced at court amounts to a breach of standards of professional behaviour, amounting to gross misconduct for discreditable conduct.

15. Here the Appellant has accepted on the facts before the AMH what took place amounted to gross misconduct and on a reading of Rule 6(3) he may not appeal against that finding.

16. It is right for the Respondent to bring this to our attention. We did however refer to Regulation 61 of the Conduct Regulations which sets out the procedure at the AMH. Regulation 61(5) says:

“at the beginning of the accelerated misconduct hearing, the person conducting or chairing the accelerated misconduct hearing must give the officer the opportunity to say whether or not the officer accepts that the officers conduct amounts to gross misconduct.”

17. The Appellant was not present at the AMH. Nothing was said at the commencement by his Federation representative to comply with Regulation 61(5). It appears to us, understandably and properly, that although the chair was aware of the regulation 54 response, she went on to consider if the allegation had been proved and if it amounted to gross misconduct as opposed to the Appellant having formally accepted that it was gross misconduct. She made the finding that it did amount to gross misconduct.

18. The Respondent also made clear to us that they accept where the facts upon which the original decision was made no longer exist it would be wrong to hold an officer to anything he had said to suggest he accepted they amounted to Gross Misconduct and thereby preventing him being able to appeal. If that were not so it would prevent an officer being able to appeal because of Rule 6(3). That could not have been intended by the Rules and would lead to an absurd result.

19. Our view, on the facts of this particular case, is that the Appellant was not prevented from appealing.

Ground of Appeal – rule 6(4)(b)

20. There are two limbs to this Ground of Appeal. (1) there is evidence that could not reasonably have been considered at the original Hearing; (2) which could have materially affected the finding or decision on disciplinary action.

The first limb

21. There is generally recognised to be a three-stage test under Ladd v Marshall [1954] 1 WLR 1489, that if new evidence is to be admitted what must be met is:
- a. It must be shown that the evidence could not have been obtained with reasonable diligence;
 - b. If given, it would probably have had an important influence on the result of the case: and
 - c. It is apparently credible although not incontrovertible.
22. The test was revisited more recently in R(O Connor) v PAT (2018) EWHC 190 where it was said that the PAT should not be constrained by the wording in Ladd v Marshall. The civil courts have relaxed its approach to the question, to take into account the overriding objective of dealing with cases justly. Whilst still recognising the principles in Ladd v Marshall, the PAT should not apply a straight-jacket approach.
23. We accepted that the new evidence of the outcome of the appeal to the Crown Court was evidence that could not have been considered at the original hearing. It occurred, of course after the AMH, and that, had it been evidence at the time of the AMH, it would have had an important influence on the result of the case and it is obviously credible evidence.
24. Therefore we found that Limb 1 had been made out.

The second Limb

25. Clearly the AMH was brought on the bases of the conviction which had now been removed. It was not suggested otherwise. We accepted that this new evidence could have materially affected the finding and decision on disciplinary action made at the AMH.
26. We therefore found that the ground of appeal had been made out and that we should set aside the finding and decision of the AMH.

27. We then heard submissions whether we should remit the matter to be decided again in accordance with the relevant provisions of the Conduct Regulations under Rule 26(2).
28. The Appellant said that the case against him rested on the conviction which had now been removed. It should bring the matter to an end. The Respondent said they were not seeking to have the matter remitted under rule 26(2). We decided we should not remit the matter back.

Our Decision

29. We considered the ground of appeal had been made out and set aside the finding and decision to impose disciplinary action at the AMH. We decided not to remit the matter to be decided again in accordance with the relevant provisions of the Conduct Regulations under rule 26(2).
30. For the avoidance of doubt the effect of our decision is that the Appellant should be reinstated to the police force with immediate effect.
31. We ordered that the Appropriate Authority pay the Appellant back pay and any contractual benefits owing to him for the period from his dismissal until today.
32. We would also like to express our thanks to Ms Jaina Phillipo and her colleagues at MOPAC for so efficiently making all the arrangements for the Appeal. This was greatly appreciated by the Tribunal.

Michael Caplan KC – Chair

Simon Blatchley OBE – Deputy Chief Constable, Derbyshire Constabulary

Mark Dent - Independent Panel Member

17 May 2025