



EMPLOYMENT TRIBUNALS

Claimant: Mr M Yaqub

First Respondent: The Commissioner of Police of The Metropolis

Second Respondent: Mayor's Office for Policing and Crime

RECORD OF A PRELIMINARY HEARING

Heard at: London Central Employment Tribunal (held in public; by CVP)

On: 19 May 2026

Before: Employment Judge Wisby

Appearances

For the Claimant: In person

For the Respondent: Mr O Isaacs (Counsel)

For the Second Respondent: Mr Gold KC (Counsel)

PRELIMINARY HEARING RECONSIDERATION JUDGMENT

The Employment Tribunal does not have jurisdiction to consider the discrimination complaint raised by the Claimant against the Police Appeal Tribunal in respect of events occurring on or before 31 December 2023 and in respect of that complaint the Police Appeal Tribunal and its members have judicial immunity and judicial privilege.

The claim against the Second Respondent is dismissed. For the avoidance of doubt the claim proceeds against the First Respondent.

PRELIMINARY HEARING SUMMARY

1. The Claimant was a serving police officer and employed by the Respondent from 1 May 2012 until 26 August 2023 when he was dismissed on the grounds of gross misconduct. As a serving police officer, the Claimant is precluded from claiming unfair dismissal. The Claimant was a Detective Sergeant when dismissed. Early conciliation started on 16 November 2023 and ended on 28 December 2023. The claim form was presented on 26 January 2024.
2. The claim is about the Claimant's dismissal and whether he was treated less favourable treatment because of his race and/or sex. The Respondent denies that he was.
3. On 3 March 2025, following a PH on 27 February 2025 I gave Judgment that: *"The Employment Tribunal has jurisdiction to consider the discrimination complaint raised by the Claimant against the Police Appeal Tribunal in respect of events occurring on or before 31 December 2023 and in respect of that complaint the Police Appeal Tribunal is not protected by judicial immunity"*
4. On 2 September 2025 Mayor's Office for Policing and Crime ("**MOPAC**") applied: to be joined as a party to the proceedings; for the decision of Employment Judge Wisby dated 3 March 2025 to be reconsidered; and. for the Respondent's application for a witness summons in respect of the Police Appeal Tribunal chair to be refused. At that hearing Employment Judge Keogh granted an extension of time for an application for reconsideration.
5. After reconsideration procedural steps were undertaken by me, a reconsideration hearing was listed on 1 February 2026 - that hearing was postponed and converted to a case management hearing due to the non-availability of counsel for the second respondent. 19 May 2026 was the first slot available following that date that all parties and I could accommodate.
6. Oral Judgment was given at the end of the hearing.

WRITTEN REASONS

Materials before the Tribunal

7. I was referred to:
 - 7.1. Written skeleton arguments for the Second Respondent and the Claimant.
 - 7.2. A 233-page Authorities bundle.
 - 7.3. A 313-page Reconsideration Hearing Bundle together with a 128-page annex.
 - 7.4. A 299-page bundle of statutory materials.
 - 7.5. 283-page bundle of authorities.

- 7.6. Further notes sent to the tribunal by R2 (copied to the Claimant) dated 15 and 18 May 2026.

The Claimant confirmed he had received all of the materials and had read the additional notes from R2 dated 15 and 18 May 2026. The Claimant was provided with breaks when he required them and encouraged to let me know at any point if an additional explanation of any matters would assist.

Clarification provided at the hearing by the First Respondent

8. The First Respondent clarified that:

- 8.1. *It makes no submissions on whether the decisions of the PAT fall within the EqA 2010 provisions for judicial functions.*
- 8.2. *As regards the subsidiary issue of judicial immunity/privilege, the First Respondent wishes to make it plain that the issue for EJ Wisby is about the PAT and not police misconduct hearings. The First Respondent has no submissions to make about the immunity/privilege that may or may not apply to the PAT.*
- 8.3. *At present, the First Respondent has taken a pragmatic view of assertions of privilege/immunity by the police misconduct panel and not sought to challenge the same. The First Respondent wishes to bring this dispute to a conclusion as quickly as possible. It considers that it is in no-one's interests for this case to be delayed and that it does not ultimately serve the Claimant to have delay in the actual resolution of his claim. It considers that it is not necessary to address that issue when defending the Claimant's claim.*
- 8.4. *Nevertheless, the First Respondent would wish to make it clear that whilst it has not made submissions on the immunity/privilege of police misconduct panels, it would not wish such a pragmatic position to be confused with acceptance of the Second Respondent's submissions. The First Respondent reserves the right to make substantive submissions on the immunity/privilege of police misconduct panels should this decision be appealed such that it would or could have a broader impact on other claims and the First Respondent's ability to defend such claims. The Tribunal should not be drawn into the complicated issue of whether police misconduct panels have such judicial immunity/privilege. That was not and has never been the issue before the Tribunal. It is not necessary or desirable to consider such an issue against the background of this application which is focused on the PAT.*

9. Discussion

10. During the course of the hearing on 27 February 2025 I had asked whether there were significant differences between the appointment under relevant Regulations of the Misconduct Panel and the appointment under the relevant Regulations of the PAT. At that stage it was accepted by the First Respondent and Claimant that in both cases there is a legally qualified Chair that is not employed or appointed

by the First Respondent but the parties were unable to comment on any other significant differences between those appointments for the purposes of the issue before me.

11. Mr Gold today, on behalf of the Second Respondent, has taken me through the historical and current differences between the composition and appointment of misconduct panels and police appeal tribunals ("PAT"), these were set out in paragraphs 15 to 37 of R2's written submissions as follows:

The statutory history

Police misconduct hearings

15. Prior to 1920, all police forces had their own conduct process.² The first statutory provisions for police misconduct hearings that applied to all territorial forces were enacted in 1920: Police Regulations 1920 regs. 12-26. An officer charged with misconduct was required to attend a hearing conducted solely by the chief officer: reg. 18, who could impose the punishments of inter alia dismissal, requirement to resign, reduction in rank, reduction in rate of pay, and a fine: reg 21.³

16. In 1952, conduct provisions were removed from the general police regulations and enacted as specific regulations in themselves. The above conduct provisions remained unchanged: Police (Discipline) Regulations 1952 reg. 8(2),⁴ and the subsequent Police (Discipline) Regulations 1965 reg. 8(2).⁵

² In all forces, the non-chief officer ranks are constable, sergeant, inspector, chief inspector, superintendent and chief superintendent. In provincial forces, the chief officer ranks are assistant chief constable, deputy chief constable, chief constable. In the Metropolitan Police, the chief officer ranks are commander, deputy assistant commissioner, assistant commissioner, deputy commissioner, commissioner.

³ In the Metropolitan Police, a misconduct hearing was conducted pursuant to a procedure approved by the Secretary of State and published in the force's General Orders: reg. 20(1).

⁴ The regulations were adapted for the Metropolitan Police in accordance with its General Orders: reg. 21.

⁵ Ibid. reg. 19.

17. The first statutory provisions for misconduct hearings in the Metropolitan Police were enacted in the Police (Discipline) Regulations 1977. A hearing for a constable or police sergeant was required to be heard either by an officer not below the rank of commander or a disciplinary board comprising a deputy assistant commissioner sitting with two commanders: reg. 13(1)(b), sch. 4, paras. 5(a)-(b).

18. In 1985, chief officers of provincial forces were permitted to delegate

misconduct hearings to a deputy chief constable: Police (Discipline) Regulations 1985 reg. 16(1).

19. In 1995, chief officers were permitted to delegate misconduct hearings to an assistant chief constable: Police (Discipline) (Amendment) Regulations 1995. In the Metropolitan Police, a disciplinary board could be chaired by a commander sitting with two commanders: Police (Discipline) (Amendment No. 2) Regulations 1995 reg. 3.⁶

20. In 1999, the distinction between the Metropolitan Police and other forces was largely ended; all misconduct hearings for Federated officers⁷ were to be heard by a senior officer, namely an assistant chief constable or a commander,⁸ sitting with two superintendents: Police (Conduct) Regulations 1999 regs. 18(1)-(3).

21. In 2008, the second superintendent was subsequently replaced by a lay member appointed by the chief officer, such that a panel for a misconduct hearing was an assistant chief officer or commander sitting with a superintendent and a lay member: Police (Conduct) Regulations 2008 reg. 26(4), and re-enacted in 2012.

22. In 2015, the police chair was replaced by a lawyer appointed by the chief officer from a list maintained by the policing body: Police (Conduct) (Amendment) Regulations 2015 reg. 5, amending the Police (Conduct) Regulations 2012. These provisions were re-enacted in the Police (Conduct) Regulations 2020, save that the local policing body and not the chief officer was required to appoint the legally qualified chair and lay member: Police (Conduct) Regulations 2020 reg. 28(4).

⁶ The disciplinary board in *Heath* compromised three commanders pursuant to the Police (Discipline) Regulations 1985 as amended.

⁷ A constable, sergeant, inspector or chief inspector.

⁸ The rank of commander is equivalent to the rank of assistant chief constable.

23. In 2024, legally qualified chairs were abolished after a short, ten-year existence; a misconduct hearing panel is now required to comprise an assistant chief officer or commander sitting with two lay members: Police (Conduct) (Amendment) Regulations 2024 reg. 3(3)(c), amending the Police (Conduct) Regulations 2020.

The Police Appeals Tribunal

24. The first statutory right of appeal against dismissal for police officers was enacted in 1927. An officer could appeal to the Secretary of State: Police (Appeals) Act 1927 s.1(1), Police (Appeals) Rules 1927. The Secretary of State

could appoint one or more persons to hold an inquiry and prepare a written report: s.2(1), on which the Secretary of State would rely to determine the appeal: s.2(2).⁹ The persons holding the inquiry had the power to require any person to attend and give evidence or produce documents: s.3.

25. In 1943, officers were given the right to appeal a reduction in rank or pay: Police (Appeals) Act 1943 s.1(b). The persons conducting an inquiry were referred to as a "tribunal": Police (Appeals) Rules 1943 r.4(1), chaired typically by leading counsel.¹⁰

26. In 1964, officers in the Metropolitan Police were required to apply for a review of the decision by the Commissioner of Police prior to appealing to the Secretary of State: Police Act 1964¹¹ s.37(4). The powers of a statutory inquiry pursuant to Local Government Act 1933 ss.290(2)-(3) were conferred on any inquiry the Secretary of State appointed to consider an appeal: Police Act 1964 sch. 5, paras. 3(1)-(2).

27. In 1976, the requirement for an officer to seek a review of the Commissioner prior to appealing to the Secretary of State was changed to that of an Assistant Commissioner: Police Act 1967 s.12(2).¹² This chief officer review was abolished by its not being re-enacted in the Police (Conduct) Regulations 2008.

⁹ The reports were published in Parliament and were debated in the Commons.

¹⁰ See for example, the Sheffield Police Appeal Inquiry (1963) Cmnd. 2176 chaired by Graham Swanwick MBE QC.

¹¹ Also enacted were the Police (Appeals) Rules 1964.

¹² Also enacted were the Police (Appeals) Rules 1976. ⁷

28. In 1984, it was enacted that the Secretary of State could appoint three persons to hold an inquiry comprising: a solicitor or barrister sitting with: (i) a serving or retired Inspector of Constabulary¹³ or retired chief officer; and (ii) a retired superintendent or chief superintendent: Police and Criminal Evidence Act 1984: s.103, substituting Police Act 1964 s.37 and sch. 5.

29. In 1999, the power of the Secretary of State to determine appeals was ended and given to the inquiry, which was formally called the Police Appeals Tribunal: Police Act 1996 sch. 6, Police (Appeals) Tribunal Rules 1999. The Secretary of State was required to appoint the members of a PAT hearing an appeal from a senior officer: Police Act 1996 sch. 6, para. 1(1). Otherwise, the police authority,¹⁴ and from 2012 the local policing body,¹⁵ appointed them: Police Act 1996 sch. 6, para. 2(1).

30. In 2020, the power of the Secretary of State to appoint the members of a PAT for an appeal from a senior officer was ended and given to the local policing body: Policing and Crime Act 2017 s.21(3) amending Police Act 1996 sch. 6, para. 1(1) and inserting s.2A; Police (Appeals) Tribunal Rules 2020 reg.

8.

31. Parliament is presently considering an enactment to permit the Secretary of State to issue rules enabling chief officers to appeal misconduct hearing decisions to the PAT: Crime and Policing Bill (as amended), 18 March 2026, clause 207. On 25 March 2025, the Bill passed its third reading in the House of Lords. On 14 April 2026, it will return to the House of Commons, which will consider the Lords amendments. There are no amendments to the clause on the PAT.

¹³ Established in 1856, now His Majesty's Inspectorate of Constabulary and Fire & Rescue Services: Police Act 1996, s.54, Fire and Rescue Services Act 2004 s.28.

¹⁴ The precursor to today's local policing bodies, which had the statutory duty to oversee the force, set the police budget and hold the chief officer to account.

¹⁵ Police Reform and Social Responsibility Act 2011 sch. 16(1) para. 47(2)(b), amending Police Act 1996 sch. 6, para 2.

32. The present version of the Explanatory Notes state:

1276. ... Chief officers may only challenge a decision by a misconduct panel by way of judicial review - a process which is considered to be more long-winded, limited in scope and expensive than appeals to the specialist police appeals tribunal. This clause amends the 1996 Act to enable the Secretary of State to provide by rules that the force's chief officer, as the individual with overall responsibility for the professional standards of its workforce, can have a statutory route to appeal such decisions. Further parity and fairness are achieved by enabling the Secretary of State to provide local policing bodies (that is, PCCs or Mayors with PCC functions) with a mirroring right of appeal in cases where the hearing relates to the chief officer of police for whom it is the local policing body and the IOPC in any case in which it has presented.

1278 Subsection (3) inserts new subsections (1A) to (1C) into section 85 of the 1996 Act, enabling the Secretary of State to make rules... on the circumstances where a chief officer, local policing body or IOPC may appeal to the police appeals tribunal, in order to challenge the finding or outcome at a police misconduct hearing.

1279 New section 85(1A) will allow a chief officer of police to appeal against a decision relating to a member or former member of the chief officer's force... New section 85(1C) will enable the Secretary of State to make rules permitting the IOPC to appeal to the police appeals tribunal in circumstances in which the IOPC has presented the case at the relevant hearing. ...

1284. Subsection (7) amends paragraph 9 of Schedule 6 to the 1996 Act, which provides that, in appeals by the officer concerned, the costs of the appeal will be met by the appellant, unless the police appeals tribunal directs that the whole, or part, of their costs should instead be met by the respondent.

Legislation

33. A legally qualified chair of a misconduct hearing was a barrister or solicitor with a qualifying period of at least five years, from a list of candidates maintained by the local policing body: Police (Conduct) Regulations 2020 ('PCR') reg. 28(6).

34. The Home Office statutory guidance, May 2015, provided that chairs of misconduct hearings were not judicial appointments and were to be paid on a fee-paid basis as advertised by the local policing body: annex F, paras. 1.2, 1.5. Legally qualified chairs were originally selected for a specific misconduct hearing (and paid) by the chief officer: Police (Conduct) Regulations 2012 reg. 25(4).

35. By contrast, a chair of the PAT was and is a person chosen from a list of persons nominated by the Lord Chancellor: Police Act 1996 sch. 6, paras. 1(1)(a), 2(1)(a).¹⁶ The Lord Chancellor is required to fill any vacancy in the office of PAT chair: Constitutional Reform Act 2005 ss.85(1)(c), 86(2), sch. 14 para. 3, table 1. He does so by consulting the Lady Chief Justice before requesting the Judicial Appointments Commission to select persons for recommended appointment: s.87(2).¹⁷

¹⁶ Final appointment is by the Secretary of State: Explanatory Notes to the Police and Crime Act 2017 para. 649.

¹⁷ See, for example: <https://judicialappointments.gov.uk/wp-content/uploads/2020/10/statistics-bulletin-june2015-revised-1.pdf>.

36. The office of PAT chair is a judicial office, and a PAT chair is a judicial office holder: Constitutional Reform Act 2005 s.109(4)(b). PAT chairs are paid such remuneration and reimbursed for such expenses as determined by the Secretary of State: Police Act 1996 sch. 6, para. 8. They are eligible for enrolment in the Judicial Pension Scheme: Judicial Pensions Regulations 2022 reg. 131(2)(a).

37. A PAT chair may be removed from office only by the Lord Chancellor: Constitutional Reform Act 2005 ss.108(1), sch. 14 para. 3, table 1. The Lady Chief Justice may, but only with the agreement of the Lord Chancellor, suspend a PAT chair or otherwise give them formal advice, a formal warning or a reprimand: Constitutional Reform Act 2005 ss.108(1)-(2).

12. The historical and statutory differences misconduct panels and police appeal tribunals are not disputed by the Claimant.
13. The Claimant does not dispute that the office of PAT chair is a judicial office, and a PAT chair is a judicial office holder, rather the Claimant states (in summary): the PAT decision was not an abstract judicial act detached from employment. It was the appeal stage of the Claimant's dismissal and directly determined whether that dismissal would stand. If the Respondents are correct, the Claimant would be denied an effective Employment Tribunal remedy for discrimination arising at the final stage of a statutory disciplinary process. That outcome is inconsistent with *P v Commissioner of Police of the Metropolis* [2017] UKSC 65 ("P") and the principles of effectiveness and equivalence. Judicial review is not an equivalent or effective remedy. Judicial immunity cannot be applied so as to defeat equality rights; and the strike-out application should be dismissed.
14. Mr Gold identified that the decision I took in March 2025 substantially depended upon:
 - 14.1. There being no material difference between the appointment and function of a PAT chair and legally qualified chair of a misconduct hearing, and that of the PAT and a misconduct hearing;
 - 14.2. A PAT appeal forming part of the same disciplinary process as a misconduct hearing, for the purpose of equivalence and effectiveness.
15. I am now satisfied that at the relevant time there were material differences between the appointment and function of a PAT chair and the legally qualified chair of a misconduct hearing and those differences include the fact that unlike the members of the misconduct panel, the PAT is a judicial office holder. I find that this difference is of key significance - I note that the decision in *P* by the Supreme Court was not taken in the context of the decision maker being a judicial office holder but rather considered the impact of judicial immunity of a non-judicial office holder.
16. In respect of the decision in *P*, Mr Gold explained to me that there other panels at the same level as a misconduct panel, which may result in an officer's dismissal other than a misconduct panel, such as a 'performance panel', such that the reference to "other types of panel" in paragraph 34 of *P* should not simply be inferred to be a reference to the PAT.
17. I accept, in light of R2's submissions today, that:
 - 17.1. The PAT is a free-standing, statutory tribunal with its own legal status rather than a merely functionally independent but internal police panel with no independent legal personality.
 - 17.2. Whereas the conduct and determination of a misconduct hearing was historically the function of the chief officer, the final determination of a police appeal has never been a chief officer's function.
 - 17.3. Complaints of misconduct about a PAT chair must be made to the Judicial Conduct Investigations Office ('JCIO'), which has sole jurisdiction to determine such matters.

- 17.4. The PAT's separate character and function from chief officers is not changed by the final decision resting with the PAT rather than the Secretary of State on receipt of a report from the PAT. Accordingly, the first major reason for a chief officer to be constructively liable for the decisions of a misconduct hearing cannot apply, and has never applied, to a PAT.
 - 17.5. The chief officer has never appointed the members of the PAT and that the First Respondent is not liable for the actions of the PAT.
 - 17.6. In respect of specific complaints of discrimination, a PAT appeal does not form part of the same disciplinary process as a misconduct hearing. Mr Gold explained that an officer cannot look to the PAT to overturn a dismissal on the basis of unlawful discrimination rather than on the specific statutory grounds in the PAT Rules.
 - 17.7. In respect of a decision to dismiss, a police officer being unable to bring a discrimination claim in the employment tribunal against a PAT decision does not give rise to a reduction in equivalence or effectiveness, since an officer who considers that unlawful discrimination has had a substantial effect on the decision to dismiss them has a right of action in discrimination and may present that claim to an employment tribunal whether or not they appeal to the PAT and regardless of the outcome of the PAT decision.
 - 17.8. To the extent that there is any gap created by the appeal process to the PAT in respect of the principle of equivalence or effectiveness, that the prevention of an officer's ability to bring a specific complaint of discrimination against the PAT in the Employment Tribunal is justified in order to protect the integrity of the PAT process as set out by parliament.
18. The fact that the PAT is a judicial office holder and the chair of misconduct hearings is not, is also significant in that the public function provisions at EqA s.29 do not apply to a judicial function, which includes a reference to a judicial function conferred on a person other than a court or tribunal: EqA s.31, sch. 3 para. 3.
19. I have also been persuaded by Mr Gold's submissions (which were not disputed by the Claimant, rather his position is that that the principle of judicial immunity cannot bar a person's complaint to an employment tribunal of treatment that was contrary to a directly effective EU right) that the PAT satisfies the criteria for judicial bodies attracting immunity in *Trapp v Mackie* [1979] 1 WLR 377. It was submitted that the PAT is a tribunal authorised by law, it inquires into issues similar to those decided by courts, it holds hearings in public (notwithstanding r.15 decisions are made 'on the papers'), it is for the parties to decide what evidence to present, witnesses can be subject to examination-in-chief and cross-examination, parties are entitled to be legally represented, its decisions are decisive, and its decisions give rise to an estoppel per rem judicatem – see *R (Gray) v Police Appeals Tribunal* [2018] EWCA Civ 34; [2018] 1 WLR 1609 [42]-[51].

Conclusion

I have made no finding regarding the immunity/privilege of police misconduct panels. I have however determined that the First Respondent is not liable for the actions of the PAT.

I am now satisfied that the Employment Tribunal does not have jurisdiction to consider the discrimination complaint raised by the Claimant against the PAT in respect of events occurring on or before 31 December 2023 (and that additional wording is not required in respect of appeals to the PAT to interpret section 42(1) Equality Act 2010 Act). I am also satisfied that the PAT and its members have judicial immunity and judicial privilege.

Writing to the Tribunal

1. Whenever they write to the Tribunal, the Claimant and the Respondent must copy their correspondence to each other.

Useful information

2. All judgments (apart from judgments under Rule 52) and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the Claimants and Respondents.
3. There is more information about the Employment Tribunals on the judiciary website. In particular, you may wish to read the information behind the tiles “Before the hearing”, “At the hearing”, “Rules, Orders, Practice Directions and Guidance”, “Sources of advice and support” and “Further information”. The website is here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

4. The Employment Tribunals Rules of Procedure are here:

<https://www.gov.uk/government/publications/employment-tribunal-procedure-rules>

5. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here:

<https://www.gov.uk/appeal-employment-appeal-tribunal>

6. Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings. You can access the Direction and the accompanying Guidance here:

<https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>

Employment Judge Wisby

7 June 2026

Sent to the parties on:

27.6.26

For the Tribunal Office:

Shelley