

# PROCEDURE IN RELATION TO AGE AND EMPLOYMENT MATTERS



Heddlu  
Gwent  
Police

## SUMMARY

**STAFF ARE REMINDED THAT THIS SUMMARY IS STRICTLY AN OVERVIEW OF THE KEY ELEMENTS OF THE DOCUMENT AND FOR A MORE COMPREHENSIVE EXPLANATION THE WHOLE OF THE DOCUMENT SHOULD BE READ IN PARTICULAR SECTION 1.2'**

Gwent Police is committed to becoming an organisation which challenges negative stereotypes and ensures that in its business all individuals regardless of age, have the same rights in terms of employment, training and promotion. This procedure applies to both police officers and police staff. Compulsory retirement at age 65 has been removed for Gwent police staff employees. Compulsory retirement ages still remain for police officers.

**PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE INTRANET POLICIES SITE.**

# INDEX

## **1.0 Guidance, Procedures, Tactics**

- 1.1 Risk Assessments and Health & Safety Considerations
- 1.2 Specific Instructions and Procedures

## **2.0 Procedure Statement & Intentions**

- 2.1 Principle & Scope of Procedure
- 2.2 Aims of Procedure

## **3.0 Introduction**

- 3.1 Origins / Background Information
- 3.2 The Legal Basis and Legitimate Aims

## **4.0 Implications of the Procedure**

- 4.1 Financial Implications / Best Value
- 4.2 Human Resources / Training
- 4.3 Strategic Plan Links
- 4.4 Diversity
- 4.5 Links to other policies
- 4.6 Consultation

## **5.0 Human Rights Consideration Certification**

- 5.1 Auditing for Potential Interference and Discrimination
- 5.2 Key Human Rights Principles
- 5.3 Rights, Publication, Audit and Inspection
- 5.4 Certificate of Compliance
- 5.5 Legal Vetting

## **6.0 Promotion and Distribution**

## **7.0 Monitoring / Review**

## **8.0 Procedure Identification Page**

## **1.0 Guidance, Procedures, Tactics**

## **1.1 Risk Assessments and Health and Safety Considerations**

The Gwent Police Service Dynamic Risk Assessment should be applied as necessary. A training package in the use of risk assessment will be provided to all police personnel if required or requested.

## **1.2 Introduction**

### **Age Discrimination Legislation and the Police Service**

1.2.1 The key points of the Employment Equality (Age) Regulations 2006 and how they affect the police service are as follows:

- The regulations cover employment and vocational training
- Pre and post employment practices and procedures are affected (ie recruitment, provision of references)
- People of all ages are covered
- All workers – employees, self employed, contract workers, office holders, staff association and Trades Union are protected.
- Upper age limits for claims for unfair dismissal and redundancy have been removed.
- The minimum age at which a police staff employee may be appointed is 16 and there is no maximum age.
- There is a national default retirement age of 65 (to be reviewed in 2011) making compulsory retirement below 65 unlawful unless reasonably justified. However, compulsory retirement at age 65 has been removed for Gwent police staff employees. Compulsory retirement ages still remain for police officers.
- Exemptions to the national default retirement age are allowed if they can be objectively justified or if there is a genuine occupational requirement, BUT both are likely to be difficult to prove. However, the legislation will protect individuals or organisations who are forced to discriminate on age grounds in order to comply with other legislation e.g. bar staff serving alcohol must be at least 18.
- The minimum age, laid down by the Home Office, at which an individual can apply to become a police officer or special constable is

18.

- The compulsory retirement ages for police officers are 60 for the federated ranks (Constable–Chief Inspector) and 65 for superintending/ACPO ranks. The Home Office is satisfied that these ages are necessary and objectively justified, however, police officers have the right to request to continue working beyond their compulsory retirement age.
- Benefits based on a length of service requirement of 5 years or less, the 'five year exemption', are exempted and can continue. After the five year exemption, employers must show that there will be an advantage from rewarding loyalty, encouraging the motivation or recognising the experience of workers by awarding benefits on the basis of length of service.
- Employers may be held liable for the discriminatory actions of their employees.

### 1.2.2 Recruitment

It is unlawful for an employer to discriminate against a person on the basis of age:

- in the arrangements made for determining who should be offered employment;
- in the terms on which the person is offered employment;
- by refusing to offer, or deliberately not offering the person employment.

To this end, Gwent Police will ensure the following during the recruitment and selection of police staff posts, specialist posts for police officers and special constables, taking into account the provisions of the Recruitment and Selection Guide:

- person specifications will be reviewed to ensure that they do not include unnecessary or marginal requirements;
- aptitude or other tests used in a selection process or the way results are assessed, will not be based on age;
- during the selection process, Gwent Police will not seek to discriminate through questions relating to age;
- Police officers will be appointed in accordance with the National Recruitment Standards. The minimum age at which an individual may

apply to become a police officer is 18. There is no upper age limit for appointment but it should be borne in mind that the normal retirement age is 60 years and that new recruits are required to undertake a two year probationary period. To ensure that a reasonable return on investment in training is received – three years (including the probationary period) may be considered to be reasonable.

- The minimum age for all police staff posts will be 16. The maximum age for appointment as a police staff employee will be under 65.

### **1.2.3 Medical Assessments for appointments to the force**

Health checks for potential police officers and police staff will only be conducted once the candidate has been assessed as suitable for the role through the appropriate selection procedure.

Each case will be considered on its own merits and the medical assessment will focus on ability rather than age. For potential police officers, the assessment will be conducted within the framework of the National Medical Recruitment Standards.

### **1.2.4 Terms and Conditions of Service**

Gwent Police will not discriminate on the basis of age in the application of its terms and conditions of service.

### **1.2.5 Induction, Training and Development**

Induction, training and development opportunities will be available to all staff regardless of age.

### **1.2.6 Redundancy**

Practices such as last in first out and using length of service in redundancy selection criteria are likely to be discriminatory and will not be operated.

### **1.2.7 Health and Safety issues**

Under Health and Safety law, Gwent Police has a duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all employees. Where a particular role may pose an identifiable health and safety risk not only to the individual but also to colleagues and / or members of the public. Therefore, considerations of health, safety and welfare may constitute a material and substantial reason for redeploying an individual.

However, Gwent Police will not use health and safety obligations as a reason not to retain an individual in his/her current role or other role on the basis of age.

### **1.2.8 Promotion, Selection and Appraisal**

Gwent Police will not discriminate on the basis of age against police staff, officers in the application of promotion, selection and appraisal processes.

### **1.2.9 Extensions of service beyond CRA – Police officers**

An officer will receive written notification of their retirement on the grounds of their compulsory retirement age (i.e., 60 or 65, as applicable) at least 6 months in advance of their retirement date and at the same time will be notified of their right to request to continue working beyond retirement. Gwent Police will consider the request and a meeting will be held between the officer and his/her line manager. The officer has the right to be accompanied at the meeting by a colleague. Home Office guidance states that police officers who request not to be retired are to undergo a medical assessment by the Force Medical Adviser to confirm that they are fit to undertake their role. If an extension to service is requested and granted, the procedure outlined above will be repeated each time an officer nears their new CRD (unless the new CRD is less than 6 months from the original retirement date).

### **1.2.10 Disclosure and Confidentiality**

In accordance with the Data Protection Act, any information regarding an individual's age provided to Gwent Police will be treated in strictest confidence. All information collected for monitoring purposes will be kept in confidence and existing police officers and employees will be advised that the information will be used only for Equal Opportunities Monitoring purposes and workforce planning.

### **1.2.11 Harassment and bullying**

Harassment or bullying on the grounds of someone's age is unlawful. This includes any unwanted behaviour that makes someone feel intimidated, degraded, humiliated or offended and includes teasing, tormenting, name calling and gossip. Harassment and bullying are disciplinary offences and will not be tolerated. The force procedure entitled Dignity at Work should be referred to in relation to allegations of bullying or harassment on the grounds of age.

### **1.2.12 Protective Marking**

Managers should comply with the information processing requirements of the Government Protective Marking Scheme by which information assets of Gwent Police are protectively marked according to the likely consequence of their

compromise as described in  
[http://hq2a/stage/support/standards/info\\_security/policy/protective%20marking.doc](http://hq2a/stage/support/standards/info_security/policy/protective%20marking.doc)

## **2.0 Procedure Statement & Intentions**

### **2.1 Principle & Scope of Procedure:**

Gwent Police aims to promote an understanding of age discrimination as an equality issue.

This procedure applies to all police personnel and applicants to the Force.

### **2.2 Aims of Procedure**

The aim of this procedure is for Gwent Police to :-

- Think positively as an organisation about age.
- To demonstrate that it values the skills, experience and knowledge which all individuals bring to the workplace.

## **3.0 Introduction**

### **3.1 Origins/Background Information**

It is considered good practice to have a procedure to assist the force in meeting its obligations in relation to the employment aspects of the Employment Equality (Age) Regulations 2006.

### **3.2 The Legal Basis and Legitimate Aims**

The legal basis is to comply with the Employment Equality (Age) Regulations 2006. This new legislation addresses often unconscious and discriminatory attitudes relating to individuals based on age.

## **4.0 Implications of the Procedure**

### **4.1 Financial Implications/Best Value**

There should be no additional financial implications with the updating and continuance of this procedure.

## **4.2 Human Resources/Training**

Line managers will be required to support police personnel to ensure that the aims of this procedure are complied with.

## **4.3 Strategic Plan Links**

The Human Resources Strategy supports our aim to be a good and caring employer.

## **4.4 Diversity**

In the application of this procedure consideration must be given to the possible social impact of this procedure on the community. A social impact assessment is a requirement to ensure all issues are considered. This is also a requirement of the Gwent Police Race Equality Scheme. Social impact assessments must be undertaken before and after the application of this procedure.

Under the Race Relations (Amendment) Act 2000 Gwent Police is required to undertake proactive work to meet the General Duty of :

- Eliminating unlawful racial discrimination;
- Promoting equality of opportunity;
- Promoting good relations between people of different ethnic groups.

The General Duty is outlined in Section 71 (1) of the Act, and must be met **in its entirety**.

Monitoring must be undertaken to ensure that there is no adverse impact either positive or negative upon any one particular social group or individual. The results of monitoring must be analysed and be available for publication, and appropriate changes made.

All individuals using this procedure must be aware of the potential impact that this procedure has on the individuals to whom it is applied. The following strands of diversity and their corresponding pieces of legislation must be considered when answering these questions.

- Welsh Language Act 1993
- Race – Race Relations Act 1976
- Race Relations Amendment Act 2000.
- Disability - Disability Discrimination Act 2005.
- Gender Sexual Discrimination Act 1975.
- Age- Article 13 Treaty of Amsterdam (2003)
- Sexual Orientation -Treaty of Amsterdam (2003)

- Religion- Article 13 Treaty of Amsterdam (2003)
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Employment Equality (Age) Regulations 2006

#### **4.5 Consultation**

Police Authority  
ACPO  
Divisional / Departmental Heads  
Superintendents' Association  
Police Federation  
UNISON  
Gwent Police Women's Association  
Gwent Black Police Association  
Gwent Police Disability Network  
Gwent Police Gay Support Network  
Freedom of Information Officer  
Diversity Officer  
Force Solicitor

### **5.0 Human Rights Consideration Certification**

#### **5.1 Auditing for potential interference and discrimination**

Q1. What articles of the Human Rights Act 1998 may be engaged?

Article 3  
Article 6  
Article 8  
Article 9  
Article 10  
Article 11  
Article 14

Q2. Where individual rights are engaged what is the potential to discriminate against the parties involved?

" In the application of this procedure the Force will not discriminate against any persons regardless of age, sex, race, colour, language, religion, political or other opinion, national or social origin, association with national minority, property, birth or other status as defined under article 14 of the European Convention on Human Rights ".

## **5.2 Key Human Rights Principles**

Q1. What is the legal basis for your procedure?

Section 3.2 refers

Q2. Does the procedure provide details of what could be considered as a legitimate aim for the potential interference with an individual's rights, through the exercising of this procedure?

Restrictions on the rights protected in articles 8 - 11 in the Human Rights Act will be compatible with the convention only if they are aimed at protecting one of the interests listed in articles 8(2), 9(2), 10(2) and 11(2) respectively. The interest protected are broadly the same and generally include:

1. National Security
2. Public Safety
3. The protection of health or morals
4. The prevention of disorder or crime; and The protection of the rights of others.

Q3. How are staff made aware of the clearly defined decision making processes?

Section 1.2 refers

Q4. What are the minimum standards of documentation in relation to decision making?

Section 1.2 refers

Q5. How does your procedure provide guidance on the justification for assessment and actions as to whether the action is the least intrusive?

Section 1.2 refers

## **5.3 Rights, Publication, Audit and Inspection**

Q1. Are there any sections of the document which should not be disclosed to the public on the Force Publication Scheme; because they consist of tactical or operational procedures, that would inhibit the apprehension or prosecution of offenders if publicly known, or would compromise the ability of the force to carry out its duties? Please outline the relevant sections that cannot be disclosed.

This procedure can be disclosed

Q2. What rights to make representation and appeal process are available?

Persons who wish to make representations regarding the operation of this procedure will have recourse to civil law. There is also the right to use both formal, informal and organisational complaints procedures in respect to the operation of this procedure. Where dismissal is contemplated an individual has a statutory right to attend a hearing to discuss the matter. This includes a statutory right to be accompanied to the meeting by a trade union representative or a work colleague. There is also a statutory right to appeal.

Q3. What internal review and audit process is in place or is proposed?

This procedure has been drafted in accordance with the principles and rights contained within the Human Rights Act 1998. It will be reviewed and continuously assessed in the light of any relevant changes and developments in the application of the Act.

Q4. What external independent scrutiny is recommended?

This procedure document can be scrutinised during Inspection undertaken by the Police Authority and HMIC.

#### **5.4 Certification of Compliance**

Consideration has been given to the compatibility of this procedure and related policies and procedures with the Human Rights Act; with particular reference to the legal basis of its precepts: the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making process's and outcomes of actions.

#### **5.5 Legal Vetting**

**There are no issues in this procedure under ECHR which cannot be resolved. This procedure has been vetted.**

#### **6.0 Promotion and Distribution**

In order to highlight the existence of this procedure to staff there will be the following :

- GO entry following ratification
- Publication on the Force Intranet and internet

#### **7.0 Monitoring / Review**

Monitoring of the application of this procedure will be undertaken by the Head of Human Resources.

Monitoring will be in line with the principles of the Race Relations (Amendment) Act 2000 and Age Discrimination Regulations 2006

## 8.0 Procedure Identification Page

**Procedure Title: PROCEDURE IN RELATION TO AGE AND EMPLOYMENT MATTERS**

**Reference: 112/22 b issue 1**

**Underlying Documents:** Employment Equality (Age) Regulations 2006, Home Office Circular 35/2006 (PNB / Home Office Joint Guidance for Police Authorities on New Compulsory Retirement Ages & Retirement Policy for Police Officers with Effect from 1 October 2006), ACAS Guidance on Age and the Workplace – a Guide for employers.

**Procedure Ownership:** Head of Human Resources

**Portfolio/Business Area Owner:** ACPO Operational Support

**Procedure Written By:** Personnel Manager / Policy Officer

**Department Responsible:** Human Resources

**Procedure Lead:** Personnel Manager

**Authorised by Policy Owner for submission to Strategic Committee**

**Policy Quality Assured by**

**Links to other Policies/Procedures:** Equal Opportunities, Information Security, Data Protection, Fairness at Work, Race Equality Scheme, Health and Safety, Organisational Change, Career Break, Personal Records, PDR, Race Equality Scheme, Recruitment & Selection, Police Officer Promotion and Temporary Promotion, Dignity at Work

**Procedure Implementation Date:** PSG 27<sup>th</sup> April 2007

**Procedure Review Date:** two years from implementation