

GWENT POLICE

FAIRNESS AT WORK

PROCEDURE



'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'

The overriding aim of this procedure is to produce a speedy and effective resolution to a workplace dispute at the lowest possible management level and not to establish blame or provide punishment. An Employment Tribunal is a damaging and costly experience for all parties and the aim of all involved in a workplace grievance must be to resolve complaints at the earliest opportunity.

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

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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessments and Health and Safety Considerations

Managers and Supervisors are required to consider making the appropriate risk assessment when implementing this procedure.

Police staff should apply the Gwent Police Service Dynamic Assessment. A training package in the use of this risk assessment will be provided to all police staff.

1.2. Specific Instructions

1.2.1 THE FAIRNESS AT WORK PROCEDURE

1.2.2 Purpose

The overriding aim of this procedure is to produce a speedy and effective resolution to a workplace dispute at the lowest possible management level and not to establish blame or provide punishment. An Employment Tribunal is a damaging and costly experience for all parties and the aim of all involved in a workplace grievance must be to resolve complaints at the earliest opportunity.

It is recognised that in many cases staff may wish a line manager to resolve a situation as part of their management role, outside of any formal procedure. Line managers should seek wherever possible to resolve a workplace dispute at its inception. If this is not done, a complainant may raise a formal complaint under the Fairness at Work Procedure by completing a Grievance Report form.

A complainant will be able to approach any suitable person who they feel may be capable of achieving an informal resolution prior to proceeding to the formal Fairness at Work Procedure. A suitable person could be their line manager. Where an issue involves a senior officer, then it is advisable that an officer of equivalent rank or above be approached by that person to assist in resolution, or a relevant staff association or union representative, a member of a Gwent Police support network, a Confidential Adviser or a Welfare Officer.

The Fairness at Work procedure is designed to enable police officers, police staff, members of the special constabulary and community volunteers who are aggrieved about the way they have been treated at work, to raise issues without fear of retribution and to explore ways of finding a solution to the problem.

If an individual chooses to use the Fairness at Work Procedure, it does not preclude them from making an allegation under the Disciplinary Procedure for

Police Staff or the Police/Specials Discipline Procedures or from lodging a claim at an Employment Tribunal. Although an allegation may be raised under these Discipline Procedures this does not mean that it will be progressed under those procedures. Managers must decide at an early stage which procedure should be used in the particular circumstances of the complaint, after taking into account the wishes of the complainant. Managers should also consider whether an allegation meets the criteria of the Police Reform Act to be recorded as a Recordable Conduct Matter (Schedule 3 paragraph 11) and whether or not it should be referred to the Independent Police Complaints Commission (Schedule 3 paragraph 13). Consideration might also be given to whether any guidance from the IPCC on dealing with such matters is usefully applicable to the matters covered in this Procedure.

The Fairness at Work Procedure is not a vehicle for staff to bring malicious complaints. Once an issue is raised under this Procedure, any counter-complaints from the subject of the complaint should be reviewed by the managers handling the case. This review will determine whether there is evidence that either the original case or counter claim is of malicious intent or whether there has been a basic misunderstanding or misinterpretation that can be resolved. **A counter claim should extend the Stage by no more than 21 days; the grounds for any further extension must be recorded**, and should be agreed by all parties involved (or by majority agreement if full agreement can not be achieved).

1.2.3 Employment Tribunal issues

If a complainant considers that they have been treated unlawfully they may, in certain circumstances, lodge a claim at an Employment Tribunal. Although someone may have been treated unfairly, the treatment is potentially unlawful only if it is on one or more of the grounds forbidden by the employment or discrimination legislation. Police staff are “employees” and can take claims to an Employment Tribunal under all the relevant employment and discrimination legislation; police officers, as “Officers of the Crown” are not employees, and can only take claims under certain legislation (see section 3.3 for details).

Currently cases of discrimination must be registered with an Employment Tribunal **within 3 calendar months less one day of the last alleged discriminatory act**. In accordance with the Dispute Resolution Regulations which came in to effect on 1 October 2004, police staff complainants are required to use an internal grievance procedure at least 28 days before they lodge their case at an Employment Tribunal; when they do so, the time limit for lodging their case will be extended by a further 3 months to allow their employer to resolve the matter. Where they do not use the grievance procedure, or where an employer does not allow the grievance procedure to operate, any compensation awarded subsequently by the Tribunal will be adversely affected. Because the

Employment Act 2002 does not apply to police officers, the Disputes Resolution Regulations only applies to police staff. However, the Police Advisory Board has agreed that police officers should be given equivalent statutory rights to minimum grievance procedures and further information will be provided by the Home Office about this in due course.

1.2.4 Relationship between Fairness at Work and Discipline Procedure

On occasion, a Fairness at Work issue will involve circumstances that could be considered criminal or serious misconduct. As stated previously, where it appears to a manager at any Stage of the procedure that the alleged behaviour could be criminal or serious misconduct, they should consider recording it under Schedule 3 paragraph 11 of the Police Reform Act 2002 and seeking a formal investigation under that Act or under the Disciplinary Procedure for Police Staff or the Police Misconduct Regulations. If there are no separate issues this should not automatically defer resolution under the Fairness at Work Procedure. The complainant's views will be sought as to how the matter could be resolved to their satisfaction.

In some circumstances, a Stage manager may consider that the complaint is so serious that it must be considered under the Police Reform Act (Schedule 3, paragraph 11) or under the Police Staff Discipline or Misconduct Procedures. These would include an allegation of serious assault or dishonesty; a situation that has allegedly worsened since it was first reported; or an incident that was known to be one in a series of others. The complainant must be made aware of any decision to instigate a formal investigation. He/she will not be forced to give evidence against his/her will, and will not be subject to any action if they refuse to do so. However, it must be recognised that a refusal to provide evidence at a hearing may have an impact on a final outcome.

Upon conversion of a Fairness at Work complaint to a discipline/misconduct investigation, the status of the Fairness at Work complaint must be formally reviewed **and it must not be left in abeyance**. In some circumstances, it may still be possible to resolve the Fairness at Work complaint independently of the outcome of the Discipline/Misconduct investigation, or an Employment Tribunal hearing. The complainant must be informed of the options available to them and the necessary time limits for action. Any decisions or resultant action under the Fairness at Work Procedure **must** be recorded.

1.2.5 Confidentiality

All cases should be dealt with in confidence or within agreed boundaries by the parties involved. All parties must be kept informed of the progress and any decisions made in respect of the complaint and advised that any unjustified disclosure in this context would be subject to investigation under the Disciplinary

Procedure for Police Staff or Police Misconduct Regulations. All parties should be informed at the outset of the Procedure that the need may arise to breach confidentiality, and if this happens, e.g., if an Employment Tribunal subsequently requires documentation to be disclosed, all parties will be made aware of the situation and reasons for such disclosure by the relevant department, e.g. Standards Unit, Force Solicitor, Human Resources Department.

1.2.6 Representation

All parties involved will have the right to be accompanied by a member of a staff association, trade union, support network, colleague or friend employed by Gwent Police, who will be allowed reasonable duty time to assist.

1.2.7 Victimisation

Victimisation of individuals involved in cases under the Fairness at Work Procedure will not be tolerated. It may also contravene the protected status of individuals under the discrimination legislation. Where a line manager/supervisor becomes aware of any form of victimisation - in circumstances where a complainant, the subject of a complaint, or anyone who has assisted them has suffered less favourable treatment from their involvement in the complaint – it should be acted upon immediately, and referred for disciplinary action where appropriate.

It may be necessary to separate the complainant from the person who is the subject of the complaint so that they no longer work together. It may be possible to arrange a temporary transfer or a period of leave for either party. The compulsory transfer of any of the parties involved could be an act of unlawful victimisation under the discrimination legislation. Such action should only be considered where it is requested, with care taken to ensure the move is what the individual wants.

1.2.8 Stages of Procedure

The Fairness at Work Procedure has two formal stages:

Stage 1

Initial approach to the first line supervisor

*Categorisation of grievance &
Resolution within 21 days
If not resolved to the satisfaction
of the aggrieved, pass form for
Stage 2 resolution*

Stage 2

Resolution by Divisional/Departmental Head or his /her nominated deputy

*Resolution within 21 days If not resolved
To the satisfaction of the aggrieved, pass form to Appeal Stage*

Appeal Stage

Examination of the grievance for procedural breaches by Head of Human Resources (or by Personnel Manager not involved in the monitoring process).

At each stage of the procedure the Stage manager should identify and record what the aggrieved person considers to be a satisfactory resolution of their grievance.

Where the grievance relates to the implementation of Force policy and it is anticipated that resolution will not be completed within the timescales the aggrieved person should be informed in writing of the likely delay and the reasons, to allow for proper consultation and consideration. The new timescale **must be agreed** with the aggrieved person.

If all avenues of resolving a grievance have been exhausted at a particular stage without success the matter must be referred to the next appropriate stage.

1.2.9 Detailed Procedure

a Stage 1 - Initial Approach to First Line Supervisor

An aggrieved person should initially bring the problem to the attention of their first line supervisor by completion of the Grievance Report, identifying what they consider to be an acceptable resolution. Blank Grievance Reports are available from individuals on the Contact List (Section 14) or from the Equal Opportunities and Policies web pages on the Intranet.

Where the aggrieved feels that the grievance cannot be satisfactorily resolved at this level, for example because the grievance is against the aggrieved person's immediate supervisor, the grievance may be referred directly to the next line manager.

The line manager to whom a grievance is first reported is responsible for endeavouring to resolve the matter **within 21 days** within the following procedural framework:-

Framework for Managing Grievances

- ◆ identify the problem and determine how the aggrieved person would like the matter to be resolved
- ◆ identify with the aggrieved the category or classification of the grievance
- ◆ explain the grievance framework and give the aggrieved person the opportunity to be accompanied by a colleague or a Trade Union/Staff Association representative
- ◆ with the consent of the aggrieved, undertake an enquiry into the matter ensuring the aggrieved understands that the nature of such an enquiry may breach 'strict' confidentiality
- ◆ seek advice as necessary from a Personnel Officer/Manager, interview the person who is the subject of the grievance who must be given the opportunity of being accompanied by a colleague or a Trade Union/Staff Association representative
- ◆ ensure that all the parties are told of the outcome of the enquiry and what action is to be taken
- ◆ Obtain signed confirmation from the person submitting the grievance that the matter has been satisfactorily resolved.

It is important to note that the Stage One manager is required to make every effort to resolve the grievance. Where necessary, the Stage One manager will be required to make contact with other people to obtain the information to help him/her achieve the resolution. If the grievance is passed to the Stage Two manager, and he/she believes that the Stage One manager could have done more to resolve it, he/she will return the grievance to the Stage One manager for resolution. This will only occur with the agreement of the complainant and only if he/she agrees an extension to the timescale (if the first 21 days have passed).

If the grievance is satisfactorily resolved at Stage One, then no further action need be taken. However, the supervisor must use the Grievance Report form to detail what action was taken and how the grievance was resolved, together with follow up action, and obtain signed confirmation from the aggrieved that they agree with the outcome of Stage 1. The Personnel Manager responsible for monitoring grievances will forward a Service Improvement form to the Stage 1 manager so any 'lessons learned' can be identified.

The Grievance Report must be sent, under confidential cover, to the divisional/departmental personnel officer in order that he/she is aware of grievances which have been raised. He/she will then immediately forward the form onto the Personnel Manager with responsibility for Equal Opportunities, for monitoring purposes.

If unresolved to the satisfaction of the aggrieved person, the Grievance Report, together with any other relevant information, should be forwarded to the person

who is to conduct Stage 2 of the Fairness at Work procedure as appropriate.

b Stage 2 - Divisional/Departmental Resolution

At this stage, the grievance is considered by the aggrieved person's Divisional/Departmental Head or nominated deputy, who is then responsible for endeavouring to resolve the issue **within 21 days** of receipt of the Grievance Report. Where consideration by the Divisional/Departmental Head represents the first stage, the procedure outlined above must be followed. When Stage One has been exhausted the following steps should be followed;

- ◆ consult with a Personnel Officer/Manager for advice
- ◆ take appropriate action to resolve the problem/grievance including discussion with the persons concerned
- ◆ ensure that all parties are told of the outcome of the enquiry, what action is to be taken and the reasons for the decision
- ◆ obtain signed confirmation from the aggrieved person on the Grievance Report that the matter has been satisfactorily resolved or otherwise
- ◆ If unresolved to the satisfaction of the aggrieved person the Grievance Report should be forwarded with any other relevant papers to the Head of Human Resources who will undertake the Appeal Stage.

The Personnel Manager responsible for monitoring grievances will forward a Service Improvement form to the Stage 2 manager so any 'lessons learned' can be identified either at the end of Stage 2 or the Appeal stage.

If the grievance is passed to the Appeal Stage, and the Head of Human Resources believes that the Stage Two manager could have done more to resolve it, he/she will return the grievance to the Stage Two manager for resolution. This will only occur with the agreement of the complainant and only if he/she agrees an extension to the timescale (if the second period of 21 days has passed).

c - Appeal Stage

This stage involves consideration of the case by the Head of Human Resources (or by the Personnel Manager not involved in the monitoring process). The objective of this stage will be to examine the complaint for any procedural breaches. The main purpose will be to examine whether the case was handled correctly and honestly within the framework of the procedure, and ensure that decisions have been made on an informed basis and with due regard to all relevant factors. Should any handling errors be discovered, the Appeal Manager

should attempt to rectify them through all possible measures, including instigation of disciplinary proceedings in cases of appropriate extremity. Meetings with the parties are not mandatory at this stage, but should be considered where appropriate in achieving a resolution.

If the grievance is against a member of the Human Resources Department, another Head of Department will act as the Appeal Manager as nominated by the Head of Uniform Operations and Support.

The timescale for the Appeal Stage is 21 days. On completion of the Appeal Stage, the procedure is exhausted.

d - Grievances Against ACPO members (Approved amendments PSG Aug 06 and PSG December 08).

Where a grievance issue is brought against any ACPO member, the first stage will be dealt with by a Chief Superintendent from a Functional Area not connected with the officer/member of police staff making the grievance. The second stage will be dealt with by the Assistant/Deputy Chief Constable as appropriate with the Appeal being heard by the Chief Constable. Where the grievance is against the Chief Constable the first two stages will be as above with the Appeal being dealt with by the Police Authority.

1.2.10 After Employment has Terminated

Under this Fairness at Work Procedure, police officers and staff who are considering making an application to an Employment Tribunal are able to submit a grievance even after their employment with Gwent Police has ended. The complainant will be required to submit their grievance in writing and a modified version of the above stages may be agreed with the individual, i.e., the Stage One manager may respond to the complainant in writing. It is important for the complainant to submit their grievance either before or just after their employment has ended in order that they are able to meet the time limits laid down by the Employment Tribunal process (see Section 3).

Independent Monitoring

The Personnel Manager with Equal Opportunities responsibility must be sent a copy of the Grievance Report form by the complainant at the same time that he/she submits the form to the Stage One manager. Copies of written records will be sent to the Personnel Manager after Stage 1 and after Stage 2 by the Stage manager dealing with the grievance.

The Personnel Manager will record information to evaluate how effectively each case has been operated, within one month of its completion. The Personnel Manager will report to the Personnel Strategy Group and the Police Authority's

Diversity and Human Resources Committee on lessons learned or outstanding issues such as training needs or policy development.

He/she will keep a statistical record of each case raised under the Fairness at Work Procedure, noting the gender, ethnic origin, age, rank, of the complainant, and the subject of the complaint (if applicable). Similarly, it will be recorded if the complainant or the subject of the complaint has a declared disability. The nature of the case, the division or department and the outcome of the case will also be recorded. Statistical records will be made available to the Personnel Strategy Group, the Police Authority's Diversity Committee and HMIC, but names and specific dates will be excluded.

The Personnel Manager will also note any qualitative concerns about the process including any specific concerns reported about the handling of the case, and whether these concerns resulted in disciplinary action. He/she will review each case after 6 months, and in appropriate cases, will follow up the case to ensure that the agreed resolution was successfully implemented.

1.2.11 Retention of Papers

Written records of all action taken must be made by the relevant Stage manager at each Stage of the Fairness at Work Procedure. Upon conclusion, all records and relevant papers will be forwarded to the Personnel Manager with Equal Opportunities responsibility. These papers will be stored separately from any other personnel papers or personal files. Access to the information may only be obtained through a request under the Data Protection Act to the force's Data Protection Officer. The written records will be retained for a minimum of 6 years and will not be referenced as part of any individual's misconduct, promotion, selection or grading procedures.

1.2.12 The Role of Personnel Officers and Personnel Managers

Each Personnel Officer and Personnel Manager will provide equal opportunities advice and guidance. They will not investigate or attempt resolution of any issue.

The Personnel Manager nominated to take specific responsibility for managing the Fairness at Work Procedure will be responsible for registering, examining and monitoring all grievances as outlined in Section 10.

1.2.13 General Information

The Fairness at Work Procedure will not apply to:

- ◆ pension matters, relating to rules
- ◆ national insurance matters and income tax, or
- ◆ disciplinary matters, including dismissals or matters contrary to criminal law.

- ◆ matters relating to promotion assessment selection which has its own appeal system (police officers) and applies to the interview stage. It should be noted there is no appeal to the application stage.
- ◆ grading of posts and subsequent appeals in respect of which there is an alternative procedure (police staff)
- ◆ matters relating to Performance Development Review (PDR) assessment. Disagreements under PDR are adjudicated by the second line manager whose decision is final.

1.2.14. Contact List

- Confidential Advisers - see Intranet (first page) for contact names*
- Welfare Officers - 01633 480294/867036
- Police Federation - ext 710 4110
- Unison – ext 740 4040
- Gwent Black Police Association – see Staff Sites webpage on Intranet
- Gwent Police Women's Association – see Intranet (Departments then GWPA) for Steering Group members
- Gwent Police Disability Support Network – ext 720 3310 / 732 2651
- Gwent Police Gay Support Network - 07812 216320/07812 216304
- Personnel Managers – ext 712 4002 / 4020
- Personnel Officers:
 - A Division - ext 720 2521
 - B Division - ext 740 2521
 - C Division - ext 730 4010 & 730 4011
 - D & ACPO Divisions – ext 710 4018
 - F & U Division – ext 710 4020
 - J Division – ext 720 3018
 - HQ Division - ext 710 4022

* Alternatively, names are available from ORIS using the Resources menu item 'Personnel enquiry', or transaction code +PV, under CONFIDENTIAL in field 12, and press return key. Press the F8 function to carry out the search.

1.2.15 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

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

Gwent Police is firmly committed to the principle of providing equality of opportunity for all police officers, police staff, special constables and community volunteers. To achieve this, the force will strive to create and maintain an environment in which there is respect for each individual and recognition of their needs, aspirations and feelings, regardless of colour, race, nationality, religion or belief, national or ethnic origin, gender, sexual orientation, gender re-assignment, marital or family status, disability, age, social position, trade union or staff association or support group activity or any other improper grounds, nor will they be disadvantaged by any conditions or requirements which cannot be justified.

All police officers, police staff, special constables and community volunteers have a responsibility to ensure this happens, irrespective of rank or grade. It has to be recognised that failure to observe the provisions in this procedure without justification, could result in disciplinary action being taken.

2.2 Aims of Procedure

Aim:-

To provide a fair, efficient and effective fairness at work procedure.

To provide a speedy and effective resolution to workplace disputes at the lowest possible management level and not to establish blame or provide punishment.

3.0 Introduction

3.1 Origins/Background Information

This fairness at work procedure seeks to address the requirements under the Employment Act 2002 to resolve grievances through a workplace procedure prior to an application to an Employment Tribunal. Home Office Guidance has been given on this matter which has been developed through the ACPO Equality sub committee in partnership between the Home Office, ACPO, the APA, representatives from for Human Resources Departments and Staff Associations.

3.2 Motivators/Driving Forces

The motivation behind this procedure is to enable staff who have reason to believe they have not received fair and equal treatment to pursue their grievances.

3.3 The Legal Basis and Legitimate Aims

Employment Act 2002
Freedom of Information Act 2000

Employment Tribunals

Police staff can take action under the following employment statutes:

- Employment Rights Act 1996
- Employment Relations Act 1999
- Fixed Term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- National Minimum Wage Act 1998
- Paternity and Adoption Leave Regulations 2002
- Public Interest Disclosure Act 1998
- Trade Union and Labour Relations (Consolidation) Act 1992
- Transfer of Undertakings (Protection of Employment) Regulations 1981
- Trade Union Reform and Employment Rights Act 1993

In addition, police officers and police staff can take action under the following statutes:

- Disability Discrimination Act 1995 (police officers from October 2004)

- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion and Belief) Regulations 2003
- Equal Pay Act 1970
- Health and Safety at Work Act 1974
- Maternity and Parental Leave Regulations 1999
- Part Time Worker (Prevention of Less Favourable Treatment) Regulations 2000
- Public Interest Disclosure Act 1998
- Race Relations Act 1976
- Sex Discrimination Act 1975
- Sex Discrimination (Gender Reassignment) Regulations 1999
- Working Time Regulations 1998

Codes of Practice

The Equal Opportunities Commission (EOC) and Commission for Racial Equality (CRE), the Disability Rights Commission (DRC) and ACAS have produced Codes of Practice, giving guidance on good practice in respect of discrimination in the workplace. Infringements of the Codes are not in themselves unlawful; however they can be given as evidence to support claims of unlawful discrimination.

3.4 Definitions

Direct Discrimination is defined as treating someone less favourably on the ground of their sex or race or disability or sexual orientation or religion or belief. Direct discrimination cannot be justified.

Indirect Discrimination is not included in the DDA, and is currently defined slightly differently between the different pieces of legislation, but the government has stated that it will amend all the definitions in the various Acts and Regulations to make them consistent with the new definition: i.e.

“Indirect discrimination occurs when the employer imposes an apparently neutral provision, condition or practice as a condition of employment, that would put persons of one group at a particular disadvantage compared to persons of another group (in respect of their sex, race, disabled status, sexual orientation or religion or belief), unless the employer could show that the provision, criterion or practice is objectively justified by a legitimate aim and the means of achieving that aim are appropriate and necessary.”

Victimisation is defined as treating a person less favourably because they have brought proceedings against the discriminator or any other person under the law, given evidence or information or anything else in relation to their or another's proceedings, or made an allegation of discrimination in good faith.

Harassment was not defined in the original discrimination legislation; however the Courts decided that it could be unlawful direct sex, race or disability discrimination. In 1986 the EU issued a Code of Practice which defined sexual harassment as: "unwanted conduct of a sexual nature, or other conduct based on sex affecting the dignity of women and men at work". In 2000 the EU issued a new Directive requiring member states to define and legislate against harassment at work. This definition is: "A person subjects another to harassment where, on the grounds of another's (sex, race, disability, sexual orientation, religion or belief), he engages in unwanted conduct which has the purpose or effect of (a) violating the other's dignity, or (b) creating an intimidating, hostile, degrading, humiliating or offensive environment for that other. Conduct shall be regarded as having the effect specified in paragraphs (a) and (b) if, and only if, having regard to all the circumstances, including, in particular, the perception of the other, it should be reasonably considered as having that effect". This definition will sit alongside and extend the existing definition of harassment as direct discrimination.

Bullying is harassment and would constitute unlawful discrimination if the person suffered the less favourable treatment on the grounds of sex, race, disability, sexual orientation, religion or belief. If the treatment constitutes harassment on any other grounds then claims cannot be pursued within discrimination law at an Employment Tribunal. Consideration could be given to dealing with the treatment within Health & Safety legislation.

Equal Pay is the concept of paying men and women the same money for

- Work that is the same or broadly similar ("like work")
- Work rated as equivalent under a job evaluation scheme
- Work which is different but which is of equal value in terms of the demands of the job.

Where there is disproportionate pay between a woman and a man, or groups of men and women, the Chief Officer must show that the difference is genuinely due to a material factor unconnected with sex. He or she would need to demonstrate that the practice represents a real need on the part of the Force and is appropriate and necessary for achieving that need.

Disability is defined by the DDA as "any child or adult with a physical or mental impairment that affects their ability to carry out normal day to day activities which are substantial, adverse and long term". The DDA requires employers to make **reasonable adjustments** where working arrangements or physical features place a disabled employee or job applicant at a substantial disadvantage to

persons who are not disabled. If the adjustments are reasonable then failure to make them cannot be justified.

4.0 Implications of the Procedure

4.1 Financial Implications/Best Value

There should be no additional financial implications with the introduction of this procedure.

4.2 Human Resources/Training

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

4.3 Strategic Plan Links

People are the principle means by which we can deliver our aim of becoming the safest place to live, work and visit.

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 1976
- Disability - Disability Discrimination Act 1995
- Gender – Sexual Discrimination Act 1975
- Equal Pay Act 1970
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003

4.5 Consultation

Force Independent Advisory Group
Police Authority
Chief Officers
Divisional Departmental Heads
Staff Associations
UNISON
Gwent Police Women's Association
Gwent Black Police Association
Gwent Police Disability Support Network
Gwent Police Gay Support Network
Freedom of Information Officer

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 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 3.3 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 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 is available for scrutiny by the Police Authority/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

User friendly guidelines for staff will be developed.

7.0 Monitoring / Review

Monitoring of fairness at work is carried out via the Force Strategic groups, which will monitor fairness at work on a regular basis. Managers and Supervisors also have responsibilities to ensure the fair implementation of this procedure

The principles of the Race Relations Amendment Act will be adhered to in that any recognisable adverse social impact should be identified and appropriate action taken.

8.0 Procedure Identification Page

Procedure Title: Fairness at Work

Reference: 101/7 b issue 5

Historical Reference: issue 4 amended 16 October 2008 (PSG); issue 3 amended 14 November 2005; issue 2 amended (PSG) 16 June 2005; Nov 01 issue 1 procedure

Underlying Documents: Home Office Circular 028/2004 Police Fairness At Work Procedure

Procedure Ownership: Head of Human Resources

Portfolio/Business Area Owner: Chief Officer Support

Procedure Written By: Personnel Manager / Policy Officer

Department Responsible: Human Resources

Procedure Lead: Personnel Manager

Links to other Policies/Procedures: Equal Opportunities

Procedure Implementation Date: Personnel Strategy Group 16th June 2005

Amended 14 November 2005; Amended 16 November 2007; Amended 16 October 2008 (PSG).

Procedure Review Date: Annually