

GWENT POLICE PROCEDURE

SMOKING



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.

This procedure is linked to the overarching policy on Health and Safety. A total ban on smoking within all Gwent Police premises and vehicles (with exceptions such as the bar at Blackwood Police Club), has existed since 1995.

With effect from 1st January 2007, there is a total smoking ban within all police premises and vehicles, including the entirety of the land and buildings owned or controlled by Gwent Police. Staff will be expressly forbidden from taking cigarette breaks when working on police premises, with contravention being a disciplinary offence. No designated smoking areas in the curtilage of police premises will be provided. Smoking whilst on duty in police vehicles or at police premises will be prohibited at all times. OHU will facilitate smoking cessation classes and distribution of anti smoking publicity material in order to provide support to smokers affected by this ban.

The Health Act 2006 devolves powers to the National Assembly for Wales to make regulations for a ban on smoking in enclosed public places in Wales. The new law came into force on **2nd April 2007**. Assembly Members voted in favour of the regulations on 30th January 2007. This means that there are no longer exceptions such as police clubs.

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

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1.0 Guidance, Procedures, Tactics

1.1 Risk Assessment and Health and Safety Considerations

'Police personnel are required to consider making the appropriate risk assessment when implementing this procedure'.

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

1.2 Specific Instructions, tactics, methods, practices and procedures

1.2.1 Introduction

This procedure applies to all members of Gwent Police, contractors, visitors, detained persons and members of the public.

This procedure aims to achieve a healthy and safe working environment for all members of Gwent Police, and enhance the public image of Gwent Police.

There will be bi-lingual no smoking signs displayed at the entrances to all police buildings. Signs will also be displayed in all police vehicles except for those involved in covert activities.

1.2.2 Instructions

With effect from 1 January 2007, there is a total smoking ban within all police premises and vehicles, including the entirety of the land and buildings owned or controlled by Gwent Police. Staff will be expressly forbidden from taking cigarette breaks when working on police premises, with contravention being a disciplinary offence. No designated smoking areas in the curtilage of police premises will be provided. Smoking whilst on duty in police vehicles or at police premises will be prohibited at all times. OHU will facilitate smoking cessation classes and distribution of anti smoking publicity material in order to provide support to smokers affected by this ban.

1.2.3 Smoking Breaks

Police officers and police staff are not to be granted extra breaks from work (often referred to as 'smoke breaks') to enable them to leave Gwent Police premises/land when they wish to smoke. They will be able to smoke off Gwent Police premises/land during their normal meal break periods. All breaches of this procedure will be investigated and the appropriate disciplinary action taken.

1.2.4 Human Rights/Discretion:

The purpose of providing a procedure is to give an indication to staff of the expected course of action. However it is not possible to cater for every possible combination of factors that would justify a departure from stated procedure. The Human Rights Act 1998 requires the proper use of discretion at all times and nothing within this procedure and associated procedural instructions prohibits the proper use of discretion in appropriate circumstances.

Where action is taken that has the potential to interfere with an individual's Human Rights, the reasons behind the making of the decision to act in that way should be recorded.

All visitors to Gwent Police premises are required to comply with this procedure.

This procedure has been introduced to comply with health and safety legislation and to provide as far as practicable a safe working environment.

All staff are reminded of their obligation to comply with this procedure. Any individual who infringes the procedure could be subject to disciplinary proceedings.

The level of intrusion must be proportional to the matter being resolved. Decisions should not be disproportionate to the objective to be obtained. Decisions must have a clear legal basis and the level of collateral intrusion will **always** be a factor decision making.

2.0 Procedure Statement & Intentions

2.1 Principle & Scope of Procedure:

The adverse effects to the health of individuals who smoke have been common knowledge for many years, with lung cancer, bronchitis and heart disease being just some of the major risks involved.

However more recently, the effects of smoke from those who smoke being inhaled by non smokers (passive smoking) has been highlighted by medical and scientific evidence which has confirmed this also has adverse effects on health. This fact has been reinforced following an out of court settlement brought about by an employee against her employer (Stockport Borough Council) for chronic bronchitis which was sustained by working amongst smokers.

Employers and employees have a duty to reduce, so far as is reasonably practicable, the risks that smoking presents in the workplace.

2.2 Aims of Procedure

The aim of the procedure is to effect a total smoking ban within all police premises and vehicles, including the entirety of the land and buildings owned or controlled by Gwent Police.

3.0 Introduction

3.1 Origins/Background Information

Gwent Police has had a smoking policy since 1995 which ensured that smoking was not permitted in police owned or rented buildings or police vehicles with certain exceptions.

3.2 Motivators/Driving Forces

The motivation behind this procedure is to comply with health and safety legislation and provide as far as possible a safe environment.

3.3 The Legal Basis and Legitimate Aims

Police Act 1996

Health and safety Act 1974

The Health Act 2006 devolves powers to the National Assembly for Wales to make regulations for a ban on smoking in enclosed public places in Wales. The new law came into force on **2nd April 2007**. Assembly Members voted in favour of the regulations on 30th January 2007.

4.0 Implications of the Procedure

4.1 Financial Implications/Best Value

There are no additional financial implications arising from this procedure

4.2 Human Resources/Training

There are no additional training implications arising from this procedure

4.3 Strategic Plan Links

This procedure seeks to ensure the maintenance of a professional workforce capable of delivering an effective and efficient service by implementing our HR strategy, including welfare health and safety.

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 2000
- Gender – Sex Discrimination Act 1975
- Equal Pay Act 1970
- Age – Article 13 Treaty of Amsterdam (2006)
- Sexual Orientation – Article 13 Treaty of Amsterdam (2003)
- Religion – Article 13 Treaty of Amsterdam (2004)
- 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 and Departmental Heads
UNISON Trade Union
Police Federation
Superintendents Association
Gay Police Network
Force Solicitor
Freedom of Information Officer
Gwent Police Women's Association
Gwent Black Police Association
Gwent Disability Network

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 2 Article 3 Article 6 Article 8 Article 9 Article 10 Article 13 and Article 14.

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

As well as details of the potential to discriminate, the procedure should include a generic statement.

" 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 3.1. 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
5. The protection of the rights of others.

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

As outlined in section 1.2.

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

As outlined in section 1.2.

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

The level of intrusion must be proportional to the matter under investigation. Actions should not be disproportionate to the objective to be obtained. Actions must have a clear legal basis and the level of collateral intrusion will **always** be a factor in any investigation.

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?

This document can be disclosed to the public.

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

Anyone who feels that a member of Gwent Police staff has behaved incorrectly or unfairly has the right to make a complaint. Initial action should be taken in one of the following ways:

- Complaint in writing or in person to the Senior Officer at the appropriate police station or in writing to the Chief Constable.
- Visit a local Citizens' Advice Bureau.
- Contact a solicitor.
- Appeal to IPCC

Gwent Police staff who feel they have grounds for concern in relation to the implementation of policies/procedures may:

- Pursue concerns through their line manager.
- Pursue a grievance formally through the Fairness At Work Procedure

- Seek advice from their staff association or trades union.

Q3. What internal review and audit process is in place or is proposed?
Review of this procedure will be undertaken by the Head of Human Resources and Personnel Strategy Group.

Q4. What external independent scrutiny is recommended?
Independent scrutiny can be conducted 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

Policy Officer

This procedure will be vetted by the policy officer.

6.0 Promotion and Distribution

This procedure will be promoted as follows:-

- General Orders
- Intranet
- Management meetings and briefings

7.0 Monitoring / Review

The Health and Safety Committee will be responsible for periodic review of this procedure.

Monitoring will be in line with the principles of the Race Relations (Amendment) Act 2000 and undertaken by the Human Resources Department.

8.0 Procedure Identification Page

This procedure has been drafted in accordance with the principles of Human Rights Legislation. Public disclosure is approved.

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Procedure Ownership: HQ UNIFORM OPERATIONS

Portfolio/Business Area Owner: ACPO OPERATIONS

Procedure Written By: POLICY OFFICER AND HEAD OF HUMAN RESOURCES

Department Responsible: HUMAN RESOURCES

Procedure Lead: HEAD OF HQ UNIFORM OPERATIONS

Links to other Policies/Procedures: HEALTH AND SAFETY AT WORK POLICY

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