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**Association of Chief Police Officer of England,  
Wales & Northern Ireland**

## **GUIDANCE - Guiding Principles for the Police Service in relation to the articulation and expression of religious beliefs and their manifestation in the workplace**

**Status:** This Race and Diversity Business Area Guidance, is to set out key principles and guidance in order to help people working within the Police Service understand and deal with issues that arise in relation to the expression of faith in the workplace. It has been agreed by ACPO Cabinet. It is disclosable under the FOIA 2000, has been registered and audited in line with ACPO requirements and is subject of Copyright.

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## **SECTION 1 - PREFACE**

1. The purpose of this paper is to set out key principles and guidance in order to help people working within the Police Service understand and deal with issues that arise in relation to the expression of faith in the workplace.
2. It has been developed following:
  - (a) primary consultation as part of the Production and Scanning Analysis (Appendix 3 for those consulted), and
  - (b) secondary consultation (see Appendix 4 for those invited to comment and provide feedback on the completed Scanning and Analysis) to ensure the Scanning and Analysis have properly identified the issues.
3. As a result of that Scanning and Analysis and consultation the response will take the form of guidance to assist police officers, police staff, managers and supervisors to deal with "faith" issues that present themselves both internally and in the operational environment. In particular, this guidance will help readers to:
  - (a) understand the nature and extent of the protection conferred by the law upon individuals in relation to their religious and other beliefs;
  - (b) understand that the law does not confer an absolute and unfettered right upon individuals to express their religious or other beliefs, and that their rights must be balanced against the legal rights of other individuals to protection against discrimination;
  - (c) deal appropriately with situations in which the expression of religious or other beliefs by members of staff impinges upon the rights of others to protection against discrimination, whether internally or operationally, and
  - (d) ensure that the religious beliefs of individual members of staff are taken into account whilst at the same time complying with the Police Service's fundamental duty to deliver an efficient, effective and equitable service to all members of the community.
4. This paper does not purport to provide a detailed exploration of the law in this area. Its purpose is to summarise and explain key concepts accurately, in a way that is readily accessible to those who use it. Managers are encouraged to take appropriate action locally, but they should take early legal advice (either directly or via Human Resources) if an issue arises that they are unable to deal with.

## **SECTION 2 - GUIDANCE**

1. The purpose of this paper is to set out key principles and guidance in order to help people working within the Police Service understand and deal with issues that arise in relation to the expression of religious beliefs in the workplace.
2. Prior to the preparation of this paper there has been significant national and trade press coverage in relation to attempts by individuals, groups and Staff Associations, both within and outside the Police Service, to express their religious beliefs within the workplace.
3. The coverage has been largely concerned with conflict that has arisen out of the position adopted by a number of religions towards homosexuality. The government has provided legislative protection against discrimination on the grounds of religion or belief, and some individuals have interpreted that protection as conferring upon them an unfettered right to express their religious or other beliefs, regardless of the effect of that self-expression upon other members of the community. However, the government has also provided precisely similar protection against discrimination on the grounds of sexual orientation, and attempts to reconcile these two sets of protection have upon occasion led to tension and confusion.
4. It will be some time before comprehensive guidance has emerged from the courts in relation to the management of those tensions. Therefore, part of the purpose of this paper is to provide guidance for police officers, police staff, managers and supervisors within the Police Service who may find themselves facing situations similar to those that have led to conflict in the past.
5. Please note that the key principles and concepts set out below arise out of relevant legislation, but this paper does not purport to provide a detailed analysis or description of the law. Its purpose is to summarise and explain key concepts accurately, in a way that is readily accessible to those who use it. Managers are encouraged to take appropriate action locally, but they should take early legal advice (either directly or via HR) if an issue arises that they are unable to deal with.

### **Legislative background**

6. Protection in employment against discrimination on the grounds of sex, race and disability has been in place within the UK and Europe for many years.
7. In the late 1990s European governments decided to extend that protection to cover discrimination on the grounds of:
  - (a) religion or belief, and
  - (b) sexual orientation,and therefore in December 2003 two new sets of Regulations were introduced in the UK.

- (i) The Employment Equality (Religion or Belief) Regulations 2003
  - and
  - (ii) The Employment Equality (Sexual Orientation) Regulations 2003
8. The protection applies automatically to police staff, because they are employees. The government has extended it to police officers, even though they are 'office holders' rather than 'employees'. It also extends to special constables and police cadets.
9. Please note that the protection conferred by both sets of Regulations now extends beyond the employment context to discrimination occurring elsewhere (in relation to access to goods, facilities, services and education), but the main focus of this paper is discrimination within the workplace.
10. The protection the Regulations creates is similar in form to that already available in respect of sex, race and disability discrimination. Both sets of Regulations therefore protect against:
- (a) direct discrimination;
  - (b) indirect discrimination;
  - (c) victimisation, and
  - (d) harassment.

### **Key definitions, concepts and examples**

11. Some concepts and definitions arise in both sets of Regulations. Others are more specific.
- (a) **Religion** - this is defined widely to include any religion. It also includes a lack of religion, so that non-believers are covered.
  - (b) **Belief** - this is defined widely to include any religious or philosophical belief. It also includes lack of belief, so that non-believers are covered. The Regulations do not extend to political beliefs, and not every 'belief' will be covered. Tribunals will decide where to draw the line on a case-by-case basis.
  - (c) **Sexual orientation** - this includes orientation towards:
    - (i) persons of the same sex (gay men/lesbian women)
    - (ii) persons of the opposite sex (heterosexual men/women)
    - (iii) persons of the same sex and the opposite sex (bisexual men or women)
  - (d) **Direct discrimination (on the grounds of religion or belief)**

- (i) This occurs if, on the grounds of B's religion or belief, A treats B less favourably than (s)he treats (or would treat) other people.
- (ii) It extends to cases where A wrongly believes B to be of a particular religion or belief, and to cases where A treats B badly on the grounds of another person's religion or belief.
- (iii) Examples
  - Because A dislikes B's religion, A insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B etc.
  - A has nothing against B's religion, but assumes that because of B's religion B will not object to working on Sundays. Because of this stereotyping (and without consulting B), A organises the team rota to have B working each Sunday, whereas the other team members work only 1 Sunday in 3.
  - A hears that B's child has converted to Catholicism, and because A dislikes Catholics A insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B etc.
  - A is a member of a selection panel, and on the grounds of B's religion A does not recommend B for a particular post/for promotion/for training etc.
  - A and B are police officers. They are instructed with colleagues to attend a march organised by a minority religion in order to provide protection. They refuse to attend, on the basis that they dislike the religion in question.

(e) **Direct discrimination (on the grounds of sexual orientation)**

- (i) This occurs if, on the grounds of sexual orientation, A treats B less favourably than (s)he treats (or would treat) other people.
- (ii) It extends to cases where A wrongly believes B to be of a particular sexual orientation, and to cases where A treats B badly on the grounds of another person's sexual orientation.
- (iii) Examples
  - A is opposed to homosexuality, and believes that B is a gay man/a lesbian woman/a bisexual. A therefore insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B etc.
  - A hears that B's daughter is a lesbian, and because A is opposed to homosexuality A insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B etc.

- A believes that B is a gay man/a lesbian woman/a bisexual. On the grounds of B's sexual orientation, A arranges B's work so that B will not come into contact with children.
- A believes that B is a gay man/a lesbian woman/a bisexual. A is a member of a selection panel, and on the grounds of B's sexual orientation A does not recommend B for a particular post/for promotion/for training etc.
- A hears that B is bisexual, and because A is opposed to the idea of bisexuality (s)he insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B etc. In fact, B is not bisexual.
- A is a police officer. His/her religion is opposed to homosexuality. (S)he refuses to attend a Gay Pride march in order to provide protection to the marchers with his/her colleagues.

(f) **Indirect discrimination (on the grounds of religion or belief)**

- (i) This kind of discrimination occurs if an employer treats all employees (or applicants) in the same way, but the application of the same "provision, criterion or practice" to everyone puts people with a particular religion or belief at a particular disadvantage.
- (ii) If the employer cannot legally justify the indirect discrimination then (s)he will be in breach of the Regulations.
- (iii) Examples

- A requires all members of the team to work late on Friday evening. Although this requirement is applied to all staff equally, it puts staff whose religions impose requirements in relation to Friday working at a particular disadvantage. Because of his/her religious beliefs, B asks to be excused/asks to be released for a short time for prayers, and offers to make up the time later. If A is able to cover the work and accommodate B's request then A may not be able to legally justify a refusal. However, if (for instance) B is a member of a very small team and the work cannot be covered without him/her then it should be possible for A to legally justify a refusal.
- A provides meals for the team during work hours. The meals all include meat. Although the same meals are provided equally to all staff, those whose religious beliefs prohibit them from eating meat are placed at a particular disadvantage. B is unable to eat the meals because for religious reasons B is vegetarian. Unless there is a good reason why A was unable to provide a vegetarian meal, A may not be able to legally justify this indirect discrimination.

- B approaches his/her supervisor, A, and asks to be excused from part of his/her duties because (s)he says they conflict with his/her religious beliefs. All other members of the team are expected to perform those same duties. If there is a genuine conflict between the particular duty and the requirements of B's religion then A needs to give careful consideration to whether or not B's request can be accommodated. If B's presence is not actually necessary i.e. his/her duty can be covered by other staff then a court might conclude that any insistence on B working the same shifts as his/her colleagues is discriminatory, because it is not a proportionate means of achieving a legitimate aim (i.e. getting the job done). Each such case would need to be considered carefully in the light of all the relevant circumstances.

**(g) Indirect discrimination (on the grounds of sexual orientation)**

(i) This kind of discrimination occurs if an employer treats all employees (or applicants) in the same way, but the application of the same "provision, criterion or practice" to everyone puts people of a particular sexual orientation at a particular disadvantage.

(ii) If the employer cannot legally justify the indirect discrimination then (s)he will be in breach of the Regulations

(iii) Example

- Examples of indirect discrimination on the grounds of sexual orientation are difficult to find. It used to be the case that advertisements by prospective employers for a "man and wife" to run a pub/hotel/private house etc would constitute indirect discrimination on the grounds of sexual orientation because they would put homosexual couples at a particular disadvantage, and it would therefore have been necessary for the prospective employer to legally justify the requirement in order to avoid liability. However, the law has now changed and such adverts would now constitute direct, rather than indirect, discrimination.

**(h) Victimisation (on the grounds of religion or belief)**

- This occurs if A treats B less favourably than (s)he treats (or would treat) other people because B has done (or has expressed an intention to do) any of the following things, or because A suspects that B has done (or will do) any of them:
  - brought proceedings against anybody under the Employment Equality (Religion or Belief) Regulations 2003;



- given evidence or information in connection with proceedings brought by anybody under the Employment Equality (Religion or Belief) Regulations 2003;
  - alleged that anyone has done something that would be a breach of the Employment Equality (Religion or Belief) Regulations, or
  - otherwise done anything under or by reference to the Employment Equality (Religion or Belief) Regulations 2003.
- Examples
    - B has given evidence for a colleague, Z, who complained that (s)he'd been discriminated against by another colleague because Z was Muslim. The evidence was given in internal grievance proceedings (or a court, or internal disciplinary proceedings). If A treats B less favourably as a result of that e.g. A insults B/refuses to sit with B/spreads gossip about B/refuses to eat with B/makes jokes about B/wrongly denies B promotion/wrongly refuses to allow B time off etc then A will be guilty of victimisation.
    - A wrongly believes that B reported a religious insult made by C. As a result, A subjects B to less favourable treatment (see previous paragraph for examples). This will be victimisation.

**(i) Victimisation (on the grounds of sexual orientation)**

- This occurs if A treats B less favourably than (s)he treats (or would treat) other people because B has done (or has expressed an intention to do) any of the following things, or because A suspects that B has done (or will do) any of them:
  - brought proceedings against anybody under the Employment Equality (Sexual Orientation) Regulations 2003;
  - given evidence or information in connection with proceedings brought by anybody under the Employment Equality (Sexual Orientation) Regulations 2003;
  - alleged that anyone has done something that would be a breach of the Employment Equality (Sexual Orientation) Regulations, or
  - otherwise done anything under or by reference to the Employment Equality (Sexual Orientation) Regulations 2003.

- Examples
  - B is gay. He was employed in a bank and brought a case in an employment tribunal alleging that he had suffered sexual orientation discrimination at work because he was gay. He then left the bank and joined the police, and A became his supervisor. If A treats B less favourably as a result of B having brought a case against the bank e.g. A insults B/refuses to sit with him/spreads gossip about him/refuses to eat with him/makes jokes about him/wrongly denies him promotion/wrongly refuses to allow him time off etc then A will be guilty of victimisation.
  - A wrongly believes that B reported a colleague (C) for insulting another colleague (D) about D's sexuality. As a result, A subjects B to less favourable treatment (see previous paragraph for examples of that). This will be victimisation.

(j) **Harassment (on the grounds of religion or belief)**

- (i) This occurs if, on the grounds of religion or belief, A engages in unwanted conduct which violates B's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (ii) It includes intentional bullying, but intention and motive are actually irrelevant, so unintentional harassment will be covered.
- (iii) It may include remarks about B's religion or beliefs, or about the religion or beliefs of people that B associates with.
- (iv) The definition includes a "reasonableness" test, so that if, in all the circumstances, the conduct in question should not reasonably be considered as having the effect described in (i) above then it will not be found to be harassment.

(v) Examples

- A is devoutly religious. A refers to colleagues as 'heathens' and warns them about the consequences they might face due to their lack of faith. They are distressed by A's intimidating behaviour and complain to a manager. A's behaviour might well amount to harassment because it is directed at colleagues because they have no beliefs, or different beliefs.
- A is devoutly religious. B has no religious beliefs. In the course of classroom discussion during a training day the question of religion arises. B scoffs at A's religious beliefs, arguing that they have no place in the police service. B's behaviour might well amount to harassment, because it is directed at a colleague on the grounds of that colleague's religious beliefs.

- B is continually teased by colleagues about his/her partner's religious beliefs. (S)he finds the teasing offensive and distressing and complains to his/her manager, but the manager tells him/her it's just harmless workplace banter and says to ignore it. The behaviour of B's colleagues is potentially harassment on the grounds of religion or belief, even though they're not B's own beliefs.
- B brings his/her own food to work because it has been prepared in a way that is consistent with his/her religious beliefs. His/her colleagues tease him about it, calling it smelly and suggesting that B is odd. This is harassment on the grounds of religion.

(k) **Harassment (on the grounds of sexual orientation)**

- (i) This occurs if, on the grounds of sexual orientation, A engages in unwanted conduct which violates B's dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment for B.
- (ii) It includes intentional bullying, but intention and motive are actually irrelevant, so unintentional harassment will be covered.
- (iii) It may include remarks about B's sexual orientation, or about the sexual orientation of people that B associates with.
- (iv) The definition includes a "reasonableness" test, so that if, in all the circumstances, the conduct in question should not reasonably be considered as having the effect described in (i) above then it will not be found to be harassment.

(v) Examples

- A and B are police officers. A's religion is opposed to homosexuality. B is a gay man. A refuses to work with B, stating that B's presence offends against his religious principles. He asks to be given other duties instead, but A's supervisor refuses to change A's duties. If A continues to refuse then this is likely to become a disciplinary matter. It is not open to police officers to pick and choose the colleagues with whom they work on the basis of their religious or other beliefs. A will be in breach of the fundamental requirements of his job.
- A and B are special constables. A's religion is opposed to homosexuality. B is a gay man. On a coach carrying them to a football ground in company with colleagues A refuses to sit next to B because of B's sexual orientation. Instead he sits at the back of the coach telling jokes about gay men, and encourages colleagues to laugh at B. B is embarrassed, and feels isolated. A's behaviour amounts to harassment of B on the grounds of B's sexual orientation.

- A and B are members of the police staff. A's religion is opposed to homosexuality. B is a lesbian. A persists in attempting to discuss B's sexual orientation with her, attempting to explain that it offends against A's religion. If B is happy to discuss the issue with A then there is no harassment. However, if B finds A's attempts intimidating, hostile, humiliating, degrading or offensive then it is likely that A's behaviour will amount to harassment on the grounds of B's sexual orientation. A's religious opposition to B's sexual orientation does not justify A in attempting to raise the issue with B.
- C and D are gay male police officers who work in a small team with E and F. E and F are heterosexual male police officers. E is relatively young in service, and C and D enjoy teasing him about his relationship with his girlfriend. They suggest that he should accompany them to their favourite gay bar in order to meet a gay man instead. C and D mean no harm but E finds their teasing offensive and a bit embarrassing. E speaks privately to his supervisor about the situation, but his supervisor tells him it's harmless banter and that he has to put up with it because C and D have legal rights now as gay men. In fact, the behaviour of C and D would amount to harassment of E on the grounds of sexual orientation, and the supervisor has a responsibility to step in and stop it.

(I) **Justification**

- (i) Indirect discrimination can sometimes be legally justified.
- (ii) In order for an act which amounts to indirect discrimination to be legally justified the employer must show the tribunal that it was a proportionate means of achieving a legitimate aim.
- (iii) NB: it is not possible to legally justify direct discrimination, victimisation or harassment.
- (iv) NB: if an act of indirect discrimination has occurred then the onus lies on the employer to establish justification. Ensure, therefore, that you give genuine and careful consideration to requests made by staff in relation to matters that could amount to indirect discrimination, and make a careful written note of the action you decide to take and your reasons for taking it.

(v) Examples

- B is Muslim, and a female police officer. She has been tasked to attend a social function on behalf of her team at which she will be required to shake hands with a number of local dignitaries, some of whom will be male. She tells her supervisor, A, that her religion allows her to have physical contact with men only if they are close relatives, and she asks to be excused from the function. A is able to arrange for a different member of the team,

C, to attend the function, and B is able to take on C's duty. In those circumstances it might not be possible to justify a refusal to accommodate B's request, because insisting upon her attendance would probably not be a proportionate means of achieving the legitimate aim of providing a police presence at the function. A different officer can perform the duty.

- B works as part of a small specialist team of police staff. He approaches his manager, A, to say that he is no longer able to work on Wednesdays because his religion prevents him from doing so. In order to cover the work that must be done in the course of the week it is necessary for all members of the team to be present on Wednesdays. A is unable to provide a suitably qualified replacement. In those circumstances it is likely that a refusal to change B's work hours would be justified.

### **Relationship between the legislation and the disciplinary codes for Police Officers and Police Staff**

12. The purpose of the legislation described above is simply to ensure that individuals are treated fairly and with respect.
13. It is therefore not surprising that behaviour that would constitute a breach of the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003 is likely also to be in breach of the Code of Conduct for Police Officers, and of the disciplinary procedures which apply to members of the police staff.
14. An extract from the existing Code of Conduct for Police Officers is set out below in order to illustrate the manner in which breach of the 2003 Regulations has the clear potential also to constitute a breach of the Code of Conduct.
  - (a) **Fairness and impartiality:** Police Officers have a particular responsibility to act with fairness and impartiality in their dealings with the public and colleagues. They must act in accordance with their Constabulary's Equitable Service Delivery and Equal Opportunities Policy. They must observe any lawful restrictions on political activity.
  - (b) **Politeness and tolerance:** Police Officers should treat members of the public and colleagues with courtesy and respect, avoiding abusive, deriding or stereotyping behaviour. They must avoid favouritism of an individual or group; all forms of harassment, bullying, victimisation or unlawful discrimination.
  - (c) **Performance of duties:** Police Officers should be conscientious and diligent in the performance of their duties and meet reasonable performance standards and targets. They should be punctual in attendance for duty; maintain attendance records; observe sickness reporting procedures; and obtain prior permission for absence whether on annual leave or any other category of leave.

They should be aware of the requirements of their Constabulary's Attendance Policy, including the actions and sanctions that may be taken against individuals with persistent actionable attendance records. They must report all accidents, whether on or off duty. If absent through sickness or injury, they should avoid activities likely to retard their recovery and return to duty.

They must observe equal opportunities, health and safety, fire safety and smoking policies and instructions.

(d) **Lawful orders:** Police Officers must follow lawful and reasonable instructions and abide by the provisions of all relevant statutes, regulations and Constabulary policies. They should oppose and, where appropriate, report any improper behaviour.

15. The wording of disciplinary procedures for members of the police staff varies from force to force. The underlying principles are the same, though, and conduct that would constitute a breach of the 2003 Regulations is also likely to constitute an act of misconduct for any member of the police staff, giving rise to the potential for disciplinary proceedings.

### **Discussion and debate of religious and other beliefs within the workplace**

16. As responsible and intelligent adults, staff may wish to discuss controversial issues at appropriate times within the working day. However, it is not acceptable for staff who wish to express their religious or other beliefs within the workplace to do so in a way that amounts to discrimination against other members of staff.

17. There can be a fine line in law between behaviour that amounts to discrimination and behaviour that does not. However, common sense combined with an understanding of the principles that underlie the anti-discrimination legislation will be of enormous assistance to managers and supervisors in recognising inappropriate behaviour. It is essential to bear in mind that conduct does not need to amount to discrimination in order to be inappropriate (and potentially disciplinary in nature) within the workplace.

18. If a member of staff raises issues in relation to his/her religious or other beliefs in a way that other staff find intimidating, hostile, degrading, humiliating or offensive then it is likely that his/her behaviour constitutes either an offence against the Code of Conduct for Police Officers (if (s)he is a police officer) or an act of misconduct (if (s)he is a member of the police staff). It may also constitute a breach of either the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003.

19. In the same way, if a member of staff speaks about the religious or other beliefs of his/her colleagues in a way that his/her colleagues find intimidating, hostile, degrading, humiliating or offensive then it is likely that his/her behaviour constitutes either an offence against the Code of Conduct for Police Officers (if (s)he is a police officer) or an act of misconduct (if (s)he is a member of the police staff). Again, it may also constitute a breach of either the Employment Equality (Religion or Belief)

Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003.

20. Managers and supervisors must therefore be alive to the right of their staff to express their beliefs in an appropriate fashion, but also to the responsibility borne by staff to exercise tolerance in their dealings with others and to treat colleagues and members of the public with courtesy. The right to protection against discrimination on the grounds of religious or other beliefs does not confer a right to express those beliefs in a manner that amounts either to discrimination against others or to a breach of any relevant disciplinary code. An informed, alert and impartial manager should have little difficulty in identifying inappropriate behaviour, and (s)he should be aware of his/her responsibility to intervene and take appropriate action.

### **The consequences of breaching the 2003 Regulations**

#### 21. Employment tribunal

- (a) Breach of the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003 gives rise to the right to bring a discrimination claim in the employment tribunal.
- (b) The claim must be brought against the Chief Constable, but it can also be brought against individual police officers or members of the police staff alleged by the complainant to have breached the Regulations.
- (c) If the claim is successful then the employment tribunal is likely to award compensation. That order can be made by the tribunal against the Chief Constable and/or any individual police officer or member of the police staff who was a party to the proceedings.

#### 22. Discipline

- (a) As noted above, conduct that constitutes a breach of the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003 is likely also to constitute a breach of the Code of Conduct for Police Officers. It can therefore lead to disciplinary proceedings.
- (b) Also as noted earlier, conduct that constitutes a breach of the 2003 Regulations is likely also to constitute an act of misconduct for a member of the police staff, and therefore it can lead to disciplinary proceedings.

#### 23. Criminal or other civil proceedings

- (a) Depending upon the nature of the behaviour involved, it is possible that conduct which amounts to a breach of the 2003 Regulations could lead to a criminal prosecution, and/or give rise to a civil claim other than in the employment tribunal.
- (b) For instance, conduct that amounts to direct discrimination, victimisation or harassment, whether on the grounds of religion or

belief or of sexual orientation, may also amount to harassment within the meaning of the Protection from Harassment Act 1997.

24. Recording of hate crimes/incidents

- (a) Behaviour which amounts to a breach of the Employment Equality (Religion or Belief) Regulations 2003 or the Employment Equality (Sexual Orientation) Regulations 2003 may also constitute a 'hate crime' or a 'hate incident', as defined in the ACPO Hate Crime Manual (*Hate Crime: Delivering a Quality Service – Good Practice & Tactical Guidance – March 2005*).
- (b) The ACPO Hate Crime Manual confirms that there is no place within the police service for inappropriate prejudice or behaviour, and contains guidance upon the reporting and recording of 'hate crimes' and 'hate incidents'.

**Action to take where a breach of the Regulations may have occurred**

- 25. Managers and supervisors have a responsibility to intervene if they have cause to believe that the Regulations may have been breached, or that they are at risk of being breached. That responsibility is owed both to the staff they manage and to the Chief Constable, as their employer.
- 26. As would be the case in relation to any potential breach of discipline, any documentary or other similar evidence should immediately be preserved.
- 27. After that the appropriate course will depend upon the nature of the behaviour in question.
  - (a) If the conduct in question is relatively minor and has not occurred before then it may be possible to deal with it informally by speaking privately to the individual or individuals concerned.
    - (i) In appropriate cases arrangements should be made for the individual to receive training.
    - (ii) The manager or supervisor should make and retain a careful and detailed note in relation to the incident and the action that (s)he decided to take.
  - (b) If the behaviour is more serious, either due to the nature of the conduct itself or because it has occurred more than once, then it will almost certainly be necessary to consider taking disciplinary action.
    - (i) In the case of a police officer an immediate approach should be made to the Professional Standards Department.
    - (ii) In the case of a member of the police staff, an immediate approach should be made to the Human Resources Department.
    - (iii) In either event, the manager or supervisor should make and retain a careful and detailed note in relation to the incident and the action that (s)he decided to take.



- (c) If the manager believes that the behaviour might constitute either a 'hate crime' or a 'hate incident' as defined by the ACPO Hate Crime Manual then it may be necessary to record and/or report the behaviour. (See the ACPO Manual '*Hate Crime: Delivering a Quality Service – Good Practice & Tactical Guidance – March 2005*' for further information and guidance.)

## **Conclusion**

- 28. In common with all of the earlier anti-discrimination legislation, the purpose of the new and specific protection introduced in relation to discrimination on the grounds of religion or belief and sexual orientation is simply to ensure that individuals are treated fairly and appropriately.
- 29. Although the letter of the law is complex, the underlying principles do not differ from those already established in relation to discrimination on the grounds of sex, race and disability.
- 30. It is necessary for managers and supervisors to understand the principles of the new legislation, but once those principles have been grasped a combination of that understanding and ordinary common sense should make it relatively easy to identify situations in which an individual's behaviour might constitute a breach of the new Regulations. In most cases the individual concerned will be just as alive as the manager or supervisor to the effect of the behaviour on his/her colleagues.
- 31. Similarly, an understanding of the principles of the new legislation and the application of common sense should be of enormous assistance to managers and supervisors in considering requests that might be made by members of staff for alterations to be made to their work schedules in order to accommodate the requirements of their religion.

This document simply provides a summary of the key principles and concepts, and can in no way replace the need for managers and supervisors to be provided with appropriate training by their individual forces.

## 5 – APPENDICES

### Appendix A – Workbook



#### WORKBOOK FOR THE CREATION OF ACPO GUIDANCE

##### Title of Draft Guidance/Practice Advice Document

**Guiding Principles for the Police Service in relation to the articulation and expression of religious beliefs and their manifestation in the workplace.**

##### ACPO Reference Number

Unique reference number: 2007/24

##### ACPO Commissioning

Name of ACPO Business Area:	Race and Diversity
Head of Business Area commissioning the work:	CC Peter Fahy
Date Authorised:	January 2007
Projected date of completion:	October 2007

##### Person Completing Work Book

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##### Date the first page of this Workbook was completed and forwarded to the [Programme Support Office](#):

28<sup>th</sup> August 2007

##### For ACPO use only

Date QA check completed:	
Date referred to HBA:	
Date Guidelines/Practice Advice signed off by HBA:	

SECTION A - FOR USE ONLY WHERE AN EXISTING GUIDANCE OR PRACTICE  
ADVICE DOCUMENT IS BEING AMENDED AS THE RESULT OF A REVIEW

A.1 Title of original document:

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A.2 Date of publication of original document:

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**SECTION B – IMPACT UPON OTHER ACPO BUSINESS AREAS**

**B.1 Give details of the impact on/dependencies with other ACPO Business Areas and existing Guidance/Advice**

None – new guidance developed by Race & Diversity Business Area affecting more than one strand but with consultation throughout
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**If B.1 applies, please inform the relevant ACPO Policy Officer who will consult across other business areas**

**SECTION C - ACPO EQUALITY IMPACT ASSESSMENT TEMPLATE  
(DIVERSITY AUDIT) AS AGREED WITH THE CRE**

**C1. Identify all aims of the guidance/advice**

**C.1.1 Identify the aims and projected outcomes of the guidance/advice:**

The aims were, against a background of recent high profile media stories and debate around the New Sexual Orientation Regulations to (1) identify the issues that arise in relation to the articulation of faith in the workplace; (2) consider how expressions of faith may impact on the rights and feelings of other minority groups in the workplace, and; (3) develop a response in the form of guidance to help people working within the police service to understand and deal with such issues.
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**C.1.2 Which individuals and organisations are likely to have an interest in or likely to be affected by the proposal?**

The guidance is relevant to all Police Officers, Police Staff, Managers and Supervisors and will also be of interest to the Police Federation, Unison and Staff Associations
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**C2. Consider the evidence**

**C.2.1 What relevant quantitative data has been considered?**

Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	

**C.2.2 What relevant qualitative information has been considered?**

Age	
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Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
<b>C.2.3 What gaps in data/information were identified?</b>	
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
<b>C.2.4 What consideration has been given to commissioning research?</b>	
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	

**C3. Assess likely impact**

<b>C.3.1 From the analysis of data and information has any potential for differential/adverse impact been identified?</b>	
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
<b>C.3.2 If yes explain any intentional impact:</b>	
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
<b>C.3.3 If yes explain what impact was discovered which you feel is justifiable in order to achieve the overall proposal aims. Please provide examples:</b>	
Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	
<b>C.3.4 Are there any other factors that might help to explain differential /adverse impact?</b>	
Age	
Disability	

Gender	
Race	
Religion / Belief	
Sexual Orientation	

**C4. Consider alternatives**

<b>C.4.1 Summarise what changes have been made to the proposal to remove or reduce the potential for differential/adverse impact:</b>
A number of people and organisations have been consulted and given feedback. The document has been amended to take account of the feedback. Consultation feedback acted upon throughout which has included feedback given by Ruth Hunt of Stonewall, Vic Codling of the GPA, Don Axcell of the Christian Police Association, Maureen Lemarinel of UNISON and Julia Roper-Smith PFEW
<b>C.4.2 Summarise changes to the proposal to remove or reduce the potential for differential/adverse impact that were considered but not implemented and explain why this was the case:</b>
N/a
<b>C.4.3 If potential for differential/adverse impact remains explain why implementation is justifiable in order to meet the wider proposal aims:</b>
N/a

**C5. Consult formally**

<b>C.5.1 Has the proposal been subject to consultation? If no, please state why not. If yes, state which individuals and organisations were consulted and what form the consultation took:</b>
Age
Disability
Gender
Race
Religion / Belief

Sexual Orientation	<p>Maqsood Ahmed – Home Office  Paul Cahill, Vic Codling – GPA  Don Axcell – CPA  Carl Wonfor – NCTT  David Tucker - NCTT  Ian Saunders – Police National Diversity Team  Rob Beckley – Hertfordshire Police &amp; Faith Strand Portfolio Holder  Andy Pratt – Lancashire Constabulary Diversity Unit  Julia Roper-Smith – PFEW  Laura Young – Northumbria Police  Maureen Lemarinel - UNSION  Peter Rigby – Staffordshire Police  Tim Jackson – Cheshire Police  Lisa Timerick – Community Safety, Brighton, Sussex Police  Dee Caryl – Metropolitan Police Diversity Directorate  Andrew Cameron – Metropolitan Police CPA  Dal BABU – Metropolitan Police Muslim Police Association  Mebbs Ahmed – Lancashire Constabulary BPA  Nadine Tilbury – CPS  Ruth Hunt – Stonewall  Keith Little- GPA, Lancashire Constabulary  Strathclyde Fire Service</p> <p>Consultation took the form of face-to-face meetings and written communications around drafts of the Scanning &amp; Analysis and Response “Guidance” document with written feedback. Further consultation through agenda item at LGBT Strategic Meetings</p>
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**C.5.2 What was the outcome of the consultation?**

Age	
Disability	
Gender	
Race	
Religion / Belief	
Sexual Orientation	

**C.5.3 Has the proposal been reviewed and/or amended in light of the outcomes of consultation?**

Yes

**C.5.4 Have the results of the consultation been fed back to the consultees?**

Yes

**C6. Decide whether to adopt the proposal**

**C.6.1 Provide a statement outlining the findings of the impact assessment process. If the proposal has been identified as having a possibility to adversely impact upon diverse communities, the statement should include justification for the implementation:**

The policy has been developed to set out key principles and guidance in order to help people working within the Police Service understand and deal with issues that arise in relation to the expression of faith in the workplace. Wide consultation has taken place to ensure the policy acknowledges and respects the diversity of religion.

## C7. Make Monitoring Arrangements

<b>C.7.1 What consideration has been given to piloting the proposal?</b>
N/a
<b>C.7.2 What monitoring will be implemented at a national level by the proposal owning agency and/or other national agency?</b>
ACPO Race and Diversity business area will monitor as part of the ongoing business process.
<b>C.7.3 Is this proposal intended to be implemented by local agencies that have a statutory duty to impact assess policies? If so, what monitoring requirements are you placing on that agency?</b>
No

## C8. Publish Assessment Results

<b>C.8.1 What form will the publication of the impact assessment take?</b>
The impact assessment to be attached to the completed document as the first appendix. On the ACPO Intranet, the whole workbook will be attached to assist in the preparation of local audits.

## **SECTION D - HUMAN RIGHTS REVIEW**

**D1. Does the proposal have significant human rights implications, either for the public or for the Police Service? Answer YES or NO:**

Yes
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**If NO, go straight to Section E**

**If YES, answer the following questions and consider seeking legal advice**

**D.1.1. Who will be affected by this proposal?**

- *Consider not only the direct subject of the proposal, but also other people who may be affected (e.g. bystanders, victims, general public, police staff, subject's family)*

All police service members, police officers, police staff, volunteers and specials.
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**D.1.2 Which of their rights are being protected?**

- *E.g. the right to life; right to security; freedom of belief, expression or assembly; right to family life; right to privacy; right to property*

Freedom of Belief
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**D.1.3 For each person or group of people, which of their Convention rights may the proposal potentially interfere with and how?**

- *E.g. right to life; prohibition of degrading treatment; right to liberty; right to fair trial; right to due process; right to privacy; freedom of belief, expression, assembly and association*

Freedom of Belief and how they demonstrate it.
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**Answer the following questions in respect of each interference with a right.**

**D.1.4 Is the interference legal? Explain in full:**

- e.g. European legislation, Act of Parliament, statutory instrument, statutory codes, common law

Yes, the interference is legal if the guidance is followed correctly. In following it correctly there should be no interference with their convention rights.

**D.1.5. Is the interference necessary? Explain in full:**

- It may for example be justified if it protects others' rights, e.g. right to life; right to security; freedom of belief, expression or assembly; right to family life; right to privacy; right to property
- What "legitimate aims" under the Convention are being pursued in interfering with the right?

Interference following the guidance would be justified, as it would be upholding the convention rights of other individuals.

**D.1.6 Is the interference proportionate? Explain in full:**

- What practical alternative actions are available? Will any of these not interfere or interfere less with a right? If they will, why are they not being used?
- Is the interference the least intrusive means available?

In following the guidance it would be proportionate. There are no less intrusive means of interference.

D.1.7 Having considered the above points, do you consider that the proposal  
(a) Breaches a Convention right? YES or NO:

**No**

**(b) Is vulnerable to challenge? YES or NO**

**No**

*Note: interference with a right does not equal a breach – if an interference is justified, there is no breach.*

**If the answer to (a) or (b) above is YES and you consider that there is a breach of a Convention right or that the proposal is vulnerable to challenge, seek legal advice.**

**SECTION E - DATA PROTECTION REVIEW**

**E.1 Does this proposal relate in any way to the processing of personal data? Answer YES or NO. If NO, go straight to Section F.**

*If YES, outline how it complies with the Data Protection Act, listing the principles summarised below. The ACPO Data Protection and FOI Portfolio Group will provide assistance in identifying and addressing compliance:*

No



*The Principles:*

- a) *Personal data shall be processed fairly and lawfully ...*
- b) *Personal data shall be obtained only for one or more lawful purposes ...*
- c) *Personal data shall be adequate, relevant and not excessive in relation to the purpose for which it is processed*
- d) *Personal data shall be accurate and, where necessary, kept up to date*
- e) *Personal data processed for any purpose shall not be kept longer than is necessary for that purpose*
- f) *Personal data shall be processed in accordance with the rights of data subjects under the Act*
- g) *Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data ...*
- h) *Personal data shall not be transferred to any country outside the European Economic Area (EEA) unless the country or territory ensures an adequate level of protection for the rights and freedoms of data subjects in relation to processing of personal data*

**SECTION F - HEALTH & SAFETY REVIEW**

**F.1 Does this proposal have significant health and safety implications for the public or for police staff? Answer YES or NO.**

No

**If YES, answer questions F.2. & F.3. If NO, go straight to Section G1.**

**F.2 Explain how the risks to health and safety have been assessed and what control measures have been put in place:**

**F.3 What are the health and safety duties and who is responsible for them? Explain in full:**

**SECTION G - BUREAUCRACY REVIEW**

**G.1 List the forms or databases that police staff will be required to complete as part of this proposal:**

None

**G.2 Give details of how you have reviewed the need for, content of and appropriateness of the forms or databases. Have you reduced their quantity or content?**

Factors to consider:

- Whether the benefit of gathering the information exceeds the effort
- The cumulative impact – especially when there is repeated entry of the same information
- Retention period – is the information disposed of at the optimum time?

N/a

**SECTION H - FREEDOM OF INFORMATION REVIEW**

H.1 Is this reviewed proposal exempt from publication under the FOIA? Answer YES or NO:

No

**IF NO, go straight to Section I. If YES, give full details of the exemptions that apply and the reasons for them at H.2.1 – 2.3 below:**

**H.2 Reasons for Non- or Partial Disclosure under Freedom of Information Act 2000**

**H.2.1 Is this document completely non-disclosable? Answer YES or NO**

**H.2.2 If yes, why? Which exemptions apply?**

Section	Description and Type of Exemption	Evidence / Rationale for Application

**H.2.3 Is this document partially disclosable? Answer YES or NO**

**H.2.4 If yes, which parts of the document are not disclosable and why? Which exemptions apply?**

Part of the Document	Section	Description and Type of Exemption	Evidence / Rationale for Application

## **SECTION I – IMPLEMENTATION AND EVALUATION**

**I.1 Now that the audit is complete the Guidance/Advice document should be prepared for consideration by the Head of Business Area - either for approval and sign-off or, in some cases, referral to ACPO Cabinet or Council. Please follow the attached ACPO Practice Guidance/Advice Template.**

**I.2 Please ensure that a full consultation on the content of the final draft document is conducted with stakeholders, both internal and external and ensure that their views are fully considered. Please detail below the organisations/individuals consulted:**

The final draft has been circulated amongst the following stakeholders.

Kim Hands – Home Office

Paul Cahill, Vic Codling – GPA

Don Axcell – CPA

Carl Wonfor – NCTT

Ian Saunders – NPIA

Rob Beckley – Hertfordshire Police & Faith Strand Portfolio Holder

Andy Pratt –NCTT

Julia Roper-Smith – PFEW

Laura Young – Northumbria Police

Maureen Lemarinel - UNSION

Peter Rigby – Staffordshire Police

Tim Jackson – Cheshire Police

Lisa Timerick – Community Safety, Brighton, Sussex Police

Dee Caryl – Metropolitan Police Diversity Directorate

Ruth Hunt – Stonewall

Keith Little- GPA, Lancashire Constabulary

Paul Giannasi – Home Office

Mike Pearson – Federation

Peter Fahy- ACPO Race and Diversity Portfolio Holder / CC Cheshire

Sarah Douglas- Staff Officer to CC Fahy

**I.3 Full consideration should be given to the following:**

- **Financial implications/benefits**
- **Resource implications/benefits**
- **Potential performance/service improvements**
- **Risks**
- **Learning requirement**

**Monitoring and Review**

**I.4 Detail below the on-going effects of this proposal:**

**This proposal will provide guidance where there has previously been none. It provides a framework in which to manage the expression and articulation of faith in the workplace ensuring fair and equitable treatment.**

**I.5 How will it be monitored?**

**Portfolio lead to liaise with diversity leads in all forces after publication. Engagement to continue with staff associations after publication to measure the effectiveness of the guidance.**

**I.6 By whom?**

**Portfolio lead, DCC M. Cunningham.**

**I.7 At what intervals?**

**After 6 months initially and every 12 months thereafter.**

**I.8 When is the next review of this proposal planned?**

*Note. Diversity Reviews are required at least every 3 years under the RRAA but this review is in relation to the ongoing relevance of the document. If you consider that an earlier review is needed, please give the reasons and explain what process is in place to prompt those in post at that time to conduct the review:*

This Workbook must be attached to the completed Guidance/Advice document as Appendix, 'A' (or 'B' if existing guidance etc. is being amended) which must then be submitted, through the relevant ACPO head of business area, to the ACPO Programme Support Office by email, where it will undergo quality review prior to submission to the head of the business area for approval. Only then will it be put before the ACPO Cabinet for final approval.

## **Appendix B - Scanning and Analysis Report**

### **The articulation and expression of faith and its manifestation in the workplace, scanning and analysis.**

#### 1.0 Introduction

1.1 On the 29<sup>th</sup> June 2006 an advert appeared in the diversity supplement of the *Independent* newspaper sponsored by the Gay Police Association (GPA). The advert featured a Bible next to a pool of blood under the heading 'In the name of the father.' The GPA reported that it had recorded a 74% increase in homophobic incidents where the sole or primary motivating factor was the religious belief of the perpetrator.

1.2 The *Independent* advertisement was the latest manifestation in a prolonged, open debate between leading members of the Christian Police Association (CPA) and the GPA about conflicting views of homosexuality and religious belief, which until that point had centred around membership conditions for those wishing to join the CPA. The debate was well documented, indeed held, through a series of letters within *Police Review* magazine, with the developing "row" attracting wider media coverage.

1.3 The debate brought into sharp focus the issue of the differences that exist between groups within the Police Service, in this case Police Staff Support Associations. To see such polarisation of opinion aired within the public domain has caused some within the Police Service a significant degree of discomfort, and who would argue that such issues do not reflect the Service in a good light. Others may argue that, as a 'Public Authority' as defined by the Human Rights Act 2000, such internal debates and soul-searching are beneficial to both the image and development of a truly inclusive organisation.

1.4 In addition, the claims in the GPA advert i.e. increasing reports of homophobic incidents into their action line, together with other high profile incidents, such as the female Muslim officer who refused to shake hands with Sir Ian Blair on religious grounds, and the MPS Officer of Lebanese Heritage who felt unable to perform policing duties at the Israeli embassy (which was not a 'Faith' issue but was perceived to be), have caused ACPO to question whether there are issues that need to be addressed, and if so, whether additional guidelines for Managers and Supervisors within the Police Service would be beneficial to ensure we continue to build trust and confidence in the Police Service, both as a service provider and employer.

#### 1.5 Terms of Reference

Against the background of recent media stories, the relationships between staff support associations and the high profile debate around the new Sexual Orientation (Provision of Goods and Services) Regulations, identify the issues that arise in relation to the expression and articulation of faith in the workplace; consider how expressions of faith may impact on the rights and feelings of other minority groups in the workplace, and; develop a response which supports Managers and Supervisors when dealing with internal and external incidents.

## 2.0 Scanning

### 2.1 Staff Associations

2.1.1 Staff Support Associations have formed for different reasons at different times in the history of the Police Service. It is recognised that these associations have different aims and objectives. However, the overall objective of all Staff Support Associations is to promote respect and dignity for all who come into contact with the Police Service, whether they work for the Police or receive a policing service. The GPA disagree with this statement re objectives - they state: *the primary aim of the GPA is to "achieve equality for gay officers and staff" and has been since it was set up in 1990 because police management/ACPO and The Police Federation were homophobic and did nothing to attend to the homophobia prevailing at the time.*

2.1.2 In order to promote Diversity and dialogue between Staff Support Associations the British Association for Women in Policing, the National Black Police Association and the Gay Police Association developed and signed a Memorandum of Agreement (attached within Appendices). The National Police Disability Staff Association has agreed to join this arrangement.

2.1.3 As part of the consultation process for this paper, representatives of the GPA, CPA, Black Police Association, Jewish Police Association, Muslim Police Association, Hindu Police Association and Sikh Police Association were approached to request their views on and examples of:  
their members being the victims of unfair treatment or being challenged as a result of religious beliefs;  
conflict between faith and the performance of duties, and;  
to what extent expressions of faith are or should be constrained.

2.1.4 The GPA National Executive Committee (NEC) stated that there remains a level of acceptance within the service in relation to expressing religious beliefs about homosexuality. This can manifest itself through misguided people pre-empting the needs of religious groups (e.g. removing GPA logo from hate crime posters being distributed to BME groups), people with genuine religious beliefs feeling they have the right to express their views in the workplace, and also non-religious homophobes using "religion" as the means to justify their behaviour.

2.1.5 The GPA NEC stated that they and gay staff continue to feel marginalized as a result. As a further example, within the MPS, the GPA NEC stated that the growth in the number of faith group associations means the GPA effectively has less of a voice. They describe a "hierarchy of diversity" whereby ethnic minority, cultural and religious groups are at the top of the pecking order, making managers fearful of allegations being made against them if they challenge the homophobic behaviour of someone from one of these groups.

2.1.6 The GPA NEC stated that they still feel aggrieved over the criticism received after the Independent advert issue, in that the underlying issue of increasing homophobic incidents remains unaddressed.

2.1.7 The GPA NEC reported that approximately 250 calls to their action line in 2005 concerned homophobic incidents which were either exclusively or primarily faith based. This represented a 74% increase on the previous year.

2.1.8 A detailed breakdown of these incidents was requested from the GPA NEC but to date has not been received. Anecdotal evidence provided during

consultation indicates that these reports include both criminal acts and non-criminal incidents, incorporating both internal and external manifestations.

2.1.9 Anecdotal examples, provided by the GPA NEC, of external incidents include members of the LGB community whose Christian employers are trying to get rid of them, a gay man who had a red cross painted onto his front door, and a 16 year old beaten up and thrown out by his Christian parents when he came out to them.

2.1.10 Anecdotal examples, provided by the GPA NEC, of internal incidents include an officer resigning from a committee as not prepared to sit round the table with a lesbian colleague (behaviour was not challenged), a Christian senior officer counseling a probationer, advising him to stay celibate when the probationer confided in him about being gay, and a gay officer resigning after continuing abuse from a Muslim PCSO (the PCSO put in a racism grievance when the gay officer challenged his behaviour).

2.1.11 Examples of discrimination across the Allport Scale (antilocution through to extermination), attributed to information provided by the GPA about incidents over the last 12 months, are quoted in Centrex diversity training guides. These include staff:

- avoiding gay colleagues at mealtimes;
- not including colleagues at social activities;
- refusing to work with gay colleagues;
- being prevented from joining certain departments;
- supervisors putting gay staff on "single crewed" duties;
- defacing of lockers and desks;
- the use of discriminatory language or opinions being expressed about homosexuality.

2.1.12 The GPA state that despite the issues for gay staff, they do have a good working relationship with all other Staff Associations, including the various faith based associations including the CPA. They stress the need for mutual respect amongst staff and the associations.

2.1.13 The key concern expressed by the GPA that runs through many of these alleged incidents is the continuing lack of immediate and decisive action amongst Supervisors and Managers in the workplace. In the case of the red cross painted into the gay mans door, a crime report was not submitted initially as the officer dealing accepted the act was the perpetrators human right to express his belief and the gay man was simply advised to contact the GPA for further advice.

2.1.14 The CPA Executive Director states that outside the MPS, where significant evidence of religious discrimination was documented in their response to the Morris Enquiry, there are very few incidents reported to them in terms of either their members being the subject of discrimination or being challenged for inappropriate behaviour or expressing their faith in any way that is contrary to the values of the organisation. He also states that during discussions, chaired by the PFEW chair, with the GPA National Executive, no cases or examples of homophobic incidents were cited involving members of the CPA. He stated that members of the CPA are not encouraged to 'speak out' or 'preach' to their colleagues about controversial issues

2.1.15 The CPA Executive Director states that relationships across the country with various LGBT groups, including the GPA are good, there being various ongoing joint initiatives including social activities. They feel that some of the

issues that have manifested themselves through ACPO involvement and media coverage over the last 12 months could have been better managed through earlier and better direct consultation between the GPA and CPA.

2.1.16 The CPA Executive Director states that the new 'Code of Professional Standards', which is due to replace the existing discipline code during 2007, provides guidance on appropriate language and behaviour in dealings with colleagues and the public (guidance to Principle 5) which is quite specific. The CPA fully support the draft wording, which is very much in line with the 2003 Employment Equality regulations:

*Police Officers do not abuse their powers or authority and respect the rights of all individuals.*

*Police Officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.*

*Police Officers use appropriate language and behaviour in their dealings with their colleagues and the public. They do not use any language or behave in a way that they know or, ought to know, is offensive or is likely to cause offence.*

Their only concern is the potential for too hasty application of the guidance by those who do not show 'tolerance' themselves i.e. supervisors and managers using it to placate one side or the other.

2.1.17 In a separate discussion with CPA MPS, they stated a view that whilst the Police Service remains a secular organisation, they perceive that Christianity is being institutionally marginalised. They feel that consultation is gradually being replaced by validation only and that, as Christians, they have to argue their right to have their values considered. They feel that other groups are being afforded more credence and influence. For example:

"faith issues in the workplace" is considered to be predominantly about Islamic issues;

the CPA has the largest membership in the MPS but no funding;

at Christmas, extreme care taken not to offend other faiths;

diversity training covers LGBT and Muslim issues but not Christian issues;

Hence a whole host of small issues means that people and groups do not feel equally treated. This is a key issue for the organisation in its aim to achieve "reasonableness and compromise".

2.1.18 The Black Police Association in Lancashire (consulted as representative of BME staff from across all different faiths) advised that they receive very few reports of discrimination against their staff or of staff being challenged for inappropriate behaviour or expressing their faith in any way that is contrary to the values of the organisation. They state that whilst many faiths (and hence some of their members) have strong beliefs/views on homosexuality, they are confident that the members they represent act professionally and that faith vs. LGBT does not affect how their members behave towards colleagues or in operational situations. This position was echoed by the MPS Muslim Police Association and the CPA Executive Director.



## 2.3 Case Studies

There have been a number of media headlines in the recent past where it has been perceived that an individual's faith has called into question their commitment to the professional ethics and discharge of their duties:

2.3.1 A Lebanese MPS Muslim Police Officer was excused the duty of guarding the London Israeli Embassy during the Israeli/Lebanon conflict in August 2006. The MPS state that the initial request and the decision to allow this was based on safety issues for the officer and his family in Lebanon and Paul Stephenson clarified the position regarding officers political or religious beliefs "Impartial policing of all communities is fundamental to policing the UK. This is non-negotiable. Every day officers put their duties above their political, religious or ideological views. Upon joining the police service officers swear an oath of attestation which says that they serve without fear or favour. If that principle was broken, it would be wholly improper". There has been no disagreement over this issue internally. The MPS position is fully supported by the MPS Muslim Police Association, whose chairman states "We are going down a very slippery road if we start having postings based on an individual's conscience". Whatever the reality of the situation, the perception created by the media drew widespread condemnation over the idea that police officers may be able to pick and chose what duties they perform based on their beliefs.

2.3.2 In September 2006, a senior fire-fighter was demoted and eight colleagues given official warnings for disobeying orders and refusing to hand out fire safety leaflets at a Gay Pride march. Some of the officers expressed concerns about being the subject of jokes and taunts whilst others claimed it would contradict their moral beliefs to take part. The basis of the discipline case was that the officers had disobeyed lawful orders. And the sanctions were accompanied by strong words explaining that their action was "a fundamental breach of their core responsibilities. Fire-fighters cannot, and will not, pick and choose to whom they offer fire safety advice."

2.3.3 In January 2007, a female non-Asian Muslim officer "refused" to shake hands with the MPS Commissioner at her passing out parade, because of her religious belief not to touch males other than close relatives. This case is more complex in that her expression of belief arguably did not impact on her core duty as a police officer, neither did it affect the ability of the organisation to deliver its service to the public as could be argued in the two cases above. Several Muslim groups have supported her action, stating that she would only make such a request when there was a legitimate choice to do so i.e. in this scenario it was not a requirement of the role whereas she fully realises the need to touch members of the opposite sex in operational policing situations. The counter argument is that her action was disrespectful. Will she also refuse to shake hands with members of the public when engaging with the community, many of whom wouldn't understand the reason why?

2.3.4 In October 2006 the row over full-face veils was sparked when House of Commons leader Jack Straw said he asked Muslim women to remove their veils when they visited his constituency surgery. It intensified with the case of West Yorkshire teaching assistant Aishah Azmi, who was suspended for refusing to remove her veil in the classroom of a Church of England primary school. Mrs Azmi lost her employment tribunal case for discrimination and harassment (although she was awarded damages for victimisation by Kirklees Council).

2.3.5 In October 2006 British Airways asked a Christian member of staff to conceal her cross necklace because it contravened the company's uniform policy. The reason for action against the member of staff was her contravention of the company's policy on jewellery. However, because of the significance of her crucifix in terms of her religious beliefs, the member of staff planned to take legal action under Employment Law i.e. on the basis of religious discrimination under the Employment Equality (Religion or Belief) Regulations 2003. It is interesting to note that BA's uniform policy already had exemptions to allow the wearing of Sikh bangles i.e. recognising them as religious symbols rather than simply jewellery. Similarly the wearing of turbans and hijabs was also allowed and yet this wearing of a Christian symbol was not. After a review BA have changed their policy to allow staff to openly wear symbols of their faith.

In addition, the following case is of note:

2.3.6 In November 2006, the University Guild at Exeter suspended the Evangelical Christian Union on the grounds that their constitutions or meetings are exclusionary and discriminate against non-Christians and particularly gay people. As a result the union did not conform to the University Guild equal opportunities policy. New members are asked to sign a declaration re their faith. A similar situation has arisen at Birmingham University where the constitution of the Christian Union required the president and committee members to be Christians.

The Universities and Colleges Christian Fellowship (UCCF) have attacked the students unions saying they were pushing a "secular politically correct agenda posing as tolerance".

The decisions are currently the subject of legal challenge under Human Right legislation, the outcome of which will be interesting to consider in the context of the Police Staff Support Associations membership criteria.

## **2.4 Conflict between faith groups and LGBT communities**

2.4.1 In addition to the case briefings outlined above, the issue of faith vs. sexual orientation has received national attention for the last 12 months or so since the Equality Act 2006 was enacted. The act included a power that allows the government to prohibit discrimination on the grounds of sexual orientation in the provision of goods, facilities and services, in education and in the exercise of public functions.

2.4.2 This is the latest piece of legislation that has seen society move towards acceptance of the gay, lesbian, bisexual and transgender community, albeit some elements of the faith community might view acceptance as having been forced on them by government. Over the last ten years:

The age of consent for gay men has been reduced in line with that of the age of consent for heterosexuals across the UK;

Section 28 of The Local Government Act 1988 (about not promoting homosexuality through teaching or publishing material) has been repealed;

Sexual orientation discrimination was made unlawful in the workplace through the Employment Equality (Sexual Orientation) Regulations 2003;

The Civil Partnership Act 2004 was passed enabling same sex couples to form legal partnerships similar to marriage.

2.4.3 In relation to the latest piece of legislation, the Government had intended to use the Equality Act power to bring new Sexual Orientation Regulations into being in October 2006 and began a consultation process in March 2006. This

consultation process included questions about whether any exemptions should be considered.

2.4.4 The response to the consultation exceeded expectations to the extent that implementation is now not due until April 2007. During this time there has been concerted lobbying from both religious and LGBT groups, together with media headlines highlighting the concerns of the religious groups, exemplified by the current debate and headlines about Roman Catholic Adoption agencies which may well now close rather than be forced to allow adoption by gay couples.

2.4.5 In précis form -the crux of the arguments from the two sides are:  
(1) – from the LGBT lobby you cannot introduce anti-discrimination legislation that has an exemption that permits discrimination, and;  
(2) - from the faith lobby you cannot legislate against religious belief/conscience.

2.4.6 There have been numerous media reports over the last 12 months about scenarios that will in future be unlawful under the new regulations, including:

Same sex couples refused hotel rooms  
Muslim pharmacist refusing to supply the morning after pill  
Gay men (in particular) refused life insurance cover  
LGB individuals denied basic healthcare  
Membership of organisations declined

2.4.7 The proposed new regulations will place sexual orientation discrimination on an equal footing with that afforded to disability, gender, race and religion and belief. The proposals follow that set out in The Sex Discrimination Act 1975, The Race Relations (Amendment) Act 2000 and the Disability Discrimination Act 1995.

### **3.0 Analysis**

3.1 What is an expression of faith?

3.1.1 There are obvious broad headings to consider such as verbalisation, clothing and appearance, religious festivals, dietary need, the need to pray etc. There is no "catch all" simple definition or a definitive list. There is a vast array of faiths and within each a further vast array of interpretations which will affect how individuals express their faith and the importance that they place on it. In a recent survey amongst staff in one provincial Constabulary alone, 31 different faiths/denominations were identified amongst those who replied.

3.1.2 At an individual level, for example, the wearing of the 'topi' (small head cap) in Islam is seen as essential by some (including some police officers) but others, the majority, do not wear a topi. Within Christianity, not eating meat on a Friday is a Roman Catholic tradition, not adhered to by most other denominations.

On a totally different level, the Sunni and Shia sects share the core religion of Islam but in many respects their beliefs are diametrically opposed to the extent where in some states, notably Iraq, conflicts have resulted in virtual Civil War. Within the Christian faith, the Northern Ireland situation is a similar example of such divisions.

3.1.3 What is common to all faiths though is that belief is about following a set of guidance provided by their deity. This is very important to those that take their faith seriously. As a result, reasoned arguments or even cast-iron logic against expressing belief in a particular way in the workplace, perhaps because of its affect on others, will commonly become an intense area for disagreement. At the same time, it is worthy of note that there are also many expressions of "culture" that are frequently perceived to be expressions of "faith" and which can legitimately be challenged.

3.1.4 Is it therefore feasible or appropriate for the Police (or any other organisation) to detail in a "policy" what is and what is not an acceptable expression of faith? Having consulted with the Diversity Command Unit, GMP and the Diversity and Citizen Focus Directorate, MPS, both of which recognise the issues around faith and the potential for future conflict, it is notable that whilst they have dealt with a number of incidents as local management issues, neither has established specific guidance for managers to assist them with dealing with future occurrences.

3.1.5 The National Community Tension Team (NCTT), in conjunction with a number of faith based Staff Associations has produced Guidance for police forces re the religious needs of police staff. A copy is attached as an appendix. The document is intended to assist forces support staff who wish to worship, pray or otherwise follow the doctrines of their religion. However, it notes that duty requirements will limit the extent to which forces can support those requirements.

## **3.2 The GPA/CPA dispute**

3.2.1 Following the publication of the GPA advert, complaints were made to the Police alleging that a hate crime had been committed, leaders of the GPA received death threats, numerous complaints were made 'against the Police' and complaints were made to the Advertising Standard Authority (ASA).

3.2.2 A full investigation was carried out by the Metropolitan Police Service with the resultant CPS decision being that no criminal prosecution would take place.

3.2.3 The ASA decided that whilst a number of aspects of the complaint to them were not upheld, the advert was likely to cause offence to Christian readers, shocking imagery had been used and that substantiating statistical evidence had not been provided. The GPA, however, feel that the ASA are out of their depth dealing with this particular issue and were the subject of vigorous campaigning by religious groups.

3.2.4 Mediation between the GPA and CPA took place in September 2006 when the two bodies met with the Police Federation. Key outcomes from the mediation process included:

The CPA agreeing to withdraw their position paper on 'homosexuality.'

The CPA advising that they intended to broaden their approach to include other lifestyle issues.

The GPA recognising the right of CPA members to hold beliefs but questioned the promotion of such beliefs in the workplace, particularly where such a belief if expressed, is in conflict with the agreed values of the police service.

The CPA expressing concern that they may be prevented from expressing their beliefs in the workplace.

The CPA reinforcing their desire to work with all support groups to eradicate unacceptable behaviour in the police service, emphasising that no-

one should feel marginalised and that any behaviour that is offensive or likely to cause offence is unacceptable.

3.2.5 In relation to conditions of membership, "membership" of both the GPA and CPA is open to any member of the Police Service. There are still restrictions, however, in terms of leadership positions. Re the GPA, members must declare themselves openly gay or lesbian to be appointed/elected to a local or national leadership position. Re the CPA, any serving member of the Police Service may attend local branch meetings or the National conference with being a full member. However, Branch or National leadership roles require full membership which entails agreement with the CPA statement of belief and a pledge to carry out the aim of the CPA. The GPA remains concerned that an openly gay applicant wishing to become a full member of the CPA may still be required to agree to celibacy.

3.2.6 Staging arguments via the media on a national stage is not good for the reputation of the police services as a whole. Whilst an association may feel that the greater good in respect of the association is being gained this is often not the case for the police service.

3.2.7 The Police Service therefore needs to consider whether the existence of operating principles across all Staff Support Associations should be established to encourage mutual understanding and collaboration and to avoid any future high profile and public disagreements.

### **3.3 Issues arising out of Staff Support Association consultation**

3.3.1 In the majority of anecdotal examples provided by the GPA, appropriate proportionate and legitimate local management action, could have dealt with the issue there and then (or be the appropriate first step in more serious cases).

3.3.2 The GPA's concern is that Managers are failing to exercise their duty of care under Employment Law by simply not acting at all and making an appropriate intervention.

3.3.3 In addition to the effect on the victims, this could leave Managers and the Police Service vulnerable should cases go to Employment Tribunal.

3.3.4 The Police Service must therefore ensure that the workplace is a legally compliant and safe environment for staff drawn from all elements of our diverse communities, irrespective of faith or sexual orientation.

3.3.5 A lack of management data on internal hate incidents across the Police Service prevents any detailed analysis, hence the reference here only to the anecdotal evidence provided by the GPA. It is recommended that ACPO reinforce the need for Forces need to follow the ACPO Hate Crime Policy recommendations regarding the recording of internal hate issues.

3.3.6 Ensuring that Staff and Managers understand the new 'Code of Professional Standards' in the context of diversity strategy represents an opportunity to reassert the Police Service' values.

3.3.7 Managers and staff should be aware of the NCTT guidance "Police Force Guidance re the religious needs of police staff".

3.3.8 The Service should acknowledge the need to increase awareness amongst staff of the differing religions and beliefs

### **3.4 Issues arising out of the case studies**

3.4.1 The issue of expression of faith in the workplace is a hot topic in the press and there have been cases featured where, irrespective of the reality of the case, the perception put forward has had a negative impact on the image of the organisation concerned.

3.4.2 It is important therefore that we provide Police Managers with effective guidance, based on the legal position, to assist in their negotiations with their staff and in the decision making process.

3.4.3 In addition, special treatment, however well intended, of an individual or group over and above any other can have a negative impact on others within the Police Service.

3.4.4 To avoid the Police Service being the subject of further negative press coverage questioning the values of the organisation, the service should consider providing further guidance to Managers and supervisors re the core principles and requirements of sworn duty (as affirmed at attestation).

### **3.5 Issues arising out of the new sexual orientation regulations debate**

3.5.1 Faith groups cite this legislation as the latest affront to their freedom of religious belief and freedom of expression, further marginalising them, limiting their right to live and work according to their beliefs. This is manifesting itself primarily through Christian Groups as the Muslim Community remains focused on the Middle East situation.

3.5.2 An intelligence assessment completed by the LGBT Strand of the MPS Diversity and Citizen Focus Directorate based on media articles and religious websites suggests that there is very real anger amongst religious groups who feel they will be forced to comply with legislation which is incompatible with doctrinal teachings and beliefs. Whereas in the past condemnation from religious groups has often been sporadic and piecemeal there is a sense of cohesion developing around this particular issue.

3.5.3 Within this assessment, particular reference is made to a group called the Coherent and Cohesive Voice (CCV) who on 28<sup>th</sup> November 2006 placed a full page advertisement in The Times Newspaper headlined 'Sex' and stated that the government proposals would:

force all schools to actively promote homosexual Civil Partnerships to children (from primary school age) to the same degree that they teach the importance of marriage

force a printing shop run by a Christian to print fliers promoting gay sex

force a family run B&B to let out a double room to a transsexual couple even if the family think it is in the best interests of their children to refuse to allow such a situation in their own home

make it illegal for a heterosexual policeman, fireman or member of the Armed Forces to refuse to join a Gay Pride event promoting the homosexual way of life

3.5.4 The restricted document, prepared by Carl Wonfor, includes the following conclusions:

CCV appear to have a much wider scope than smaller Christian groups and reach through a nationwide network of ministries;

CCV were able to afford a full page advertisement in the Times newspaper, suggesting that the principle subjects have access to substantial funding for any future campaigns;

the principle CCV subjects appear to advocate direct albeit peaceable action, a point referenced in their recent petition to parliament where they state 'If the Government thinks that we will accept this law lying down, they are mistaken. This sort of Christianophobia from the Government is no longer acceptable'

3.5.5 The advert was dismissed by the Equalities Minister Meg MUNNS MP, saying "It (CCV) would appear to be using a tactic intending to 'scare' Christians into action."

3.5.6 Nevertheless, this build up of anger and cohesion amongst the faith groups together with the angst felt by LGBT groups has led to considerable tension between LGBT and faith groups.

3.5.7 There is, however, little evidence of this build up of tension manifesting itself through increased faith-based/homophobic crime levels or civil unrest. NCTT reported a fall in homophobic crime during the most recently reported quarter (July-Sep 2006) and only a small increase in faith-based hate crime (68 crimes July to 76 crime in September) across the 20 UK forces that submit data currently. And in the latest NCTT Community Impact assessment, it is reported that whilst the ongoing political and social debate surrounding the new legislation has the potential to impact community cohesion, there are no reports of this manifesting itself through disturbance or civil unrest.

3.5.8 The new sexual orientation regulations are further evidence of the continuing development of a secular society in the UK. This isn't going to change and as faith groups feel more and more marginalised over time, we are likely to see, what would be considered more extreme views, expressed more and more.

3.5.9 This is exemplified by the growth in evangelicalism within the Christian church and recent research, quoted in the National press, which suggests young Muslims are developing more radical views than those held by their parents. Those with more radical views tend to be more vocal and outspoken.

3.5.10 The Police Service is, and must be, representative of the wider communities it serves and must value the diversity this brings. As such any friction between groups/factions within those communities will potentially manifest itself in the workplace.

3.5.11 The Police Service must therefore be mindful of the potential for single issue-ism to create a divisive atmosphere within the workplace.

3.5.12 The Police Service therefore needs to develop a process for consulting and negotiating its way through the issues this increasing diversity will bring. Guiding principles for Managers to help them make a judgement or help them negotiate through issues should be part of that solution.

3.5.13 The Staff Associations, Federation and Unison will be critical in this process. They are key to developing responses to issues affecting the Police Service and also for providing advice and support to individuals and the organisation.

3.5.14 The Police Service therefore needs to engage in (ACPO sponsored) ongoing debate, bringing the Associations together, to encourage a move away from single-issuism, to focus instead on what can be achieved together.