

IPCC guidelines for handling allegations of discrimination

Summary guide

“Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.”

Standards of Professional Behaviour

Defining discrimination

Discrimination means treating someone badly or unfairly because of a characteristic they share with others.

Unlawful discrimination is set out under the Equality Act 2010.

It includes:

- Direct discrimination:** when someone is treated *less favourably* than another person because of a protected characteristic
- Indirect discrimination:** when a policy or practice which applies to all puts a protected group at a disadvantage and the policy or practice cannot be objectively justified
- Harassment:** unwanted conduct relating to a relevant protected characteristic which violates dignity or creates an intimidating, hostile or degrading environment
- Victimisation:** where a person is treated badly because they have complained about discrimination

The protected characteristics are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

There are additional protections under the Equality Act relating to disability:

- Discrimination arising from disability:** when a disabled person is treated unfavourably because of something connected with their disability and the treatment cannot be objectively justified
- Failure to make reasonable adjustments:** police forces, as public authorities, have a duty to make reasonable adjustments to make sure that disabled people are not substantially disadvantaged in their interactions with police – failure to do so is a form of discrimination

The Standards of Professional Behaviour also say that *police officers must not discriminate unfairly*. This covers discrimination of other identifiable groups not protected under the Equality Act, such as homeless people or sex workers or alternative sub-culture groups such as goths, emos or punks.

These guidelines apply to all allegations of discrimination arising in police complaints, recordable conduct matters, and death and serious injury investigations.

Engaging with the complainant

Discrimination complaints will often involve a complainant who already has very low levels of trust in the police. Failure to engage effectively and empathetically with the complainant is likely to reinforce this mistrust and undermine confidence in the complaints process. The investigating officer should:

- Contact the complainant at the beginning of the complaints process to explore why the complainant feels that they have been discriminated against and update the complainant on progress at least every 28 days.
- Respect the complainant's point of view, approaching the allegation with an open mind and recognising the impact on the complainant.
- Be sensitive to individual needs and equality issues – making suitable adjustments and accommodations to make sure the complainant can engage safely and effectively with the complaints system.

Assessing gravity

An important part of handling all police complaints and conduct matters is the assessment of the seriousness of the alleged misconduct. This informs decisions about how the matter should be dealt with. Factors which could raise the seriousness of the alleged conduct in a discrimination case include:

- **Impact** – particularly foreseeable harmful impact, including failure to take account of a person's known vulnerability or known community tensions.
- **Intent** – any indication that the alleged discrimination was intentional or malicious.
- **Serious negligence or recklessness** – for example, serious failures to follow force policy where the person should have known to do so.
- **Repeat behaviour** – if the alleged behaviour fits with previous patterns of behaviour or previous complaints.
- **Level of responsibility** – senior officers have a particular responsibility to uphold standards and set an example which should be taken into account in this assessment.

Click on the links below for more detailed guidance about how an assessment of the gravity of the alleged discriminatory conduct should inform decisions around:

- [referral to the IPCC](#)
- [recording and referring conduct matters](#)
- [deciding if a matter can be locally resolved](#)
- [severity assessments and deciding the level of investigation](#)

Conducting the investigation

Investigating officers should have a good understanding of equality and diversity issues and have an appropriate level of knowledge, skills and experience to be able to apply these guidelines effectively.

The terms of reference for the investigation should clearly refer to and address any discrimination allegations raised.

Understanding the allegation of discrimination

At the beginning of an investigation, the investigating officer should take steps to build their understanding of the discrimination alleged, including the types of assumptions, prejudice or bias that might have informed the police officer's or staff member's decisions, actions or behaviour. This should inform the lines of enquiry for the investigation.

To do this the investigating officer should consider:

- What does the complainant say about why they think they were discriminated against?
- What do you know about the type of discrimination alleged? – through other complaints, training, local knowledge etc.
- What else do you need to find out? – drawing on expertise, research and reports.

Click on the links below to see examples of this approach applied to allegations of discrimination across a range of protected characteristics:

- [racism](#)
- [discrimination on grounds of religion or belief](#)
- [homophobia and biphobia](#)
- [transphobia](#)
- [disability discrimination](#)
- [ageism](#)
- [sexism](#)

Lines of enquiry

Standard lines of enquiry should be followed to try to find out what happened and why. It is common in discrimination cases for there to be little or no direct evidence available to support an allegation. The investigation will need to consider whether there is other evidence from which an upheld or case to answer finding can be drawn. This includes:

Complaint history and patterns of behaviour

- Officer complaint history should be considered in all cases.
- Other patterns of behaviour evidence (such as trends in stop and search) should be considered where available, proportionate and relevant to the allegation.

Comparator evidence

- In most cases, deciding a case to answer for discrimination will involve comparing how the complainant was treated against how a person who does not have the same protected characteristic would have been treated in the same situation. Investigating officers should look for evidence that supports this type of comparison.

Language

- An assessment of language used, including language used in any records relating to the incident in question or arising from the complaint investigation.

Probing the officer or staff member's account

In discrimination cases, it is important to get an account from the officer or staff member and to unpick and challenge why they acted in the way that they did.

Questions should focus on:

- why they took the actions that they did
- what assumptions or assessments were made
- what were the reasons for these

The officer or staff member should also be asked to reflect on:

- why the complainant might have felt discriminated against and what could have been done differently to change this
- their experience and training and whether they felt adequately equipped to deal with the situation they faced

Organisational issues

Organisational issues and organisation learning should be considered when they arise from enquiries into the particular incident that the complaint is about. If an investigation finds a case to answer for discrimination or individual learning is identified, proportionate consideration should be given to whether the issues found show a broader team-wide or organisation-wide issue.

However, it will not usually be within the scope of an individual complaint investigation to answer the broader question of whether the force is institutionally discriminatory. Other organisations such as Her Majesty's Inspectorate of Constabulary (HMIC) or the Equality and Human Rights Commission (EHRC) may be able to undertake this type of inquiry.

Findings

Discrimination complaints, like all other complaints, are assessed on the balance of probabilities.

In some cases there will be clear evidence of discrimination which will lead to a case to answer or upheld finding. In many cases the investigating officer will need to assess the cumulative picture of circumstantial evidence which could include patterns of behaviour, comparator evidence, any language of concern or evidence that the officer/staff member acted in a way that fits with discriminatory stereotyping.

The assessment should consider:

- The cumulative weight of all the evidence and the credibility of competing accounts.
- Any non-discriminatory reasons given by the officer or staff member to explain the behaviour, and whether these reasons are plausible and credible.
- Whether the complainant would have been treated differently if they did not have that protected characteristic, or belong to that group.

Outcomes and resolution

All complaint handling should try to resolve and rebuild trust.

A resolution focused outcome should:

- Show respect for the complainant's point of view and the value of their complaint – even if there is not enough evidence to uphold the complaint or to find a case to answer for discrimination.
- Give a clear, evidence-based response to the discrimination allegation (as well as other allegations made).
- Give a clear explanation of what the investigation found about what happened and why.
- Openly recognise and apologise for any failings found.
- Take appropriate action in relation to any officer or staff member who has acted inappropriately, including disciplinary action where relevant.
- Show how the individual and the organisation will learn from the complaint to stop the same thing from happening again.
- Reflect on best practice and whether there is anything the officer or staff member could have done differently that would have improved the experience for the complainant.

It will sometimes be appropriate for a case to answer for discrimination to be dealt with at the more serious end of the spectrum in terms of disciplinary action. However, in cases where the behaviour is clearly unintentional, it may be appropriate for the response to focus on learning and changing behaviour or attitudes.

The IPCC expects that disciplinary panels will have regard for this guidance when considering allegations of discriminatory behaviour.

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