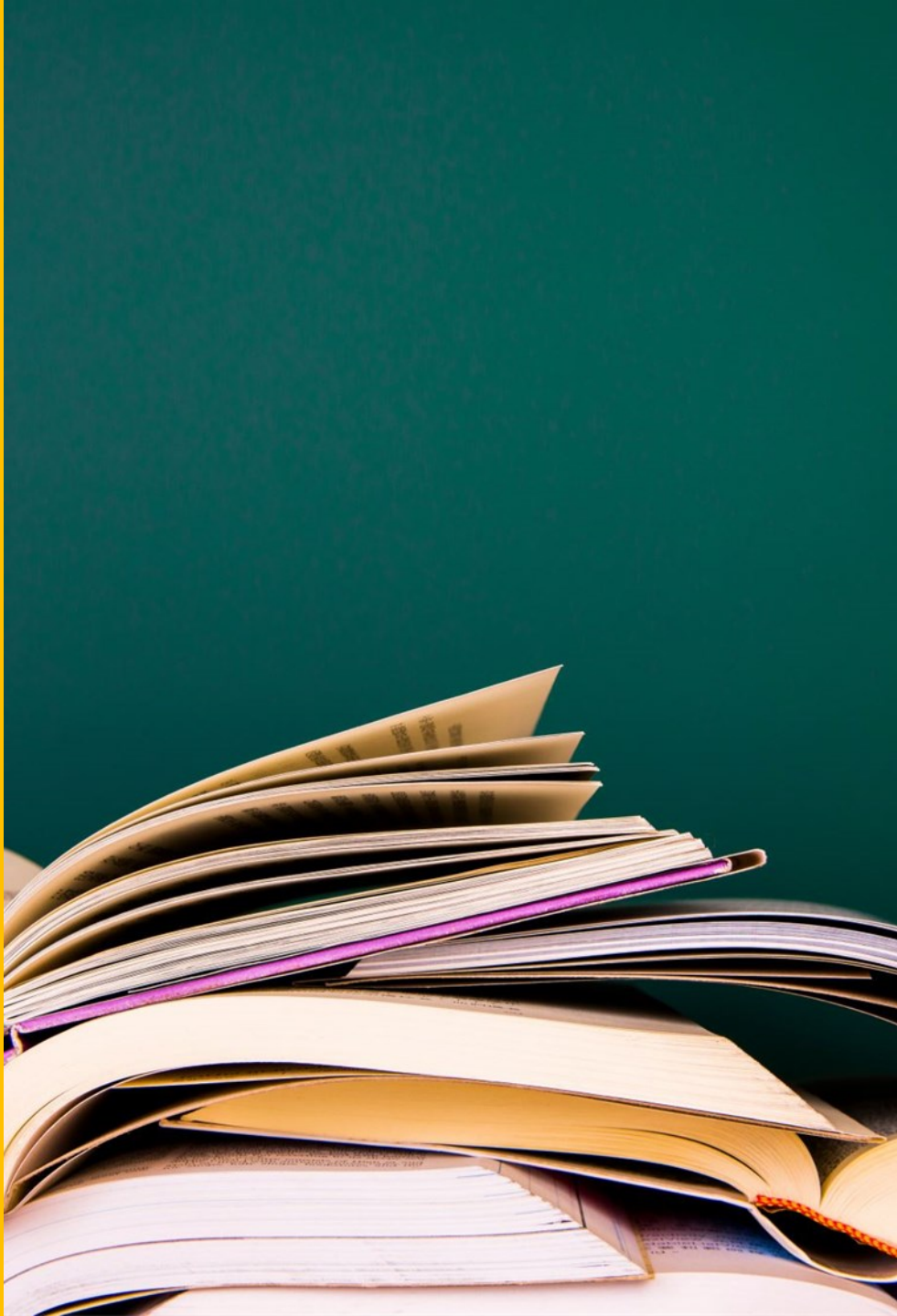


Race Discrimination Case Handling Improvement Workshop



Why this matters:
**Improving trust
and confidence**



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**Improving trust
and confidence**

Black, Asian and Minority Ethnic members of the public are much more likely to think that a complaint would not be dealt with properly than the general public

Q. Which of the following best explains why you would not be more likely to complain?

Black Asian and Minority Ethnic

I wouldn't think the complaint would be dealt with properly

40%

I would be worried that lodging a complaint would have a negative impact on me personally

28%

I wouldn't want to waste my time by complaining

25%

Total

“I know that the stereotype for a black woman is usually an **aggressive black woman, a loud black woman**. It's almost as if I'm going to have to complain and almost dumb down my complaint...”

- *BAME Deliberative Event Participant, London*

“They're probably not going to take it as serious as they should do.”

- *BAME Deliberative Event Participant, London*

Understanding the context
credit: BBC Bitesize



Thematic focus on race discrimination

Improve

Improve investigator confidence when handling allegations of race discrimination.



Improve

Improve quality of investigations into allegations of race discrimination.



Improve

Improve complainant and community confidence in the quality of IOPC investigations examining race discrimination.

Race Based Discrimination

- Equality Act
- Standards of Professional Behaviour
- Understanding allegations

What do we mean by 'race'?



Equality Act 2010:

Race includes:

- a) colour
- b) nationality
- c) ethnic origin
- d) national origins
- e) caste

Standards of professional behaviour – equality and diversity

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

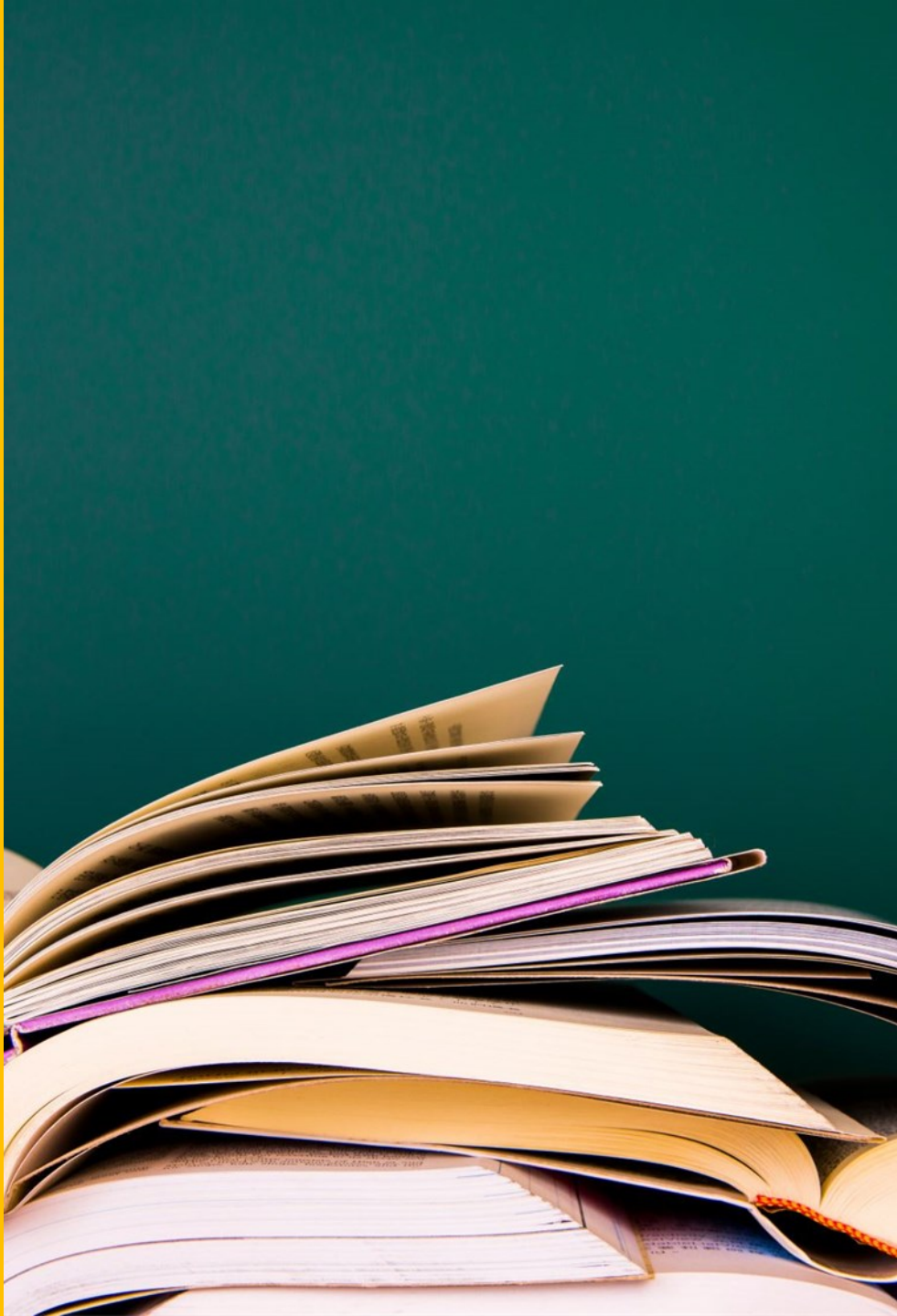
Police Officers meet the Equality and Diversity SOPB if they:

- Show compassion and empathy
- Treat people according to their needs
- Recognise that some individuals are vulnerable and may require additional support
- Take a proactive approach to opposing discrimination, support victims, encourage reporting and prevent future incidents
- Act and make decisions on merit, without prejudice
- Consider the needs of the protected characteristic groupings
- Actively seek or use opportunities to promote equality and diversity.

Understanding allegations of

Race Based Discrimination

- Overt
- Covert
- Inter-sectionality
- Institutional Racism
- Racial profiling
- Micro-aggressions



Engagement & communication

Ask yourself: what steps should you take to set the tone for a positive complainant experience?

- Ask the complainant how they would like to be communicated with and be flexible to accommodate changing needs.
- Explore the complaint sensitively, with empathy and without the use of overly technical terms.
- Consider using general resolution principles to understand the complaint and manage expectations. Ask the complainant: what happened; what the impact was; and what do they want to happen next.
- Support the complainant where English is not their first language.
- Where a list of questions is sent to the complainant, tailor them to the complaint.
- Tell the complainant how the information they are providing will be used in the handling.
- Use the complaint to feed into the terms of reference; lines of enquiry; when framing questions to officers; and to provide evidence of impact.
- When addressing the complaint with officers/subjects, use open questions in the context of the complaint.

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How do we understand the heart of the complaint and whether discrimination may be a factor?

Vulnerabilities and additional needs:

- Making reasonable adjustments where a complainant has a disability.
- Providing an interpreter or other assistance where a person does not speak fluent English.
- Accommodation of cultural or religious needs.
- If a complainant has learning disabilities, is under 18 years old, or has other impairments, give consideration to Achieving Best Evidence interview or otherwise make sure that the complainant is appropriately supported to make their complaint.
- Advocacy services, support workers, and legal advisers where the complainant has used these types of services, particularly where a complainant is under 18 years old.
- Officer of the same gender or with specialist knowledge about the type of discrimination alleged, where it is possible to do so and appropriate.

Example of poor engagement with a child

Case study




Child A was stopped and searched on his way to school by the police and a complaint of discrimination against the police was made. The complaint handler asked Child A to provide evidence as to why he felt that the stop was discriminatory. Child A was unable to provide this. The complaint handler did not further explore the complaint because she felt that Child A had not provided any evidence, and discrimination was dismissed.

Child A found it difficult to articulate why they felt the stop was discriminatory. It was inappropriate for the complaint handler to expect a child to answer questions relating to discrimination without additional support and accounting for his vulnerability.



Approach to case handling



What is the potential for less favourable treatment?		
Behaviour was as expected in the circumstances.		Behaviour below what would be expected
Are there indicators that the person's protected characteristic was a reason?		
Absence of indicators or indicators point away from protected characteristic being a reason		Presence of indicators pointing to protected characteristic being a reason
How plausible and evidence-based are any non-discriminatory reasons?		
Convincing, non-discriminatory reasons supported by objective evidence.		No non-discriminatory reasons or reasons not supported/undermined by other evidence

Lines of enquiry: race discrimination complaints

Census
information

Complaints
history

Patterns of
behaviour

Local
communities

Stereotypes

Comparator
evidence

Officer role

Previous
knowledge

Language

Was it *because of* a protected characteristic?



Absence of indicators that point away from protected characteristic being a reason – could include:

- no specific or contextual evidence indicating the person's protected characteristic might be a relevant factor
- comparators showing no difference in treatment.
- patterns of behaviour point away from disproportionality
- evidence pointing to a non-discriminatory reason for the treatment or behaviour
- evidence of a respectful and empathetic approach, inc. efforts made to understand, empathise, de-escalate, provide care and to respect individual needs.

Indicators pointing to protected characteristic being a reason, which could include:

- complaint and/or witness/ community concern of discrimination
- comparators showing difference in treatment
- relevant patterns of behaviour evidence showing disproportionality or repeat discriminatory behaviour
- alignment with known stereotypes
- discriminatory language including negative generalisations
- admission that the person's protected characteristic was a factor in decision-making
- unexplained hostility, disrespect, lack of care or dehumanising treatment where discrimination is a plausible reason

The complaint or witness concern as evidence of discrimination:

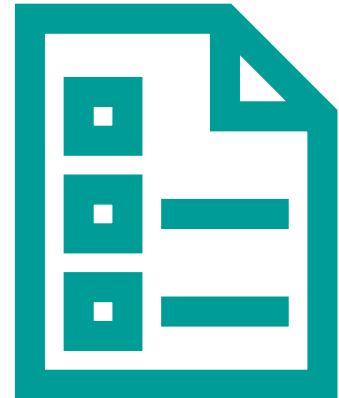
Where there is a complaint or witness statement alleging discrimination, this will be key evidence to consider, and can be drawn on to inform an assessment about whether discrimination was a factor in police actions or behaviour.

- Recognising impact
- Evidence of what happened and how the incident was experienced

Quiz

List, in order of priority, the lines of enquiry you would consider in the case example shown earlier: **Example of poor engagement with a child.**

- Stereotypes
- Officer complaints history
- Other patterns of behaviour evidence
- Officer's account
- Comparator evidence
- Officer role as part of a particular operation
- Complainant's account
- Language used by the officer during the interaction

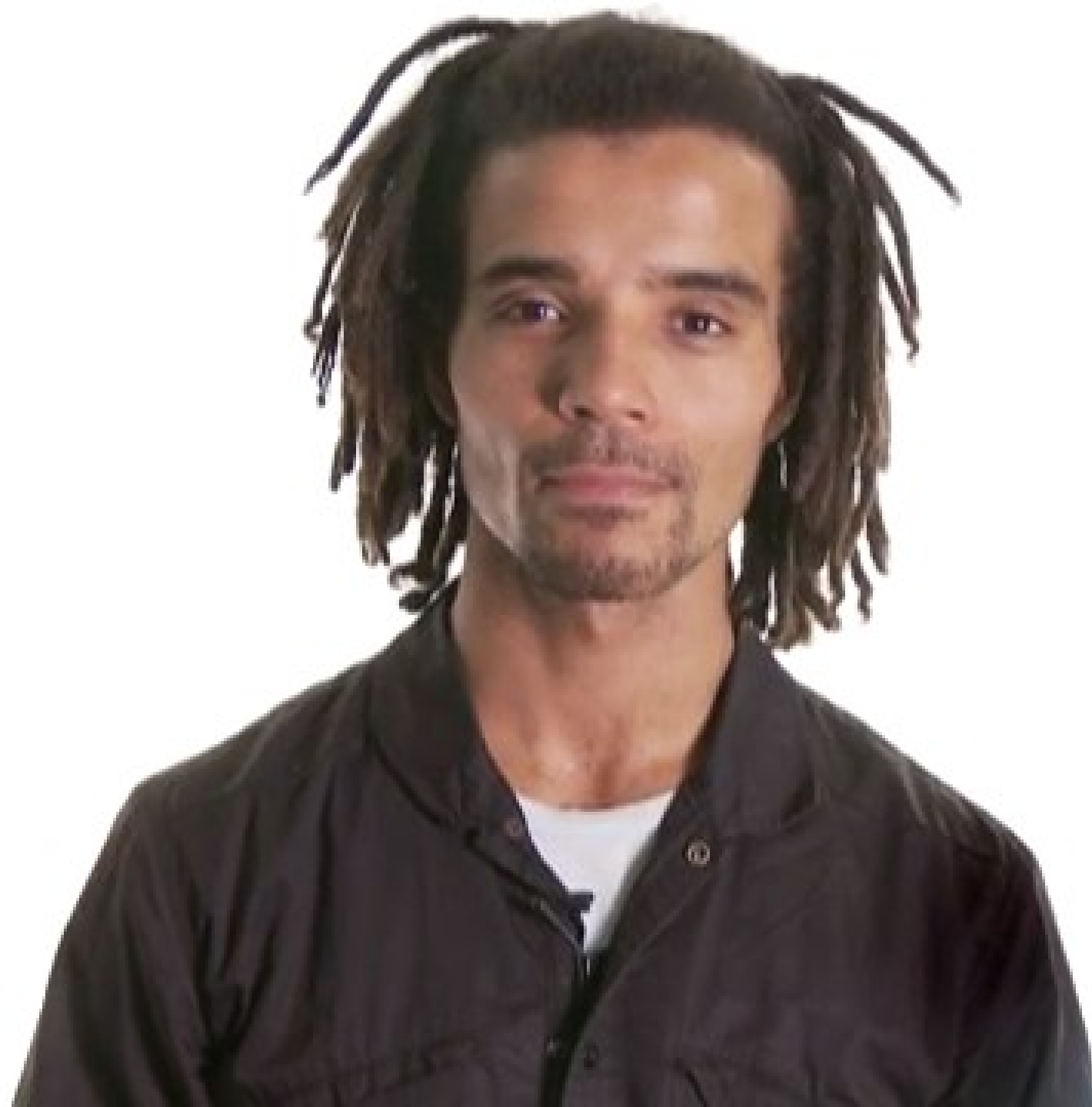


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Evidence

Everyday racism
credit: The Guardian



Common assumptions/stereotypes

He is Muslim
so: he must
be a terrorist.

He is Black so:
he must be
'aggressive' or
'dangerous'.

She wears a
burka so: she
must be an
extremist.

She is from the
traveller
community so:
she must be a
criminal.

Hostility, lack of care, courtesy and respect

The quick escalation to use of force

Talking down to people, not listening or answering their questions

Lacking empathy and failing to see vulnerability

Lack of care, disbelieving medical complaints

Failing to apologize or admit to making a mistake

Failing to see the seriousness of an incident which could have a traumatic impact

Discriminatory bias poor levels of service

Case study

A member of the public reported to police that they had been refused service in a restaurant because of the family's ethnicity. They alleged that the owner had pushed them out of the restaurant and used derogatory language towards them. They then complained about the police's response to this report.

The allegations related to the officer's demeanour; lack of evidence gathered; failure to speak with the complainant's partner who was also present; biased attitudes; failure to comply with policy; and lack of professionalism.

An appropriate approach in this case would have been to first establish what actions the officer was expected to carry out. For example: taking the victim's account; speaking with his partner; checking the CCTV at the premises; and reviewing the body-worn video, and the officer's actions should have been compared to any local or national policy, guidance, or training.

Complaints about discriminatory use of police powers

Case study

“I write in response to your complaint about your 15 year old son, David, who sustained injuries when he was apprehended by PC Jones.

*David initially came to police attention after he was seen riding a bike in an area well **known for gang activity**, he then continued to ignore PC Jones’ request to stop and **continued to speed up on his bike** in an attempt to make off from police.*

*It was at this point that PC Jones **recognised David from a previous incident** where he had stopped him whilst in possession of a knife.*

*With this in mind, and the fact that David did not stop for police on request, PC Jones’ decision to chase David on foot, **was in line with best practice**, as at this stage it was unknown whether David was in possession of a weapon that could potentially harm others or himself.*

I have found no evidence that the stop was discriminatory.”

Courtesy and respect

Case study

A Black man made a complaint of race discrimination following his arrest for selling fake goods online. He was placed in handcuffs on his arrest although he was compliant. He complained that the handcuffs were too tight and causing him a lot of pain to which an officer replied, “they’re not made for comfort”.

The officer continued to repeatedly refer to him as the “prisoner” after the complainant asked him not to.

At the police station the officer said “you know the drill” despite the complainant stating that he had never been arrested before.

The case handler was sent photos by the complainant of bruises to his wrist caused by the handcuffs.

In a letter to the complainant the case handler said she couldn’t see any bruising in the photos. The case handler said there was “no evidence of injury”. She went on to agree with the officer that the handcuffs were necessary because he was “unknown”.

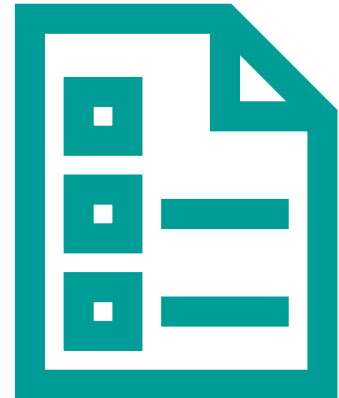
The case handler does not address the comments made by the officer as something that could point towards discrimination.

Quiz

How often do you see the quick escalation to use of force in discrimination cases that you have handled?

1. Often
2. Sometimes
3. Not at all

Please go to [Slido.com](https://www.slido.com) and enter code [#8593456](https://www.slido.com/join/8593456)





Comparator evidence

Comparator evidence

- The definition of direct discrimination refers to **less favourable treatment** - less favourable than whom? The test implies a comparison.
- The comparative exercise can be a useful evidential tool to consider if there was **less favourable treatment** and if so, was it **because of race**?
- Comparator evidence is not a single class of evidence – you can draw on any relevant evidence that can help you make this comparison or that helps to you answer the question:

Was the person treated **less favourably** and was this **because of their race**?

Comparator evidence continued:

- A key part of an effective comparator is to compare **like with like** (except for the existence of the protected characteristic).
- Ideally, there should be **no material difference between the circumstances** of the complainant/victim and the comparator.
- Any difference in circumstances should be discussed and explained in your report as this may fundamentally undermine the comparison you are trying to make.

Actual comparator

An actual comparator, is another person who:

- Was in the same or very similar circumstances to the complainant
- Was treated differently to the complainant
- Does not belong to the same racial group as the complainant

Any differences in circumstances between comparators will need to be discussed and explored in your investigation:

- If the circumstances are so different that they cannot be effectively compared – then the comparison will not be useful to either support or refute the allegation of discrimination.

Hypothetical comparator

- Constructed from evidence about how other people have been treated in similar situations (not identical).
- Look at patterns of behaviour in relation to one group of people compared to another.
- Use force policy and consider how far from this the actions of the police were and whether this aligns with known stereotypes, concerns and biases.
- Can help you form a view about how another person would probably have been treated in the same circumstances as the complainant.

Considering the evidence cumulatively

Remember: Comparator evidence is not a single class of evidence – you can draw on any evidence that can help you answer the question:

“Was the person treated less favourably and was this because of their race?”

It can strengthen your investigation to build a cumulative picture, looking at a range of evidence to inform your comparison e.g.:

- high-level contextual info about disproportionality
- drilling down into more detailed analysis of like cases - focusing on the key issues of concern
- considering how far away the officer's actions were from expected behaviour
- consider alignment with known stereotypes - look at language and actions of the officers and considering whether this showed micro-aggressions, assumptions, disregard
- weighing this against any non-discriminatory reasons offered/available



Concluding the handling

Weighing the evidence

What are types of assumptions, prejudice or bias that may have informed the police officer's actions?

Does the evidence show that the officer acted in a way which closely aligns to these discriminatory assumptions or stereotyping?

How far from expected and reasonable behaviour were the actions of the officer?

What reasons, other than discrimination, might account for the behaviour?

How plausible and credible are these reasons?

Do the reasons wholly account for the behaviour or could discrimination still be a contributing factor

Outcomes: learning and best practice

Show compassion and empathy

Recognise that some people may need more support

Act and make decisions on merit

Consider how your actions will impact on a person's confidence in policing

Take a proactive approach to opposing discrimination

Promote equality and diversity

Outcomes: informing the complainant

Recognise the impact on the complainant

Clear evidence-based response

Clear explanation of the findings and the decisions made

Show how the individual and the organisation will learn from the complaint to stop the same thing from happening again

Reflect on what could have been done differently or better to make sure that the complainant did not feel discriminated against

Additional outcomes for complainants

Mediation

Debrief

Invite to feed into
scrutiny panel

Watching footage

Not-racist vs anti-racist
credit: BBC Bitesize





Trauma and adultification

Trauma

Case study

The complainant was suspected of only paying for one item but putting two items in her bag. Shop staff asked for a passing officer to assist. When she insisted that she had paid for everything the officer considered the complainant to be non-compliant, so he used force to push her to the shop window, stopped her from using her phone and placed her in handcuffs. When other officers attended it was established that the complainant had paid for all the items in her bag.

The complainant returned the questionnaire that was sent to her saying that she felt there had been an automatic conclusion of guilt based on her race, gender and social status. The complainant's perceptions and views were dismissed by the IO.

What is Adultification?

Adultification is a form of bias where children from Black, Asian and minoritised ethnic communities are perceived as being more 'streetwise', more 'grown up', less innocent and less vulnerable than other children. This particularly affects Black children, who might be viewed primarily as a threat rather than as a child who needs support (*Davis and Marsh, 2020; Georgetown Law Center on Poverty and Inequality, 2019*). Children who have been adultified might also be perceived as having more understanding of their actions and the consequences of their actions.

NSPCC (2022) Safeguarding children who come from Black, Asian and minoritised ethnic communities



**Bringing it all
together**

Unconscious bias
credit: Channel 5 News

CONNECTED
LEADERS



ballotblock

John Amaechi
Psychologist

5





Local initiatives: force examples

“We always look at the officer/staff complaint history for at least the last 5 years to identify if there is a pattern of similar complaints.”

Discrimination cases to officers of Inspector rank and above

“We nominate a dedicated SPOC from our Serious Case Unit (SCU) to assist case handlers with their discrimination complaint cases.”

3-page Guidance document for case handlers

The Complaints Manager has a monthly meeting with Diversity Leads

Case study

A Black child, aged 14, was stopped by police officers in an area that historically has low confidence in the police. The purpose of the officers' tasking was to build confidence and gather intelligence in response to violent assaults that had taken place in the area.

Officers stated they suspected the child had taken part in a drugs deal. Based on this suspicion, one officer approached the child and told him to stop, but he did not explain why he wanted the child to stop. The child then ran away from the officer.

The officer used force, including incapacitant spray, to detain the child to search him for weapons despite the original suspicion being that the child had been involved in a drugs deal. There was limited communication before force was used. The encounter drew a crowd who were angry at the police officers' conduct.

Case study: Weighing the evidence

In your groups:

Answer the following questions:

1. What types of assumptions, prejudice or bias may have informed the police officer's actions?
2. Did the officer have any obligations under the Childrens Act in how they handled this situation?
3. On the basis of the information provided, do you have any initial concerns about the actions of the officer?
4. What reasons might the officer provide for their actions?
5. Could those reasons fully account for the officer's actions or could discrimination still be a contributing factor?

Thank you



oversight@policeconduct.gov.uk