



<u>Title</u>	Diversity in Employment
<u>CCMT Sponsor</u>	Head of Human Resources
<u>Department/Area</u>	Human Resources
<u>Section/Sector</u>	Headquarters

1.0 Rationale

1.1 Thames Valley Police believes that having a diverse workforce broadly representative of the community as a whole, provides the best opportunity for offering an effective and accessible police service which is valued by the whole community.

1.2 To be fully effective such a diverse workforce must be seen to be valued and able to fulfil their potential free from unfair and discriminatory practices.

1.3 This document forms part of the strategic framework setting out our vision of a policing service for the Thames Valley, and should be read in conjunction with the Force over arching strategic document for diversity: 'The Confidence and Equality Strategy'.

1.4 This policy applies to police recruits, job applicants, police officers, special constables, employees who work for the Force and those who have left. This policy also applies to agency workers, contractors and volunteers.

2.0 Intention

2.1 The intention of this policy is to provide guidance to ensure all officers and staff are treated appropriately. The Force will not tolerate incidents of discrimination or harassment and all staff are expected to take appropriate measures to ensure that such incidents do not occur.

2.2 This policy is supported by a number of other Force policies and Force Equality Schemes which should be read in conjunction with this policy.

3 Legal Basis

3.1 This policy has the following Acts of Parliament and European Regulations as its legal basis;

- The Equality Act 2010
- Discrimination Act (Gender Reassignment) Regulations 1999
- Part time Workers (Prevention of Less Favourable Treatment) Regulations 2000
- Fixed term Employees (Prevention of less Favourable Treatment) Regulations 2002
- Employment Equality (Sexual Orientation) Regulations 2003
- Employment Equality (Religion or Belief) Regulations 2003
- Civil Partnership Act 2004
- Employment Equality (Age) Regulations 2006

3.2 General Principles

3.3 Strands (Protected Characteristics (PC)) of Diversity

3.3.1 The basic concept of managing diversity is to create a work environment in which staff are valued for the contribution they make and encouraged to reach their full potential regardless of their visible or non visible differences. A pre-requisite to achieving this is to ensure that all persons referred to and identified within paragraph 1.4 above must not be subject to discrimination on the grounds of their visible and non-visible differences. Those differences are identifiable by reference to the following classifications which are referred to as 'Protected Characteristics'. It is unlawful if, because of any Protected Characteristic, a person discriminates against another, whether intentionally or otherwise, the Protected Characteristics are as follows:-

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

3.4 Types of Discrimination

3.4.1 The different types of discrimination which are unlawful are:

- **Direct Discrimination** - an individual is treated less favourably than another person because of a protected characteristic (PC) This also includes what is commonly referred to as '**Associative Discrimination**' which is where an individual suffers

discrimination because they are associated or are perceived as being associated with another individual who has a PC. It is important to note that direct discrimination can also occur even where the recipient of the discriminatory conduct does not actually possess the PC but is merely perceived as possessing it or being associated with someone who possesses it. This is commonly referred to as perceived discrimination.

- **Indirect Discrimination** - can occur where a provision criterion or practice puts a person at a particular disadvantage because of a PC when compared to how that provision criterion or practice would affect a person who did not share that PC. As an example, an internal policy could operate to disadvantage someone who fell within one of the protected categories.

Other Prohibited conduct which is unlawful

Harassment

If a person engages in unwanted conduct which is related to a relevant protected characteristic and that conduct has the purpose or indeed, irrespective of intention, the effect of violating a persons dignity or creating an intimidating, hostile, degrading or offensive environment for a person, this would constitute harassment and is, as such, unlawful. It is important to note that an onlooker who is not the recipient or intended recipient of the unwanted conduct can also claim protection from this form of harassment. Unlawful harassment may, in some circumstances, extend to acts of unwelcome conduct by third parties. An example of this would be where a contractor engaged by TVP engaged in conduct in the presence of TVP staff which they found to be unwelcome, hostile and/or degrading.

- **Harassment by a third party** employers are potentially liable for harassment of their staff by individuals they do not employ.
- **Victimisation**
If a person treats another person unfavourably because they have made/supported a complaint or grievance under the Equality Act or they believe the person has made or will make such a complaint this would constitute an act of victimisation which is unlawful.

4. Examples of Discrimination

4.1 Direct Discrimination occurs when a person or group is treated less favourably on the grounds of their protected characteristic. An example of direct discrimination would be not promoting an officer because of his/her religious belief. Direct discrimination can not be justified except in those very

few circumstances where there are Genuine Occupational Requirements. A Genuine Occupational Requirement occurs where it can be evidenced that an individual of a particular race, religion or belief, sex or sexual orientation is genuinely qualified or required for a particular job or role.

4.2. Discrimination by Association applies to race, religion or belief, age, disability, gender reassignment and sex and sexual orientation. This is direct discrimination against someone because they associate with another person who possesses a protected characteristic. An example of associative discrimination would be to provide reject a job applicant who is known to have caring responsibilities in respect of a disabled relative as it is believed that they would be unreliable due to those caring responsibilities.

4.3 Discrimination by Perception applies to age, race, religion or belief disability, gender reassignment, sex and sexual orientation. This is direct discrimination against an individual because others think they possess a particular protected characteristic. It applies even if the person does not actually possess that characteristic. For example making gay comments to a member of staff in the belief that that staff member is gay, but he is not. Or being witness to such conduct. In either case the recipient and the onlooker could potentially submit a claim to the employment tribunal.

4.4 Indirect discrimination applies to age, race, religion or belief, sex, sexual orientation disability, gender reassignment, marriage and civil partnership. Indirect discrimination can occur when a provision criterion or practice (most commonly this will be an internal policy or procedure applies to everyone but its operation particularly disadvantages people who share a protected characteristic. For example, imposing a regular night shift requirement applicable to everyone but with which fewer women are likely to be able to comply, as women are more likely than men to have childcare responsibilities.

4.4.1 Indirect discrimination can be justified if the organisation can show it acted reasonably in managing the business need, ie that it is 'a proportionate means of achieving a legitimate aim'.

4.5 Harassment applies to all protected characteristics except for pregnancy and maternity and marriage and civil partnership. Harassment is "unwanted conduct related to a relevant protected characteristic, which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual".

4.5.1 Bullying is a form of harassment. Generally it involves a person persisting in behaviour towards another, where that person knows or ought reasonably to know that such behaviour is unwelcome and unacceptable. Bullying tends to be persistent, involving negative criticism or humiliation which undermines the confidence of the victim. It can range from open hostility, including violence, to less obvious forms like ignoring someone or unreasonably denying them opportunities.

4.5.2 It is important that staff understand that if they harass colleagues, they

could be personally liable for any award made by the employment tribunal. This is because such conduct would not constitute performing duties in accordance with their employment with TVP. Such liability can be separate and additional to that of the organisation.

4.5.3 Some examples of behaviour that can constitute Harassment or Bullying are given below:

Verbal	Non-verbal	Physical
<ul style="list-style-type: none"> ➤ Telling racial or sexual stories or jokes. ➤ Making sexual or racial remarks. ➤ Using offensive language, gossiping or slandering. ➤ Making verbal threats. ➤ Persistent un-justified criticism. ➤ Public humiliation. ➤ Outing: revealing a person's sexual orientation against their wishes. 	<ul style="list-style-type: none"> ➤ Making suggestive gestures. ➤ Visual displays of posters including obscene gestures or any other offensive material. ➤ Isolation or non-cooperation at work including exclusion. ➤ Intrusion by pestering spying and stalking. ➤ Harassment by e mail. 	<ul style="list-style-type: none"> ➤ Invasion of personal body space. ➤ Unwelcome touching ➤ Coercion, including pressure for sexual favours.

4.6 Third party harassment applies to sex, age, disability, gender reassignment, race, religion or belief and sexual orientation. The Equality Act makes the organisation potentially liable for harassment of members of staff by individuals (third parties) who are not employees of the organisation, such as customers or clients. The organisation will only be liable when harassment has occurred on at least two previous occasions, the organisation is aware that it has taken place, and has not taken reasonable steps to prevent the harassment from happening again.

4.7 Victimisation occurs when a member of staff is treated less favourably because they have made or supported a complaint or raised a grievance under the Equality Act; or because they are suspected of doing so. A member of staff is not protected from victimisation if they have maliciously made or supported an untrue complaint. Victimisation following the end of a working relationship covers issues such as references.

5 Raising a complaint of Discrimination or Harassment

5.1 Members of staff who believe that they have been discriminated against or harassed should raise their concern/complaint following the Force Grievance Policy. HR Shared Services are able to give advice on the use of the Grievance Policy. Volunteers should refer to the Force Volunteer Policy.

5.2 If the discrimination or harassment is believed to be of such a serious nature that it should be reported as a potential criminal offence/gross misconduct, advice should be sought from HR Shared Services.

5.3 Members of staff who are found to have breached this Diversity in Employment policy may be subject to the appropriate disciplinary action under the Police (Conduct) Regulations or the Police Staff Disciplinary Policy which in serious cases may result in dismissal.

6 Support for staff

6.1 Staff who are involved in a case of harassment or victimisation, whether they are alleging harassment/victimisation or are perceived to be harassing/victimising a member/s of staff, or a witness, may seek support from Welfare, the Occupational Health Department, Staff Associations (Federation and UNISON), BPA (Black Police Association), BAWP (British Association for Women in Policing) and GPA (Gay Police Association).

7. Monitoring

7.1 Records of the age, race, gender, marital status, religion, sexual orientation and disability of job applicants and existing employees will be maintained using the HR database. However, it is the responsibility of managers to apply the Diversity in Employment policy at local level and in conjunction with Human Resources, to address any patterns of under representation.

8.0 Guidance, Procedures & Tactics

8.1 Diversity in Employment Guidance Notes

8.1.1 Diversity is essential for the police service and in enhancing the work that we do in our local communities. Diversity ensures that Thames Valley Police engages people from different backgrounds with many different skills, outlooks and aptitudes to contribute to a truly effective and representative organisation. In order to deliver tangible improvements in our service, we need to harness enthusiasm and talent from every sector of the community. We will strive to recruit more staff from diverse backgrounds and promote Thames Valley Police as an employer of choice.

8.1.2 As we become more representative we will be drawing from a broader pool of skills and experience. By creating a positive working environment in which all our staff feel respected and valued, free from discrimination, harassment and victimisation we will ensure our staff are able to fulfil their potential in the work place. This will lead to increased innovation and performance, higher job satisfaction and lower staff turnover.

8.1.3 An organisation built upon the widest range of skills and talents available to it, and which does all it can to make the best use of those talents, will inspire more confidence in policing in the community.

8.1.4 We also have a moral obligation to reflect the population we serve, to promote good practice and comply with equality legislation.

9 Avoiding Assumptions

9.1 Care should be taken to ensure that decisions and actions are not influenced by stereotypical views.

9.1.1 Examples of such assumptions are:

- Ethnic minorities lack qualifications.
- Women with young children are less committed to their work.
- Members of staff with disabilities are more likely to be sick than the average member of staff.
- Older workers lack ambition and enthusiasm.
- Part-timers are less committed to their work than full-timers.

10 Disability and Reasonable Adjustments

10.1 The Equality Act in relation to disability is based on the principle of fair treatment. The Act requires the employer to make reasonable adjustments to remove barriers that prevent disabled individuals from competing for employment opportunities on equal terms with other applicants or members of staff. It also ensures that all members of staff are able to maximise their potential. This may involve reasonable adjustments being identified and put in place to enable the disabled individual to fulfil the requirements of their role. Reasonable adjustment can take the form of, for example, reduced hours, recuperative duties, work station adaptations.

10.2 The Code of Practice states that;

'the duty to make reasonable adjustments arises where a provision, criterion or practice applied by or on behalf of the employer, or any physical feature of premises occupied by the employer, places a disabled person at a substantial disadvantage compared with people who are not disabled.'

10.3 'Provisions, criterion or practice' encompass matters such as arrangements for determining to whom employment should be offered, and terms, conditions or arrangements on which employment, promotion, a transfer, training or any other benefit is offered or afforded.

10.4 The failure to provide reasonable adjustment(s) in these circumstances will be discriminatory. This duty is owed to both existing and prospective members of staff, including contract workers and temporary members of staff.

10.5 In certain cases it may be necessary to conduct an individual risk assessment for a disabled member of staff or applicant to determine whether the individual's particular disability presents any increased risks either to themselves or others. Risk assessments must be specific to the individual, job

role and working environment and must be conducted by a competent risk assessor.

11 Part time workers, agency workers and fixed term employees

11.1 Part time members of staff, agency workers and fixed term employees are protected in legislation against treatment that is less favourable than the treatment of full time workers. Therefore, part timers and fixed term employees should be afforded the same opportunities in employment as full time members of staff.

12 Change Management and Re-structure

12.1 It is unlawful to discriminate on the grounds of a protected characteristic either directly or indirectly in the selection process for redundancies. It is also unlawful to select for redundancy on the grounds of pregnancy or maternity absence.

13 Employment Cycle

13.1 Recruitment and Selection

13.1.1 Every effort should be made to attract applications from all sections of the community and to ensure fair treatment throughout the recruitment process, this includes “positive action” as defined in legislation. Positive Action initiatives are intended to encourage individuals from under-represented groups to apply for posts within the Force.

13.1.2 This will include:

- Checking that job and candidate specifications are relevant and non-discriminatory.
- Ensuring that the wording and images used in job adverts reflect and appeal to all sections of the community.
- Using advertising media that reach all sections of the community.
- Communicating our policy to recruitment and employment agencies.
- Short-listing only those people whose skills and qualifications most closely match the candidate specification.
- Asking fair and consistent questions at interview.
- Monitoring recruitment and selection to ensure equality of opportunity throughout the process and, if necessary, taking steps to eliminate any discriminatory practices.

13.1.3 Under the provisions of the Equality Act it is unlawful for an employer to treat a job applicant with a disability less favourably simply because of their disability. Each case involving an applicant with a disability should be looked at individually and on its merits. The Equality Act limits the circumstances when health – related questions can be asked during recruitment. Questions relating to sickness records can only be asked when a job offer has been

made. Prior to making an offer of employment the only circumstances when health related questions can be asked are:

- a) *Reasonable Adjustments* to enable TVP to provide applicants with the opportunity for reasonable adjustments to be made to the interview process, to ensure all applicants are able to perform to the best of their ability.
- b) *Fitness Questions* to decide whether an applicant can carry out a function that is essential ('intrinsic') to the role. For example in recruiting for a PCSO role it is permissible to ask a candidate with a mobility impairment if he/she would be able to patrol on foot for prolonged periods of time

14 Interviewing Technique

14.1 When interviewing job applicants, the panel should ask fair and consistent questions which focus on job and performance issues rather than the candidate's private life. The following are examples of questions which should NOT be asked:

- Are you planning to get engaged or married?
- Do you have children? If so, how old are they?
- When do you plan on retiring?
- What would your husband/wife/partner think about you working late?

14.2 Examples of acceptable questions are:

- If asked to work extra hours at short notice, would you be able to do so?
- This job involves some travelling away from home, would that pose any problems for you?

14.3 It is not necessary to be employed by the organisation to make a claim of discrimination. Job applicants who believe they have been discriminated against during the recruitment process can make a claim to an Employment Tribunal.

15 Promotion and Career Development

15.1 When making decisions on promotions and career development, managers should focus on members of staff as individuals, with particular talents and experiences, rather than make assumptions based on any protected characteristic.

15.2 Where for example, in the past, jobs have been undertaken mainly by one gender or race, efforts should be made to encourage others to apply for these posts.

15.3 Members of staff who are disabled must be given the same opportunities for promotion and selection for specialist posts as non disabled staff and each case must be determined on an individual basis. Reasonable adjustments must be considered to ensure that the disabled member of staff has equality of opportunity in promotional, selection and recruitment processes.

16 Learning and Development

16.1 The role of learning and development is to improve performance in the post, to develop skills, and to prepare individuals for future roles and responsibilities. As with promotion and career development, managers should focus on the development needs of individuals. For example, priority should not be given to making learning available to a man in preference to a woman, and it should not be assumed that family commitments of either men or women will limit their career ambitions. All learning and development materials should be checked to ensure that the language and images used in them reflect the diversity of our staff and customers. All reasonable efforts will be made to accommodate the specific needs of disabled members of staff. A range of learning opportunities, such as open learning, e-learning and regional seminars, may be offered where appropriate to ensure that all staff have equal access to learning opportunities irrespective of location or hours of work.

17 Responsibilities of Thames Valley Police

- To comply with the letter and spirit of this policy.
- To value diversity in society and in our workforce as a means of broadening the Force's talent base, achieving the highest levels of performance, and enabling all members of staff to reach their full potential.
- To identify the various behaviours and barriers that discrimination can take, and understand the negative effect these can have on the Force and its staff and customers.
- To dispel the myth that only certain types of people are suitable for certain types of jobs or training.
- To monitor the application of the Diversity in Employment policy, and work towards eliminating any discriminatory practices which may be limiting the Force's ability to achieve its objectives, thereby maintaining our reputation as a fair and responsible employer in the eyes of the Force's staff, stakeholders, customers, and the public at large.

18 Responsibilities of the member of staff

- To comply with the letter and spirit of this policy.
- To be aware of the various behaviours and barriers that lead to discrimination and understand the negative impact these can have on the Force, our customers and colleagues.

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- To be sensitive to the potential impact of your own behaviour on colleagues, customers and job applicants.
- To co-operate with management in the elimination of any discriminatory practices which may be identified.

19 External Force Events

19.1 It is important for members of staff to understand that this policy extends beyond the immediate workplace and includes external training courses, visits to conferences and other Forces. It also includes social events related to work, whether formal or informal such as departmental/team events/parties.

20 Grievance Resolution

20.1 If any member of staff believes that they have been unfairly discriminated against or harassed they should refer to the Force Grievance Policy which provides a structured approach to investigating and resolving such complaints including details of options for formal and informal resolution to conflict. Alternatively, it may be appropriate to speak to someone about the problem, for example his/her line manager or supervisor, a representative from the Police Federation, UNISON, or one of the staff associations.

21 Monitoring

21.1 Human Resources will maintain records of the age, race, gender, marital status, and disability of job applicants and existing members of staff. However, it is the responsibility of managers to apply the Managing Diversity Policy at local level. Any patterns of under representation (for example, where one gender or race appears to have a consistently reduced chance of promotion) should be fully investigated in conjunction with Human Resources, and if possible, any discriminatory practices identified and eliminated.

22 Challenges & Representations

22.1 All challenges and representations regarding this policy should be made in writing to:

Head of Human Resources
Thames Valley Police
Oxford Spires Business Park
Langford Lane
Kidlington
Oxon
OX5 1NZ

23 Communication

23.1 Links to the Force Equality Scheme, Force Policies and Procedures

23.1.1 This policy should be linked to the:-

- Police (Conduct) Regulations
- Grievance Policy
- Disciplinary Procedure - Support Staff
- Poor Performance and Attendance
- Transsexual Policy
- Managing Organisational Change
- Flexible Working Policy
- Volunteer Policy
- Thames Valley Police Equality Scheme (all six strands of diversity)

24 Communications Strategy

24.1 This policy will be published on the Policy Management Unit site and a link will be made to the Human Resources Intranet site. An entry will be made in Force Weekly Orders and an article will be published in Managers' Briefing, to advise all staff of the new policy and direct them to policy on the Intranet site.

25 Compliance and Certification

(i) Legal Basis

This policy has the Acts of Parliament and European Regulations specified at paragraph 3 above as its legal basis.

(ii) Human Rights Articles Engaged

This policy has the potential to engage Article 8 Right to Respect for Private and Family Life. For example private information may be required from DDA staff in order to identify appropriate reasonable adjustments. A public authority may interfere with the exercise of this right in accordance with the law and as is necessary in a democratic society in the interests of:-

- national security
- public safety or the economic well-being of the country
- the prevention of disorder or crime
- the protection of health or morals
- the protection of rights and freedom of others

(iii) Prohibition of Discrimination

There is potential to engage Article 14 of the Convention of Human Rights. All those involved in the application of this policy must ensure that actions taken as a consequence of this policy are applied fairly and impartially with due regard for natural justice and human rights. The enjoyments of the rights and freedoms set forth in the Convention shall be secured without discrimination on any grounds.

26 Diversity Impact Assessment

26.1 The policy author has completed the Diversity Impact Assessment.

27 Diversity (Human Resources)

27.1 In the application of this policy, the Force will not discriminate against any persons regardless of their gender, sexual orientation, marital status, race or ethnic origin, religion, age, disability.

27.2 Human Resources will maintain records of the age, race, gender, marital status, and disability of job applicants and existing members of staff. However, it is the responsibility of managers to apply the Managing Diversity Policy at local level. Any patterns of under representation (for example, where one gender or race appears to have a consistently reduced chance of promotion) should be fully investigated in conjunction with Human Resources, and if possible, any discriminatory practices identified and eliminated.

28 Data Protection

28.1 It is not foreseen that any personal data will be processed directly as a result of compliance with this policy. Compliance with other policies will result in the processing of personal data and any personal data processed in compliance with those policies will be managed in accordance with the provisions of the Data Protection Act 1998.

29 Freedom of Information Act

29.1 This policy is suitable to be made available to the public via the Thames Valley Police Freedom of Information Publication Scheme website.

30 Protective Markings

30.1 This document been assessed for its correct level of protective marking and is **NOT PROTECTIVELY MARKED**.

31 Health & Safety at Work

31.1 This policy is to be read in conjunction with the Force Health and Safety Management Policy and Health & Safety Manual, which set out the requirement for documented risk assessment by a competent person, when exposure to a particular hazard arising from workplace or pre-planned policing work activity can be said to be reasonably foreseeable.

32 Monitoring and Review

32.1 This policy contributes to the following strategic objective:

- To improve the use of our resources

25 Compliance and Certification

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32.2 This policy document will be reviewed every two years. The review will take into account the following criteria:

- Changes in legislation
- Court rulings – Domestic, European and Human Rights
- Examples of good practice from other Forces or other organisations
- Changes in Home Office Circulars
- Developments with ACPO Policy Unit
- Representations made by individuals and relevant organisations
- Relevant Race Equality data

This policy will next be reviewed in December 2013.

For use by the Policy Management Unit Only

<u>Chief Officer Policy Authorisation</u>	
Policy signed off by:	
Head of Human Resources	Date