# Sexual Orientation Policy

**Reference No.** P34:2004

**Implementation date** December 2004

**Version Number** 2.0

## Linked documents

<table>
<thead>
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<tr>
<td>P14:2012</td>
<td>Force Equality and Diversity Statement</td>
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## Suitable for Publication

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<thead>
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<tr>
<td>Policy Section</td>
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<tr>
<td>Procedure Section</td>
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## Protective Marking

Not Protectively Marked

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PRINTED VERSIONS SHOULD NOT BE RELIED UPON. THE MOST UP TO DATE VERSION CAN BE FOUND ON THE FORCE INTRANET POLICIES SITE.
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1 Policy Section

1.1 Statement of Intent – Aim and Rationale

Dorset Police is committed to equality and diversity within its workforce, this policy provides guidance and information to assist all members of Dorset Police in understanding the legislation in relation to sexual orientation and to ensure that working conditions exist where all officers and staff treat each other with respect and sensitivity regardless of their sexual orientation. This policy is internally focussed but has relevance from a service delivery perspective and can be utilised for information when engaging with members of the public.

1.2 Our Visions and Values

Dorset Police is committed to the principles of “One Team, One Vision – A Safer Dorset for You”

Our strategic priority is to achieve two clear objectives:

- To make Dorset safer
- To make Dorset feel safer

In doing this we will act in accordance with our values of:

- Integrity
- Professionalism
- Fairness and
- Respect

National Decision Model

The National Decision Model (NDM) is the primary decision-making model used in Dorset Police. The NDM is inherently flexible and is applied to the development and review of all policy, procedure, strategy, project, plan or guidance. Understanding, using and measuring the NDM ensures that we are able to make ethical (see Code of Ethics), proportionate and defensible decisions in relation to policy, procedure, strategy, project, plan or guidance.

Code of Ethics

The Code of Ethics underpins every policy, procedure, decision and action in policing today. The Code of Ethics is an everyday business consideration. This document has been developed with the Code of Ethics at the heart ensuring consideration of the 9 Policing Principles and the 10 standards of professional behaviour. Monitoring is carried out through the Equality Impact Assessment process which has been designed to specifically include the Code of Ethics.
1.3 People, Confidence and Equality

This document seeks to achieve the priority to make Dorset feel safer by securing trust and confidence. Research identifies that this is achieved through delivering services which:

1. Address individual needs and expectations
2. Improve perceptions of order and community cohesion
3. Focus on community priorities
4. Demonstrate professionalism
5. Express Force values
6. Instil confidence in staff

This document also recognises that some people will be part of many communities defined by different characteristics. It is probable that all people share common needs and expectations whilst at the same time everyone is different.

Comprehensive consultation and surveying has identified a common need and expectation for communities in Dorset to be:-

- Listened to
- Kept informed
- Protected, and
- Supported.

2 Standards

2.1 Legal Basis

Sexual Orientation is a protected characteristic as defined by the Equality Act 2010 and therefore provides protection from unlawful discrimination, harassment and victimisation.

The Human Rights Act stipulates that all have the right to private and family life.

Marriage (Same Sex Couples) Act 2013.

2.2 People, Confidence and Equality Impact Assessment

During the creation of this document, this business area is subject to an assessment process entitled “People, Confidence and Equality Impact Assessment (EIA)”. Its aim is to establish the impact of the business area on all people and to also ensure that it complies with the requirements imposed by a range of legislation.
2.3 Monitoring / Feedback

This policy will be monitored in line with the Equality Act 2010 to ensure that procedures for the employment of staff are fair, equitable and consider individual protected characteristics. Use of the policy will be monitored via our internal performance frameworks in particular through grievances. Outcomes of the policy will also be measured and monitored through internal processes such as the staff survey. How this policy contributes to the general duties and specific duties of the Equality Act 2010 will also be monitored through our equality objectives and our People, Confidence and Equality Strategy.

Feedback relating to this policy can be made in writing or by e-mail to

Address: Strategic People, Confidence and Equality Manager, Corporate Development, Police Headquarters, Winfrith, Dorchester, Dorset. DT2 8DZ

E-mail: peopleandequality@dorset.pnn.police.uk

Telephone: 01305 223755
3 Procedure Section

3.1 Equality Act 2010

The Equality Act 2010 prohibits discrimination on the grounds of sexual orientation in employment. This legislation specifically prohibits direct and indirect discrimination, harassment and victimisation because of sexual orientation. This Act repeals the Equality Employment (Sexual Orientation) Regulations (2003).

3.2 Definitions

Sexual orientation means a person’s sexual orientation towards:

(a) persons of the same sex;
(b) persons of the opposite sex; or
(c) persons of either sex

In relation to the protected characteristic of sexual orientation:

(a) a reference to a person who has a particular protected characteristic is a reference to a person who is of a particular sexual orientation;
(b) a reference to persons who share a protected characteristic is a reference to persons who are of the same sexual orientation.

3.3 Discrimination

Discrimination under the Equality Act 2010 takes a number of forms:

3.3.1 Direct Discrimination

Breaks down into three different sorts of direct discrimination of treating someone 'less favourably' because of:

- their actual sexual orientation (direct discrimination)
- their perceived sexual orientation (direct discrimination by perception)
- the sexual orientation of someone with whom they associate (direct discrimination by association).

3.3.2 Indirect Discrimination

Occurs when a provision, criterion or practice is neutral on the face of it, but its impact particularly disadvantages people with a protected characteristic, unless the person applying the provision can justify it as a proportionate means of achieving a legitimate aim.
3.3.3 Victimization

Takes place where one person treats another less favourably because he or she has asserted their legal rights in line with the Act or helped someone else to do so.

3.3.4 Harassment

There are three types of harassment under the Equality Act 2010:

1. unwanted conduct that has the purpose or effect of creating an intimidating, hostile, degrading, humiliating or offensive environment for the complainant, or violating the complainant’s dignity
2. unwanted conduct of a sexual nature (sexual harassment)
3. treating a person less favourably than another person because they have either submitted to, or did not submit to, sexual harassment or harassment related to sex or gender reassignment. Takes place where one person treats another less favourably because he or she has asserted their legal rights in line with the Act or helped someone else to do so.

3.4 Working for Dorset Police

The Equality Act 2010 makes it unlawful to discriminate against employees in a variety of circumstances from before employment right through to and past dismissal. This policy also protects police officers who do not fall under a contract of employment but are subject to Police Regulations.

3.4.1 Recruitment and Selection

Recruitment and selection processes must be fair, equitable and transparent, and based on objective competencies over all stages of the process. Managers and supervisors should ensure that all personnel involved in recruitment and selection are trained in the process and are aware of the legislation and have received diversity training.

In respect of police staff recruitment help and guidance can be found in the Police Staff Recruitment and Selection Policy which is available from the Force Document Library.

Laws relating to gay men in particular have changed significantly over time therefore it is possible that applicants may have acquired a past criminal conviction for a matter which is no longer unlawful.

Positive action is permitted in certain circumstances, however, due to the difficulty in collecting information there is currently not a way of demonstrating evidence of under-representation in respect of sexual orientation.

3.4.2 Pay and terms and conditions

It is important to ensure that there are no Terms or Conditions that disadvantage or exclude people because of their sexual orientation, perceived sexual orientation or association with a person of a particular sexual orientation, including parental leave and shift patterns.
3.4.3 Employment References

All employment references provided by the organisation should be fair and non-discriminatory; this includes informal and verbal references if officers and staff are applying for internal transfers, or, after the working relationship is ended. Therefore there should be no reference to a person’s sexual orientation in the provision of references.

3.4.4 Genuine Occupational Requirement

A genuine occupational qualification allows discrimination on the grounds of sexual orientation where, being of a particular sexual orientation is a genuine and determining requirement for the employment in question. Occupational requirements must meet the objective justification test which requires it to be 'a proportionate means of achieving a legitimate aim'. Any occupational requirements should be reviewed regularly for relevance to ensure validity of a claim. This is only likely to occur in extreme circumstances where there may be a requirement for a specific sexual orientation to deal with a specific issue; however the aim of Dorset Police, through the support of this policy and diversity awareness training, seeks to ensure that a need for any role with an occupational requirement is minimal.

3.4.5 Pension Provision

It is unlawful to discriminate in making contributions to a pension scheme as part of the terms and conditions of employment. The Marriage (Same Sex Couples) Act 2013 also means that same sex couples may marry as opposed to only being able to enter a civil partnership; however survivor benefits in relation to civil partnerships should be checked with the pension provider.

3.5 Confidentiality

There is no specific legal requirement to keep information on how staff groups are made up in respect of sexual orientation; however it is considered good practice. Dorset Police do not currently collect this data formally from officers and staff in the organisation, however this data is collected through recruitment processes and is recorded on an individual’s personnel record. Providing this information is not mandatory. Access to this information is restricted to HR representatives and the Strategic People, Confidence and Equality Manager.

A person’s sexual orientation or any concerns they raise should be kept confidential unless they have made it clear they are happy for the information to be shared. Some people are uncomfortable with talking about their private lives at work and this can be particularly the case for lesbian, gay and bisexual people who are not ‘out’ at work.
3.5.1 ‘Outing’ Someone

Where a person’s sexual orientation is revealed by another person against their wishes or without their permission it may be seen as unlawful harassment. It could also breach the Data Protection Act, if details of their sexual orientation are kept in confidence on file. There is also the risk of damaged trust in the organisation.

3.5.2 ‘Coming Out’ at Work

When an individual tells other people about their sexual orientation this is known as ‘coming out’. This process is different for everyone. While many lesbian, gay and bisexual people are ‘out’ in their personal lives, they may not want to ‘come out’ at work and vice versa.

No officer or member of staff should feel under any pressure to ‘come out’ and only the individual themselves will know if and when the time is right for them. No managers or colleagues should force the issue or threaten to ‘out’ someone, this could be deemed as harassment.

Dorset Police seeks to provide a working environment where individuals feel safe in talking about their sexual orientation. If an employee decides to be open about their sexual orientation at work, it is important for them to decide who they want to tell, this may include:

- A point of contact in the organisation such as support network representative (details can be found on SharePoint), Union or Federation equality representative, equality lead
- A manager who will react positively
- Human Resources department
- Colleagues who are friends
- Everyone

If an officer or member of staff is limiting who they tell they may also need to decide whether they want those people to keep the details of their sexual orientation confidential.

3.6 Employer/Employee Liability

Police Forces are ‘vicariously liable’ for the acts of their employees whether or not they knew or approved of them. It is therefore imperative that all reasonable steps are taken to prevent and to ensure staff act with integrity, fairness and respect for all. Officers and staff should be aware that if they harass colleagues they could also be personally liable for disciplinary action or even prosecution, and ordered to pay compensation. It should also be understood that to say “no offence was intended” may not constitute a defence. In addition, an absence of complaint from the individual being harassed does not mean that harassment has not taken place. There are appropriate policies and procedures in place that will be used to address any such occurrences.

3.7 Stereotyping

Stereotyping should be avoided. Stereotyping can lead to problems, particularly concerning direct discrimination. Stereotyping can also trigger harassment and victimisation.
3.8 Unacceptable terminology

Derogatory terms that refer to somebody’s sexual orientation are clearly unacceptable and discriminatory and will not be tolerated.

It must be remembered that discrimination might not only affect those who are part of a smaller group, it can affect others too. All members of Dorset Police should be careful not to overlook potentially offensive comments simply because they are aimed at a large part or majority of the workforce.

It is important for everyone to remember that certain words have the potential to cause offence and therefore there is a need to be considerate as to how such words might be perceived by others. With discrimination, it is often how the recipient perceives words and actions, rather than the intention of the person delivering them.

The term ‘banter’ is often used when there is disparity between what was intended by one person and how it is perceived by another. Managers should manage situations where a ‘joke’ or ‘banter’ has caused offence or upset. Sometimes these situations can be dealt with through words of advice, in other situations, it may be appropriate to consider a more formal approach such as disciplinary action.

3.9 Considerations and Action

All members of Dorset Police should make sure they understand what sexual orientation discrimination is and how it may arise, their rights and responsibilities as outlined throughout this document.

Awareness of what behaviour is unacceptable is essential because many people do not consider that their jokes, nicknames, ‘banter’ or invasive questions may be unlawful.

By their nature sexual matters are private and confidential and therefore managers need to be sensitive to the needs and feelings of their staff. Managers must make it clear to staff that Dorset Police will not tolerate harassment and bullying. Action should be taken to reassure staff of the confidentiality of procedures, and highlight the duty of care to protect employees from damaging behaviour.

Whilst sexual orientation is part of diversity training, managers should be mindful that it is easy to discriminate indirectly or for the organisation to be accused of harassment.

It should not be assumed that everyone is heterosexual, and therefore if a department or squad offer the opportunity of a social gathering that extends to partners of officers and staff, care should be taken with the wording of invitations/posters etc to ensure inclusion of those with same sex partners.

All officers and staff should have respect for all individuals regardless of their sexual orientation.

Officers and staff who feel they are being discriminated against or harassed may prefer to approach the person concerned, making it clear that their behaviour is unwelcome and that it should stop.

In cases where they feel they are unable to do this they should discuss the situation with their line manager or one of the following:
• Relevant Human Resources Business Support Team;
• Strategic Confidence and Equality Manager
• Welfare Officer;
• Police Federation or Unison;
• Superintendent’s Association;
• Support Network Representative (contact details on SharePoint).

Formal complaints should be dealt with under the Grievance Resolution Policy and Procedure. If a member of staff feels they have been the subject of bullying or harassment managers should deal with the issue promptly, referring to the Grievance Resolution Policy and Procedure and seeking advice from the relevant Human Resources Business Support Team.

3.10 Hate crimes and incidents

It should be recognised that there are occasions where officers and staff may be subject to hate crimes and incidents because of their sexual orientation or perceived sexual orientation. Procedures for dealing with reports of hate crimes and incidents are contained within the Forces’ Hate Crimes and Incidents Policy which can be accessed via the Force document library. Officers and staff who are victims of hate crime or incidents can access support from any of the Force Equality Champions and Victim Support. A dedicated

3.11 Supporting officers and staff

Whilst there is no longer a national GPA (Gay Police Association), there is a support network that officers and staff can access via the mailbox.LGBT, and this network can offer support and guidance in accessing appropriate information and agencies. The development of a South West Regional Group is currently being explored.
4 Consultation and Authorisation

4.1 Consultation

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(If applicable)

4.2 Authorisation of this Version

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<td>Quality assured: Teri Roberts</td>
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5 Version Control

5.1 Review

Date of next scheduled review | Date: 1 YEAR FROM PUBLICATION
### 5.2 Version History

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<td>Initial Document</td>
<td>Mrs H Knight</td>
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<td>Dec 2004</td>
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<td>Miss M Ashdown</td>
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<td>1.2</td>
<td>June 2006</td>
<td>HR Designation Changes</td>
<td>Mr S Hounsell</td>
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<td>Feb 2012</td>
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<td>August 2012</td>
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<tr>
<td>2.0</td>
<td>August 2015</td>
<td>Full review and version change. Legislation updated to include Human Rights Act.</td>
<td>Mrs K Duke-Glover</td>
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- Included section on working for Dorset Police, inclusion of police officers.
- Recruitment section updated.
- References section updated.
- Added information re: previous convictions.
- Terms and conditions section added.
- Section on outing and coming out added.
- Considerations and actions section added.
- Support networks section added.

### 5.3 Related Forms

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Details only required for version 1.0 and any major amendment ie 2.0 or 3.0:

- **Name of Board:** Confidence and Equality Board
- **Date Approved:**
- **Chief Officer Approving:** DCC Vaughan