



Metropolitan Police Authority

Human Resources Committee – 4 September 2003

IMPLICATIONS OF THE EMPLOYMENT EQUALITY (RELIGION OR BELIEF AND SEXUAL ORIENTATION) REGULATIONS

Report by the Commissioner

Summary

This report updates members on the main issues of the Draft Employment Equality (Religion or Belief and Sexual Orientation) Regulations 2003, the resulting discrimination legislation, the implications for MPS staff and the actions HR Directorate are taking in preparation for the new regulations.

A. RECOMMENDATION - That

members note the contents of this report.

B. SUPPORTING INFORMATION

Introduction

1. The European Directive establishing a general framework for equal treatment in employment and occupation requires member states to implement the requirement for equal treatment on the grounds of Sexual Orientation and Religion or Belief. As a result the Draft Employment Equality (Religion or Belief and Sexual Orientation) Regulations come into force on 2 December 2003 and represent a further step towards tackling discrimination in the workplace. The MPS recognises that tackling discrimination helps attract, motivate and retain staff and enhances our reputation both as an employer and within the community.
2. The Regulations cover access to employment, self-employment or an occupation. This includes selection criteria and recruitment conditions, promotion, access to vocational guidance, vocational training and re-training, work experience and working conditions.

Definitions

3. The following definitions will apply under the new legislation:

Definition of religion

4. Religion is not specifically defined in the legislation except to say it covers any religion, religious belief or similar philosophical belief. In practical terms this means it covers not only mainstream religions (Buddhism, Christianity, Hinduism, Islam, Judaism, Sikhism) but also

those that are less well known such as Druidism, Jainism and Zoroastrianism. In addition it covers the right not to have a religion or belief.

Definition of belief

5. This inclusion of an employee's 'beliefs' within the scope of the directive is an area of particular interest to employers. The definition of this term is unclear, except to say it does not cover political belief, but it is a much wider concept than religion and will undoubtedly be tested.
6. Issues in this area could arise in connection with an employee's reluctance to handle particular services/products because of their beliefs. Part of what this legislation is doing, is recognising the individuality of employees, and employers will be required to take a more flexible approach to individual needs/requests.

Definition of sexual orientation

7. Sexual orientation is defined in Draft Employment Equality Regulation 2 as meaning a sexual orientation towards persons of the same sex, persons of the opposite sex, or to both persons of the same sex and of the opposite sex. Direct discrimination occurs where a person is treated less favourably than another on grounds of sexual orientation. Indirect discrimination, defined in the draft regulation 3(1)(b), occurs where a provision, criterion or practice, which is applied generally, puts persons of a particular sexual orientation at a disadvantage and cannot be shown to be a proportionate means of achieving a legitimate aim.
8. Victimisation, defined in draft regulation 4, occurs where a person receives less favourable treatment than others by reason of the fact that they have brought (or given in) proceedings, made an allegation or otherwise done anything under reference to the Regulations. Harassment, defined in the draft regulation 5, occurs where a person is subjected to unwanted conduct on grounds of sexual orientation with the purpose or effect of violating their dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Draft regulations 6 to 21 prohibit discrimination, victimisation and harassment in the fields of employment and vocational training.
9. The HR Directorate are currently in the process of reviewing the MPS Equal Opportunities Policy which is due to be completed in October 2003. These definitions will be incorporated into the refreshed document, which will be reported to this Committee later this year.

Implications for the MPS

10. The MPS is currently giving consideration to the following issues: -

Conflicting rights:

11. A conflict of rights could arise between followers of one religious group and another e.g. some faiths frown on homosexuality and orthodox followers could express a wish not to work alongside a gay colleague.

Hence, our revised Equal Opportunities policy will make it clear that no one individual's rights may be exercised at the expense of another's and individual rights are respected in the broader context of respect and dignity for all members of staff within the organisation.

Data monitoring:

12. At present there will be no legal obligation to monitor staff's personal data in respect of sexual orientation and faith or belief. However, the GLA, as part of the Budget and Equalities Review, have made it clear that they expect the MPSs' staff monitoring to reflect the new census categories and to include faith, age and sexuality. This monitoring will assist us to identify how the MPS currently reflects the community we serve and to consider how we can assist these minority groups with support on retention and progression. We can then start to monitor any disproportionality in key HR processes.
13. A HR Directorate led working party including representatives from key Units/Directorates e.g. DOIT and the Strategic Disability Team and MetHR are progressing this data collection process.

Holidays:

14. Many religions or beliefs have special festival or observance days. We anticipate some staff may request holiday or special leave in order to celebrate festivals or attend ceremonies. Wherever reasonable and practical, requests for such leave will be granted. Care will also be taken to ensure that such requests do not disadvantage those whose religion or belief does not have festivals or observance days.
15. In managing the differing demands of groups of employees wanting to take a particular period of time off, we will consider the following issues:
 - Providing a flexible package of holidays (other than the core days when everyone has to work or everyone is off) enabling employees to choose when they take their holidays.
 - Anticipating the main religious and cultural festivals or holy days of the main religions.
 - Being alert to the fact that some religious festivals are held at very short notice, e.g. based on lunar calendar - Kurvachoit (National holidays in the UK tend to be based on the Christian calendar).
 - Being aware of how the workforce is made up so that time off and the impact on the work schedule can be anticipated and managed.
16. MPS Staff Support Associations will be helpful in providing religious festivals/events information in advance, for purposes of accommodating staff needs.

Work patterns:

17. We anticipate that some employees may request particular time off during the working day for religious observance, or may request different working patterns in the winter and summer – for example

orthodox Jews may not want to work past sun-down. We will need to consider how this might impact operational needs and whether the request can reasonably be accommodated.

Additional issues for consideration

Appearance:

18. Although our dress code already accommodates some religious considerations e.g. turbans and hijabs, we will review our current policies on dress codes, including operational risk assessments on such issues as, bans on beards, tattoos, body henna, religious artefacts e.g. daggers (kirpans).

Time off for religious observance:

19. This could be for prayers during the working day, or to observe 'the Sabbath' on a particular day of the week. We will need to consider the amount of time requested and the frequency and consider whether this will be paid time. Consultation on this issue will be made with the Directorate of Legal Services.

Prayer facilities:

20. We already provide prayer facilities at Hendon Training Schools and are also considering, whether to provide in-house facilities, or enable employees to attend local facilities across the MPS. Good practice advocates that the facility must be disability friendly and washing facilities must also be provided in the room, as it is a requirement of some faiths to fulfil certain rituals. Caution must be exercised when displaying religious artefacts, as these may be potentially insensitive to other faiths. A symbol of good practice by the organisation would be to provide a separate locked storage and a multi-purpose room. However, the biggest concern remains accommodation, particularly in smaller buildings with limited space.

Flags/emblems/sectarian humour:

21. Diversity Directorate are considering the MPS stance on flags, emblems and sectarian humour. Options include introducing a ban on these items, or whether to follow a more low key approach whereby attention is drawn to the MPS's Dignity at Work guidance.

Recruitment:

22. In quality assuring our police and civil staff recruitment processes we will ensure that there are not any unnecessary selection criteria or standards, which might prevent people from applying because of religion or belief or their sexual orientation.
23. Similarly, we will ensure applicants are clear about what the post actually entails through our candidate information packs. This will give them the opportunity to consider whether there is any chance it might conflict with their religious or belief convictions or with their non-religious or belief convictions.

24. In line with National Police Recruitment Standards, we will ensure, at interview, selection questions are relevant only to competences and not personal circumstances.

Retention and training:

25. The ethos of MPS opportunities for promotion and training are that they are made known to all staff and are available to everyone on a fair and equal basis. We will need to consider adapting method of training delivery if current arrangements disadvantage someone because of religion or belief. This is particularly relevant if our training takes place outside normal working hours, work place or in a residential environment.
26. The Diversity Training School continues to deliver the Phase 1 Community and Race Relations (CRR) Diversity Training to all MPS staff, now on a catch up basis as over 99% of all staff have attended their Phase 1 course.
27. Additionally, the Diversity Training School have started on a pilot form Phase 2 Diversity Training for all MPS staff which focuses on internal culture and gender issues. This pilot is currently being trained in eight OCU's within the MPS. Future phases of diversity training over the next five years have been put into the Diversity Training School five-year plan, written in February 2003.
28. When delivering training, issues in relation to inappropriate comments/jokes and the use of inappropriate language need to be dealt with swiftly. Generally acceptable words concerning sexual orientation are heterosexual, bisexual, lesbian and gay. Any other words may be offensive and their use may be regarded as harassment. Trainers are regularly updated on challenging unacceptable behaviour.

Dietary needs:

29. Some religions or beliefs have specific dietary requirements. The MPS has already made some in roads into accommodating these needs e.g. the provision of a separate fridge at Hendon for kosher food, during Passover and halal meat being available in canteens. However, we acknowledge that this best practice needs to be extended across the organisation.

Data protection and confidentiality:

30. By their very nature, sexual matters are private and confidential. Although some people are comfortable talking about their partner, many people who have same sex partners or who have both same sex and opposite sex partners do not share that information with their managers and colleagues. They may find it very difficult to make a complaint or be fearful that by making a complaint they will be 'outed' in the workplace. Strenuous efforts will be made to reassure staff of confidentiality. Personal information must be maintained in the strictest confidence and this will be conveyed to all staff, particularly HR

specialists within the data gathering process.

Staff representation:

31. The MPS have a healthy relationship with Staff Support Associations representing minority groups within the Service. A full list of associations is attached at **Annex A**. These associations are frequently consulted on a range of issues and a regular meeting is held with the Assistant Commissioner, Human Resources.

Action being taken in preparation for the legislation

32. In preparing for the implications of the regulations HR Directorate is working closely with the Diversity Directorate and DOIT in progressing the following actions:
 1. A HR led working party will work to introduce a questionnaire to all staff within the MPS to gather personal data of staff relating to sexual orientation, faith or belief and disability. The data is due to be collected by November 2003.
 2. DOIT and the Strategic Disability Team will work to progress the improvement of the recruitment, retention and progression of staff in minority groups e.g. mentoring scheme.
 3. The MPS Equal Opportunities Policy will be reviewed and refreshed outlining the changes in discrimination. Also ensuring all staff receive guidance on their individual responsibilities. The target date for completion of the work is October 2003.
 4. All HR Policies are being reviewed to ensure that policies do not discriminate on the grounds of sexual orientation, faith or belief and disability.
 5. A disproportionality analysis will be conducted of key HR processes in line with the Race Relations Amendment Act. This is scheduled for December 2003.
 6. Although not directly linked to the Employment Equality Regulations 2003, the issue of age discrimination, and proofing our HR policies and processes against it, is also being progressed.

C. EQUALITY AND DIVERSITY IMPLICATIONS

The Employment Regulations 2003 will have a direct impact on ensuring the MPS is progressing equal opportunities and taking into account the individual needs of those specific minority groups.

D. FINANCIAL IMPLICATIONS

There are no direct costs; however, as actions are progressed, costs may arise, e.g. cost of data collection process. It is anticipated that these will be met from within existing budgets.

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Background Papers: ACAS Guidelines on Fair Practice.

Metropolitan Police Staff Support Associations

List of associations currently recognised by MPS:

- Association of Muslim Police
- Association of Senior Women Officers
- Black Police Association
- British Association of Women Police
- Christian Police Association
- Disabled Staff Association
- Gay Police Association
- Jewish Police Association
- Metropolitan Police Hindu Association
- MP Greek Staff Association
- MP Sikh Association
- Police Anglo Italian Staff Association
- Turkish and Turkish Cypriot Association

