1. Policy statement

The Office of the Police and Crime Commissioner is committed to equality of outcome, conditions or results for all employees. The Office of the Police and Crime Commissioner will ensure all employees regardless of their sexual orientation, are treated with fairness, dignity and respect.

The Office of the Police and Crime Commissioner seeks to create a culture, workplace and learning environment that is free from discrimination, harassment or victimisation.

The Dignity at Work policy and this How to Guide have been written in compliance with the Equality Act 2010, the ACAS Equalities guidance, the Inclusive Employers Recruitment and Retention of Transgender Staff guidance and Stonewall guidance.

2. Scope

All employees of the OPCC.

3. How to use this document

This document is not part of the formal policy. Instead it provides additional information to help you in the practical day to day application of the policy.

While the wording of this guide is addressed to the Manager, it sets out the guidance for all employees – the manager, a transitioning employee, their colleagues and members of HR.

Throughout the guide, a ‘requirement’ is indicated by the word ‘must’ and the word ‘should’ is used to indicate actions or processes that are considered to be best practice.

All employees must adhere to the Dignity at Work policy when using this guide.
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4. Introduction

Principles

As a manager you are vital in ensuring employees within your team are aware of the standards of behaviour expected of them. You must set a good example of appropriate behaviour in the workplace at all times.

You must ensure through your everyday management practices that you:

- do not treat someone less favourably because of their sexual orientation
- do not directly or indirectly discriminate against an employee because of their sexual orientation
- do not subject an employee to harassment or allow an employee to be subject to harassment because of their sexual orientation
- do not victimise an employee because of a complaint or allegation that they have made
- do not discriminate against an employee due their sexual orientation once they have left the OPCC.

Intended outcomes

The aims of the Dignity at Work policy and this how to guide are to:

- ensure equality for all employees regards of their sexual orientation
- eliminate discrimination, harassment and victimisation and other conduct prohibited by the Equality Act
- foster good working relationships between employees who share a relevant protected characteristic and employees who do not
- define the action that will be taken for behaviour or conduct which falls short of the OPCC’s expected standards of behaviour.

5. Supporting the employee in the workplace

Your role as a manager

As a manager you may be approached by an employee who is considering ‘coming out’ in the workplace.

You should be aware that it can be an extremely difficult step for an employee to tell you about their sexual orientation. You need to be able to listen, and agree an approach that suits the employee’s needs.

The best approach is to agree a plan/ strategy with the employee involved which can be amended/ adapted over time.
What do I need to do as a manager?

If you are approached by an employee you need to be able to:

- listen and show support to the employee
- recognise the employee could have a range of different experiences or objectives that they may want to discuss
- recognise each employee is unique and will have their own specific timeframe/pace in which they may be planning to come out
- review action plan and frequency for review/support meetings with the employee
- obtain advice from HR Operations, or the LGBT+ network as appropriate.

Making a plan

Your first action if an employee approaches you is to arrange a meeting to discuss their circumstances and to find out how they wish to be supported.

You can then discuss and agree relevant actions with the employee to assist their coming out in the workplace are as smooth as possible. The plan and actions can be changed/adapted throughout the process.

Considerations can include (this list is not exhaustive):

- how and when the employee wishes to inform management, colleagues, associates about their coming out
- whether there may be any difficulties which may arise because the employee has working relationships with outside organisations and discuss about how these difficulties may be resolved
- setting up meetings to monitor/review and to support the employee
- whether any training or guidance is needed to support all employees (not just the employee who has come out or is coming out) in the workplace with the changes which are/have taken place
- advising the employee of the different support networks available within the OPCC
- seeking advice from HR Operations or the LGBT+ network as appropriate
- remember that all information shared and discussed will remain confidential.

A template action plan is available for you and the employee to use.
6. What do the key discussions involve?

**Communication with colleagues**
You should encourage the employee to describe what they think will be best for them in terms of letting their colleagues know (if they wish to). The employee may not be ready to tell anyone else and if that is the case, this should be respected.

**Confidentiality**
You must treat information relating to the employees’ circumstances confidentially.

If there is a need to share information relating to the employee’s particular circumstances with another party, consent must be obtained from the employee before disclosing any information.

If the employee does not consent and there is a conflict between confidentiality and Health & Safety (including risk to the employee), the latter will take precedence. You must inform the employee in such cases and work with them to undertake any disclosures relating to Health and Safety requirements.

If an employee’s status is revealed without their consent you will need to offer them appropriate support and advise them to access the OPCC’s Occupational Health and Wellbeing services.

Please see the support section of this how to guide for contact details.

You must investigate how the ‘disclosure’ of their status occurred and whether any further action under the Managing Misconduct or Managing Performance policies is required.

For further advice please contact HR Operations.

7. How to deal with concerns/ issues raised

**Reporting concerns**
An employee who believes that they are not being treated in line with the expected standards of behaviour or have witnessed such behaviour should report this to you, another manager as soon as possible.

Further guidance can be found in the How to Guide – Dignity at Work.
How to manage a concern that has been raised

There is no formal procedure within this how to guide. If an issue is raised under this how to guide, one of the following HR policies should be used:

If the concern relates to unfair treatment, discrimination, inappropriate behaviour and/or insensitivity that an employee has personally experienced or has witnessed, you must:

- refer to the How to Guide – Dignity at Work for further guidance
- use the Resolving Workplace issues policy to manage the concern in the initial stages and to complete any further enquiries
- dependent on the nature of the concern, you may need to decide the appropriate and proportionate action to take and which policies to apply. You should move to using that policy and you will need to explain this to the parties involved.

You will normally use either:

- the Managing Performance policy – where the failure to comply with the standards of behaviour relates to a lack of skill, knowledge, experience or appropriate behaviours

OR

- the Managing Misconduct policy – where the behaviour/conduct is defined as wilful or negligent or concerns are raised maliciously, for personal gain or where they are known to be untrue.

Dealing with concern related to Religion or Belief and sexual orientation

Some employees who have particular religious belief or cultural views about sexual orientation may claim that their own ‘protected characteristic’ or religion or belief under the Equality Act allows them to refuse to work with or share facilities with employees who are lesbian, gay or bi-sexual.

There is no hierarchy amongst protected characteristics and one protected characteristic is not more important than another.

Although an employee’s religion or belief must be respected it must not be used to discriminate against another employee.

If an employee feels that they have been discriminated against they should report this to you, another manager as soon as possible.

Further guidance can be found in the How to Guide – Dignity at Work.
8. The recruitment and retention of employees

<table>
<thead>
<tr>
<th>Application forms</th>
<th>Applicants may not want to express a title on the application form. If you receive application form which the title has been left blank, you must not challenge the individual identity.</th>
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<tbody>
<tr>
<td>Adverts</td>
<td>When you are advertising a role you must ensure the wording is non discriminatory.</td>
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<tr>
<td>Equality monitoring forms</td>
<td>Equality monitoring is a very important part of the recruitment process. It allows the OPCC to assess whether they are attracting employees from a wide variety of different backgrounds.</td>
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<td></td>
<td>All data collected is anonymised and cannot be used to identity employees. Any information collected will be used and stored in line with the Data Protection Act.</td>
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<tr>
<td>Selection &amp; interview processes</td>
<td>You must be able to produce a shortlisting matrix to assist you in assessing all applicants objectively, fairly and consistently. Assumptions about skill or experience of the employee should not be made and you should only use the evidence that has been provided as part of the selection process.</td>
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<tr>
<td></td>
<td>You must not discriminate against an individual because of their sexual orientation (perceived or actual). For example not appointing or promoting applicants because of their sexual orientation would be seen as discrimination.</td>
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</table>

9. Support

<table>
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<tr>
<th>Support for the manager</th>
<th>Managers: Any queries can be directed to HR Operations on 01962 813915 or <a href="mailto:hradvice@hants.gov.uk">hradvice@hants.gov.uk</a></th>
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<tbody>
<tr>
<td>Support for the employee and colleagues</td>
<td>A confidential counselling service is provided by the Wellbeing Helpline who can be contacted on 0800 030 5182. A wide range of useful advice and information is available via the online support pages.</td>
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<tr>
<td>The Integrated Business Centre (IBC)</td>
<td>The IBC can support with transactional process relating to the employees pay, role, time off arrangements or family friendly processes.</td>
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The IBC do not provide support or guidance on the application of this How to Guide.

Employee queries of a transactional nature should be directed to the IBC through an enquiry form in ESS Lite.

There are national groups/charities that can support employees, managers and colleagues with further information. These include (this list in not exhaustive):

- **Stonewall** - [http://www.stonewall.org.uk/](http://www.stonewall.org.uk/)

  Stonewall is a lesbian, gay, bisexual and transgender (LGBT) rights charity which promotes and supports LGBT employees across all sectors of society.


  EHRC is a statutory non-departmental public body established by the Equality Act. The Commission operates independently and their aim is to be a centre of excellence for evidence, analysis and equality and human rights law.

### 10. Toolkit

Template action plan

### 11. Key definitions (in alphabetical order)

- **Actual or perceived sexual orientation** - where an individual thinks someone’s sexual orientation is for example, lesbian, gay, bisexual and then uses this information against that individual in a discriminatory way.

- **Data Protection Act 1998** - defines UK legislation on the processing of data on identifiable living people and controls how personal information is used by the OPCC.

  There are 'data protection principles' which the OPCC must comply with to ensure that data is managed as follows:

  - used fairly and lawfully
  - used for limited, specifically stated purposes
  - used in a way that is adequate, relevant and not excessive
  - accurate and kept up to date
• kept for no longer than is absolutely necessary
• handled according to an employees data protection rights
• kept safe and secure
• not transferred outside the European Economic Area without adequate protection

**Discrimination** - is treating an individual or group of individuals differently than you would treat other individuals because of their **protected characteristic**. Discrimination may be **direct** or **indirect** and it may occur intentionally or unintentionally.

**Direct discrimination** - occurs where individual is treated less favourably because of one or more of the **protected characteristics**. There are three different types 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).

**Harassment** - is unwanted conduct that has the purpose or effect of violating someone’s dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. Harassment related to any of the **protected characteristics** is prohibited. Examples can include: (this list is not exhaustive) ‘outing’ someone as gay, lesbian and/or bisexual, verbally or physically abusing them because of their sexual orientation or excluding employees from conservations or from social events because of their sexual orientation.

**Indirect discrimination** - occurs where an individual is disadvantaged by an unjustified provision, criterion or practice that also puts other individuals with the same **protected characteristic** at a particular disadvantage. For example a requirement to work full time puts women at a particular disadvantage because they generally have greater childcare commitments than men. Such a requirement would need to be objectively justified.

**Protected characteristic** – the Equality Act 2010 legally protects employees from discrimination in the workplace and in wider society.

The Act defines that it is against the law to discriminate against an employee because of a protected characteristic. There are 9
protected characteristics covered by the Equality Act 2010. They are as follows:

- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race (colour, ethnic or national background)
- religion or belief (including non-belief)
- sex
- sexual orientation.

**Sexual orientation** - is an individual who is sexually and/or emotionally attracted to either people of the same sex (lesbian or gay), opposite sex (straight or heterosexual) or with another gender (bisexual).

**Straight allies** - is a term used to describe heterosexual employees who support that lesbian, gay, bisexual employees should experience full equality in the workplace.

**Victimisation** - this is less favourable treatment of an individual who has complained or given information about discrimination or harassment, or who has supported someone else’s complaint.

### Roles and responsibilities

As the manager you are responsible for:

- providing support to individuals, as well as colleagues of the employee who is planning to come out or has come out
- protecting employees from discrimination, harassment, cyberbullying, victimisation or unfair treatment
- deal promptly and effectively with cases where discrimination, harassment, cyberbullying or victimisation is alleged to have occurred.

All employees are responsible for:

- ensuring they do not subject others to discrimination, bullying, harassment, cyberbullying or victimisation
- challenging inappropriate behaviour
- reporting concerns of unfair treatment, bullying, harassment, cyberbullying, discrimination, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible.
HR Operations are responsible for:
- advising on policy application
- **reporting concerns** of unfair treatment, bullying, harassment, cyberbullying, discrimination, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible

The Trade Union, Professional Association or OPCC work colleague is responsible for:
- advising/ supporting their member/ colleague
- **reporting concerns** of unfair treatment, discrimination, bullying, harassment, cyberbullying, inappropriate behaviour and/or insensitivity to you (or a more senior manager if the concerns are about you) as soon as possible.

### 12. How to guide Governance

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<pre><code>                   | V1.1 August 2017  |
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<p>| Owner:               | HR Policy and Reward Team |</p>