

Equality & Diversity

Complaints and resolution

The Police Federation of England and Wales is committed to the elimination of unfair discrimination and of unjustified treatment on any grounds and the promotion of equality and diversity in all our practices and arrangements.

Resolution

No one benefits from protracted disputes in the workplace and the Federation is committed to helping members resolve complaints at the earliest opportunity. Officers should try to identify at an early stage what they want in order to resolve their grievance and consider practical ways of doing so.

The main purpose of any grievance or fairness at work procedure is to ensure that officers who feel they have been unfairly treated either by management or their colleagues are given an opportunity to have their issue(s) resolved in a fair and just manner. It is important to remember that there is no guarantee of obtaining a resolution and that these procedures are not for establishing blame or providing punishment.

Resolution strategies

Resolution could take the form of:

- **Apology:** This is often hard to achieve as it means someone has to accept that their behaviour caused offence, but it may be possible to get a "statement of regret"
- **Policy revision:** The Force could amend its policies and/or practices and agree to monitor those changes to ensure compliance
- **Compensation:** The Force may pay a sum in recognition of damage or hurt caused
- **Personal needs:** Addressing the needs of the complainant or person complained of, e.g. through training, coaching or mentoring
- **Compassionate or special leave.**
- **Transfer:** One or other party could be offered a transfer to another post, (although transferring a complainant against their wishes could amount to unlawful victimisation)
- **Statement:** The Force undertakes in writing that, e.g. the officer will not suffer future unfair treatment or that they will be shortlisted for promotion opportunities etc
- **Early conciliation:** It may be possible for complaints to be resolved through the pre-claim conciliation process operated by ACAS
- **Mediation:** The Force may be able to facilitate formal mediation, either 'in-house' or using external mediators. These options are not exhaustive but suggest ways a grievance could be resolved quickly, confidentially and without blame being apportioned.

Support by the Federation Representative

The Police Federation trains its representatives to help members who may have a grievance about unfair or potentially unlawful treatment at work, who may be the subject of a grievance, who may be a witness or be otherwise involved.

Representatives can help officers to resolve their complaint within the workplace. They will:

- be objective and independent;
- maintain confidentiality;
- help officers clarify matters and identify relevant information;
- explore the options available to resolve their complaint;
- seek to manage the officer's expectations;
- assist officers to achieve a resolution through Force procedures;



- advise on how and when to use Force grievance procedures; and,
- in appropriate circumstances, support (members/officers) in applying for legal assistance to consider taking a case to an Employment Tribunal.

Both the officer and the representative should keep a detailed diary of events relating to the grievance and should ensure that they keep each other informed of any developments.

Employment Tribunals

Police officers are not "employees" but are covered by some aspects of employment law. They can bring claims where they are treated less favourably because they work part time or because they suffer a detriment for 'blowing the whistle'.

Police officers can also bring claims under the Equality Act 2010 for discrimination linked to a protected characteristic. These are age, disability, gender reassignment, marriage or civil partnership status, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

Claims can be brought for direct or indirect discrimination, harassment or victimisation, failure to make reasonable adjustments and discrimination arising from disability.

Time limits

If an officer has a complaint that they want to pursue in the Employment Tribunal, it must be commenced within three months less one day from the date of the alleged discriminatory act or omission (or last alleged discriminatory act or omission).

An officer who wants to bring such a claim must go through the ACAS early conciliation process before submitting their application to the Employment Tribunal. ACAS early conciliation must be commenced within the three month less one day time period; this has the effect of stopping time for up to one month to enable the parties to try and reach a settlement.

If no settlement is reached, the officer will receive an early conciliation certificate and must include the reference number from this in their claim to the Employment Tribunal as proof that they have engaged with the

conciliation process. Once conciliation has ended, time will start running again and there will be a new, later time limit (although how much time is added will depend on various factors).

(Claims for equal pay can be taken at any time during employment and no later than six months less one day from the end of the employment.)

Liability

The Chief Officer is liable for acts of discrimination, harassment and victimisation carried out by their officers in the course of employment. It does not matter whether or not they know about or approve of those acts. However, chief officers who can show that they took all reasonable steps to prevent their employees from acting unlawfully may not be held liable. An officer may be personally liable for unlawful acts committed in the course of their employment where the Chief Officer is also liable – or would be but for the defence of having taken all reasonable steps to prevent the officer doing the relevant thing. However, an officer will not be liable if they have been told by the force that the act is lawful and they reasonably believe this to be true.

There are no real winners at an Employment Tribunal; the personal costs of taking a claim should not be underestimated. The litigation process can be lengthy and is inevitably confrontational, often resulting in a breakdown of the relationship between the officer and the force, with officers being lost to the service through extended periods of sickness and ill health. Identifying what the member wants and achieving an early internal resolution is the best example of success.

Employment Tribunal awards

An Employment Tribunal can award compensation for injury to feelings, loss of earnings and (infrequently) aggravated damages. Further, and although they are the exception rather than the norm, the Employment Tribunal can order either side to pay costs where a claim or defence had no reasonable prospects of success or where, in bringing or conducting proceedings, a party has acted vexatiously, abusively, disruptively or otherwise unreasonably.

The Employment Tribunal can make a declaration that unlawful discrimination has taken place and make appropriate recommendations as to future actions, although it cannot, for example, recommend that someone be promoted or given an apology.

Funding

Subject to assessment against the Fund Rules and Funding Criteria, the Police Federation can fund an officer's case to the Employment Tribunal. The Federation Representative can seek a legal opinion on the merits of the claim, the potential costs of taking action and the possible damages that might be awarded.

Where one member wants to bring a claim against another individual member, the Federation will assess the costs, merits and benefits of such action in deciding whether to fund both sides of a case. Funding will be regularly reviewed and could be withdrawn at any stage if, for example, the circumstances of the case changes so that there is no longer a reasonable prospect of success, the member refuses a reasonable offer of settlement or otherwise acts against the advice of the instructed solicitors or the interests of the Federation. Members can appeal against legal funding decisions and Joint Branch Boards are encouraged to introduce a Grievance Procedure for members who wish to raise issues of concern about their treatment or representation.

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