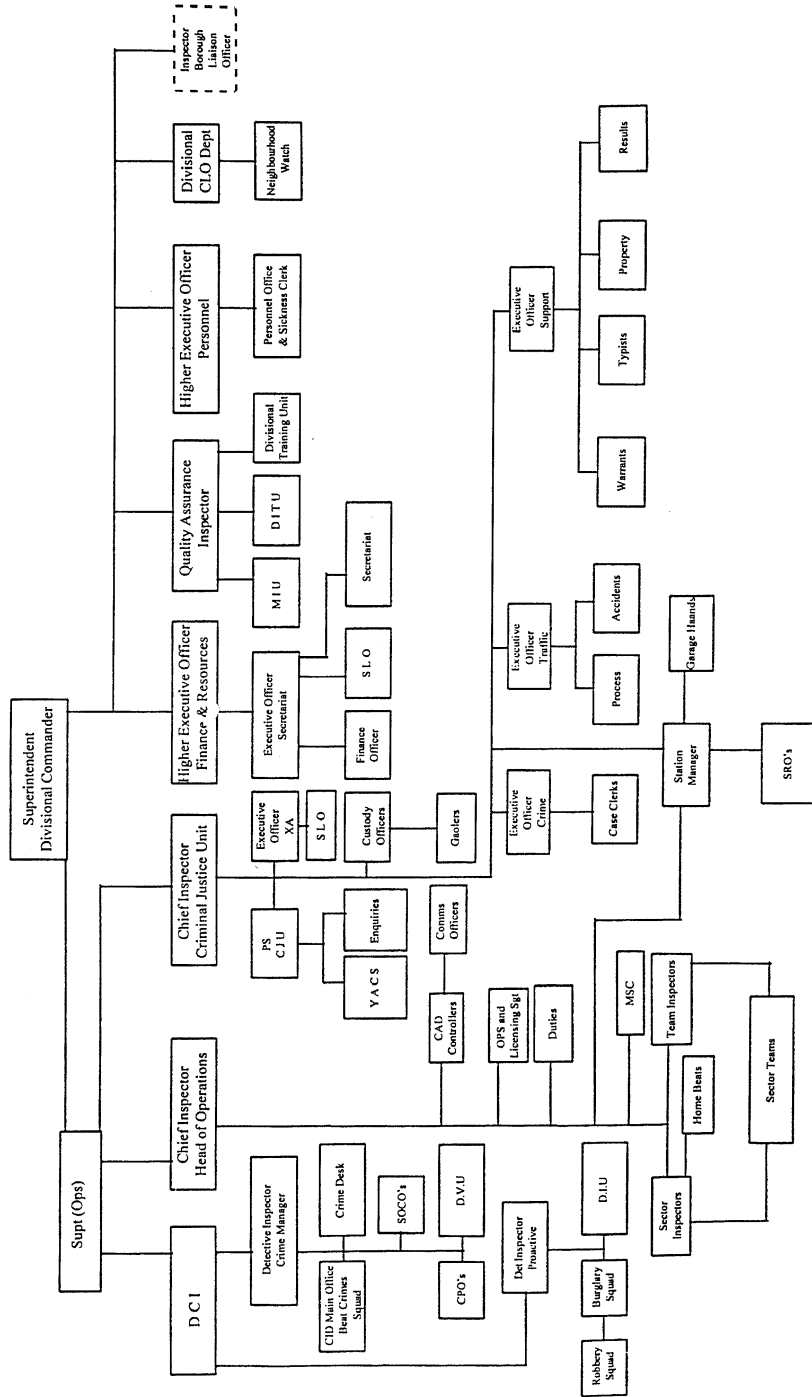


# K Appendices

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# Organisational Chart - Ealing O C U.



Source: Management Information Unit - XD - February 1997

### PENPICTURE

Gurpal Singh Virdi is forty-two years old and was born in Delhi, India. He is married living with his wife Sathat and their two children, a daughter-aged 13 years and a son-aged 10 years. He lives Cranford, Middlesex, which is a geographically situated within the boundaries on the London Borough of Hounslow.

Gurpal came to the United Kingdom at the age of eight; he attended schools in the West London area and was part of the 'bussing' culture of the 60's. After leaving school he attended college. Since leaving full time education he has taken part time courses in industrial management, counselling, sign language and first aid. He is currently studying for a degree. As school governor he has attended several courses relating to schools and education.

His first full time employment was with a leading pharmaceutical company based in Brentford, Middlesex in sales management. Whilst working there he joined the Special Constabulary and served for three years. In 1982 he joined the Metropolitan Police, he was posted to Battersea police station. His talents as a hard working police officer were noticed and he joined the Crime Squad and served on many stations in South London. From 1989-1992 he served with the SO11 (2) branch, then from 1992 till the present he served on Ealing division as a Sergeant.

Whilst in the police service Gurpal Virdi had encountered several incidents of racism from all levels within the police service and from the public. He has applied for many internal vacancies only to be turned down. An excellent example of racism is that despite all the years he has not been given a driving course. The fault does not lie with Gurpal it is the system and culture within the police that has let him and his ethnic colleagues down despite working twice as hard than their white counterparts. His motivation for justice has kept him going, despite his excellent work record and commitment to the police service he has only been commended once.

Gurpal Virdi after being dismissed from the police service was successful in getting employment with several organisations whilst the MPS actively provided bad references to his prospective employers.

It is to be noted that despite of what some of his police colleagues did to him, they were willing to put him in prison for something he had not done - he has battled this fight for justice fairly, with dignity and above board. There are people within the police service and outside who do not wish to see his achievements and are doing everything possible to destroy his character. It is to be noted that his views are shared by the Commissioner Sir John Stevens and many other decision making people.

In his private capacity, Gurpal is actively involved within the community; he makes time for charity work and for the local school where he has been a school governor for many years. As a role model he has in the past actively encouraged young people to join the police service, to do voluntary work and to be good citizens. He is committed to equality regardless of individuals background because as he states **"You have no choice to whom or where you are born"**

2b

**Peter Clarke CVO LL.B**  
Deputy Assistant Commissioner

Your reference:

Our reference: DACC/870/01

Date: 10<sup>th</sup> May 2001



Mrs. Sue Harper  
Metropolitan Police Authority  
6<sup>th</sup> Floor  
Romney House  
Marsham Street  
London SW1P 3PY

**METROPOLITAN POLICE SERVICE**  
Personnel Department  
105 Regency Street  
London SW1P 4AN  
Telephone: [020] 7230 2043  
Facsimile: [020] 7230 2096

Dear Sue,

I have been asked by Superintendent Mark Gore to provide you with a pen picture of Sergeant Guralp Viridi.

Guralp Viridi was born on 7<sup>th</sup> September 1958. He is married with two children, a daughter aged 12 and a son aged 9 years.

He joined the Metropolitan Police Service on 10<sup>th</sup> May 1982. Prior to that he was a Special Constable and served for three years at Heathrow Airport.

After completing his initial recruit training in September 1982 he was posted to Battersea Police Station where he served as a uniform constable until May 1985. He then became a member of the Metropolitan Police "W" District Crime Squad based at Putney and later at Battersea. This involved plain-clothes criminal investigative work. In April 1989 Guralp Viridi was selected to join SO11, Directorate of Intelligence.

He was promoted to Police Sergeant in September 1992 after which he served at Ealing Police Station.

I hope that this is sufficient information that you require for the pen picture. However, please contact me on 020 7230 4411 if you require any further information.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Patrick Beynon".

Patrick Beynon  
Inspector  
Staff Officer to Deputy Assistant Commissioner Clarke

## Gurpal Singh Virdi

Gurpal was born in Delhi (INDIA) on 7<sup>th</sup> September 1958. He came to England in 1966 with his family to join his father. Gurpal grew up in Southall, went to schools in Greenford, Southall and Ealing. After leaving school he went to study at college after which he started working for a pharmaceutical company in Brentford, Middlesex in sales management.

He served in the Metropolitan Police Special Constabulary for three years prior to joining the Metropolitan Police Force in 1982.

He served as a uniform constable at Battersea, Wandsworth and Tooting in South London before joining the Surveillance and Intelligence branch at New Scotland Yard in 1989.

Gurpal was promoted to the rank of Sergeant in 1992 where he has served to-date at Ealing Division, West London.

He is a married man with two children.

Gurpal has been a School Governor at Cranford Infant and Junior School since 1994.

He is linguist, who speaks Punjabi, Hindi, Urdu languages which have been a valuable assest in dealing with the diverse communities of London.

He is currently in his third year of a four year Law degree.

C W P Newell  
Director, Casework



Casework Directorate  
50 Ludgate Hill  
London EC4M 7EX

Switchboard: 020 7796 8000  
DX No: 300850 Ludgate EC4

┌  
Ms S Harper  
Senior Policy Advisor to the  
Virdi Inquiry  
Metropolitan Police Authority  
6<sup>th</sup> Floor Romney House  
Marsham Street  
└ London SW1P 3PY ┘

Facsimile: 020 78050

Direct Line: 020 78491

Our Reference:

Your Reference:

10 July 2001

Dear Ms Harper

**PS Gurpal Virdi Inquiry.**

Thank you for your letter of 21 June 2001 in which you ask for our views as to whether the reasons for our decision could be shared with the Inquiry and ultimately included in the report.

In order to assist the Inquiry the CPS is prepared to give a broad indication of the reasoning, behind our decision. It would not however be right for us to publicly discuss the detail of a decision not to prosecute as this would breach the confidentiality of the interests and reputations of all the parties involved including the witnesses and Mr Virdi and could amount to a trial without the safeguards, which the criminal proceedings are designed to provide.

On 27 May 1998 the Metropolitan Police submitted a file of evidence to the Crown Prosecution Service requesting advice on whether or not to commence a prosecution against Mt Virdi for distribution of racist material contrary to section 19 of the Public Order Act 1986. The context for this request for advice was the distribution of racist literature to a number of employees of the Ealing Division of the Metropolitan Police Service. Each recipient or intended recipient was member of an ethnic minority. The distribution of such material is a criminal offence as set out in section 19.

Under section 19

*(1) A person who publishes or distributes written material which is threatening, abusive or insulting is guilty of an offence if-*

*(a) he intends thereby to stir up racial hatred, or*

*(b) having regard to all the circumstances racial hatred is likely to be stirred up thereby.*

*(2)Defences (not relevant)*

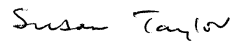
*(3)References in this Part to the public or distribution of written material are to its publication or distribution to the public or a section of the public.*

In order to prosecute an offence under section 19 sufficient evidence must be adduced at trial to prove all the elements of the offence.

After an initial review of the evidence, the CPS asked the police to make further enquiries. These enquiries were completed in November 1998. Counsel was instructed and advised on whether there was sufficient evidence to provide a realistic prospect of conviction. It was discussed in conference with the police and carefully considered by Crown Prosecutor who concluded that there was insufficient evidence to provide a realistic prospect of a conviction for an offence contrary to section 19.

I hope that this letter is of assistance to you.

Yours sincerely



Miss Susan Taylor

Head of London Division 1

### **Brief Biographical Data of Viridi Inquiry Panel Members**

#### R David Muir - Chair

David is an Independent member of the Metropolitan Police Authority. He is senior lecturer in Caribbean Studies at the University of North London. He graduated with a BA (Hons) in Politics and Government and subsequently gained an MA in Political Education from London University. David is the Executive Director of the Black Christian Civic Forum; he is a former senior executive of the Commonwealth Institute and vice-chair of Greenwich Council Race Committee. Since 1999 David has been a member of the Met's Independent Advisory Group and Associate Trainer for the Metropolitan Police, developing teaching materials for new police recruits. David is an adviser to DAC John Grieve on the McGowan murder inquiry in Telford.

#### Angela Slaven – Deputy Chair

Angela is an Independent member of the Metropolitan Police Authority. Angela became Chief Executive of DIVERT, a national youth crime prevention organisation, after she graduated from the South Bank University in London with an MSc Public Sector Management in 1999. After leaving school, she gained a CQSW at the West London Institute of Higher Education in 1978, joined the Inner London Probation Service and in 1997 became Director of Operations for the Rainer Foundation with Overall responsibility for the development of social welfare services for young people and their families.

#### Radhika Bynon – Panel Member

Radhika works in Eltham, where Stephen Lawrence was murdered. Working with the Police, schools and the local authority, she is devising strategies and implementing programmes to address the high levels of racism in the area. Previously she was Director of Mental Health Media, a voluntary organisation working to transform public attitudes towards mental health. During the 1990's Radhika worked as Director of the All-Party Parliamentary Group on Race at the House of Commons. She is Chair of Payback, a campaign to promote community penalties for non-violent crime and a governor of an East London School. She is writing a history of the relationship between Jewish and Asian communities in the UK.

#### Sir Geoffrey Dear – Panel Member

Geoffrey Dear has been a serving police officer from 1956 – 1997, serving as for the Metropolitan Police (1980-1985), Chief Constable of West Midlands Police, (1985-90) and HM Inspector of Constabulary (1990-97).

He has been a member of numerous high profile investigations/reviews etc. including Brixton Riots 1981, the shooting of Steven Waldorf 1983 and the Hillsborough Stadium Disaster 1989.

Awarded HM Queen's Commendation for Bravery 1979. QPM 1982. Knight Bachelor 1996. Member of Glidewell Review of Crown Prosecution Service 1997/98.

Currently Deputy-Lieutenant for Worcestershire. Non-executive Chairman/Director of several Companies. Trustee of several Charities.



Nicola Williams – Panel Member

Nicola Williams is an experienced criminal law barrister, she has successfully acted in a variety of serious trials before all levels of the judiciary, including murder trials, and Commonwealth death penalty appeals before the Law Lords in the Privy Council.

She is also a published writer; “WITHOUT PREJUDICE” is her first novel. She is a former lay adviser to the Race and Violent Crime Task Force of the Metropolitan Police, a member of the Society of Black Lawyers.

In 1991, she won the Cosmopolitan Woman of Achievement Award (Professions category). She has been listed in the “Who’s Who of Black Achievers”.

Lord Navnit Dholakia – Expert Advisor

Navnit Dholakia was appointed Baron Dholakia of Waltham Brooks in 1997. He is President of the Liberal Democrats. and a member of the Home Secretary’s Race Forum. Lord Dholakia was appointed Deputy Lieutenant for the County of West Sussex in June 1999. He is Chairman of the National Association for the Care and Resettlement of Offenders (NACRO).

Lord Dholakia is a member of the Home Affairs team and is a Liberal Democrat Whip. He is a member of the House of Lords Appointments Commission. Previously he held appointments with the Commission for Racial Equality, Police Complaints Authority, Ethnic Minority Advisory Committee of the Judicial Studies Board and Lord Carlisle’s Committee of the Parole Systems Review.

Ahmed Ramiz - Observer

Ahmed Mustapha Ramiz is the Joint Branch Board Secretary of the Sussex Police Federation. Ahmed joined the Sussex Police in February 1973 and served on operational duties both as a Constable, and since 1984, as a Sergeant. An active member of the Police Federation since 1984.

Beverley Thompson - Observer

Beverley Thompson is Director of Race and Criminal Justice Issues at NACRO (National Association for the Care and Resettlement of Offenders). She is responsible for Race, Prisons and Resettlement Issues at NACRO. She is Chair of the Independent Advisory Group to the Racial and Violent Crime Task Force at the Metropolitan Police Service.

She is a member of the Home Secretary’s Steering Group taking forward the recommendations of the Stephen Lawrence Inquiry. She is a member of the Judicial Studies Board and has recently been appointed as an Advisor/Consultant to the AULD Review of the Criminal Courts.

She has extensive training expertise, having been involved in the training of the Judiciary, Police, Immigration Officers etc. She was a member of the Board of Visitors at HMP Brixton for 4 years.



**Metropolitan Police Authority**

## **Virdi Inquiry**

### **Roles and Responsibilities of Panel Members**

#### **Role**

- 1) To attend Panel Meetings
- 2) To read documentation circulated to Panel Members
- 3) To work with other Panel Members in achievement of an outcome in accordance with the Terms of Reference of the Inquiry
- 4) To meet the timescales as laid down by the MPA

#### **Responsibilities**

- 1) To comply with the 'Protocols for the Conduct of Panel Meetings'
- 2) To observe high standards of sensitivity and discretion in questions posed to visitors
- 3) To maintain confidentiality at all times
- 4) To remain independent and objective at all times



**Metropolitan Police Authority**

## **Viridi Inquiry**

### **Roles and Responsibilities of Special Advisor to the Panel**

#### **Role**

- 1) To attend Panel Meetings
- 2) To read documentation circulated to Panel Members
- 3) To advise and assist Panel Members in the achievement of outcomes in accordance with the Terms of Reference of the Inquiry and to quality assure the process in the light of ministerial priorities to 'restore trust and confidence in the Police Service'.
- 4) To be cognisant of the timescales as laid down by the MPA

#### **Responsibilities**

- 1) To comply with the 'Protocols for the Conduct of Panel Meetings'
- 2) To observe high standards of sensitivity and discretion in questions posed to visitors
- 3) To maintain confidentiality at all times



**Metropolitan Police Authority**

## **Virdi Inquiry**

### **Roles and Responsibilities of Observers**

#### **Role**

- 1) To receive Agendas and Notes of Panel Meetings
- 2) To attend Panel Meetings
- 3) To observe the discussion, questioning of visitors and general proceedings of Panel Meetings and to provide feedback on the impartiality and objectivity of the process
- 4) To be offered the opportunity to pose questions and observations to the Panel at the conclusion of each Meeting
- 5) To receive and be able to comment on draft findings/recommendations of the Panel

#### **Responsibilities**

- 1) To comply with the 'Protocols for the Conduct of Panel Meetings'
- 2) To maintain confidentiality at all times



**Metropolitan Police Authority**

## **Viridi Inquiry**

### **Protocols for the Conduct of Panel Meetings**

- 1. Meetings to be held in accordance with the Schedule attached herewith. (Schedule to be reviewed on a regular basis)**
- 2. Draft Agenda for each Panel Meeting to be agreed at the proceeding Meeting and circulated in advance of the Meeting together with relevant papers**
- 3. Notes to be taken at each Meeting and circulated Panel Members within five working days.**
- 5. Agenda to indicate documents required at the Meeting**
- 6. Apologies to be forward to Patricia Coney prior to the Meeting (020 7944 8930 or 8934)**
- 7. Panel Meetings to be attended by a minimum of three Panel Members**
- 8. Members not able to attend a Panel Meeting to be updated by the Chair/Sue Harper**
- 9. Observers to be invited to attend Panel Meetings in accordance with the attached document. (Role and Responsibilities of Panel Observers)**
- 10. All visitors, organisations, witnesses invited to attend Panel Meetings to receive in advance a copy of the Protocols of the Panel Meetings and be invited to confirm their agreement.**
- 11. In recognition that legal proceedings are still ongoing:-**
  - a) all discussion at Panel Meetings, documents, Notes of Meetings to be treated as confidential unless previously indicated by the Chair**
  - b) no Panel Members to give press statements or interviews with the Press without prior agreement of the Chair.**

# MPA

Metropolitan Police Authority

**Virdi Inquiry**

**Protocols for the Conduct of Meetings with Panel Members**

1. Meetings to be agreed with the Chair in advance.
2. Subject matter for the Meeting to be agreed in broad terms with the Chair prior to the Meeting.
3. Advance notice (ideally at least 7 days) to be given for any Meeting.
4. Meetings to be held at a venue agreeable to all parties.
5. All visitors, organisations, witnesses invited to attend Meetings with Panel Members to receive in advance a copy of these Protocols and be invited to confirm their agreement prior to any discussion.
6. Confidentiality to be confirmed. See Protocols for Panel Meetings.
7. Notes to be taken at each Meeting by the Panel Member and the content agreed as an accurate record of the Meeting.
8. A copy of the Notes and verbal update by the Panel Member to be delivered at the next Panel Meeting.
9. Interviewees to be given the opportunity of submitting a written note to the Inquiry if they wish.
10. Observers to be invited to attend Meetings with witnesses and other bodies, subject to agreement of all parties prior to the Meeting.

## **Virdi Inquiry Terms of Reference (M6)**

To inquire into the MPS case against Mr Gurpal Virdi and the Employment Tribunal findings in relation to the MPS Discipline Board, focusing particularly on :

- a) examining the assumptions made, methodology employed, and conclusions reached in the original investigation;
- b) examining the regulations which govern and influence MPS disciplinary proceedings, the processes for critical review of investigations and their implications for future disciplinary and employment tribunal proceedings;
- c) making recommendations to the MPA in respect of lessons to be learned from this case and actions to be taken in the MPS to restore *public trust* and *internal confidence* in the police service particularly around grievance and discipline;
- d) towards this end to receive evidence from interested parties and individuals, which will contribute to the Inquiry achieving its Terms of Reference.

R. David Muir, Chairman  
(December 2000)



**Metropolitan Police Authority  
Virdi Inquiry**

6<sup>th</sup> Floor, Romney House  
Marsham Street  
LONDON SW1P 3PY  
Telephone: 020 7944 8922  
Fax: 020 7944 8934  
Email: sue.harper@mpa.gov.uk

Letter to all officers involved in the Virdi Case

30 March 2001

Dear

**PS Gurpal Virdi Inquiry**

You will be aware that the MPA has set up an Inquiry to review the circumstances surrounding the action taken by PS Virdi and his subsequent re-instatement to the MPS.

The Inquiry is working under the Chair of R. David Muir and I have attached details of the Panel Members, their roles and Terms of Reference of the Inquiry.

It has been agreed that the Inquiry is not about re-investigating matters heard in other arenas but about determining lessons to be learned. The MPS has stated that this case will not be re-investigated unless new evidence comes to light.

Panel Members have read through the documentation associated with the Disciplinary Hearing and the Employment Tribunal and have received submissions from Departments within the MPS, internal Staff Associations and external bodies.

A brief item has already been placed in the 'Job' and Police Notices inviting any member of staff to contribute to the Inquiry if they have information relevant to the Terms of Reference. Details are also held on the MPA Internet site.

It is recognised that you have had some personal dealings in this matter and you are invited to contribute to the findings of the Inquiry if you wish. There is no obligation on you to do so and my main purpose in writing to you is to advise you as to the progress of the Inquiry which is scheduled to produce a draft Report by the end of June.

If you wish to contribute to this process and you believe your comments fall within the Terms of Reference of the Inquiry you are invited either to :

- a) forward your comment to me in writing at the above address. (No detail will be included in the Final Report without checking with you in the first instance)

or

- b) contact Ahmed Ramiz – Secretary to the Joint Branch Board Sussex Police who is acting as an Observer to the Virdi Inquiry and has offered to speak to any MPS officers previously involved in the Virdi Case and has kindly provided his home and work contact details for this purpose.

Office:

Ahmed Ramiz  
Federation Office  
Police HQ  
Lewis  
East Sussex  
BN7 2DZ

Replies to be received by end of April 2001 please.

Yours sincerely,

Sue Harper  
Senior Policy Advisor to the Viridi Inquiry

cc Inspector Glen Smyth – Police Federation  
Supt. Mark Gore – Staff Officer to Deputy Commissioner Ian Blair



Andy HAYMAN MA FIMgt  
Deputy Assistant Commissioner



**METROPOLITAN POLICE SERVICE**  
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Deputy Commissioner's Office,  
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New Scotland Yard  
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SW1H 0BG

Telephone: 020 7230 4271  
Facsimile: 020 7230 4532

Ms Sue Harper  
Metropolitan Police Authority  
6<sup>th</sup> Floor, Romney House,  
Marsham Street,  
London SW1P 3PY

13<sup>th</sup> June 2001

Dear Ms Harper,

I am writing further to your letter of 27<sup>th</sup> June 2001 in connection with the Viridi Inquiry.

I note that Members are seeking further information in relation to a breakdown of the 600 POLSA searches referred to in the Briefing Note compiled on my behalf by Chief Inspector Baker.

As explained in the Briefing Note, the POLSA team did not keep these records in 1998. The Police and Criminal Evidence Act 1984, and Codes of Practice set out the requirement to keep records following searches. A copy of the relevant narrative is appended for your information.

Code of Practice B, paragraph 8.1, states "A search register shall be maintained at each sub-divisional police station. All records which are required to be made by this code shall be made, copied or referred to in this register".

Each MPS sub-divisional police station maintains a register of the search of premises. It is indexed against the premises searched only. These registers are paper based and contain details specified in Codes of Practice B. It is true to say that, contained within these registers of searches of all premises, there will be records of searches carried out with the assistance of POLSA teams. There are currently 41 Borough police stations, each with their own search register. Each search register contains well in excess of 1000 paper records, which would have to be searched manually to extract the information sought. Even then, there would be no guarantee that every POLSA assisted search could be identified, as there is no requirement in law to include the term "POLSA" on the register.

In short, regrettably, the information you seek is not readily available, and, for the reasons set out above, impracticable to obtain.

Yours sincerely,

Colin Pearce  
Staff Office, DAC Hayman

Our ref: LC/BF/Virdi

25<sup>th</sup> October 2001

**By Post & Fax – 0207 944 8934**

Attention: Sue Harper  
Metropolitan Police Authority  
Virdi Inquiry  
6<sup>th</sup> Floor, Romney House  
Marsham Street  
London SW1P 3PY

Dear Ms Harper

**Re: MPA Virdi Inquiry**

I write further to your letter of 11<sup>th</sup> October 2001 and our subsequent telephone conversation.

Your summation of my oral submissions to the inquiry is broadly correct but I would like to clarify some matters and add more detail as follows, responding to the points in the order you have compiled them:

- (a) Mr Virdi was indeed originally represented by the Hounslow Law Centre (he also received some help from Ealing REC) and made two unsuccessful applications to the CRE for assistance. The CRE was in considerable difficulty in assessing the merits of the case as there was very little evidence available at that time, for reasons explained in more detail below. Mr Virdi attended the CRE offices and was interviewed by the Senior Complaints Officer and myself. We assessed him as credible and as at that time he received representation for a preliminary hearing subject to review.
- (b) When commenting on the conduct of the case by the MPS solicitors I must make it clear that the MPS solicitors at no time acted unlawfully or indeed unethically. However it is broadly correct to say that their apparent litigation strategy, if successful, would have resulted in there never having been a substantive hearing on the merits of this case. Their initial response to Mr Virdi's Originating Application was to submit "holding" (i.e. brief) Grounds of Resistance, reserving the right to submit detailed Grounds of Resistance at a later date, and simultaneously to ask that the proceedings be stayed until the internal disciplinary proceedings were concluded. This meant, among other things, that at the time Mr Virdi approached the CRE for assistance there was very little evidence available for assessing the merits of his case. Once the internal disciplinary had reached its conclusion i.e. that Mr Virdi was guilty of all charges, the MPS solicitors attempted to have the Originating Application struck out as Mr Virdi had been found guilty in the internal hearing. This attempt was unsuccessful. The application for a stay was originally granted by the Tribunal but after a number of interlocutory hearings the Tribunal ordered that the stay be lifted even though the internal disciplinary proceedings were continuing. The solicitors also attempted at a Preliminary Hearing to have large amounts of the Applicant's case ruled inadmissible as out of time. They were successful in part only.

With regard to the discovery process, again the approach could be described as unduly contentious; discovery was resisted, for example, of the offender profile compiled during the



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RACIAL EQUALITY**

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U N I T I N G   B R I T A I N   -   F O R   A   J U S T   S O C I E T Y

internal investigation. When this document was eventually released, further to a Tribunal order, it was much briefer than we had been led to expect and it's contents did not appear to be highly significant.

- (c) I am not sure what is meant by the reference to the MPS having "no device" to enter into informal proceedings outside the Tribunal process. Certainly the only approach made on a Without Prejudice basis to attempt to settle the substantive case without the expense of a hearing was made by the CRE and was rejected with no negotiation. Perhaps more surprisingly, after the decision on remedy was given the MPS sent a cheque for the amount they believed the Tribunal should have ordered rather than the amount the Tribunal actually did order and that cheque was returned.
- (d) Regarding press "leaks", these did indeed cause distress to Mr Virdi and the Tribunal findings deal with this matter at paragraph 16 of their decision. The way in which the MPS handled publicity in general is also criticised and dealt with at paragraph 20 of the Employment Tribunal decision.

In my view, concerning "leaks" and publicity, it is worth noting that after the decision on merits but before the decision on remedy the MPS solicitors wrote purportedly by way of open correspondence offering an amount of money to settle the matter. We replied on a Without Prejudice basis as we did not accept that such an offer could be made by way of open correspondence and on the day the letter from the Metropolitan Police Service was sent Mr Virdi was contacted by a member of the local press who asked whether he intended to accept the offer and made reference to the exact amount of money stated in the letter. Mr Virdi was extremely distressed and surprised that this highly sensitive information was in the public domain on the day the letter was sent.

- (e) In my oral submissions to the inquiry I also mentioned a statement released on Ealing division by Mr Goulding after the Tribunal decision was released which caused considerable distress to Mr Virdi and a copy of that is attached. You will note that this letter also makes reference to the MPS being at a crossroads in respect of the conflicting decisions of the internal board and the Employment Tribunal and this statement also caused Mr Virdi considerable distress.

I apologise for the delay in providing this submission.

Yours sincerely



**Lisa Connerty**  
**Principal Litigation Officer**

Your reference: .  
Our reference: .  
Date: 18 September, 2000



**Metropolitan Police Service**

*Ealing Borough Headquarters  
Southall Police Station  
67 High Street  
Southall  
Middlesex*

Dear Colleague,

It is appropriate that I up-date you on the case involving Sergeant VIRDI which culminated in the recent findings by the Employment Tribunal against the Metropolitan Police Service.

As many staff have recently joined the Borough, the background of the case is that Sergeant Gurpal VIRDI, a Sikh officer with over 17 years Service, was arrested in April 1998 on suspicion of having distributed racist literature within the old Ealing Division. He was subsequently charged with 14 disciplinary counts and appeared before a Police Discipline Tribunal in February/March 2000. He was unanimously found guilty of all counts and was dismissed. He is currently appealing against that decision through the Discipline Appeals process.

In a parallel development, Mr VIRDI went to the Employment Tribunal and lodged an application, alleging racial discrimination about matters including his receipt of the racist literature and the way in which the investigation was conducted. He has lodged a second Employment Tribunal application alleging that the manner in which the disciplinary hearing was conducted, was discriminatory on racial grounds. The Employment Tribunal heard the substantive part of the first claim in July and August, and on the 23<sup>rd</sup> August delivered its findings that the Metropolitan Police Service had discriminated against him.

Mr VIRDI and the Metropolitan Police Service find themselves at the crossing point between two different judicial processes, each with a different method of hearing evidence, each with a different standard of proof, and each with a different avenue of appeal. Significantly, the process under which Mr VIRDI was convicted by the Police Disciplinary Tribunal, has since been entirely overhauled on a national basis. His case had to be considered under the old rules.

Mr VIRDI has been found guilty unanimously by the Discipline Tribunal and effectively acquitted by the Employment Tribunal.

Page Two

The Metropolitan Police has formally stated it would not appeal against the Employment Tribunal findings. Many matters remain outstanding for resolution but the decision has given the Metropolitan Police Service a chance to demonstrate new learning and move on. To that end, a proposal from the Deputy Commissioner that a review should be set up under the Chairmanship of a Metropolitan Police Authority member, has been put before the Authority, and now agreed. The aim is to move forward, trying to learn the lessons of this case for the future. The formal Terms of Reference of this enquiry is going to be considered by the Metropolitan Police Authority.

A number of officers have spoken to me concerning this case and I have attended a number of meetings with the Deputy Commissioner and Assistant Commissioner DUNN, where I have raised those issues.

Meanwhile, when I have further information I will keep you informed in order that I can advise you of any further developments.

If I can offer support to any individual officers during this time, please contact me directly and I will make myself available to you.

Finally, can I thank everybody for your support and the support that you may be giving to colleagues.

Peter GOULDING  
Chief Superintendent  
Borough Commander - Ealing

# THE PEOPLE STRATEGY

## ADVICE & SUPPORT STRAND



### “GETTING IT RIGHT”

Information and Guidance for Managers

September 2000

Employment Tribunal and Grievance Advice Unit

### **Eight examples of everyday workplace scenarios with serious consequences for the MPS**

The examples listed below are situations brought to the notice of the M.P.S. through either the Grievance Procedure or Employment Tribunals. These examples describe actions which take place in every day contact between people in the work place but for one reason or another there are serious consequences:

- A sergeant trying to improve the work return of a constable who is not pulling his/her weight on a small sector team. The constable, however, feels that he/she is being victimised, rather than being developed as there is a lack of proper communication between the two.
- The telling of seemingly innocuous racist/sexist jokes in a canteen or public area, where either the person being told or someone overhearing, objects.
- The seemingly friendly act of mimicking someone's accent, e.g West Indian, Indian, Scottish or Irish.
- Moves or transfers of personnel both between Borough O.C.U.'s and positions between stations and departments within a Borough O.C.U. These transfers/moves if not dealt with in an even handed and fair manner, can leave the individual concerned feeling singled out, picked on, victimised and bullied. All terms used by staff, who have not had the reason for their move fully explained and documented, especially within a Borough O.C.U. where the commander has to make the best use of his/her staff and resources within a limited budget.
- Where a complaint has been made against an individual by a colleague, this can often result in the person complained of, being moved against their wishes, without the benefit of a thorough investigation into the circumstances. This can often result in a grievance/Tribunal claim being lodged for victimisation/sex discrimination.
- Where a poor Annual Appraisal has been completed without the areas complained of being properly evidenced, the person being reported upon, finds out they have been under performing for the first time during the Appraisal, a grievance will often result. This will often follow an appeal against the appraisal in question. Legal advice is generally that if any procedure as set out has not been followed, then the M.P.S. as well as the individual manager will be criticised and the case is likely to be lost.
- A Borough/Unit attempting to fill a post by way of an informal process [you'll do, start Monday] can cause enormous difficulty for the Service if it is required to justify this action or decision. An Employment Tribunal will look at the MPS as a corporate organisation and if they find that different processes have been used to fill similar posts, then unfavourable comparisons will be drawn. In such circumstances an ET is likely to find against the Service.
- A female officer who alleged that she was subjected to sexual harassment by a male sergeant who made sexist comments to her was told by a manager that she was "making a mountain out of a molehill". He dismissed her claims saying that the sergeant did not mean anything by the comments. Allegations which are ignored, disbelieved without good cause or not taken seriously may result in individuals having grounds for bringing a discrimination or victimisation claim.

### **Ten examples of current ET actions being pursued by MPS members**

- **Race Discrimination.** An officer brought a claim saying that he had been less favourably treated than a female colleague who was an ethnic minority officer by not receiving any support, career development opportunities or assistance with promotion application.
- **Sex Discrimination and Harassment.** An officer brought a claim alleging different treatment when he and a female officer failed to attend a call. This resulted in the male officer being disciplined but not the female officer. The harassment is alleged to take the form of distorting facts about his performance, and discrediting his name. The officer has also invoked a grievance about his tenure move from Traffic and his non-selection for Surrey Constabulary.
- **Constructive Dismissal.** A Grade 9 brought a claim alleging that a senior manager had been appointed to a new post and that she had been discouraged from applying for the post. She then had to train two new senior managers coming to the unit, although this left her with no existing job of her own.
- **Disability Discrimination.** A Grade 12 brought a claim alleging that she had reluctantly accepted Medical retirement for stress and depression and that the illness she suffered from was preventing her from accepting further employment outside the service.
- **Race and Disability Discrimination.** A Grade 12 brought a claim alleging that she had informed her line management she was unable to use a keyboard and no adjustment to her duties was made.
- **Sex Discrimination.** An officer brought a claim alleging that she had been sick with a pregnancy related illness and when she reached the six months limit, she received a Regulation 46 notice about going on to half pay.
- **Race Discrimination and Wrongful/unfair dismissal.** A security guard whose job was out sourced, went with the new employer. He was subsequently dismissed by his new employers.
- **Race Discrimination, unfair dismissal and breach of contract.** An officer brought a claim that he had been returned to the M.P.S. from a period of secondment elsewhere, whilst an ethnic minority officer of another constabulary was not returned to his force.
- **Race Discrimination.** A member of the public alleged that despite having the relevant qualifications for a post advertised in the press, he was not even invited for an interview and that this was due to his race.
- **Sex Discrimination and denial of rights under Equal Treatment Directive.** An officer brought a claim alleging that she had been harassed over a period of three or more years by a fellow constable. Her complaints to senior management about the situation were not taken seriously and no action was taken.



### Ten questions asked of MPS management at tribunals

Listed below are ten questions asked at various Tribunals. How would you have responded to them? Have you all the evidence you need to prove that? Are all your decisions documented?

- Why did you not maintain contact with your member of staff, who was off sick with stress? Was it because this Tribunal was outstanding?
- There is an Attendance Management Policy for all the M.P.S. Why did you not follow it?
- Even accepting the claimant felt they could not trust any member of staff from their own O.C.U., for whatever reason, whether real or perceived, are you telling this Tribunal you are the only Chief Superintendent in the M.P.S. who could deal with this problem?
- What steps have you taken to support this member of staff and how did you intend for them to come back to work when all you've done is ignore them?
- When you spoke to the Crown Prosecution Service, did you not record the name of the person from whom you sought the advice? If not, why not?
- You have given this panel your version of the conversation, have you any notes? Why not? Do you expect us to believe your memory is so good after all this time?
- When a Chief Inspector was before a Discipline Hearing for exactly the same Misconduct behaviour, he/she was reduced in rank, whereas the claimant, a Constable, was dismissed. Why was that? Is it a privilege of rank, that you can behave as badly as Constables and you won't be sacked?
- Are you telling this panel that you believed it was a good idea to put a Sergeant, who had to your personal knowledge, two grievances against him for sexual harassment, in charge of the Street Duties Course? You didn't think those new young probationers would be vulnerable?
- This claimant was transferred out of your division, before you had fully investigated the grievance brought by his colleague. Why was that? Are you saying tenure came into it, because that has gone from the evidence we've heard? Didn't you just take the opportunity to transfer a problem without telling your fellow O.C.U. commander?
- Why did you decide to give a "Strict Admonishment" to an officer against whom the allegation of making advances towards a female member of his staff and using his position to victimise her had been substantiated? What message is that sending to other females who may find themselves in a similar position? Is that telling senior managers, that they can't racially discriminate, but female officers are fair game?

### Fourteen Common Themes

The following issues regularly occur in both Employment Tribunals and Grievance Procedures. These lapses leave the MPS vulnerable in defending claims;

- \* Inappropriate remarks and banter from colleagues
- \* Delays by managers in taking action on issues when brought to notice
- \* Managers failing to keep in touch with complainants
- \* Not appearing to regard the issue raised as important
- \* Failure (by managers and colleagues) to challenge inappropriate remarks or behaviour at the time or subsequently
- \* Lack of awareness of indirect discrimination eg “only works part time” is trivialising and likely to be deemed indirect sex discrimination
- \* Lack of sensitivity to disproportionate impact of decisions eg postings
- \* Lack of evidence to support comments eg appraisals
- \* Absence of transparent and justifiable processes eg selection
- \* No documentation to justify decisions or show consideration of options
- \* Not making a note at the time or getting it agreed by the other party
- \* Not taking advice or consulting before taking action
- \* No evidence of recent equal ops training with details of content
- \* Failure to make a ‘risk’ assessment of the workplace when an individual resumes following an ET. Failure to take appropriate action could lead to a victimisation claim.

**..... and finally, Learning the Lessons**

Ensure that complaints are (and are seen to be) treated seriously and sympathetically

Ensure that complaints are dealt with promptly and with due care, by someone with sufficient authority to be able to handle the matter effectively

Ensure that if it becomes necessary to separate the parties (the complainant and the alleged harasser) no pressure is put on the complainant to transfer

The transfer of the alleged harasser must be capable of justification and all alternative options considered

Ensure that the individual is not victimised by line management or colleagues for having made a complaint

Keep both sides to any complaint informed as to progress

Ensure welfare/support mechanisms are in place on both sides

Ensure appropriate policies are applied as they would be for any other member of staff eg OH referrals, Attendance Management contact



HOME OFFICE  
 QUEEN ANNE'S GATE  
 LONDON SW1H 9AT

**The Chief Officers of Police**

**HOME OFFICE CIRCULAR 16/1993  
 GUIDANCE ON THE OPERATION OF GRIEVANCE PROCEDURES**

The purpose of this Circular is to introduce guidance to the police service on the operation of grievance procedures and to seek feedback on any training needs identified by forces. The guidance reflects good practice in the service, and has been agreed by the Home Office, HM Inspectorate of Constabulary and the Police Service Staff Associations. The guidance also takes account of comments and suggestions from the Commission for Racial Equality and the Equal Opportunities Commission. A copy of the guidance is attached at Annex A to this Circular.

**Background**

2. Home Office Circular 87/1989 - "Equal Opportunities Policies in the Police Service" - contained guidance on grievance procedures, including an example of a suitable procedure. Over time, a number of concerns have arisen that the procedure recommended in HOC 87/1989 was potentially incompatible with the police service disciplinary code.

3. The specific areas of concern were:

- the need to clarify the scope of the grievance procedure, to emphasise its applicability to a wide range of personnel management issues, including discrimination on the grounds of sex or race, and racial and sexual harassment, and other cases of unfair treatment;
- the need to clarify earlier guidance on the use of evidence obtained from grievance investigation in a disciplinary case; and
- handling issues in relation to Industrial Tribunal proceedings. The earlier guidance which advised that grievance cases be held in abeyance pending the outcome of any discipline investigation carried the risk that, because of the time limit on IT proceedings, individuals could be prevented from exercising their right to a Tribunal.

PM-545 JAH

4. A working group chaired by Mr Skitt, Chief Constable, Hertfordshire Constabulary, and involving representatives from the Police Staff Associations, HMIC and the Home Office has been considering this issue and has produced the attached guidance.

The guidance is not intended to be mandatory; it is intended to offer a model of good practice, and on that basis the working group commends the guidance to all forces. Italicised text can be modified to take account of variations in force nomenclature and organisation.

#### Using grievance procedures

5. Effective grievance procedures are essential for the delivery of equal opportunities policies. They provide a means of ensuring that individual members of staff who feel aggrieved about the way they have been treated, either by management or by their colleagues, are given every opportunity to have their grievances resolved in a fair and just manner. Grievance procedures should be flexible and informal, designed to resolve issues quickly, and at the lowest possible management level. ✓

#### Scope of the guidance

6. It is recommended that a grievance procedure should be corporate and accessible by all staff - police and civilian. The guidance does not address the issue of complaints made by a member of the public about police behaviour, for which alternative provision is made under PACE. Likewise, the guidance is not intended to address allegations by applicants to join the police service of unfair or discriminatory treatment or practices. Forces are advised to ensure that appropriate avenues exist for dealing with such matters.

#### Publicising grievance procedures

7. The existence of an effective grievance procedure will not, by itself, encourage staff to bring grievances to the attention of line managers. Forces need to ensure that all staff are aware of the grievance procedure, and have confidence in the willingness and ability of management to operate the grievance procedures. To this end, forces will wish to ensure that there are adequate arrangements to:

- a) offer authoritative, independent and confidential advice to all those involved in a grievance - the aggrieved person, any individual against whom a grievance is directed, and line management - on the procedural and other issues associated with grievance procedures;

- b) monitor and evaluate the use made of the grievance procedures, and report to senior management on numbers of cases and trends, particularly where these suggest the need for remedial action in relation to policy, training or other personnel management issues; and
- c) demonstrate the confidentiality of the process, by collecting and retaining all records and relevant papers at the conclusion of the grievance procedure.

#### Grievance and discipline

8. The guidance stresses the fact that grievance procedures should not be regarded as an adjunct to discipline arrangements. At the same time, it has to be recognised that there may be cases where the circumstances of a grievance case may indicate the need for a discipline investigation. It is impossible to give definitive examples, since much will depend on the particular circumstances of the case. On most occasions, the question of whether or not a matter warrants discipline investigation will be clearcut. In more doubtful cases, and in particular where the person bringing a grievance is unwilling to support disciplinary proceedings, the guidance emphasises the need to ensure that the decision to institute disciplinary investigation, or to revert to grievance, is taken as quickly as possible, by an officer who is authorised and competent to take the decision, bearing in mind that the grievance procedure should not be suspended, and thus that the integrity and confidentiality of the grievance procedure should not be compromised.

#### Training

9. The effective implementation of grievance procedures will depend on the skill and knowledge of line managers (who will be required to operate the procedures) and those specialist staff with responsibility for advising on the operation of grievance procedures, and monitoring and evaluating implementation. It is likely that training needs will differ from force to force, and for different groups of staff, and can be met in different ways. For example, specialist training on equal opportunities legislation is already offered by the Police Staff College as a short course. More practical training, based on case studies and experience of operating grievance procedures, might best be met by regional workshops at which practitioners can exchange information on good practice, pitfalls and "tricks of the trade". Training for line managers might best be delivered in-force.

10. The Home Office is ready to assist forces in providing training in this area, and would welcome feedback on specific training needs identified.

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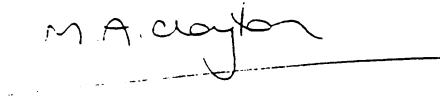
**Monitoring and evaluation**

11. The attached guidance offers a model of good practice which forces are encouraged to adopt. In their continued monitoring of the implementation and operation of equal opportunities policies HMIC will wish to ensure forces operate effective grievance procedures. The response to this guidance and the recommendations of the HMIC Thematic Inspection report on equal opportunities in the police service will be included in the Inspection Programme.

**Further help**

12. Should you require further information on the model grievance procedure, or wish to comment on the training need arising from the implementation of these procedures, please contact Paul Lynch, F2 Division, Room 523, Home Office, Queen Anne's Gate, London SW1H 9AT (071 273 2504), or Peter Martin (071 273 3140), or the Staff Officer (Community and Race Relations), HM Inspectorate of Constabulary (071 273 3227).

13. This circular and the attached guidance is being copied, for information, to Clerks to Police Authorities, the Equal Opportunities Commission and the Commission for Racial Equality.

A handwritten signature in cursive script that reads "M.A. Clayton". The signature is written in dark ink and is positioned above a horizontal line that serves as a separator.

MISS M A CLAYTON

## GUIDANCE ON THE OPERATION OF GRIEVANCE PROCEDURES

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## GUIDANCE ON THE OPERATION OF GRIEVANCE PROCEDURE

### 1. Introduction

- 1.1 An effectively used grievance procedure demonstrates the commitment of the *named police service* to the principle of equality of opportunity for all staff.
- 1.2 This document sets out a procedure for dealing with grievances arising from internal working relationships and is for use by staff at all levels in the *named police service* including Civilian Support Staff, Police Officers, Special Constabulary and where applicable Police Cadets. It incorporates specific advice when dealing with grievances against Police Officers where there may be discipline implications, and explains how the procedure may be used.

### 2. Purpose of the grievance procedure

- 2.1 The main purpose of the grievance procedure is to ensure that individual members of staff who feel aggrieved about the way they have been treated, either by management or by their colleagues, are given every opportunity to have their grievances resolved in a fair and just manner. The grievance procedure is intended to resolve issues as quickly as possible and not to establish guilt or provide punishment. It is an informal and flexible means of resolving problems at work. The procedure is intended to deal with all types of grievance including claims of unfair interpretation or implementation of personnel policies and conditions of service, and in particular, actions that contravene equal opportunities policy, namely, discrimination on the grounds of sex, marital status, race, colour, ethnic or national origin, nationality, *religion, creed, politics, disability, sexual orientation, age, social position or social disadvantage* or any other unjustifiable requirement. The grievance procedure is not a method for making an allegation under the police discipline code *or the civil staff discipline procedure*.
- 2.2 The grievance procedure may also be invoked in cases of alleged sexual or racial harassment. Sexual or racial harassment is defined as unwanted conduct of a sexual

or racial nature, or other conduct based on sex or race affecting the dignity of women and men at work.

2.3 Discrimination and/or unfair practices are not always obvious, overt or intentional but, however they occur, the grievance procedure is a channel by which an aggrieved person can seek proper redress within the organisation. It is the intention of the *named Police Service* to resolve all cases promptly, fairly and sympathetically, and to redress the grievance and/or take remedial action as appropriate. The existence of the grievance procedure does not remove an individual's right under law to take a case to an Industrial Tribunal at any time within three months less one day of the incident. It must be noted that only allegations of unlawful discrimination on the grounds of sex or marital status or on racial grounds and cases of unfair dismissal of civil staff can go to Industrial Tribunal.

2.4 The procedure is designed to ensure that details of all grievances, and the action taken to resolve them, are properly documented. See sections 9-14 inclusive.

### 3. Representation

3.1 The aggrieved person and all other parties to a grievance should have the right at any stage to consult with and be accompanied by a representative of a Staff Association or recognised Trade Union or a colleague or friend. In addition, the aggrieved person or other parties may wish to take advice from the *Equal Opportunities Office(r)* on any matter relating to the grievance or the operation of these procedures, and should have access to an individual of the same gender if desired.

### 4. Confidentiality

4.1 All cases dealt with under the grievance procedure should be conducted in the strictest confidence, unless otherwise agreed with the parties involved or in circumstances detailed in paragraph 15.

5. **Establishment of grievance**

- 5.1 Those responsible for dealing with grievances should bear in mind that the procedure is aimed at achieving a resolution rather than establishing innocence or guilt. Grievance procedures do not provide for any punishment of the person against whom the grievance is made. It is not necessary for an aggrieved person to prove his or her case beyond all reasonable doubt. Often, a grievance centres upon the word of one person against another, with little or no supporting evidence, and each case must be decided on the basis of the balance of probability. This is the standard of proof that Industrial Tribunals use. The procedure is intended to provide fairness to all parties including persons against whom the grievance is directed.

6. **Victimisation**

- 6.1 Victimisation of a person who invokes the grievance procedure, or who provides any form of assistance to someone who is invoking it, may amount to a breach of discipline, and in discrimination or harassment cases may constitute unlawful conduct under Sec.2(1) of the Race Relations Act 1976 or Sec.4(1) of the Sex Discrimination Act 1975 (as amended).
- 6.2 The transfer of an aggrieved member of staff could be regarded as an act of victimisation and this course of action should never be resorted to simply to resolve the grievance. In some cases, a move of one of the members of the staff concerned may be helpful and welcome, but before any action is taken, care should be exercised to confirm that this is the case and that any move will not be misconstrued as discreditable to the person. In some cases, moving the aggrieved person may be justified on operational grounds, or the aggrieved person may ask to be moved, and in any such cases the reasons for the request to move must be thoroughly investigated and recorded.
- 6.3 If a person who has invoked the grievance procedure or instituted legal action or has given evidence or information in connection with proceedings feels that he or she is being victimised in any way, that person should at once consult the *Equal Opportunities Office(r)* for advice.

## 7. Time Limits

- 7.1 Grievances should be investigated as promptly as possible. This is imperative in cases alleging breaches of the Race Relations or Sex Discrimination Acts which may also become the subject of legal proceedings, and in these cases time limits should be extended only with the express agreement of all parties, and having regard to the three months less one day allowed for registering a case with an Industrial Tribunal (see below). In other grievance cases the time limits can be extended with the agreement of all parties.
- 7.2 The Race Relations and Sex Discrimination Acts impose a time limit for the lodging of cases with an Industrial Tribunal. Individuals must register their case with the Industrial Tribunal within three months less one day of the date of the last act complained of. The aggrieved person should be made aware of this fact at the outset and reminded of it at each stage of the procedure particularly if, for any reason, the time limit is likely to expire before the grievance procedure has been exhausted.
- 7.3 An Industrial Tribunal may exercise its discretion to defer a case until any internal procedures have been exhausted but it is not obliged to do so, nor is there any guarantee that it will do so. There is no reason to believe, however, that requests will not be treated sympathetically, and wherever possible the Industrial Tribunal should be given an indication of when internal procedures will be completed. Where it is obvious that a matter cannot be resolved at an early stage, for example, when the grievance relates to a matter of policy, or involves a potentially protracted enquiry, it is imperative that the aggrieved person should be informed of the likely timescale and of the reasons for the delay.

## 8. Stages of Procedure

- 8.1 Matters of concern should normally be discussed first with a local line manager in an effort to find a resolution. The grievance procedure should be invoked only after normal and healthy dialogue has failed to resolve the issue.

- 8.2 The grievance procedure comprises three separate and distinct stages, as set out below. Only after all avenues to resolve a grievance have been exhausted at one stage should the matter be referred to the next appropriate stage. In most cases it should be possible to resolve a grievance at Stage 1 or 2.
- 8.3 At every stage the supervisor/line manager receiving notice of the grievance should examine the issues with a view to seeking an early resolution, taking into account the wishes and expectations of the aggrieved person and other parties.
- 8.4 The stages of procedure outlined in this document will be suitable for grievances arising at most levels in the organisation. Where grievances are brought by senior officers, however, and in particular in relation to those of chief officer rank, it will be necessary for forces to consider adapting the procedure in order that such grievances may be resolved satisfactorily.

9. Stage 1 - Initial Report

- 9.1 An aggrieved person should initially bring a grievance to the attention of a supervisor/line manager, either orally or in writing.
- 9.2 Where the aggrieved person feels that the grievance cannot be satisfactorily resolved at this level, for example because the grievance is against the aggrieved person's immediate supervisor, he/she may go direct to Stage 2 or Stage 3, whichever is appropriate.
- 9.3 Where it appears to the supervisor/line manager receiving the grievance that, on the facts related, consideration should be given to criminal or disciplinary proceedings, he/she should consider the issues in accordance with the guidance set out in paragraphs 15.1 - 15.11 inclusive.
- 9.4 Where the criteria in paragraphs 15.1 - 15.11 are met, and there is no doubt that the matter must be reported to the officer in charge of complaints and discipline, then the supervisor/line manager should take such action as is required by force policy. If in

doubt, however, the supervisor/line manager should seek advice from the persons responsible for subsequent stages of the procedure at the earliest opportunity.

9.5 In all other cases, or where a decision is taken by a person responsible for a subsequent stage of the procedure that a grievance shall remain within the grievance procedure, then action will be taken in accordance with the following paragraphs.

9.6 The person to whom the grievance is first reported is responsible for trying to resolve the grievance within 7 days, paying due regard to the need for confidentiality and ensuring that the following steps are taken where appropriate:

- interviewing the aggrieved person and giving him/her any appropriate notes of guidance;
- undertaking a thorough and detailed enquiry into the matter, trying to obtain an early resolution;
- seeking advice and assistance, as necessary, from a manager who is unconnected with the grievance, or the *Equal Opportunities Office(r)*;
- if appropriate, interviewing the person who is the subject of the grievance;
- making a written record and detailing all action taken;
- ensuring that all parties are told of the outcome of the enquiry personally, and what action (if any) is to be taken and the reason for the decision. If the aggrieved person is not satisfied he/she should be told that the grievance will proceed to Stage 2 or 3 with their consent.

9.7 If the grievance is not resolved to the satisfaction of the aggrieved person, the written record should be forwarded with any other relevant papers to the person who is to conduct Stage 2 or Stage 3 of the grievance procedure, as appropriate.

9.8 If the grievance is resolved to the satisfaction of the aggrieved person, the written record should be forwarded with any other relevant papers to the *Equal Opportunities Office(r)*.

10. **Stage 2 - Divisional/Departmental Resolution**

10.1 This stage of the procedure involves full consideration of the grievance by the aggrieved person's *Divisional or Departmental Head*, who is then responsible for trying to resolve the grievance within 14 days of the procedure moving to this stage, paying due regard to the need for confidentiality and ensuring that the following steps are taken where appropriate:

- consulting with the *Equal Opportunities Office(r)* if the grievance relates to Equal Opportunities;
- taking all appropriate action to resolve the grievance including interviewing the persons concerned where necessary;
- ensuring that all parties are told of the outcome of the enquiry personally, and what action (if any) is to be taken and the reasons for the decision. Sending written confirmation of the above to the aggrieved person as soon as possible thereafter. If the grievance cannot be resolved, the aggrieved person should be told that the grievance will proceed to Stage 3 with their consent.

10.2 If the grievance is not resolved to the satisfaction of the aggrieved person, the written record should be forwarded with any other relevant papers to the person who is to conduct Stage 3 of the grievance procedure.

10.3 If the grievance is resolved to the satisfaction of the aggrieved person, the written record should be forwarded with any other relevant papers to the *Equal Opportunities Office(r)*.

11. **Stage 3 - Resolution at Chief Officer level**

11.1 This stage involves full consideration of the grievance by the *appropriate Assistant Chief Constable*, who is then responsible for trying to resolve the grievance within 21 days of the procedure moving to this stage, paying due regard to the need for confidentiality.

11.2 The objects of this stage are two-fold:

- (a) to enable the aggrieved person to see a senior manager who is unconnected with his or her place of work, and;
- (b) to enable wider options for resolution to be tested.

11.3 The *appropriate Assistant Chief Constable*, assisted by the *Head of the Equal Opportunities Unit* or other appropriate adviser, will interview the parties concerned and take such action as is considered appropriate.

11.4 The *appropriate Assistant Chief Constable* should ensure that all parties are told of the outcome of the enquiry personally, and what action (if any) is to be taken and the reasons for the decision. Written confirmation will follow as soon as possible thereafter. The *Equal Opportunities Office(r)* will be made aware of any matters dealt with under this stage.

12. **Further Options**

12.1 *On completion of Stage 3, the grievance procedure is exhausted but, if the grievance is not resolved, the aggrieved person has other avenues open to him/her. A civilian may proceed to the final stage of the grievance procedure set out in the Local Conditions of Service, namely the Appeals Committee of the Police Authority. In the case of a police officer, the grievance procedure does not affect his/her option to request an interview with the Chief Constable.*



13. **Grievance resolved or withdrawn**

- 13.1 When a resolution is achieved at some stage in the procedure, or the aggrieved person decides to withdraw the matter, the officer handling the grievance at that stage must ensure that the person concerned confirms this in writing. The aggrieved person should be advised that before doing so, however, he/she should discuss his/her decision with a colleague or friend, or a representative of a Staff Association or recognised Trade Union, and in every case *at least 3 days* should be allowed to elapse to enable the person to do so.

14. **Retention of Records**

- 14.1 At the conclusion of the grievance procedure all records and relevant papers should be forwarded to the *Equal Opportunities Office(r)* for retention.

15. **Relationship between grievance procedure and discipline enquiry when dealing with grievances against police officers**

- 15.1 Procedures for dealing with alleged criminal or disciplinary offences reported by staff are well established in all forces. These procedures are entirely separate from the grievance process. Occasionally, however, a grievance will involve allegations of criminal or serious disciplinary offences. The following paragraphs provide guidance on the handling of such cases.

- 15.2 Under normal circumstances, serious criminal conduct, especially conduct involving either dishonesty or serious assault, must be reported direct to the officer in charge of complaints and discipline. It must be explained to the aggrieved person that the nature of the allegation makes this necessary. It may be possible to continue to use the grievance procedure to resolve the original cause of the grievance, but this would depend on the circumstances of each case.

- 15.3 In some cases, consideration of a grievance may indicate that minor disciplinary offences have been committed. In such cases, it is always open to the aggrieved

person to report these offences to the officer in charge of complaints and discipline, should they so wish, and in some cases it may even be appropriate for the supervisor/line manager to encourage this. Likewise, there may be cases where it is appropriate for the supervisor/line manager, with the agreement of the aggrieved person, to report the matter to the officer in charge of complaints and discipline.

- 15.4 Except in the circumstances described at paragraph 15.2 above, it would not be appropriate for the supervisor/line manager to make a report to the officer in charge of complaints and discipline if the aggrieved person does not wish to make disciplinary allegations against the officer concerned. The reluctance of the aggrieved person would be likely to render any discipline investigation untenable. Under normal circumstances, an aggrieved person should not be required to give evidence, nor should any action be taken against that person as a consequence of a refusal to give evidence.
- 15.5 There may be exceptional circumstances, however, where, despite the aggrieved person's unwillingness, the supervisor/line manager believes that a case should be reported to the officer in charge of complaints and discipline. Examples include:
- (a) where the allegation is very serious, or there are compelling issues of public or organisational interest;
  - (b) the matter has worsened since the original report was made, such as if the officer concerned persists with the alleged misconduct;
  - (c) the matter is only one of a series of incidents.
- 15.6 A supervisor/line manager who needs to take further advice on the handling of any case should consult the person responsible for Stage 2 of the procedure on a personal basis so that the confidentiality of the grievance procedure is maintained. If the person responsible for Stage 2 also needs to take further advice, he/she should consult the person responsible for Stage 3, again on a personal basis. (A flow chart describing these arrangements is attached)

- 15.7 When deciding whether to refer a matter to the officer in charge of complaints and discipline, the person responsible for Stage 2 or Stage 3 of the procedure should first consult the aggrieved person, and then take into account all the circumstances of the case including the following points:
- (a) the need to maintain confidentiality;
  - (b) the effect on the aggrieved person who may then be put into the position of being a complainant in disciplinary proceedings against a colleague;
  - (c) that any documents concerned with the grievance procedure and statements made by officers in the course of grievance procedure will normally not serve as evidence in disciplinary proceedings. The personal explanation provided for in Regulation 7 of the Discipline Regulations is made under caution; remarks made in the less formal context of grievance procedures would therefore normally not be admissible. There may be circumstances, however, in which such statements might properly be taken into account in the disciplinary context; for example, if an officer gave inconsistent accounts at different times or made an unsolicited admission in relation to a matter which does not fall to be resolved through the grievance procedure, it might be appropriate for the officer to be questioned about such discrepancies or admission within the provisions of the Discipline Regulations.
- 15.8 Where it is decided to refer a matter to the officer in charge of complaints and discipline, and this is contrary to the wishes of the aggrieved person, the reasons for doing so must be explained to the aggrieved person as soon as possible. In such cases, the person referring the matter must record the reason for the action, bearing in mind that there may be a need to explain the decision at some later date before an Industrial Tribunal.
- 15.9 Attempts to find a resolution to the original grievance should not be deferred pending the outcome of the discipline enquiry. The grievance procedure should be run concurrently with, though separate from, the discipline enquiry.

15.10 If the person responsible for Stage 2 or Stage 3 of the procedure decides that the grievance should remain within the grievance procedure, it will continue to be dealt with at the appropriate stage of the procedure.

15.11 Locally agreed procedures will apply in civilian discipline cases.

16. Initiating a Discipline Enquiry

16.1 Grievance procedures are a personnel function and concerned with the rights and responsibilities of all members of staff, and the procedures and people involved in them should reflect this. It should be remembered that grievance procedures are not, and must not be seen to be, in any way adjunct to discipline procedures.

16.2 The decision to initiate a discipline enquiry will always remain with the *Deputy Chief Constable* (the recognised discipline authority for the force), to whom matters will be referred in the event of it becoming apparent that such action is required. It remains open to the *Deputy Chief Constable*, however, having regard to all the circumstances, to decide that a matter should remain within the grievance procedure, in which case it will continue to be dealt with at the appropriate stage of the procedure.

17. Role of Equal Opportunities Unit

17.1 The *Equal Opportunities Office(r)* should be responsible for registering and monitoring all grievances concerned with Equal Opportunities but otherwise performs a non-executive role in relation to the grievance procedure. The *Equal Opportunities Office(r)* should be available to provide confidential advice, support and guidance to all parties involved in a grievance case, or anyone who is considering making use of the grievance procedure. Similarly, these officers are available to advise on policy and procedure for grievances. They are not, however, responsible for the resolution of grievances, which is a line management function. The *Equal Opportunities Office(r)* is responsible for monitoring the use made of the grievance procedure and its effectiveness, and for reporting on these to senior management.

- 17.2 Written records of grievances and all relevant papers will be retained by the *Equal Opportunities Office(r)* in a confidential file.
- 17.3 Before papers are filed, they should be examined to discover outstanding issues such as training needs and policy development. A report should be prepared for the Divisional/Departmental Head by the *Equal Opportunities Office(r)* in consultation with the person who has resolved the grievance, or in the case of unresolved grievances the person dealing with Stage 3, outlining any further action which may be necessary. Confidentiality must be maintained in respect of the grievance in general unless there is an agreement not to do so.

## GRIEVANCE PROCEDURE

### Notes for Guidance

#### Industrial Tribunals

In order to start Industrial Tribunal proceedings a Form IT1 has to be served on the Industrial Tribunal (see time limits below). The Form IT1 and advice and guidance on the procedure can be obtained from the *Equal Opportunities Unit/Personnel Department*, Citizens Advice Bureau, Equal Opportunities Commission, Commission for Racial Equality, the Department of Employment and Job Centres.

Once Form IT1 is served, the Industrial Tribunal can defer the case until the outcome of internal procedure. This is a discretionary option and there is no mandatory requirement for a Tribunal to defer the case.

#### Time Limits

A time limit of three months less one day is imposed by the Race Relations Act 1976 and the Sex Discrimination Act 1975 (as amended) and this time limit commences from the date of the last act complained of.