

# DURHAM CONSTABULARY



*Altogether Better Policing*

## Employment Disputes Protocol

Application	Police Staff
Policy Owner	Human Resources
Version	2
Date of PUG approval	07.07.09
Last Review Date	01.08.14
Next Review Date	01.08.17
Protective Marking	Not Protectively Marked
Publication Scheme Y/N	Yes
Durham Constabulary Freedom of Information Act Publication Scheme	

## **1.0 EMPLOYMENT DISPUTES PROTOCOL**

### **2.0 PURPOSE AND SCOPE**

- 2.1 It is acknowledged that on very rare occasions a breakdown in employment relations may occur.
- 2.2 The purpose of this protocol is to:
- Demonstrate how Durham Constabulary and its representatives will engage with appropriate trade unions on how any potential dispute will be dealt with without endangering colleagues or members of the public
  - Ensure that any industrial action is legal
  - Ensure Durham Constabulary does not take any disciplinary action against or cause any negative impact to union members for taking part in a lawful dispute

### **3.0 THE LEGAL BASIS AND LEGITIMATE AIMS**

- 3.1 Throughout the operation of this policy Durham Constabulary will seek to take the least intrusive action which fits within the working policy criteria and will act fairly and proportionally to achieve the proposed purpose.
- 3.2 Durham Constabulary will operate within the policing principles as defined by the College of Policing Code of Ethics and in support of this our policies will seek to promote Accountability, Fairness, Honesty, Integrity, Leadership, Objectivity, Openness, Respect and Selflessness.

### **4.0 PROTOCOL STATEMENT**

- 4.1 As a result of the organisation being an emergency service it demands minimum staffing levels for its operational requirements in order to protect and preserve the safety of the community of Co. Durham and Darlington. The determination of the staffing levels should take place via a risk assessment with relevant SLT members and senior officials of the trade union side of the Police Staff Group, taking cognisance of individual union members desire to take part in any lawful action. Minimum staffing levels will in the first instance be provided by non union members.

## **5.0 Introduction**

- 5.1 In order to assist in planning, the trade union side of the Police Staff Group will notify the employer of those staff who are current members and therefore may be involved in any strike action.
- 5.2 As a result of the above it may have to be acknowledged by the trade union side of the Police Staff Group that some members may, in exceptional circumstances, be unable to take part in the action due to minimum staffing levels not being achieved.
- 5.3 It is acknowledged by the trade union side of the Police Staff Group that exemptions will be granted where there would otherwise be a direct danger to 'life or limb' or any person.

## **6.0 Resolution of Employment Disputes**

- 6.1 Both the employers side and the trade union side of the Police Staff Group are committed to resolve any registered employment dispute internally through the recognised internal negotiating arrangements. In the event that all internal negotiations fail the trade union side of the Police Staff Group has the right to consider organising lawful action.

## **7.0 Notice to Employer**

- 7.1 If the trade union side of the Police Staff Group deem any lawful action necessary, the trade union must inform the Chief Constable in writing of the intent to take industrial action giving at least 7 days notice.
- 7.2 The Chief Constable must then advise the Police and Crime Commissioner. Any action must be taken within 28 days of the last voting day of the ballot. All subsequent action to be taken will be preceded by a further 7 days written notice, as above, of the intention to take the action. Such notifications from the trade union side of the Police Staff Group will be communicated by the regional office of the trade union side of the Police Staff Group and not the officials of the trade union side of the Police Staff Group

## **8.0 Type of Action**

- 8.1 Action can consist of strike action and action short of a strike. The latter may involve for example a refusal to perform anything not explicitly contained in a job description and a ban on overtime.

## **9.0 Exemptions**

- 9.1 Exemptions should not be based on any administrative inconvenience to the employer. Specific decisions will be made depending on local operational circumstances at the time.

## **10.0 Special Cases**

- 10.1 It is trade union practice that any members who would suffer long term financial loss, work normally during industrial action.

- 10.2 They are:

- Members in their last year of service who are in the pension scheme
- Pregnant women who have given notice of their expected date of birth
- Members whose state benefits may be affected if they take part in strike action.

**Staff who are not members of the trade union on the specific days of action have no right to strike and should attend work as usual. However, staff may still join the trade union during any such period.**

## **11.0 Continuous Service/Qualifying period**

- 11.1 Continuous service is not broken if members return to work after the strike ends. A member who strikes will not lose that period from any relevant qualifying period e.g. probationary period, annual leave, and sickness or redundancy entitlement.

## **12.0 Maternity leave and pay**

- 12.1 Members who are due to commence maternity leave on the day of a strike retain their right to maternity pay from that day.

## **13.0 Annual leave/Rest days**

- 13.1 If strike action begins during a member's annual leave/rostered rest day period it is requested that they are treated as being on leave/rest day and not on strike. However, once dates of action days are known no new leave/time off requests for these days will be accepted.

## **14.0 Sick leave**

- 14.1 Staff reporting sick on any action day will be required to attend a return to work interview and to have a medical certificate from the first day of absence. **No self certification of sickness will be allowed on any day of action.**

## **15.0 Payroll Implication**

- 15.1 Managers will be advised of agreed mechanisms to ensure payroll receive the necessary information to know who took strike action so that appropriate deductions from salary are made.

## **16.0 Discipline of Trade Union members not taking part in a strike action**

- 16.1 Trade unions cannot discipline members who refuse to participate in any lawful action. However the trade unions do expect members to abide by the decision of the majority expressed in a lawful and democratic ballot of their members.

## **17.0 Pension implications**

- 17.1 Absence from duty due to any action is treated in the same way as any other unpaid absence i.e. service does not count in any way for pension purposes. However there is a provision in the LGPS Regulations 1997 which enables an employee to elect to pay pension contributions at the rate of 16% of pay in respect of a period of absence from duty because of an “official trade dispute” as set out in Section 218 of the Trade Union and Labour Relations (Consolidation) Act 1992. The time limit for a member of staff to make this payment is normally within 30 days although the Constabulary may extend this time limit if it wishes. It is the responsibility of the Constabulary to inform staff who take such action, of the option of paying a contribution.

## **18.0 Work places and pickets**

- 18.1 Visible demonstrations can be held throughout any action period that complies with official strike action legislation i.e. peaceful and non- intimidating behaviour. Any member of staff who wishes to partake in any demonstration will still be subject to the Force Policies. Trade Union members will also be subject to the trade union’s rules and regulations.
- 18.2 Staff may, if they choose, join a picket line in uniform but only if they are required to wear such in the normal course of their duties.

## **19 Media Strategy**

- 19.1 Both Durham Constabulary and the trade union side of the Police Staff Group will have the right to determine their own media strategy depending on the circumstances of the dispute. Any enquiries from local media will be directed to those designated representatives of both the organisation and the trade union side of the Police Staff Group.

**20     Calculation of daily pay**

- 20.1    Staff that take lawful action resulting in a strike will have a day's pay deducted for each day they strike and these deductions will be on the basis of 1/365<sup>th</sup> of their normal working week/shift pattern.

**21.0   APPEALS PROCEDURE**

If an individual wishes to appeal against any decision made in connection with this protocol, they should write to or email, the Chief Constable at the below address within 14 days of receiving a decision. The appeal will be considered and consultation will take place with appropriate individuals to establish all facts before a decision with regard to the appeal is made. A response to the appeal will be provided in writing within 10 working days of receipt of the appeal. Should this period not be achievable the individual will be notified in writing when a decision will be communicated.

The Chief Constable  
c/o Human Resources  
Police Headquarters  
Aykley Heads  
Durham  
DH1 5TT  
Telephone number:- 101  
Email [human.resources@durham.pnn.police.uk](mailto:human.resources@durham.pnn.police.uk)

## **DURHAM CONSTABULARY** **EQUALITY IMPACT ASSESSMENTS (EIA)**

This form **MUST** be completed by the Policy/Function lead when developing or reviewing policies or procedures which may impact on the way Durham Constabulary conducts its business (both inside and outside of the force) and which may affect one or more of the **NINE 'Protected Groups'** as defined by the Equality Act 2010 i.e. **Age, Gender, Transgender, Disability, Ethnicity, Religion/Faith, Sexuality, Marriage/Civil Partnership and Maternity/Pregnancy.**

The Equality Act 2010 (Section 149) sets out a specific general equality duty for all public sector bodies to, in the exercise of their functions, have due regard to the need to:-

1. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
2. Advance equality of opportunity between people who share a protected characteristic and those who do not.
3. Foster good relations between people who share a protected characteristic and those who do not.

As a Public Sector organisation we **MUST** show that when we are making decisions of a strategic nature we:-

- Give due regard to the impact it will have on protected groups
- Provide an audit trail of any assessment undertaken which identifies how the policy or procedure is likely to affect protected groups, and
- Undertake an assessment prior to any decisions around policies/procedures being ratified.

**This form should be completed, attached to the relevant policy/procedural document and submitted to the Policy User Group or other strategic group for ratification** (See Section 5) ***NB – use extra sheets if necessary.***

**PLEASE CONTACT AN HR MANAGER SHOULD YOU NEED ANY ASSISTANCE IN COMPLETING THIS FORM.**

<b>SECTION 1 - OVERVIEW OF POLICY /PROCEDURE</b>	
<b>Policy /Procedure Title</b>	Employment Disputes Policy
<b>Person Completing the EIA</b>	Sylvia Horsfield, HR Manager
<b>Purpose of the Policy?</b>	The purpose of this protocol is to demonstrate how Durham Constabulary and its representatives will engage with appropriate trade unions on how any potential dispute will be dealt with without endangering colleagues or members of the public. Ensure that any industrial action is legal. Ensure Durham Constabulary does not take any disciplinary action against or cause any negative impact to union members for taking part in a lawful dispute

Explain briefly why the Policy/Procedure is being developed/reviewed	This policy has been subject to updating to reflect current procedures	
SECTION 2 – NEGATIVE IMPACT		
Is there potential for adverse impact or discrimination on any of the protected groups mentioned above <i>and what actions if any will be taken.</i>	Age:	No potential for adverse impact has been identified
	Gender:	No potential for adverse impact has been identified
	Transgender:	No potential for adverse impact has been identified
	Disability:	No potential for adverse impact has been identified
	Ethnicity:	No potential for adverse impact has been identified
	Religion & Belief:	No potential for adverse impact has been identified
	Sexuality	No potential for adverse impact has been identified
	Marriage / Civil Partnership:	No potential for adverse impact has been identified
	Maternity /Pregnancy	No potential for adverse impact has been identified

<b>SECTION 3 – CONSULTATION &amp; RESEARCH</b>	
<b>Who has been consulted and what Research has been done around Equality during the development/amendment of the policy/procedure?</b>	All support networks. Force Executive (AC0) HR Staff Independent Advisory Groups (IAG's) Staff associations Business Disability Forum Legal Services Stonewall Heads of Command



**What does the evidence/Research found in Section 2 show with regard to positive impact on Equality? *i.e.* how will the people identified be affected in a good way.**

**Signature...**  
**Date** 1<sup>st</sup> Au

**Name** S.A. HORSFIELD

**Date** 1<sup>st</sup> August 2014

**RATIFICATION AT PUG /other Strategic Group**  
*include any pertinent points made at meeting.*

**Date of Meeting**

**Signature – Chair of Meeting**

**DATE POLICY/PROCEDURE TO BE REVIEWED? (3 years or sooner if required)**

PERSON IDENTIFIED RESPONSIBLE TO REVIEW

- |                       |           |  |
|-----------------------|-----------|--|
| <b>ONCE RATIFIED:</b> | <b>1)</b> | <b>Attach the original document to the FINAL draft of the Policy/Procedure</b> |
|                       | <b>2)</b> | <b>Forward a copy to the HR Manager, Diversity</b>                             |