



HUMAN RIGHTS POLICY

Chief Executive
March 2013

Contacting the Police and Crime Commissioner

The Commissioner welcomes comments on the Human Rights Policy.

If you would like a copy of the Policy, or wish to discuss any aspect of it, please contact the Chief Executive:

Chief Executive
Office of the Police and Crime Commissioner
Police Headquarters
Martlesham Heath
IPSWICH
Suffolk
IP5 3QS

Telephone: 01473 782773
Email: spcc@suffolk.pnn.police.uk
Website: www.suffolk-pcc.gov.uk

Translation Requests

In order to facilitate good communications, the Commissioner is willing to consider requests for the provision of a summary of this document in other languages or formats. Please email your request to spcc@suffolk.pnn.police.uk or call 01473 782773.

INTRODUCTION

The Police Authorities (Particular Functions and Transitional Provisions) Order 2008 made under the Police and Justice Act 2006 provides that:

“a police authority shall monitor the performance of the police force maintained for its area in complying with the duties imposed on that force by the Human Rights Act 1998”.

This monitoring duty came into effect on 14 March 2008.

Under the Police Reform and Social Responsibility Act 2011, police authorities were abolished and replaced by police and crime commissioners with effect from 22 November 2012. The above monitoring duty on police authorities has transferred to police and crime commissioners.

The human rights monitoring duty complements the Police and Crime Commissioner’s equalities and diversity monitoring practices. However, the Commissioner recognises the need to ensure that aspects of human rights monitoring that do not relate to the equalities duties are properly considered.

This Human Rights Policy (the Policy) sets out the human rights legal framework in the context of policing and includes an Action Plan on how the Commissioner proposes to meet the human rights monitoring duty.

Guidance issued by the former Association of Police Authorities (APA) “Human rights guidance for police authorities – Monitoring compliance with the Human Rights Act 1998”, is relevant to the human rights monitoring duty of the Police and Crime Commissioner and has been drawn upon as appropriate in formulating this Policy. The guidance document is available on the Police and Crime Commissioner’s website at www.suffolk-pcc.gov.uk.

THE HUMAN RIGHTS ACT 1998 (HRA)

The European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) is an international treaty of the Council of Europe. It was adopted in 1950 and ratified by the UK in 1951 and came into force in 1953. The ECHR provides a mechanism for individuals to ensure their ECHR rights against state parties. It is administered by the European Court of Human Rights in Strasbourg, and the Committee of Ministers of the Council of Europe.

The HRA came into force on 2 October 2000 and gives people in the UK the opportunity to enforce their ECHR rights in British courts rather than having to incur the cost and delay of taking a case to the ECHR.

The HRA requires all legislation (primary and secondary) to be interpreted so as to be compatible with 'Convention rights' if possible. Although this applies to all legislation affecting the police, questions of statutory interpretation are primarily for the courts. An important matter for policing is the duty that the HRA places on all public authorities, including the police and police and crime commissioners to act in away that is compatible with 'Convention rights'. Police staff are also covered whenever they perform public functions. There are special exemptions but very few (if any) apply to policing.

The HRA allows individuals who believe that their 'Convention rights' have been infringed to bring legal proceedings, including a claim for damages.

'Convention rights' defined:

The rights protected by the HRA are called 'Convention Rights' and are set out in Schedule 1 to the HRA. The subject matter of these rights is as follows:

Article 2	The right to life
Article 3	Prohibition on torture
Article 4	Prohibition on slavery and forced labour
Article 5	Right to liberty and security
Article 6	Right to a fair trial
Article 7	No punishment without law
Article 8	Right to respect for private and family life
Article 9	Freedom of thought, conscience and religion
Article 10	Freedom of expression
Article 11	Freedom of assembly and association
Article 12	Right to marry
Article 14	Prohibition on discrimination
Article 1, Protocol 1	Protection of property
Article 2, Protocol 1	Right to education
Article 3, Protocol 1	Right to free elections
Article 1, Protocol 6	Abolition of the death penalty
Article 2, Protocol 6	Death penalty in time of war

These rights have to be read with Article 16 (restrictions on political activities of aliens), article 17 (prohibition on abuse of rights) and Article 18 (limitation on use of restrictions on rights) (s.i. (1)). The full text of these Articles is set out in the APA guidance.

Convention rights are not all of equal status. The protection afforded under the ECHR and the HRA varies from right to right. The ECHR recognises three categories of Convention rights:

Absolute Rights	those rights that are strongly protected and cannot be restricted even in times of war or other public emergency.
-----------------	---

Specific Rights absolute	those rights that are less strongly protected than rights. They can be restricted in times of war or other public emergency.
Qualified Rights	those rights that are to be balanced against the public interest and which can be restricted in times of war or other public emergency.

Qualified rights are set out in positive form but can be restricted where it can be shown that a restriction is:

- prescribed by law;
- legitimate; and
- necessary and proportionate.

The full text of the Convention rights Articles is set out in the APA guidance.

Non-discrimination

There is a general principle of non-discrimination under the HRA but it is limited to non-discrimination in the enjoyment of Convention rights. The principle of non-discrimination in effect prohibits a difference in treatment between two similar groups that has no objective and reasonable justification. As a general rule, differences in treatment based on race, gender or disability, for example, will be very hard to justify.

Positive obligations

In general, the HRA only imposes *negative* obligations, e.g. an obligation not to subject individuals to ill-treatment and an obligation not to interfere with privacy (save where that interference can be justified). However, sometimes *positive* obligations are imposed requiring certain action to be taken e.g. protecting one detainee from another. These can be very important in a policing context.

The most important positive obligation for the police is the obligation to take reasonable measures to preserve life. As a general rule, the police are obliged to do all that could be reasonably expected of them to avoid a 'real and immediate' risk to life which they knew or ought to have known about.

HUMAN RIGHTS STANDARDS APPLICABLE TO POLICING

The first stage to measuring compliance with the HRA is the development of meaningful standards against which the performance of the police can be monitored. Since the HRA protects Convention rights, these standards must be based on the ECHR.

Detailed standards applicable to policing derived from the rights in the ECHR, as interpreted by the ECHR or by British courts, have been devised and are set out and fully described in the APA guidance. They cover the following:

- protecting the public;
- the prohibition of ill-treatment;
- the use of force;
- investigation and follow-up in cases of death and serious injury;
- public order;
- criminal investigations;
- surveillance;
- informers and undercover officers;
- search and seizure;
- arrest and detention;
- reasons;
- access to a lawyer;
- questioning;
- the right to be brought promptly before a court;
- bail;
- children;
- victims and vulnerable witnesses.

Overarching principles

In addition to the standards above, the Constabulary is expected to abide by the following overarching principles in the day-to-day policing of the county:

- in the performance of their duties, police officers should respect and protect human dignity and maintain and uphold the human rights of all persons;
- police officers should not discriminate (or aid or incite others to discriminate) on any grounds including race, colour, sex, language, religion, disability, age, sexual orientation, marital or family status, political or other opinion, national or social origin, property, birth or other status. Any difference in treatment shall be required to be justified and proportionate;
- the protection of national minorities and of the rights and freedoms of persons belonging to those minorities forms an integral part of the international protection of human rights;
- police officers have a duty:
 - to protect life and property;
 - to preserve order;
 - to prevent the commission of offences; and
 - where an offence has been committed, to take measures to

bring the offender to justice;

- when carrying out their duties, police officers should obey and uphold the law, protect human dignity and uphold the human rights and fundamental freedoms of all persons as enshrined in the HRA, the European Convention on Human Rights and other relevant international human rights instruments;
- police officers should, as far as is practicable, carry out their functions in co-operation with, and with the aim of securing the support of, the local community;
- police officers should act with fairness, self-control, tolerance and impartiality when carrying out their duties. They should use appropriate language and behaviour in their dealings with members of the public, groups from within the public and their colleagues. They should give equal respect to all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law;
- police officers should act with integrity towards members of the public and their colleagues so that confidence in the police is secured and maintained. They should avoid all forms of behaviour that may reasonably be perceived to be abuse, harassment, bullying or victimisation.

The above standards and overarching principles will be used by the Commissioner in assessing the performance of the Constabulary in complying with the HRA.

MONITORING

Whilst it is the performance of the police as a whole that has to be monitored for compliance with the HRA, the APA guidance identifies the following common areas that should be considered for monitoring purposes:

- **Training** – effective training in human rights principles and practice is fundamental to instilling a human rights based approach to policing in new recruits and experienced police officers.
- **Policy** – all police policies should set a framework for police decision-making and conduct that requires, and seeks to ensure, human rights compatibility in all areas of police work.
- **Complaints, discipline and civil actions against the police** – these provide an important means of monitoring the performance of the police in complying with the HRA since they each subject the behaviour of individual police officers to scrutiny, both external and internal.
- **Human rights awareness** – the promotion of human rights awareness is

considered to be vital not only to facilitate the development of a tangible human rights culture within the police, but also to demonstrate the commitment of the police to human rights in their dealings with others.

- **Information and reports from partner organisations** – information and reports from partners about police activity can be helpful in monitoring human rights compliance in a proportionate manner. Reports from Custody Visitors and the Independent Police Complaints Commission are particularly relevant to the new duty.

The Action Plan (Appendix A) takes account of the above activities and other APA guidance on setting standards of compliance.

POLICE AND CRIME COMMISSIONER COMMITMENT TO HUMAN RIGHTS DUTIES

This Human Rights Policy confirms the Police and Crime Commissioner's commitment to the fulfillment of human rights duties within the Suffolk police service.

The Police and Crime Commissioner's 'Decision-making and Accountability Framework' requires the originators of reports to consider the equality, diversity and human rights implications of proposals submitted for decision.

ACTION PLAN

The Action Plan at Appendix A sets out how the Commissioner will carry out the monitoring function of the Constabulary's compliance with the duties imposed by the HRA. This includes a requirement for the Chief Constable to report annually to the Police and Crime Commissioner on issues relating to the Constabulary's human rights compliance, specific incidents and outcomes and progress against the Action Plan.

PUBLISHING THE POLICY

The Police and Crime Commissioner is committed to ensuring that, wherever possible, information relating to policing services is accessible to the whole community.

This Human Rights Policy is published on the Commissioner's website at www.suffolk-pcc.gov.uk.

COMPLAINTS

The appropriate authority for complaints made against the Police and Crime Commissioner is the Police and Crime Panel. The Police and Crime Panel is responsible for initial recording of complaints and conduct matters and for referring any complaints which allege criminality to the Independent Police Complaints

Commission (IPCC). Where complaints do not allege criminality, the panel is responsible for handling and informally resolving these complaints.

The Police and Crime Panel has agreed to delegate

- to the Chief Executive of the Office for the Police and Crime Commissioner responsibility for receipt and initial handling and recording of complaints in accordance with Part 2 of The Elected Policing Bodies (Complaints and Misconduct) Regulations 2012 (the Regulations).
- to the Monitoring Officer of Suffolk County Council, responsibility for securing informal resolution of complaints as referred to in Part 4 of the Regulations, and ensuring that suitable material will be made available as public information in relation to complaints about the Police and Crime Commissioner.

Visit the Police and Crime Commissioner's website for more information about the complaints procedures <http://www.suffolk-pcc.gov.uk/complaints>

If a member of the public believes that they have been affected by a failure of the Police and Crime Commissioner for Suffolk to comply with statutory obligations in relation to human rights matters, they should send their complaint to the Chief Executive at the following address:

The Office of the Police and Crime Commissioner
Police Headquarters
Martlesham Heath
Ipswich
IP5 3QS

Or e-mail: spcc@suffolk.gov.uk or telephone: 01473 782773

All complaints made in respect of this Policy will be monitored by the Chief Executive and reported to the Commissioner.

A complaint which relates to the actions of an individual member of the Police and Crime Commissioner's staff will be dealt with under disciplinary procedures.

SUFFOLK POLICE AND CRIME COMMISSIONER**HUMAN RIGHTS POLICY ACTION PLAN**

Action Ref.	Action	Outcome	Timescale	Lead Responsibility	Progress
A. Internal capability and compliance of the Police and Crime Commissioner (PCC)					
1.	Publish a Human Rights Policy and Action Plan.	To demonstrate how the PCC will meet the duty to monitor the Constabulary's compliance with the HRA.	February 2013 and revised versions published as and when necessary.	Chief Executive	
2.	The PCC and his staff, and volunteers appointed by the PCC receive appropriate and on-going human rights guidance.	To ensure that all those involved in police business are aware of their human rights responsibilities.	Ongoing as appropriate.	Chief Executive	
B. External Focus for the Police and Crime Commissioner					
3.	The PCC will ensure that, in operating the Independent Custody Visiting Scheme, custody visitors: (i) are aware of their role in monitoring the rights and entitlements of detainees; (ii) feed back to the PCC immediate concerns, and (iii) provide regular reports to	The PCC and local community can be assured that custody centres are managed to the highest standard of human rights compliance.	Ongoing	Chief Executive	

Action Ref.	Action	Outcome	Timescale	Lead Responsibility	Progress
	the PCC for monitoring purposes.				
4.	Publish the Human Rights Policy and APA guidance on the PCC website.	To demonstrate to the general public the PCC's commitment to meeting human rights obligations.	February 2013 and revisions published as and when necessary.	Chief Executive	
C. Internal force capability and compliance of Chief Constable					
5.	Chief Constable to report as appropriate to the PCC's Accountability and Performance Panel on force data on police activities relative to human rights including Training, Discipline, Grievance and Complaints.	The PCC is proactive and regularly engaged in ensuring that human rights issues are effectively adhered to and promoted within the force; and the Chief Constable is aware of the PCC's support and commitment to ensuring satisfactory Constabulary performance on human rights compliance as appropriate.	June 2013 and annually thereafter.	Chief Constable	
6.	Chief Constable to report annually to the PCC's Accountability and Performance Panel on relevant information about force compliance with the human rights duty, progress	To demonstrate a co-ordinated and consistent approach by the PCC to the delivery of the human rights duty and functions including effective	June 2013 and annually thereafter.	Chief Constable	

Action Ref.	Action	Outcome	Timescale	Lead Responsibility	Progress
	against the Human Rights Policy Action Plan, specific incidents and outcomes.	scrutiny of the Constabulary.			
7.	Chief Constable to inform the PCC and Chief Executive of specific human rights matters involving police officers and police staff which may attract media interest.	In order that the PCC and Chief Constable can consider how best to handle media interest.	As and when appropriate.	Chief Constable	
8.	The Chief Constable will involve the PCC at all stages of the development of Constabulary staff/cultural surveys and evaluation of results to enable the PCC to monitor staff awareness of human rights and assess the effectiveness of human rights training.	To ensure that the PCC is fully aware of staff attitudes to human rights and, where appropriate, can recommend interventions and monitor progress.	As and when appropriate.	Chief Constable	
9.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will include a summary of progress on the impact assessment of relevant policies in relation to human rights issues.	In the monitoring role, the PCC is able to endorse a public facing report which demonstrates that human rights have been considered in developing Constabulary policies.	June 2013 and annually thereafter.	Chief Constable	

Action Ref.	Action	Outcome	Timescale	Lead Responsibility	Progress
10.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will include, as appropriate, information on data management and retention policies and practices which cover IT and forensics (including CCTV, forensics, surveillance and intelligence etc.).	The PCC is satisfied that Constabulary IT and forensics policies and practices are compliant with the HRA.	June 2013 and annually thereafter.	Chief Constable	
D. Operational force compliance					
11.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will include, as appropriate, information on relevant external force activity (including public order, use of force, covert policing and search and seizure) to enable the Authority to monitor and challenge police activity.	The PCC monitors with a view to ensuring that human rights compliance is effectively delivered within communities.	June 2013 and annually thereafter.	Chief Constable	
12.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will include, as appropriate, Constabulary data	The PCC is satisfied that those who come into contact with the police, for whatever reason, receive a fair and	June 2013 and annually thereafter.	Chief Constable	

Action Ref.	Action	Outcome	Timescale	Lead Responsibility	Progress
	(and where relevant, key partner data) in relation to victim, witness, suspect and perpetrator survey data to enable the PCC to monitor that practice is compliant with human rights.	equitable service that is compliant with the HRA.			
13.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will include details of public order incidents and actions taken or proposed arising from such incidents, to enable the PCC to monitor operational practice.	Increased community trust and confidence following independent assessment by the PCC of Constabulary operational practice.	June 2013 and annually thereafter.	Chief Constable	
14.	The Chief Constable's annual report on human rights to the Accountability and Performance Panel will address the area of Custody and, in particular, Safer Detention and complaints.	The PCC is satisfied that the Constabulary's arrangements for the welfare of persons detained in police custody follow national guidance and are compliant with the HRA.	June 2013 and annually thereafter.	Chief Constable	