

# DYFED POWYS POLICE



## Policing Public Sex Locations

### Force Policy Document

## **POLICY IDENTIFICATION PAGE**

THIS POLICY HAS BEEN DRAFTED IN ACCORDANCE WITH THE PRINCIPLES OF HUMAN RIGHTS LEGISLATION, PUBLIC DISCLOSURE IS APPROVED UNLESS WHERE OTHERWISE INDICATED AND JUSTIFIED.

**POLICY TITLE: Policing Public Sex Locations**

**POLICY REF. NO: 06/05**

**VERSION: 2**

**POLICY OWNERSHIP: Dyfed Powys Police**

**Portfolio / Business-area Owner: CM& RD**

**Department Responsible: Community Safety**

**Person Responsible: Chief Inspector**

**POLICY IMPLEMENTATION DATE:**

**Frequency of Review: Annually**

**Date Policy Last Reviewed: October, 2008**

**Policy Review Date: October, 2009**

## CERTIFICATE OF COMPLIANCE

This policy has been drafted in accordance with the Human Rights Act and has been reviewed on the basis of its contents and the supporting evidence and it is deemed compliant with that Act and the principles underpinning it.

Name: Samantha Gainard

Department: Legal Services

Signed: .....*S. Gainard*..... (Force Legal Advisor)

### REVIEW

This policy is due for review by: October, 2009

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## REVIEW OF DOCUMENT

<b>Date of Review</b>	<b>Reviewed By</b>	<b>Amendments made</b>
Changes made March, 2006	Approved by Corporate Strategy Board	Amendments made by Chief Insp. N. George.
Review carried out 11.12.06	Chief Insp. Nigel George	Reviewed, no changes required.
Review carried out 14/10/08	Rachel Clayton - Community & Partnerships	Minor amendments - LGBT to be changed to LGB+T, page 11 - LAGPA to be changed to GPA. Page 13 the A238 form deleted.

## Policy Document Statement

This policy has been drafted in accordance with the Human Rights Act 1998

### i. GENERAL PRINCIPLES

Sexual behaviour in a public place can cause offence to those who unwillingly witness it, and it may result in people feeling intimidated when using public places and facilities.

It is therefore policy of the Dyfed Powys Police:

- To respond to complaints in a manner that is fair, proportionate, legal, accountable and necessary, based on best information.
- To respond to such incidents with a duty to reduce crime and disorder and provide a safe community for all its members.
- Not to discriminate unnecessarily between men and women or between those of different sexual orientation.
- To recognise that people engaged in public sex activities where it is a same sex issue are also potential victims or witnesses of hate crime.

### ii. AIMS AND LAWFUL AUTHORITY

The aim of the Dyfed Powys Police in partnership with others is to adopt a structured problem solving philosophy in responding to complaints of public sex activity and to consistently apply such an approach with a view to sustaining public confidence.

The lawful authorities for the exercise of the powers and duties outlined in this policy are:

- Section 17 of the Crime and Disorder Act 1998
- Common Law
- Sexual Offences Act 2003
- Sexual Offences Act 1956
- Sexual Offences Act 1967
- Sexual Offences Act 1985
- Sexual Offences (Amendment) Act 1976
- Sexual Offences (Amendment) Act 1992

- Street Offences Act 1959
- Criminal Justice & Police Act 2001
- Indecency with Children Act 1960
- Public Order Act 1986
- Regulation of Investigatory Powers Act 2000
- Town & Police Clauses Act 1847
- Vagrancy Act 1824
- Regulation of Investigatory Powers Act 2000

Dyfed Powys Police consider that these actions are necessary in a democratic society in the interest of Public Safety:

- the Prevention of Disorder or Crime,
- the Protection of Public Order,
- the Protection of Health and Morals and
- the Rights and Freedom of others.

### **iii. HUMAN RIGHTS**

The Human Rights Act 1998 will be considered at all stages of the process, taking into account the need to protect the rights and freedoms of members of the community at large as well as those of the defendant.

In the application of this Policy Document, Dyfed Powys Police will not discriminate against any persons regardless of sex, race, colour, sexuality, disability, language, religion, political, or other opinion, national or social origin, association with national minority, property, birth, or other status as defined under Article 14, European Convention Human Rights (ECHR)”

In undertaking this function persons in charge of cases will ensure the following: All procedural and substantive rights under the Human Rights Act are complied with; any interference with the defendant’s rights is necessary, relevant, proportionate and in accordance with the provisions of the Human Rights Act;

Care should be taken in assessing what is reasonable and proportionate to uphold people’s rights not to be disturbed by sexual behaviour in public places

### **iv. Enforcement and Reporting**

All staff, in particular managers and supervisors, will be responsible for the implementation and operation of this policy.

### **v. Accessibility, Redress and Reviews**

This policy will be published and made readily available to all police officers and support staff via the Force Intranet System or where this facility is not available, at the discretion of Divisional Commanders / Heads of Department, by paper dissemination.

This policy is a public document and will be made available to the general public via the Force Internet site – [www.dyfed-powys.police.uk](http://www.dyfed-powys.police.uk) - and upon written request to the Force policy coordinator.

This policy will be reviewed annually by the Community Safety Department to ensure on-going compliance in respect of the Human Rights Act, any other legislation or guidance documents, to include Human Rights case law. There will also be external audit by, for example, Her Majesty's Inspector of Constabularies (HMIC). The policy will be published in a format making it easily readable.

Any person(s) who has / have cause to feel aggrieved by any matter outlined in this policy is / are able to and may seek redress in the following ways;

- Misconduct procedures
- Civil or criminal proceedings
- Organisational complaints procedure
- Reconciliation procedure

In exercising their right as detailed above, the individual may have a right to equal access of information so far as the law permits and subject to the rules applicable in civil actions.

Public consultation is an important part of this process, with any views and comments welcomed. These should be addressed to the

Chief Constable,  
Dyfed-Powys Police Service,  
P.O. Box 99,  
Llangunnor,  
Carmarthenshire.  
SA31 2PF.

- vi. **Human Rights Generic Audit Compliance List**  
**Policy Name:** Policing Public Sex Locations  
**Policy Owner:** Community Safety Department  
**Audited by:**

## 1. DEFINITION OF TERMS

- 1.1 A *public sex location* is defined as any public place to which individuals resort for the purpose of engaging in sexual activity. This includes, public lavatories and other open spaces such as, for example, parks or wastelands.
- 1.2 A *homophobic incident* is defined as 'any incident which is perceived to be homophobic by the victim or any other person'. The term 'homophobic incident' must be understood to include criminal and non-criminal incidents.
- 1.3 *Hate Crime/Behaviour* is defined as 'where the perpetrator' is prejudice against any identifiable group of people.

## 2. INTRODUCTION

- 2.1 Unlike theft or criminal damage, the spectrum of what people consider as unacceptable sexual behaviour in public places and therefore worthy of complaint and police intervention is extremely broad. Those who engage in sexual behaviour in public places and those affected by it often hold vastly differing viewpoints.
- 2.2 It is likely that the majority of complaints from members of the public will be about public sexual activity between men. Not all men who engage in such sexual activity will be gay and are just as likely to be heterosexual. It is true to say that the reasons why men engage in this activity are several and complex, in many cases reflecting personal experiences of homophobia. There is therefore a need to build trust with local Lesbian, Gay, Bi-Sexual and Transgender (LGB+T) Communities as there is little doubt that men who engage in such activities run the risk of falling victim to homophobic crime. This should not be tolerated and victims of these crimes must be supported.
- 2.3 Officers must be aware that many transgender, transsexual and transvestite people are not necessarily lesbian, gay or bisexual, and that being cross-dressed for any reason gives no grounds to suspect any intention to engage in any public sexual behaviour.
- 2.4 It is also important to recognise that despite ill-founded common beliefs, neither sexual orientation nor sexual behaviour in public places indicate paedophilia.
- 2.5 The police can be called to isolated instances of sexual activity in public places or cases where the particular location is habitually used for such activity. In either circumstance, the behaviour complained of may fall short of a criminal

offence or may extend to unlawful activity. This policy is intended to provide guidance on how such instances should be dealt with.

### **3. RECEIPT OF COMPLAINT OF PUBLIC SEX ACTIVITY**

- 3.1 It is recognised that occasions will arise where a police officer witnesses sexual activity in a public place, or receives a complaint from a member of the public that such activity is taking place or has just taken place. The officer should assess the circumstances and determine if immediate action is required. If such action is required then this should be taken in accordance with the general principles contained within this policy.
- 3.2 In other cases where a report is received from a member of the public, or intelligence or other information is received that indicates that sexual behaviour is frequently taking place at a particular location, the Duty Inspector should carry out an initial assessment of the validity of the complaint and appraise the appropriate member of the BCU Senior management team. A Chief Inspector or above will be responsible for forming a strategic multi-agency decision-making/review group to address the situation. This group should include statutory and non-statutory partners who can assist in resolving the matter, e.g. local authority, national parks etc. Local community groups (e.g. LGB+T groups) should also be an integral part of the process as they are valuable source of information and advice.

### **4. SCANNING AND ANALYSIS**

- 4.1 In order to decide the appropriate response to the situation, the group should take the following factors into consideration:
- a) Is it an isolated incident or one of several in that locality, i.e. is it a community problem. What other information is available? What is the nature of the complaint, i.e. is it about observed behaviour, hearsay, or about unhygienic litter etc?
  - b) Is there likely to be displacement of the problem if action is taken?
  - c) Consider the use of formal information gathering by the use of plain clothes officers, cameras etc. This is to help inform, and would not necessarily lead to a prosecution but could be used to identify geographical areas of concern. This proactive gathering of information should only be approved and authorised if the use of such evidence gathering techniques is proportionate to the problem as it raises serious human rights issues. Where appropriate, LGB+T groups should be closely involved in this decision.

- 4.2 Not every complaint will result in a response. Scanning and response stage may show it to be an isolated incident and if this is the case the reasons should be explained to the complainant. It may also be decided that whilst there is a problem, on strategic grounds it would be inappropriate to implement a staged response at that time. This decision should be taken in consultation with the local community groups and the decisions and grounds should be recorded.
- 4.3 Time spent on scanning and analysis will help ensure:
- i. police and partners are able to assess the issues in proper terms and context
  - ii. action is not (and not seen as) a knee jerk reaction
  - iii. police and partners are able to evidence decisions to take action
  - iv. Police and partners will be able to provide an auditable trail with regard to any queries which might arise in respect of how a complaint has been progressed

## 5. A STAGED RESPONSE

Where it is considered that a positive response is required this should be undertaken in a staged process utilising the below framework as a model upon which to act.

### 5.1 Stage 1 – Inform and dissuade.

At Stage 1 the purpose should be to raise the awareness and to deter the sexual activity at specified locations. Options should include the following:

- Use of health outreach workers,
- Displaying posters, (time limits on displaying posters to be based on updated intelligence)
- An awareness campaign via the local press, however caution should be exercised as publicly identifying locations where public sexual activity is occurring can escalate fears, fuel prejudice and place all persons in that vicinity at risk. **All press releases must be personally authorised by the Duty Inspector with a copy submitted to the Press Office at HQ.**

The multi-agency group should review and decide prior to embarking onto the next stage.

## 5.2 Stage 2 – Situational Prevention and Reduction Measures

The aim here is to reduce the opportunity for sexual activity at the given location(s) and the following options should be considered:

- Target removal, e.g. closure of facilities
- Access control e.g. restricting hours of opening of the facilities
- Use of park patrols or toilet attendants
- Signage and use of warning notices
- Landscaping and cutting back on shrubbery
- Lighting and other structural alterations
- Overt surveillance e.g. CCTV
- Staff vigilance and guidance (e.g. gardeners)
- Environmental design (long term)

The multi-agency group should review and decide prior to embarking onto the next stage.

## 5.3 Stage 3 - Preventative Patrolling

This stage involves the use of local officers in uniform to patrol the area at times when the behaviour is known to occur.

Such operations should be effectively supervised with an operational order and risk assessment conducted prior to any deployment. Briefings prior to deployment should include the following:

- The Forces commitment to the prevention of discrimination should be emphasised and fully explained.
- Consideration to the participation of community groups, such as LGB+T, and where appropriate =GPA officers during the briefings.
- The problem should be placed in strategic context, i.e. tackling homophobia, etc.
- Officers should be made aware of public sex issues and they should be provided with clear explanation on why action is required and what is hoped will be the result.
- Clear instructions on powers and options open to officers.
- Clear guidelines on how to use discretionary powers.

## 5.4 Arrest of Offenders

Offenders who are arrested or reported for offences as a result of any police operation should be dealt with in accordance with the Force Policies.

Additionally, it should be noted that other agencies do provide facilities for counselling referrals where appropriate.

## **6. INCIDENTS INVOLVING YOUNG PERSONS**

- 6.1 Where an incident involves persons under the age of 18 years, account should be taken of the vulnerability of that person and the case should be referred to the Public Protection Units for consideration of referral to partner agencies. All instances of disclosure without informed consent should only be made where it is necessary, proportionate and justified.
- 6.2 If an incident involves a young persons and the other party to the incident being an adult, particular regard should be given to the age and vulnerability of that young person and in the first instance, that young person should be treated as a victim focussing on their safety and on-going well being that should be of paramount importance.
- 6.3 No disclosure should be made of the young persons' self-identified sexual orientation or gender status, and that includes disclosure to a member of that persons' family without informed consent from that person. If, in exceptional circumstances, human rights considerations identify the compelling need for such disclosure, then it should take place. All instances of disclosure without informed consent should only be made where it is necessary, proportionate and justified.

## **7. CONFIDENTIALITY ISSUES**

- 7.1 Whenever an investigation is undertaken into individuals involved in sexual behaviour in a public place, all cases should be handled with sensitivity, ensuring that those involved are treated with dignity and respect regardless of sexual orientation.
- 7.2 Officers should be aware that deliberately, or unwittingly divulging information about a person's sexual orientation to their family, friends, workplace or neighbours can have devastating repercussions such as rejection by family, employer or community with loss of home, employment, or even life as a result of suicide. Therefore due regard should be given to the persons continued welfare, safety, general well-being and human rights.

## **8. RECORDING OF INCIDENTS**

- 8.1 All complaints relating to Public Sex Locations will be recorded on STORM and officers dispatched to investigate the complaint as appropriate. If it is established

that a crime has been committed this will be recorded in accordance with the national Crime Recording Standards and investigated accordingly.

## **9 FURTHER ADVICE AND GUIDANCE**

- 9.1 Officers wishing any further advice on the matters raised in this policy should consult with the Force Diversity Officer or the Force Community Safety Department.