

**Equality and Human Rights Impact Assessment (EqHRIA)**

# Summary of Results

## Policy/Practice Name:

Armed Policing Policy v4.00 and Armed Policing Operations SOP v7.00

## Owning Department:

Armed Policing

## Date EqHRIA Completed:

11/10/2022

## Purpose of Policy/Practice:

Purpose - to outline the considerations in relation to the Police Service of Scotland’s Operations involving Armed Policing options.

The Authorised Professional Practice (Armed Policing) (APP(AP)), as adopted by The Police Service of Scotland (PSoS), is the source of firearms policy and practice within the Service.

## Summary of Analysis / Decisions:

### What the assessment found, and actions already taken.

In terms of Equality Impact Assessment (IA), the analysis of the documents revealed that all of the nine protected characteristics were impacted by the SOP as detailed below:-

**General**

**Outward**- Police Scotland recognises that an individual’s right to life and public safety is of paramount consideration when dealing with AP matters.

In a conflict situation where the criteria for the deployment of AFOs has been met, a person’s protected characteristic will be considered as part of the National Decision Models’ (NDM) Threat Assessment by suitably qualified operationally and occupationally competent Firearms Commanders. This ensures that where recourse to police issue firearms is necessary it is used proportionately and legitimately.

**Inward** - The issue of police firearms and the deployment of armed officers in their specialist role will at all times be carried out under rigorous standards of training, authorisation and robust operational command. This is achieved in accordance with the provisions of the Authorised Professional Practice (Armed Policing) and the College of Policing (2020) Code of Practice on Armed Policing and Police use of Less Lethal Weapons, as adopted by Police Scotland, and the AP Operations SOP.

**Age**

**Outward** - AP tactics are not intended to discriminate against any of the protected groups.

Whilst ‘Age’ may be a consideration it would not preclude an escalation of use of force however the deployment of armed officers will be undertaken by suitably qualified operationally and occupationally competent ‘Firearms Commanders’ who as part of their threat assessment WILL consider an individual’s age as part of their use of the NDM and specifically an individual’s capability and intent.

**Inward** - The role carried out by operational AFOs can be an extremely responsible one and involves critical use of force decisions by individual AFOs in urgent life threatening situations. The decisions and actions of AFOs and those in command of firearms operations may therefore be subjected to intense and prolonged scrutiny.

Officers should fully consider the nature of the AFO role before applying. As such the Service will only consider officers who volunteer for selection and will support these officers in that role by providing the highest possible standards of training and equipment.

The required AFO standards, are not intended to discriminate against any of the protected groups.

**Disability**

**Outward** - Members of the protected group who are disabled, be it sight, hearing or visually impaired, or who have learning difficulties may not understand or fully appreciate the seriousness of a situation they may find themselves in, where an armed response is or has been deployed. As such they may not respond appropriately to the directions given to them.

Persons who have a mental health condition may also not be readily identifiable as such. They also may not respond appropriately or rationally to the directions given to them.

AFO’s are trained to recognise these factors and utilise tactics to deal with them appropriately.

**Inward** - The required AFO standards, are not intended to discriminate against any of the protected groups.This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

Disability in Employment procedure is available to assist in the process of making any reasonable adjustments in relation to employee disability.

**Gender Reassignment**

**Outward** - The tactics themselves are not intended to discriminate against any of the protected groups.

Firearms commanders will also consider the principles of dealing with Vulnerable Persons inclusive of environmental and behavioral influencers.

**Inward** - With regards to transgender police officers and staff, guidance is now published in relation to stop & search. This mitigates against the negative impact that exercising the use of the stop and search tactic may have on the individual officer/staff member.

The required AFO standards, are not intended to discriminate against any of the protected groups. This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

**Marriage and Civil Partnership**

**Outward** – No impact.

**Inward** - All officers granted authorisation as AFOs, or approved for firearms training, shall, as a condition of authorisation / approval, be obliged to report any change of personal circumstances, which may be deemed to place him / her under any undue level of additional stress or be otherwise detrimental to his / her ability to perform firearms training or operational duties. This is to be reported to their immediate line managers.

This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

**Pregnancy and Maternity**

**Outward** - The tactics themselves are not intended to discriminate against any of the protected groups.

In addition, Firearms commanders will also consider the principles of dealing with Vulnerable Persons inclusive of pregnancy/maternity.

**Inward** - During Pregnancy officers are encouraged to notify their line manager as early as possible to ensure that a risk assessment can be completed and any necessary adjustments can be made.

The officers’ current post should be reviewed to take into consideration any impact that the pregnancy will have on their duties. Role adjustments can be considered at this point if the risks cannot be reduced or lessened to a reasonable extent.

During pregnancy and maternity leave, officers should not be exposed to operational duties therefore would not be required to attend Firearms Training. Such officers could however, opt to utilise KIT (Keep in Touch) days to receive non-operational training. Any officer who is returning from maternity leave will be afforded the opportunity to attend training at the earliest convenience.

Female officers may also be on protected duties following a return from maternity leave if they are breastfeeding.

Similarly, the required AFO standards, are not intended to discriminate against any of the protected groups.

This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

**Race**

**Outward -** The tactics themselves are not intended to discriminate against any of the protected groups.

BAME groups who are not native English speakers may be disadvantaged during a firearms response, if they are unclear what is being asked of them whilst armed officers are conversing with them. AFO’s are trained to recognise these factors and utilise tactics to deal with them appropriately

Whilst it is generally recognised that in the UK Firearms operations are a proportionate means of achieving a legitimate aim, BAME groups who are not native English speakers may have differing cultural perceptions around Armed Policing. CIA’s will be utilised to review and address any potential issues.

Where circumstances permit, consideration may be given to use of interpreting and translating services.

**Inward** - Officers volunteer for AP roles and any officer who meets the criteria can apply. In order to address this, Armed Policing Awareness days will be conducted prior to any recruitment which will be tailored to the needs of the protected groups. These will inform and highlight development opportunities.

**Religion or Belief**

**Outward** - The tactics themselves are not intended to discriminate against any of the protected groups.

Religion or belief is not considered as a factor in the threat assessment within the NDM, and judgements should be based on objective information including intelligence and information received, and any threat that is evident.

Although religion or belief is not considered as a factor there may be an adverse public perception should such an incident attract negative media coverage. CIA’s will be utilised to review and address any potential issues.

**Inward** - The required AFO standards, are not intended to discriminate against any of the protected groups. This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

Where circumstances permit, consideration will be given to officers on firearms deployments within a religious festival or fasting period to ensure physical exertion does not effect ability.

**Sex**

**Outward** – The tactics themselves are not intended to discriminate against any of the protected groups. Whilst gender may be a consideration it would not preclude the use of force.

**Inward** - It is recognised that there are fewer female AFOs. Officers volunteer for AP roles and any officer who meets the criteria can apply. In order to address this, Armed Policing Awareness days will be conducted prior to any recruitment which will be tailored to the needs of the protected groups. These will inform and highlight development opportunities.

**Sexual Orientation**

**Outward** - The tactics themselves are not intended to discriminate against any of the protected groups. Whilst sexual orientation may be a consideration it would not preclude the use of force.

**Inward** - The required AFO standards, are not intended to discriminate against any of the protected groups. This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

In terms of Human Rights IA, the analysis revealed:-

* **Article 2 (Right to Life)** – was assessed as protects/infringes as an individual’s right to life can be directly impacted by AP operations. In keeping with the principles of the European Convention on Human Rights (ECHR) the rights of all people must be considered, including those of the subject. However, potentially lethal force may be used if it is absolutely necessary for the legitimate aims outlined in this Article. Whilst the subject’s right to life must be given due consideration, the lives of members of the public and police officers must not be placed at greater risk in an effort to save the life of someone carrying out a criminal or terrorist act likely to cause loss of life or serious injury.
* **Article 3 (Prohibition of Torture)** – was assessed as protects as Firearms, less lethal weapons and arrest and restraint procedures must not be used by police officers with the sole intention of inflicting severe pain or suffering on another in the performance or purported performance of official duties, see [*Ribitsch v Austria* (1996) 21 EHRR 573](http://www.bailii.org/eu/cases/ECHR/1995/55.html). Any such action may result in criminal charges.
* Police Officers have a duty at law to use the minimum amount of force necessary to achieve a lawful purpose. The onus lies upon the individual Police Officer to justify his / her actions and demonstrate to a Court of Law that the amount of force used was reasonable under the circumstances.
* **Article 5 (Right to Liberty and Security)** – was assessed as infringes/protects as Article 5 will be infringed by the arrest / detention of the subject. The restriction on a person’s liberty is applied when they are held within police custody and grounds for such must be Proportionate, Lawful, Accountable, Necessary and Ethical as outlined in the Care and Welfare of Persons in Police Custody SOP.
* **Article 6 (Right to a Fair Trial)** – was assessed as protects as all armed officers are now issued Body Worn Video which will secure video and audio evidence of crimes and offences as they occur. This evidence would thereafter be available to the reporting officers and the Procurator Fiscal. This is captured in the Body Worn Video Code of Practice and will not be replicated within this assessment.
* **Article 8 (Right to Respect for Private and Family Life)** – was assessed as infringes as the infringement of a person’s right to respect for private and family life, may be impacted on during a course of policing action and grounds for such action must be Proportionate, Lawful, Accountable, Necessary and Least Intrusive.
* All officers granted authorisation as AFOs, or approved for firearms training, shall, as a condition of authorisation / approval, be obliged to report any change of personal circumstances, which may be deemed to place him / her under any undue level of additional stress or be otherwise detrimental to his / her ability to perform firearms training or operational duties. This is to be reported to their immediate line managers. This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

**Article 10 (Freedom of Expression)** – was assessed as protects/infringes as any measures taken to infringe the right will be considered by the relevant commander and a decision log, documenting the rationale behind the action, will be noted.

* **Article 11 (Freedom of Assembly and Association)** – was assessed as infringes as road closures, cordons and containment of areas will infringe Art 11 and prevent persons from going about their lawful business or accessing public areas and private dwellings. Any measures taken to infringe the right will be considered by the relevant commander and a decision log, documenting the rationale behind the action, will be noted.
* **Article 14 (Prohibition of Discrimination)** – was assessed as protects as it makes the principle of equality central to the obligations to protect life and physical integrity under Articles 2, 3 and 8 and is relevant to the use of force by police officers, including the use of restraint against detained persons. If a person is arrested or detained it cannot be due to their race, religion, sex or political view and they will not be discriminated against due to these.

All officers granted authorisation as AFOs, or approved for firearms training, shall, as a condition of authorisation / approval, be obliged to report any change of personal circumstances, which may be deemed to place him / her under any undue level of additional stress or be otherwise detrimental to his / her ability to perform firearms training or operational duties. This is to be reported to their immediate line managers. This is captured in the AP Training EqHRIA and will not be replicated within this assessment.

## Summary of Mitigation Actions:

### What the assessment found, and actions already taken.

The SOP supports dynamic decision making (and this is scrutinised at all levels of command). Equality Impact Protected Characteristics are considered as part of decision making in order to minimise risk of ‘false positive’ identification of threat (e.g. those unable to understand/comply with instructions). Further mitigation is in place within other SOPs as referenced above.

In a conflict situation where the criteria for the deployment of AFOs has been met, a person’s protected characteristic will be considered as part of the National Decision Models’ (NDM) Threat Assessment by suitably qualified operationally and occupationally competent Firearms Commanders. This ensures that where recourse to police issue firearms is necessary it is used proportionately and legitimately.

AFO’s are trained to recognise protected characteristics and utilise tactics to deal with them appropriately.

The recent introduction of Body Worn Video (BWV) provides an additional level of scrutiny, ensuring that all AP Operations are proportionate and legal.

Owning department will monitor changes in legislation / circumstances which may affect the Policy or SOP, and assess how these changes may impact on the protected groups.

In addition they will be responsible for the cyclical review of both SOP and EqHRIA.