

DMPC Decision – PCD 1374

Title: Selected Medical Practitioner – Single Tender Action

Executive Summary:

This paper seeks approval for a upto 4 year single tender action (STA) for the provision of professional medical services in order to meet the requirements of the Police Pension Authority and Police Pension regulations. The estimated 4-year cost is £946,256 which can be met from within the existing MPS budget.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

1. Approve a Single Tender Action (STA) with Professional Occupational Medical Services in providing the services of a Selected Medical Practitioner (SMP) for a further four years

Deputy Mayor for Policing and Crime

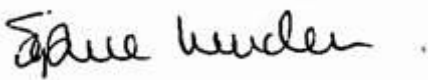
I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct. Any such interests are recorded below.

The above request has my approval.

Signature

Date

17/02/2023



PART I - NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC

1. Introduction and background

- 1.1. The current contract for the provision of the selected medical practitioner expires on 1 March 2023.

2. Issues for consideration

- 2.1. The services of a medical practitioner is required in order to meet the requirements of the Police Pension Authority and Police Pension regulations for independent recommendations in respect of ill health retirement, early payment of deferred pension on medical grounds, rejoining the police pension scheme and injury awards for officers and ex-officers.
- 2.2. MPS report that there is a severely limited supply of suitably qualified providers for this service. National events to generate more market interest and understand supplier views were arranged but resulted in a lack of interest and providers stating that they would not be pursuing tender opportunities as they were unable to fulfill the requirements of the role – see Commercial section below for further detail.
- 2.3. The proposal is for a upto 4 year single tender action to ensure continuity of supply.

3. Financial Comments

- 3.1. The estimated annual cost of the service is £236,564 which over the potential 4-year term of the single tender action would cost £946,256. The cost will be funded from within the existing MPS Human Resources budget.

4. Legal Comments

- 4.1. The Mayor's Office for Policing and Crime ("MOPAC") is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £213,477 or above shall be procured in accordance with the Regulations. This report confirms the value of the proposed contract exceeds this threshold.
- 4.2. This report confirms it is believed no other SMP providers would wish to provide the services on the basis of a lack of interest to a previous prior information notice (PIN) published by Blue Light Commercial (BLC) in around November 2021 for a national contract. Given that previous PIN and subsequent failed market engagement exercise, both by BLC, took place almost one year ago Commercial Services has confirmed that there are no other providers in this market that could fulfil the MPS requirement.
- 4.3. The award of contract through an STA is permitted within the Public Contract Regulations (PCR) 2015, Regulation 32(2)b(ii) which allows for the award of a contract by a negotiated procedure without prior publication;

(b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—

- (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,
- (ii) competition is absent for technical reasons,
- (iii) the protection of exclusive rights, including intellectual property rights .

4.4. DLS assure that the proposal is compliant with the Public Contract Regulations.

4.5. The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime (“DMPC”) has delegated authority to approve:

All contract exemptions for £100,000 or above (paragraph 4.13); and
Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and

4.6. Paragraph 7.23 of the Scheme provides that the Director of Commercial Services has consent for the approval of the award of all contracts, with the exception of those called in through the agreed call in procedure. Paragraph 4.14 of the Scheme provides the DMPC reserves the right to call in any MPS proposal to award a contract for £500,000 or above.

5. Commercial Issues

5.1. In recognition of the limited supply of suitably qualified providers across the country the MPS worked with the national Blue Light Commercial (BLC) function, the College of Policing, NPCC and the National Police Federation. BLC organised a national market engagement event, for November 2021. The purpose was to define the requirements, the feasibility of options and the appetite within the market. However due to lack of market/supplier interest the event was cancelled.

5.2. Blue Light Commercial ran national focus sessions in November and December 2021 with a small number of potential providers. At these sessions, the few potential providers highlighted the workforce challenges and cited that they would not be pursuing tender opportunities as they were unable to fulfill the requirements of the role

5.3. The MPS has assured that they will engage further with Blue Light Commercial to consider what sustainable, long term solutions can be found for this ongoing problem of viable supply choices. MPS will feed in to Blue Light Commercial’s work to put in place a National Framework agreement for all forces to call off from which should help to improve the market options.

5.4. The MPS assure that the current provider does provide a value for money service as, very occasionally, an alternative provider has been used and the alternative provider was considerably more expensive than the current provider.

6. GDPR and Data Privacy

- 6.1. MOPAC will adhere to the Data Protection Act (DPA) 2018 and ensure that any organisations who are commissioned to do work with or on behalf of MOPAC are fully compliant with the policy and understand their GDPR responsibilities.
- 6.2. The MPS assure that this project does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.

7. Equality Comments

- 7.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.2. The MPS assure that there are no significant equality or diversity implications arising from this process negating the requirement to present any mitigation.

8. Background/supporting papers

- 8.1. Appendix 1 MPS Report - Single Tender Action for the Selected Medical Practitioner (SMP)

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOIA) and will be made available on the MOPAC website following approval.

If immediate publication risks compromising the implementation of the decision it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? YES/NO

If yes, for what reason:

Until what date:

Part 2 Confidentiality: Only the facts or advice considered as likely to be exempt from disclosure under the FOIA should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a **Part 2** form – YES/NO

ORIGINATING OFFICER DECLARATION	<i>Tick to confirm statement (✓)</i>
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Legal Advice: The MPS legal team has been consulted on the proposal.	✓
Equalities Advice: Equality and diversity issues are covered in the body of the report.	✓
Commercial Issues Commercial issues are covered in the body of the report.	✓
GDPR/Data Privacy GDPR compliance issues are covered in the body of the report .	✓
Drafting Officer Alex Anderson has drafted this report in accordance with MOPAC procedures.	✓
Director/Head of Service: The MOPAC Chief Finance Officer and Director of Corporate Services has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice has been taken into account in the preparation of this report. I am satisfied that this is an appropriate request to be submitted to the Deputy Mayor for Policing and Crime.

Signature

Date 30/01/2023

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Single Tender Action for the Selected Medical Practitioner (SMP)**MOPAC Investment Advisory & Monitoring meeting 24th January 2023****Report by Mark Pomroy on behalf of the Chief of Corporate Services****Part 1 – This section of the report will be published by MOPAC. It is classified as COMMERCIAL – SENSITIVE***EXECUTIVE SUMMARY*

This paper seeks approval for a Single Tender Action (STA) with Professional Occupational Medical Services for the provision of a Selected Medical Practitioner (SMP) for four years.

The MPS currently have a contract with Professional Occupational Medical Services which was awarded under a Single Tender Action as there were no other providers in the MPS area and this situation has not changed.

The SMP provides a key role within the police officer Ill Health Retirement process (IHR) and is responsible for making recommendations to the Police Pension Authority (PPA).

All Police forces are experiencing increasing difficulty in identifying suitably qualified medical practitioners to perform the role.

The MPS is part of a national forum looking at the SMP services and the strategic issues associated with this.

Recommendations

The Deputy Mayor for Policing and Crime, via the Investment Advisory and Monitoring meeting (IAM), is asked to:

1. **Approve an Single Tender Action (STA) request with Professional Occupational Medical Services LTD in providing the services of a Selected Medical Practitioner (SMP) for a further four years.**

Time sensitivity

2. A decision is required from the Deputy Mayor by 02/02/2023. This will allow us to finalise the new contract ahead of the expiry date of the current STA with Professional Occupational Medical Services on 01/03/2023.

Non-confidential facts and advice to the Deputy Mayor for Policing and Crime

3. The MPS currently has a STA with Professional Occupational Medical Services to provide the SMP service. The SMP is an independent, suitably qualified medical practitioner who will make a recommendation as to whether an officer meets the criteria for Ill Health Retirement.

4. In light of the fact that there is evidence from early market engagement by Blue Light Commercial colleagues that the supply market is extremely limited - and with a recognition that the national work will take time to progress - the MPS wishes to support an STA with "Professional Occupational Medical Services" for a further four years. During this time, the MPS will continue to fully participate with the national forum.

Introduction and background

5. The Police Pension Authority (PPA) is responsible for decisions made under the Police Pension Regulations for all police officers (including officers of the National Police Chiefs Council).
6. Under the Police Pension Regulations, 1987, 2006 and 2015, if an officer becomes permanently disabled from performing the ordinary duties of a police officer or permanently medically unfit to perform the ordinary duties of a police officer, they may be required to retire on Ill Health grounds.
7. To assist the PPA in reaching a decision regarding Ill Health, the Selected Medical Practitioner (SMP) will assess the officer and make a recommendation.
8. The SMP also makes recommendations in relation to applications for early payment of deferred pension on medical grounds, rejoining the police pension scheme and injury awards for officers and ex officers.
9. In order to fulfil the requirements within Police Regulations, the SMP cannot be employed by or have association with the current OH provider (Optima). Any recommendation made by the SMP is entirely independent.
10. The requirements mean that those providing the service, must have the relevant medical qualifications and a good understanding of the complex regulatory and legal processes associated with Ill Health Retirement.
11. The current provider, "Professional Occupational Medical Services" has been providing the service since circa 2005.
12. The current STA with "Professional Occupational Medical Services" is for a six - month period and is due to expire on the 1st March 2023.

Issues for consideration

13. For some time, the market for SMP services has been severely limited with many forces having difficulties in identifying suitably qualified providers.
14. The challenges of finding suitably qualified SMPs has been recognised with the recent creation of the "National Forum for Selected Medical Practitioner Services", this was created in collaboration with various stakeholders including the College of Policing, NPCC and the National Police Federation.
15. Blue Light Commercial had organised a national market engagement event, for November 2021. The purpose was to define the requirements, the feasibility of options and the appetite within the market, however due to lack of market/supplier interest the event was cancelled.

16. Blue Light Commercial ran national focus sessions in November and December 2021 with a small number of potential providers. At these sessions, the few potential providers highlighted the workforce challenges and cited that they would not be pursuing tender opportunities, as they were unable to fulfill the requirements of the role.
17. Anecdotal evidence from existing SMPs would appear to suggest that the main crux of the issue appears to be concern around the vulnerability in terms of complaints or threats of complaints to the General Medical Council (GMC) by officers or former officers and their legal representatives. There have been occasions where SMP's have been subject to unfounded vicarious complaints, which has caused difficulty for the SMPs who are concerned about the impact that this could have on them professionally.
18. Historically the number of newly qualified Doctors had been declining, however in their 2020 edition of "State of Medical Education and Practice in the UK", the GMC identified that the number of newly qualified doctors has started to increase. However, it will still take some time for the increase of newly qualified Doctors to have an impact on the number of SMPs.
19. Professional Occupational Medical Services have been providing the service since circa 2005 and has been a trusted supplier to the MPS.
20. The current provider does provide a value for money service, very occasionally, an alternative provider has been used (for cases where there has been a long-standing complaint) and the alternative provider was considerably more expensive than the current provider.
21. In the light of these challenging market conditions, we are proposing a further STA. However, our latest strategy is to seek approval for a four year STA as this will forgo the requirement of applying for yearly STA's. It will also provide sufficient time for the national issue to be progressed. If a solution is found before the end of the four years, we will have the option to utilise that solution if suitable.

Contributes to the MOPAC Police & Crime Plan 2022-25¹

22. The health, safety and wellbeing of our officers is vital if the MPS is to achieve its commitment to improving public confidence, trust and enforcing high standards. For those who are permanently medically unfit to fulfil the role of a police officer, it is vital that they are supported in a timely and consistent way.

Commercial and Procurement Comments

1. HR and Commercial met in October 2022 to undertake a fresh review of the market constraints and our strategic options, given the efforts of Blue Light Commercial to address a common gap with other forces. This review confirmed the findings of Blue Light Commercial remain the case today; namely there is a lack of market/supplier interest in this contract meaning a direct award is the only possible route to procure the services.
- 2.

¹ [Police and crime plan: a safer city for all Londoners | London City Hall](#)

3. Following the Blue Light Commercial publication of a Prior Information Note (PIN) and supplier engagement, it emerged that the market for Selected Medical Practitioners is highly constrained and very limited. This engagement did not build confidence that a Blue Light Commercial or MPS-specific tender would produce any responses.
4. A key reason why the Supply Market is so heavily constrained is the strict technical requirement for an independent and suitably qualified individual or individuals:

The Police Negotiation Board (PNB) Circular 10/04 states: -

...the SMP should be a Member or Fellow of the Faculty of Occupational Medicine (MFOM or FFOM), or EEA equivalent. The minimum requirement should be that he or she is an Associate of the Faculty of Occupational Medicine (AFOM) or EEA equivalent.

5. We will engage further with Blue Light Commercial to consider what sustainable, long term solutions can be found for this ongoing problem of viable supply choices. However, given that our SMP arrangement comes to an end on 1 March 2023, we are proposing to act now to secure the incumbent's services directly for up to 4 years. This strategy gives the MPS maximum flexibility in the medium to long term, while we pursue parallel efforts to build market interest with Blue Light Commercial partners.

Options considered

Option No	Description	Feasibility/ Suitability/ Acceptability
1	Do Nothing	<p>Under a 'Do Nothing' option, the MPS' contract with our existing SMP would lapse by 1 March 2023. This would mean the MPS fails to meet its obligation (under Police Regulations) to ensure a qualified medical expert delivers Independent Ill Health Assessments. This would mean that officers, who in many cases are gravely ill, would be subject to unnecessary delays, which could impact further on their health issues.</p> <p>Status: Discounted (Unacceptable)</p>
2	Engage the existing SMP on a longer term relationship (4 years), on a direct award contract for services	<p>This option will see us continue our current relationship with the SMP, giving us supply continuity to meet our obligations to staff.</p> <p>In addition to taking forward a new contract, the MPS will continue to work with Blue Light Commercial colleagues to develop supply options. However it is clear that more thinking is needed to tackle this problem. This will take us beyond the end date of the current contract.</p> <p>Recommended on Suitability and Feasibility grounds, linked to continuity of supply.</p>
3	Engage the SMP through a Temp Labour/Fixed term contract	We have considered whether it might be possible to take the SMP on as a

		contractor – for instance through our Temp Labour Supplier (Reed). Previously the SMP was paid via Reed, however not only did this cause further costs, as invoices had to be sent via Reed, it also caused significant delays in payment, with the provider not being paid for 12 months. Therefore, this is not a route that we are happy to progress again. Furthermore, we see no prospect that the SMP will agree
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6. In the light of the above assessment, our recommendation is to place a new contract for the supply of services with the SMP for a four-year period. In the circumstances, the award of contract through an STA is permitted within the Public Contract Regulations (PCR) 2015, Regulation 32(2)b(ii) which allows for the award of a contract by a negotiated procedure without prior publication;
 - (b) where the works, supplies or services can be supplied only by a particular economic operator for any of the following reasons:—*
 - (i) the aim of the procurement is the creation or acquisition of a unique work of art or artistic performance,*
 - (ii) competition is absent for technical reasons,*
 - (iii) the protection of exclusive rights, including intellectual property rights,*
7. Although we believe the risk of an objection to an STA is low, given the work done by Blue Light Commercial, we do recognise that their PIN and supplier engagement was 12 months ago. To help mitigate any fresh objections or challenges to this course of action, we propose the following sequence of actions:
 - i) STA approval from MOPAC.
 - ii) MOPAC will then publish a Voluntary Ex-Ante Transparency (VEAT) notice. The notice will set out our proposed STA action and the rationale for the STA – in the light of Regulation 32. It will also give a reasonable time frame for any potential providers to raise interest, objections or challenges with MPS.
 - iii) The MPS will only enter in to a contract with the SMP if no objections arise from the VEAT notice.
8. The proposed four year time period is based on the recognition that the market is currently significantly constrained for these requirements and there is no prospect of this changing in the short term. This strategy therefore provides time for the MPS to feed in to Blue Light Commercial's work to put in place a National Framework agreement for all forces to call off from which should help to improve the market options.
9. However, a yearly agreement will be put in place with the provider and a review of the market conducted at each year end – to provide us with sufficient flexibility. This will enable the agreement to be terminated if the market improves and a competition can be conducted.

10. Professional Occupational Medical Services Ltd the current suppliers are based within the London area and as such help in building London's economy and society. They are considered to be a SME.

Finance Comments and Budget

11. The MPS is seeking approval for an STA for the next four financial years at an estimated cost of £946,256.

Proposed Costs:

2023/24	2024/25	2025/26	2026/27	Total
£236,564	£236,564	£236,564	£236,564	£946,256

Affordability

12. There is existing funding within the HR Budget for a new STA to cover costs up to 2026/2027. Therefore no additional budget is required.
13. By putting in place a four year STA we will reduce the time taken to process annual STA requests and hopefully in this time, the market will grow and can be retested and reviewed regularly.

Legal Comments

The Mayor's Office for Policing and Crime ("MOPAC") is a contracting authority as defined in the Public Contracts Regulations 2015 ("the Regulations"). All awards of public contracts for goods and/or services valued at £213,477 or above shall be procured in accordance with the Regulations. This report confirms the value of the proposed contract exceeds this threshold.

Regulation 32(2)(b)(ii) provides the MOPAC may use the negotiated procedure without prior publication of a contract notice where competition is absent. This report confirms following a review exercise in October 2022 competition for the services is absent. On that basis the proposed direct award will be compliant with the Regulations.

The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime ("DMPC") has delegated authority to approve:

1. All contract exemptions for £100,000 or above (paragraph 4.13); and
2. Business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8); and

Paragraph 7.23 of the Scheme provides that the Director of Commercial Services has consent for the approval of the award of all contracts, with the exception of those called in through the agreed call in procedure. Paragraph 4.14 of the Scheme provides the DMPC reserves the right to call in any MPS proposal to award a contract for £500,000 or above.

Equality Comments

14. There are no significant equality or diversity implications arising from this process negating the requirement to present any mitigation. Our contract with the SMP will include provisions on equality and diversity.

Privacy Comments

15. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.
16. Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.
17. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the project/contract meets its compliance requirements, albeit respecting the independence of the SMP.
18. The project does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.

Real Estate Implications

19. There are no estate implications as a result of this work.

Environmental Implications

20. There are no environmental implications as a result of this work. Any approved supplier will be made aware of the MPS environmental policy.

Background/supporting papers

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