

DMPC Decision – PCD 1312

Title: Lawful Business Monitoring

Executive Summary

The HMICFRS Counter Corruption Report (March 2022) stated that: *By 31st March 2023 the MPS should ensure that it has full IT monitoring capability to effectively protect the information contained within its systems and help it to identify potentially corrupt officers and staff.'*

The purpose of this decision is to meet the HMICFRS recommendation. The MPS is seeking to procure VigilancePro Software as a Service (SaaS) solution to deliver Lawful Business Monitoring.

The Investigatory Powers Regulations 2018 allows businesses, including public authorities and police forces, to monitor the use of their Information Communications Technology (ICT) systems. Police systems contain confidential and sensitive data. The Metropolitan Police Service (MPS) must ensure that its systems, and the data they contain, are only accessed and used for a proper policing purpose. Moreover, the Met Values and the Code Ethics require that MPS systems are used in a way which upholds integrity and professionalism.

Lawful Business Monitoring (LBM) will identify and prevent misuse. It will be operated by the MPS Directorate of Professional Standards (DPS). Members of the workforce found to have misused MPS systems will be held to account. Information retrieved from monitoring may be used in misconduct, criminal and performance meetings.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

1. Approve the implementation and ongoing support of VigilancePro Software as a Service (SaaS) solution, with forecasted IT-related revenue costs of £2.925m over five years. This includes £639,000 project implementation costs for 2022/23 and overall contract costs for an initial two years, with operational extensions for three years, until October 2027. All costs will be met from approved MPS budgets.
2. Approve the procurement and direct award of a contract to CDW Ltd. (Value Added Reseller), via the Health Trust Europe Framework, for the provision of Lawful Business Monitoring, supplied by VigilancePro Ltd, at a total contract value of £2.519m. This includes a provision of £500,000 headroom to ensure future increases in data costs.

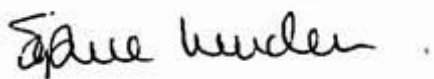
Deputy Mayor for Policing and Crime

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 19/10/2022

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

1. Introduction and background

- 1.1. Lawful business monitoring (LBM) is a legitimate activity for forces to monitor their information systems and methods of communication. LBM is governed by the Investigatory Powers (Interception by Businesses etc. for Monitoring and Record-keeping Purposes) Regulations 2018, which authorises public authorities to monitor and record internal business communications.
- 1.2. The use of LBM helps ensure that access to police systems and use of communication devices is for a lawful policing purpose. By using LBM, forces seek to identify unlawful access to police records, wrongful disclosure of police data, computer misuse and inappropriate use of communication devices. The use of IT monitoring is covered by LBM legislation. This can be used to automate proactive checks on the access to all a force's IT systems and communication devices.
- 1.3. Almost all police forces in England and Wales have, or are in the process of adopting, LBM capability. LBM will provide the MPS with a significantly enhanced capability to identify and root out corrupt and offensive behaviours and to prevent and deter them. This will help restore the trust and confidence of Londoners in the MPS.

2. Issues for consideration

- 2.1. The risk of misuse of MPS ICT systems has been highlighted in a number of high-profile cases, particularly those involving officers sending abusive, offensive, racist and misogynistic messages on WhatsApp. This continues to have a negative impact on the trust and confidence of the public in the MPS.
- 2.2. LBM supports the priority of increasing trust and confidence. It will provide a significantly increased capability to address the culture in policing and the high standards of professionalism we expect of officers and staff.
- 2.3. The HMICFRS Counter Corruption Report (March 2022) states: *By 31st March 2023 the MPS should ensure that it has full IT monitoring capability to effectively protect the information contained within its systems and help it to identify potentially corrupt officers and staff.*
- 2.4. Entering into a contract to procure VigilancePro software by the end of October 2022 and subsequent implementation will enable the MPS to monitor their information systems and methods of communication, including mobile devices, to ensure all activity is for a lawful policing purpose.
- 2.5. The MPS has committed to discuss the parameters for the use of the software with the London Policing Ethics Panel in due course.
- 2.6. Further information is provided in the restricted section of this report.

3. Financial Comments

- 3.1. The purchase and introduction to service of VigilancePro software requires project revenue costs of £639K in 2022-23 and £2,286K ongoing revenue costs over the next five years (total £2.925m). There is no impact on Capital.
- 3.2. Value for Money is achieved by using a statement of requirement based on the standards adopted by other UK police forces and identified in the GMP framework. These include critical success factors and are tailored to needs of the MPS, with a large number of ICT system users. Both suppliers' capabilities and pricing were evaluated and scored against defined criteria. Costs have been benchmarked using rough order of magnitude (RoM) costs.

4. Legal Comments

- 4.1. The MPS is subject to legal requirements to ensure monitoring of its ICT systems is lawful and ethical. The Investigatory Powers Act 2016 establishes the principle that communications may not be intercepted without lawful authority and that this must comply with respect for private and family life under Article 8 Human Rights Act 1988.
- 4.2. The Investigatory Powers Regulations 2018 allow businesses, including public authorities and police forces, to monitor electronic communications on their systems for a number of purposes, including 'to ascertain or demonstrate the standards which are achieved or ought to be achieved by persons using the telecommunications system in the course of their duties.' This legal basis is also set out in Part 3 (Monitoring at Work) of the Information Commissioner's Office (ICO) Employment Practices Code.
- 4.3. MOPAC is a Contracting Authority, as defined in the Public Contracts Regulations 2015. All awards of public contracts for goods and services valued at £213,477 (inclusive of VAT) or above are procured in accordance with the Regulations.
- 4.4. The MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime (DMPC) with delegated authority to approve business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8). Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent also provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to approve all contract exemptions for £100,000 or above. Paragraph 7.23 of the Scheme provides that the Director of Strategic Procurement have 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 provides that the DMPC reserves the right to call in any MPS proposal to award a contract for £500,000 or above.
- 4.5. MPS Directorate of Legal Services have reviewed this paper and confirmed it is compliant with procurement regulations. Further information is contained in the restricted section of this report.

5. Commercial Issues

- 5.1. Procurement will be by direct award contract to CDW Ltd, via the Health Trust Europe Framework (HTE), for VigilancePro Ltd to provide a Lawful Business Monitoring Software as Service (SaaS) solution for an initial period of two years, with optional extensions of up to three years, at a cost of £2,019,000.
- 5.2. The Total Contract Value over 5 years is £2,519,000 (excluding VAT). This includes a provision of £500,000 headroom costs to account for any future increases in data costs. Costs will be met from existing budgets.
- 5.3. This is a Commercial off the shelf Solution (CotS) with Cloud AD integration that requires minimal development. This supports the MPS Digital Strategy of 'Cloud first' and 'Buy, not build'. The national Insider Threat, Monitoring & Audit System (ITMAS) Framework Agreement operated by Greater Manchester Police (GMP) was initially evaluated to understand solutions available on the market to meet MPS requirements. An evaluation was undertaken to assess two leading solutions. The Health Trust Europe (HTE) framework agreement with CDW Ltd. was used to source proposals from both suppliers and assess their capabilities and costs.
- 5.4. This decision does indirectly contribute to the London Anchor Institutions charter by working to renew confidence in the Metropolitan Police Service and therefore confidence in London.

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. A DPIA has been completed for the proof of concept and will be further developed to support full implementation of the software. The DPIA has been assured by the MPS Data Office and completed with the support of legal advice.

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. An Equalities Impact Assessment (EIA) has been completed with limited consultation at this time, given the nature of LBM. The MPS have committed to further develop the

EIA following completion of the proof of concept and as decisions are made about how the software is utilised.

- 7.3. The use of LBM will enable the MPS to proactively identify officers and staff who have used discriminatory language on MPS systems and communication devices.

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? NO

If yes, for what reason:

Until what date: N/A

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

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 The MPS Contract Management Team has been consulted on the commercial issues within this report. The proposal is in keeping with the GLA Group Responsible Procurement Policy.	✓
GDPR/Data Privacy - GDPR compliance issues are covered in the body of the report and the MPS Data Protection Officer has been consulted on the GDPR issues within this report. - A DPIA has been completed.	✓
Drafting Officer Judith Mullett has drafted this report in accordance with MOPAC procedures.	✓
Director/Head of Service: The Head of MPS Oversight – Governance and Professionalism 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 26/10/2022**A handwritten signature in dark ink, appearing to read 'Hannah Chetford', is written over a light grey rectangular background.

DPS Lawful Business Monitoring – Insider Threat Monitoring and Audit System

MOPAC Investment Advisory & Monitoring meeting – 10th October 2022

Report by Detective Superintendent Jim McKee on behalf of Acting Assistant Commissioner Amanda Pearson

Part 1 – This section of the report will be published by MOPAC. It is classified as OFFICIAL – PUBLIC

EXECUTIVE SUMMARY

The Investigatory Powers Regulations 2018 allows businesses, including public authorities and police forces, to monitor the use of their Information Communications Technology (ICT) systems. Police systems contain confidential and sensitive data. The Metropolitan Police Service (MPS) must ensure that its systems, and the data they contain, are only accessed and used for a proper policing purpose. Moreover, the Met Values and the Code Ethics require that MPS systems are used in a way which upholds integrity and professionalism.

Lawful Business Monitoring (LBM) will identify and prevent misuse. It will be operated by the MPS Directorate of Professional Standards (DPS). Members of the workforce found to have misused MPS systems will be held to account. Information retrieved from monitoring may be used in misconduct, criminal and performance meetings.

The MPS is seeking to procure VigilancePro Software as a Service (SaaS) solution to deliver Lawful Business Monitoring. The MOPaC scheme of delegation provides the Deputy Mayor for Policing and Crime delegated authority to approve business cases for capital expenditure of £500,000 or more.

Recommendations

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

1. Approve the implementation and ongoing support of VigilancePro Software as a Service (SaaS) solution, with forecasted IT-related revenue costs of £2.925m over five years. This includes £639K project implementation costs for 2022 / 23 and overall contract costs for an initial two years, with operational extensions for three years, until October 2027.

2. Approve the procurement and direct award of a contract to CDW Ltd. (Value Added Reseller), via the Health Trust Europe Framework, for the provision of Lawful Business Monitoring, supplied by VigilancePro Ltd, at a total contract value of £2.519m. This includes a provision of £500K headroom to ensure future increases in data costs.

Time sensitivity

A decision is required from the Deputy Mayor by 10th October 2022. This is because the Contract must be awarded by late October 2022 to ensure the phased delivery of Lawful Business Monitoring commences under the Commissioner's 100-day plan and that is fully operational by 31st March 2023. This date is set for delivery of monitoring capability in the recommendations of the HM Inspectorate of Constabulary and Fire Rescue Services (HMICFRS) Counter Corruption Inspection Report of the MPS.

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

1. Introduction and background

1.1 The HMICFRS Counter Corruption Report (March 2022) states; *'By 31st March 2023 the MPS should ensure that it has full IT monitoring capability to effectively protect the information contained within its systems and help it to identify potentially corrupt officers and staff.'*

1.2 Delivery monitoring capability is also set out in Our Met's Direction 2018-2025; *'essential investment in Digital and Data will enhance DPS Lawful Business Monitoring and Auditing capability and capacity across corporate devices.'*

1.3 The risk of misuse of MPS ICT systems has been highlighted in a number of high-profile cases, particularly those involving officers sending abusive, offensive, racist and misogynistic messages on WhatsApp.

1.4 Almost all police forces in England and Wales have, or are in the process of adopting, Lawful Business Monitoring capability. Lawful Business Monitoring will provide the MPS with a significantly enhanced capability to identify and root out corrupt and offensive behaviours and to prevent and deter them. This will help restore the trust and confidence of Londoners in the MPS.

2. Issues for consideration

2.1 This information is contained in the restricted section of the report (Part 2).

3. Contributes to the MOPAC Police & Crime Plan 2022-251

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

3.1 Lawful Business Monitoring supports the priority of ‘increasing trust and confidence.’ It will provide a significantly increased capability to address ‘the culture in policing and the high standards of professionalism we expect of officers and staff.’

4. Financial, Commercial and Procurement Comments

4.1 Procurement will be by direct award contract to CDW Ltd, via the Health Trust Europe Framework (HTE), for VigilancePro Ltd to provide a Lawful Business Monitoring Software as Service (SaaS) solution for an initial period of two years, with optional extensions of up to three years, at a cost of £2.019m. The Total Contract Value over 5 years is £2,519K (excluding VAT). This includes a provision of £500K headroom costs to account for any future increases in data costs. Costs will be met from existing budgets.

4.2 This is a Commercial off the shelf Solution (CotS) with Cloud AD integration that requires minimal development. This supports the MPS Digital Strategy of ‘Cloud first’ and ‘Buy, not build’. The national Insider Threat, Monitoring & Audit System (ITMAS) Framework Agreement operated by Greater Manchester Police (GMP) was initially evaluated to understand solutions available on the market to meet MPS requirements. An evaluation was undertaken to assess two leading solutions. The Health Trust Europe (HTE) framework agreement with CDW Ltd. was used to source proposals from both suppliers and assess their capabilities and costs.

4.3 The purchase and introduction to service of VigilancePro software requires project revenue costs of £639K in 2022-23 and £2,286K ongoing revenue costs over the next five years (total £2.925m). There is no impact on Capital.

4.5 Value for Money is achieved by using a statement of requirement based on the standards adopted by other UK police forces and identified in the GMP framework. These include critical success factors and are tailored to needs of the MPS, with a large number of ICT system users. Both suppliers’ capabilities and pricing were evaluated and scored against defined criteria. Costs have been benchmarked using rough order of magnitude (RoM) costs.

4.6 This proposal does not make a direct contribution to the London Anchor Institutions’ Charter.

4.7 Further information is contained in the restricted section of this report (part 2).

5. Legal Comments

5.1 The MPS is subject to legal requirements to ensure monitoring of its ICT systems is lawful and ethical. The Investigatory Powers Act 2016 establishes the principle that communications may not

be intercepted without lawful authority and that this must comply with respect for private and family life under Article 8 Human Rights Act 1988. The Investigatory Powers Regulations 2018 allow businesses, including public authorities and police forces, to monitor electronic communications on their systems for a number of purposes, including ‘to ascertain or demonstrate the standards which are achieved or ought to be achieved by persons using the telecommunications system in the course of their duties.’ This legal basis is also set out in Part 3 (Monitoring at Work) of the Information Commissioner’s Office (ICO) Employment Practices Code.

5.2 MOPaC is a Contracting Authority, as defined in the Public Contracts Regulations 2015. All awards of public contracts for goods and services valued at £213,477 (inclusive of VAT) or above are procured in accordance with the Regulations. The MOPaC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime (DMPC) with delegated authority to approve business cases for revenue or capital expenditure of £500,000 and above (paragraph 4.8). Paragraph 7.23 of the Scheme provides that the Director of Strategic Procurement have 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 provides that the DMPC reserves the right to call in any MPS proposal to award a contract for £500,000 or above.

5.3 MPS Directorate of Legal Services have reviewed this paper and confirmed it is compliant with procurement regulations. Further information is contained in the restricted section of the report (part 2).

6. Equality Comments

6.1 An Equality Impact Assessment (EIA) has been completed. This will remain under review to ensure any Equality Act issues are mitigated. Bridges (2020) EWCA Civ 1058, requires the MPS to discharge the public sector equality duty and take ‘reasonable steps to make enquiries about what may not be known about the potential impact of the proposed design or policy on people with relevant characteristics.’

7. Privacy Comments

7.1 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.

7.2 Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) are mandatory for organisations with

technologies and processes that are likely to result in a high risk to the rights of the data subjects. The MPS Data Office has been consulted to ensure compliance requirements have been met.

7.3 A Data Protection Impact Assessment has been completed and remains under regular review. The MPS ensures a 'privacy by design' approach. This allows it to find and fix problems at the early stages of projects. The DPIA ensures that the MPS complies with the requirements under the General Data Protection Regulation.

7.4 Lawful Business Monitoring will apply to all ICT systems on the MPS corporate Foundation network, including desktops, laptops, tablets and in-Tune mobile phones. The use of these business devices is not considered to be private. Lawful Business Monitoring does not extend to private computers and phones. Monitoring will apply to the MPS workforce. This includes police officers, police staff, special constables, volunteers, agency workers and contractors. The Lawful Business Monitoring system will be operated by the MPS Directorate of Professional Standards (DPS) Anti-Corruption and Abuse Command.

7.5 The MPS will ensure systems are in place to ensure that Lawful Business Monitoring does not compromise sensitive data, such as medical and legal privilege. The MPS will be considerate of collateral intrusion of members of the public communicating on MPS ICT systems.

8. Real Estate Implications

8.1 Delivery of Lawful Business Monitoring requires the formation of a new Insider Threat Monitoring and Audit team within the DPS Anti-Corruption and Abuse Command. Estate options for an expanded DPS are currently being explored.

9. Environmental Implications

9.1 There are no environmental impacts from this project. It is recognised that implementing Cloud-based solutions contributes to reducing the carbon footprint because servers are fully optimised and not simply allocated to single requirements. This supports MPS environmental responsibilities as a London Anchor Institution.

10. Background/supporting papers

10.1 DPS Lawful Business Monitoring – Insider Threat Monitoring and Auditing System (Part 2).
Report author: Detective Superintendent Jim McKee, MPS Directorate of Professional Standards

11. Part 2 – This section refers to the details of the Part 2 business case which is NOT SUITABLE for MOPAC Publication.

11.1 The Government Security Classification marking for Part 2 is OFFICIAL-SENSITIVE. OFFICIAL-SENSITIVE [COMMERCIAL]. Part 2 of the Lawful Business Monitoring Business Justification Paper is exempt from publication for the following reasons:

Article 2(2)(c) of the Elected Local Policing Bodies (Specified Information) Order 2011; and

Section 31(1) (Law Enforcement) and Section 43(2) (Commercial Interests) of the Freedom of Information Act 2000; and

Section 31(1) (Law Enforcement) and Section 42 (Legal Professional Privilege) of the Freedom of Information Act 2000.

The paper will be retained for a minimum of 6 years according to the MPS Records Management Policy.