

## PART 2 – CONFIDENTIAL DECISION, FACTS AND ADVICE

Reference:	PCD 1334
Title:	Request for authorisation to settle claims for damages against the Metropolitan Police Service (MPS)

Information may have to be disclosed in the event of a request under the Freedom of Information Act 2000 (FOIA). In the event of a FOIA request for information contained in this report, please consult the Head of Governance and Risk for advice.

**Part 2 Decision:**

That the Deputy Mayor authorises the settlement of the Whitworth family claim for up to £90,000

That the Deputy Mayor authorises the settlement of the Taylor family claim for up to £125,000

The aggregate payments for four families totals **£370,000** (including earlier settlement of claims by Walgate and Kovari families for total £154,900 within the previous authority level £205,000 under PCD1038)

**Facts and Advice****Background.**

Civil claims have been brought by various members of the families of the four deceased victims of the convicted murderer Stephen Port ("Port"). Port's victims were Anthony Walgate, Gabriel Kovari, Daniel Whitworth and Jack Taylor. The claims are based on failings within the criminal investigation in failing to identify and apprehend Port. The background facts were incorporated in PCD1038 approved on 23 August 2021 for the sum of £205,000 the total value of the four families claim (Walgate, Kovari, Whitworth and Taylor). Seventeen claims were made by the four families for breaches of Articles 2, 3 and 8 ECHR, negligence, misfeasance in public office and breaches of ss.13 and 29 of the Equality Act 2010.

**Inquest hearings**

At the inquest hearings the jury concluded that the deaths of Mr Kovari, Mr Whitworth and Mr Taylor could probably have been avoided. The heads of claim have previously been set out in detail in PCD1038.

Since PCD1038 was authorised, DLS has admitted breach of Article 2 of the ECHR in respect of (a) its investigative obligations and failure to apprehend Stephen Port (*Kovari, Whitworth & Taylor* only) and (b) failure to conduct an effective investigation (*Walgate, Kovari & Whitworth*).

Each of the other heads of claim has been denied. This is based on a mix of the facts of the case, case law authority as well as an interpretation of the legislation. However, given the evidence heard during the course of the inquest proceedings the MPS now has a greater level of vulnerability than previously assessed for some of those other heads of claim.

## Costs

The greater vulnerabilities also had an adverse impact on the strength of the MPS's negotiating position and our quantum valuation. The families of Daniel Whitworth and Jack Taylor did not wish to settle earlier in the year as they were considering obtaining further evidence to support a greater quantum claim. Nevertheless, the families for both Anthony Walgate and Gabriel Kovari were willing to do so.

The solicitor for the Walgate family made a Part 36 offer in the sum of £89,950. The solicitor for the *Kovari* family made an offer in the sum of £64,950. The total sum of the Part 36 offers for the Walgate and Kovari families claim is £154,900. The total sum of the settled claims is £154,900 and was within the previous authority level (**£205,000**), consequently an application submitted by the MPS in March 2022 for £154,900 was not processed. However, the MPS indicated that when the outstanding claims of the Whitworth & Taylor families came to be settled, the total value of the claims by all four families would, exceed the previous authority.

## Present position

In relation to the settlement of the claims by the Walgate and Kovari families, £20,000 was attributed to the Article 2 claim by each adult. Leading Counsel also suggested valuing Article 2 claims by children at £7,500 and claims by the Estate at £2,500.

## Whitworth

The failings of the MPS were for both the failure to apprehend Port as well as the failure to conduct an effective investigation. The Article 2 claim for each adult Claimant at £20,000 per adult totals £60,000 (Adam, Amanda & Barbara). There is also a claim on behalf of the Estate, adding £2,500.

The Whitworth family have also included claims for loss of earnings and care. These claims were directly attributed by the family to the death of Daniel Whitworth. This is because they assert that they suffered psychiatric injury which led to their ceasing employment and/or needing to pay for care. No supporting independent evidence has been adduced, however, it cannot be excluded that the sympathy of the Court will lead to an award being made for this head of claim. Leading Counsel has suggested allowing £19,500 for this head of claim.

DLS's revised valuation for this claim, taking account of the above, is therefore £82,000. However, taking into account the valuation for the earlier settlements DLS seek authority up to £90,000.

## Taylor

The failing was for the failure to conduct an effective investigation.

Again, the Article 2 claims of the adult members of the Taylor family are valued at £20,000 each. A total sum of £100,000. The claims of the two children (£7,500 each) totals £15,000. Adding the Estate at £2,500 makes a total sum of **£117,500**, with provision to negotiate to **£125,000** (if necessary). DLS therefore seek authority to negotiate up to £125,000

## Learning Lessons

The Coroner's Prevention of Future Deaths report has been received and considered. The MPS's reply has been submitted to the Coroner.

## Financial Consideration

DLS seek authority to settle the claims of the *Whitworth* family in the total sum of **£90, 000** and the *Taylor* family in the sum of **£125,000**.

Once the above sums are added to the earlier settlements of the *Walgate* family and the *Kovari* family the aggregate payments for all four families totals £369,900.

Therefore, DLS additionally seek authority to negotiate up to **£370,000** to settle the claims four families.

#### **Recommendations**

Given the complex and high-profile nature of the issues surrounding these claims may wish to approve the settlement of all four claims for a total of **£370,000**.

It is recommended that the information in the Part 2 form not be published since if a request for this information was made under the FOIA, it is likely that it would be exempt from disclosure under the following sections for the FOIA:

- 1) Section 40 (1) and (2) Personal Information:
  - The information is personal data relating to a living individual who can be identified by the data
  - The disclosure of the information would breach Article 5(1) of the UK GDPR Regulations and the first data protection principle which requires that personal data shall be processed lawfully, fairly and in a transparent manner in relation to individuals.
- 2) Section 42 Legal Professional Privilege:
  - Disclosure of the information could damage the confidentiality of communications between lawyers and their clients, which helps to ensure complete fairness in legal proceedings
- 3) Section 43 Commercial Interests:

Date at which Part 2 will cease to be confidential Annual review

**Head of Private Office:** I have been consulted on this form and agree with the above recommendation.

**Signature:** Misha Upadhyaya

**Date:** 11/11/2022