

**DMPC Decision – PCD 1333****Title:**

Section 22A Police Act 1996 Agreement for collaboration between the MPS and NCA in relation to covert authorities – Organised Crime Partnership (OCP)

**Executive Summary:**

The MPS and NCA formed the OCP in 2004 targeting level 2/3 organised crime comprising staff from both organisations. Various covert authorities can be granted under various Acts.

Applications can be made to either the MPS or NCA covert authorities unit and must be made by an officer of the same organisation as the authorising officer. Under the relevant Code of Practice (CoP) applications are made using a single gateway. This leads to inefficiency in the granting of authorities taking into account the way the unit is jointly structured and this does not allow this process to be efficient therefore a Sec 22A agreement is required to allow authorities to be requested and authorised within the current structure.

**Recommendation:**

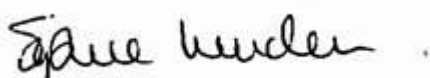
The Deputy Mayor for Policing and Crime is recommended to:

1. Sign the section 22A agreement, this has already been signed by the MPS and NCA.

**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. Summary: the MPS and NCA formed the Organised Crime Partnership in 2004 to target level 2/3 organised crime that impacts London and comprises officers and staff of equal number working in partnership. Since this time covert authorities can be granted under various Acts:

- Part III of the Police Act (PA)1997 – Property Interference
- Part 3 of the Investigatory Powers Act (IPA) 2016 – Communications Data
- Part 5 of the Investigatory Powers Act 2016 – Targeted Equipment Interference (TEI)
- Part II of the Regulation of Investigatory Powers Act (RIPA) 2000 – Directed / Intrusive Surveillance

1.2. Applications can be submitted via the MPS Covert Authorities Unit (CAU) or via the NCA CAU. In accordance with the Covert Surveillance and Property Interference Code of Practice, all OCP applications are made using a single gateway, the NCA COU. The purpose of this is to ensure that multiple applications are not submitted.

1.3. Under each of the Acts above, applications must only be made by a member or officer of the same force or agency as the authorising officer, unless the Chief Officers of the force or agency in question have made a collaboration agreement under s.22A Police Act 1996, and the collaboration agreement permits applicants and authorising officers to be from different forces or agencies. Currently there is no collaboration agreement between the NCA and MPS in relation to covert authorities.

1.4. The OCP consists of operational teams of both NCA and MPS staff. Taking account of legislation under PA97, RIPA and IPA16, Code of Practice and in the absence of a collaboration agreement the following process must be followed;

- The Code of Practice states that when two or more forces or agencies are working collaboratively, best practice is to direct all applications through a single CAU to prevent duplication.
- The application must be made by a member or officer of the same force or agency as the authorising officer.
- The applicant and, specifically for the purpose of TEI applications, the requesting officer will either be directly involved in the operation or investigation for which an authority or TEI warrant is being requested or will have received a detailed briefing and been involved in tactical coordination meetings where the requirement for authorisations have been discussed.
- The person named on a TEI warrant (the requesting officer) should also be the SIO for the operation to demonstrate due diligence, responsibility and accountability for operational activity conducted.

1.5. Without a s.22A collaboration agreement, it is not permissible for an MPS Detective Inspector to act as SIO for activity under a TEI warrant authorised by the DG NCA and by law, issued to an NCA officer. Likewise, an NCA officer could not act as SIO for an authorisation routed through the MPS CAU.

- 1.6. The legislation and CoP is prohibitive to the current integrated management structure of the OCP. In the absence of a collaboration agreement the OCP would need to change its management structure to a single SIO from the same force / agency as the authorising officer.
- 1.7. There is an MOU in place between the MPS and NCA and this has been reviewed by the legal team from the NCA who state the MOU is 'silent' on the issue. Hence a Sec 22A collaboration agreement is requested.

## **2. Issues for consideration**

- 2.1. A collaboration agreement under Sec 22A Police Act 1986 permits the applicant and authorising officer to be from different forces/agency allowing the existing structure of the OCP to remain the same. Currently there is no collaboration agreement in place, and if no agreement is in place structural changes to the composition of the OCP will need to be made.

## **3. Financial Comments**

- 3.1. There are no additional costs arising from this decision.

## **4. Legal Comments**

- 4.1. Legal advice on this matter has been obtained from the NCA who confirm that a Sec 22A agreement is required to allow officers from both the MPS and NCA to make applications under the legislation relevant to this decision.

## **5. GDPR and Data Privacy**

- 5.1. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the Data Protection Act (DPA) 2018. This places an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.

## **6. Equality Comments**

- 6.1. N/A

## **7. Background/supporting papers**

### **Not for publication**

- Appendix 1 Sec 22A agreement (electronic copy)
- Appendix 2 Email from NCA re legal advice

**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:

**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 (12)</i>
<b>Financial Advice:</b> The Strategic Finance and Resource Management Team has been consulted on this proposal.	N/A
<b>Legal Advice:</b> The NCA legal team has been consulted on the proposal. OR Legal advice is not required.	Y
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report. AND/OR The Workforce Development Officer has been consulted on the equalities and diversity issues within this report.	N/A
<b>Commercial Issues</b> Commercial issues are not applicable OR The 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.	N/A
<b>GDPR/Data Privacy</b> <ul style="list-style-type: none"> <li>GDPR compliance issues are covered in the body of the report and the GDPR Project Manager/Data Protection has been consulted on the GDPR issues within this report.</li> </ul> A DPIA is not required.	N/A
<b>Drafting Officer</b> <ul style="list-style-type: none"> <li>Russell Nyman has drafted this report in accordance with MOPAC procedures.</li> </ul>	Y
<b>Director/Head of Service:</b> The Head of Oversight and Performance has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	Y

**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 13/02/2023**

*Samuel Chad.*