

DMPC Decision – PCD 565

Title: Appropriate Adult provision

Executive Summary:

A new approach to Appropriate Adult provision to improve current service delivery, and reflect the changing BCU and custody landscape. The agreed approach would see the MPS and NHS England provide financial support to local authorities commissioning Appropriate Adult services. This support would be in recognition of the absence of statutory responsibility on any single agency to provide such services for vulnerable adults.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

- Approve a grant of up to £0.240m per year from National Health Service (NHS) England to the MPS to contribute towards the cost of the provision of an appropriate adult service covering each of the Borough Command Units (BCU) for the duration of the contract between the lead Local Authority on each BCU and the service provider.
- Approve the distribution of the combined MPS & NHS grant (£0.480m) of approximately £40,000 per year to the lead commissioning Local Authority for each of the 12 BCUs towards the cost of the provision of appropriate adult services across that BCU, for the duration of the contract between each London Borough and their service provider.
- Approve any underspend of the combined NHS / MPS funding in year 1, due to implementation delays, is placed into a ring fenced reserve to be used in years 2 and 3. It will be the responsibility of the budget holder to ensure that contributions to Local Authorities do not exceed the available funding.

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

Sophie Hender

Date

16/9/19

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

1. Introduction and background

- 1.1. Appropriate adults (AA) provide a critical safeguard in the justice system, protecting vulnerable suspects from unfair treatment and ensuring they can participate effectively when they are detained or otherwise questioned by police.
- 1.2. Police are required by law to contact and have present an AA when dealing with a suspect who is a child, or is an adult with mental ill health or other mental vulnerability. There is a statutory requirement for local authorities to ensure provision for children and young people. No explicit duty exists in relation to adults, though it has historically been part of social work.
- 1.3. Provision of some kind exists in almost all 32 London boroughs but there is significant variation in regards to interpretation of the responsibility, the extent of cover, and the practical arrangements.

2. Issues for consideration

- 2.1. The MPS has engaged with Local Authorities via London Councils. An Appropriate Adult working group was set up comprising of MPS, NHS, London Councils, NAAN, and senior representatives of Adult Safeguarding and Children's services.
- 2.2. An evidence case for change was developed and presented with shared acceptance of the need for a new approach that improved the standard of provision, the coverage provided, and also reflected the changing BCU and custody landscape.
- 2.3. A barrier to delivery of improved provision was (as in all previous reviews) the absence of statutory responsibility for any agency to provide AA services for vulnerable adults. In the absence of statutory responsibility no organisation wishes to bear the cost of this provision, and the MPS are legally prohibited from commissioning services directly.
- 2.4. The solution to this issue was to offer shared funding of the 'Adult' element of any A/Adult contract. This offer allowed discussion to progress and reach the stage where London councils support the following approach:
 - a. London Councils should be the vehicle for setting an agreed approach to commissioning AA provision across local authorities.
 - b. Local authorities should commission AA services collectively in brigaded clusters aligned to one or more MPS BCU's.
 - c. A single approach to commissioning for adults and juveniles is preferred, rather than a distinction based on local authority departments.
 - d. Cover should be exhaustive to cover 24/7, venues within & away from custody suites, and the full range of circumstances where an A/adult may be required.
 - e. Local authorities would meet all costs for Juvenile provision.
 - f. In the absence of statutory requirement, funding arrangements for appropriate adult provision for vulnerable adults will be shared.

3. Financial Comments

- 3.1. The required annual budget to initiate the proposed approach is £480,000. This will be funded through equal contributions from NHS England and MOPAC via the MPS.
- 3.2. The detail of the financial considerations are included within the exempt report.

4. Legal Comments

- 4.1. The Police and Criminal Evidence Act 1984 and its statutory Codes of Practice (PACE code C) recognises two groups of people who may be vulnerable when suspected of an offence:
 - a. People under 18 years of age (a child)
 - b. People who may have a mental illness, or be otherwise mentally vulnerable in this context, such as a learning disability, traumatic brain injury or autism (person who is mentally vulnerable)

These groups are considered in law to be at significant risk of various forms of poor treatment, abuses of power and ineffective participation in the process. To reduce these risks, whenever police officers treat such a person as a suspect, whether detaining them in custody or asking them to attend a voluntary interview, they are required by law to contact an Appropriate Adult (AA) and ask them to attend.

- 4.2. Under Schedule 3 Paragraph 7 of the Police Reform and Social Responsibility Act 2011 ("2011 Act") MOPAC may enter into contracts and other agreements (whether legally binding or not), which are "calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the office". This could include making or receiving a Grant to any person or organisation if they are of the opinion that it will secure, or contribute to assisting in the discharge of duties within the Metropolitan Police District (MPD).
- 4.3. MOPAC has an obligation pursuant to paragraphs 3(f) under the schedule of the Elected Local Policing Bodies (Specified Information) Order 2011, as amended, to publish details of grants made, including the conditions (if any) attached to the grant, the recipient of the grant, the purpose of the grant and the reasons why it is considered that the grant would secure, or contribute to securing, crime and disorder reduction in the MPD.
- 4.4. Paragraph 4.8 of the MOPAC's Scheme of Consent and Delegation provides the Deputy Mayor for Policing and Crime with delegated power to make grants.

5. Commercial Issues

- 5.1. Detail is provided in the exempt part of the report

6. GDPR and Data Privacy

- 6.1. 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.
- 6.2. 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.

- 6.3. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the project meets its compliance requirements.

7. Equality Comments

- 7.1. A full Equalities Impact Assessment has been completed for the Custody Target Operating Model which includes the proposed Appropriate Adult scheme and will be included in the submission of the final business case.
- 7.2. The improved arrangements for AA provision will have a positive impact both internally and externally, where vulnerable detainees including those with protected characteristics will receive enhanced and more timely support.

8. Background/supporting papers

None

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: Never

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 Commercial issues are fully considered within the exempt report. The proposal is in keeping with the GLA Group Responsible Procurement Policy.	✓
GDPR/Data Privacy <ul style="list-style-type: none">GDPR compliance issues are covered in the body of the report.A DPIA is not required.	✓
Director/Head of Service: The Chief Finance Officer has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

OFFICER APPROVAL**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

R. Lawrence

Date

9/4/19

