

REQUEST FOR DMPC DECISION – DMPCD 2015 110

Title: Application for financial assistance for the legal representation of a member of police staff

Executive Summary:

The Directorate of Professional Standards is requesting that the Deputy Mayor of Policing and Crime consider an application for financial assistance made by the Applicants in the sum of £75,000 (plus VAT) for separate representation in a forthcoming inquest.

The Deputy Mayor for Policing and Crime (the 'DMPC') has power to grant the application if he is satisfied that funding the Applicant's legal expenses in the proceedings is likely to secure an efficient and effective police force. The DMPC has delegated authority, under 4.9 of the MOPAC Scheme of Delegation and consent, to consider the current application for financial assistance.

Recommendation:

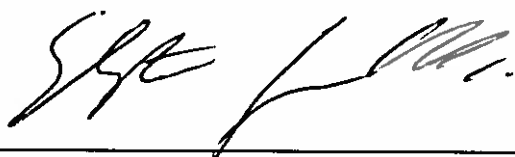
The DMPC is asked to approve the application of financial assistance made by the Applicants for the sum of £75,000 for the reasons set out in the Exempt Report.

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

10/9/2015

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

Decision required – supporting report

1. Introduction and background

- 1.1 The Exempt Report is exempt because it falls within an exemption specified in para 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011, the Data Protection Act 1998 and/or the Freedom of Information Act 2000 e.g. because the information amounts to personal data, is confidential or commercially sensitive.
- 1.2 Inquest proceedings commenced on 20th July 2015 - and is scheduled to last for 4 weeks. The two officers concerned have been accorded the status of an Interested Person (IP) by the Coroner. It is very likely this case will attract media publicity.
- 1.3 The factual background giving rise to the proceedings are as follows; On the 4th September 2014, police officers were called to a residential address in London, N1. The caller stated that someone had smashed their way into a basement flat.
- 1.4 Islington borough response officers arrived at the scene and heard a female shouting for help. They also heard a male shouting threats to kill the female and the officers.
- 1.5 Through the window, a male could be seen physically restraining a female holding a large blade knife to her neck. Attempts to negotiate with the male through the window were unsuccessful.
- 1.6 Firearms officers were deployed to the scene. Before a trained negotiator could deploy shots were fired at the male
- 1.7 Emergency Life Support was provided at the scene and male was taken to hospital by the London Ambulance Service. Life was pronounced extinct before arrival at the hospital.
- 1.8 There is a clear conflict of interests between the position of the Commissioner and the Applicants and accordingly the Applicants require separate legal representation and financial assistance. This point is supported by DLS.

2. Issues for consideration

- 2.1 The advice to DMPC is to consider whether there was a conflict of interest requiring separate representation and financial assistance and whether the financial assistance will secure an efficient and effective force
- 2.2 The DMPC has power to grant the application if he is satisfied that funding the Applicant's legal expenses in the proceedings is likely to secure the maintenance of an efficient and effective police force.

3. Financial Comments

- 3.1 The solicitors acting for the Applicants have submitted an estimate of the costs of the separate representation in support of the application for financial assistance in the sum of £75,000 plus VAT.
- 3.2 The cost will be met from existing resources namely the 1996 Police Act Expenditure which is held within the MPS budget.

4. Legal Comments

- 4.1 The DMPC has a discretion under Section 3(6) and para. 7 of Schedule 3 of the Police Reform and Social Responsibility Act 2011 to fund police officers' legal expenses in proceedings if they consider that providing the funding secures an efficient and effective police force, (see also *R -v- DPP ex parte Duckenfield* (2000) 1 WLR 55). The DMPC has delegated authority under para. 2.20 of the MOPAC Scheme of Delegation, to consider the current application for financial assistance.
- 4.2 A potential conflict of interest arises between the Commissioner and the officers which gives rise to the need for separate representation and financial assistance for the reasons set out above.
- 4.3 Home Office Circular 43/2001 provides guidance which applies to MOPAC. Para. 12 states "police officers must be confident that Police Authorities (now Police and Crime Commissioners) will provide financial support for officers in legal proceedings where they have acted in good faith and have exercised their judgement reasonably. Police Authorities will need to decide each case on its merits, but subject to that, there should be a strong presumption in favour of payment where these criteria are met".

5. Equality Comments

- 5.1 There will be media and family/community interest in this case and the MPS cannot discount the inferences and potential for disquiet and distrust that can be brought about by any related activity such as stated above. Unless the community concerns associated with this case are managed effectively there is the potential for the family/community to distrust the police. To continue policing with the consent of the population it serves, the police will always seek to be open and transparent in the decisions we make.

6. Background/supporting papers

None.

Note: Article 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011 states that that Order does not apply to information if its publication:

- (a) would, in the view of the chief officer of police, be against the interests of national security;
- (b) might, in the view of the chief officer of police, jeopardise the safety of any person;
- (c) might, in the view of the chief officer of police, prejudice the prevention or detection of crime, the apprehension or prosecution of offenders, or the administration of justice; or
- (d) is prohibited by or under any enactment.

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOIA) and other legislation. Part 1 of this form will be made available on the MOPAC website within 1 working day of approval. Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of **this** form to be deferred? NO

If yes, for what reason:

Until what date (if known):

Is there a **part 2** form? YES

If yes, for what reason: An exempt report containing confidential and personal information has been submitted in Part 2.

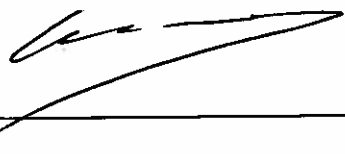
ORIGINATING OFFICER DECLARATION:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: Sue Leffers has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
Legal Advice: The Legal team have been consulted on this proposal.	✓
Financial Advice: The Head of Strategic Finance and Resource Management has been consulted on this proposal.	✓
Equalities Advice: The equalities issues are set out in the report above.	✓

OFFICER APPROVAL**Chief Operating 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 10/09/15