

## REQUEST FOR DMPC DECISION – PCD 384

**Title:** Request for financial assistance for the legal representation of serving police officers

### Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for financial assistance of £9,650 (excl. VAT) made by the Applicants for legal representation at inquest.

The DMPC has power to grant the application of £9,650 (excl. VAT) if she is satisfied that funding the Applicants' 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 for financial assistance made by the Applicants for the sum of £9,650 (excl. VAT) for the reasons set out in Part 2.

### 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**

*Eyad Henderson*

**Date**

18/06/18

## **PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE DMPC**

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. Part 2 of this Report is exempt because it falls within an exemption specified in para 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011 and/or under the Freedom of Information Act 2000, e.g. because the information amounts to personal data, is confidential or commercially sensitive.
- 1.2. The deceased was hit by a marked police van on 8 December 2015 and died as a result of the collision.
- 1.3. The incident was investigated by the IPCC (now IOPC). As a result of the investigation, a case to answer was found for gross misconduct in relation to the driver of the marked police van. The Appropriate Authority (AA) for the Metropolitan Police Service disagreed with the IOPC outcome. The AA suggested the driver could benefit from a 'supervised drive' and had no case to answer for either misconduct or gross misconduct.
- 1.4. The IOPC response was to direct the AA to convene a Gross Misconduct hearing. A date has been provisionally fixed for this to be heard between 29 October – 2 November 2018.
- 1.5. The coroner has opened and adjourned the inquest into the man's death. A date to hear the inquest has been set for 11 - 14 June 2018. The driver of the marked police van has been made an Interested Person (IP) for the proceedings.
- 1.6. The Applicant represents that they satisfy the criteria for entitlement to financial assistance namely: that they were performing their official duties; that they were acting in good faith and there was no neglect or wilful default on their part; and that they exercised reasonable judgement. The facts provided by the Applicant in support of their representation for financial assistance are set out in the exempt report.
- 1.7. The Commissioner's position in relation to the Applicant's representations for financial assistance are also set out in the exempt report.
- 1.8. There is a conflict of interest between the position of the Commissioner and the Applicant and accordingly the Applicant requires separate legal representation and financial assistance.

#### **2. Issues for consideration**

- 2.1. For the DMPC to consider whether there is a conflict of interest requiring separate representation and financial assistance and whether the financial assistance will secure an efficient and effective Police Service.

#### **3. Financial Comments**

- 3.1. The solicitors acting for the officer have submitted estimated costs of £9,650 for the separate representation of the officer.
- 3.2. The MPS financial services will determine whether funding is available to support the application.

#### **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 the maintenance of an efficient and effective police force. The Deputy Mayor has delegated authority, under para. 4.10 of the Scheme of Delegation, to consider the current application for financial assistance.

4.2. A conflict of interest arises between the Commissioner and the Police Officer which gives rise to the need for separate representation and financial assistance for the reasons set out above.

4.3. Home Office Circular 010/2017 provides guidance which applies to MOPAC. In conclusion it states:

*"...police officers and staff must be confident that local policing bodies will provide financial assistance, whether in full or part, for officers facing legal proceedings where they have acted in good faith and have exercised their judgement reasonably".*

## 5. Equality Comments

5.1 To continue policing with the consent of the population it serves, the police will always seek to treat everyone fairly and openly. Equality issues did have relevance to this matter.

## 6. Background/supporting papers

- Exempt report

### 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: N/A

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:

	Tick to confirm statement (✓)
<b>Head of Unit:</b> The Judith Mullet has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
<b>Legal Advice:</b> The MPS legal team has been consulted on the proposal.	✓

<b>Financial Advice:</b> The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report.	✓

## OFFICER APPROVAL

<b>Chief Executive Officer</b> 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.	
<b>Signature</b> <i>R. Lawrence</i>	<b>Date</b> <i>18/06/18</i>