

REQUEST FOR DMPC DECISION – PCD 90

Title: Application for financial assistance for the legal representation of two Applicants

Executive Summary:

The Directorate of Professional Standards is requesting that the Deputy Mayor of Policing and Crime (the 'DMPC') consider an application for financial assistance in the sum of £22,815 (plus VAT) for the legal representation. The application has been made by two former officers for separate representation in a forthcoming inquiry.

The Deputy Mayor for Policing and Crime has power to grant the application if she 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 consider the views of the MPS summarised in this report and supporting documents and decide whether to grant funding to the two Applicants detailed in the associated exempt report.

The DPS recommends the provision of funding for separate representation for one of the two Applicants at the inquiry for the sum of £22,815 (plus VAT). The detail of the recommendations is set out on the attached 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

24/11/2016

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 On 12 March 2015 the Home Secretary announced the appointment of Sir Christopher Pitchford to conduct an inquiry under the Inquiries Act 2005 to “review practices in the use of undercover policing, establishing justice for the families and victims and making recommendations for future operations and police practice” (“the Inquiry”).
- 1.3 Following a preliminary hearing on 9 October 2015, the inquiry Chairman designated a number of persons to have Core Participant (“CP”) status at the inquiry under the category of “Police Officers”.
- 1.4 The two ex-officers have applied for separate funding at the inquiry.
- 1.5 These Applicants represent that they satisfy the criteria for entitlement to financial assistance namely: that they were performing official duties; that they were acting in good faith and that they exercised reasonable judgment.
- 1.6 The situation of each applicant is considered separately in the attached Exempt Report.

2. Issues for consideration

- 2.1 For the DMPC 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 she 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 £22,815.00. The funding application is for an estimate of £22,815.00. This estimate is in relation to the solicitors and counsels cost for undertakings to the conclusion of the inquiry.
- 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 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 Conflicts of interest and potential conflicts of interest as they arise between the MPS and the Applicants (considered individually) are set out in the attached exempt report.

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. Risk (including Health and Safety) Implications

6.1 There is a risk to the safety and welfare of the Applicants should their identities and the fact that they were undercover officers reaches the public domain.

7. 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:

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>
Head of Unit: Judith Mullett 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 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 23/11/16