

REQUEST FOR DMPC DECISION – PCD 73

Title: Public Inquiry Team - Additional Cost Request.

Executive Summary:

Due to the higher than anticipated demand from the Independent Police Complaint Commission (IPCC) Investigations, the Undercover Policing Inquiry (UCPI) and MPS counsel for the provision of material and information, this paper is requesting approval for additional funding of £4,969,066 over three years, to meet the legal requirements of the Undercover Policing Inquiry (UCPI) and the ongoing IPCC investigations into historical police corruption allegations. The £4,969,066 total cost is made up of;

- £507,744 for the period 2016/17
- £2,330,661 for the period 2017/18
- £2,130,661 for the period 2018/19

Recommendation:

The Deputy Mayor for Policing and Crime (DMPC) is asked to prove;

1. a total additional cost of £4,969,066 to fund the additional demands on the MPS of the Undercover Policing Inquiry (UCPI) and the ongoing IPCC investigations into historical police corruption allegations,
2. that the additional cost in 2016/17 be funded from reserves and the additional cost from 2017/18 onwards be built into the Medium Term Financial Plan.

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

Sybil Under

Date

05/10/2016

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Public Inquiry Team is currently responsible for providing MPS support & disclosure to several ongoing Independent Police Complaint Commission (IPCC) Investigations, the Undercover Policing Inquiry (UCPI) and MPS counsel for the provision of material and information.
- 1.2. Since September 2015 this strand of Public Inquiry Team continually struggled to meet its operational commitments and progress the digitisation process of the MPS Anti-Corruption records.
- 1.3. Phase 1 of this project was completed on schedule in July 2016. Phase 2 of the project now requires significant MPS staff input if it is to complete on time (Sept 2018).
- 1.4. This small team of officers is also currently responsible for providing MPS support & disclosure to several ongoing IPCC Investigations.

2. Issues for consideration

- 2.1. The Public Inquiry has set clear expectations on the MPS to ensure all potentially relevant material is identified, located and protected. Given the extent of material held across a very wide range of paper and IT based systems and the difficulties of identifying relevant material this places a major resource demand on the Public Inquiry Team.
- 2.2. The duration of the investigations is largely dependent on the MPS ability to meet the disclosure requests. Pragmatically this means that the financial onus will remain with the MPS until the investigation is complete.
- 2.3. The higher than anticipated demand from the IPCC Investigations, UCPI and MPSs counsel for the provision of material and information is in excess of the capacity of the existing team.
- 2.4. To fail to adequately resource redaction and disclosure processes potentially risks the safety of former and existing Undercover Officers in addition to the tactic.
- 2.5. If the MPS fails in its duty to fully support both the UCPI & IPCC independent investigations will leave the MPS open to criticism from affected parties, Mark Ellison QC, the Judge leading the UCPI, public opinion and the press.

3. Financial Comments

- 3.1. This paper is requesting for the additional cost required in 2016/17 to be released from Reserves.
- 3.2. Additional cost from 2017/18 onwards to be built into the Medium Term Financial Plan, which will therefore require additional savings in the MPS to cover both these additional costs and to replenish the Reserves used in 2016/17.

4. Legal Comments

- 4.1. The MPS has legal obligations under CPIA 1996, Police Reform Act of 2002 to comply and support all IPCC investigations.

5. Equality Comments

- 5.1. The MPS' inability to adequately support the UCPI and ongoing IPCC Investigations will impact on the confidence of the diverse communities of Metropolis, who may draw negative conclusions as a result.

6. Background/supporting papers

- 6.1. Appendix 1

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

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

If yes, for what reason: Exempt under statutory provision Section 31 (1).

ORIGINATING OFFICER DECLARATION:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: The Head of Strategic Finance and Resource Management has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
Legal Advice: The MPS legal team has been consulted on the proposal.	✓
Financial Advice: The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
Equalities Advice: Equalities and diversities issues are addressed in the body of the report.	✓

OFFICER APPROVAL**(Acting) 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 05/10/2016

AC- PIT Funding

Investment Advisory Board 22nd Sept 2016

Report by AC Professionalism - Helen King on behalf of the Deputy Commissioner

EXECUTIVE SUMMARY

In September 2015 AC Professionalism Public Inquiry Team (AC-PIT) submitted a paper to the MPS Management Board outlining the likely financial costs to the MPS of responding to the Undercover Policing Inquiry (UCPI), and the review of MPS historic anti-corruption operations. The paper requested that AC-PIT be established as an OCU with a dedicated staff establishment of 48 officers. Management Board approved an uplift of 80% of that figure (42 officers). During the intervening period both strands of AC-PIT have been under severe pressure to meet operational commitments. This is due to a lack of staff and a higher than anticipated demand from the IPCC Investigations, UCPI and MPS Counsel for the provision of material and information. As a consequence of the experience of responding to the disclosure demands of the IPCC Managed Investigation and the Public Inquiry, it is apparent that the original staff and funding allocation was inadequate. On the 12th August 2016 a second paper was submitted to the MPS Management Board requesting a significant increase in resources, the funding of this request was agreed in principle. The total of **£4,969,065.68** of **additional** funding is requested.

A. RECOMMENDATIONS

1. This Business Justification concerns the ability of the MPS to meet the legal requirements of the Undercover Policing Inquiry (UCPI) and the ongoing IPCC investigations into historical police corruption allegations. The Deputy Mayor for Policing and Crime (DMPC) is requested to approve:

- **£4.97 million** additional cost

On the 12th August 2016 the MPS Management Board agreed the Opportunity costs in support of the AC-PIT requirement.

1.1 MPS Management Board agreed the level of **additional** cost to be provided in support of AC-PIT and that this funding is taken initially from Reserves this amount would total:

- **£507,744 for the period 2016 / 2017.**

The funding required on subsequent years is estimated at:

- **£2,330,660.84 for the period 2017 / 2018**
- **£2,130,660.84 for the period 2018 / 2019**

The key issues the MPS Management Board took into account were:

- The **unprecedented nature and scope** of the UCPI and the ongoing IPCC Investigations support requirement. All undercover activity by the MPS conducted since 1968 falls within the Terms of Reference of the UCPI. The quantity of data required to be searched, reviewed, disclosed and redacted in support of both the UCPI & the ongoing IPCC investigations is vast. Notwithstanding that the MPS are legally obliged to meet disclosure requirements.
- The crucial issues at the heart of the UCPI and the IPCC Investigations are **public confidence, trust and legitimacy**

B. SUPPORTING INFORMATION

1. Corruption strand impact

Since September 2015 this strand of AC-PIT has continually struggled to meet its operational commitments and progress the digitisation process of the MPS Anti Corruption records (OP Afrit). Phase 1 of this project was completed on schedule in July 2016. Phase 2 of the project now requires significant MPS staff input if it is to complete on time (Sept 2018). This small team of officers is also currently responsible for providing MPS support & disclosure to several ongoing IPCC Investigations.

The duration of the investigations is largely dependent on the MPS ability to meet the disclosure requests. Pragmatically this means that the financial onus will remain with the MPS until the investigation is complete. Logically this suggests that there is a credible financial incentive for the MPS to resource these investigations appropriately.

1.1 Public Inquiry strand impact

The Public Inquiry has set clear expectations on the MPS to ensure all potentially relevant material is identified, located and protected. Given the extent of material held across a very wide range of paper and IT based systems and the difficulties of identifying relevant material this places a major resource demand on the AC-PIT team. The MPS now needs to ensure that it has the capacity to ensure that the Inquiry is provided with the most complete and accurate reflection of historical events.

C. OTHER ORGANISATIONAL & COMMUNITY IMPLICATIONS

Equality and Diversity Impact

1. The UCPI and ongoing IPCC Investigations will potentially impact on both internal and external community confidence. The perceived inability of the MPS to deal with allegations of historical corrupt practice impacts on the trust and confidence of all communities both within and outside the service.

1.1 The MPS' inability to adequately support the UCPI and ongoing IPCC Investigations will impact on the confidence of the diverse communities of Metropolis, who may draw negative conclusions as a result.

1.2 It is imperative that the MPS finds a way to conclude a number of historical allegations. The timely progress of the independent UCPI & IPCC Investigations is paramount to ensure transparency of purpose and positive public perception that these independent bodies have the full support of the MPS. This will increase public confidence and illustrate the MPS' continued commitment to tackling allegations of police corruption and malpractice.

Financial Implications / Value for Money

1.1 The potential estimated costs for the next three years of £4.97 million of additional cost assumed in respect of this paper are set out in Section 1:

1.2 There is an insufficient revenue budget within either DPS or Legal Services in 16/17 to fund the additional costs set out in this Paper. Any additional funding required will therefore need to be released from Reserves. If the release from Reserves is approved, for 2017/18 onwards the relevant additional costs will be built into the Medium Term Financial Plan, which will therefore require additional savings from elsewhere in the MPS to cover both these additional costs and to replenish the Reserves used in 2016/17. There are no alternative funding options for 16/17 other than using MPS Reserves.

Legal Implications

1. If the MPS fails in its **legal and ethical responsibility** to respond effectively, efficiently, accurately and proactively to this Inquiry the future use of the undercover tactic to protect the public is in jeopardy. The mechanism of the Inquiry to request disclosure is via 'Rule 9 requests' under the Inquiry Rules 2006. If there is a lack of compliance, the Inquiry has a statutory power under Section 21 of the Inquiry Act 2005 to compel the provision of evidence. The consequence of failing to comply with a Rule 9 request for cooperation would be for an Inquiry to issue a section 21 notice directed at the Commissioner. This includes the power to require a person to attend and give evidence and/or to disclose documents or any other thing under a person's custody or control that relates to a matter in question at the inquiry.

If a person fails to comply with a section 21 notice, without reasonable excuse, then he or she would be guilty of an offence (contrary to section 35(1) Inquiry Act 2005) and, if convicted, would be liable to a maximum sentence of 51 weeks' imprisonment and a £1,000 fine. As a result, following the receipt of a Rule 9 request it is critical to liaise with an inquiry about the ambit of the request so as to avoid any suggestion of a failure to cooperate.

1.1 Section 35 (2) (b) of the Inquiries Act 2005 states that 'A person is **guilty of an offence** if during the course of an inquiry he does anything that is intended to have the effect of [...] (b) **preventing any evidence, document or other thing from being given, produced or provided** to the inquiry panel, or **anything that he knows or believes is likely to have that effect.**'

1.2 The MPS has legal obligations under CPIA 1996, Police Reform Act of 2002 to comply and support all IPCC investigations.

Risk (including Health and Safety) Implications

To fail to adequately resource redaction and disclosure processes potentially risks **the safety of former and existing Undercover Officers in addition to the tactic.**

Real Estate and Environmental Implications

The UCPI and the IPCC investigations are completely independent of the MPS. Both are currently supported by AC-PIT which has just re-located to ESB. Secure storage and the management of all the MPS material required for the UCPI and IPCC investigations is currently being managed through established practices and protocols.

1.1 There are no new environmental implications to the MPS real estate there is currently adequate facilities within the AC-PIT accommodation footprint at ESB to facilitate the uplift of staff requested.

1.2 If the MPS fails in its duty to fully support both the UCPI & IPCC independent investigations will leave the MPS open to criticism from affected parties, Mark Ellison QC, the Judge leading the UCPI, public opinion and the press.