MOPAC | MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

REQUEST FOR DMPC DECISION – PCD 93

Title: Application 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 £16,700 (plus VAT) made by the Applicants for separate representation in an inquest.

The DMPC has power to grant the application of £16,700 (plus VAT) 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 4.10 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 £16,700 (plus 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 Sophie Linden. **Date** 24/11/2016

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. Inquest proceedings started on 22nd February 2016. Confirmation was received from the Coroner on 17th February 2016 the officers concerned have been accorded the status of an Interested Person.

1.3. The factual background giving rise to the proceedings are as follows; On 17th April 2015, an adult male was arrested for threats to commit criminal damage. He was taken to an east London police station and detained. After interview and charge he was remanded overnight.

1.4. On 18 April 2015, he was placed in the care of SERCO and taken to Magistrates' Court for his first appearance.

1.5. At Magistrates' Court the male was placed in a cell at approximately 8.20am. At about 11.05am the male was found to have collapsed in his cell. First aid was performed and LAS attended but life was pronounced extinct the same day

1.6. On 1st May 2015 the IPCC declared this matter to subject to an independent investigation.

1.7. The applicants all performed the role of custody sergeant during the males' detention at the police station. There is a clear conflict of interests between the position of the Commissioner and the Applicant and accordingly the Applicants requires separate legal representation and financial assistance. This is supported by DLS.

1.8. The inquest concluded with a narrative verdict finding that the deceased died as a result of alcohol related seizure and chronic artery atherosclerosis.

1.9. The IPCC investigation concluded with the three custody sergeants facing misconduct meetings in relation to the adequacy of their administrative actions when dealing with the male. However the inquest concluded that none of these actions led to causation.

2. Issues for consideration

2.1. For the DMPC to consider whether there was a conflict of interest requiring separate representations 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.

2.3. All disciplinary proceedings regarding the Applicants are concluded.

2.4. The MPS undertook learning as a consequence of the death of the adult male and further learning followed the Prevention of Future Death report issued by the coroner.

3. Financial Comments

3.1. The solicitors acting for the officer applicants have submitted an estimate of the total costs of the separate representation in support of the application for financial assistance in the sum of £16,700 plus VAT.

3.2. The costs will be met from the 1996 Police Act Expenditure budget held within DLS.

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 the maintenance of an efficient and effective police force, R -v- DPP ex parte Duckenfield (2000) 1 WLR 55. The Deputy Mayor has delegated authority, under para. 2.20 of the Scheme of Delegation, to consider the current application for financial assistance.

4.2. A conflict of interests arises between the Commissioner and Applicant 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

6.1. Exempt MPS 'report on application for financial assistance

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:

	Tick to confirm statement (✓)
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 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: Equality and diversity issues are covered in the body of the report.	✓

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