

REQUEST FOR DMPC DECISION – DMPCD 2014 - 150**Title: Application for financial assistance for legal representation****Executive Summary:**

The Deputy Mayor of Policing and Crime consider an application by a retired officer for additional financial assistance in the sum of £15,500 for on-going legal proceedings.

Recommendation:

That the application be granted 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**

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 Article 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. Further, parts of it are subject to Legal Professional Privilege.
- 1.2 The Applicant requests financial assistance to cover legal expenses in connection with legal proceedings. The Applicant asserts he satisfies the criteria for entitlement to financial assistance namely: he was performing his official duties; that he was acting in good faith and there was no neglect or willful default on his part; and that he exercised reasonable judgement.. The factual background giving rise to these proceedings is set out in the Exempt Report.
- 1.3 There is a potential 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 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 Applicant requests financial assistance to cover legal expenses in connection with legal proceedings
- 3.2 The Applicant has submitted two applications for additional funding this year
- 3.2 The costs will be from a budget held within DLS.

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. 5.7 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 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 To continue policing with the consent of the population it serves, the police will always seek to treat everyone fairly and openly. Race or equality issues do not appear to have an impact in this matter.

6. Risk (including Health and Safety) Implications

6.1 As outlined in the Exempt Report at Part 2

7. Background/supporting papers

As outlined in the Exempt Report and appendices at Part 2.

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 MPS 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