MOPAC | MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

**REQUEST FOR DMPC DECISION – PCD 177**

**Title: Application for Financial Assistance for the legal representation of a serving member of police staff**

**Executive Summary:**

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for additional funding for £720 (incl. VAT) and follows approval already granted by MOPAC for £18,549.36 (including VAT) made by the Applicant for separate representation at an inquest.

The DMPC has power to grant the application if she is satisfied that funding the member of staff 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 additional funding made by the Applicant for the sum of £720 (incl. 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** 29/3/17

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

**Decision required – supporting report**

## 1. Introduction and background

1.1. The Inquest proceedings commenced on 20th February 2017, and were scheduled to last for 2 weeks.

1.2. The factual background giving rise to the proceedings are as follows; on 1st September 2010 a male of no fixed abode was arrested by police for begging. He was taken to Forest Gate Police station and placed in a cell. He was assessed by a doctor who deemed him fit to be detained.

1.3. On 2nd September 2010 the male collapsed in his cell. He was provide with medical assistance but died that day. A PC carrying out 'gaoler' duties DDO and CNP were involved in the emergency life support prior to LAS attendance

1.4. There have been 2 IPCC investigations. The first concerned itself with the male's detention, and examined whether his collapse could have been avoided. The second investigation looked at the actions of those involved in his care following the male's collapse.

1.5. The investigations concluded that there was no misconduct for the police officer who was the gaoler. It did conclude that there was a performance issue, but the PC, who was a probationer at the time, has undertaken regular Emergency Life Support Training as a mandatory part of his role, since the incident and the conclusion of the IPCC investigation in 2015. As such, the IPCC agreed that no further action was required. A conclusion of Gross Misconduct was made in relation to a DDO in relation to the provision of Emergency Life Support and a Gross Misconduct Hearing was concluded on 24 November 2016.

1.6. In July 2016, the DDO was afforded the status of interested party by the Coroner

1.7. There is a clear conflict of interests between the position of the Commissioner and the Applicant and accordingly the Applicant requires separate legal representation and financial assistance. This is supported by DLS who confirm that the member of staff acted in good faith and that his actions were reasonable.

## 2. Issues for consideration

2.1. For the DMPC to consider whether the additional funding will secure an efficient and effective Metropolitan Police 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 member of police staff have submitted an estimate of the total costs of the separate representation in support of the application for financial assistance in the sum of £18,549.36 (includes VAT). This was approved by MOPAC in December 2016. An additional application is now made for £720 (incl. VAT) for legal fees not originally planned for.

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. 4.10 of the Scheme of Delegation, to consider the current application for financial assistance.

4.2. A conflict of interests arises between the Commissioner and the member of police staff 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**<br>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.<br>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. |
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| **Part 1 Deferral:**<br>Is the publication of Part 1 of this approval to be deferred? NO<br><br>If yes, for what reason:<br>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.<br><br>Is there a **Part 2** form – YES |

**ORIGINATING OFFICER DECLARATION:**

| | *Tick to confirm statement (✓)* |
|---|---|
| **Head of Unit:**<br>The Judith Mullett has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities. | ✓ |
| **Legal Advice:**<br>The MPS legal team has been consulted on the proposal. | ✓ |
| **Financial Advice:**<br>The Strategic Finance and Resource Management Team has been consulted on this proposal. | ✓ |
| **Equalities Advice:**<br>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** 22/3/17