

## REQUEST FOR DMPC DECISION – PCD 463

**Title: Devolved Budget for Pre-Trial and Outreach Witness Support Services**

### Executive Summary:

The Memorandum of Understanding: Working Towards Justice Devolution to London was signed by MOPAC, the Ministry of Justice (MoJ) and London Councils in March 2018. This document contains a commitment for *“MoJ to devolve the pre-trial and outreach support for witnesses in London by April 2019, and to work with London Councils and MOPAC to improve the provision of support and delivering entitlements for victims and other witnesses through the court process more widely.”*

MOPAC is commissioning an Integrated Victim and Witness Service, to commence delivery in April 2019. This decision provides MOPAC’s response to the offer of £480,000 to be devolved by the MoJ for the provision of pre-trial and outreach support for witnesses in London, for the financial year 2019/20.

### Recommendation:

The DMPC is asked to agree:

- To accept the offer of £480,000 to deliver pre-trial and outreach support for witnesses in London, for the financial year 2019/20.
- That the condition for the funding to be devolved by MoJ is adherence to the minimum service expectations, as laid out in Appendix A
- That this £480,000 funding will be included in the total commissioning budget for the Integrated Victim and Witness Service, to commence delivery in April 2019.

### 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**

*Spurwender*

**Date**

15/10/2018

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1. The Mayor is committed to reducing repeat victimisation and to substantially improving the experience of victims and witnesses through the criminal justice system - from the point a crime is reported to the criminal conviction and beyond. The Mayor's ambition is to establish an integrated and end-to-end service for victims and witnesses in London, enabling victims to be assessed once (rather than several times), receive care and support from a single person (rather than being passed between agencies) and have consistency in terms of information communicated.
- 1.2. The Memorandum of Understanding: Working Towards Justice Devolution to London was signed by MOPAC, the Ministry of Justice (MoJ) and London Councils in March 2018. This document contains a commitment for *“MoJ to devolve the pre-trial and outreach support for witnesses in London by April 2019, and to work with London Councils and MOPAC to improve the provision of support and delivering entitlements for victims and other witnesses through the court process more widely.”*
- 1.3. Delivery of the commitments in the Memorandum of Understanding is overseen by the London Justice Devolution Board (LJDB) and its subgroups. This Board is chaired by the Deputy Mayor for Policing and Crime, and comprises senior officials from the signatory parties.
- 1.4. Following discussion at the LJDB and subgroups, the MoJ presented a methodology for the disaggregation of the Court Based Witness Service (CBWS) to London. MOPAC responded to this methodology, and the final offer of £480,000 for the financial year 2019/20 has since been agreed by Edward Argar MP, Parliamentary Under-Secretary of State for Justice.
- 1.5. MOPAC are commissioning an Integrated Victim and Witness Service (IVWS), to commence delivery in April 2019. The objective is to improve current provision in London, and to deliver an integrated, accessible, responsive, quality support offer for:
  - victims of crime, to aid their ability to cope and recover from the experience and reduce their risk of re-victimisation; and
  - witnesses, so they are able to attend court and give their best evidence.
- 1.6. The devolved funding of £480,000 will be included in the total commissioning budget for the IVWS. The expectations for the pre-trial and outreach support elements for witnesses will be explicitly laid out in the Invitation to Tender.
- 1.7. This funding will be provided subject to formal confirmation from the MoJ that the proposed approach to service delivery will provide the necessary support for witnesses (both prosecution and defence) before the Invitation to Tender is published. To this end, the MoJ have provided a minimum service expectations document - see Appendix A.

## **2. Issues for consideration**

- 2.1. The devolution of the pre-trial and outreach support for witnesses assists with the Mayor's ambition to establish an integrated and end-to-end service for victims and witnesses in London.
- 2.2. There is a risk that funding may reduce in future years if the national budget for the CBWS is reduced. This decision only pertains to the acceptance of funding to deliver services in the financial year 2019/20.
- 2.3. There is a need for multi-year funding arrangements to be agreed between MoJ and MOPAC. This is a commitment in the Memorandum of Understanding, but discussions are currently tied into the Comprehensive Spending Review.
- 2.4. MOPAC can only commit to the delivery of services beyond 2019/20 if the funding is not reduced and a commitment is made by MoJ to agree multi-year funding arrangements.

## **3. Financial Comments**

- 3.1. This decision will commit MOPAC to accepting £480,000 of devolved funding from the MoJ, to be spent in the financial year 2019/20.

## **4. Legal Comments**

- 4.1. MOPAC is entitled to accept funding from central government to assist it in the performance of its functions.
- 4.2. Under MOPAC's Scheme of Delegation, approval of the strategy for the award of individual grants and the award of all individual grants (for crime reduction or other purposes) is a matter generally reserved to the DMPC (paragraph 4.8). The release of funding in accordance with the proposals set out in this decision form is accordingly to be approved by the DMPC. The delegation of responsibility for the finalisation of planning and contractual/grant arrangements, including relevant terms and the signing of agreements, to the Chief Operating Officer, is in accordance with the general power of delegation in paragraph 5.4.
- 4.3. Any commissioning of services should comply with applicable public procurement rules.

## **5. GDPR and Data Privacy**

- 5.1. This decision does not involve any privacy considerations. The GDPR and data Privacy implications of the IVWS will be laid out in a separate decision following the commissioning process.

## **6. Equality Comments**

6.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The relevant protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.

6.2. There are no direct equality considerations for the acceptance of this funding, however, when services are commissioned for the IVWS, potential providers will be expected to demonstrate their commitment to equality and how they will provide a service that meets the needs of victims and witnesses.

6.3. The minimum service expectations (Appendix A) lay out minimum service provision for victims, non-victim witnesses, prosecution and defence witnesses. This specifically includes vulnerable and intimidated witnesses, and young witnesses.

6.4. The equality implications will be further considered when services are commissioned.

## **7. Background/supporting papers**

7.1. Appendix A – Minimum Service Expectations for the pre-trial and outreach support of witnesses in London

## **Appendix A – Minimum Service Expectations for the pre-trial and outreach support of witnesses in London**

### **Minimum Service Expectations:**

The overarching aim of pre-trial/outreach services will be to support witnesses to give their best evidence in criminal trials

The aims of pre-trial/outreach services for witnesses are:

- to provide them with relevant information about the progress of their case at pre-trial stage;
- information about their role as a witness;
- to help them feel safe;
- to provide emotional and practical support; and
- to enable them to feel respectfully and fairly treated.

Vulnerable and intimidated witnesses are likely to have additional circumstances or requirements that affect the support they need at pre-trial stage. These include:

- accompanying and familiarising the witness with the TV link room at the pre-trial stage (if Special Measures have been granted, and if requested by the witness);
- provision of age appropriate explanations about court proceedings for young witnesses, taking into account their individual needs;
- provision of an enhanced pre-trial visit, conducted as many times as necessary;
- provision of a Young Witness Pack to young witnesses, directing witnesses to appropriate informative material such as 'Going to Court' DVD and support to enable them to understand it if necessary (resources available on the Ministry of Justice website).

The devolved service provider will be required to:

- Deliver a service that complies with the Victims' Code in relation to victims who are witnesses and with the Witness Charter, which applies to all witnesses of crime and to character witnesses but not expert witnesses.
- Offer a pre-trial/outreach service to witnesses resident in London and work collaboratively with other PCC areas to support interoperability arrangements.
- Victims, non-victim witnesses, prosecution and defence witnesses are all included, as are witnesses whom are in custody themselves. Defendants **will not** be eligible for this support service

- The service will be independent of the evidence of the case and must be seen to be independent of the evidence. The provider will do nothing that could compromise the services' impartiality.
- Ensure parity of support is available to both defence and prosecution witnesses.
- Have clear referral pathways and mechanisms for all witnesses ensuring these are understood by stakeholders and promote the service in ways that ensure it is accessible to all witnesses and from a variety of backgrounds.
- Understand the full range of prosecuting authorities whom may wish to refer into the service.
- Provide pre-trial support to family members bereaved in the case in which evidence is being given, including where the family members themselves are not witnesses.
- Provide pre-trial support to family members or friends of a witness where their presence is material to the ability of the witness to present evidence.
- Have clear mechanisms in place for onward referral to the national service for any witness that is directed to the service but out of scope for provision.
- Have clear and pre-agreed mechanisms in place with HMCTS to arrange access for pre-trial visits to Courts in London.
- Develop protocols to work with the national provider of in court support to minimise duplication, facilitate seamless support and work in the interest of the witness in the court environment.
- Develop protocols with HMCTS, CPS and WCU (as required) to feedback information as required in relation to the application of special measures.
- Report on pre-agreed outcomes/KPIs in a format to be agreed with MoJ for their own grant monitoring purposes.
- Comply with all relevant policy, legislation and guidance with respect of information and data sharing (as described in the PCC victims services grant agreement).

**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 – NO

**ORIGINATING OFFICER DECLARATION**

	<i>Tick to confirm statement (✓)</i>
<b>Financial Advice:</b> The Strategic Finance and Resource Management Team has been consulted on this proposal.	✓
<b>Legal Advice:</b> The TfL legal team has been consulted on the proposal.	✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report.	✓
<b>GDPR and Data Privacy</b> <ul style="list-style-type: none"><li>• This decision does not involve any privacy considerations. The GDPR Project Manager has been consulted.</li><li>• A DPIA is not required for this decision, but one will be undertaken for the IWWS commissioning decision.</li></ul>	✓
<b>Head of Unit:</b> The Director of Criminal Justice and Commissioning has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓

**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** 10/10/2018

United States of America

Department of Justice, Federal Bureau of Investigation, Washington, D.C. 20535

It is requested that you advise the Bureau of the results of your investigation.

Very truly yours,

Special Agent in Charge

Enclosed for the Bureau are two copies of the report of the field office.

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