

## REQUEST FOR DMPC DECISION – DMPCD 2015 142

### Title: Compulsory Sobriety Pilot – pan-London expansion

#### Executive Summary:

The MOPAC compulsory sobriety pilot was launched on 31<sup>st</sup> July 2014 in South London. A total of 131 offenders have received the Court Order (Alcohol Abstinence Monitoring Requirement). The evaluation published in November 2015 demonstrates that all objectives were met with a compliance rate of 92%. The serving government's manifesto to make sobriety orders available to all courts in England and Wales, enforced through alcohol monitoring tags is further evidence of the pilot's success.

On 25 June 2015 you signed a DMPC decision to approve the extension of the pilot in South London for a further six months, to ensure the continuation of services remain in place while the evaluation is completed and discussions, with central government, on the longer term future of the pilot including pan London roll out take place.

The Secretary of State for Justice has confirmed matched funding totalling £400,000 to enable the pan London roll out of the sobriety pilot in 2016/17, in addition to enacting legislation that will enable the pilot to be rolled out across London. The Ministry of Justice (MoJ) funding is offered on the conditions that MOPAC matches their investment with a £450,000 contribution but also on the premise that all of the components of the existing pilot inclusive of the use of transdermal tags are applied to the pan London roll out. This full scale pilot will provide the required number of offenders needed to evaluate the impact of the sobriety tag on levels of reoffending.

It should be noted that Alcohol Monitoring Systems Ltd (AMS), the current provider of the transdermal tags for the alcohol sobriety pilot in the south are the only known provider who has Home Office CAST approval; the pan London expansion of the sobriety pilot therefore requires the development of a single tender action ensuring that AMS Ltd can implement a like for like London expansion of the existing pilot in South London. This report requests approval of a budget for 2016/17 to enable contract negotiation to commence.

#### Recommendation:

The DMPC is asked to approve:

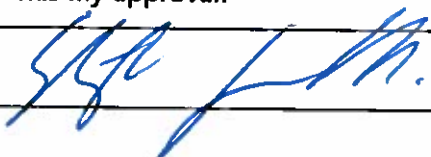
- A budget of £850,000 to deliver the roll out the current sobriety pilot pan London in 2016/17. This funding includes £400,000 from the MoJ which will be provided as up front at the start of 2016/17. The remaining funding will come from MOPAC's budget in 2016/17.
- A Single Tender Action with the commencement of negotiations with Alcohol Monitoring Services Ltd (AMS), to provide monitoring services including transdermal tags to support the pan London expansion of the alcohol Sobriety Pilot in South London
- The delegation of authority to MOPAC's Chief Operating Officer to approve the contract award.

#### 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

3/12/2015

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

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

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

- 1.1 To tackle the disproportionate levels of alcohol related crime in London. The Mayor of London successfully lobbied for Government to change the law and allow Courts to impose up to 120 days of compulsory sobriety as part of a community or suspended sentence, where alcohol was a contributing factor to the offence. This is known as the Alcohol Abstinence Monitoring Requirement (AAMR). Consequently, the power to impose an AAMR was introduced under sections 76 and 77 of the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012.
- 1.2 The Compulsory Sobriety Pilot launched on 31<sup>st</sup> July 2014 in order to operate within the South London Local Justice Area (LJA), the approval and details of this set out under DMPCD and DMPCD. The Pilot was subsequently extended, through DMPCD 2015 73 for a period of 6 months, with an end date now of 29<sup>th</sup> January 2016.
- 1.3 The pilot area operates the South London Justice Area, covering the boroughs of Croydon, Lambeth, Southwark and Sutton. The pilot has been successful:
- The target of 100 cases has been passed and 113 AAMRs were imposed within the first 12 months of the Pilot. To date 131 AAMRs have been imposed.
  - The AAMR completion rate is 95% and the compliance rate currently stands at 92% (based on those cases convicted of breaching the requirement at Court).
  - The technology has shown to be effective and unchallenged.
  - The AAMR is considered by the Judiciary and probation officers to be an important and effective tool in tackling offending and alcohol related violence, demonstrated through the take up of the pilot and the evaluation.

#### **2. Issues for consideration**

- 2.1 DMPCD 2013 116 approved the South London AAMR pilot and this was followed by DMPCD 2014 235 that awarded the contract to Alcohol Monitoring Systems Ltd (AMS) and the use of their transdermal tag SCRAMx.
- 2.2 The Ministry of Justice were fully supportive of the procurement process and supported the award of contract to Alcohol Monitoring Systems Ltd (AMS).
- 2.3 The Conservative party manifesto 2015 pledged to give judges the power to use AAMRs nationally, The market was tested in the initial competitive
- 2.4 Rationale for Single Tender Action
- 2.4.1 The Pan London roll out of AAMR remains as a pilot for 2016/17. The MoJ will be making two orders to enact the current legislation, one to enable the pilot in South London to continue to April 2016 and two to extend the pilot to pan London from April 2016 to March 2017. This will allow the learning and evidence of what works in relation to process gained from the original proof of concept pilot to be extended to a larger scale pilot (covering up to 600 offenders) testing application across different Local Justice Areas and its impact in terms of reoffending and behavioural change. To achieve this all must remain same in terms of the technology used and monitoring arrangements. Therefore even though there are other technologies available to monitor alcohol consumption, most notably breathalysers, these are not suitable for this larger scale pilot.

- 2.4.2 AMS Ltd currently holds the contract for the South London pilot which commenced on July 31 2014. To the best of our knowledge, AMS Ltd are the only provider of transdermal tags who are able to operate within the UK, (their product is known as SCRAMx). The market was tested in the initial competitive process which concluded in May 2014.
- 2.4.3 The MOJ stipulate that the transdermal tags need to be approved by, and meet the required standards of the Home Office – ‘Centre for Applied Science and Technology’ (CAST). AMS Ltd is the only transdermal monitoring provider who is CAST approved and meets these required standards. CAST have also confirmed that they are not aware of other such technology operating with in the UK or EU who is CAST approved or waiting to be CAST approved. It should be noted that CAST approval can take up to 9 months.
- 2.4.4 CAST have stated that the technology in this space is immature and SCRAMx are currently the only active provider in UK (or EU).
- 2.4.5 There are a range of other technology solutions that could be employed to support AAMR. These include the use of breath alcohol testing using standard roadside screening devices, or the less well understood technique of measuring blood-alcohol content directly through the skin. However, the system in which such technologies could be deployed would be different to that currently used in the MOPAC pilot (and what has been tested as successful), and therefore would not enable a like for like comparison required to support a more extensive impact based evaluation.

## 2.5 Phased Roll out

- 2.5.1 The implementation of the expansion of the pan London AAMR Pilot will be phased during the financial year of 2016/17. The pilot would commence with the three Local Justice Areas (LJA) within the South London area and will then be extended to the remaining 6 LJA's in three phases throughout 2016/17, with full coverage in place by April 2017.
- 2.5.2 The ongoing demand for AAMR is estimated at around 1,000 per annum (drawn out of assumptions from the delivery of the South London Justice Area); however as roll out will be phased across 2016/17 we have estimated demand for this year at 600 offenders.

## 3. Financial Comments

- 3.1 A budget of £850,000 has been identified to roll out and deliver AAMR across London for 2016/17, this will enable approximately 600 offenders to be tagged as part of AAMR requirement, and for this order to be accessible in 9 Local Justice Areas by April 2017.
- 3.2 This £850,000 budget includes costs for:
- Commissioning
  - Tagging and monitoring
  - Project Management
  - Evaluation

It should be noted that this total budget will also support the extension of the existing South London Pilot from the 26<sup>th</sup> January 2016 to the 31<sup>st</sup> March 2016; allowing seamless transition between this existing small scale pilot and the pan London pilot expansion.

- 3.3 The funding will be provided by MOPAC and the Ministry of Justice. £450,000 has been set aside within the MOPAC budget in 2016/17 to meet ongoing commissioning/contract costs as well as the day to day delivery of monitoring and application of the transdermal tags. The remaining £400,000 has been committed by the Secretary of State for Justice towards the infrastructure and expansion costs of the pilot (this is set out in attached letter at **APPENDIX A**)

## **4. Legal Comments**

### **4.1 Single Tender Action**

- 4.1.1 The Mayor's Office for Policing And Crime (MOPAC) is a contracting authority as defined in the Public Contracts Regulations 2015 (the 'Regulations'). When awarding public contracts for goods and services valued at £172,514 or above, all contracting authorities must do so in accordance with the regulations. On the basis that this award of contract request value is over the said threshold, the regulations will apply.
- 4.1.2 Regulation 32(2)(b)(ii) states that the Negotiated Procedure Without Prior Publication may be used for public services contracts where the services can be supplied only by a particular economic operator where competition is absent for technical reasons but only where no reasonable alternative or substitute exists and the absence of competition is not the result of the artificial narrowing down of the parameters of the procurement. Paragraph 2.4.2 and 2.4.3 of the Report confirms that AMS Ltd is the only provider of transdermal tags who operate within the UK and are Home Office CAST approved. It also confirms that on the basis that this is an expansion of the existing pilot, that there is no other provider on the market beyond AMS Ltd that can provide necessary equipment and have the necessary Home CAST approved. On the basis that this research is accurate MPS Directorate of Legal Services considers the application of r.32 in these circumstances to be lawful. The use of Regulation 32 constitutes a 'contract exemption' for the purposes of the MOPAC Scheme of Delegation (the Scheme).
- 4.1.3 Paragraph 4.13 of the Scheme requires approval is sought from the Deputy Mayor of Policing and Crime to approve all contract exemptions of £100,000 or above. Documentation can be viewed on the MOPAC website.

### **4.2 Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO)**

- 4.2.1 Section 76 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) gives the Secretary of State for Justice the powers to introduce AAMRs as a sentencing option. By section 77 LASPO, section 76 may not be generally brought into force for England and Wales unless a piloting order has previously been made, bringing section 76 into force to a limited extent, in relation to specified areas and for a specified period. Section 77 LASPO expressly envisages that more than one piloting order may be made. The Legal Aid, Sentencing & Punishment of Offenders Act 2012 (Alcohol Abstinence and Monitoring Requirements) Piloting Order 2014 (SI 2014/1777) provided for an initial pilot period of 1 year from 31 July 2014. This was extended to 29 January 2016 (DMPC 2015 73). The Secretary of State has confirmed a new piloting order will be made to extend the South London Pilot to 31<sup>st</sup> March 2016 and a separate order will be made to pilot AAMR across London from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017.
- 4.2.2 MOPAC's commitment to work towards the implementation of the pilot is clearly set out in the Police and Crime Plan 2013-2016, which has a statutory basis in section 6 of the Police Reform and Social Responsibility Act 2011. The Police and Crime Plan was subject to extensive consultation and an Equality Impact Assessment.
- 4.2.3 MOPAC has identified the reduction of alcohol-related crime as an objective in the Police and Crime Plan 2013-2016. The AAMR pilot is intended to contribute towards the reduction of alcohol-related crime levels and reduce reoffending. Entering into arrangements for the implementation of the AAMR pilot therefore falls within MOPAC's powers to act in order to secure an efficient and effective police service.

- 4.2.4 There are further relevant powers set out in the Crime and Disorder Act 1998 at sections 17(1) (a) to (c) which place MOPAC under a duty to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it can to prevent, crime and disorder (including anti-social and other behaviour adversely affecting the local environment) and reoffending in its area; and the misuse of drugs, alcohol and other substances in its area. The proposed arrangements are consistent with MOPAC's duties in the Crime and Disorder Act 1998.
- 4.2.5 As the proposed continuation of the pilot may raise issues under the Data Protection Act 1998 and/or the Human Rights Act 1998, a Privacy Impact Assessment has been carried out to assess and address any risks.

## **5 Equality Comments**

- 5.1 AMS were asked to provide details of their Equalities processes as part of their tender; these were deemed to be acceptable by the evaluation panel.
- 5.2 An EIA for the AAMR is attached as appendix B.

## **6 Background/supporting papers**

DMPCD 2013 194 Alcohol Sobriety pilot

DMPCD 2014 235 - AMS Ltd Contract award 2014

DMPCD 2015 73 - London Alcohol Sobriety Pilot - Six month pilot extension

Appendix A - Letter from the Lord Chancellor & Secretary of State for Justice to the Mayor of London dated 23 November 2015

Appendix B - EIA for the AAMR

**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? Yes

If yes, for what reason:

To allow the required time for commercial contract negotiations with AMS Ltd.

Until what date (if known):

25th January 2016

Is there a **part 2** form – YES

If yes, for what reason:

Provides information pertaining to contract negotiation

**ORIGINATING OFFICER DECLARATION:**

	Tick to confirm statement (✓)
<b>Head of Unit:</b> Samantha Cunningham has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
<b>Legal Advice:</b> The MPS legal team has been consulted on the proposal.	✓
<b>Financial Advice:</b> The Head of Strategic Finance and Resource Management has been consulted on this proposal.	✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report, and The Workforce Development Officer has been consulted on the equalities and diversity issues within this report.	✓

**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 31/12/2015