

REQUEST FOR DMPC DECISION – PCD 133

Title: Application for Financial Assistance CAP increase for the legal representation of serving officers

Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for an additional £3,195 for financial assistance made by the Applicants for separate representation in a concluded inquest. The DMPC previously agreed to £10,200 plus VAT, but the inquest unexpectedly went into a fourth day. The jury's verdict was suicide.

The DMPC has power to grant the application if she is satisfied that funding the member of staff'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 an application for an additional £3,195 for financial assistance (inclusive of 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*Siphe hunden***Date**

30/1/17

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 1st June 2015 – it was expected to last for 3 days. The two officers concerned were both accorded the status of an Interested Person (IP) by the Coroner.
- 1.2. The factual background giving rise to the proceedings are as follows; On 27th December 2012 officers arrested a male for theft of a motorbike.
- 1.3. The male was taken to a police station where he was assessed as needing physical supervision in close proximity at all times. A system of constant watch was put in place. During his detention he was managed by a number of police officers, designated detention officers and health care practitioners.
- 1.4. The male was interviewed and bailed from custody on 28th December 2012.
- 1.5. On 29th December 2012 the male was found dead in a London hotel, having hung himself.
- 1.6. The Applicants satisfied the criteria for entitlement to financial assistance namely: the Custody Sergeant and officer on constant watch were performing their official duties, acting in good faith and there was no wilful neglect on their part; and they exercised reasonable judgment. The facts provided by the applicants in support of their representation for financial assistance are set out in the exempt report.
- 1.7. The Commissioner's position in relation to the Applicant's representations for financial assistance is set out in the exempt report.
- 1.8. There was a clear conflict of interests between the position of the Commissioner and the Applicants and accordingly the Applicants required separate legal representation and financial assistance. This point was supported by DLS.
- 1.9. A previous application for £10,200, plus VAT, to fund the officers legal representation at the Inquest, was approved by DMPC in May 2015.
- 1.10. The inquest went unexpectedly into a fourth day. The coroner found that the actions of the MPS were not causative of the male's death. The jury's verdict was suicide.
- 1.11. The extra day resulted in additional Counsel and solicitors fees to the sum of £3,195, inclusive of VAT.

2. Issues for consideration

- 2.1. The officers legal representative wrote in June 2015 outlining additional costs in relation to the inquest. There is no record of this being received by the MPS. Accordingly, when the invoices were submitted in 2016 in respect of this matter it took the legal representatives over the amount previously authorised. This application has resulted from a request in September 2016 for a cap increase to cover the officers additional legal costs associated with the extra day of proceedings.

We have sort justification from the MPS and they support the cap increase in this matter.

- 2.2. For the DMPC to consider whether the financial assistance will secure an efficient and effective Metropolitan Police force.
- 2.3. The DMPC has power to grant the application if she is satisfied that funding the Applicants 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 Applicants previously submitted an estimate of the total costs of the separate representation in the sum of £10,200 plus VAT. This was approved by DMPC.
- 3.2. This application is for a further, £3,195, inclusive of VAT.
- 3.3. The funding 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 Applicants 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:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: The 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**

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

25/1/17