

**DMPC Decision – PCD 764****Title: Forensic Pathology Services****Executive Summary:**

The MPS must use Home Office Registered Pathology Services as stipulated by the Coroners. Act 1988 and the Forensic Pathologists Code of Practice, which is produced by the Home Office Policy Advisory Board for Forensic Pathology and the Royal College of Pathology. This is also in keeping with The Forensic Regulators Guidance and CPS Guidance around the use of expert witnesses. Forensic Pathology makes a significant contribution to the investigation of suspicious death and homicide. The forensic pathologist is regarded as part of the forensic investigation team as set out in the National Policing Murder Investigation Manuals, as well as National Ministry of Justice and Home Office Guidelines.

The MPS Pathology Services are currently supplied by Home Office Registered Forensic Pathologists via a Memorandum of Understanding (MoU). This is currently being reviewed and a new Statement of Requirement (SoR) is to be negotiated and agreed with the provider. This MoU originally commenced on 6 December 2006 with an initial 3-year term, with unlimited options of multiples of 3 months extensions (unlimited) on a rolling basis. Currently any extension of this agreement is through Budget Holder approval in consultation with Finance and Commercial Services.

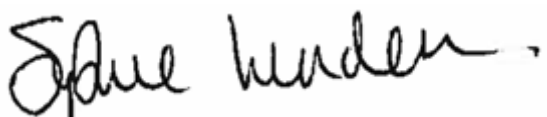
**Recommendation:**

The Deputy Mayor for Policing and Crime is recommended to approve the direct award of a contract for Forensic Pathology Services for five years plus two possible extensions of one year each, at an anticipated total contract value of £6.3 million (£900k per annum).

**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****29/05/2020**



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

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

- 1.1. The MPS Pathology Services are currently supplied by Home Office Registered Forensic Pathologists via a Memorandum of Understanding (MoU). This MoU originally commenced on 6 December 2006 with an initial 3-year term, with unlimited options of multiples of 3 months extensions (unlimited) on a rolling basis.
- 1.2. The process is managed through a single point of contact within the MPS and all approved requests are shown on a Pathology Database. This gives a Unique Reference Number to each request and can only be accessed and commissioned through a Forensic Manager.
- 1.3. All issues and exceptions are dealt with through a Pathology Delivery Board meeting with representation from all parties involved in the post mortem and Criminal Justice process including the Crown Prosecution Service, The Coroners Service, The Senior Investigating Officers, Forensic Services and Forensic Pathology Services representatives.
- 1.4. National issues are raised and dealt with through representation on the National Pathology Delivery Board chaired by the Home Office Pathology Unit. This is also the board that sets the national fees in consultation with the Royal College of Forensic Pathology.

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

- 2.1. The MPS must use Home Office Registered Pathology Services because this is stipulated by the Coroners Act 1988 and the Forensic Pathologists Code of Practice, which is produced by the Home Office Policy Advisory Board for Forensic Pathology and the Royal College of Forensic Pathology. This is also in keeping with The Forensic Regulators Guidance and CPS Guidance around the use of expert witnesses.

### **3. Financial Comments**

- 3.1. The fees payable are set by the National Pathology Delivery Board and agreed periodically with the MPS. Full details of fees and services are set out in the MoU agreement. The current fee is £2,683 (ex vat) and tends to increase by approximately 1% year on year. Other fees include Histopathology examination.
- 3.2. The current yearly budget has been set at £900k, which is accounted for within the Forensic Services budget, following a review of the increased numbers of post mortems and demand. From this budget, we request services for; Forensic Post Mortems, Histopathology Examinations to support the Forensic Post Mortems and ad hoc Opinion Work on injury interpretation in Homicide and GBH/Sexual Assault cases.

- 3.3. A review of the £900k budget has been conducted and it is viewed as sufficient to meet predicted demand; however, any variance will be managed within the overall Forensics' budget.

#### **4. Legal Comments**

- 4.1. The legal implications of not proceeding with the recommendations are that the MPS will not have the provision of Forensic Pathology Services and this impacts on the Criminal Justice and Coronial Systems in terms of the level of evidence provided to a criminal standard particularly in Homicide Investigations.
- 4.2. The Mayor's Office for Policing and Crime (MOPAC) is a contracting authority as defined in the Public Contracts Regulations 2015 (the Regulations). All awards of public contracts for goods and/or services valued at £189,330 or above shall be procured in accordance with the Regulations and MOPAC governance. This report confirms the value of the proposed contract exceeds this threshold.
- 4.3. Regulation 32 provides the MOPAC may negotiate with a sole economic operator where competition is absent, due to technical reasons. This report confirms the Home Office Registered Forensic Pathology Services are the only provider legally capable of providing this service.
- 4.4. Paragraph 4.13 of the MOPAC Scheme of Delegation and Consent provides the Deputy Mayor for Policing and Crime has delegated consent to approve all contract exemptions valued at £100,000 or above.
- 4.5. Paragraph 4.15 of the MOPAC Scheme of Delegation and Consent provides that the Deputy Mayor for Policing and Crime (DMPC) has delegated authority to award MOPAC contracts with a total value of £500,000 or above.
- 4.6. The proposals in this decision are in line with regulations.

#### **5. Commercial Issues**

- 5.1. As an extension to an existing service this work does not change any aspects relating to responsible procurement.
- 5.2. Forensic Pathology Services is the largest of the Home Office Registered Pathology Services Group Practices and it is stipulated in the Coroners Act 1988 that we must only use Home Office Registered Forensic Pathology Services within a group practice. As such, there are no other group practices in England and Wales that have the capacity to services the significant MPS demand. This is therefore not suitable for competition.

#### **6. GDPR and Data Privacy**

- 6.1. Consultation has been made with MPS HQ Strategy and Governance and we are working with the service provider to complete the standard DPIA template as part of the Statement of Requirements, Terms, and Conditions for the contract. A DPIA exists for this work and is currently being updated.
- 6.2. Privacy is taken very seriously by the MPS. A structured approach in terms of consultation with the MPS Data Protection Manager, Privacy Advisors and Senior Information Assurance Manager will ensure a proportionate approach is applied to privacy. DPIA and Data Protection Contract are considered where necessary whilst supplier technical, personnel and physical security arrangement are central to scrutiny whereby assessment are undertaken independent to the procurement team by the MPS Information Assurance Unit.

## **7. Equality Comments**

- 7.1. There are no direct Equality or Diversity impacts. The use of Forensic Pathology Services can be guided by the requirements of different cultures and religious beliefs but this would be discussed and agreed at the Coronial level and in consultation with the family of the deceased respecting the wishes of the family in the context of the need to thoroughly investigate a Homicide or Suspicious death to provide causation to the Criminal Justice System and Coronial Inquests.
- 7.2. The business justification paper (part 2) has undergone initial equality screening. 'Due regard' has been taken to the Equality Act's Public Sector Equality Duty under Sec 149 of the Equality Act 2010. 'Real consideration' has been taken to assess equality impact caused by the proposed business change, including effective engagement and analysing relevant equality information. As a result, no negative impact has been identified to any individual and/or group safeguarded by a protected characteristic and to those who are not. If as a result of the continual development of this strategic paper Equality Impact is identified, a full Equality Impact Assessment will be initiated via the completion of a Form 6119A.

## **8. Background/supporting papers**

- 8.1. MPS Report.

**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: N/A

**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**

*Tick to confirm statement (✓)*

**Financial Advice:**

The Strategic Finance and Resource Management Team has been consulted on this proposal.

✓

**Legal Advice:**

The MPS legal team has been consulted on the proposal.

✓

**Equalities Advice:**

Equality and diversity issues are covered in the body of the report.

✓

**Commercial Issues**

The proposal is in keeping with the GLA Group Responsible Procurement Policy.

✓

**GDPR/Data Privacy**

- GDPR compliance issues are covered in the body of the report.
- A DPIA has been completed.

✓

**Director/Head of Service:**

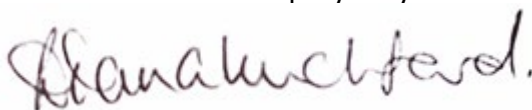
The Interim Chief Finance Officer has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.

✓

**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



Date 27/05/2020



**Forensic Pathology Services  
MOPAC Investment Advisory Board April 2020**

**Report by John Foster on behalf of the Deputy Commissioner**

**Part 1 – This section of the report will be published by MOPAC.**  
**It is classified as OFFICIAL – PUBLIC**

*EXECUTIVE SUMMARY*

The MPS must use Home Office Registered Pathology Services as stipulated by the Coroners. Act 1988 and the Forensic Pathologists Code of Practice, which is produced by the Home Office Policy Advisory Board for Forensic Pathology and the Royal College of Pathology. This is also in keeping with The Forensic Regulators Guidance and CPS Guidance around the use of expert witnesses. Forensic Pathology makes a significant contribution to the investigation of suspicious death and homicide. The forensic pathologist is regarded as part of the forensic investigation team as set out in the National Policing Murder Investigation Manuals, as well as National Ministry of Justice and Home Office Guidelines.

The MPS Pathology Services are currently supplied by Home Office Registered Forensic Pathologists via a Memorandum of Understanding (MoU). This is currently being reviewed and a new Statement of Requirement (SoR) is to be negotiated and agreed with the provider. This MoU originally commenced on 6 December 2006 with an initial 3-year term, with unlimited options of multiples of 3 months extensions (unlimited) on a rolling basis. Currently any extension of this agreement is through Budget Holder approval in consultation with Finance and Commercial Services.

Request for approval to be given to award a contract via a SoR with MPS Terms and Conditions for the provision of Home Office Registered Forensic Pathology Services for a proposed term of 5 years plus 1 year, plus 1 year at an anticipated value of £6.3 million for 7 years.

**Recommendations**

*The MPS Portfolio & Investment Board (PIB) is asked to:*

**Approve the direct award of a contract for Forensic Pathology Services for 5 years plus 1 year, plus 1 year, at an anticipated value of £6.3 million (£900k per annum).**

*If supported by the MPS Portfolio & Investment Board, the Deputy Mayor for Policing and Crime, via the Investment Advisory Board (IAB), is asked to:*

**Approve the direct award of a contract for Forensic Pathology Services for 5 years plus 2 possible extensions of 1 year each, at an anticipated total contract value of £6.3 million (£900k per annum).**

### **Time sensitivity**

A decision is required from the Deputy Mayor by the end of May 2020. This is because the current 12-month extension expired on 31<sup>st</sup> of March 2020, an extension request has been approved for a further £450,000 to cover a six month period to the end of September 2020, whilst we seek approval to award a contract for the longer term of 5 years plus 1 year, plus 1 year and introduce the SoR and MPS Terms and Conditions to the service provider.

## **Non-confidential facts and advice to the Deputy Mayor for Policing and Crime**

### **Introduction and background**

1. Forensic Pathology makes a significant contribution to the investigation of suspicious death and homicide. The forensic pathologist is regarded as part of the forensic investigation team, as set out in the MPS Murder Manual. Their professional advice and opinions represent a key contribution to decision-making process in investigations of death and homicide.
2. The Pathology Services support in homicide and unexplained death investigations through attendance at crime scenes, conducting post mortem examination to establish death, interpreting injury and recover forensic evidence samples to assist the investigation team. A full summary of services are listed below:
  1. **Initial Consultation:** Discuss circumstances of a case or attendance at a crime scene to inform any strategy relating to the investigation into cause of death or recovery of Forensic Evidence from Bodies.
  2. **Scene Attendance when required** to be determined by the attending Operational Forensic Manager in consultation with the Senior Investigating Officer.
  3. **Autopsy:** The post mortem examination of the body of the deceased known as a Forensic Post Mortem for Police purposes to establish cause of death and interpret injuries.
  4. **Interim and Final Report:** Reports provided by the Forensic Pathologist to provide initial findings and then conclusions.
  5. **Interpretation and Analysis of Histology and Toxicology:** assist in establishing cause of death.
  6. **Opinion work on weapon and injuries in live victim cases:** provide detail for the courts on the facts of an investigation and provide evidence of cause, type of injury, weapon type, etc.
  7. **Police Case Conferences:** assist in directing any Police investigative lines of enquiry through review of any material or results relating to the post mortem or other Forensic examinations and investigative information.



8. **Attendance at Post-mortem.**
  9. **Peer Review and Quality Requirements of Registration.**
  10. **Pediatric Post Mortems:** examination of a child death to be conducted with a Pediatric Pathologist.
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3. The MPS Pathology Services are currently supplied by Home Office Registered Forensic Pathologists via a Memorandum of Understanding (MoU). This MoU originally commenced on 6 December 2006 with an initial 3-year term, with unlimited options of multiples of 3 months extensions (unlimited) on a rolling basis.
  4. The process is managed through a single point of contact within the MPS and all approved requests are shown on a Pathology Database. This gives a Unique Reference Number to each request and can only be accessed and commissioned through a Forensic Manager.
  5. All issues and exceptions are dealt with through a Pathology Delivery Board meeting with representation from all parties involved in the post mortem and Criminal Justice process including the Crown Prosecution Service, The Coroners Service, The Senior Investigating Officers, Forensic Services and Forensic Pathology Services representatives.
  6. National issues are raised and dealt with through representation on the National Pathology Delivery Board chaired by the Home Office Pathology Unit. This is also the board that sets the national fees in consultation with the Royal College of Forensic Pathology.

#### **Issues for consideration**

7. The MPS must use Home Office Registered Pathology Services because this is stipulated by the Coroners Act 1988 and the Forensic Pathologists Code of Practice, which is produced by the Home Office Policy Advisory Board for Forensic Pathology and the Royal College of Forensic Pathology. This is also in keeping with The Forensic Regulators Guidance and CPS Guidance around the use of expert witnesses.

#### **Contributes to the MOPAC Police & Crime Plan 2017-2021<sup>1</sup>**

8. Forensic Pathology makes a significant contribution to the investigation of suspicious death and homicide. The forensic pathologist is regarded as part of the forensic investigation team as set out in the National Policing Murder Investigation Manuals as well as National Ministry of Justice and Home Office Guidelines.

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<sup>1</sup> [Police and crime plan: a safer city for all Londoners | London City Hall](#)

### **Financial, Commercial and Procurement Comments**

1. As an extension to an existing service this work does not change any aspects relating to responsible procurement.
2. Forensic Pathology Services is the largest of the Home Office Registered Pathology Services Group Practices and it is stipulated in the Coroners Act 1988 that we must only use Home Office Registered Forensic Pathology Services within a group practice. As such, there are no other group practices in England and Wales that have the capacity to services the significant MPS demand. This is therefore not suitable for competition.
3. The fees payable are set by the National Pathology Delivery Board and agreed periodically with the MPS. Full details of fees and services are set out in the MoU agreement. The current fee is £2683 (ex vat) and tends to increase by approximately 1% year on year. Other fees include Histopathology examination.
4. The current yearly budget has been set at £900k, which is accounted for within the Forensic Services budget, following a review of the increased numbers of post mortems and demand. From this budget, we request services for; Forensic Post Mortems, Histopathology Examinations to support the Forensic Post Mortems and ad hoc Opinion Work on injury interpretation in Homicide and GBH/Sexual Assault cases.
5. A review of the £900k budget has been conducted and it is viewed as sufficient to meet predicted demand; however, any variance will be managed within the overall Forensics' budget.

### **Legal Comments**

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2. The Mayor's Office for Policing and Crime (MOPAC) is a contracting authority as defined in the Public Contracts Regulations 2015 (the Regulations). All awards of public contracts for goods and/or services valued at £189,330 or above shall be procured in accordance with the Regulations and MOPAC governance. This report confirms the value of the proposed contract exceeds this threshold.
3. Regulation 32 provides the MOPAC may negotiate with a sole economic operator where competition is absent, due to technical reasons. This report confirms only the Home Office Registered Forensic Pathology Services are the only provider legally capable of providing this service.
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### **Equality Comments**

1. There are no direct Equality or Diversity impacts. The use of Forensic Pathology Services can be guided by the requirements of different cultures and religious beliefs but this would be discussed and agreed at the Coronial level and in consultation with the family of the deceased respecting the wishes of the family in the context of the need to thoroughly investigate a Homicide or Suspicious death to provide causation to the Criminal Justice System and Coronial Inquests.
2. The business justification paper (part 2) has undergone initial equality screening. 'Due regard' has been taken to the Equality Act's Public Sector Equality Duty under Sec 149 of the Equality Act 2010. 'Real consideration' has been taken to assess equality impact caused by the proposed business change, including effective engagement and analysing relevant equality information. As a result, no negative impact has been identified to any individual and/or group safeguarded by a protected characteristic and to those who are not. If as a result of the continual development of this strategic paper Equality Impact is identified, a full Equality Impact Assessment will be initiated via the completion of a Form 6119A.

### **Privacy Comments**

1. Consultation has been made with HQ Strategy and Governance and we are working with the service provider to complete the standard DPIA template as part of the Statement of Requirements, Terms, and Conditions for the contract. A DPIA exists and is currently being updated.
2. Privacy is taken very seriously by the MPS. A structured approach in terms of consultation with the MPS Data Protection Manager, Privacy Advisors and Senior Information Assurance Manager will ensure a proportionate approach is applied to privacy. DPIA and Data Protection Contract are considered where necessary whilst supplier technical, personnel and physical security arrangement are central to scrutiny whereby assessment are undertaken independent to the procurement team by the MPS Information Assurance Unit.

### **Real Estate Implications**

1. There are no Real Estate implications as the use of Public and Hospital Mortuaries for Forensic Post Mortems is standard practice nationally, and no cost is levied for this purpose. Forensic Pathology Services have their own offices as an Independent Home Office Group Practice.

### **Environmental Implications**

1. There are no known environmental issues however; the provider should adhere to all environmental legislation.

### **Background/supporting papers**

N/A

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**Part 2 – This section refers to the details of the Part 2 business case which is NOT SUITABLE for MOPAC Publication.**

The Government Security Classification marking for Part 2 is:  
OFFICIAL-SENSITIVE [COMMERCIAL]

Part 2 of Forensic Pathology Services is exempt from publication for the following reasons:

Exempt under Article 2(2) (a) of the Elected Local Policing Bodies (Specified Information) Order 2011 (Data Protection).

- Section 43 – Commercial Interests

The paper will cease to be exempt until or retain for a minimum of 7 years according to the MPS Records Management Policy