MOPAC | MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

REQUEST FOR DMPC DECISION – PCD 113

Title: Application for Financial Assistance for the legal representation for nine serving officers and two former police officers.

Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for financial assistance in the sum of £138,900 (plus VAT) made by the Applicants for separate legal representation in a forthcoming inquest.

The DMPC has power to grant the application if she is satisfied that funding officers 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 financial assistance made by the Applicant for the sum of £138,900 (plus 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** 09/01/17

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

Decision required – supporting report

1. Introduction and background

1.1. The proposed date for this inquest to commence is 6 February 2017, with a ten week time estimate.

1.2. On 31 August 2010 at 2.58am police received a call from Mrs Lewis. Police officers from Croydon were dispatched because shouting could be heard in the background and there was the possibility of a domestic incident. On arrival at Mrs Lewis' home address police officers were reassured that the family did not want police involvement and that medical assistance would be sought for her son, Mr Olaseni Lewis, if required.

1.3. At 4.41am staff at Croydon University Hospital called police claiming that Mr Lewis was causing a disturbance, and was being aggressive. Police officers from Croydon attended the hospital. Mr Lewis was detained by police officers under s.136 Mental Health Act 1983 following advice from an Approved Mental Health Professional working within attendance A & E.

1.4. Mr Lewis was taken to the Maudsley Hospital. Mr Lewis was placed in an observation room and police officers left.

1.5. At about 9.20am Maudsley Hospital reported to police that Mr Lewis had absconded from hospital. Police officers succeeded in returning Mr Lewis to hospital. Later that morning Mr Lewis was taken to the Bethlem Royal Hospital as a voluntary patient – police were not involved in this move.

1.6. On 31 August 2010 at 9.30pm police were called to the Bethlem Royal Hospital. Mr Lewis had been sectioned under s.5(2) Mental Health Act due to his disturbed and resistant behaviour. His behaviour had become violent and he had damaged hospital property. Five police officers, including one Sergeant, attended the hospital. They spoke with staff, before going to see Mr Lewis.

1.7. A decision was made to move Mr Lewis to a seclusion room with police assistance

1.8. The officers attempted to move Mr Lewis to the seclusion room but a struggle ensued once in the room, so the door could not be secured. The officers on scene requested further assistance and a further 6 officers attended.

1.9. There followed further attempts to seclude Mr Lewis, resulting in a restraint of approximately 30 minutes. Mr Lewis became unconscious and was unable to breathe independently. Police officers performed CPR until the London Ambulance Service arrived.

1.10. Mr Lewis was taken to Croydon University Hospital. In the ambulance he began breathing independently but subsequent tests indicated he had no brain stem activity and on 4th September his life support was switched off.

1.11. Following a post mortem, cause of death was given as hypoxic brain injury; cardio respiratory arrest and restraint in association with acute behavioural disturbance.

1.12. The IPCC conducted an independent investigation. The officers concerned were treated as witnesses. In September 2011 the IPCC reported and concluded that Mr Lewis's death arose out of

"an exceptional set of circumstances" and that no police officer should be the subject of any misconduct proceedings.

1.13. The IPCC subsequently conceded that the first investigation had been flawed and did not adequately meet the Article 2 obligations in relation to Mr Lewis. By judicial review proceedings, their original report was set aside. They re-investigated the death, this time interviewing the officers under criminal caution. The IPCC report was finalized in April 2015 with recommendations that six officers face a gross misconduct panel and five face misconduct meetings.

1.14. For nine of the officers the breach of Professional Standards relate to; Duties and Responsibilities, Use of Force and Orders & Instructions. For two officers the breaches relate to Duties and Responsibilities and Orders & Instructions

1.15. The CPS have confirmed that there will be no criminal charges against any of the officers.

1.16. The officers were recognised as having the status of interested party at the last pre-inquest review hearing on 26 October 2016.

1.17. These Applicants represent that they satisfy the criteria for entitlement to financial assistance namely: that they were performing official duties; that they were acting in good faith and that they exercised reasonable judgment. Those issues are considered separately in the attached Exempt Report.

2. Issues for consideration

2.1. For the DMPC to consider whether the financial assistance 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 officers have submitted an estimate of the total costs of the separate representation in support of the application for financial assistance in the sum of £138,900 plus VAT

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 between the Commissioner and the Applicants which gives rise to the need for separate representation and financial assistance is considered in the attached exempt report.

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:

	Tick to confirm statement (✓)
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** 9/1/17