

## REQUEST FOR DMPC DECISION – PCD 344

**Title:** Request for authorisation to settle a claim against the Metropolitan Police Service (MPS)

### Executive Summary:

The Directorate of Legal Services (DLS) is requesting MOPAC agrees settlement of a claim against the MPS.

The Deputy Mayor for Policing and Crime has the discretion to authorise the settlement of legal proceedings where it would be conducive to the maintenance of an efficient and effective police force.

### Recommendation:

The MPS be authorised to settle the claim by the parents of Mr. Olaseni Lewis identified in the exempt part of this report.

### 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**

*Sybil Henderson*

**Date** 13/03/18

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

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

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

- 1.1. Part 2 of this Report is exempt because it falls within an exemption specified in para 2(2) of the Elected Local Policing Bodies (Specified Information) Order 2011 and/or under the Freedom of Information Act 2000, e.g. because the information amounts to personal data, is confidential or commercially sensitive.
- 1.2. During the early hours of Tuesday 31 August 2010, police attended the address of the mother of Mr Olaseni Lewis due to concerns of a domestic incident. On arrival, the attending officers were reassured by Mr Lewis's mother that the family did not want police involvement and that medical assistance would be sought for her son, Mr. Olaseni Lewis (who was behaving oddly) if required.
- 1.3. Later that morning, two staff members at Croydon University Hospital called police claiming that Mr Lewis was "causing a disturbance" and was being "aggressive and violent". Officers attended the hospital and, following advice from an Approved Mental Health Professional working within A&E, detained Mr Lewis under s.136 of the Mental Health Act 1983. Mr Lewis was subsequently taken by police van to the Maudsley Hospital and placed in an observation room. The officers left about half an hour later.
- 1.4. At about 9.20am, Maudsley Hospital reported to police that Mr Lewis had absconded from hospital. Officers were dispatched to find Mr Lewis and succeeded in returning him to hospital without any force being used other than the application of handcuffs. Later that morning Mr Lewis was taken to the Bethlem Royal Hospital as a voluntary patient.
- 1.5. That evening, police were called to the Bethlem Royal Hospital. Officers attended and were told that Mr Lewis had been "extremely violent" and had "damaged a door". Mr Lewis had been sectioned under s.5(2) Mental Health Act due to his disturbed and resistant behaviour. He was handcuffed due to his behaviour and a decision was made by the doctor present to move Mr Lewis to a seclusion room with police assistance.
- 1.6. Officers placed Mr Lewis in the seclusion room but as they withdrew he was able to get to the door and prevent it from being closed by a member of hospital staff. The officers then re-entered the room to try and secure Mr Lewis inside. Further officers were called to assist. These further attempts resulted in a prolonged restraint of Mr Lewis (approximately 30 minutes) by a number of police officers and included the use of baton/arm strikes and leg restraints. During this time Mr Lewis became unconscious and was unable to breathe independently. The officers present performed CPR until the London Ambulance Service arrived.
- 1.7. Mr Lewis was taken to Croydon University Hospital by ambulance. In the ambulance Mr Lewis began breathing independently but subsequent tests indicated he had no brain stem activity and on 04 September Mr Lewis' life support was switched off.
- 1.8. Following a post mortem, cause of death was given as hypoxic brain injury, cardio respiratory arrest and restraint in association with acute behavioural disturbance.
- 1.9. In September 2011, the Independent Police Complaints Commission (IPCC) completed an independent investigation and concluded that "Mr. Lewis' death arose out of an exceptional set of circumstances" and that no officer should be subject to misconduct proceedings. There were several areas of organisational learning identified relating to the co-operation and joint working of police and health authorities. The IPCC subsequently decided to re-investigate the death. At their invitation

the family applied to the High Court for the first report to be set aside. The second IPCC report was finalised on 10 April 2015 with recommendations that all officers face a gross misconduct hearing. The MPS rejected this recommendation and the IPCC directed that a hearing take place.

- 1.10. In June 2012 and again in April 2015 the IPCC reports were submitted to the CPS for a decision on whether any officer should face criminal charges. The CPS declined to investigate in 2012 and concluded that no charges should be brought against any officer in its review in 2015.
- 1.11. In July 2012, the Health and Safety Executive (HSE) confirmed it intended to open an investigation focusing on the arrangements the MPS had in place at the time of Mr. Lewis' death, particularly focusing on safe restraint and arrangements for dealing with mental health service users. In February 2015 the HSE wrote to the MPS requesting assistance with the instigation of a criminal investigation into the actions of SLaM (the South London and Maudsley NHS Trust) and its staff. It was deemed inappropriate for the MPS to conduct such an investigation given its officers' involvement in the incident and Devon and Cornwall Constabulary assumed responsibility for the investigation.
- 1.12. Devon and Cornwall investigated potential offences of corporate manslaughter against both SLaM and the MPS and also individual members of SLaM staff in relation to potential offences of gross negligence manslaughter. The CPS announced on 11 October 2016 that there would be no criminal charges. Primacy in relation to any other criminal offences then passed back to the HSE, who had previously indicated that no decision on prosecution by the HSE would be made before the outcome of the inquest. That decision is still awaited.
- 1.13. The inquest into the death of Mr Lewis took place over 14 weeks between February and May 2017 at Croydon Coroner's Court. The jury reached a narrative verdict which identified numerous failings by both the police and the NHS Trust in their care and treatment of Mr Lewis.
- 1.14. Following the inquest, the CPS revisited its previous decision that no police officer should face criminal charges in relation to this matter. They found no new evidence on which to justify them to review their previous decision.
- 1.15. Mr Lewis' parents had issued protective civil proceedings against the Commissioner of Police and SLaM back in 2015, which had been stayed pending the ongoing investigations and inquest. Following the conclusion of the inquest, those proceedings were further stayed by consent so that the claim could be set out in detail and quantified.
- 1.16. In October 2017 the directed misconduct proceedings against the officers took place, resulting in all allegations being found not proved.
- 1.17. Since 2010, there have been significant changes to the policing of mental health and the training of officers on restraining persons exhibiting signs of acute behavioural disturbance. A large amount of evidence was submitted to the Coroner during the inquest setting out those developments and the MPS responded fully to the prevention of future deaths report. In addition, the College of Policing Memorandum of Understanding on the Police Use of Restraint in Mental Health and Learning Disability Settings (published in February 2017) was a two-year piece of work that the MPS were involved with. It is now used as the template for all local protocols with NHS partners in London. In the autumn of last-year the Angiolini Report of the Independent Review of Deaths and Serious Incidents in Police Custody also made a number of recommendations touching upon issues of police restraint.

## **2. Issues for consideration**

- 2.1. N/A

### **3. Financial Comments**

- 3.1. Pursuant to the MOPAC Scheme of Delegation dated September 2013, MOPAC must authorise the settlement because it fulfils the criteria set out in section 5.7 of the Scheme including the financial level.
- 3.2. The proposed cost of the settlement can be met from within the DLS third party claims provision budget.

### **4. Legal Comments**

- 4.1. MOPAC the power to pay any sum required in connection with the settlement for any claim made against the Commissioner under Section 88 of the Police Act 1996.
- 4.2. Pursuant to the MOPAC Scheme of Consent and Delegation 2014, MOPAC must authorise the settlement because it fulfils the criteria set out in section 4.10 of the Scheme including the financial level.

### **5. Equality Comments**

- 5.1 To continue policing with the consent of the population it serves, the police will always seek to treat everyone fairly and openly. Race or equality issues do have a significant impact in the wider circumstances of this matter, although not specifically in relation to the civil claim aspect.

### **6. Background/supporting papers**

- Exempt report
- Record of inquest

**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 (✓)
<b>Head of Unit:</b> The Judith Mullet 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 Strategic Finance and Resource Management Team has been consulted on this proposal.		✓
<b>Equalities Advice:</b> Equality and diversity issues are covered in the body of the report.		✓

**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 07/03/18

