

DMPC Decision – PCD 628

Title: MPS Drug Testing in Custody

Executive Summary:

DMPCD 17/196 approved a budget of up to £1,250,000 in 2017/18 and of up to £650,000 in 2018/19 to fund drug testing in custody by the MPS. This decision recommends budgets for 2018/19 and 2019/20 to maintain the same level and quality of service.

MOPAC has worked with the MPS to implement savings without impacting delivery, thus increasing value for money. This has been achieved through a review of staff funding arrangements, organisational restructure and other changes to operational arrangements in police custody.

Drug testing in custody supports drug intervention programmes (DIP) and routes into treatment, to tackle substance misusing offenders. The majority of London boroughs have DIP projects, and many of these are part-funded through the LCPF. The success of these projects is reliant, in most cases, on effective drug testing in custody,

MOPAC committed within the Police and Crime Plan to review the effectiveness of DIP in addressing substance misuse related offending. This review has been undertaken and implementation of recommendations has been discussed with partners. However, consultancy support is required to provide additional resource and expertise to ensure effective implementation, as well as the development of a wider policy regarding drugs in London. It is recommended that a budget of £150,000 be allocated to fund this in 2019/20.

The implementation of recommendations for DIP will not be completed within this financial year and boroughs still plan to deliver DIP locally. LCPF funding is already allocated for 2019/20 and 2020/21 which includes continued investment in DIP services. There is therefore a need to continue to fund drug testing in custody.

This decision seeks approval to award funding to the MPS to continue drug testing in custody for 2019/20 and 2020/21, at an annual budget of up to £470,000 based on the level of actual spend in 2018/19. It is proposed that the existing performance framework be maintained.

Recommendation:

The Deputy Mayor for Policing and Crime is recommended to:

- Approve the performance framework for MPS drug testing in 2019/20.
- Approve the award of annual funding to MPS of up to £470,000 for the 2019/20 and 2020/21 financial years.
- Approve a budget of £150,000 for consultancy support for the implementation of DIP Review recommendations and wider drugs policy.

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

Signature under.

Date

16/9/2019

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

1. Introduction and background

- 1.1. Home Office funding for drug testing on arrest ceased in 2013 and has since been allocated from the main policing grant. Due to budgetary pressures, MOPAC and the MPS worked together in 2017 to review expenditure including the MPS drug testing budget. Due to a review of staff funding arrangements and organisational restructure in this area and other changes to operational arrangements in police custody, savings to MOPAC were identified which were implemented in a phased approach.
- 1.2. This means that currently MOPAC funds the additionality provided by the central DIP team, drug testing equipment and contested orders. Costs relating to police officer or police staff i.e. Dedicated Detention Officers are covered by the MPS staffing budget.
- 1.3. The budget for 2018/19 was £650,000 but the actual spend for 2018/19 was £452,595.07 This is broken down as follows:

Lab Services: £19,785.56
Consumables: £187,183.80
VAT: £41,393.87
Central DIP Team: £204,231.84
- 1.4. Central DIP Team expenditure includes three staff posts: the Strategic Drug and DIP Lead, the DIP Drug Testing Co-ordinator and a co-ordinator role which links in the MPS offender management teams to ensure high risk offenders are managed effectively.
- 1.5. It is proposed that the annual budget for 2019/20 and 2020/21 be revised to £470,000pa based on the actual spend from 2018/19 and allowing for some variability in the cost of consumables.

Performance Reporting

- 1.6. The MPS currently report monthly on performance and provide the following data:
 - Drug type by age band (cocaine, opiates, both) and positive tests
 - Drug type by offence group (ASB, burglary, drugs, fraud, robbery, other theft, vehicle offences, misc. crimes against society and non-trigger offences) and positive tests
 - Drug type by gender and positive tests
 - Drug type by ethnicity group and positive tests
 - Inspector's authority tests and positive results
 - Records missing from Drug Testing Recorder
 - Drug tests completed not resulted
 - Drug tests refused and charged
 - Number excluded from test under Targeted Testing
 - Failed to attend required assessment and breach arrests

DIP Review

- 1.7. The majority of boroughs provide DIP or DIP-like services, which continue to rely on drug testing on arrest. Many of these services are part-funded through the LCPF. The DIP

review (Appendix A) has highlighted the fragmentation of services which has occurred since the Home Office ceased funding, and the need for consistency of service provision.

- 1.8. The DIP review has been discussed at the Reducing Reoffending Board and London Crime Reduction Board. Partners are in agreement that current arrangements need to be changed. However, given the complexity of the current funding picture, any changes will not be implemented in this financial year. Boroughs have submitted and agreed their LCPF projects for 2019/20 and 2020/21, which include DIP services.
- 1.9. This means that drug testing in custody must continue for the next two financial years. It is proposed that the current performance reporting framework is continued, as outlined above.
- 1.10. The DIP review made recommendations and presented options for different ways of undertaking DIP services in London. However, there are a number of challenges to implementation, including: complex funding arrangements across multiple agencies and commissioners, a significant level of funding required, and resourcing both internally and among partners.
- 1.11. To provide additional resource capability, expertise and credibility to this work, it is recommended that consultancy support is sought for the implementation of the DIP review recommendations. The work around DIP also sits within a wider context of developing drug policy and a co-ordinated approach across London.

2. Issues for consideration

- 2.1. Links to the Policing and Crime Plan commitments and MOPAC priorities:
 - There is a Mayoral/MOPAC priority to tackle reoffending.
 - There is a commitment to review the effectiveness of DIP programmes in London and that of the current arrangements for drug testing in police custody to ensure the most effective use of current funds invested in reducing the impact of substance misuse on offending in London.
- 2.2. The 2017/18-2018/19 MPS drug testing budget was developed in full consultation with the MPS and the MPS have not identified any issues with reducing the budget over this time.

3. Financial Comments

- 3.1. The total funding commitment for drugs testing in custody over the two financial years is up to a maximum of £940,000, based on an annual budget of up to £470,000. This will be funded from the 2019/2020 budget of £700,000 for drug abuse and offender management. It is proposed that £470,000 of this funding remains allocated to 2019/20 and £230,000 is carried over into 2020/21. An additional £240,000 will be added to the 2020/2021 budget, which will be managed through the annual budgeting process.
- 3.2. A Service Level Agreement will be put in place between MOPAC and MPS to formalise the performance management and payment arrangements.

- 3.3. The total funding commitment for consultancy support to develop drugs policy and undertaken implementation of the DIP review recommendations is £150,000 in 2019/20.

4. Legal Comments

- 4.1. MOPAC's general powers are set out in the Police Reform and Social Responsibility Act 2011 (the 2011 Act). Section 3(6) of the 2011 Act provides that MOPAC must "secure the maintenance of the metropolitan police service and secure that the metropolitan police service is efficient and effective." Under Schedule 3, paragraph 7 (1) MOPAC has wide incidental powers to "do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of the functions of the Office." Paragraph 7(2) (a) provides that this includes entering into contracts and other agreements.
- 4.2. 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), 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.
- 4.3. Further to section 143 of the Anti-Social Behaviour, Crime and Policing Act 2014 MOPAC can also provide services that secure, or contribute to securing, crime and disorder reduction in the body's area, which can be by means of a grant.
- 4.4. Under MOPAC's Scheme of Delegation, approval of expenditure in relation to MOPAC within the approved MOPAC budget is delegated to the Deputy Mayor for Policing and Crime for expenditure over £500,000.
- 4.5. Legal advice has not been sought as drug testing in custody is an existing arrangement with the MPS, and the only changes are to the budget value and performance reporting data. Legal advice is not required for purchasing consultancy support.

5. GDPR and Data Privacy

- 5.1. This decision is for the provision of funding for services only, and MOPAC does not receive or process any personally identifiable information. Therefore, no DPIA is required.

6. Equality Comments

- 6.1. MOPAC is required to comply with the public sector equality duty set out in section 149(1) of the Equality Act 2010. This requires MOPAC to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age,

disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 6.2. MOPAC funds the additionality provided by the central DIP team, drug testing equipment and contested orders. Costs relating to police officer or police staff i.e. Dedicated Detention Officers remain covered by the MPS staffing budget. Since the revised drug testing budget is based on actual spend in 2018/19, there will be no resulting changes to staffing or delivery.
- 6.3. No changes are being proposed to the existing methods for drug testing on arrest. I.e. trigger offences and Inspector's authority. The current arrangements are applied to all arrested, regardless of protected characteristics.
- 6.4. Performance reporting includes age, gender and ethnicity to allow MOPAC and the MPS to monitor trends in the use of drug testing and address any potential disproportionality. However, disproportionality is more likely to occur at the point of arrest than at the point of drug test, as most tests are triggered by certain offences and so are unaffected by any potential bias.
- 6.5. The overarching intention for drug testing in custody and DIP is to enable referral to drug treatment services for those vulnerable people who misuse substances. Treatment is shown to have a positive impact on health and reoffending outcomes. There is a risk of additionally criminalising these individuals through breach of required assessment, however in practice these numbers are low.

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 – NO

ORIGINATING OFFICER DECLARATION

Tick to confirm statement (✓)

Financial Advice

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

✓

Legal Advice

Legal advice is not required.

✓

Equalities Advice:

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

✓

Public Health Approach

Due diligence has been given to determine whether the programme sits within the Violence Reduction Unit's public approach to reducing violence.

✓

Commercial Issues

Commercial issues are not applicable.

✓

GDPR/Data Privacy

- GDPR compliance issues are covered in the body of the report and the GDPR Project Manager has been consulted on the GDPR issues within this report.
- A DPIA is not required.

✓

Director/Head of Service

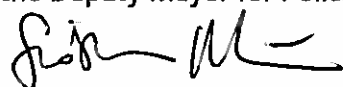
The Head of Service has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.

✓

Interim Chief Executive Officer

I have been consulted about the proposal and confirm that financial, legal and equalities advice have 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

16/9/2019

