Investment & Performance Board (IPB)

Date of IPB meeting: 16 October 2014

Title of paper: Manifesto Commitment – Special Constables Council Tax Rebate

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Classification: Public

1. Executive Summary

1.1 At the last meeting in July MOPAC reported that they had received professional tax advice indicating the likelihood was that the Mayor would be able to incentivise Specials by making a payment to them equivalent to the value of the proposed council tax rebate.

1.2 At this point, MOPAC/MPS and their advisers remain in active discussion with HMRC as to the precise way in which such a scheme might operate and its likely consequences and impacts. We remain broadly confident that either our preferred scheme or a variation by which we compensate the Specials for the tax liability triggered will be capable of implementation.

1.3 This remains the preferred method given the number of Special constables likely to qualify for a rebate (working a minimum of 16 hours a month and liable for Council Tax in London). The work for boroughs in offering a simple discount is likely to be wholly disproportionate to the number of beneficiaries, and we would be reliant upon their good will. No option has, however, been discounted.

2. Recommendation

2.1 That the Board notes progress on the delivery of this Mayoral commitment.

3. Introduction and Background

3.1 The Mayor is committed to reconnecting the police with the public by boosting volunteering and growing the police family. Supporting the Special Constabulary is an important part of this commitment. Special constables play a pivotal role in the MPS, working alongside regular police officers to police London and bring
skills and experiences from their day jobs, while giving something back to London.

3.2 Being a Special Constable is one of the routes in to being a Police Constable, therefore following the recommencement of the recruitment of police officers in 2013/14 there has, as expected, been a dip in the number of Special Constables. Currently there are 4,086 Special Constables in post with the intention to increase numbers to 5,300 in March 2015.

3.3 A new Specials attraction strategy is now in place as part of the recruitment campaign to encourage new recruits, with further work underway to consider how best to retain Special Constables once they have been successfully recruited. In addition MOPAC is considering how best to encourage Specials with specialist skills which could bring to bear in the area of, for example, cyber-crime, a key strand in tackling business crime.

3.4 In recognition of the pivotal role Special Constables play the Mayor has made a commitment to introduce a 50% rebate on the Mayor’s share of Council tax for Special Constables. (For the purposes of delivering this with administrative simplicity, the assumption has been that this would be 50% of the Band D liability i.e. about £150).

4. Objectives and Expected Outcomes

4.1 Three methods of delivering the mayoral commitment continue to be evaluated and progressed:
- making a payment to Specials with HMRC agreement that the payment does not change the tax status of Specials,
- making a payment to Specials with GLA/MOPAC mitigating the tax implications for Specials, and
- each London Borough amending their Council Tax scheme to allow a discount for Special Constables.

It is anticipated that the current active engagement with HMRC will lead to the implementation of the first, or at worst the second of these, either falling within the anticipated financial envelope of £1m in the next financial year.

4.2 No change to tax status of Specials

4.2.1 Tax advice has been sought and received from the MOPAC/MPS retained tax advisers, Grant Thornton. They have proposed a way forward analogous to other schemes whereby individuals are incentivised by reward other than by their employer. These schemes allow for a payment to be made which does not directly impact on the tax status of the recipients.
4.2.2 HMRC have not been keen to pursue this and have raised a number of queries with the tax advisers and discussions are ongoing. Discussions are also underway with the Home Office reflecting on similar proposals considered by other police forces. Some of those queries would lead directly to the consideration of the tax inclusive option set out below.

4.3 **Tax status of Specials is changed**

4.3.1 MOPAC is also modelling a way of making the payment to Special Constables which would recognise that the council tax reduction conferred a benefit on the Special Constable and which compensated them for the tax liability triggered.

4.3.2 Significant detailed work is being done to assess what the effect of a change in tax status would mean for the majority of Specials. Given that the other characteristics of Special Constables vary considerably, this will not offer the same benefit to all. Specials will therefore need to be advised to take their own tax advice and might not wish to take the payment as a consequence.

4.3.3 Initial estimates indicate that the costs of this could still be retained within the £1M currently provided for.

4.4 **London Boroughs amend their Council Tax scheme**

4.4.1 MOPAC continues to engage with London Councils to keep them aware of developments and to use them as a means by which to encourage London Boroughs to participate.

4.5 A communications plan is being drafted, and communications with Special Constables will make clear the basis upon which the payment is made. It will also advise Specials that if they claim the rebate that they should obtain independent advice as to the tax implications for their personal circumstances.

4.6 The clear advice has been that for the small numbers currently eligible (fewer than 2,000, amounting to fewer than 100 in one borough) that the administration costs for the boroughs would be extremely discouraging. We have also been told that boroughs themselves have been advised that there is real risk in applying discounts other than for the direct benefit of the boroughs itself (i.e only for those both paying council tax and volunteering within the borough boundary).

5. **Equality comments**
5.1 All Special Constables who reside in a London Borough, whose direct household is liable to pay the Council Tax, and who meet the criteria will be eligible to apply for the rebate. Special Constables who reside outside the London Boroughs and do not therefore pay the Mayoral precept will not be eligible for the rebate.

5.2 There is no anticipated negative impact arising from the protected characteristics of age, disability, gender reassignment, pregnancy, maternity, race, gender, religion or belief, or sexual orientation.

6. **Risks arising / mitigation**

6.1 The potential risks to the initiative are

- Special Constables not resident within London who are not eligible for the rebate are dis-affected. As MOPAC is explicitly trying to attract applicants from London, this is not a significant risk.
- The differential tax treatment of different propositions contain both risks and mitigations as detailed in earlier paragraphs.
- Additional administrative work to identify, validate and pay Special Constables. This is being addressed by the development of a simple, annual process.

6.2 These risks are being mitigated through the project management arrangements for the delivery of the initiative.

7. **Financial comments of the MOPAC Chief Finance Officer and the Executive Director of Resources of the GLA**

7.1 The costs of providing the council tax rebate is subject to the detailed scheme to be agreed. However, based on taking the existing number of eligible specials and seeking to ensure that the additional tax implications are allowed for, it is estimated that the annual cost would not exceed £1m p.a.

7.3 Provision has been made of £1m in 2015/16 and 2016/17 in the Mayor’s Resilience Reserve for the costs of paying for this scheme. Whether or not the payment is to be retrospective is still under consideration.

8. **Legal Comments**

8.1 There is a statutory power for police authorities (MOPAC, for this purpose) to pay a locally funded allowance to Special Constables. Currently any decision to pay such an allowance must be on the recommendation of the Chief Officer of police and approved by the Secretary of State.
8.2 The statutory power to make a Council Tax reduction scheme lies with the boroughs as billing authorities (section 13A Local Government Finance Act 1992). Boroughs are required to consult on the proposed discount with sufficient time to make new reduction schemes by 31 January in the financial year before they take effect.

8.2 GLA may decide to fund payments to special powers in pursuance of the mayoral commitment using the powers in section 30(1) of the GLA Act 1999 to do anything which it considers will further any one or more of its principal purposes, including the promotion of social development in London. It is considered that providing an incentive to Special Constables in the form of a council tax rebate does in principle fall within the social improvement power.

8.3 A decision by MOPAC to introduce the scheme could be challenged by judicial review proceedings, as could GLA’s decision to fund it. To minimise the risk of challenge, decisions must be taken lawfully, fairly and reasonably, taking account of all relevant considerations. These would include: the likely cost of the scheme and the effect on those not entitled to receive it, either on levels of council tax generally or on service provision; how the eligibility criteria are chosen; whether there is evidence to suggest that action is needed to encourage recruitment and whether the proposal is likely to achieve that aim; and whether there are sound reasons for rewarding Special Constables in this way as opposed to other groups of voluntary workers. Any decision would need to be carefully recorded to demonstrate that these and any other relevant factors had been considered.

8.4 Since the principal objective behind the proposal is to improve levels of recruitment of Special Constables, there must be a rational basis for deciding that making the payments will have such an impact. Experience from other police authorities would be relevant.

9. **Next steps**

9.1 The next steps are summarised below:

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<th>Activity</th>
<th>Timeline</th>
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<tr>
<td>Continue to engage with HMRC, Home Office, tax and legal advisers.</td>
<td>On going</td>
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<td>Consult upon the specific criteria that will be applied to identify who will benefit and any minimum requirements necessary to enable a rebate.</td>
<td>August-December 2014</td>
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<tr>
<td>Develop the specific mechanism for a single annual payment</td>
<td>August –December 2014</td>
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<tr>
<td>Implement Special Constable Council Tax rebate</td>
<td>April 2015</td>
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Appendices:
None