

REQUEST FOR DMPC DECISION – DMPCD 2014-109**Title: REQUEST FOR FINANCIAL ASSISTANCE****Executive Summary:**

DMPC to agree financial assistance in the sum of £42,200 (plus VAT) made by the Applicant for separate representation in legal proceedings for a forthcoming Judicial Review of the inquest proceedings. A conflict of interest arises between the Commissioner and the Applicant, which gives rise to the need for separate representation and financial assistance to the Applicant. The Deputy Mayor for Policing and Crime (DMPC) is requested to consider the application for financial assistance and has power to grant the application if he is satisfied that funding the legal expenses of the Applicant in the proceedings is likely to secure the maintenance of an efficient and effective police force.

Recommendation:

DMPC authorise DLS to provide financial assistance for the reasons set out in the exempt 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.

Signature**Date**

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

Decision required – supporting report

1. Introduction and background

- 1.1 MOPAC has received a request from the Directorate of Legal Services (DLS) for the Metropolitan Police to agree to support further financial assistance of £42,200 (plus VAT) made by the Applicant for separate representation in legal proceedings for a Judicial Review of the inquest. The DMPC has already made a decision on 25th November 2012 and again in August 2013 to provide financial assistance up to £154,750 to officers for legal representation in respect of the inquest on Mark Duggan. A copy of the briefing note for funding position is attached as an appendix together with the MPS open report.
- 1.2 A further request has been received, the details of which are set out in the exempt report. The proceedings are scheduled to be held in September following a member of the Duggan family lodging a Judicial Review of the inquest proceedings.
- 1.3 The Applicant represents that they satisfy the criteria for entitlement to financial assistance namely that they were performing their official duties, that they were acting in good faith and there was no neglect or wilful default on their part and that they exercised reasonable judgement. The facts provided by the Applicant in support of their representation for financial assistance are set out in the exempt report.
- 1.4 The Commissioner's position in relation to the Applicant's representations for financial assistance is set out in the exempt report.

2. Issues for consideration

- 2.1 Included in Part 2 of this report.

3. Financial Comments

- 3.1 The costs will be met from the 1996 Police Act Expenditure budget held within DLS. However should this budget over spend, any over spends in this financial year will be met from within the overall DLS revenue budget.

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.
- 4.2 A potential conflict of interest arises between the Commissioner and the Police Officer/Staff and DLS is unable to provide the legal assistance required in this case which gives rise to the need for separate representation and financial assistance for the reasons set out above.
- 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 To continue policing with the consent of the population it serves, the police will always seek to include all communities fairly and openly. The inquest arises from the death of a young black male which consequently led to unrest in London and across the country. The family of the deceased and the wider community across London will understandably need to be assured that all proceedings and matters relating to this case are and are seen to be open and fair.

6. Background/supporting papers

Non-exempt MPS 'report on application for financial assistance

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOIA) and other legislation. Part 1 of this form will be made available on the MOPC website within 1 working day of approval. Any facts/advice/recommendations that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of **this** form to be deferred? NO

If yes, for what reason:

Until what date (if known):

Is there a **part 2** form – YES

If yes, for what reason: FOIA Exemptions - Data Protection Section 40, Commercial Interest Section 43 and Legal Professional Privilege Section 42

ORIGINATING OFFICER DECLARATION:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: Alison Lowton has reviewed the request and is satisfied it is correct and consistent with the MOPC's plans and priorities.	✓
Legal Advice: The Legal team have been consulted on this proposal.	✓
Financial Advice: The Chief Finance Officer has been consulted on this proposal.	✓
Equalities Advice: The Equality and Diversity team have been consulted on this proposal on behalf of the Head of Equalities and Diversity.	✓

OFFICER APPROVAL

Chief Operating 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