

REQUEST FOR DMPC DECISION – PCD 32

Title: Application for Financial Assistance for the legal representation of a former police officer

Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for financial assistance of £23,250 (plus VAT) for a former police officer in respect of final costs for separate representation in legal proceedings. Funding has previously been approved for the inquest and Judicial Review in relation to this matter. This application for financial assistance is for the separate representation of V53 in the Duggan family appeal to the Court of Appeal.

The DMPC has power to grant the application of £23,250 is satisfied that funding the Applicant's 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 £23,250 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

Sybil Wetherell

Date

21/07/2016.

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. On 4th August 2011, armed police officers engaged in a pre-planned mobile firearms operation stopped a mini cab to carry out a search for a firearm. During the stop Mark Duggan, a passenger in the mini cab, was fatally shot by an armed police officer, V53.
- 1.3. Protests regarding the death resulted in widespread disorder across London and other cities in England in early August 2011.
- 1.4. The inquest was held at the Royal Courts of Justice and concluded in January 2014 with a verdict of lawful killing.
- 1.5. In February 2014, a family member instigated judicial review (JR) proceedings. The JR was dismissed.
- 1.6. Funding applications were made, and approved, in respect of the legal expenses for officer V53 at the Inquest, and at the judicial review.
- 1.7. On 14th April 2016, DLS were made aware that the Duggan family had filed a skeleton argument at the Court of Appeal. While the respondent is the Coroner, both V53 and the Commissioner are listed as Interested Parties. The appeal relates to the directions given by the coroner in respect of the actions of V53.
- 1.8. The Applicant satisfies 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.
- 1.9. The Commissioner's position in relation to the Applicant's representations for financial assistance is set out in the Exempt Report.
- 1.10. There is a potential conflict of interests between the position of the Commissioner and the Applicant and accordingly the Applicant requires separate legal representation and financial assistance.

2. Issues for consideration

- 2.1. For the DMPC to consider whether there was a conflict of interest requiring separate representations and financial assistance and whether the financial assistance will secure an efficient and effective 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 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*. The Deputy Mayor has delegated authority, under para. 2.20 of the Scheme of Delegation, to consider the current application for financial assistance.
- 4.2. A conflict of interests arises between the Commissioner and Applicant 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 treat everyone fairly and openly. Whilst this specific decision does not have any equality implications this case does raise the wider issue of community confidence - this case received substantial media coverage.

6. Background/supporting papers

- 6.1. Non-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:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: The Judith Mullet 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 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 21/07/2016