

REQUEST FOR DMPC DECISION – PCD 220

Title: Undercover Policing Public Inquiry Resource Uplift

Executive Summary:

The Public Inquiry into Undercover Policing (UCPI) was set up to investigate and report on undercover policing in England and Wales since 1968. The UCPI will examine the contribution undercover policing has made to tackling crime, how it was and is supervised and regulated and its effect on individuals involved; both police officers and others who have come into contact with under cover policing.

The work of the UCPI ranges across the full scope of undercover policing work and dates back to 1968 and the work of the MPS Special Demonstration Squad (SDS), the National Public Order Intelligence Unit (NPOIU) and Police Forces across England and Wales. The UCPI will also examine whether people may have been wrongly convicted in cases involving undercover police officers and refer any such cases to a separate panel for consideration.

Recommendation:

The DMPC is asked to

- 1) Note the justification and supporting information for the additional uplift of resources for the AC Professionalism Undercover Policing Public Inquiry as a MOPAC/ MPS high priority, led by the Inquiry Review & Support Command (IRSC). The additional uplift was agreed by the Deputy Commissioner in January 2017, subject to funding approval.
- 2) Note the current funding position in support of the required uplift in IRSC resources including funding pressures for the period 2017/18 to 2019/20, currently estimated to be £8.4m.

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

Steve Wender

Date

20/6/17

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

Decision required – supporting report

1. Introduction and background

- 1.1. The demands of the Undercover Policing Public Inquiry (UCPI) on the MPS have grown steadily and as such require a greater level of resources from the MPS. In January 2017, it was agreed that significant resource uplift was required. This was coupled with concerns regarding the MPS's ability to respond adequately to the Inquiry's demands and timescales, as a number of Inquiry requests had been missed or required the timescales to be extended.
- 1.2. Due to the above concerns, the following areas were agreed to be uplifted:
 - Staffing uplift – revised establishment 99.1 FTEs
 - Accommodation increase – move to 29th floor of Empress State Building
 - IT expansion / investment – New eDiscovery Platform (Relativity) contract
 - Additional Legal Services Provision – additional funding requirement.

2. Issues for consideration

- 2.1. The MPS could face significant adverse reputational damage, if it is unable to meet the requirements of the UCPI. There is also the risk this could undermine public confidence in the proper use of undercover policing as a crucial policing tactic, which is critical to the fight against crime, terrorism and serious public disorder.

3. Financial Comments

- 3.1. The total forecast expenditure for the UCPI is £52.1m and includes £14.8m opportunity cost of police officers over the following period; 2017/18 to 2019/20. The budget requirement for the period is £37.3m and the current approved budget is £25m. The MPS has identified a funding pressure of £8.4m for the period 2017/18 to 2019/20.
- 3.2. The overall costs of the inquiry have risen due to the significant resource demands on the MPS. As such it is likely that the cost estimates included here will be subject to further revision in response to any future changes in demand from the UCPI.

4. Legal Comments

- 4.1. Legal Service provision is critical to the successful delivery of IRSC. Dedicated legal services resource, both internal and external, are required to service the needs of the Public Inquiry and to provide legal advice to the Commissioner and MOPAC in respect of the redaction of sensitive documentation submitted in response to requests for information received from the Inquiry and to support the review of the law and other rules covering undercover policing.
- 4.2. The level of resource required is the subject of ongoing review and will need to be flexed in line with any changing demands arising from the Inquiry.

5. Equality Comments

- 5.1. There are no direct equality or diversity implications arising from this report

6. Background/supporting papers

6.1. Report.

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 MOPAC 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.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred ? NO

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 rational for non-publication.

Is there a **part 2** form – No

If yes, for what reason:

ORIGINATING OFFICER DECLARATION:

Head of Unit: The Chief Financial Officer 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 Chief Financial Officer has been consulted on this proposal.	✓
Equalities Advice: No Equality and Diversity issues identified.	✓

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 *15/06/17*



Undercover Policing Public Inquiry (UCPI) – Resource Uplift Paper

Investment and Advisory Board – 9 June 2017

Report by AC Professionalism Fiona Taylor

EXECUTIVE SUMMARY

The purpose of Lord Pitchford Public Inquiry into Undercover Policing (UCPI) is to investigate and report on undercover police operations conducted in England and Wales since 1968. The UCPI will examine the contribution undercover policing has made to tackling crime, how it was and is supervised and regulated and its effect on individuals involved; both police officers and others who came into contact with undercover policing.

The work of the UCPI ranges across the full scope of undercover policing work and dates back to 1968 and the work of the MPS Special Demonstration Squad (SDS), the National Public Order Intelligence Unit (NPOIU) and Police Forces across England and Wales. The UCPI will also examine whether people may have been wrongly convicted in cases involving undercover police officers and refer any such cases to a separate panel for consideration

A. RECOMMENDATIONS -

- 1) To note the justification and supporting information for the additional uplift of resources for the AC Professionalism Undercover Policing Public Inquiry as a MOPAC/ MPS high priority, led by the Inquiry Review & Support Command (IRSC). The additional uplift was agreed by the Deputy Commissioner in January 2017, subject to funding approval.
- 2) To note the current funding position in support of the required uplift in IRSC resources including funding pressures for the period 2017/18 to 2019/20, currently estimated to be £8.4m.

B. SUPPORTING INFORMATION

The work of the UCPI falls into three modules:

1. Module One will review what happened in respect of the deployment of undercover officers in the past, their conduct and the impact of their activities on themselves and others.

2. Module Two will look at the management and oversight of undercover officers including their selection, training, supervision and care after the end of an undercover deployment. This Section will also look at the law and other rules covering undercover policing.
3. Module Three will make recommendations regarding how undercover policing should be conducted in future.

Business Justification for the present Resource Uplift

The Management Board will be aware that in September 2015 and most recently in July 2016, the then named 'AC Professionalism - Public Inquiry Team' (Now renamed IRSC), made funding bids in support of the requirement for additional resources.

The two previous business justifications in essence, comprised of four parts; to resource the Corruption Review Teams, to resource support to the Undercover Policing Public Inquiry (UCPI), resource to carry out the management of information held in MPS paper archives (Operation Filesafe) and the servicing of requirements of the NCA and IPCC investigations resulting from the Stephen Lawrence Independent Review (Operation Probitas).

The Executive Summary of the September 2016 paper read as follows:

*In September 2015 AC Professionalism Public Inquiry Team (AC-PIT) submitted a paper to the MPS Management Board outlining the likely financial costs to the MPS of responding to the Undercover Policing Inquiry (UCPI), and the review of MPS historic anti-corruption operations. The paper requested that AC-PIT be established as an OCU with a dedicated staff establishment of 48 officers (additional costs of £14.4m 2015-18). Management Board approved an uplift of 80% of that figure (42 officers). During the intervening period the strands of AC-PIT have been under severe pressure to meet operational commitments. This is due to a lack of staff and a higher than anticipated demand from the IPCC Investigations, UCPI and MPS Legal Counsel, for the provision of material and information. As a consequence of the experience of responding to the disclosure demands of the IPCC Managed Investigation and the Public Inquiry, it is apparent that the original staff and funding allocation was inadequate. On the 12th August 2016 a second paper was submitted to the MPS Management Board requesting a significant increase in resources, the funding of this request was agreed in principle. Management Board indicated that the resourcing element of the bid should be met predominately by the recruitment of contract Agency Staff. Therefore this paper seeks to achieve the **additional** funding costs of twenty eight (28) agency staff totaling **£2,933,065.68** and ensure support of the MPS Legal Counsel fees for the duration of the Inquiry estimated at **£1,836,000**. Whilst providing the necessary funding to finalise the MPS drive to address the record keeping anomalies highlighted by the Ellison Review of 2014 known as Operation File-safe **£200,000**. The total of **£4,969,065.68** of **additional** funding is requested.*

As a result of the September 2016 paper it was agreed funding for the resource uplift would initially met from Reserves in 2016/17 and added to the overall savings requirement of the MPS for 2017/18 onwards.

The September 2016 Resource Uplift allowed the Public Inquiry Team to move an agreed establishment comprising: -

- 1 FTE Superintendent
- 3.4 FTE Inspectors
- 5 FTE Sergeants
- 31FTE Constables

It should be noted that to bring the 'constable' establishment up to strength, 28 Agency Investigators should be brought in, owing to the difficulty of securing the transfer of constables from MPS Business Groups. At present there are 11 Agency Investigators working within the Public Inquiry Team.

In addition to the agreed staffing levels, the Public Inquiry Team (since start up) also received £1.1m of funding to enable procurement of a bespoke IT system to enable large volumes of evidential material to be scanned, assessed, redacted and disclosed to the inquiry. This system known as 'Relativity' was procured by an approved supplier called 'Anexsys', through MPS Procurement.

January 2017

In January 2017 the Deputy Commissioner agreed an additional and very significant uplift of resources to service the significant and growing demands of the UCPI on the MPS. The timing of the uplift was closely linked to a letter received by the Inquiry into the MPS, where the Chairman, Lord Justice Pitchford, indicated the MPS was failing to respond adequately to the Inquiry's demands and timescales and as such a continuance in that vein would likely receive significant criticism. The receipt of the letter supported internal concerns regarding resources, where in recent weeks it was becoming more frequent for Inquiry requests and set timescales to be missed or extended.

In addition to the concern regarding the MPS response to the demands for information, the UCPI also indicated that more data would be required in an electronic format via the IT system 'Relativity', which both the MPS and the UCPI utilize.

In light of the aforementioned concerns, the following three areas were agreed by the Deputy Commissioner.

1. Staffing uplift
2. Accommodation increase
3. IT expansion / investment
4. Additional Legal Services Provision

1. Staffing Uplift

Having agreed an additional uplift of officers/staff – the following is the 'end state' model for the IRSC:

- 1 FTE Superintendent
- 4.4 FTE Inspectors
- 8 FTE Sergeants

- 66 FTE Constables
- 2 FTE Band E Administrators
- 1.7 FTE Band E Indexer
- 2 FTE Typist (1 FTE agency staff)
- 4 FTE Op Motion (1 FTE Seconded SO officer + 3 FTE agency staff)
- 5 FTE Researchers
- 5 FTE Risk Assessors

The total revised Establishment for the IRSC is **99.1 FTEs**

The agreed process, signed off by Director HR and presented at the DAC Workforce Planning Panel 11th January 2017, is all recruitment to bring the Team up to the revised Establishment, will be by way of an expression of interest (EOI).

2. Accommodation Increase

In order to facilitate the uplift in staff, Property Services have identified the 29th Floor at ESB as the most suitable location. This has been agreed at MPS Board level. In order to accommodate the uplift of staff, there will be a small moving cost as well as the requirement to purchase additional desks / office equipment. The estimated cost of the accommodation increase is £112k.

3. IT Expansion / Investment (see appendix 3 – IRSC Contract Award Briefing)

In order to meet scale and demands of the UCPI, a business case (through MPS Commercial Services) has been submitted to expand the current IRSC 'Relativity' IT System. Expansion and Extension is to cover an increase in user licenses, server / data storage capacity and project system support. The estimated cost over the three year period is £971k.

In addition, there has been a requirement to expand the HOLMES MIR capability, increase the number of AWARE terminals and lay cabling (much of which is a secure infrastructure) across the 29th floor at ESB, to enable connectivity and usage. The costs quoted by Digital Policing are £345k.

4. Additional Uplift in Legal Services (see Appendix '2- DLS Addendum Report 19th April)

As a result of the ever increasing scale and complexity of the Inquiry, the MPS Department of Legal Services (DLS) is facing unprecedented challenges and demands. In line with the agreed corporate uplift of officers, staff, IT and accommodation, it has been necessary to significantly invest in additional legal service provision. The estimated costs over the next three years are:

- FY17/18 £7.3m

- FY 18/19 £7.1m
- FY 19/20 £6.9m

C. OTHER ORGANISATIONAL & COMMUNITY IMPLICATIONS

Equality and Diversity Impact (mandatory)

The Resource Uplift will be implemented in accordance with MPS Equality and Diversity Policies and Procedures. There are no known equality and diversity impacts associated with this Paper.

Financial Implications / Value for Money (mandatory)

The Funding Table attached at Appendix 1 for the period 2017/18 – 2019/20 summarises the total estimated cost and the currently approved funding position.

Based on current assumptions of demand and resource requirements to meet demand, the total cost of IRSC for the period, including the opportunity cost of police officers, **£14.8m**, is presently estimated to be **£52.1m**. Additional costs are therefore estimated to be **£37.3m**. Currently approved budget provision is **£25m**. Further funding of **£8.4m** is therefore required for the period based upon current cost estimates.

As a result of requirements for servicing the Public Inquiry, the related Corruption Review and the NCA led IPCC Investigations, estimated cost has steadily increased. The cost estimates included in this Paper will require further revision in response to any future changes in demand and the timescales required to meet those demands.

Legal Implications (mandatory)

1. Legal Service provision is critical to the successful delivery of IRSC. Dedicated legal services resource, both internal and external, are required to service the needs of the Public Inquiry and to provide legal advice to the Commissioner and MOPAC in respect of the redaction of sensitive documentation submitted in response to requests for information received from the Inquiry and to support the review of the law and other rules covering undercover policing. The level of resource required is the subject of ongoing review and will need to be flexed in line with any changing demands arising from the Inquiry. Appendix 2: 'Addendum Report on the DLS uplift required for the financial years 2017/18 to 2019/20', provides further details of the legal implications arising from the Public Inquiry.

Consultation undertaken (mandatory)

1. This brief section should indicate to the reader the extent to which the subject matter has been discussed (internally and externally if appropriate) and the extent of support / resistance it has received. It may help to display this information in table form like the example below.

Consultation grid

Key stakeholder engagement (up to what level)	Supportive / Supportive with concerns / Not supportive / Not affected
TP (Chief Officer Group)	Supportive
Federation / TUS (representatives)	Supportive
HR (Director)	Supportive, but identified need to give greater consideration to training of front line officers.

Risk (including Health and Safety) Implications (mandatory)

1. Failure to meet the requirements of the Lord Pitchford Public Inquiry and the IPCC/ NCA-led Investigations will have a very significant adverse impact on the reputation of the MPS/ MOPAC and undermine public confidence in the proper use of undercover policing as a crucial policing tactic, which is a vital tool in the fight against crime, terrorism and serious public disorder. An appropriately resourced Public Inquiry Team including critical support provided by Legal Services is key to meeting the requirements of IRSC.

Real Estate and Environmental Implications (if relevant to the subject)

1. In order to facilitate the uplift in staff, Property Services have identified the 29th Floor at ESB as the most suitable location. This has been agreed at MPS Board level. In order to accommodate the uplift of staff, there will be a small moving cost as well as the requirement to purchase additional desks / office equipment. The estimated cost of the accommodation increase is £112k.

Report authors:

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Background papers:

1. AC Professionalism Public Inquiry Team: Resource Allocation Paper – MPS Management Board 8 September 2015
2. Business Justification: AC Public Inquiry Team Resource Uplift Request – MPS Management Board July 16

3. IRSC Contract Award Briefing

4. DLS Addendum Report 19th April regarding additional legal service provision

PART 2: EXEMPT SECTION OF THE REPORT

1. If required, this section should contain any aspects of the report that are not suitable for the public domain. You should also consider using exempt appendices to hold this information. You must refer to the appropriate exemption under the relevant statutory provision - read the guidance at [Appendix 7](#) of the report writing guidance.
2. Reports intended for approval by the Deputy Mayor for Policing and Crime will automatically be placed on the GLA website unless it is very clear which aspects are not suitable. In any case, the MOPAC will expect some form of explanation of the report that can be published.



Investment and Advisory Board 9 June 2017

APPENDIX 1

Inquiry and Review Support Command Funding Requirement 2017-18 to 2019-20

	17/18 £000	18/19 £000	19/20 £000	TOTAL £000
Forecast Expenditure Lord Pitchford Inquiry Team	14,075	13,024	12,962	40,061
Operation Filesafe	218	8	-	226
Corruption Review Team	2,038	982	-	3,020
Operation Probitas	2,835	2,976	3,022	8,833
Total Forecast Expenditure	19,166	16,990	15,984	52,140
Less: Opportunity Cost - Police Officers	-5,533	-4,940	-4,346	-14,819
Total Budget Required	13,633	12,050	11,638	37,321
TOTAL Approved Budgets:				
MPS ACPIB Budget - September 15	4,200	4,200	4,200	12,600
MPS ACPIB Budget - July 16	2,300	4,400	5,400	12,100
Major Change Reserve - September 16	285	0	0	285
Total Approved Budget	6,785	8,600	9,600	24,985
Budget Shortfall / (Surplus) 2017/18 - 2019/20	6,848	3,450	2,038	
Funding Bfwd - Shortfall/ (Surplus) @ 1 April	-3,914	2,934	6,384	8,422
Funding CFwd - Shortfall/(Surplus) @ 31 March	2,934	6,384	8,422	



APPENDIX 2

Investment and Advisory Board 9 June 2017**Agenda Item: Addendum report – 19th April 2017**

Topic: MPS Undercover Policing Public Inquiry Team Resourcing Uplift Paper
Owner: AC Fiona Taylor

Addendum report on the DLS uplift required for the financial years 2017/18 to 2019/20.The Background to the need for additional legal resources

The MPS is one of the Core Participants in the Pitchford Undercover Policing Public Inquiry and is assisting the Inquiry to fulfil its Terms of Reference

The main aspects of work are the making of Restriction Order applications over undercover officers' anonymity, the redaction of documents in light of any restrictions, and the presentation of the evidential position at the Inquiry.

The complexity of the MPS' task is unprecedented, including the issue whether DLS provide the undercover officers (both past and present) with legal support or legal representation. The inquiry is seeking evidence from every former officer from the Special Demonstration Squad 'SDS' together with every MPS undercover officer from the former National Public Intelligence Order Unit 'NPOIU'.

Following insistence from the Inquiry that officers are provided with legal representation so as to ensure fairness and following concerns raised by individual officers that their personal interests need to be protected, the MPS considers that separate legal representation should be offered to all former undercover officers who are not otherwise legally represented in the Inquiry, and where a conflict has not been identified to date.

The most expeditious and cost effective route in relation to public funds for this representation model is via DLS in house lawyers; a separate representation team via a 'Designated Lawyer' will be established working in conjunction with the Commissioner's legal team.

The primary benefits for individual officers of legal representation rather than merely legal support, include the protection of Legal Professional Privilege (LPP) over communications; the ability to request and receive legal advice; and the right to give instructions. One particular benefit of legal representation via this model is that a confidentiality barrier will be maintained around communications with the Designated Lawyer protecting them from disclosure to the wider Commissioner's team.

The MPS has not previously provided legal representation to officers on this scale although there is precedent for this at the MoD and it is considered the only viable option to allay the Inquiry's concerns.

i) The Additional Financial Uplift for the Legal Requirements in January 2017

In January 2017 the Deputy Commissioner agreed a significant uplift of resources of £4413k p.a. to support the DLS resources for the Public Inquiry. The uplift was principally in response to a letter that the MPS received from the UCPI Chairman, which indicated that the MPS was failing to respond adequately to the Inquiry's demands, nor within the timescales being set. Continuing to fail to meet the Inquiry's demands when it is envisaged that their demands will only significantly increase, could result in the MPS facing further criticism regarding its approach and response to the Inquiry.

The demand on resources has continued particularly as a consequence of the forensically detailed approach being adopted by the Inquiry.

The projected increase in resources for 2017/18 set out below is likely to be required for the financial years to 2019/2020 as it is anticipated that the restriction application process, redaction of documents and live evidence will not be completed until 2020.

ii) The Designated Lawyer legal representation 'Team 2'

The resources required for the separate representation team are two DLS lawyers and six external counsel together with the assistance of leading counsel on a partial basis.

The projected figures for this are set out in the attached table as 'Team 2'.

These projections take into account the migration of a small percentage of the work from Team 1 to Team 2 in respect of which the uplift was agreed in January 2017.

UCPI Forecast for DLS legal costs for Teams 1 and 2

	2017/18	2018/19	2019/20
Team 1	6,320,779	6,111,191	6,111,191
Team 2	986,392	970,392	784,332
<i>Totals</i>	7,307,171	7,081,583	6,895,523

UCPI Forecasts for DLS Legal costs for Teams 1 and 2 – Breakdown

	Team 1			Team 2		
	2017/18	2018/19	2019/20	2017/18	2018/19	2019/20
DLS Staff	829,191	829,191	829,191	216,792	216,792	216,792
Counsel	1,772,000	1,772,000	1,772,000	753,600	753,600	567,540
NLSF Lawyers	3,510,000	3,510,000	3,510,000	0	0	0
Financial Assistance	29,588	0	0	0	0	0
Disbursements	0	0	0	0	0	0
Security	10,000	0	0	0	0	0
IT*	170,000	0	0	16,000	0	0
<i>Total</i>	6,320,779	6,111,191	6,111,191	986,392	970,392	784,332

* - The IT expenditure is likely to be higher.

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