

REQUEST FOR DMPC DECISION – PCD 209

Title: Application for Financial Assistance for the legal representation of serving police officers

Executive Summary:

The Deputy Mayor for Policing and Crime (DMPC) is asked to consider an application for financial assistance of £41,196 (inc. VAT) made by three Applicants for separate representation at the inquest into the death of a member of the public.

The DMPC has power to grant the application of £41,196 (inc. VAT) if she 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 4.9 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 three Applicants for the sum of £41,196 (inc. VAT) 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

Shaun Hendon

Date

20/6/17

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. The proposed date for this inquest to commence is 10th July 2017, with a four week time estimate.
- 1.3. On Tuesday 2 March 2016, the LAS were called to an address in Bromley. Family members were concerned regarding the mental health of a male relative.
- 1.4. The paramedics attended and sought police assistance due to the male having previously been violent. The LAS had also found a number of knives around the premises which caused them some concern. Police attended and determined that as the male was in a private premises, police powers under the Mental Health Act could not be exercised.
- 1.5. The LAS contacted the male's GP and it was left that the GP would contact the Mental Health unit he had previously been under for action to be taken the next day.
- 1.6. At 00.13am on Wednesday 3rd March 2017, a neighbour of the male, telephoned police and reported the door of the flat opposite his own was open. He referred to an ambulance and police being called to the address earlier.
- 1.7. Police arrived a few minutes later. The male was found to be in bed. Despite the officers attempts, he did not engage with them in conversation. The officers spoke to their Sergeant who carried out a number of intelligence checks. The information was passed onto the officers who immediately left the premises.
- 1.8. The neighbour of the male saw him at 6am on the morning of 3rd March 2017 and briefly spoke to him.
- 1.9. In the morning of 3rd March 2016, London Fire Brigade received reports of a fire at the address. They attended and found the male unconscious in his bed. The male was taken to hospital but was pronounced dead on Friday 5 March 2016.
- 1.10. The incident was referred to the IPCC who carried out an independent investigation into the appropriateness of officer's actions at the address and came to their conclusions. There was a formal response by the MPS in relation to the conclusions and the IPCC directed the officers were to face disciplinary action in terms of a Misconduct Meeting. The two officers who attended the scene and the officers' Sergeant faced Misconduct Meetings for failing in their duties and responsibilities with respect to completing the necessary forms and failing to contact the family of the male. In one case the breach was proven and the officer received Management Advice, in the other the case was not proven but there was individual learning and management action was delivered.
- 1.11. These Applicants represent that they satisfy the criteria for entitlement to financial assistance namely: that they were performing official duties; that they were acting in good faith and that they

exercised reasonable judgment based on the circumstances, what was presented to them and what information they were provided with.

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.
- 2.3. All disciplinary proceedings regarding the Applicants are concluded.

3. Financial Comments

- 3.1. The solicitors acting for the officer applicants have submitted an estimate of the total costs of the separate representation in support of the application for financial assistance in the sum of £41,196 inc VAT.
- 3.2. The costs will be met from the 1996 Police Act Expenditure budget held within Directorate of Legal Services.

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. There will be media and family/community interest in this case and the MPS cannot discount the inferences and potential for disquiet and distrust that can be brought about by any related activity such as stated above. Unless the community concerns associated with this case are managed effectively there is the potential for the family/community to distrust the police. To continue

policing with the consent of the population it serves, the police will always seek to be open and transparent in the decisions made.

6. Background/supporting papers

6.1. 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 Executive**

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

