

## PART C

### MPA SCHEME OF DELEGATION

#### INDEX

<b>1. INTRODUCTION</b> .....	<b>1</b>
<b>2. GENERAL DELEGATIONS</b> .....	<b>2</b>
<b>3. URGENCY POWERS</b> .....	<b>3</b>
<b>4. POWERS DELEGATED TO THE CHIEF EXECUTIVE</b> .....	<b>4</b>
General.....	4
Management / Human Resources .....	6
<b>5. POWERS DELEGATED TO THE HEAD OF CORPORATE SECRETARIAT</b> .....	<b>7</b>
<b>6. POWERS DELEGATED TO THE TREASURER</b> .....	<b>7</b>
Financial management .....	7
General.....	8
Proper Officer functions .....	8
<b>7. POWERS DELEGATED TO THE COMMISSIONER</b> .....	<b>8</b>
Financial management .....	8
Tendering and contracts.....	10
Land and property issues .....	11
Human Resources issues.....	12
General.....	12
Proper Officer function.....	12
<b>APPENDIX 1 TO THE SCHEME OF DELEGATION</b> .....	<b>13</b>
<b>PROTOCOL ON THE PROVISION OF INFORMATION TO THE MPA ON EMPLOYMENT TRIBUNAL CASES AND GRIEVANCES</b> .....	<b>13</b>
Purpose and scope of protocol .....	13
Notification of significant cases to the Authority.....	13
Approval to settle cases .....	14
Periodic reporting of statistics relating to employment cases .....	15
<b>PROTOCOL ON THE PROVISION OF INFORMATION TO THE MPA ON COMPENSATION CASES (EXCLUDING EMPLOYMENT TRIBUNALS)</b>	
<b>REVISED JUNE 2007</b> .....	<b>17</b>
Purpose and scope of protocol .....	17
Notification of significant cases to the authority .....	18
Approval to settle cases .....	19
Financial assistance to officers involved in legal proceedings or inquests	20

#### **1. INTRODUCTION**

- 1.1 The scheme sets out those functions and decisions for which the Authority has given the officers delegated authority to act. The scheme forms part of Standing Orders. It should be read in context of the terms of reference of the Authority and its committees, particularly in terms of those decisions that have been reserved to the Authority and committees.
- 1.2. In exercising delegated authority officers must abide by Standing Orders, Contract Regulations and Financial Regulations. This scheme

should be read in conjunction with the Financial and Contract Regulations as these contain further detailed delegations.

- 1.3. The Chief Executive, Treasurer and Commissioner (jointly referred to in this scheme as the Chief Officers) may authorise officers in other named posts under their direction and control to act on their behalf in exercising any of their delegated powers. A Chief Officer must authorise an officer in writing to exercise specific delegated powers. A chief officer may exercise any of the functions specifically delegated to one of their officers.
- 1.4. The MPA's Assistant Chief Executive and Deputy Treasurer may exercise delegated powers in the absence of the Chief Executive or Treasurer respectively. In the absence of the Commissioner the Deputy Commissioner is the Acting Commissioner.
- 1.5. In exercising delegated authority officers must fully consider financial, legal and race and diversity implications and are advised to take account of relevant legislation and MPA or MPS policies.
- 1.6. This scheme of delegation, the financial regulations and the contract regulations will be reviewed at least every three years to ensure their continued effectiveness and relevance. This scheme of delegation was approved at the Authority's meeting on 27 November 2008.

## **2. GENERAL DELEGATIONS**

- 2.1. The Chief Officers (and any of their officers so authorised by them) are responsible for the general management of their respective organisations, including:
  - Management of staff resources
  - The effectiveness and efficiency of service delivery
  - Budget management
  - Contract tendering and management
- 2.2. This general management responsibility is always subject to any policies agreed by the Authority or its committees. Chief Officers are responsible for ensuring that their officers and staff are aware of and comply with Authority policies.
- 2.3. This scheme of delegation is intended to set out all significant decisions which are delegated to Chief Officers and which are of a statutory, financial or managerial nature. The scheme does not define how those decisions should be taken nor does it attempt to list all of the matters which are incidental to the exercise of those responsibilities and which are part of the everyday management functions of Chief Officers.
- 2.4. None of the delegations in this Scheme constrains the Authority's power to require the Commissioner to submit to the Authority "a report on such matters as may be specified in the requirement, being matters

connected with the policing of the area for which the force is maintained”, as provided by s.22 (3) of the Police Act 1996.

### **3. URGENCY POWERS**

- 3.1. There is a presumption that all decisions required to be made by the Authority and not delegated to the officers will be made through the Authority’s normal committee processes. The Strategic and Operational Policing Committee exercises an urgency function and can deal with urgent matters that cannot wait for the next meeting of the Authority or the committee to which the power is reserved.
- 3.2 Where these urgency committee arrangements cannot be invoked, and only in such circumstances, the Chief Executive and/or Treasurer may take the necessary decision (after consultation with the Commissioner as appropriate). However, this delegation is subject to the following process having been followed.
- 3.3 The fundamental principle is that appropriate members should be consulted:
  - Where the decision would normally be taken by the full Authority, the Chief Executive / Treasurer shall consult with the Chairman and or Vice Chairman of the Authority.
  - Where the decision would normally be delegated to a committee or sub-committee, the Chief Executive / Treasurer shall consult with the Authority the Vice Chairman of the Authority and Chairman and Vice Chairman of that committee or sub-committee.
- 3.4 The Chief Executive / Treasurer shall use the most appropriate method of consulting with these members. This may be by way of a meeting, or by telephone, letter or email. However, unless circumstances do not allow it, the general presumption is that members will be consulted in writing and supplied with sufficient supporting information to enable them to come to an informed view.
- 3.5 Although every effort must be made to consult all the above members, the minimum requirement, if the matter is of extreme urgency and not all members are available, is for consultation:
  - for decisions normally taken by the full Authority, with the Chairman or Vice Chairman of the Authority
  - for decisions normally taken by a committee, the Authority Chairman or Vice Chairman and the Committee Chairman – both must concur with the proposed decision
- 3.6 The Chairman and Vice Chairman of the Authority or of a Committee can nominate another member in their place if they are going to be unavailable
- 3.7 The Chief Executive / Treasurer shall also make every effort to inform all members of the relevant committee or sub-committee (or of the Authority where the decision would normally be taken by the full

Authority) that it is proposed to take a decision, together with summarised details of the action proposed. A decision shall not be invalidated by this not having been done. If it is not practicable to communicate with members before the decision is taken, they shall be informed as soon as possible afterwards of that decision.

- 3.8 Urgent decisions taken under delegated authority in this way must be reported to the next meeting of the Authority for information. In doing so, the Chief Executive / Treasurer shall indicate which members were consulted before the decision was taken.

#### **4. POWERS DELEGATED TO THE CHIEF EXECUTIVE**

##### **General**

- 4.1 To institute, defend or participate in any legal proceedings in any case where such action is necessary to give effect to decisions of the Authority or in any case where the Chief Executive considers that such action is necessary to protect the Authority's interests.
- 4.2 Where any document is necessary to any legal procedure or proceedings on behalf of the Authority, it will be signed by the Chief Executive or other person authorised by the Chief Executive, unless any enactment otherwise authorises or requires, or the Authority has given requisite authority to some other person.
- 4.3 The Common Seal of the Authority will be kept in a safe place in the custody of the Chief Executive. A decision of the Authority, or any part of it, will be sufficient authority for sealing any document necessary to give effect to the decision. The Common Seal will be affixed to those documents which in the opinion of the Chief Executive should be sealed. The affixing of the Common Seal will be attested by the Chief Executive or some other person authorised by the Chief Executive.
- 4.4 To approve variations for all contracts with an original contract value of £5m or more. The Chief Executive will have the discretion to seek approval of the Authority as when she/he feels appropriate.
- 4.5 To agree any fees for copies of documents requested by the public under the provisions of the Local Government (Access to Information) Act 1985 and the Freedom of Information Act 2000.
- 4.6 To agree the annual cost of living increase to be applied to Members' Allowances, which shall be in line with the Police Support Staff Council award.
- 4.7 To agree the attendance of members at conferences, seminars and other events, provided that the total cost, including conference fee, accommodation and travel, does not exceed £1000 per member. If the cost per member exceeds £1000, or more than one member wishes to attend at a total cost exceeding £2,000, then approval must be sought from the Strategic and Operational Policing Committee. The Treasurer

may also exercise this delegated power.

- 4.8 As provided for in the Scheme of Members' expenses:
- a) to determine any individual request for a variation to the rule that air travel will be economy class
  - b) to determine any proposals to provide hospitality. The Treasurer may also exercise this delegated power.
- 4.9 To agree changes to scheduled Authority, committee or sub-committee dates. This power will be exercised in consultation with the Chairman of the Authority or the relevant committee chairman, as appropriate.
- 4.10 To appoint:
- a) members to sit on Police Appeal Tribunals as necessary;
  - b) members of the Professional Standards Cases Sub-Committee as necessary; and
  - c) in cases of urgency, appoint members to committee or sub-committees, in consultation with the Chairman of that Committee or sub-committee.
- 4.11 To act as the Proper Officer for the following:
- Local Government Act 1972
1. Section 100B – Determination of which reports or parts of reports should not be disclosed on the grounds that they include exempt information which is likely to be considered in private
  2. Section 100C – Minuting of meetings and preparing where necessary written summary of such parts of meetings at which the public are not present
  3. Section 100D – preparation of list of background papers for reports (as is the Treasurer and Commissioner)
  4. Section 100F – Determination of which documents should not be disclosed to members on the grounds that they include confidential or exempt information
  5. Section 229 (5) – Certification of photographic copies of documents
  6. Section 231 (1) & (2) – Authentication of documents
  7. Schedule 12 paragraph 4 (2) (b) – Signature of summonses to Authority meetings
  8. Schedule 12 paragraph 4 (3) – Receipt of notices regarding address at which summonses to meetings are to be sent
- Local Government (Miscellaneous Provisions) Act 1976
9. Section 41 (1) & (3) – Certification of resolutions and minutes etc. for evidential purposes
- Local Government and Housing Act 1989
10. Section 19 (1) (a) – Receipt of notices of members' interest
- Local Government Act 2000
11. Section 81 (1) – maintaining a register of interests of the members of the Authority.

### **Management / Human Resources**

- 4.12 To approve restructurings of establishment in relation to the Authority's Secretariat and Internal Audit Service, subject to:
- a) confirmation that the proposals are unlikely to have any repercussions on or significance for other elements of the staffing structure
  - b) there being budget provision and account taken of equalities considerations for the proposals
  - c) consultation with the trades union
- 4.13 For staff directly employed by the Authority, the management of staffing resources and the determination of general staffing issues, including:
- a) the appointment, retention and dismissal of staff
  - b) the management and implementation of disciplinary and grievance procedures
  - c) agreeing incremental changes to grades or pay bands
  - d) the extension of service for staff over normal retiring age
  - e) granting leave of absence without pay beyond that provided for
  - f) the payment of honoraria to officers who have undertaken additional duties over an extended period in the absence of a more senior officer
  - g) the engagement of temporary or agency staff or consultants
  - h) approving the attendance of officers at conferences
  - i) determining applications for consent to undertake private work, employment or business (whether paid or unpaid) in accordance with the provisions of the staff handbook
- 4.14 Changes to the list of sensitive posts held under the Local Government and Housing Act 1989 and the issue of certificates of opinion on behalf of the Authority in respect of applications for exemptions to the Independent Adjudicator.
- 4.15 In cases of urgency and in consultation with members of the Remuneration Sub-Committee and the Treasurer, to agree any human resources issues in respect of individual appointments to ACPO ranks and senior MPS civil staff posts.
- 4.16 provide, under delegation from the Authority, an adequate and effective internal audit service.
- 4.17 In consultation with the chair of the Professional Standards Cases Sub Committee, but without reference to the Sub Committee, to make the decision to take no further action in police pension forfeiture cases where it is clear that no application for a certificate can be made to the Home Secretary.
- 4.18 To grant indemnities to members in accordance with the Indemnity Scheme agreed by the Authority on 26 October 2006. This delegated

power to be exercised with the following provisos:

- a) s/he will consult with the Treasurer and take legal advice before coming to a decision,
- b) any request which s/he considers may set a precedent or is particularly sensitive may be reported to the Strategic and Operational Policing Committee for decision, and
- c) any proposal to refuse an application will be referred to the Strategic and Operational Policing Committee for decision.

The cost implications of any proposed indemnity should be considered at the outset and an initial ceiling on the level of indemnity agreed. Any further funding would require a further decision.

## **5. POWERS DELEGATED TO THE HEAD OF CORPORATE SECRETARIAT**

- 5.1 To carry out the duties of Monitoring Officer under Section 5 of the Local Government and Housing Act 1989.

## **6. POWERS DELEGATED TO THE TREASURER** **Financial management**

- 6.1 The statutory responsibilities of a “Chief Finance Officer” are set out in Sections 112 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations. The Home Office Financial Management Code of Practice recommends that, wherever possible, the financial management of the force takes place within that force.
- 6.2 The Treasurer (and the Commissioner) will arrange for the financial management of the service in accordance with the details and delegations set out in financial regulations (Part D of Standing Orders). The following delegations apply:
- 6.3 The Treasurer shall be responsible for the administration of the Authority’s financial affairs as set out in Sections 112 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations. His/her responsibilities are to:
  - provide financial advice to the Authority on all aspects of its activity, including the strategic planning and policy making process;
  - advise the Authority on the content and implications of the budget and medium term financial plans;
  - support the Authority in presenting budget proposals to the Mayor for approval through the London Assembly;
  - assist the Authority in seeking to obtain value for money especially through the Best Value process;
  - ensure that accurate, complete and timely financial management information is provided to the Authority and the Commissioner;
  - advise the Authority on financial propriety;
  - secure the preparation of statutory and other accounts;
  - secure appropriate banking arrangements and treasury management including loans and investments;
  - advise on risk management and insurance;

- work with the Chief Executive to the Authority to ensure effective corporate management of the Authority's resources.

6.4 To determine whether to write off debts considered irrecoverable in cases where write-off action results from theft or fraud, up to an individual maximum amount of £10,000. Above this limit Authority or Finance and Resources Committee approval is required.

### **General**

6.5 To agree the attendance of members at conferences, seminars and other events, provided that the total cost, including conference fee, accommodation and travel, does not exceed £1,000 per member. If the cost per member exceeds £1,000, or more than one member wishes to attend at a total cost exceeding £2,000, then approval must be sought from the Strategic and Operational Policing Committee. The Chief Executive may also exercise this delegated power.

6.7 As provided for in the Scheme of Members' Expenses, to determine any proposals to provide hospitality. The Chief Executive may also exercise this delegated power.

### **Proper Officer functions**

6.8 To act as the Proper Officer in accordance with the following provisions of the Local Government Act 1972:

1. Section 100D – preparation of list of background papers for reports (as is the Chief Executive and the Commissioner)
2. Section 115 (2) – Receipt of monies due from officers
3. Section 228 (3) – Inspection of accounts

## **7. POWERS DELEGATED TO THE COMMISSIONER**

### **Financial management**

7.1 The statutory responsibilities of a 'Chief Finance Officer' are set out in Sections 112 and 114 of the Local Government Finance Act 1988 and the Accounts and Audit Regulations. The Home Office Financial Management Code of Practice recommends that, wherever possible, the financial management of the force takes place within that force.

7.2 The Commissioner (and Treasurer) will arrange for the financial management of the service in accordance with the details and delegations set out in financial regulations (Part D of Standing Orders). The following delegations apply:

7.3 The Commissioner shall undertake the day-to-day financial management of the MPS and should devolve financial management responsibility within the Service in accordance with the devolved budget scheme agreed with the Treasurer.

7.4 The Commissioner shall appoint a Director of Resources with a current and relevant professional qualification to take responsibility for the finance function and for ensuring appropriate financial policies and



procedures.

7.5 The Director of Resources shall:

- provide the strategic financial perspective on the main management board of the MPS;
- provide financial expertise, advice and information directly to the Commissioner to enable him/her to fulfil his/her delegated responsibility from the MPA for the financial management of the MPS;
- provide professional leadership of the finance function within the MPS, ensuring that high standards of financial management are maintained; that financial systems and procedures promote the effective conduct of business; and that financial considerations are fully taken into account in all policy decisions;
- take the key role in identifying and leading implementation of strategic, practical and cultural changes in the finance function to enable the MPS to make a successful transition from a central to a local government environment;
- work closely with the Treasurer of the MPA to make proposals for and agree the framework for delegation of financial authority within which the MPS will operate. To ensure that managers at all levels are aware of their responsibilities within the framework and that they adhere to them;
- support the Treasurer of the MPA in his/her statutory responsibilities for the financial affairs of the MPS by ensuring probity, legality and appropriate standards in all financial dealings;
- act as the main point of contact with the Treasurer in providing, receiving and interpreting information on the financial affairs of the MPS;
- ensure effective control of financial planning, budgeting and monitoring in respect of all MPS expenditure;
- ensure that the Authority's intellectual property rights are not compromised by commercial agreements, and shall report any significant issues in this respect to the Chief Executive
- take the lead in developing, refining and implementing the strategy for the provision of financial services in the MPS.
- be authorised by the Treasurer to operate bank accounts on behalf of the Authority.
- provide the Commissioner with expertise, advice and information to enable him to fulfil his delegated responsibility in respect of procurement and property.

7.6 The Commissioner shall consult the Chief Executive and/or Treasurer, who will determine whether the Authority's approval should be sought, for all expenditure proposals of an exceptional nature because of particular difficulty, potential public interest or sensitivity.

7.7 In relation to 7.6 above, there is a specific protocol in relation to compensation cases. This protocol is set out in Appendix 1 to this

scheme of delegation. 'Significant' compensation cases (as defined in the protocol) must be notified to the Authority. Where the Chief Executive or the MPS decides that a case is 'exceptional' (as defined in the protocol) the Authority's approval must be obtained to any proposed settlement. In other cases, the Commissioner has delegated authority to settle a claim, subject to the extent of the Commissioner's general delegated financial authority.

- 7.8 The Commissioner may commit expenditure or vire between budget headings within the overall approved budget to meet the policies and objectives agreed with the Authority and reflected in the Policing and Performance Plan. Budget virements over £1 million must be approved by the Finance and Resources Committee. Virements below £1 million will be reported to Authority members through the budget monitoring mechanism. Budget virements should only be made when permanent shifts of priorities or resources are planned.
- 7.9 The Commissioner may write off debts considered to be irrecoverable up to an individual maximum amount of £20,000. Any individual write-off above £20,000 must be referred to the Authority or the Finance and Resources Committee, as appropriate, for approval. All cases where write-off action results from theft or fraud shall be referred to the Treasurer for approval up to an individual maximum amount of £10,000 and to the Authority or Finance and Resources Committee as appropriate above £10,000.

#### **Tendering and contracts**

- 7.10 The Commissioner and Treasurer have overall responsibility for the acquisition, disposal and development of land and property in accordance with the Finance Regulations (Part E of Standing Orders) and the procurement of works, goods and services in accordance with the Contract Regulations (Part F of Standing Orders).
- 7.11 Although the Authority remains the legal contracting party for the contracts, responsibility for the day to day management and control of contracts is delegated to the Commissioner, subject to the provision of the Contract Regulations and provided that the Authority is satisfied that the Commissioner has in place adequate systems, procedures and expertise to discharge these responsibilities. A business case must be prepared before any procurement action is started, and all action must accord with the contract regulations. The delegations set out in this section may be exercised by the Commissioner or his authorised representative.
- 7.12 In relation to pilot projects, decisions to proceed need to be approved by the Authority. However, once approval has been given expenditure must be in line with delegated limits and in accordance with contract regulations. Any expenditure above delegated limits must come to the Authority for approval. Any decision to roll out pilots further, beyond that for which the Authority has given approval, must come back to the

Authority for approval, supported by a full business case.

The Commissioner shall have delegated authority:

- 7.13 To invite tenders in accordance with the Contract Regulations, and provided that for all purchases whose total value is estimated to over £50,000 a business case and a properly calculated written estimate of cost have been prepared prior to tender invitation and there is provision in approved estimates for the subject of tender action. The approval of the Authority must be sought where:
- a) The written estimate exceeds £5 million total value (see Contract Regulations for a definition of total value)
  - b) it raises questions of principle or financial policy;
  - c) it possesses unusual features or involves particular difficulty;
  - d) it might arouse particular public interest or publicity;
  - e) it concerns a matter of particular importance or sensitivity, or
  - f) it concerns proposals for outsourcing contracts or is connected with a public/private partnership or a private finance initiative
- 7.14 To open tenders, subject to the provisions of the Contract Regulations. In exceptional circumstances the Commissioner or his authorised representative may accept a late tender, notifying the Chief Executive and Treasurer in every case.
- 7.15 To accept tenders up to a value of £5 million total value, except where the recommended tender:
- a) is greater than £1 million total value and exceeds the written estimate by 10% or more;
  - b) raises questions of principle or financial policy;
  - c) possesses unusual features or involves particular difficulty;
  - d) might arouse particular public interest or publicity;
  - e) concerns a matter of particular importance or sensitivity, or
  - f) concerns proposals for outsourcing contracts or is connected with a public/private partnership or a private finance initiative
- In these cases, the approval of the Authority must be sought.
- 7.16 If any contract is not awarded to the lowest bidder, the Chief Executive shall be informed of the reason in writing.
- 7.17 To sign all contracts on behalf of the Authority, irrespective of value, once they have been properly approved, except for those which are required to be executed under the Common Seal of the Authority. In these cases, the Chief Executive is authorised to affix the Seal (see delegation no. 4.3).
- 7.18 To declare goods surplus to requirements or obsolete and arrange for disposal.

#### **Land and property issues**

- 7.19 Subject to compliance with (Land and Property) of the Financial Regulations, the Commissioner or his authorised representative may

purchase or dispose of land or property on behalf of the Authority, in accordance with the Estates Strategy or approved business case agreed by the Authority or the Finance and Resources Committee and/or by specific Authority decision. Transactions of a total value in excess of £1 million must be approved by the Authority or its Finance and Resources Committee.

### **Human Resources issues**

- 7.20 The Commissioner has delegated authority to exercise the Authority's powers and functions, as follows:
- i the following provisions of the Police Act 1996:
    - s.15 (2) and (4) Direction and control of civil staff
    - s.28 Employment of Police Cadets
    - s.31 Grant of rewards for diligence
    - s.97 Police Officers engaged on service outside their force
  - ii the following Acts:
    - Police (Overseas Service) Act 1945
    - Overseas Development and Co-operation Act 1980
  - iii the following Regulations, including any subsequent or future amendments:
    - 1987 Police Regulations (49) – Rent Allowance
    - 1987 Police Pensions Regulations – All issues except retirement on grounds of ill health of ACPO officers and decisions under regulation K5
    - 2003 Police Regulations (33) – Sick leave
    - 2003 Police Regulations (34) – Recurring escort duty allowance
    - 2003 Police Regulations (35) – Removal expenses

### **General**

- 7.21 To institute, defend or participate in any legal proceedings in any case where such action is necessary to protect the interests of the Metropolitan Police Service.
- 7.22 To exercise the Authority's powers under the following provisions of the Police Act 1996:  
S.24 agreeing payments for assistance between forces  
S.25 determination of charges for special services  
S.26 provision of advice and assistance to international organisations etc'

### **Proper Officer function**

- 7.23 To act as Proper Officer (a function also given to the Chief Executive and Treasurer) in respect of Section 100D of the Local Government Act 1972 which relates to the preparation of the list of background papers for reports.

## APPENDIX 1 TO THE SCHEME OF DELEGATION

This appendix sets out protocols on:

- the role of the Authority in respect of Employment Tribunal cases and grievances,
- other compensation cases.

### PROTOCOL ON THE PROVISION OF INFORMATION TO THE MPA ON EMPLOYMENT TRIBUNAL CASES AND GRIEVANCES

*(Approved by MPA HR Committee 6 April 2006)*

#### **Purpose and scope of protocol**

1. The purpose of this Protocol is: -
  - a) To set out agreed arrangements for notifying the MPA on a regular basis as to the number and progress of “significant” cases in the categories covered by the protocol.
  - b) To set out agreed arrangements for the type and level of information to be provided to the MPA regularly and routinely on all grievances and Employment Tribunal cases
  - c) To set out agreed understandings between MPA and the MPS on which cases require the approval of the MPA for all expenditure proposals in relation to the settlement of cases
  - d) To set out agreed arrangements for the MPA to approve settlements of cases requiring reference to the Police Authority
2. The cases to which it applies are cases involving discrimination relating to race, gender, sexual orientation, disability, religion/faith age or harassment or bullying or other discrimination including:
  - Current Employment Tribunals
  - Civil actions alleging breach of contract of employment

#### **Notification of significant cases to the Authority**

3. The MPS Director of Human Resources will inform the Authority of all individual cases that are “significant”. For the purposes of this Protocol, a “significant case” is a case where any one or more of the following criteria are met:
  - 1 A Tribunal hearing is likely to generate significant adverse publicity.
  - 2 Significant media interest has been generated prior to the hearing.
  - 3 There is potential to cause embarrassment to the MPA, an MPA Member, the MPS, or senior MPS staff.
  - 4 Any case that is likely to attract an unusually high compensation award (£50,000 or over).
  - 5 The applicant is someone of media interest, such as a celebrity, senior police officer or high profile member of a staff association.
  - 6 Overtly discriminatory behaviour is alleged by the applicant.
  - 7 The case has significant policy / operational / legal implications for the MPS.
  - 8 An applicant is likely to actively seek publicity for the case.
  - 9 The alleged harassment / discrimination has taken place in a sensitive area of policing.

- 10 A case is liable to develop as a “tabloid” human interest story
- 11 It involves any issues of principle and/or financial policy (e.g. medical/ill-health retirements).
- 12 It is in nature a test case.

- 4. The MPS will provide weekly briefing reports to the Chief Executive of the MPA containing brief summary information of all current significant cases within the scope of this protocol. This report will include
  - The name of the claimant, including rank or grading.
  - A summary of the allegations or ET claim.
  - Details of the current status/progress of the case.
  - Summary of key issues including assessment of potential compensation liability when available.
  - Statement of any action being taken in respect of persons who are complained about.
  - Statement of any action taken by MPS to remedy the grievance/claim.
- 5. Cases will be reported as early as possible even if only brief details are known. Where necessary, for legal or operational reasons, information to the MPA will be depersonalised in individual cases.
- 6. Many cases may fall outside the definition of “significant” and do not therefore need to be notified to the Police Authority. However, it is recognised that individual cases may become “significant” at short notice through the sudden interest of the media or other events. Such cases will then be notified to the Chief Executive to the Police Authority.
- 7. The summary information provided within the report of significant cases will enable the Authority, exceptionally, to request further briefing information in a specific case, and any request for further briefing will be communicated by the Chief Executive to the MPA to the Director of HR or his nominated representative.
- 8. The Chief Executive of the MPA will keep the Chair of the Strategic and Operational Policing Committee informed of cases and their progress, and will as necessary inform other Members of the Authority.
- 9. From time to time the Director of HR or his nominated representative will meet with the Chief Executive of the MPA and the Chair of the Strategic and Operational Policing Committee (and any other MPA Member with particular interest) to review current cases. The review will include lessons learned in individual cases and how change to effect learning will take place corporately and at local level as the case may be.
- Approval to settle cases**
- 10. The notification of significant cases, normally by means of the weekly report, will allow the MPA, through the Chief Executive to identify those

cases which are to be treated as “exceptional” cases requiring Authority approval to settle or otherwise make a payment. The working definition of an “exceptional” case in this context is *“any case with the potential to cause real damage to the Authority or to the Service”*, for example

- It involves a high profile claimant or an ACPO rank police officer or a member of MPS Management Board;
  - There is a particular public interest in the case (e.g. claims of persistent harassment or discrimination over a sustained period of time, or it arises from a targeted operation against a police officer or police staff;
  - There is a real risk that the MPS or MPA will be exposed to serious public criticism or that serious weaknesses in organisation or policy or procedures will be revealed.
11. The MPS will have a responsibility to identify exceptional cases even if the Authority has not specified that its settlement authority is required. Such cases will be individually notified to the Chief Executive in the first instance.
  12. The Director of HR will make every effort to ensure that proposals for settlement of exceptional cases are presented to the Authority at the earliest opportunity.
  13. Any application for authority to settle will be made to the Chief Executive who will then arrange for the case to be considered and determined. The request seeking approval will contain an adequate summary of the issues involved, including the legal advice, specifying a recommended course of action and level of funding sought, together with an assessment of alternative options, where appropriate. The Chief Executive will arrange for a case to be considered by the the full Authority, the Strategic and Operational Policing Committee or under the Urgency Procedure, as the case may be. Written confirmation of the Authority's approval is required by the MPS in every case. In any case where a very urgent response is required due to sudden developments in the case, including immediately before or during a hearing, an oral report to the Chief Executive or nominee will be followed by a faxed copy of the request.
  14. The Urgency Procedure will only be used as a last resort. Every effort will be made to ensure that decisions requiring Authority approval are dealt with through the appropriate committee processes of the Authority. Careful planning, underpinned by the timely receipt of appropriate information should minimise the need to invoke the urgency procedure.
- Periodic reporting of statistics relating to employment cases**
15. The Authority shall be provided with the following information every six months as a report to the Strategic and Operational Policing Committee:

<b>Grievances and Employment Tribunals (ETs)</b>	<b>Contents</b>
Total number of grievances and ETs	On-going and new cases by quarter for last two financial years: <ul style="list-style-type: none"> <li>• Data and graphs of annual trends for last 2 years</li> <li>• Commentary on trends</li> <li>• Comparative figures for most similar forces (if available)</li> </ul>
Diversity Information	Number of current grievances and ETs involving discrimination relating to: <ul style="list-style-type: none"> <li>• race</li> <li>• gender</li> <li>• disability</li> <li>• sexual orientation</li> <li>• religious belief</li> <li>• age</li> <li>• other discrimination</li> </ul> Broken down into: <ul style="list-style-type: none"> <li>• officers — including rank</li> <li>• police staff — including grade</li> <li>• specials</li> <li>• CSOs/designated staff</li> </ul>
Numbers	Number of grievances and ETs for each BCU/Squad/department: <ul style="list-style-type: none"> <li>• live</li> <li>• resolved in past 12 months</li> </ul>
Results	Number of grievances/ ET claims: <ul style="list-style-type: none"> <li>• resolved through mediation</li> <li>• settled out of court or otherwise</li> <li>• resolved by tribunal (ET cases)               <ul style="list-style-type: none"> <li>o in favour of force</li> <li>o in favour of complainant</li> <li>o recorded as unresolved</li> </ul> </li> <li>• Total costs to the police authority of proceedings (including force legal costs)</li> <li>• Compensation awarded in each case</li> </ul>
Significant Cases	List and summary of ongoing exceptional and significant grievances and ETs
Employment Tribunals (ETs) Timeliness Information	Number of current ET cases: <ul style="list-style-type: none"> <li>• over 3 months old</li> <li>• over 6 months old</li> <li>• over 9 months old</li> <li>• over 12 months old</li> <li>• for each case over 12 months — actual time case is outstanding</li> </ul>



Grievances	<p>All recorded internal complaints — including:</p> <ul style="list-style-type: none"> <li>• all complaints raised formally under a grievance procedure;</li> <li>• complaints of bullying, harassment or discrimination; and</li> <li>• appeals against decisions about promotion or appraisal marking.</li> <li>• how often and how many grievances of different kinds are made by different groups (i.e. by ethnicity, gender, sexual orientation disability, religion or belief; age etc.)</li> <li>• the results of grievances, how they are resolved, and what follow up action is taken.</li> </ul>
Disciplinary action against police staff	<ul style="list-style-type: none"> <li>• number of cases where formal disciplinary proceedings are brought, analysed by different groups (i.e. by ethnicity, gender, sexual orientation, disability, religion or belief; age etc.) and the nature of the offence</li> <li>• the results of disciplinary action</li> <li>• rates of appeal, and outcomes</li> <li>• whether penalties for disciplinary matters are used consistently for staff from all groups</li> <li>• whether some groups are more or less likely to be subject to disciplinary action compared to their colleagues</li> </ul>
Dismissals and other reasons for leaving	Reasons and patterns of leaving among different groups collected by force via exit questionnaires or interviews with leavers)

**PROTOCOL ON THE PROVISION OF INFORMATION TO THE MPA ON COMPENSATION CASES (EXCLUDING EMPLOYMENT TRIBUNALS) REVISED JUNE 2007**

**Purpose and scope of protocol**

16. The purpose of this Protocol is: -
  - a. To set out agreed arrangements for notifying the MPA on a regular basis as to the number and progress of “significant” cases in the categories covered by the protocol.
  - b. To set out agreed arrangements for the type and level of information to be provided to the MPA regularly and routinely on all such cases.
  - c. To set out agreed understandings between MPA and the MPS on which cases require the approval of the MPA for all expenditure proposals in relation to the settlement of cases
  - d. To set out agreed arrangements for the MPA to approve settlements of cases requiring reference to the Police Authority
  
17. The cases to which it applies are cases involving claims or requests for compensation including civil litigation claims for malfeasance and

otherwise, accident claims, riot damage claims, and requests for ex gratia payments to third party claimants, police officers or police staff.

**Notification of significant cases to the authority**

18. The MPS Director of Professional Standards will inform the Authority of all individual cases that are “significant”. For the purposes of this Protocol, a “significant case” is a case where any one or more of the following criteria are met:
  - 1 It has potential to attract an award of compensation of £50,000 or more (to include multiple claims/claimants) except in the case of accident claims where the threshold will be £200,000
  - 2 It is in nature a test case
  - 3 It involves a death in custody or death following police contact.
  - 4 Overtly unlawful discriminatory behaviour is alleged by the claimant or applicant.
  - 5 The case has significant policy / operational / legal implications for the MPS or MPA or for national policing policy.
  - 6 There is potential to cause serious embarrassment or loss of confidence in the MPS or senior MPS staff.
  - 7 It arises out of a matter that has been the subject of investigation by the IPCC
  - 8 It is likely to attract publicity; examples are:
    - i. it involves a well known claimant
    - ii. it involves well known witness(es)
    - iii. it involves a high ranking police officer(s) and/or civil staff
  - 9 There is a particular public interest in the case(s) (e.g. claims of persistent police harassment and racism over a sustained period of time, or it arises from a targeted operation).
  - 10 It is likely a settlement will give rise to media comment (e.g. because it involves issues which are currently the subject of public debate)
  - 11 There is a risk that the MPS/MPA will be exposed to public criticism and/or weakness in, or lack of MPS policy, practices or procedures will be revealed.
19. The MPS will provide weekly briefing reports to the Chief Executive of the MPA containing brief summary information of all current “significant cases” within the scope of this protocol. This report will include
  - The name of the claimant
  - A summary of the allegations or claim
  - Details of the current status/progress of the case
  - Summary of key issues including assessment of potential compensation liability when available
  - Statement of any action being taken in respect of persons who are complained about
  - Statement of any action taken by MPS to remedy the complaint claim
20. Cases will be reported to the MPA as early as possible even if only brief details are known. Where necessary, for legal or operational

reasons, information to the MPA will be depersonalised in individual cases.

21. Many cases may fall outside the definition of “significant” and do not therefore need to be notified to the Police Authority. However, it is recognised that individual cases may become “significant” at short notice through the sudden interest of the media or other events. Such cases will then be notified to the Chief Executive to the Police Authority.
22. The summary information provided within the report of significant cases will enable the Authority, exceptionally, to request further briefing information in a specific case, and any request for further briefing will be communicated by the Chief Executive to the MPA to the Director of Professional Standards or his nominated representative.
23. The Chief Executive of the MPA will keep the Chair of the Strategic and Operational Policing Committee informed of cases and their progress, and will as necessary inform other Members of the Authority.
24. From time to time the Director of Professional Standards or his nominated representative will meet with the Chief Executive of the MPA and the Chair of the Strategic and Operational Policing Committee (and any other MPA Member with particular interest) to review current cases. The review will include lessons learned in individual cases and how change to effect learning will take place corporately and at local level as the case may be.
25. Each quarter, the Director of Professional Standards will present a comprehensive position statement to the MPA Strategic and Operational Policing Committee giving details of and the status of all significant cases. All information will be treated as confidential and exempt from publication, and will be discussed in committee without the press and public present.

**Approval to settle cases**

26. The compromise or settlement of “exceptional” cases is not delegated to the Commissioner and requires the approval of the Authority. The notification of significant cases, normally by means of the weekly report, will allow the MPA, through the Chief Executive to identify those cases which are to be treated as “exceptional” cases. The working definition of an “exceptional” case in this context is *“any case with the potential to cause real damage to the Authority or to the Service”*, for example
  - It involves a high profile claimant or an ACPO rank police officer or a member of MPS Management Board;
  - There is a legitimate public interest in the case (e.g. the matter was the subject of an IPCC investigation, the matter involves claims of persistent or serious malfeasance, harassment or discrimination over a sustained period of time, or it arises from a targeted

operation against a police officer or police staff, the matter arises from a death in custody or death following police contact);

- It is in the nature of a test case.
  - There is a real risk that the MPS or MPA will be exposed to serious public criticism or that serious weaknesses in organisation or policy or procedures will be revealed.
27. The MPS will have a responsibility to identify exceptional cases even if the Authority has not specified that its settlement authority is required. Such cases will be individually notified to the Chief Executive in the first instance.
28. The Director of Professional Standards will make every effort to ensure that proposals for settlement of exceptional cases are presented to the Authority at the earliest opportunity.
29. Any application for authority to settle will be made by the Director of Professional Standards to the Chief Executive who will then arrange for the case to be considered and determined by the MPA. The request seeking approval will contain an adequate summary of the issues involved, including the legal advice, specifying a recommended course of action and level of funding sought, together with an assessment of alternative options, where appropriate. The Chief Executive will arrange for a case to be considered by the full Authority, the Strategic and Operational Policing Committee or under the Urgency procedure, as the case may be. Written confirmation of the Authority's approval is required by the MPS in every case. In any case, where a very urgent response is required due to sudden developments in the case, including immediately before or during a hearing, a verbal reports to the Chief Executive or nominee will be followed by an e-mailed or faxed copy of the request.
30. The Urgency Procedure will only be used as a last resort. Every effort will be made to ensure that decisions requiring Authority approval are dealt with through the appropriate committee processes of the Authority. Careful planning, underpinned by the timely receipt of appropriate information should minimise the need to invoke the urgency procedure.

#### **Financial assistance to officers involved in legal proceedings or inquests**

31. Home Office Circular 43/2001, dated 21/9/01 describes the role of Police Authorities in respect of financial assistance to members of the MPS involved in legal proceedings, including inquests. HOC 43/2001, states:
- 'In summary, police officers must be confident that Police Authorities 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 own merits, but subject to that there should be a strong presumption in*

*favour of payment where these criteria are met.'*

32. Notice 39/02, of 25 September 2002, currently provides an internal guide to the provision of such assistance, which is normally authorised on behalf of the MPS/MPA by a Detective Chief Superintendent within the Directorate of Professional Standards.
33. Where the case involves 'significant' factors as described in para 3 above, the Authority will be asked to determine whether such financial assistance should be allowed. Such applications will be dealt with in the same way as cases submitted for approval of settlement or compromise of civil claims (see para 13 above).

