

REQUEST FOR DMPC DECISION – DMPCD 2014 66

Title: PURCHASE OF WATER CANNON

Executive Summary:

Following the Mayoral consultation, approval is sought to purchase three water cannon with immediate effect.

The timing of this decision is driven by the enhanced risk that the water cannon, currently available to be purchased second hand are sold to another European police authority. The saving represented by this purchase is so significant as to justify the risk caused by the delay in the licensing process. Purchasing at this time considerably improves the possibility that the MPS would have the tool to deploy in the summer, when, although there are no expectations of violence, such tools are most likely to be needed.

The water cannon will not be deployed until (and unless) the Home Secretary authorises their use in England and Wales.

Recommendation:

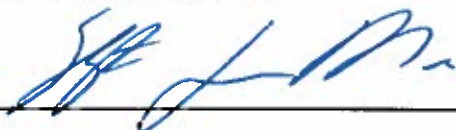
That the DMPC authorises the purchase of 3 water cannon vehicles now to ensure that best value for money is secured by purchasing ahead of the end of July deadline set by the German Federal Police.

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



Date

9/6/2014

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

Decision required – supporting report

1 Mayoral Process

- 1.1 Following the riots in August 2011, the Metropolitan Police Service (MPS) reviewed their response to serious public order events and concluded that there was a 'small, limited role' for water cannon in dealing with the most extreme situations of public disorder, widespread destruction and violence. The Commissioner of the MPS, Sir Bernard Hogan-Howe, has asked the Mayor for authority to purchase three existing water cannon from the German Federal Police at a reduced cost of around £30,000 each so that they are available to his officers in advance of a longer-term, national solution being available. He has committed that these water cannon would be 'rarely used and rarely seen'.
- 1.2 Between 17 January and 28 February the Mayor's Office for Policing And Crime conducted a process of public engagement about the purchase. During the consultation a range of views were expressed and concerns were raised by people who responded to the consultation and by the Police and Crime Committee of the London Assembly. The Mayor has taken these concerns very seriously and has sought assurances from the Metropolitan Police Service (MPS) about how they are to be used. The response to these concerns is set out in the attached document, *Water Cannon: Responses to Consultation*, but was summarised in the assurance that they will be "rarely seen and rarely used".
- 1.3 The results of the largest poll conducted on the issue – over 4,200 people– where over two-thirds of Londoners expressed their support mean that the Mayor was able to be clear in writing subsequently to the Home Secretary, that the majority of Londoners support the police having access to this tool in limited circumstances and would have more confidence in the MPS's ability to respond to serious disorder with this option available. This support cuts across all sections of society in London and the Mayor is encouraged that the evidence seems to indicate that the more people know about water cannon the more supportive of their limited use they were.
- 1.4 The Mayor has written to the Home Secretary setting out his support for the Commissioner's request for funds to be made available, a copy of this letter is attached.
- 1.5 While it was the original intention to wait for the Home Secretary to taken a decision to authorise the use of water cannon, this process is proving time consuming (see below), It has also become clear that the opportunity to purchase at a very advantageous price is time limited and may not be available at the point at which a decision is made. Therefore the recommendation is that the devices are purchased in order that they are ready for deployment as and when the Home Secretary make a decision to authorise their use.

2 Home Office Process

- 2.1 It is open to the Home Secretary to make a decision about whether or not to authorise the use of water cannon on the UK mainland, taking consideration of all the evidence available to her.
- 2.2 The Home Secretary has now requested further detail in response to the interim medical statement provided by The Scientific Advisory Committee on the medical implications of less-lethal weapons (SACMILL). Further work has been undertaken to address the points raised, including a further joint visit to Germany with the Centre for Applied Science and Technology. This is due to be submitted to the Home Office to be reviewed by SACMILL on the 6th June. It is likely that it will be at least a further two weeks before their updated interim medical statement is returned to the Home

Office for consideration by the Home Secretary, although depending on decisions taken by SACMILL it could be considerably longer.

3 Opportunity to purchase German Federal Police devices

- 3.1 In accordance with MOPAC's responsibility to deliver an efficient and effective police force and secure value for money, and the MOPAC Chief Finance Officer's fiduciary responsibility to local taxpayers, the MPS have negotiated an in principle agreement to purchase three used Wasserwerfer 9000 water cannon from the German Federal Police at a cost of £30,435 each, or £91,305 in total (£105,000 based on an exchange rate of €1.15:£1.00).
- 3.2 Costs for transportation and refitting the vehicles to make them fit for purpose for London, and to meet rigorous safety standards, are £42,300 per device, or £126,900 in total.
- 3.3 In comparison, evidence received from the German police shows that new water cannon cost around £870,000, meaning that for each German device purchased MOPAC avoid costs of approximately £797,000 or £2,391,000 in total.
- 3.4 The offer from the German Federal Police is time-limited until the end of July and it has become clear that the option for them to sell the devices is credible as another purchaser has already been identified. When previous cannon were offered by the German police to the MPS with a time limit of December 2013 these were sold to another purchaser following the expiration of that deadline. We do not expect further such opportunities to purchase at such an advantageous cost.
- 3.5 Whilst there is no intelligence to suggest an increased risk over this summer, the MPS's experience demonstrates that if water cannon are to be of value then it is most likely that this will be during the summer, in which disorder is statistically more frequent. If procurement waits until after the Home Secretary makes a decision then the devices are unlikely to be ready in this timescale, and if the German cannon are lost then procuring new devices will take up to two years.
- 3.6 Not only therefore, is it clear that delay would result in considerable cost to the MPS, and therefore to the tax payers of London; passing up this opportunity to purchase would mean that whenever the licensing decision were to be taken, it would be virtually impossible to have water cannon available to the MPS before the summer of 2015 (over three years after the need was established)
- 3.7 The timing of the purchase now allows MOPAC to acquire these devices at a price which represents a fraction of that which would be incurred should the only option be to purchase newly commissioned water cannon. The advantage in price, together with the timely availability of these, outweighs the risk that this tool is not authorised for use in England and Wales within a reasonable timescale.

4 Next Steps

- 4.1 Once the Home Secretary has received the additional information to supplement the SACMILL assessment (see paragraph 2.2 above) there is no reason to think that she would not be in a position to authorise the devices for deployment, however, it is not possible to predict the timing of any decision.
- 4.2 The Authorised Professional Practice (APP)¹ for the use of force, firearms and less lethal weapons is clear in setting out the approval process for the Home Secretary to follow when approving the use of less lethal weapons. This is clear that the process relates to the approval for use, rather than purchase:

¹ <http://www.app.college.police.uk/app-content/armed-policing/use-of-force-firearms-and-less-lethal-weapons/#less-lethal-weapons>

Weapons approval

Only less lethal weapons that have been approved by the secretary of state may be used by the UK police service. The Taser X26 and M26 are the only conducted energy devices currently authorised. The evaluation and assessment processes for such weapons include, where appropriate:

- a needs analysis
- determination of operational requirement
- technical evaluation
- medical assessment
- operational performance trials.

The processes will take into account relevant strategic, ethical, operational and societal issues, including an assessment of environmental factors.

4.3 The decision to use water cannon in London is for Commissioner, who must follow this APP, meaning that he can only deploy once the Home Secretary has provided authorisation. The decision to purchase, however, is for the Deputy Mayor for Policing and Crime.

5 Financial Comments

5.1 In accordance with MOPACs responsibility to deliver an efficient and effective police force and secure value for money and the MOPAC Chief Finance Officer's fiduciary responsibility to local taxpayers the MPS have negotiated an in principle agreement to purchase three used Wasserwerfer 9000 water cannon from the German Federal Police at a cost of £30,435 each, or £91,305 in total (€105,000 based on an exchange rate of €1.15:£1.00).

5.2 Costs for transportation and refitting the vehicles to make them fit for purpose for London, and to meet rigorous safety standards, are £42,300 per device, or £126,900 in total.

5.3 In comparison, new water cannon cost around £870,000, meaning that for each German device purchased MOPAC avoid costs of approximately £797,000 or £2,391,000 in total.

6 Considerations of Risk

6.1 While there is a risk that the Home Secretary will refuse to authorise their use, the significantly advantageous terms of the deal offered by the German Federal Police, and the considerable savings over purchasing new devices (≈£2.3M), mean this decision is prudent. The cannon being purchased have a reasonable life-span of at least five years – although this could be extended with good maintenance – so should an authorisation decision be delayed the devices would still be available.

6.2 The impact of a negative decision from the Home Secretary can be mitigated by maintaining the option to resell the cannon. There is a proven demand for second hand water cannon and other European Forces have expressed an interest in the devices that we are seeking to buy. We would seek to take advantage of this to mitigate any losses in the event that no authorisation is granted. Even were it not possible to resell any devices the maximum loss per cannon would be £72,735. This compares extremely favourably to the addition cost of £797,000 should the German devices be sold elsewhere leaving only an option of procuring new devices.

6.3 Therefore, although there is some uncertainty about both the timing and the substance of any decision the Home Secretary may make, the value for money argument is compelling. We have consulted with our external auditor who has not raised any issues.

7 Legal Comments

7.1 Our legal advisers have provided the following comments:

7.2 The price of the proposed acquisition, without the separate costs of transport and alterations, is below the threshold in the Public Contracts Regulations 2006.

7.3 No use is to be made of the water cannon in the absence of authorisation from the Home Secretary.

7.4 The purchase of items which it is not currently, and in the future may not be, legally possible to use, is not an improper use of public money provided that

- i. authorisation for use of the items is being sought;
- ii. there are reasonable prospects that authorisation will be forthcoming, and
- iii. the immediate purchase is reasonably expected, if the authorisation is forthcoming, to reduce expenditure that would otherwise have been incurred.

8 Equality Comments

8.1 A national impact assessment has been completed by the ACPO Water Cannon project board. This acknowledges that the MPS has community consultation mechanisms and IAG's in place. If the Home Secretary licenses water cannon a full equality impact assessment will be completed following engagement with all affected parties.

8.2 The Mayor has run a 6 week engagement process that concluded on February the 28th. A further MPS engagement programme with the media, politicians and opinion formers will be conducted.

9 Background/supporting papers

Mayor's Letter to Home Secretary

MOPAC Responses to Consultation

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.

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

If yes, for what reason:

Until what date (if known):

Is there a **part 2** form – NO

If yes, for what reason:

ORIGINATING OFFICER DECLARATION:

	<i>Tick to confirm statement (✓)</i>
Head of Unit: Annabel Cowell has reviewed the request and is satisfied it is correct and consistent with the MOPAC's plans and priorities.	✓
Legal Advice: The TfL legal team has been consulted on the proposal.	✓
Financial Advice: The Head of Strategic Finance and Resource Management 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 09 / 06 / 2014