

Operation Drayfurn

**THE METROPOLITAN POLICE SERVICE (MPS) RESPONSE TO THE DANIEL MORGAN
INDEPENDENT PANEL REPORT**

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Operation Drayfurn

The Metropolitan Police Service response to the Daniel Morgan Independent Panel Report

1.0 Introduction

Daniel Morgan was murdered in 1987. Since then there have been six extensive investigations and enquiries. Between 1987 and 2011, the Metropolitan Police Service (MPS) and other forces arrested 67 people in connection with the murder. Eight of those arrested had been police officers. Sadly, no one has yet been brought to justice for Daniel Morgan's murder.

In 2013, the then Home Secretary announced the creation of an independent panel to "review how police corruption affected the handling of the murder inquiry and how Mr Morgan's family were treated by the police and criminal justice system." The Daniel Morgan Independent Panel (DMIP) published its final report in June 2021. This MPS paper provides an overview of the MPS response to the DMIP report and its recommendations.

It is impossible not to be moved by the depth of pain the Morgan family have experienced. The MPS is deeply sorry that no one has been brought to justice and for the way the first investigation into the murder of Daniel Morgan was impacted by corruption. The MPS is fully committed to preventing, identifying, and rooting out corruption.

Following publication of the DMIP report the MPS took swift action by appointing a dedicated team under the title of Operation Drayfurn, led by Deputy Assistant Commissioner Barbara Gray, and reporting to Deputy Commissioner Sir Steve House and the Commissioner. Terms of Reference were agreed, with robust internal governance and independent oversight of the MPS response.

There were 23 recommendations in the Panel Report. Nine were specifically for the MPS and fourteen for national policing and other organisations. The MPS accepted all nine MPS recommendations. The MPS has implemented these recommendations or put in place delivery plans to implement and embed the necessary changes to policy and guidance. The MPS will deliver all plans fully during the 2022-2023 financial year.

This paper outlines the specific actions the MPS has taken in response to the themes and recommendations in the Panel Report and details how the MPS has worked with other organisations named by the Panel as recommendation owners. This paper also references how policy and practice has improved over time and superseded some of the experiences the Panel identified in the decades since 1987.

2.0 Background

On 10th March 1987, Daniel Morgan, a 37-year old private investigator, was found dead in the car park of the Golden Lion public house in Sydenham, South London. He had been brutally murdered with an axe. In the intervening three decades there have been six successive police investigations and other reviews, with the last one concluding in 2011 following the collapse of the trial. While a number of people have been arrested by the MPS and other forces, no one has been successfully prosecuted or convicted for the murder.

On 10th May 2013, then Home Secretary the RT Hon Theresa May MP announced the creation of a judge-led independent panel to “review how police corruption affected the handling of the murder inquiry and how Mr Morgan’s family were treated by the police and criminal justice system”. This announcement included the appointment of Sir Stanley Burnton, a retired Lord Justice of the Court of Appeal as chair of the Panel.

Following the resignation of Sir Stanley Burnton in September 2013, Baroness Nuala O’Loan of Kirkinriola was appointed Chair of the Daniel Morgan Independent Panel (the Panel or DMIP) in July 2014. Baroness O’Loan formally took up the post in September 2014.

The MPS appointed a team of officers to coordinate work with the Panel. During the eight years the Panel existed, the MPS provided the Panel with access to approximately 1.2 million pages of documentation and 17,000 exhibits relevant to all of the investigations since 1987; this included exceptional disclosure of sensitive, secret, and privileged MPS documentation.

On 15th June 2021, the Panel published its Report, running to 1251 pages, over three volumes, and including 23 recommendations.

The Daniel Morgan Independent Panel formally closed on 29th October 2021.

3.0 The Metropolitan Police Service (MPS) Response

On 23rd June 2021, the Commissioner appointed Deputy Assistant Commissioner (DAC) Barbara Gray as the strategic lead responsible for the MPS response to the DMIP Report, under the title of Operation Drayfurn.

The Op Drayfurn team had the overarching aim to:

- Consider fully the recommendations and wider learning from the DMIP report, and ensure that all necessary action and learning is taken and applied across the MPS in an open and transparent fashion.
- Reflect and embed our commitment to the Met Direction vision to be the most trusted police service in the world and to keep London safe for everyone particularly through the priority areas of trust and confidence.

The core principles to the response included:

- To deliver a family focused approach and place consideration of the Morgan family foremost in our minds and liaise with the family in a manner that is acceptable and appropriate to them.
- To carefully consider and prepare a response to all the Panel recommendations – working with partners as appropriate to do so.
- To agree a disclosure protocol with the Panel and family.
- To ensure effective liaison with partners and respond to any requirements in full support of any HMICFRS inspection.
- To support the Directorate of Professional Standards (DPS) in relation to any requirements from the Independent Office for Police Conduct (IOPC) as appropriate and necessary.
- To identify learning and address core issues, ensuring continuing quality assurance and scrutiny to fully embed any change supported by suitable audit and governance.
- To liaise and agree action regarding recommendations not specific to MPS with other stakeholders, for example the College of Policing, National Police Chief's Council (NPCC), Crown Prosecution Service (CPS) and Home Office.
- To share learning and understanding with partners and stakeholders on disclosure practice, obligations and the legislative framework relating to Inquiries.

The core Operation Drayfurn team was created and in place by early July 2021. It was constituted in the MPS Inquiry and Review Support Command (IRSC), in the Directorate of Professional Standards (DPS).

Operation Drayfurn has been supported by MPS subject matters experts and professional leads from across the MPS including Learning and Development, the Continuous Policing Improvement Command (CPIC), Specialist Crime Command, and the Directorate of Legal Services (DLS).

3.1 Other organisations:

Lead responsibility for fourteen recommendations sat with organisations, including:

- Crown Prosecution Service (CPS)
- HM Government (Home Office, Cabinet Office and Department for Digital, Culture, Media and Sport)
- Investigatory Powers Commissioner's Office (IPCO)
- Independent Office for Police Conduct (IOPC)
- Her Majesty's Inspectorate of Constabularies and Fire & Rescue Services (HMICFRS)
- College of Policing (CoP)
- National Police Chiefs' Council (NPCC).

3.2 Governance and Engagement

To progress the Panel recommendations and wider findings, the MPS established a clear governance and engagement framework to support the response and collaborative work with a range of other organisations named in the Report.

In addition, Operation Drayfurn has provided regular updates to the Mayor of London and to the Home Secretary, and brought in challenge from outside the MPS's formal accountability structures.

MPS Structures included:

Diamond Group – Diamond Groups provide the most senior group possible, and a monthly meeting chaired by the Deputy Commissioner to provide Management Board oversight included senior representatives from across all MPS business groups.

Strategic Board – a monthly meeting chaired by DAC Gray with numerous senior stakeholders to provide strategic direction and leadership to ensure the recommendations and wider themes were actioned and embedded in the MPS and nationally where applicable. Attendees included representatives from Continuous Policing Improvement Command (CPIC), Directorate of Professional Standards (DPS), Specialist Crime Directorate (SCD), Learning and Development (L&D), National Police Chiefs' Council, the College of Policing and the Home Office.

Operational board - a weekly performance meeting to monitor, review, record and action ongoing work. Attendance included the Drayfurn team, Strategy and Governance (including HMICFRS liaison), Directorate of Legal Services (DLS), Directorate of Media and Communications, (DMC) and the Directorate of Professional Standards (DPS) as required.

Professional Reference Group (PRG) – Recognising that external challenge and openness and transparency is critically important, DAC Gray secured the support of a range of stakeholders and members independent of policing to provide strategic advice, guidance and constructive challenge. The Group met six-weekly, and have proved invaluable in supporting wider organisational learning with a focus on broader issues that impact trust and confidence in policing.

Membership includes representatives from:

- Central Race Independent Advisory Group (IAG)
- Directorate of Professional Standards (DPS) IAG
- Basic Command Unit (BCU) IAG
- London Policing Ethics Panel
- Academia

To date there have been six meetings to discuss specific themes, including ‘Institutional Corruption’, Vetting, Organisational Learning, Declarable Associations and Disclosure and Transparency. It is anticipated there will be one more meeting convened following the release of the HMICFRS inspection report.

Academic Workshop - As an outcome of a discussion at the Professional Reference Group, Allyson MacVean, Professor of Policing and Criminology facilitated an academic workshop in November 2021 to further expand on the understanding of the concept of ‘institutional corruption’ which the Panel set out in their report. A paper on the findings has been produced independently by Professor MacVean and assisted in the MPS approach and learning from the Panel report.

3.3 External Engagement:

Following learning from the MPS response to the Henriques report, the MPS recognised the important role it had to play in encouraging other organisations named in the Report to act. The MPS engaged all the organisations named in recommendations and had high levels of engagement with national policing partners, the College of Policing and the NPCC.

The MPS Commissioner hosted two roundtable events at New Scotland Yard, in November 2021 and February 2022, bringing together senior stakeholders of organisations with responsibility for acting on specific Panel recommendations.

To bring an element of independence to these important events, the Commissioner invited CC Andy Marsh, CEO of the College of Policing to chair and facilitate the group. The aim of these meetings was to:

- Facilitate discussion on the ownership and response to all recommendations in the DMIP Report;
- Identify common themes and appropriate actions; and
- Reassure the public by demonstrating that we have taken the DMIP Report seriously.

In attendance were representatives from NPCC, College of Policing, Home Office, IPCO, IOPC, CPS and independent oversight was provided by the Chair of the London Ethics Panel and MOPAC.

4.0 Themes

The Panel raised serious concerns in a number of areas and the MPS has addressed the Panel's concerns under five main themes, namely:

- Investigations
- Professionalism
- Disclosure and working with panels
- Information Security
- Organisational learning

This section outlines the MPS response to these themes, before moving in the next section to the MPS response to specific recommendations.

4.1 Investigations

The Panel detailed numerous observations and criticisms of the investigative processes; specifically the role of the Senior Investigating Officer (SIO), crime scene management, forensic awareness and how the Morgan family were treated.

Chapter Twelve of the DMIP report recounts how the Morgan family have felt about their treatment over the years since the brutal murder of their loved one. It is impossible not to be moved by the depth of pain the family have experienced and the MPS is deeply sorry that no one has been brought to justice for the murder. The MPS also fully acknowledge that no one who has a loved one murdered should be so let down by policing.

Policy and practice has evolved substantially in the past decades due to learning from successful investigations and lessons from Inquests and Inquiries, such as the Macpherson Inquiry following the murder of Stephen Lawrence. Family liaison procedures have changed fundamentally over the years. The Macpherson report drove many of these fundamental changes regarding family first principles and the professionalisation of the liaison process

The MPS now has a highly effective homicide investigation framework. Sanction detections are when offences have been resolved through a formal sanction, including being charged, and in 2021 the MPS had a homicide sanction detection rate of 100%. The MPS has continued to learn and the homicide detection rate over the period 1st February 2016 to 31st January 2021 shows that sanction detections have increased by an average of 8% year on year.

In June 2019, the MPS introduced the new Specialist Crime Command to investigate homicides, armed criminality, gang crime, drugs supply, economic crime, cyber-crime, kidnap, child sexual exploitation, human trafficking, modern slavery and prostitution. Specialist Crime also deals with international offenders, organised vehicle crime and provides a resource pool for major inquiries.

Specialist Crime works in a more collaborative and connected way with local policing Basic Command Units (BCUs), the wider MPS and with other law enforcement agencies. The command delivers greater flexibility and aligns resources and expertise against threats and strategic priorities, as opposed to any strict remit based on crime types. Capabilities have been aligned under a single leadership structure to provide the ability to flex and support of knowledge transfer and skills development.

The joined up working between the Specialist Crime Command and the Directorate of Professional Standards (DPS) Anti-corruption command has proved effective in bringing offending serving officers to justice in recent criminal cases involving, for example, money laundering.

The National Police Chief's Council (NPCC) Homicide Working Group is chaired by a Deputy Assistant Commissioner from the MPS. This is a national responsibility, and is responsible for working with the College of Policing and NPCC setting standards, guidance and policy for all police forces in England and Wales.

The MPS has introduced a robust homicide governance framework that reviews the operational management of investigations. This includes a regular operational review meeting chaired at Chief Officer level.

The introduction of the MPS Homicide Governance Group, chaired by the Detective Chief Superintendent (DCS) Head of Homicide includes senior representatives from Intelligence, Forensic and Specialist Crime directorates. It aims to ensure the highest quality investigations, provide leadership, training and support for homicide investigators and understand the preventative measures required to support and protect communities by also working with partners to prevent, divert and deter those drawn into serious violence.

The MPS is unique in having a panel where Community members join police leads in reviewing live homicide investigations where it is assessed all investigative lines of enquiry have been exhausted.

Further developments to investigative processes include:

- Bespoke recruitment and development plans to increase the number of detectives;
- Improved training for all officers regarding investigation and crime scene awareness;
- Review of the MPS senior investigating officer (SIO) syllabus in 2015;
- Licensing of the MPS as one of a small number of forces to deliver the new SIO Development Programme in 2017;

- Investment in the MPS Directorate of Forensic Services as an integral part of the investigative process with a wide range of technical and scientific expertise including crime scene management and examination, specialist imaging, evidence recovery, exhibit analysis, fingerprint comparison and digital examination; and
- Introduction of Homicide Assessment Teams following the Macpherson report.

In addition, as a direct result of the Daniel Morgan Independent Panel report, the MPS has:

- Reviewed 547 investigations which had been conducted over a three year period and concluded there are no instances when the SIO is on secondment to, or employed by, another agency.
- Introduced a policy and practice change to ensure governance processes are in place to allow the Commander of Specialist Crime to assess potential conflict of interest in the case of any retired officers or SIOs returning as a civilian member of police staff.
- Reviewed the current family liaison protocols. The Independent Panel report highlighted some very real concerns regarding the relationship a senior officer had with the Morgan family. The MPS can confirm all family liaison officers (FLOs) are appropriately trained and accredited under nationally agreed standards.
- All 337 FLO deployments from January 2021 to October 2021 were reviewed. No examples of an officer performing the dual role of SIO and FLO were identified. A dip sample was then completed of 1129 FLO deployments which took place between Jan 2016 and Jan 2021 – a total of circa 60 deployments. No examples of an officer performing the dual role of SIO and FLO were identified.

4.2 Professionalism

The Independent Panel were extremely critical throughout their report regarding the professional standards of some officers encountered by the Morgan family throughout the investigations.

The Panel's report refers to the inappropriate relationship of ex Detective Chief Superintendent David Cook and journalists. The MPS Media policy has been reviewed and clearly articulates the standards required of officers and staff outlining any inappropriate disclosure of information to journalists could result in misconduct or criminal investigation.

In addition, the Panel referred to 'a form of institutional corruption':

'When failings in police investigations are combined with unjustified reassurances rather than candour on the part of the Metropolitan Police, this may constitute 'institutional corruption'. The Metropolitan Police's culture of obfuscation and a lack of candour is unhealthy in any public service. Concealing or denying failings, for the sake of the organisation's public image, is dishonesty on the part of the organisation for reputational benefit. In the Panel's view, this constitutes a form of 'institutional corruption'. (pg. 1060 par 242)

The Op Drayfurn team engaged a number of independent subject matter experts who applied an established theoretical model to the concept of 'institutional corruption'. They concluded that over the course of 34 years, four investigations, an inquest, multiple misconduct reviews and public complaints there had been a seismic shift in police and public culture. Over this time the MPS had developed and enacted different approaches to the Daniel Morgan investigation and its engagement with the Morgan family. Across this time period there had not been a single approach, there had been repeated attempts to rebuild the trust of the family and to solve this homicide, which required different methods led by different decision makers.

The academic review noted that in its conclusions the Daniel Morgan Independent Panel Report outcomes were based on either error or wrongdoing, and between those two outcomes the academic panel raised 'the more difficult and subjective element of judgement.' Individual judgements made by different decision makers at a point in time during an ongoing and still live investigation are heavily layered with elements of judgement. Judgement is a key element of policing and is centred on a point in time, it is impacted by the current legislative practice, personal experience, values and organisational practice. These are factors that change and are sometimes difficult to quantify over time. The academic panel concluded that it may have been useful for DMIP to consider the more difficult and subjective element of judgement rather than a binary approach where findings were either situated in 'error' or 'wrongdoing'.

In asserting this position, the panel supported the MPS belief that the organisation is not 'institutionally corrupt'.

The academic panel found that the application of the 'institutional corruption' model by DMIP across the historical time period could not be sustained. Where it could be argued corruption may have been a factor in some early historical decisions, there was no link to the decisions made by in the last decade in seeking to balance the provision of material to DMIP with managing data protection, covert methodology and the investigative process.

4.3 Disclosure, relationship with Panels

The MPS has reflected on many of the issues raised within the Panel report and it is a matter of regret that the relationship with the Daniel Morgan Independent Panel was marred by disagreement regarding the protocol for sharing sensitive material with the non-statutory panel.

The MPS experiences and reflection on the Daniel Morgan Independent Panel have supported learning and influenced how the MPS have worked to establish protocols with the recent non statutory panel chaired by Dame Angiolini.

Four recommendations were made by the Panel to address these matters. The Panel commented on the difficulties it faced in accessing material, the length of time it took to establish a disclosure agreement and the difficulties faced by working to deadlines without

considered attention being made to the quantity and nature of the material which would be required by the Panel to complete its work.

The MPS Inquiry and Review Support Command (IRSC) is responsible for supporting a number of internal and external Inquests and Inquiries relating to Conduct, Performance, Ethics and Standards.

The IRSC has taken on board the experience of working with the Undercover Police Inquiry and the Daniel Morgan Independent Panel to develop its approach to working with Panels. In response to the Panel's recommendations the IRSC has undertaken work to formalise the way in which the IRSC approaches Inquest and Inquiry work.

An IRSC Work Inception process map has been drawn up that details the process to be taken and/or considered when a new Inquest or Inquiry has been announced and the subsequent steps when one is allocated to the IRSC.

Guidelines accompany the process map detailing the steps which should be considered: including the command structure, scoping exercise, staffing, data sharing considerations, physical storage, provisions, formalising working practices, considerations for Memorandum of Understanding (MOU) and Terms of Reference (ToR).

The IRSC has produced a briefing note discussing the MPS approach to ToR established by non-statutory ad-hoc Public Inquiries. Unlike with Statutory Inquiries where the Inquiries Act 2005 establishes the framework for establishing an inquiry which includes the setting out of the ToR, a non-statutory inquiry has no such formal structure and as such they are not obliged to adhere to any agreements made with core participants.

Outside the IRSC specific guidance, officers and staff MPS wide are provided with a guide to help prepare them for attendance at a public inquiry which is published on the MPS intranet site. This gives officers a general overview of what a public inquiry is, a basic explanation of what happens before an inquiry starts, on giving evidence at a public inquiry and what happens during and after a public inquiry hearing. This guidance is published with the intention of informing officers how they will be briefed and what to expect if they are called as a witness to a public inquiry.

As part of the wider learning for national policing it has been agreed that the College of Policing will work alongside the MPS and Home Office to assemble a strategic overview paper covering best practice for working with panels.

Access to the relevant HOLMES accounts became a significant issue for both DMIP and the Metropolitan Police Service.

Since 2020 the relevant HOLMES database has been available on a Cloud based system making it accessible for the first time via a secure laptop for those with the appropriate security clearance and purpose. This facility would now negate the problems experienced by the MPS in adhering to minimum levels of security and DMIP accessing material held on the system.

The only national stipulation for security is the fact that the national HOLMES Cloud is accredited to Official (Sensitive), this should dictate both what material is held and how it is stored/accessed as per Government Security Classification. Any material classified at a level higher than this should not be held on the Cloud and alternative arrangements should be made.

Nationally it is the responsibility of individual forces to dictate how they wish to physically provide access to Major Incident Rooms, the vetting level for staff and any pre-cursor requirements for HOLMES access (in terms of training and access privileges relevant to role). Because it operates on a shared platform forces can also provide a user with functionality over and above those agreed as they have the option to apply multiple roles to a user.

Lessons have been learned following the experience with the Panel.

The Commissioner has always been clear in her commitment to do what was possible to facilitate the request for access to HOLMES. There were implications in doing so, and the Commissioner considered it absolutely necessary to be legally compliant and consider other statutory obligations.

The MPS did not decline access to HOLMES, but were mindful of security concerns and disclosure obligations, particularly pre-September 2014 before Baroness O'Loan formally took up her role as chair and the Panel became fully constituted. MPS records confirm that by mid October 2014, only weeks after Baroness O'Loan commenced work, (then) AC Cressida Dick offered "unrestricted HOLMES access within a restricted environment" i.e. on MPS premises.

The MPS has a detailed record of all communications with the Panel and when the Panel expert accessed the system.

4.4 Information Security

The Information Management issues specific to the Panel include the huge quantity of sensitive data improperly held by David Cook at his home address and his passing of information to the media and others. The following section details how the MPS is mitigating the risk of this recurring:

- The MPS is mandated to have processes in place to provide appropriate and consistent protection to its information assets and manage its information securely.
- The MPS must also comply with legislative requirements, such as those associated with the Data Protection Act 2018, which relate to compromises to personal data where failure to comply could result in enforcement action or fines from the Information Commissioner's Office (ICO).
- The MPS has made significant improvements in Information Governance over the last two years. The focus on end-to-end build of data capabilities, alongside gripping the MPS's previous challenges in compliance means that the MPS will be able to

move its priorities for the next phase of work to enabling wider, better and more transparent use of data.

- The MPS Security Incident Reporting, Handling and Investigation Guidance contains guidance for officers when an unlawful disclosure of material has been made. Known as a security incident, a security incident is defined as any event or vulnerability that compromises [or potentially compromises] the Confidentiality, Integrity or Availability of any MPS asset.
- Assets may include buildings, equipment, people and information e.g. loss of sensitive information, unauthorised/ inappropriate sharing, or any other action that could impact the security of sensitive information.
- All unlawful disclosures must be reported to the Information Assurance Unit, within the Data Office using the online facility found on the MPS Intranet front page via the Stay Alert tab and also listed as 'Report a Security Incident' under the Support section.
- Once reported, the IAU will take responsibility for ensuring all relevant stakeholders are made aware of the incident. The identified stakeholders are those individuals that have the skills, authority and/or responsibility for managing the identified issue.
- In cases of unlawful disclosure of MPS material investigations are undertaken primarily by the Directorate of Professional Standards.
- The IAU have produced new guidance in response to the Daniel Morgan Independent Panel recommendation.
- The new guidance follows a step by step process leading to the possibility of enforcement via the courts.

4.4.1 Managing sensitive documents

The MPS is responsible for a vast amount of confidential information and data and we have a legal and moral duty to protect it. In the case of personal or sensitive personal data, the requirements of the Data Protection Act 2018 (DPA) Compliance Policy and Guidance must be followed.

The MPS has implemented an Information Code of Conduct which details the personal responsibility and duty of confidentiality owed by all officers and staff members to the Commissioner of Police of the Metropolis and MOPAC.

The Information Code of Conduct is underpinned by the following guidance and legal requirements:

- Guidance on the Management of Police Information (MoPI)
- Data Protection Act 2018
- Official Secrets Act 1989
- Computer Misuse Act 1990
- Regulation of Investigatory Powers Act 2000
- Protection of Freedoms Act 2012
- The College of Policing 'Code of Ethics'

All officers and staff are required to complete mandatory training to establish a basic understanding of data protection and security awareness. This is an online package necessary as part of their access to MPS information, intelligence systems and devices.

Clear documented consideration of improvements and safeguards are demonstrated by the update and strengthening of protocols and policies that has protected data since 2009. The METSEC Code complements the principles and standards of professional behaviour expected of all MPS personnel as set out in the Code of Ethics for the Policing Profession in England & Wales and the MPS Information Code of Conduct (copyright in the METSEC Code is vested in the Mayor's Office for Policing and Crime (MOPAC)).

The MPS five year plan to establish a Data Office and service-wide data vision is making strong progress, one of the by-products of this being improvements in information governance. This has most recently been assessed as "reasonable" by the ICO during an Audit of the MPS between July and November 2021.

4.3.2 Data developments

The Data Office enables the organisation to use its data in a lawful and ethical way. Since 2019 the MPS has established a Data Board and made significant headway in building its Data Office. The MPS has also made progress across the organisation in the use of data analytics, whilst improving our service to the public on privacy rights. The Data Board, chaired by the Chief of Corporate Services, oversees the delivery of the Data Strategy and progress towards the Met Direction ambition to become a data driven organisation.

The MPS has also integrated 'privacy by design' into the innovation pipeline and transformation delivery. This means the MPS now has coordinated information governance in place from concept, through procurement, contracting and execution.

MPS maturity in data governance and assurance has received a number of positive independent/external reports in the last 12 months, the two most prominent being the IPCO Review into Data Assurance and the ICOs report into all forces compliance with DPA (2018) and FOIA.

4.5 Organisational Learning (OL)

Creating and maintaining a sustainable organisational learning (OL) framework for an organisation of over 40,000 staff is both very challenging and very important. For a number of years the MPS has been building the means to make organisational learning a daily reality by creating governance structures and the processes and the behaviours to support this.

The MPS has invested significantly in Transformation programmes and People and Learning programmes, benchmarked against public and private sector organisations, and commissioned a four year Open University OL project to guide behavioural implementation.

In April 2020, the MPS has established a corporate OL function in the Continuous Policing Improvement Command (CPIC), as the Organisational Learning and Research team (OL&R). It is directly aligned to the MPS strategic objective to learn from experience, from others, and constantly strive to improve. The aim is to develop a culture of learning, listening to feedback, sharing ideas and insight with others and empowering people to be innovative.

Governance for the MPS Organisational Learning and Research function is provided through a quarterly strategic Organisational Learning Board, which has three priorities:

- to develop an effective organisational learning environment in the MPS to identify, capture and socialise learning into action to improve future capability and innovation;
- to provide oversight to assure Management Board, senior leaders and Heads of Profession that our organisational learning environment effectively meets ongoing aspirations; and
- to drive robust research and evaluation in the Met, and promote collaborative evidence based behaviours to continuously improve operational practice.

MPS OL implementation is focused on four areas:

- Developing 47 OL Hubs across the MPS;
- Systemising information, knowledge and memory and developing a consistent platform;
- Learning from high harm/risk: Gold Groups, HMICFRS, IOPC, Coroners Inquests;
- Embedding a culture of learning: the MPS has commissioned and implemented a five year OL behavioural project with partners at the Open University.

5.0 MPS Recommendations Overview

The following section provides responses to the nine recommendations which are bespoke to the MPS. It also provides comments on the recommendations that are for other organisations while noting that formal responses to those are to be provided by the relevant organisations.

Recommendation 1 – Lead organisation: Metropolitan Police Service (MPS)

“The Panel has received advice from an independent forensic science expert it consulted, Dr Kathryn Mashiter that useful work could still be carried out on this document. It therefore recommends that the Metropolitan Police considers the operational benefits of submitting the diary for a forensic handwriting analysis in order to ascertain whether the entries were made by Daniel Morgan, as well as ESDA414 testing to ascertain if there is evidence of writing by someone other than Daniel Morgan.”

Recommendation 1 Activity:

The MPS accepted this recommendation. The MPS commissioned an independent forensic science service to undertake the analysis.

When handwriting is examined forensic scientists categorise the likelihood of a specific person creating that handwriting on a scale. This scale runs from 'Inconclusive' to 'Extremely Strong' on a likelihood scale. In the case of the diary examined as per the Panel recommendation, the independent expert Forensic Scientist concluded that there is 'Extremely Strong' support for the proposition that Daniel Morgan was responsible for the writing in the diary. The scientist places their findings at the highest level of likelihood on this scaler - as consequence of this result this line of enquiry is exhausted.

The family of Daniel Morgan were notified of this outcome in a letter in November 2021.

Current status: Complete.

Recommendation 2 – Lead organisation: Metropolitan Police Service (MPS)

'The Panel recommends that the Metropolitan Police consider the desirability and explore the possibility of obtaining samples of DNA from former Police Officer Z31's relatives, to compare it with the outstanding DNA recovered from the axe'.

Context

This recommendation relates to obtaining a DNA sample for a former police officer (code named Z31 by the DMIP) and undertaking a comparison to DNA recovered from the murder weapon (an axe).

The MPS sought to obtain scientific analysis to gain expert opinion as to the likelihood of Z31 being a contributor to DNA found within the axe. The purpose of the examination was to assist in determining whether or not the individual known as Z31 could have come into contact with the axe, as well as any DNA results previously obtained in this case.

Recommendation 2 Activity:

The MPS accepted this recommendation.

A suitable DNA profile of Z31 was submitted for forensic examination. On 21st January 2022, the expert scientist concluded their work and completed a formal statement in relation to their findings. The work conducted by the independent expert scientist has been evaluated against the DMIP recommendations. The scientist concludes the following:

'In my opinion, there is no evidence to support the view that 'Z31' contributed his DNA to any of the DNA results obtained in this case'.

The family of Daniel Morgan were notified of this outcome in a letter in February 2022.

Current status: Complete

Recommendation 3 - Lead organisation: Metropolitan Police Service (MPS)

“It is recommended that the Metropolitan Police introduce systems to ensure that the management arrangements which applied during the Abelard Two Investigation can never be replicated in any future investigation, and that proper management arrangements, in compliance with the Association of Chief Police Officers’ Murder Manual, exist on all occasions.”

Context

“It is clear from the material available that the line management arrangements were both confused and irregular throughout most of the Abelard Two Investigation. DCS David Cook was seconded and working full-time for the Serious Organised Crime Agency in February 2006. It was inappropriate for DAC John Yates and the Metropolitan Police to appoint him as Senior Investigating Officer at the beginning of the Abelard Two Investigation. A new Senior Investigating Officer should have been appointed after DCS Cook’s retirement in December 2007. The evidence shows that although the Metropolitan Police maintained DCS Cook as Senior Investigating Officer when he was in full-time employment elsewhere, his functions had been specifically restricted, so that he was unable to fulfil the role of Senior Investigating Officer. A/DCI (later T/DCI) Noel Beswick was never appointed as the Senior Investigating Officer and did not describe himself as such at the time.” (pg. 660 para 42)

David Cook was the SIO for Operation Abelard II. He had performed the SIO role in the previous linked investigation (Morgan II) whilst a serving MPS officer on the Homicide Command in 2002. In 2003 he moved on secondment to HM Revenue and Customs, and then in 2006 on secondment to the Serious and Organised Crime Agency (SOCA) [now National Crime Agency (NCA)]. An agreement was made between the MPS and SOCA for him to split his time between the two roles. In December 2007 he retired from the MPS to work full time with SOCA, but continued his involvement with the MPS investigation team in a consultancy capacity until the conclusion of Court proceedings. He retired from SOCA in 2013. He became the key point of contact for Alastair Morgan which, although acceptable to the family, was outside the family liaison policy.

The NPCC Major Crime Investigations Manual (MIM) 2021 explains the role of the Senior Investigating Officer (SIO), Deputy SIO, other key investigative roles and the investigation review process.

A number of key guidance documents are in place such as the Major Incident Room Standardised Administrative Procedures (MIRSAP), the Major Crime Investigation Manual (MIM) 2021 and the MPS Holmes Policy which provide clear guidance for an SIO to ensure the professional execution of their role.

Senior Investigating Officer (SIO) The primary role of the SIO is team leader, providing investigative focus, coordinating and motivating the team. They are accountable for every facet of the enquiry, and should manage a range of internal and external resources to maximum effect.

SIO Training: The College of Policing sets the national standards for the training of investigators including SIOs. The MPS are one of the few centres licensed to deliver SIO training.

Use of Retired SIOs in Major Crime Investigations: The MPS SIO Course Director confirmed that there is no current policy or guidance that either encourages or prohibits the use of retired SIOs to come back to an operation in an advisory/ expert role. Retired accredited SIOs are currently used in review, training and advisory roles only, not as operational investigative SIO leads. If a retired SIO was to be used in an advisory capacity, this would be on a case by case basis and only in exceptional circumstances with the oversight of the relevant Gold Group and the expert advice of a PIP 4 Strategic Lead, who would be the rank of Detective Superintendent (The PIP 4 accredited role is a strategic lead providing independent advice, support and review for high profile complex, serious and organised or major crime investigations).

Recommendation 3 Activity:

The MPS accepted this recommendation.

A review of 547 homicide investigations (2018-2021) was conducted and all were led by one of our 135 specially trained SIO's. None were outside MPS employment (i.e. on a consultancy basis or secondment).

New guidance and amendments to existing guidance has been developed and implemented to cover the explicit need for a declarable association check during the investigation review processes.

In the exceptional circumstances that a conflict is identified, then the steps the SIO take to identify conflicts of interest and address potential impartiality issues, should be explained to the family. Any concerns a family may hold relating to potential conflicts they perceive will also be discussed at this stage. In dealing with concerns raised by families, the aim will always be to take reasonable steps to secure and retain their assistance, confidence and support.

The new guidance will be implemented within homicide investigations and there will be a requirement for a conflict of interest check to be conducted during the investigation review processes by SIOs. The implementation will stipulate supervisors consider any declarable association policy issues during initial allocation and ongoing supervision (including 28 day review) of homicide investigations. Murder Investigation managers will specifically consider declarable association policy issues on seven day review and subsequent reviews of live investigations.

Specialist Crime Review Group (SCRG)/Cold Case will continue to check that SCRG officers have not been involved as a SIO in a review they are assigned to. The SCRG make recommendations that a homicide investigation should be reopened and allocation is then determined by either the Specialist Crime Command, Senior Leadership Team or in a cold case by the Specialist Casework Team, Senior Leadership Team.

If an officer or member of staff previously had a key role in an investigation (e.g. SIO/Disclosure) the potential for a conflict of interest will be considered by the Gold Group (or senior chief officer) during the review process and any decisions clearly recorded. This conflict of interest must include consideration of the victim's family.

Officer/staff obligation: All staff have been reminded of their obligation to self-declare if they are involved in an investigation and believe there is a conflict of interest.

Use of Retired SIO: Guidance has been developed to ensure a process is in place to allow consideration by the Gold Group or SIO regarding the use of retired SIO's particularly in an advisory/ expert role. The rationale for the appointment of a retired SIO to an investigation will be clearly rationalised and recorded in the SIO policy or Gold Group records.

The research and policy and guidance change is complete and the delivery plan to ensure the practice is fully embedded shall be implemented within a stipulated timeframe in 2022-2023 with appropriate governance and oversight.

Current status: Complete

Recommendation 4 – Lead organisation: Metropolitan Police Service (MPS)

“The HOLMES system is both an investigative tool and a quality assurance mechanism, but it requires significant resources if it is to be used properly. The Panel recommends that the Metropolitan Police conduct an investigation into the adequacy of resources for administering HOLMES in major crime investigations carried out by the Metropolitan Police.”

Context

The Panel raised concern regarding the resourcing levels of Major Incident Rooms during the investigations. The MPS subsequently conducted a resourcing review to assess MPS capacity.

The hub of any major enquiry is the Major Incident Room (MIR) where a great amount of written information is gathered from members of the public, enquiry officers and other sources. The information is channelled using a set of administrative procedures into the HOLMES system whereby the Senior Investigation Officer (SIO) can direct and control the course of the enquiry. It is vital that MIR staff are properly trained both in the appropriate use of the HOLMES system and in the functions of Major Incident Room Standardised Administrative Procedures (MIRSAP) 2005.

The Major Incident Room Standardisation Administrative Procedures (MIRSAP) and the Major Crime Investigation Manual (MCIM) have both been revised and new editions published on 1st November 2021.

Roles and Responsibilities within a Major Incident Room (MIR):

The MIR will be staffed in accordance with MIRSAP guidelines. Users must be of a suitable rank for the role they are to undertake and be adequately trained to the appropriate level to fulfil that role. Under no circumstances will any person be given access to the HOLMES system unless they have completed and passed the training course for the role they are about to perform.

The following key roles are required to be fulfilled within an MIR:

Senior Investigating Officer (SIO): Within the MPS, the officer should be of sufficient rank, normally Detective Superintendent or Detective Chief Inspector and have received appropriate training and experience to fulfil that role. The SIO should also be accredited/working towards at least Level 3 of PIP (Professionalising the Investigative Process).

The SIO has responsibility for the investigation of the crime. This includes ensuring, in liaison with other senior officers as necessary, that an incident room with appropriate resources is set up. A regular assessment must be made of the work outstanding to maintain an appropriate staffing level to process documentation at all stages of the enquiry.

Office Manager: The Office Manager has the delegated responsibility for the efficient running of an incident room and will be of substantive Detective Sergeant rank who is HOLMES trained.

Some of the key responsibilities outlined for the Office Manager as per the MPS HOLMES Policy 2018 are as follows:

- Advise the SIO on the level of staff required to carry out the administrative duties efficiently.
- Manage those staff and ensure that they are aware of their duties, updating them with any new developments.
- Determine, in conjunction with the SIO, levels of requirements for indexing, ensuring that an appropriate entry is made in the Incident Room Indexing Policy File.
- At all times be aware of developments in the investigation and keep the SIO informed.

Staffing levels: MIRSAP 2021 provides an insight into the levels of staffing required in homicide and major crime investigation. Initially a categorisation system is used as a guide to the initial deployment of resources and command. The categorisation of an investigation by itself will not determine the resources that should be provided to the investigation. Each case will be assessed individually.

There is no national guidance for what the staffing levels required for caseloads or HOLMES account management should be. There is also no nationally directed quota for trained staff for each region. It is for each force to review and ensure sufficient trained staff.

The capacity and capability of the management of HOLMES is subject to annual review in the MPS. A HOLMES training capacity review also takes place in each training year which coincides with the financial year.

An MPS HOLMES Board is chaired by the Commander for Specialist Crime who also represents the MPS nationally at the NPCC HOLMES board.

Nationally there is a HOLMES Training and Development Group whose terms of reference include ensuring consistent and adequate training nationally.

Recommendation 4 Activity

The MPS accepted this recommendation and conducted a review of the capability and capacity assessment of the HOLMES. The review examined the:

- Volume of HOLMES accounts – reviewing demand over the last 4 years,
- Number of trained HOLMES staff required for a major crime investigation – against role profiles and comparing previous cases and role requirements,
- Number of trained MPS staff,
- Planned training 2022/23 for HOLMES – courses planned exceed current requirements

The capacity and capability review was agreed by the Commander Specialist Crime, it concluded that there is sufficient resourcing of the MIR process which includes the management of HOLMES.

The review identified risks relating to the future numbers of staff trained and has resulted in an increase in the capacity for forthcoming training and upskilling staff in MIR roles. Training plans have been agreed and are being delivered by Learning and Development.

Current status: Complete

Recommendation 5 – Lead organisation: Metropolitan Police Service (MPS)

“The Metropolitan Police should ensure that the role of the Family Liaison Officer is never carried out by the Senior Investigating Officer of an investigation. There is an inherent conflict between these two roles.”

Context

It is not a satisfactory or accepted position for the MPS that a Senior Investigating Officer (SIO) would, or could be, the Family Liaison Officer; the MPS accepts there is ‘an inherent conflict between these two roles.’

The National Police Chief’s Council (NPCC) Authorised Professional Practice (APP) for Family Liaison provides the national framework for the deployment and management of Family Liaison Officers.

The MPS Family Liaison Policy is informed by the national guidance and is designed to ensure that the provision of family liaison is relevant to both the needs of the MPS and to the families concerned. The purpose of this policy is not to repeat the APP but to clarify where, and how, the national APP is implemented in the MPS.

A review of the relevant policy and guidance shows that there is nothing explicitly written within the policies which advises against / discourages/ prohibits the Senior Investigating Officer (SIO) and Family Liaison Officer (FLO) from being the same person and although there is nothing explicitly written, both the national guidance and the MPS Family Liaison Policy clearly imply that the two roles are separate.

For example, when a FLO is allocated to an investigation, they must receive a briefing and strategy from the SIO. This clearly indicates the roles of a FLO and SIO are two separate roles which should be undertaken by separate individuals. Therefore, as the MPS Family Liaison Policy is informed by the NPCC APP this would also reflect the national position.

Role profiles

The detailed role profiles contained in Family Liaison Policy for FLOs and the NPCC APP for SIOs are clearly articulated and distinctly different.

The primary role of a Family Liaison Officer (FLO) is as an investigator. The FLO will be responsible for gathering evidence from the family that will assist the investigation.

The role of a Family Liaison Officer can be used across a broad range of investigations such as murder, fatal road traffic collisions, mass fatality incidents, IOPC and DPS Investigations. Other considerations for family liaison deployments may not involve a fatality but where family liaison might enhance the effectiveness of the police response.

For example missing persons, domestic violence or a person suffering life changing injuries, Sudden Unexpected Death in Infancy (SUDI), death of a child or any critical incident.

There are three main roles that have been identified for the effective performance of family liaison:

- Family Liaison Officer (FLO)
- Family Liaison Coordinator (FLC)
- Family Liaison Advisor (FLA)

Professional role profiles for the FLO, FLC and FLA can be found on the College of Policing website.

A Family Liaison Officer in the MPS must be PIP level 2 accredited under the Initial Crime Investigators Development Programme (ICIDP) (or have completed a similar Detective Course) or have passed the National Investigators Examination (NIE) and been accepted on the Detective Development Programme.

A FLO provides support and information in a sensitive and compassionate manner, securing the confidence and trust of the families of victims of crime, ensuring family members are given timely information in accordance with the needs of the investigation. The role involves gathering evidence from the family to contribute to the investigation and preserve its integrity. None of this precludes the SIO from meeting a victim's family at various stages of the investigation but they will not be the designated family liaison officer.

Recommendation 5 Activity:

The MPS accepted this recommendation.

A review was conducted of all 337 FLO deployments from January 2021 to October 2021. No examples of an officer performing the dual role of SIO and FLO were identified.

A dip sample was then completed of 1129 FLO deployments which took place between Jan 2016 and Jan 2021 – a total of circa 60 deployments. No examples of an officer performing the dual role of SIO and FLO were identified. It should be understood that the policy does not preclude the SIO from having meetings with the family in their capacity as SIO.

There will be ongoing assurance provided through the relevant policy, authorised professional practice and relevant courses the family liaison roles and senior investigating officers participate in. Detail of the delivery of this is contained within the delivery plan.

Current status: Complete

Recommendation 6 – Lead organisation: Metropolitan Police Service (MPS)

“It is recommended that the Metropolitan Police establish a process to inform police officers about the recovery options available to them when material is unlawfully disclosed.”

Context

The MPS is mandated to have a process in place to provide appropriate and consistent protection to its information assets and manage its information securely.

The Cabinet Office (HMG) Security Policy Framework, May 2018, which is applied to UK Government assets to ensure they operate effectively, safely and securely, states that ‘policies and procedures for detecting, reporting, responding to and handling incidents’ must be in place.

The MPS complies with legislative requirements, such as those associated with the Data Protection Act 2018, which relate to compromises to personal data, where failure to comply could result in enforcement action or fines from the Information Commissioner’s Office (ICO).

Safeguarding the integrity, quality and security of MPS information and ensuring compliance with information law is the responsibility of the Metropolitan Police Service Data Office.

Through this recommendation, the MPS identified the need to ensure a general process and guidance to inform police officers about the recovery options available to them when material is unlawfully disclosed.

The College of Policing issues Authorised Professional Practice (APP) guidance in a number of areas relating to the security and governance of information management including Management of Police Information, Information Sharing and Information Assurance, however the issued APPs did not contain guidance in relation to any processes to inform police officers about the recovery options available to them when material is unlawfully disclosed.

Recommendation 6 Activity:

The MPS accepted this recommendation.

The MPS reviewed the option as suggested by the Panel to consider the use of the Torts (Interference with Goods) Act 1977. The MPS Directorate of Legal Services (DLS) took independent advice on this matter. Section 3 of the Torts (Interference with Goods) Act 1977 is not applicable to the unlawful disclosure or recovery of information to third parties. This is when having regard firstly to the definition of “goods” under that act at Section 14 as

“all chattels personal other than things in action and money”. This definition does not include information or “things in action”, i.e. rights which can be enforced by action, which might cover disclosures of the kind in contemplation. Secondly, it is not applicable when having regard to the fact that the Act concerns “interference” with such goods, which does not meet a situation where the recipient of information has only played a passive role in relation to information which they have received.

More generally, the starting point before attempting the recovery of information is to consider the nature of the rights which are engaged by the information which has been disclosed. Those rights are likely to include the personal data and privacy rights of any persons who are named or otherwise identifiable within a particular disclosure. Importantly they are also likely to include the confidentiality rights of the MPS itself in relation to the information.

Any sensitive investigative material belonging to the MPS, such as that disclosed by former DCS David Cook to Michael Sullivan, is likely to amount to confidential information under this definition. This is particularly likely where the party to whom the information has been disclosed (“the recipient”) is on notice of the confidential quality of the information, for example where it is marked as such, or where they have received it secretly because the person disclosing it does not have a right to do so.

If the legal rights of the MPS and/or third parties are significantly engaged by the information which has been disclosed, then there are two principal options for recovery through civil legal action, subject to the attitude to the disclosure taken by the recipient:

- i. Recovery by agreement. This is most likely to be effective where the recipient is responsible and wishes to comply with their civil law obligations. A request based on the MPS’s legal rights in the information could be made for “delivery up” (i.e. return to the MPS) or “destruction” (i.e. deletion). To ensure the effectiveness of such steps, the MPS could require the recipient, through and on the basis of advice from the recipient’s legal representatives, to provide written undertakings as to the status of the material, once the step in question had been completed.
- ii. Recovery by Court action. This is most likely to be effective and necessary where the recipient is not responsible and/or does not wish to comply with their civil law obligations.

Court action for breach of confidence generally

There are key points to note regarding the detail of the complexities of claims for breach of confidence and in particular of obtaining interim injunctive relief in breach of confidence claims:

- Legal advice will need to be obtained on each occasion that Court action is seriously contemplated. The law, procedure, and merits of any urgent application of this kind can be complex and fact sensitive. Maintaining the confidentiality of the information which is sought to be protected through the litigation process, such as through hearings in private, and the anonymisation of proceedings, is a particularly difficult issue.
- Possible defences and other related issues, such as journalistic source protection, freedom of expression (Article 10 ECHR), and a public interest defence may come

into play and will require consideration and advice. It is possible that the journalists in receipt of material (as was the case here) may have invoked their status as a journalist and the source relationship with David Cook, as part of any response to an actual or threatened injunction against him.

Recommendation Outcome:

The MPS has produced new bespoke detailed guidance for officers and staff when dealing with a Data Breach and the recovery options available. This is supported by an implementation plan across the MPS to all staff and signposted on our internal intranet system.

Furthermore, the CoP and NPCC will review the new MPS guidance with a view to wider national learning across policing and the review of the current APP and guidance.

Current status: Complete

Recommendation 8 – Lead organisation: Metropolitan Police Service (MPS)

“Guidance should be issued by the Metropolitan Police to enable officers to determine whether it is appropriate, necessary and lawful to disclose investigative material to journalists. That guidance should include a requirement to record by whom, to whom and when any such evidence was disclosed, who authorised the disclosure, the reasons for the disclosure of the material, and the express conditions upon which the information is disclosed.”

Context

Framework for engaging with media

The College of Policing’s Authorised Professional Practice (APP) on Media Relations provides the following framework for engaging with the media:

‘As a simple rule the police officers and staff should ask ‘Am I the person responsible for communicating about this issue and is there a policing purpose for doing so?’ If the answer to both parts of this question is ‘yes’, they should communicate with the media.’

The MPS adheres to the national guidance set by the College of Policing. In addition, the MPS further supports through detailed bespoke guidance and a toolkit for officers and staff.

The MPS Media policy highlights: “All decisions should be underpinned by the National Decision Model which takes account of the legal framework and places the police Code of Ethics at its heart”

The National Decision Model (NDM) is suitable for all decisions and should be used by everyone in policing.

Recording contact with the media

The College of Policing Media Relations APP and MPS media policy toolkit includes stipulations for recording contact and the nature of that contact with journalist and provides guidance about releasing information to media during and after investigations.

A media contact register for MPS Management Board members and NPCC rank officers is collated and published monthly on the MPS website.

Guidance states officers below NPCC rank and staff equivalent level should keep their own note of their contact with a journalist and what information they have provided which can be audited by line managers on an ad hoc basis.

In general, the same guidance applies to high profile or sensitive cases. In such cases, information should be released, as agreed by a Gold commander and the SIO / PIP 4, in line with the strategy set for the investigation.

The current MPS media policy toolkit and information sharing policies were reviewed. The following key issues were identified:

- Guidance and recording processes had not previously existed to assist officers of all ranks on how to record decisions if considering whether there was a policing purpose for disclosing investigative material to journalists.
- Although guidance had been available around the release of information and in some cases recording contact with journalists, the MPS Media Policy toolkit had not explicitly advised that officers “record by whom, to whom and when any such evidence was disclosed, who authorised the disclosure, the reasons for the disclosure of the material and the express conditions upon which the information is disclosed.”
- The Code of Ethics satisfies part of the recommendation that officers should consider “whether it is appropriate, necessary and lawful to disclose investigative material to journalists,” and the College of Policing’s Authorised Professional Practice (APP) on Media Relations which firstly ensures the policing purpose criteria is first met.
- New guidance was necessary to address the release of investigative material to third party media sources as it was considered that the advent of online platforms had changed the historical understanding of journalist.

Recommendation 8 Activity:

The MPS accepted this recommendation.

New guidance has been developed for the MPS General Investigation Policy (Guidance on the exceptional circumstances that investigative material is disclosed to a media related third party).

The new guidance provides officers and staff with a definition of ‘investigative material’, the methods to record the contact and signposts them to the National Decision Model, Code of Ethics and MPS Information Code of Conduct to remind them of their legal obligations. It is accepted the disclosure of investigative material is quite exceptional and must be driven by a strong policing purpose.

It includes guidance that must be followed when considering the disclosure of investigative material to any person associated with the print media, television, radio, online platforms, social media networks (examples are journalists and bloggers).

The implementation programme commenced at the beginning of the year. The new guidance has been circulated across the MPS. The inclusion of this guidance to officer recruit training and Professional Development Days has been completed and will be part of the training programme through this year.

Whilst the Metropolitan Police Service are leading on this recommendation, the College of Policing are coordinating with the MPS as there is potential for amendments to the APP. This remains under review for national consideration.

Current status: Complete

Recommendation 12 – Lead organisation: Metropolitan Police Service (MPS) and Independent Office for Police Conduct (IOPC)

“The Metropolitan Police must ensure that the necessary resources are allocated to the task of tackling corrupt behaviour among its officers. Without proper resources there can be no effective fight against corruption. Since the Independent Office for Police Conduct has responsibility for investigating such matters, it must also be properly resourced to do so.”

Context

The MPS counter corruption capability was subject of HMICFRS PEEL Inspection in 2019, and the MPS approach to identified high-level corruption was deemed to be ‘outstanding’.

The MPS is supported by a National Professional Standards and Ethics Governance Framework to co-ordinate work and share best practice across corruption linked thematic areas. There is significant oversight and governance in this field:

- College of Policing (CoP) publishes a number of Authorised Professional Practices (APP) which deliver best practice guidelines in relation to a number of areas of policing including Professional Standards. There are three restricted APP’s specific to counter corruption, titled Prevention, Enforcement and Intelligence. In 2014 the CoP published the Code of Ethics which is intended to encourage personal responsibility and the exercise of professional judgement; empowering everyone in policing to ensure they always do the right thing.
- Each year the Independent Office for Police Conduct (IOPC) carry out a number of investigations into the most serious and sensitive incidents involving the police.
- Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS) independently assess the effectiveness and efficiency of police services. The MPS is regularly inspected.
- MOPAC and the Directorate of Audit, Risk and Assurance (DARA) - The Mayor’s Office for Policing and Crime further hold the MPS to account for delivery of policing services against the Police and Crime plan for London, which sets out the Mayor’s ambitions for the safety of our capital. The Directorate of Audit, Risk and Assurance

provides and internal audit service for the MPS and Mayor's office, specifically on the effectiveness of risk management, internal control and governance frameworks.

- Investigatory Powers Commissioner's Office (IPCO) independently oversee the use of covert investigatory powers, as outlined in the Investigatory Powers Act (IPA) 2016, ensuring that they are used in accordance with the law and in the public interest. The MPS is subject of annual inspection and this supports our legitimacy. As part of the inspection review the DPS is examined to ensure that MPS maintain high levels of professionalism. Previous examinations of the DPS have found our compliance to be 'outstanding'.

The DPS are the delivery lead, with two teams dedicated to counter corruption work; the Anti-Corruption Command and Intelligence Bureau.

The MPS tackles corruption across the full spectrum of the extended police family (staff, contractors, volunteers and officers) as well as threats coming from organised crime and individuals who seek to exploit our workforce.

Strategically, the MPS ensures the capacity and capability of professional standards at Management Board level through the MPS Business Plan 2000–23 and the Force Management Statement.

In response to the confirmation of the National Counter Corruption Strategy in June 2021, the MPS established a Counter Corruption Board chaired by DAC Professionalism. This commenced in November 2021.

The DPS has completed a detailed resources review which covered the following areas:

- Review of portfolio remits and resourcing arrangements
- MPS reporting channels and performance against them
- MPS reactive response arrangements and performance
- Prevention and learning approach
- BCU Professional standards units
- Independent oversight arrangements

A HMICFRS inspection is also ongoing and will include current capability.

Recommendation 12 Activity:

The MPS accepted this recommendation.

The MPS is committed to rooting out corruption and treats allegations of police corruption with the utmost seriousness and has a highly capable counter corruption capability. Whilst corruption is a constant threat to policing, the MPS ability to identify and deal with it has strengthened.

The MPS is unique in that it is the only counter corruption capability within UK Law Enforcement that has intelligence capability independent of the wider force structures. Our teams have extensive experience and expertise in covert policing and counter corruption with established procedures to ensure thorough investigation, with independent oversight through the IOPC.

The MPS has also taken a leading role in developing the National Counter Corruption Strategy, Code of Ethics, new Police Conduct Regulations and works closely with the IOPC to address corruption, including pathfinding work to embed new processes in support of the new 'covert directed' mode of investigation. The MPS is determined to be a learning organisation and has embedded learning as a core element of all investigations.

MPS teams also ensure we assess and where appropriate mitigate risk in respect of declared associations in accordance with the policy, can conduct integrity checks on officers, staff and potential recruits. Covert authorities are managed through a dedicated Regulation of Investigatory Powers Act (RIPA) Gatekeeper function, which is subject to annual oversight governance inspections. The Investigatory Powers Commissioner's Office (IPCO) last inspected the Directorate of Professional Standards in September 2021. This inspection was conducted to assess the level of compliance of this public authority with the RIPA 2000 and Part III of the Police Act 1997 in respect of its use and management of covert surveillance, covert human intelligence sources (CHIS), relevant sources (undercover) and property interference, and with the Investigatory Powers Act (IPA) 2016 in respect of equipment interference. During recent inspections there has been good practice highlighted within the processes and no formal recommendations were received.

In 2019 the MPS introduced the new prevention and learning portfolio into DPS. The aim was to professionalise prevention and develop a culture of learning through three key strands: Prevention, Engagement and Futures.

The DPS has established a comprehensive set of Toolkits, guidance and policies designed to encourage and support reporting of wrongdoing and also mitigate many of the corruption threats identified through the strategic intelligence assessment. For example:-

- Raising Concerns and Reporting Wrongdoing Policy
- Declarable Associations
- Business Interests

Further governance is delivered through the National Police Counter Corruption Advisory Group (NPCCAG), chaired by the NPCC lead for Professionalism, and includes partners from MPS, UK Policing, NCA, HMICFRS, HMPSPS, HMRC, IOPC, CPS, and College of Policing. The NPCCAG identifies corruption priorities by reflecting upon the current Strategic Intelligence Assessment (2020), which identifies threats, vulnerabilities, enablers, opportunities and emerging issues within the wider corruption thematic.

The conclusion from this review is that DPS counter corruption teams are sufficiently resourced to meet current and future demand. The broader Professional Standards Discipline Branch team have increased levels of staffing in 2021 to improve service and support trust and confidence.

Current status: Complete

Recommendation 15 – Lead organisation: Metropolitan Police Service (MPS)

‘Security clearance processes for police officers and police staff are fundamental to any anti-corruption strategy. Regular updating of the security status of each individual is essential to identify any concerns and to enable action to be taken in respect of such concerns. Notwithstanding the assurance received by the Panel from the Metropolitan Police in December 2020, the Metropolitan Police should remain vigilant at all times to ensure not only that it vets its employees in accordance with its new measures, but also that it has adequate and effective processes to establish whether its staff are currently engaged in crime’.

Vetting procedures and progression

A thorough and effective vetting regime is a key component in assessing an individual’s integrity and an integral part in maintaining high ethical and professional standards. It reassures that appropriate checks are conducted on individuals in positions of trust and identifies areas of vulnerability which could damage public confidence.

The MPS Referencing and Vetting Department sits within the Professionalism Directorate and is governed by a number of Boards which also collaborate at a national level.

Over the past three years, a transformational programme of work has been underway across the MPS Referencing and Vetting Department which includes the vetting service. The purpose of this programme of work has been to review ways of working to strive for improvement, and achieve operational excellence. The work undertaken encompassed all key dimensions of change including culture and climate; people and skills; work design; formal management systems; performance management; technology and infrastructure.

All vetting checking processes were standardised as part of the transformation work to improve consistency across the unit and inform the standard against which Quality Controls checks are conducted to provide feedback and development objectives to improve the quality and efficiency of the vetting team.

The MPS follow the national Authorised Professional Practice (APP) on Vetting (2021) and the College of Policing Code of Practice (2017).

The MPS have three “Deviations” from the APP, authorised by the MPS Vetting Board, chaired by the DAC Professionalism, acknowledged by HMICFRS in November 2021 as non-formal deviations as they exceed the minimum national standards.

The three areas where the MPS goes over and above the Vetting APP are as follows:

- Counter Terrorism Check (CTC) as a minimum for all roles in the MPS;
- Police vetting and national security vetting expiry renewal dates are aligned to the earliest date, namely seven years in line with Management Vetting (MV) rather than the usual ten years for Security Check (SC); and
- For positions requiring access to children and vulnerable adults, to ensure officers and staff are re-checked at appropriate intervals the MPS conducts additional Children and Vulnerable Groups Supervision (CVGS) vetting to replicate the Disclosure and Barring Service (DBS) procedure.

In addition, the MPS Vetting team have implemented the following changes through the transformation programme:

- A new Open Source check process definition and working practices to provide leadership, direction and clarity to the vetting team; during their recent inspection HMICFRS deemed this as best practice.
- A PNC Sift function to assist with early recruitment decisions.
- An Equality cell focused on reducing inequalities in vetting outcomes by providing support to applicants that identify as Black, Asian, Mixed or Multi-Ethnic, conduct vetting interviews to establish additive information to inform vetting decisions and to undertake health checks and aftercare services.
- A Quality Control function to assess the work of Vetting Officers against standards to inform learning and development interventions.
- An improved appeals process to afford the opportunity for candidates to constructively test and challenge vetting decisions where they believe there are valid grounds to do so.
- An improved production support to manage vetting exemptions and external force relationships and checking requests.
- An improved process in relation to the Vetting Panel which provides an independent test and challenge function, independently chaired by Commander for Crime Prevention, Inclusion and Engagement representation from Directorate of Professional Standards, HR, Deputy Commissioner's Delivery Group, Black Police Association, Chair of the Staff Support Associations and the Chair of the Race Independent Advisory Group. The Panel review all failed cases and a dip sample of cleared cases where feedback provides insight for change and improvement.

The MPS Vetting Service is subject to independent audit by both MOPAC's Directorate of Risk and Assurance (DARA) and HMICFRS. The latest DARA follow up audit review undertaken in November 2020 highlighted an improvement in vetting services from a 'Limited Assurance' rating to 'Adequate Assurance' (i.e. the second highest rating assessed as 'risks are generally managed effectively although some improvement in the application of controls is required'). The remaining DARA recommendations that are part-complete will be fully implemented with the continued focus on the renewals, following the recruitment of new Vetting Officers to ensure renewals are completed during the three months prior to vetting expiry, and the implementation of the new vetting IT system. The completion of this work will also address the recommendations made by the HMICFRS.

The final phase of the transformational plan of activity for MPS vetting focused on designing a sustainable vetting service.

Each component of the existing vetting service was evaluated and a gap analysis undertaken to inform future design considerations. This diagnostic exercise covered the six key dimensions of change namely; culture and climate; people and skills; work design; formal management systems; performance management and infrastructure and technology. New functions were introduced into the future ways of working to ensure a viable system of operation.

Resourcing levels have been aligned to demand profiling and capacity planning modelling and continue to be reviewed through collaboration with our customers across the Met. The vetting team operate under a flexible resourcing model allowing Vetting Officers to support work across the pipelines, with the exception of enhanced vetting which is funded by CT, and therefore ring-fenced. However they also complete enhanced vetting for other areas in the MPS, i.e. Met Operations and Professionalism, on a best endeavours basis.

During Q3 FY2021/22 a further review of vetting capacity and demand was conducted following the loss of temporary staff and on-going, increasing demand from the Police Uplift Programme. As a result, the MPS has invested in over 40 new posts in late 2021 to significantly increase capacity and the Vetting team. The recruitment process this investment of 37 Vetting Officers and 5 Senior Vetting Officers/Supervisors is ongoing.

Due to the considerably high volume of Vetting cases received to support the Police Uplift Programme, there has been an impact on other vetting cases where we are seeing an increase in processing times for contractor and staff vetting. Until the increase in capacity is achieved through recruitment, a team of individuals with the requisite skills from across the MPS, has been identified and have been seconded with immediate effect into the Vetting team to assist with the surge in demand.

Within the MPS the backlog in legacy of vetting renewals has been cleared. In January 2022 there were 834 Vetting renewals being addressed by the Vetting team. This has been reduced from over 18,000 in May 2018. An escalation process is now in place to remove IT and building access from those who do not return vetting renewal forms and there are currently a number of cases where this action has been taken. A dedicated vetting renewals team is in place to manage vetting renewals as business as usual. The introduction of the new Vetting IT system will see this process automated where officers and staff are informed of their renewal in advance.

Current status: Complete

5.1 Other Lead Organisations Recommendations

Recommendation 7 – Lead organisation: Crown Prosecution Service (CPS)

“It is recommended that the Crown Prosecution Service’s additional guidance should be amended to include a requirement that the Prosecutor should consider whether the information was disclosed with a view to one or both parties securing future profit from the use of that material. Moreover, the additional guidance should also be amended to note that the advantage to the parties disclosing the document(s) may not be purely financial but, as in the case of former DCS David Cook and Michael Sullivan, could be reputational and could have improved their employability in the future.”

Context

Former DCS Cook has been investigated fully regarding Misconduct in Public Office and Data Protection Act offences in three separate operations (Elveden, Megan, Edison). The CPS Specialist Prosecutor's conclusions, at the time, were based on a number of factors:

- They had seen no evidence that David Cook received any financial gain, or that the sending of emails was responsible for the failure to prosecute or had caused damage to the murder investigation.
- The 'sole purpose' of a number of the emails sent by David Cook to Michael Sullivan was to further the 'Book Project', the aim of which was to 'put the record straight' in relation to the previous investigation into the murder of Daniel Morgan, and to put forward the Metropolitan Police's and David Cook's approach to the investigation in a positive light.
- The sending of information by David Cook to Michael Sullivan did not amount to an abuse of the public's trust in the office holder to the very high threshold required for a prosecution.

The Specialist Prosecutor concluded that he was satisfied that he had sufficient information to assess the broad extent of the criminality of David Cook, concluding that it was unlikely that there would be sufficient evidence for a realistic prospect of conviction in relation to an offence of misconduct in public office and, in addition, there were potential statutory defences available to David Cook for an offence under the Data Protection Act 1998.

The subject of gain or future gain is not discussed in any detail within either the offence of Misconduct in Public Office or the Data Protection Act.

The Law Commission have recently made a recommendation to repeal the offence of Misconduct in Public Office and replace it with two statutory offences of: Corruption in a Public Office and Breach of Duty in a Public Office. This process is ongoing.

Police conduct is governed under The Police (Conduct) Regulations 2020. These regulations detail the enhanced processes when handling matters of misconduct. These allegations of police misconduct will be investigated by the Directorate of Professional Standards (DPS).

Recommendation 7 Update

A representative of Crown Prosecution Service attended both of the MPS-hosted roundtable events. The CPS has informed the MPS that they will independently update the Home Office on their response to this recommendation.

The CPS has reviewed its guidance in light of the recommendation and has made a change to reflect the concerns.

Recommendation 9 – Lead organisation: Home Office

“Government should act on its stated intention in 2013 to require licensing measures, introduce legislation to ensure the creation and use of standards, and implement the recommendation in the 2016 review concerning the regulation of private investigators.”

Context

As referenced in the DMIP report the Government announced in July 2013 its intention to regulate the activities of private investigators by requiring them to be licensed by the Security Industry Authority (SIA). This was in response to a growing industry of unregulated activities that allowed anyone to work as a private investigator, regardless of their skills, experience or criminal convictions. This presented a high risk of rogue investigators unlawfully infringing on the privacy of individuals.

The Home Office has informed the MPS that they intend to update the public independently on their response to this recommendation.

Recommendation 10 – Lead organisation: Home Office

“Given the potential seriousness of such offences, it is recommended that the Government take an early opportunity to amend the Data Protection Act 2018 to provide for sentences of imprisonment for offenders.”

Context

The Data Protection Act (DPA) defines the ways in which information about people may be legally used and handled. The main intent is to protect individuals against misuse or abuse of information about them.

The relevant sections of the act that the Panel refers to are Section 55 Data Protection Act 1998 which was superseded by Section 170 Data Protection Act 2018.

There are no custodial sentences in respect to any offences under the Data Protection Act 2018 and no powers of arrest; all offences are punishable only by way of a fine.

The UK Government have said that they are considering amendments to Data Protection legislation following the UK’s departure from the EU.

Recommendation 10 Update

The Home Office and Department of Digital, Culture, Media and Sport (DCMS) are responsible for considering this recommendation.

The Home Office provided the following update in November 2021:

“Custodial sentencing is not currently seen as a reasonable response to a breach of data protection. CPS may wish to comment further on this. Since the updated data protection legislation in 2018, breaches of data protection law can result in significant fines of up to £17.5m or 4% of a company’s worldwide turnover. This is seen as an appropriate deterrent and custodial sanctions are not necessary. It would be inconsistent with similar breaches of law such as breach of confidence. Custodial sentences are reserved for the most serious

offences and are imposed when the offence committed is “so serious that neither a fine alone nor a community sentence can be justified for the offence” (section 230(2) of the Sentencing Code).

The Home Office has informed the MPS that they intend to update the public independently on their response to this recommendation.

Recommendation 11 – Lead organisation: Investigatory Powers Commissioners Office (IPCO)

“The Panel is concerned that the policies and procedures relating to the use of informants by law enforcement agencies still allow scope for corrupt practices, and it recommends that the Investigatory Powers Commissioner takes this into consideration during inspections.”

Context

The informant handling process in place in 1987 bears no resemblance to the current Covert Human Intelligence Source (CHIS) management process. The relevant legislation, the regulatory frameworks which enable scrutiny, accountability and the structures that are in place today provide extensive supervision, oversight and safeguards.

The introduction of the Regulation of Investigatory Powers Act (RIPA) 2000 provided a clear legislative framework with an independent oversight regulatory regime and independent scrutiny. Officers involved in the handling and management of CHIS go through specific selection and training processes prior to taking up post which focuses strongly on legislation, authorisation processes, human rights and risk management.

Public authorities must ensure that all use or conduct of CHIS (informants) is: necessary and proportionate to the intelligence dividend that it seeks to achieve; in compliance with relevant Articles of the European Convention on Human Rights (ECHR), particularly Articles 6 and 8. The Act also created an oversight regime allowing for annual inspections by independent inspectors overseen by judicial commissioners.

This new process dovetailed into other statutory process for oversight. The Criminal Procedures and Investigation Act (1996) created a statutory revelation regime for relevant highly sensitive material. This had the effect of creating another level of external and judicial supervision and oversight of CHIS material. IPCO independently oversees the use of investigatory powers, ensuring they are used in accordance with the law and in the public interest. It is overseen by the Investigatory Powers Commissioner, Sir Brian Leveson. IPCO inspect the MPS annually and can inspect on an ad hoc basis if any specific issues of concern are raised – this has never occurred in relation to MPS CHIS related matters.

In addition to the external IPCO inspections, the MPS also has a process of internal inspections, carried out by peers or bespoke inspections when needed or requested. The MPS also assist with inspections and guidance for linked dedicated source units within the professional standards and counter terrorism arenas. The MPS have agreements with

these commands to ensure that there is effective oversight and the concept of one controlling mind for the CHIS authorisation and supervision is maintained.

The MPS is confident that the management of CHIS related matters is of the highest standard, and have a strong record of compliance. Recent IPCO inspections have been positive in regard to the MPS processes, no errors were noted through the most recent inspections.

This is rightly a highly scrutinised area of covert policing and one that engages conflicting human rights. Initial training for officers, which include the national occupational standards set by the College of Policing, is supported by mandatory continuous professional development. There is annual MPS organisational wide training and there is also a programme of re-training for handlers and controllers that have been in post for number of years.

The College of Policing are cognisant of this recommendation and are including the review of the lessons learnt for national policing into their Business Plan for 2022/23.

Recommendation 11 Update

IPCO provided the following update on their response to this recommendation:

“Management and governance of authorisations for the conduct, use and management of an individual as a CHIS is legislated under the Regulation of Investigatory Powers Act 2000, together with the Home Office Code of Practice 2018 and recent changes in the CHIS (Criminal Conduct) Act 2021. National guidance is also provided by the College of Policing in their APP.

The Investigatory Powers Commissioner’s Office (IPCO) independently oversees the use of these powers and conducts annual inspections to ensure compliance by law enforcement agencies. Experienced Inspectors will also carry out further ad hoc inspections as required, should particular concerns arise, and overall findings are reported in IPCO’s Annual Report. Handling the risks associated with the use of CHIS are a key focus for IPCO. Their inspections include interviews with those in handler and controller roles and detailed scrutiny of the paperwork around the authorisation and management of CHIS, to ensure that risks are properly understood and mitigated by individual agencies.” IPCO Future Plan - This is, and will remain, a core focus of IPCO inspections and the Investigatory Powers.

Recommendation 13 – Lead organisation: Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)

“It is recommended that Her Majesty’s Inspectorate of Constabulary and Fire & Rescue Services conduct a thematic investigation of the operation of the practices and procedures introduced following the adoption of the Code of Ethics in 2014 to determine whether sufficient resources are available to ensure appropriate protection of those police officers and police staff who wish to draw alleged wrongdoing to the attention of their organisations.”

Context

The HMICFRS is an independent body which has statutory responsibility for the inspection of police forces in England and Wales. HMICFRS core role is an annual inspection programme for police forces in England and Wales. The Home Secretary may also require HMICFRS to carry out further inspections of police forces, beyond the terms of the annual inspection programme.

Nationally, officers in England and Wales are reminded of their obligations and duty to report breaches of Professional Standards as emphasised by the Code of Ethics – Challenging and Reporting Improper Conduct. Reporters of wrong doing are also protected by legislation enshrined the Employment Rights Act 1996 (as amended Public Interest Disclosure Act (PIDA) 1998).

The HMICFRS terms of reference for this inspection (due to report late March 2022) were to examine the current counter-corruption arrangements in the MPS:

- How well does the MPS prevent, manage, understand, and investigate potential corruption?
- How effective was the MPS' organisational learning response to the Daniel Morgan independent investigations and reviews?
- How appropriately did the MPS respond to the independent panel's requests for disclosure and access to material?

Following the sentencing of Wayne Couzens the Home Secretary commissioned a national inspection to examine:

- How effective and rigorous are current vetting standards and how well do forces identify the correct vetting levels of officers and staff and vet and re-vet them in accordance with the requirements for their roles?
- How effective are the vetting arrangements for police officers and staff who intend to transfer from one force to another?
- How effectively do forces prevent, manage, understand, and investigate potential corruption among their police officers and staff?
- How effectively do forces identify, prevent, detect and deal with prejudicial and improper behaviour based on gender by their police officers and staff?

The Commissioner of the Metropolis initiated an independent review of the MPS's culture and standards led by Baroness Louise Casey. In addition, the Rt Hon Dame Elish Angiolini QC will lead a two-part non-statutory inquiry to address the issues raised by the abduction, rape and murder of Sarah Everard following a Home Secretary commission.

HMICFRS Inspection Report due late March 2022.

Recommendation 14 – Lead organisation: Home Office and College of Policing

“All police officers and police staff should be obliged to register in confidence with the Chief Officer of their police force, at either their point of recruitment to the police force or at any point subsequent to their recruitment, their membership of any organisation, including the Freemasons, which might call their impartiality into question or give rise to the perception of a conflict of loyalties.”

Context

Membership of any organisation which calls into question an officer's impartiality should be notified under a force's Notifiable or Declarable Associations policy. Historically the issues of a register of membership of the Freemasons has been considered within policing.

The report states:

‘The Panel has seen no evidence that Masonic connections were a factor in Daniel Morgan's murder, nor that they were improperly deployed to frustrate the investigations into it. However, there is evidence of the concern about the extent to which Masonic loyalties might conflict with those which police officers owe to each other and to the public by virtue of their office. Although the Panel has seen no evidence that Masonic connections were a factor in the murder, or that they were improperly deployed to frustrate the investigations into it, the documentation shows that suspicions were entertained by investigating officers over several decades’. (Chapter 10, paragraphs 464- 478)

Declaring membership of the Freemasons has been a matter of debate within policing and other public bodies for many years. Case law exists following a European Court of Human Rights (ECHR) judgement in 2007. The judgement relates to regional law in Italy which required candidates for the nomination and appointment to public office at regional level to declare whether they are members of any Masonic or secret association. The absence of a declaration was a grounds for refusing appointment. The court ruled that in these circumstances a requirement to declare membership of Freemasonry is a violation of Article 11 – Freedom of assembly and Article 14 – Prohibition of Discrimination.

The following MPS policies are relevant when considering this issue:

- Regulation 6 of the Police Regulations Act 2003 states that; ‘no restrictions other than those designed to secure the proper exercise of the functions of a constable shall be imposed by the police authority or chief officer on the private life of members of a police force.

This is supported by two standard operating procedures (SOP):

- Business Interests, Secondary Employment and Political Activities. This contains reasonable restrictions to enable the proper exercise of the functions of a constable. These include restrictions on political activity (e.g. British National Party (BNP) membership).
- Declarable Associations (DA) This was introduced to mitigate further risk which states that a member of the MPS must always notify an association with a person, group or organisation where they know, consider or suspect that they are associated with criminality, persons who have been dismissed or required to resign from a police service or other law enforcement agency, and persons including former police

officers who are working in related fields of employment i.e. private investigation, the security sector.

A working group made up of representatives from the College of Policing (CoP), NPCC, Home Office, Counter Corruption Advisory Group (NPCCAG) and the MPS was formed to consider how national policing should respond to this recommendation. Whilst there are existing requirements in regulations which place restrictions on the private lives of members of a police force, there is nothing which creates an 'obligation to register' as detailed in the Panel's recommendation.

It was concluded that to comply with the wording of the recommendation would require new legislation – to make officers and staff be 'obliged to register' goes beyond that which is in place currently within Police Regulations, Standards of Professional Behaviour, Code of Ethics and force specific Notifiable Association policies.

Recommendation 14 Conclusion

There is currently no legal framework to enforce the declaration of Freemasons membership.

The College of Policing and Home Office are designated leads for this recommendation. The MPS will continue to support the College as this work is progressed. Senior level stakeholders and consultation remains underway.

Recommendation 16-23 – Lead organisation: Home Office and College of Policing

The final eight recommendation all relate to the responsibility, process and relationship with Panels and the commissioning government body and institution being inspected. Rather than provide detail against each of these recommendations, it is appropriate to capture the cross-cutting themes collectively as the issues are linked. The recommendations are led by the Home Office and when appropriate national policing.

'Recommendation 16' - In the interest of transparency and public accountability, all public institutions should be under a duty to cooperate fully with independent scrutiny bodies created by Government, such as the Panel.

'Recommendation 17' - Panel recommends the creation of a statutory duty of candour, to be owed by all law enforcement agencies to those whom they serve, subject to protection of national security and relevant data protection legislation.

'Recommendation 18' - Prior to the establishment of any future non-statutory inquiries or panel, there should be an honest and full discussion between the relevant police force(s) and the sponsoring Government department, to enable a realistic, informed assessment of the nature and volume of documentation in all its forms, and of the scope and depth of the work required. Framework procedures, capable of being customised, for the disclosure of material to such panels should be available, so as to avoid excessive delays in reaching agreement for access to material. Deadlines should only be established when the relevant inquiry or panel has had the opportunity to review the programme of work it is required to

do. Any such deadline should be supported with an analysis explaining how the projected deadline has been identified, and why that is a reasonable time within which the work should be completed.

‘Recommendation 19’ - Arrangements must be made in future to ensure that any Panel has timely access to the material required to do its work. Organisations that promise to make ‘exceptional and full disclosure’ should be prepared to do so both within the letter and the spirit of such a promise.

‘Recommendation 20’ - All independent panels and inquiries examining police investigations should be given full access to the associated HOLMES accounts at their secure premises when they begin their work.

‘Recommendation 21’ - In order to avoid most of the delays and difficulties inherent in this case, and in so many other unsolved cases, there is a need for a review of the processes for archiving historic material with a view to creating a system which can produce national and local documents as required.

‘Recommendation 22’ - In any future Panel inquiry, arrangements should be made for the storage of sensitive material in the Panel’s premises, in a similar manner to provision made for inquiries being conducted under the Inquiries Act 2005.

‘Recommendation 23’ - It is recommended that, whenever a major incident remains under investigation or inquiry, documents should be retained in digitised form, subject to appropriate security measures and made available to those who subsequently and justifiably require access to them.

The Independent Panel report details the frustrations they felt with the MPS throughout the period of their work. The MPS were committed and remain committed to doing everything possible to support the work of statutory and non-statutory inquiries.

The MPS has worked closely with the College of Policing and NPCC to establish learning.

Context

Public inquiries fall broadly into two categories:

1. Statutory Public Inquiries

The term ‘public inquiry’ refers to Inquiries set up by Government ministers under the Inquiries Act to investigate specific or controversial events.

Their purpose is to establish the facts, learn from events, catharsis exposure, to provide reassurance and re-build public confidence, provide accountability and provide political consideration.

The main differences between statutory and non-statutory inquiries are that a non-statutory inquiry has to rely on the voluntary compliance of witnesses, it cannot take evidence on oath, and statutory inquiries held under the Inquiries Act operate on a presumption that the hearings will take place in public.

2. Non-Statutory Public Inquiries

Non-statutory public inquiries are inquiries which are not bound by any statute.

Non-statutory inquiries can provide greater flexibility than statutory inquiries and enable a less formal and inquisitorial form of inquiry than a statutory inquiry. The majority of non-statutory inquiries address issues that do not relate to policing, such as health, education and prisons. A perceived benefit of holding a non-statutory inquiry is that it can be held in private where matters of security or of a sensitive nature can be examined.

Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.

It is important to emphasise that legislation exists for policing following the amendments to the Police (Conduct) Regulations 2020 which include, within Schedule 2 'Standards of professional behaviour', a compulsion to cooperate as a witness to investigations carried out by the IOPC, and investigations conducted by force Professional Standards Departments in addition to cooperation with inquiries and formal proceedings:

Duties and Responsibilities

Police officers are diligent in the exercise of their duties and responsibilities.

Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness'.

The impact of Inquiries on trust and confidence in policing is well recognised. The National Police Chief's Council (NPCC) and College of Policing have been engaged for some time with the Hillsborough families and through this constructive engagement the Chair of the National Police Chief's Council, wrote to all Chief Constables to inform them that on 13th September 2021 he would be signing, on behalf of the NPCC and all 43 forces in England and Wales, 'The Charter for Families Bereaved through Public Tragedy'. The NPCC chose to adopt the Charter that arose from Bishop James Jones' report into the experience of families after the Hillsborough disaster. The MPS are fully represented and supportive of this decision.

The Charter calls for the lessons of the Hillsborough disaster and its aftermath to be learned so the same mistakes are not repeated. While the NPCC recognise the importance of acting openly and transparently and of placing the public interest above reputational considerations, the signing of the Charter provides an important signal about their willingness to do so. It encourages them to look critically upon their actions and always to strive to act in accordance with the commitments the Charter sets out. Each of its commitments are, naturally, understood to apply within the context of the law as it happens to be at any time.

By signing the Charter, policing is committing to approach public inquiries, inquests, and other examples of formal scrutiny openly, honestly and transparently, making full disclosure of the relevant documents, material and facts. This does not override the procedural rules or directions applicable to such proceedings, or the data protection and freedom of

information laws, rather it is a commitment to avoid defensiveness and present the full picture as openly as possible.

While they have made several changes already in policing to address the recommendations of Bishop James' review, the signing of this Charter demonstrates their ongoing commitment to act in accordance with its principles and within the context of our legal obligations.

The MPS has developed a process and documentation for the approach and working with future panels and this will be disseminated to relevant MPS teams in preparation for a new inquiry or inquest being allocated to the MPS. This is owned and disseminated through the IRSC.

Considerations given to our cooperation ensure the following:

- Not to prejudice any future criminal proceedings.
- Not to prejudice any other criminal, civil or misconduct proceedings.
- To comply with the MPS' obligations under the DPA.
- To comply with the MPS' obligations under the HRA including threats to life.
- To comprehend the duty of confidence such as when disclosing witness statements provided by members of the public purely for criminal proceedings.
- Flag up third party ownership issues surrounding material such as CPS material.
- Consider requests for secret or sensitive information (such as RIPA, CHIS).
- Consider requests for MPS LPP material
- Not to undermine police methodology
- Provide best options for access to sensitive MPS databases.

The MPS operates an open and transparent approach to cooperating with requests received through investigations and inquiries and lessons learned through the experience with the DMIP have been reflected in current practice. The joint NPCC and College of Policing response to Bishop James Jones review of how Hillsborough families were treated is expected to publish later this year. It will explain the multifaceted work that has been completed and is underway, at a national level and being implemented by forces, to promote a more open, ethical police service and a culture that actively embraces learning, including from failings.

New legislation regarding a duty of candour for policing is ultimately a decision for government.

The Home Office and the College of Policing will respond separately to the Home Secretary regarding the recommendations above and the College and NPCC are reviewing this recommendation with a view to wider learning and guidance nationally for policing.

The Code of Ethics is being refreshed and the estimated completion date for this work is 2023. The College of Policing will engage with the IOPC regarding this work.

The MPS is committed to an ethos of openness and transparency (within the legislative framework) and will continue to support the refresh of the Code of Ethics and shall continue to engage with the Home Office and national policing colleagues.

Annex A – Chronology of Investigations and Reviews

10 March 1987 - 37-year old Daniel Morgan was found dead in a pub car park in Sydenham, South London. He had been murdered with an axe.

3 April 1987 - initial investigation: (Operation Morgan) Six men, including Mr William Jonathan Rees – Daniel Morgan’s business partner - Mr Glenn Vian and Mr Garry Vian, alongside three then-serving MPS officers – DS Fillery and DC’s Purvis and Foley - were arrested in connection with Daniel’s murder. They were initially released on bail, however the Crown Prosecution Service (CPS) subsequently decided that there was insufficient evidence to charge them.

11-25 April 1988 - Inquest: A verdict of “unlawful killing” was returned at an inquest at Southwark Coroner’s Court. There continued to be insufficient evidence for the CPS to charge any suspects.

24 June 1988 - Hampshire Constabulary investigation: In February 1989 two men (Mr Rees and Paul Goodridge) were charged with Daniel Morgan’s murder. A third person (Jean Wisden – the partner of Paul Goodridge) was charged with perverting the course of justice. On 11th May 1989, at Fareham Magistrates Court, proceedings against them were discontinued at the direction of the Director of Public Prosecutions due to a lack of evidence. Hampshire Constabulary concluded that there was no evidence of criminal misconduct by MPS officers.

August 1996 - case review

July 1997 to January 1999 – Operations Landmark, Hallmark and Nigeria: New covert investigations into Daniel Morgan’s murder

April 1999 – Operation Two Bridges - This operation resulted in the arrest and conviction of a number of people involved in a separate conspiracy, including a serving police officer and Mr Rees.

1999 to October 2000 - Murder review (Operation Chagford): The MPS Murder Review Group (MRG) re-assessed the Daniel Morgan murder case. They found new investigative opportunities and recommended a re-investigation.

April 2002 - Operation Abelard I/Morgan II: covert investigation into Daniel Morgan’s murder, alongside the later commencement of a parallel overt investigation. Between October 2002 and January 2003, eight people were arrested, some of whom had been arrested previously in connection with Daniel’s death. A file was submitted to the CPS for a charging decision and in September 2003 the CPS advised that there was insufficient evidence for a prosecution. [In the course of this investigation, retired police officer Sidney Fillery’s premises was searched and indecent images of children were recovered from his computer at his office). He was subsequently charged and pleaded guilty to making indecent images of children].

November 2003 – Operation Chagford Inquiry exhausted: The MRG determined that all avenues of enquiry in the Daniel Morgan murder case had been exhausted.

March 2006 - Operation Abelard II: A sixth investigation into Daniel's murder was instigated, led by DCS David Cook with support from both the Serious and Organised Crime Directorate and the DPS. On 23rd April 2008, as a result of the evidence provided by witnesses, four people were charged with the murder of Daniel Morgan. These were Mr Jonathan Rees, Mr Garry Vian, Mr Glenn Vian and Mr James Cook. Mr Sidney Fillery (ex-MPS Detective Sergeant) was also charged with perverting the course of justice, relating to the initial investigation into Daniel Morgan's murder. A further serving police officer arrested on suspicion of misconduct in a public office was released with no further action in September 2009. He was suspended from work and subsequently resigned.

October 2009 – Pre-trial legal arguments commenced before Mr. Justice Maddison – A number of witnesses, including police witnesses, gave evidence at this stage and two lengthy 'Voir Dire' abuse of process arguments took place.

March 2011 – Murder trial discontinued: After considering the issues with the reliability of critical witnesses and difficulties in meeting disclosure requirements, the prosecution's position became untenable and on 11th March 2011 the CPS withdrew the prosecution case and offered no evidence.