

Operation Lynemouth: second interim report

HMICFRS inspection of the Metropolitan Police Service's review and reassessment of alleged criminal offences arising from the 2014 mayoral election in the London Borough of Tower Hamlets

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1. Summary

When we conducted our first inspection in May 2017, we specified eight areas in which we expected significant progress to have been made before our second inspection. We conducted our second inspection in September 2017 and focused on those areas; we also considered the overall investigation in accordance with our terms of reference.

The operation follows the clear and logical processes which we found during our first inspection. Governance is provided through diamond and gold governance groups and the force continues to engage with interested parties, although with mixed success.

We are satisfied that sufficient progress has been made in six of the eight areas we specified in our first report; in two areas we found that there has not been as much progress as we had anticipated. The reasons for this are twofold: the unforeseen amount of material which is involved, and the temporary loss of staff who were deployed to other investigations. The amount of material was an unknown quantity from the outset but the latter should be avoided. Despite the resourcing pressures which the MPS faces, the diamond and gold commanders have assured us that Operation Lynemouth will maintain its current staffing levels.

Nevertheless, the investigation team, which is led by an experienced senior detective, has a sound grasp of the issues and what is required. We were encouraged to find that investigators are taking an imaginative approach and have adopted the broader perspective that was lacking in previous investigations. They are seeking early advice from the Crown Prosecution Service (CPS) as to whether evidence they have already uncovered provides realistic opportunities for further investigation and prosecution.

We have specified again the areas in which we expect significant progress to be made during the next quarter.

2. Introduction

The background to this inspection

In March 2017, the Mayor of London's Office for Policing and Crime (MOPAC) asked Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)¹ to inspect the Metropolitan Police Service's (MPS) investigation of alleged criminal offences arising from the 2014 mayoral election in the London Borough of Tower Hamlets. HMICFRS agreed to proceed, under the provisions set out in Section 54(2BA) of the Police Act 1996 (inserted by Section 83 of the Police Reform and Social Responsibility Act 2011).²

MOPAC agreed that HMICFRS should inspect and provide assurance of the MPS's operation. We were also to provide MOPAC with interim assurance reports on a quarterly basis, with particular regard to governance, resourcing, and progress towards objectives, and to provide a final report, identifying lessons learned and best practice for the future. This is our second interim report.

In our first interim report, we included background detail to provide context. In order to avoid repetition, such material has been excluded from this report, and will be omitted from subsequent reports, unless we consider it necessary for the purpose of clarity.

On 2 May 2017, the MPS established Operation Lynemouth as the new police operation ('the operation'). The operation has been divided into four strands:

- review of 27 files from the election court hearing which declared the result of the 2014 mayoral election (and the re-election of the outgoing mayor, Lutfur Rahman) void;
- review of evidence in relation to electoral fraud;
- reassessment and review of other criminal allegations relating to Lutfur Rahman or the London Borough of Tower Hamlets; and

¹ On 19 July 2017, HMIC also took on responsibility for fire & rescue service inspections and was renamed HM Inspectorate of Constabulary and Fire & Rescue Services. The methodology underpinning our inspection findings is unaffected by this change. References to HMICFRS in this report may relate to an event that happened before 19 July 2017 when HMICFRS was HMIC. Citations of documents which HMIC published before 19 July 2017 will still cite HMIC as the publisher.

² Letter from Matt Parr, HM Inspector of Constabulary, to Sophie Linden, Deputy Mayor for Policing and Crime, dated 10 April 2017.

- City of London Police review of the Metropolitan Police Service’s investigation into Communities, Localities and Culture (CLC) Youth Project grant funding.

We conducted our first inspection in May 2017 and published our findings the following month.³ We specified eight areas in which we expected significant progress to have been made before our second inspection. When we conducted our second inspection in September 2017, we focused on those areas and considered the overall investigation in accordance with our terms of reference.

HMICFRS’ terms of reference

Our terms of reference remain the same and are:

- “1. To inspect and provide assurance of the Metropolitan Police Service’s review and re-investigation of alleged criminal offences arising from the 2014 mayoral election in the London Borough of Tower Hamlets;
2. To further monitor developments through Metropolitan Police diamond and gold governance groups;
3. To provide MOPAC with interim assurance reports on a quarterly basis, with particular regard to resourcing, governance and progress towards objectives; and
4. To provide MOPAC with a final report, identifying lessons learned and best practice for the future.”⁴

Methodology

In accordance with HMICFRS’ terms of reference, we have adopted a staged approach with quarterly inspection fieldwork and interim assurance reports for MOPAC at that frequency. This allows HMICFRS to monitor progress on a regular, structured basis.

During the quarterly period subject of this report, we have attended the MPS diamond (the most senior level of command) and gold (the second most senior level of command) governance group meetings, in accordance with our terms of reference.

In consideration of our fourth term of reference (to identify lessons learned and best practice), we have interviewed a representative of the Electoral Commission and police officers who were involved in policing the 2014 mayoral election. In order to

³ See: www.justiceinspectates.gov.uk/hmicfrs/publications/operation-lynemouth-first-interim-report/

⁴ *Op. cit.*, Parr M., 10 April 2017.

monitor developments, we attended a multi-agency debrief of the June 2017 general election which was hosted by the MPS.

We also met with a representative of MOPAC and interviewed other interested parties, including a petitioner and a councillor.

We revisited the major incident room for the investigation. We interviewed principal members of staff and examined documents in order to assess the rate of progress.

We also interviewed senior officers from City of London Police about their progress in reviewing a previous investigation which the MPS had conducted into youth grant funding (the fourth strand of Operation Lynemouth).

3. Findings

For this section of our report, we have paid particular attention to point 3 in our terms of reference (interim quarterly assurance reports), and have therefore ordered our findings under three subheadings:

- governance;
- resourcing; and
- progress towards objectives.

Governance

We provided detail in our first report of a tiered system of governance which the police commonly use: the gold, silver and bronze command structure. The MPS has applied this for Operation Lynemouth but has supplemented the structure with a 'diamond' level of command. The diamond commander is an assistant commissioner. An officer of commander rank has been appointed gold commander.

The high level of seniority ascribed to these roles is commensurate with the governance requirements of Operation Lynemouth. The diamond and gold commanders each chair a governance group.

The diamond governance group

The diamond governance group meets every two months and continues to work towards the objectives included in our first report. We attended diamond group meetings on 25 May and 19 July 2017.

The meetings dealt principally with matters such as: the progress of the investigation; reviews and inspections (i.e. the HMICFRS inspection, the City of London review of the fourth strand of the operation and a proposed independent review of the operation by another force); resources; legal issues; and communication with interested parties. We believe the objectives, the frequency of the meetings, the agenda items and the attendees to be appropriate for the operation.

The gold governance group

The gold governance group is scheduled to meet every month and continues to work towards strategic aims (set by the diamond group), which we included in our first report. We attended gold group meetings on 17 July and 31 August 2017. A meeting arranged for 14 June 2017 was cancelled because of the Grenfell Tower fire, which occurred earlier the same day. The gold commander for Operation Lynemouth performs the same role for the Grenfell Tower police response.

We are aware of concerns that the gold commander would be distracted from his governance role on Operation Lynemouth by additional responsibilities arising from the Grenfell Tower fire. We are satisfied that, so far, this has not been the case.

The gold group meetings we attended dealt with important matters such as: the progress of the investigation; communication with interested parties; community impact; legal issues; and risks to the operation. We consider the objectives, the frequency of the meetings, the agenda items and the attendees to be appropriate for the operation.

Resourcing

For this aspect of our inspection we again examined two issues: the senior investigating officer's assessment of what resources the operation would need (which had been agreed by the diamond and gold commanders), and the actual level of resources made available and deployed to the operation.

The resource requirement

Before Operation Lynemouth started, the senior investigating officer produced a 'costings paper' which included a resource requirement based on the need for "...sufficient investigative capacity to review, analyse and investigate both historic and fresh allegations".⁵

The resource requirement was for the use of a HOLMES-equipped⁶ major incident room, with a team of 16 police officers and two police staff. We considered this requirement during our first inspection and concluded that it was appropriate. However, we noted that the review process had just begun and that the staffing level may need to be revised in due course. We have not changed our opinion.

The actual resourcing

A HOLMES-equipped major incident room was made available with the team of 18 as requested, and the officers and staff began working on the operation on 2 May 2017. However, at the time of our first inspection five of the constables had been temporarily redeployed to homicide investigations. The officers did not return to the operation until the beginning of July 2017, because of the Grenfell Tower fire and terrorist attacks in the MPS area.⁷ While they were away, the rate of progress was unsurprisingly slower.

⁵ Operation Lynemouth Costings Paper, 25 April 2017.

⁶ The Home Office Large Major Enquiry System (HOLMES) is an investigation management system which is used by law enforcement agencies to investigate serious crimes.

⁷ On 3 June 2017 there were terrorist attacks in the London Bridge and Borough Market areas of London.

Despite the broader resourcing pressures which the MPS faces, the diamond and gold commanders have agreed that Operation Lynemouth will maintain its current staffing levels. We were concerned that, in order to meet demand, the force may deploy officers to the operation who were involved in the original investigations. We raised our concerns with the gold commander and the senior investigating officer (SIO), who assured us that this would not happen.

However, we agree with the SIO's view that the operation would benefit from the addition of a suitably experienced financial investigator to offer strategic advice and practical support. As the MPS's fraud squad has been unable to identify such an individual (and one who was not involved in the original investigation), we have discussed the issue with the City of London Police commander who is overseeing his force's role in the operation. He said that the City of London Police may be able to assist.

The MPS should also consider any short training courses in fraud investigation which the City of London Police could provide to team members with limited, or no, relevant experience.

We commented previously that specialist support may be required as the investigation progresses and were encouraged to see that assistance will be provided by the specialist crime and operations directorate to meet requirements of the Criminal Procedure and Investigations Act 1996 (CPIA) (as amended by the Criminal Justice Act 2003).⁸

Progress towards objectives

For this part of our second interim report we have concentrated on the matters we consider most important and relevant for now: the eight areas in which we expected significant progress during this quarter; the status of each of the various strands of the investigation; the investigative process that Operation Lynemouth has adopted; and the MPS's engagement with interested parties.

Areas specified in the first interim report

We are satisfied that the MPS has made sufficient progress in six of the eight areas we specified in our first report, although in some cases either a written report or policy has still to be produced. We will continue to monitor future progress and, where appropriate, compliance in all those areas.

⁸ Under the Act, full disclosure should be made of all material held by the prosecution that weakens its case or strengthens that of the defence. Investigators must retain material that may be relevant to an investigation and must provide detailed and proper schedules to assist a prosecutor to make an informed decision on disclosure.

However, progress in the remaining two areas, which relate to strands 2 and 3 of the operation, has not been as good as we had envisaged. The reasons for this are twofold: the unforeseen amount of material which is involved, and the temporary loss of staff who were deployed to other investigations. The former will be a feature of this operation but the latter should be avoided.

The specified areas

Risk register: a risk register should be introduced and monitored thereafter through governance groups.

A risk register has been created for the purposes of: identifying business risks to the operation; ensuring that appropriate and proportionate control measures are put in place to manage the risks; and identifying and elevating high risks to the gold group for consideration.

We found that risks are considered and monitored appropriately at governance group meetings and we are satisfied that this area has been addressed.

Master schedule of allegations: a master schedule of all allegations should be completed.

A master schedule has been created but we acknowledge that it cannot be completed until investigations have identified all the allegations. At the time of our second inspection it contained 180 allegations, but this number will increase as the operation progresses.

We are satisfied with progress in this area.

Investigative parameters: parameters should be set to ensure that any investigations are reasonable and proportionate.

The SIO has set investigative parameters, which have been ratified by the gold commander. They can be summarised as follows:

1. any alleged criminal or electoral wrongdoing committed between 25 October 2010 and 23 April 2015, provided: the alleged wrongdoing was connected with the administration of the London Borough of Tower Hamlets; and the said wrongdoing was committed, counselled or procured by a senior figure (or senior figures) within the London Borough of Tower Hamlets; or
2. any other matter which the SIO considers so important that it warrants further investigation, irrespective of whether it meets the above conditions.

We are satisfied that the first investigative parameter provides clarity and an appropriate timeframe; the second will need to be monitored by the gold governance group to ensure that the policy is applied consistently and objectively. All criminal allegations will need to be recorded and investigated. Should the SIO decide to refer

an allegation elsewhere for investigation, his decision and rationale should similarly be recorded.

We are aware of claims by some interested parties that the MPS failed to investigate thoroughly previous allegations because of corruption within the force. We have not found any evidence to substantiate these claims but have been provided with assurance by the diamond and gold commanders that any such evidence will be referred as appropriate for investigation. We have also discussed these matters with the SIO, who will produce a relevant policy for approval by the diamond and gold governance groups.

HMICFRS inspections will provide MOPAC and other interested parties with assurance in respect of this area of work and the application of investigative parameters.

Crime recording: senior officers must ensure that all allegations are appropriately recorded and that the force complies with the National Crime Recording Standard (NCRS).

In responding to our observations, the SIO consulted the MPS's force crime registrar, who is responsible for ensuring compliance with counting rules, as the final arbiter. The SIO then produced a decision log⁹ outlining the crime recording process which Operation Lynemouth must adopt. We are satisfied that the process meets the requirements of the national framework for the recording of crime: the NCRS and the Home Office Counting Rules (HOCR).¹⁰

The 169 allegations of electoral fraud which were investigated previously by the MPS were recorded appropriately at the time. Any further allegations will be recorded as they come to light during the current investigation.

The SIO will produce a crime recording policy based on his decision log. We will monitor its application to ensure compliance with the NCRS and HOCR.

Strand 1 (review of 27 files from the election court): application should be made to the court for authority to access relevant files, in preparation for the review process.

Following application by the MPS's directorate of legal services, the Election Commissioner, Mr Richard Mawrey QC, granted permission on 9 June 2017 for the MPS to access the files from the election court.

This strand of the operation is discussed in greater detail on page 13.

⁹ The SIO records significant decisions which he makes during the operation. The decisions are recorded in written format on electronic decision logs.

¹⁰ For more information see: www.gov.uk/government/publications/counting-rules-for-recorded-crime

Strand 2 (review and reassessment of a previous investigation into electoral fraud): this strand should be completed.

At the time of our inspection, 52 of the original 169 allegations of electoral fraud had been reviewed. Current estimates suggest this strand will be completed before May 2018.

This strand of the operation is discussed in greater detail on page 13.

Strand 3 (other criminal allegations relating to Lutfur Rahman or Tower Hamlets): all relevant material (including that held by third parties) should be collated in preparation for the review process.

The operation has gathered material from the force's fraud squad and special enquiry team, which undertook previous investigations, but is still in the process of obtaining third-party material.

This strand of the operation is discussed in greater detail on page 14.

Strand 4 (City of London Police review of the previous investigation into grant funding): this strand should be completed.

The City of London Police has concluded its review and has produced a draft report. The MPS will need to consider the findings of the review when in possession of a final report.

This strand of the operation is discussed in greater detail on page 14.

Status of each strand

The work thus far indicates that the operation will run until at least the end of 2018. However, the MPS is aiming to complete strand 2 (electoral fraud) before the May 2018 mayoral election in Tower Hamlets.

We mentioned in our first report that the operation would work with the CPS and counsel to assess evidence from all the strands in its totality. This assessment was to consider a broader range of offences which would include, but not be limited to, offences of conspiracy (contrary to the Criminal Law Act 1977) and misconduct in a public office (contrary to Common Law).

It would appear that the original MPS investigation failed to secure pivotal evidence which could have led to further enquiries. Operation Lynemouth has done so and is seeking early advice from the CPS as to whether the evidence provides realistic opportunities for investigation and prosecution.

We were encouraged to find that this work is well underway and that a comprehensive report is being prepared for consideration by the CPS. However, this should not be interpreted as the conclusion of an investigation: the CPS advice will be used to provide focus and direction to achieve maximum effect.

Strand 1 (election court files) – work underway

On 9 June 2017, Operation Lynemouth obtained authority from the Election Commissioner, Mr Richard Mawrey QC, to access the 27 files from the election court hearing. The files comprise over 10,000 pages, which will be assessed in due course for evidential opportunities.

The operation's major incident room staff are also considering transcripts of oral evidence from the hearing, which they have entered onto the HOLMES system. They are raising actions¹¹ for further enquiries where appropriate.

An early assessment of the court files has indicated that they duplicate a lot of material which was available by other means and already in the MPS's possession by virtue of the original investigation. That material is being considered as a priority under strand 2, and to avoid further duplication will not be assessed in the meantime under strand 1.

We acknowledge that finite resources dictate that Operation Lynemouth must prioritise its work in accordance with evidential opportunities and avoid wasted effort. However, the operation must review every strand and pursue evidential opportunities in accordance with its terms of reference before drawing the investigation to a conclusion.

Strand 2 (electoral fraud) – work underway

This strand is concerned with the review and reassessment of the previous investigation into 169 allegations arising from the 2014 election. It was envisaged that Operation Lynemouth would have completed this strand by the time of our second inspection. This has not been possible, primarily because of the amount of material involved.

The previous investigation was conducted by the special enquiry team, which has provided the operation with 30 boxes of material and access to 2,300 files of electronically-held data (referred to as the 'S drive').

Work on the previous investigation files is well underway and at the time of our second inspection 52 out of 169 cases had been reviewed; it is anticipated that the remainder will be completed by early 2018. However, this does not take into account the electronically-held data, much of which could duplicate the material in the 30 boxes of files. The team will need to make significant progress if strand 2 is to be completed before May 2018.

¹¹ An action is any activity which, if pursued, is likely to establish significant facts, preserve material or lead to the resolution of the investigation.

Strand 3 (other criminal allegations) – work underway

This strand concerns the review and reassessment of other criminal allegations which do not fall into the categories of the previous two strands. This strand is very broad and we were pleased to see that the SIO has now set parameters for the investigation (see page 10). Nevertheless, the amount of material that this strand will generate is still unknown and presents a risk to the operation.

Much of the material is currently in the possession of third parties. A logical, though detailed, process has been introduced for collating and cataloguing that material and for introducing it evidentially with written witness statements. During our inspection, those assigned to this task displayed commitment and a sound understanding of what was required of them.

The MPS's fraud squad considered ten matters during the original investigation, including allegations of fraud, bribery, perjury and tax evasion, but did not make any arrests. Operation Lynemouth has already identified potential evidential opportunities, although there is still much work to be done.

Strand 4 (Youth Project grant funding) – work underway

This strand, a review of a fraud investigation, has been undertaken by the City of London Police, in recognition of that force's expertise in investigating fraud. The review has been completed and the City of London Police has drafted a report detailing its findings.

The MPS will need to consider carefully any evidential opportunities which the report highlights for Operation Lynemouth and review its systems and processes if appropriate.

The investigation process

The operation continues to follow the clear and logical processes which we found during our first inspection. The strategies and policies which were introduced at the outset have been supplemented as the need has arisen and further policies will be introduced, such as a crime-recording policy.

The investigation is still at the first stage, which involves reviewing existing material and engaging with interested parties to identify further opportunities. We were encouraged particularly by the processes which have been introduced for interviewing witnesses and for dealing with material of potential evidential value ('exhibits').

The product of this stage of the investigation will then be evaluated in conjunction with any CPS advice to determine the future direction of the operation. In doing so, the team will adopt a comprehensive approach rather than considering pieces of information and evidence in isolation, as happened in the past.

This methodical process is time-consuming and resource-intensive but provides essential foundations on which to build.

Interviewing witnesses

A structured process for interviewing witnesses has been introduced to distil large quantities of information into material of relevance and potential evidential value. It requires trust on both sides and interviewees are advised at the outset of the need for confidentiality and that conversations must not be used for political gain.

We met with the detective whose role includes co-ordinating the operation's interviews. She had been selected for the role on the basis that she had considerable experience in co-ordinating witness and suspect interviews in cases involving major and complex crime. She was responsible for developing the witness interview strategy for the operation and displayed a sound understanding of the evidential issues.

Exhibits

The exhibits officer¹² for Operation Lynemouth has the difficult task of dealing with two exhibits systems: that which was used for the original investigation and the current system for new exhibits. She has introduced a logical process for merging the two systems but difficulties arise when original exhibits, or accompanying witness statements, cannot be located. This presents a risk to the operation, as every exhibit has to be accounted for, but the exhibits officer is identifying and addressing any shortfall at an early stage.

Further independent review

When the acting commissioner of the MPS outlined his proposals to the deputy mayor for policing and crime on 20 March 2017,¹³ he stated that an external force was to be commissioned to conduct an independent review of the operation in three months' time.

When we conducted our first inspection we felt that this further layer of external assurance may be unnecessary at the three month stage (August 2017) and that the question of an external review should be considered by the diamond and gold commanders when the four strands are nearer to completion. We have not changed our opinion.

¹² In large-scale enquiries a dedicated exhibits officer may be appointed. The exhibits officer's responsibilities include the handling, storage and recording of relevant material.

¹³ Letter from the acting commissioner to the deputy mayor, dated 20 March 2017.

Engagement with interested parties

Public confidence remains an important component of the governance groups' aims and objectives. The groups continue to monitor the effect of the operation on the community and the gold commander reviews the media strategy at his monthly meetings. The gold commander has also attended a meeting of the Tower Hamlets Safer Neighbourhood Board.

Community engagement is one of the borough commander's main responsibilities and she continues to attend gold meetings. She is in daily contact with the local community and closely monitors the situation. Difficulties can arise when interested parties spread misinformation about the operation, whether deliberately or otherwise, and at the time of our inspection the gold commander and the borough commander were taking steps to address an example of this.

On 20 July 2017, the SIO wrote to eleven interested parties to provide an update on the investigation; only two people replied.

At this stage, we still consider the MPS is taking adequate steps to engage with interested parties and communicate effectively.

4. Conclusions

In conducting our quarterly inspections, we consider the progress that has been made to date and the progress that we would anticipate during the following period.

Progress to date

The investigation continues to follow a structured path with clear and logical systems and processes. It was evident during our inspection that the investigation team, which is led by an experienced senior detective, has a sound grasp of the issues and what is required of them.

The investigative work is still at an early stage and did not make as much progress as we had anticipated. The reasons for this are twofold: the unforeseen amount of material which is involved, and the temporary loss of staff who were deployed to other investigations. Nevertheless, investigators are taking an imaginative approach and have adopted the broader perspective that was lacking in previous investigations. Fresh evidential opportunities have already been identified, which are to be discussed with the CPS.

Governance is provided through diamond and gold governance groups which are led by chief officers and provide strategic direction. Public confidence remains an important component of the governance groups' aims and objectives and the force continues to engage with interested parties, although with mixed success.

The next quarter

By the time of our third interim inspection, we anticipate that greater progress will have been made, particularly in respect of the areas below.

- Senior financial investigator: the operation should be provided with a suitably experienced financial investigator for strategic advice and practical support; if necessary, the City of London Police should be approached for possible assistance.
- Fraud investigation training: the MPS should consider initial fraud investigation training for Operation Lynemouth's staff (the City of London Police Economic Crime Academy provides such training).
- Potential corruption: a written policy should be introduced for dealing with any actual or suspected instances of police corruption uncovered by the operation.
- Crime-recording policy: a written policy should be produced, based on the SIO's decision log and commensurate with national policy and standards.

- Liaison with CPS: a report should be submitted to the CPS seeking advice on a broader range of potential offences.
- Strand 2 (review and reassessment of a previous investigation into electoral fraud): make significant progress with a view to completing this strand before May 2018.
- Strand 3 (other criminal allegations relating to Lutfur Rahman or Tower Hamlets): all relevant material (including that held by third parties) should be collated in preparation for the review process.
- Strand 4 (City of London Police review of the previous investigation into grant funding): consider the findings of the City of London review report and document proposed action in respect of any recommendations.