

Operation Lynemouth: Fourth 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 were asked to inspect Operation Lynemouth, we agreed to provide interim reports every quarter and a final report when the operation concluded. This is our fourth interim report. Initially, we envisaged that the operation would take about 12 months to complete, but it is now clear that it will take much longer. We believe future reports do not need to be produced every quarter. We have agreed with the Mayor of London's Office for Policing and Crime (MOPAC) that we will continue to monitor and review the operation but will now report at six-monthly intervals. We will inform the MOPAC of any matters that need immediate attention. We will also provide a summary report once the operation has concluded.

After we conducted our third inspection in January 2018, we specified eight areas in which we expected significant progress to have been made before our fourth inspection. We conducted our fourth inspection in April and May 2018 and focused on those areas. We also considered the overall investigation in accordance with our terms of reference.

We are satisfied that the Metropolitan Police Service (MPS) has made sufficient progress in five of the eight areas we specified in our third report, although work has not been completed in every case. In three other areas, which relate to resourcing, training and an independent review of the operation, progress has not been as we had envisaged. However, in view of other developments, further action is not necessary at this stage.

Much of the material that the operation has considered has not presented any feasible lines of enquiry that could be pursued now. The 2014 mayoral election in Tower Hamlets was set aside principally because of the alleged commission of corrupt and illegal practices, contrary to the Representation of the People Act 1983. There is a 12-month time limit for bringing a prosecution under this Act (which can be extended by a further 12 months in exceptional circumstances).

However, Operation Lynemouth's investigators have identified other lines of enquiry worth further investigation. We were pleased to find that the senior investigating officer is consulting the Crown Prosecution Service about his findings. The MPS will investigate some lines of enquiry, while others will be referred to another force for independent investigation.

We have specified the areas in which the MPS will need to make progress in order to bring its own investigation (Operation Lynemouth) to a conclusion, while supporting the independent investigation (which will take significantly longer).

2. Introduction

The background to this inspection

In producing our interim reports, we aim to avoid repeating details unnecessarily. However, for the purpose of clarity, we include here some contextual information that our previous reports included.

In March 2017, the MOPAC asked Her Majesty's Inspectorate of Constabulary and Fire & Rescue Services (HMICFRS)¹ to inspect the MPS's 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

The MOPAC agreed that HMICFRS should inspect and provide assurance of the MPS's operation. We were also to provide the MOPAC with interim assurance reports every quarter, particularly about governance, resourcing and progress towards objectives – and to supply a final report, identifying lessons learned and best practice for the future. This is our fourth interim report.

On 2 May 2017, the MPS established Operation Lynemouth as a 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
- City of London Police review of the MPS's investigation into Communities, Localities and Culture (CLC) Youth Project grant funding.

¹ On 19 July 2017, HMIC also took on responsibility for fire and 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.

We conducted our previous inspections in May and September 2017, and January 2018, and published our findings.³ In each report, we specified those areas in which we expected significant progress to be made before our next inspection; there were eight such areas in our third report. When we conducted our fourth inspection, in April and May 2018, we focused on those areas and considered the overall investigation in accordance with our terms of reference.

At the outset, we envisaged that the operation would take about 12 months to complete. However, as the operation developed, it became clear that it would take much longer, largely because of the amount of material involved. Progress has been made and we do not consider it necessary now to provide further reports on a quarterly basis. Instead, we will continue to monitor and review the operation but will report at six-monthly intervals. We will inform the MOPAC of any matters that need immediate attention. We will also provide a summary report once the operation has concluded.

HMICFRS's 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

³ See: www.justiceinspectorates.gov.uk/hmicfrs/our-work/specialist-inspections/inspection-tower-hamlets-mayoral/

⁴ *Op. cit.*, Parr M., 10 April 2017.

Methodology

We have continued to follow the staged approach that we adopted at the outset, with quarterly inspection fieldwork and interim assurance reports for the MOPAC.

During the 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,⁵ in accordance with our terms of reference.

In consideration of point 4 in our terms of reference (to identify lessons learned and best practice), we conducted further interviews with police officers who were involved in investigating the 2014 mayoral election and considered the MPS's plans for policing the 2018 mayoral election. We also met with a Crown Prosecution Service lawyer who has experience and knowledge of electoral offences. In addition, we attended a national electoral fraud seminar, which was provided by the Electoral Commission and the National Police Chiefs' Council (NPCC)⁶ for police officers and others involved in preventing and investigating electoral offences.

We re-visited the Operation Lynemouth major incident room in April 2018. As before, we interviewed the principal members of staff and examined documents in order to assess the rate of progress.

⁵ The generic command structure, nationally recognised, accepted and used by the police, other emergency services and partner agencies, is based on the gold, silver, bronze hierarchy of command and can be applied to the resolution of both spontaneous incidents and planned operations. The MPS has supplemented the structure with a diamond level of command.

⁶ The National Police Chiefs' Council (NPCC) is the UK's representative body for chief police officers. It was established on 1 April 2015 to help the police service to co-ordinate policing operations, and to reform, improve and provide value for money.

3. Findings

For this section of our report, we again paid particular attention to point 3 in our terms of reference (interim quarterly assurance reports), and have arranged 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 that the police commonly use: the gold, silver and bronze command structure. The MPS has applied this for Operation Lynemouth but has added a 'diamond' level of command to the structure. The diamond commander is an assistant commissioner, while an officer of commander rank has been appointed gold commander. The diamond and gold commanders each chair a governance group.

The diamond governance group

We attended a diamond group meeting on 21 March 2018. As on earlier occasions, the meetings dealt mainly with matters such as: the progress of the investigation; reviews and inspections (i.e. the HMICFRS inspection and City of London Police review of the fourth strand of the operation); resources; legal issues; and communication with interested parties. We believe the objectives, the agenda items and the attendees to be appropriate for the operation.

The gold governance group

We attended gold group meetings on 23 February, 27 March and 10 May 2018. The meetings we attended dealt with matters such as: the progress of the investigation; communication with interested parties; community impact; legal issues; and risks to the operation. Again, we consider the objectives, the agenda items and the attendees to be appropriate for the operation.

The gold group continues to work towards the strategic aims (set by the diamond group) that we included in our first report. Originally, it was scheduled to meet every month but, following discussion at a meeting in October 2017, the gold commander decided that such frequent meetings were no longer necessary. While that arrangement may have been appropriate at the time, we recommended in our third report that gold group meetings revert to the monthly schedule during an important phase of the operation. This recommendation was accepted (see page 9).

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

Following our third inspection, we reported that an increase in staff might be needed in the near future. This is no longer the case, as a significant part of the investigation will be conducted independently, outside the MPS. This is discussed further on page 9.

The actual resourcing

At the time of our third inspection, the operation had vacancies for two detective constables and we recommended that vacancies should be filled as soon as they occur. The two vacancies still exist but the senior investigating officer feels that the current staffing level is adequate; we agree, subject to any unforeseen developments. In any event, the independent investigation means that the overall number of detectives involved will increase significantly.

In previous reports, we also expressed the view that the operation would benefit from the addition of a suitably experienced financial investigator to offer strategic advice and practical support. We also recommended that the MPS should consider any short training courses in fraud investigation that City of London Police could provide to team members with limited, or no, relevant experience. Both matters were still under consideration at the time of our third inspection but are no longer necessary because of the independent investigation.

Progress towards objectives

For this part of our fourth interim report, we have concentrated again 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 third interim report

We are satisfied that the MPS has made sufficient progress in five of the eight areas we specified in our third report, although work has not been completed in every case. In three other areas, which relate to resourcing, training and an independent review of the operation, progress has not been as we had envisaged but, in view of other developments, further action is not necessary at this stage.

The specified areas

Future investigative strategy: the primary aim should be for the diamond and gold commanders to consider the options in respect of new evidential opportunities involving a broader range of offences. Any decision to conduct a further investigation into these matters (whether the MPS or another organisation is to undertake that investigation) should be acted on without delay.

We understand that the gold commander has arranged for new evidential opportunities to be investigated independently of the MPS. For operational reasons, we do not include further details. However, the MPS should agree terms of reference for the independent investigation and the transfer of relevant material without delay.

Gold group meetings: we recommend that the group reverts to monthly meetings during the current phase of the operation, when important decisions will need to be made and monitored.

The gold group meetings have reverted to a monthly schedule. The frequency of the meetings could be reviewed again after the current phase of the operation.

Resourcing: subject to the outcome of deliberations, the MPS should allocate sufficient staff to the operation. In any event, as our last report recommended, the operation should be provided with a suitably experienced senior financial investigator for strategic advice and practical support. In addition, any current vacancies should be filled.

The operation does not include a senior financial investigator and two vacancies for detective constables have yet to be filled. Neither of these matters needs to be pursued further at this stage (see Resourcing, page 8).

Fraud investigation training: the diamond and gold commanders should decide whether Operation Lynemouth's staff should attend the training course that we recommended in our last report.

As this is no longer necessary (see Resourcing, page 8), the MPS should avoid the cost of fraud investigation training for Operation Lynemouth's staff.

Independent review: we recommend that arrangements for such a review be considered now, with a view to it taking place in the summer of 2018.

In view of the proposed independent investigation, we do not consider that an independent review is necessary at this stage and – subject to developments – might not be required in the future.

Strand 2 (review and reassessment of a previous investigation into electoral fraud): as before, significant progress should be made, with a view to completing this strand before the 2018 mayoral election.

Operation Lynemouth's staff reviewed the 169 allegations arising from the 2014 election before the 2018 mayoral election.⁷ We acknowledge that this was achieved through the dedication and commitment of all concerned.

This strand of the operation is discussed in greater detail on page 11.

Strand 3 (other criminal allegations relating to Lutfur Rahman or Tower Hamlets): as before, all relevant material (including that held by third parties) should be collated. Subject to a decision about the future direction of the operation, this might involve substantially more material than was envisaged previously.

This strand has not been completed, but again we accept that sufficient progress has been made during the last quarter. Staff are still undertaking the arduous task of collating and cataloguing material and introducing it to the operation in an evidential format.

This strand of the operation is discussed in greater detail on page 12.

Strand 4 (City of London Police review of the previous investigation into grant funding): as our last report recommended, consider the findings of City of London Police's review and document proposed action in respect of any recommendations.

City of London Police has delivered its report, which contains a limited number of procedural recommendations for fraud investigation. The MPS is considering the recommendations and any further action required.

This strand of the operation is discussed in greater detail on page 12.

Status of each strand

During our previous inspections, we found that Operation Lynemouth's investigators had identified lines of enquiry that would have been available at the time of the initial investigation but that had been missed or disregarded. Further investigations will be conducted both by the MPS and independently.

Strand 1 (election court files)

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, which comprise over 10,000 pages.

An early assessment of the court files indicated that they duplicated a lot of material that was available by other means and already in the MPS's possession as a result of the original investigation. To avoid duplication and wasted effort, this strand has been considered in conjunction with strand 2 (see page 11). The court files were

⁷ The 2018 mayoral election in Tower Hamlets was held on 3 May 2018.

downloaded onto optical character recognition (OCR)⁸ software so that investigators could search and consider the contents of strand 1 while reviewing the allegations of electoral fraud in strand 2.

To date, this exercise has not produced anything of additional evidential value, which might have been expected because the MPS, the Crown Prosecution Service and counsel considered transcripts of the hearing on a daily basis, while the hearing was in session. In any event, any further offences that came to light were likely to have presented difficulties because of the time limits for bringing a prosecution. As we mentioned in our first report, following Lutfur Rahman's election as mayor in 2014, four petitioners⁹ presented a petition to have the election set aside on several grounds but, principally, the alleged commission by Mr Rahman, or his agents, of corrupt and illegal practices, contrary to the Representation of the People Act 1983 ('The Act'). There is a 12-month time limit for bringing a prosecution under the Act, although this can be extended by a further year in exceptional circumstances.¹⁰

These difficulties – which apply equally to strand 2 – were apparent from the outset. However, Operation Lynemouth's staff continued to review the material for the purposes not only of identifying any unforeseen evidential opportunities that might still exist but also to establish whether mistakes were made in the past and where lessons could be learned. The senior investigating officer is compiling a detailed report on all the allegations contained within strands 1 and 2.

Strand 2 (electoral fraud)

This strand concerns the review and reassessment of the previous investigation into 169 allegations arising from the 2014 election, which were previously recorded by the MPS's special enquiry team. During the course of Operation Lynemouth, investigators identified three more allegations, bringing the total to 172. The senior investigating officer aimed to complete the review of these allegations before the 2018 mayoral election in Tower Hamlets; we were pleased to find that this was achieved. As we mention above (see strand 1), the senior investigating officer is compiling a report on his findings.

⁸ Optical character recognition (OCR) is a system for converting images and electronic versions of handwritten, typed or printed documents into machine-encoded text.

⁹ The four petitioners were Andrew Erlam, Debbie Simone, Azmal Hussein and Angela Moffat.

¹⁰ Section 70 of the Electoral Administration Act 2006 inserts section 176(2A) of the Representation of the People Act 1983 and provides that an application can be made to a magistrates' court for an extension of the current 12-month time limit for bringing a prosecution by up to a year. The court may grant an extension, if it is satisfied that there are exceptional circumstances justifying the grant of the application, and that there has been no undue delay in the investigation of the offence. See also: www.cps.gov.uk/legal-guidance/election-offences

This does not take into account 23 boxes of ancillary material and approximately 2,300 files of electronically-held data (referred to as the 'S drive') from the initial investigation, which the special enquiry team provided to the operation. However, much of the content is known and typically consists of material that is duplicated elsewhere.

Strand 3 (other criminal allegations)

This strand concerns the review and reassessment of other criminal allegations that do not fall into the categories of the previous two strands. The MPS's fraud squad considered ten matters during the original investigation, including allegations of fraud, bribery, perjury and tax evasion. Operation Lynemouth's investigators subsequently identified and added a further four allegations.

Investigators are still gathering material relating to this strand and are assessing a line of enquiry that was not concluded satisfactorily in the past. They have also identified other potential lines of enquiry that were either missed or disregarded in the past, which will be investigated independently. We envisage that the MPS will conclude its own work on this strand at the same time as it completes strands 1 and 2. We do not include further details of these investigations for operational reasons.

Strand 4 (Youth Project grant funding)

City of London Police undertook this strand, a review of a fraud investigation, in recognition of that force's expertise in investigating fraud. It has completed the review and produced a written report on 12 April 2018. City of London Police concluded that the MPS – and particularly the force's fraud squad – had conducted an adequate investigation in the first instance and had progressed all reasonable lines of enquiry. City of London Police made four procedural recommendations, which related to supervision, record-keeping and training. The MPS should consider the recommendations and document any proposed action.

The investigation process

The operation continues to follow the clear and logical processes that we have reported on throughout. In particular, we are pleased that the senior investigating officer is discussing progress and investigative opportunities with the Crown Prosecution Service and counsel.

Disclosure

In our first report we anticipated that, as Operation Lynemouth progressed, the senior investigating officer might need to consider disclosure implications under the Criminal Procedure and Investigations Act 1996 (CPIA) (as amended by the

Criminal Justice Act 2003).¹¹ The operation has gathered – and generated – a great deal of material, which will need to be considered by the independent investigation. We recommend that the MPS takes steps now to ensure that it will be able to meet CPIA requirements.

Further independent review

When the acting commissioner of the MPS outlined his proposals to the deputy mayor for policing and crime on 20 March 2017,¹² 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 two inspections, we felt that this further layer of external assurance might be unnecessary until the four strands were nearer to completion. In our third report, we recommended that such a review could take place in the summer of 2018. However, we no longer consider a review necessary at this stage, as a significant part of the future investigation is to be conducted independently.

Engagement with interested parties

Operation Lynemouth's staff are still in the process of interviewing interested parties and gathering evidence. In the meantime, the governance groups continue to monitor the effect of the operation on the community, and the gold commander reviews the media strategy at gold meetings.

Community engagement is one of the borough commander's main responsibilities and she continues to attend gold meetings. She recognised that engagement was essential as the 2018 mayoral election approached, and she and her staff met interested parties as part of the planning process.

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

¹¹ 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.

¹² Letter from the acting commissioner to the deputy mayor, dated 20 March 2017.

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

We are satisfied that the MPS is conducting a proportionate investigation and is pursuing reasonable lines of enquiry. We are also satisfied with progress to date.

The next period

Subject to any criminal proceedings, we anticipate that the MPS will conclude its own work (Operation Lynemouth) well in advance of the completion of the independent investigation, which is likely to take significantly longer. In order to make progress – and bring Operation Lynemouth to a conclusion – the MPS will need to address the areas below.

- Independent investigation: the MPS should, without delay, agree terms of reference for the independent investigation and arrange the transfer of relevant material.
- Disclosure: the MPS should take steps now to ensure that it can meet all CPIA disclosure requirements, particularly in respect of the independent investigation.
- Strands 1, 2 and 3: the MPS should complete the review and assessment of these three strands and pursue any investigative opportunities.
- Strand 4: the MPS should consider the findings of City of London Police's review and document any proposed action in respect of its recommendations.