

Report to: Police Authority
Agenda item: 8
Date: 21 January 2010
Subject: Proposal to Create a Charging Sub-Group
Sponsor: Chief Executive
Author: Chief Executive
For: Decision

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1. Purpose of paper

1.1. This paper proposes the establishment of a Charging Sub-Group. The paper asks Members to approve the establishment of the Sub-Group in line with the suggested programme of work and terms of reference described.

2. Background

2.1. One of the Authority's principal statutory duties is to recover the costs of the police from the PSA holders and do so in manner which reflects the nature and extent of the policing activity provided to each PSA holder. However, the Authority is too large a body and the timing and nature of its meetings make it unsuited to dealing with the details of the Authority's charging arrangements. At the same time, it is essential that there should be Member oversight of this work.

2.2. It is therefore proposed that a Charging Sub-Group be established, with the Terms of Reference described below, to oversee the Authority's work in this area and to advise the Authority as a whole. In consequence the JR sub group will be wound up and its functions transferred to the new Charging Sub-group.

3. Charging Sub-Group's Work Programme

3.1. There are three strategically important work programmes which could immediately be brought within the remit of the new group:

3.1.1. Further work following the JR decision

The first phase of the work in responding to the JR and the Judge's directions was essentially completed in December with the completion of three processes:

a) the issuing of invoices, at the beginning of December to give effect to the Judge's ruling.

b) agreement by the A&CG Committee at its meeting in December to new governance arrangements for the preparation and issuing of charges and invoices. These arrangements will protect the Authority against any recurrence of control failures in these important areas.

c) the Authority's response to the JR has been implicitly endorsed by the NAO in their sign off without qualification of the Authority's 2008/09 Accounts.

There is more work to be done; the next phase involves re-refreshing the data used in the new model for those PSA holders who have these agreements. This will be done in time for invoices to be issued before the start of the new financial year.

In addition, there are a number of practical and tactical issues that arise from the Authority's response to the JR, which from time to time will require the attention and approval of the Authority. On occasion such issues will be a consequence of complex negotiations with PSA Holders, the DfT and others.

It is proposed that the proposed Charging Sub Group be authorised to deal with such matters on the Authority's behalf.

3.1.2. Charging Arrangements after 2013

The Authority has issued notices to terminate all PSAs with effect from 1st April 2013. It is important therefore that the Authority starts soon a process to determine what the arrangements will be after that date. Preliminary conversations have taken place on some of the options open to the Authority. The Authority now needs to establish a formal process to address this issue with a view to ideally having a solution developed during 2010/11.

If this is agreed, to help ensure effective Member oversight of the development of new proposals, it would be appropriate to allocate the leadership of this activity to the proposed Charging Sub Group

3.1.3. Governance and charging arrangements in London

Hitherto the Authority has played a minimal role in determining the services provided to TfL and London Underground. These have effectively been negotiated directly between the BTP, at various levels, and TfL and its predecessors.

The work done since the JR has highlighted the need for the Authority to regularise its position in relation to these services. The anomalous nature of the current arrangements has also been commented on adversely by the NAO. A full report on the current arrangements was made to the A&CG in December and that Committee asked for the matter to be referred to SB&PM Committee.

The issues have become more acute with recent challenges to substantially reduce the costs of the policing services provided. Current arrangements reflect historical practice and they will not always be easy to change. By way of illustration, the Authority does not have different statutory responsibilities in relation to BTP's services to TfL, however TfL does not have the same statutory responsibility to enter into a PSA as other service providers.

Discussions have started between the Force and the Authority, under the leadership of the Deputy Chief Constable and the Chief Executive, to develop proposals for the future.

There is a need for a Member Group to oversee and steer these discussions and advise the Authority. The issues are closely related to the development of the post 2013 model, also as arrangements in London inevitably impact on those elsewhere, particularly in the calculation of total cost, it seems sensible to have this work overseen by the proposed Charging Sub Group.

4. Proposed Terms of reference for the Sub-Group

- 4.1.** The Charging Sub Group will comprise six Members to be appointed by the Chair of the Authority, who will also chair the Group.
- 4.2.** The Group will be responsible for directing the work of the Authority in relation to:
 - the development of charging arrangements to apply from the 1st April 2013
 - the development of appropriate governance and funding arrangements in relation to services provided by BTP to TfL.

and making recommendations to the Authority on both topics for its approval .

- the Group will also have the powers of the Authority in relation to the handling and resolution of any dispute or negotiation between the Authority and a PSA Holder or Holders. This delegation may only be exercised in accordance with the following principles:

The Group has no Authority to make new Policy or to decide on any issues that because of their scale or nature might reasonably be considered matters that the whole Authority should decide. The Chair will be responsible for deciding when matters should be referred to the whole Authority.

In discussing or agreeing settlements in any dispute with a PSA Holder the Group must comply with all the duties and responsibilities the Authority carries and will consult with the Chief Executive and the Treasurer before reaching any decisions. Their advice will be recorded and the Chief Executive will also ensure that any discussions on a settlement and any settlement reached are recorded.

The Group does not have authority to enter into legal action or to determine or otherwise end legal action. These powers are reserved to the Authority.

This delegation may not be further delegated to any Member or Officer of the Authority.

4.3. The Group will report back regularly to the Authority.

5. Recommendations

5.1. That a Charging Group be established with the Terms of Reference set out above.