

# Operation Lynemouth: Final report

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

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) to inspect the Metropolitan Police Service's (MPS) review and re-investigation of alleged criminal offences arising from the 2014 mayoral election in the London Borough of Tower Hamlets. HMICFRS agreed to do so and to provide interim progress reports on a quarterly basis, with a final summary report identifying lessons learned and best practice for the future. This is our final report.

The MPS investigated these allegations at the time, and subsequent to an election petition ruling that declared the result of the election void. The election commissioner found that corrupt practices prevailed at the elections of both the mayor and the councillors for the 20 wards of Tower Hamlets, which were held on 22 May 2014.

Despite the election petition ruling, the police investigation did not result in any criminal convictions. Concerns were raised about the conduct of the investigation into these allegations and connected matters. As a result, on 20 March 2017, the acting commissioner of the MPS confirmed that the force would undertake a new operation to review and reassess the allegations (Operation Lynemouth). The operation ran for 16 months, at a cost of £1.7 million, and diverted resources from other work. This could have been avoided had the MPS treated the election and subsequent investigation as a priority at the time.

We acknowledge that the police in Tower Hamlets and investigators from the force's special enquiry team did more work than is perhaps recognised but they lacked support. The MPS also failed in terms of communication and engagement. Chief officers should have better explained the reasons why investigations came to nothing, and the difficulties with legislation and the admissibility of evidence in a criminal court (which differs from an election petition hearing).

That is not to say that more effective communication would have put everything right; the policing of the election and the subsequent investigation were deficient in too many areas. There was a lack of corporate responsibility, a lack of training and insufficient resources for the MPS's special enquiry team's investigation. We were also concerned that, when another MPS department investigated allegations other than electoral fraud, potential lines of enquiry were disregarded. Furthermore, there was an otherwise uncoordinated approach to all the investigations, with little oversight at a senior officer level for the first year, which meant that opportunities might have been missed.

Fortunately, Operation Lynemouth's investigators have identified avenues of enquiry that can still be explored, and City of London Police has agreed to undertake an independent criminal investigation.

We appreciate that over four years have passed since these events started and that the MPS and its partner organisations have done much to improve processes and procedures in the meantime. Nevertheless, the MPS must guard against complacency and we highlight in our report seven areas for continual consideration, which encompass our findings and should reduce the risk of a recurrence. They relate to prioritisation, leadership, resources (including training), consistency, communication, record keeping and legal decisions.

Finally, we acknowledge the work of the Operation Lynemouth team. We were impressed throughout with their commitment, thoroughness and painstaking approach. We were also impressed with the governance measures applied by chief officers. We are satisfied that the operation has achieved its objectives and that the one outstanding line of enquiry that it is still undertaking (in addition to City of London Police's independent investigation) should not prevent its closure.

## 2. Introduction

### HMICFRS's terms of reference

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)<sup>1</sup> to inspect the Metropolitan Police Service's (MPS) review and re-investigation of alleged criminal offences arising from the 2014 mayoral election in the London Borough of Tower Hamlets (Operation Lynemouth).<sup>2</sup> 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).<sup>3</sup>

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. Our terms of reference were set accordingly and have remained the same throughout:

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 the MOPAC with interim assurance reports on a quarterly basis, with particular regard to resourcing, governance and progress towards objectives; and
4. To provide the MOPAC with a final report, identifying lessons learned and best practice for the future.<sup>4</sup>

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<sup>1</sup> 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.

<sup>2</sup> Letter from Sophie Linden, Deputy Mayor for Policing and Crime, to Matt Parr, HM Inspector of Constabulary, dated 21 March 2017.

<sup>3</sup> Letter from Matt Parr, HM Inspector of Constabulary, to Sophie Linden, Deputy Mayor for Policing and Crime, dated 10 April 2017.

<sup>4</sup> *Op cit*, Matt Parr, 10 April 2017.

This is our final report. In producing our interim reports, we aimed to avoid repeating details unnecessarily that were available in previous reports. However, for the purposes of clarity and thoroughness, and to avoid directing the reader to earlier reports, we repeat here information that we have included previously.

## Methodology

We have followed a staged approach throughout. We conducted interim inspections in May and September 2017, and January and April/May 2018, and published our findings (point 3 in our terms of reference).<sup>5</sup> In each report, we specified those areas in which we expected significant progress to be made before our next inspection. We focused on those areas during the following inspection, while considering also 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. The MPS has been able to bring Operation Lynemouth to a conclusion now because some lines of enquiry have been referred to another force for independent investigation (see page 45).

Following our fourth inspection, in April/May 2018, we did not consider it necessary to provide further reports on a quarterly basis. Instead, we agreed with the MOPAC that we would continue to monitor and review the operation but would report at six-monthly intervals. We reviewed the operation again in July 2018, and, as the operation had been concluded, conducted a final inspection in November 2018.

We visited Operation Lynemouth's major incident room on a regular basis and, on each occasion, interviewed principal members of staff and examined documents to assess the rate of progress. We also maintained contact with senior officers from City of London Police regarding their force's role in support of the operation (see page 46). In addition to this inspection fieldwork, we attended the MPS diamond (the most senior level of command) and gold (the second most senior level of command) governance group meetings<sup>6</sup> (point 2 in our terms of reference). In consideration of our fourth term of reference (to identify lessons learned and best practice), we met with the borough commander for Tower Hamlets and officers from her team and,

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<sup>5</sup> See: [Inspection of Tower Hamlets mayoral election 2014](#), HMICFRS.

<sup>6</sup> The generic command structure – nationally recognised, accepted and used by the police, other emergency services and partner organisations – is based on the gold, silver, bronze hierarchy of command. It 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. The role of gold, silver or bronze commander should not be confused with the MPS's police rank of commander, although an officer of commander rank might perform one of those roles (typically gold commander). For more information see: [Operations: Command structures](#), College of Policing.

importantly, conducted interviews with officers who were involved in policing and investigating the 2014 mayoral election. We also met with a Crown Prosecution Service (CPS) lawyer who has experience and knowledge of electoral offences. We attended a multi-agency debrief of the June 2017 general election, which was hosted by the MPS, and considered the MPS's plans for policing the 2018 mayoral election. In addition, we attended a national electoral fraud seminar, which was provided by the Electoral Commission and the National Police Chiefs' Council (NPCC)<sup>7</sup> for police officers and others involved in preventing and investigating electoral offences.

We otherwise consulted widely. At an early stage we attended a police independent advisory group meeting, where we heard concerns raised by representatives of the local community and explained HMICFRS's role. We met with the assistant chief constable who was the NPCC's lead for electoral crime and attended meetings with senior representatives of the Electoral Commission. We also interviewed the head of electoral services for the London Borough of Tower Hamlets. Throughout, we apprised the MOPAC of progress and developments and met with other interested parties, including a petitioner and a councillor.

## **The background**

Thursday 22 May 2014 was an election day throughout the United Kingdom. There was a nationwide election for members of the European Parliament, many local authorities held council elections, and a few local authorities had mayoral elections. The London Borough of Tower Hamlets held all three. In Tower Hamlets, there was a full council election, with all 45 seats in 20 wards contested. In the election for mayor, there were ten candidates.

The mayoral election is conducted on the transferable vote system, whereby each elector has two votes and chooses a first and second preference. If, at the conclusion of that process, a candidate has received more than half of the first preference votes cast, that candidate is elected. If no candidate has received more than half of the first preference votes, the ballot papers are re-examined. The second preference votes for candidates other than the two with the most first preference votes are then disregarded, while the second preference votes for those two are added to their first preference votes from the first round.

On 24 May 2014, the outgoing mayor, Lutfur Rahman of the Tower Hamlets First Party, was re-elected after an extended count and the reallocation of second preference votes.

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<sup>7</sup> 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 co-ordinate policing operations, and to reform, improve and provide value for money.

Mr Rahman's campaign and election were controversial. On 10 June 2014, four petitioners<sup>8</sup> presented a petition to have the election set aside on several grounds but, principally, the alleged commission by Lutfur Rahman (the 'first respondent'), or his agents, of corrupt and illegal practices, contrary to the Representation of the People Act 1983 ('the 1983 Act'). The petitioners also alleged that the returning officer, John Williams (the 'second respondent'), had failed to conduct the election in accordance with electoral law and that the election should be set aside on that ground, independently of their case against Mr Rahman.

The Election Commissioner, Mr Richard Mawrey QC, presided over the election petition hearing, which began on 2 February 2015, and ran until 24 March 2015. He concluded that corrupt or illegal practices may reasonably be supposed to have affected the result of the election and declared the result void.<sup>9</sup> He also declared that Mr Rahman's agent, Alibor Choudhury, was guilty of corrupt and illegal practices, contrary to the 1983 Act.

Before the hearing, an agreement was reached between the petitioners and the returning officer and, as a result, the petitioners' criticisms of Mr Williams were unreservedly withdrawn. The election commissioner believed that was the right course of action.

In delivering his judgment, Mr Mawrey QC noted that on 4 November 2014, the Secretary of State, Sir Eric Pickles, had announced the appointments of commissioners to take over some functions of the mayor and council, particularly in relation to grants. He further commented that it seemed likely that the governance of the borough would have to be examined "in the not too distant future".<sup>10</sup>

Mr Rahman applied to the High Court for a judicial review of the findings. The application was heard on 26 January 2016,<sup>11</sup> and, as a result, Mr Rahman obtained permission for a judicial review of a ruling that there had been undue 'spiritual influence' as, allegedly, several Muslim clerics had encouraged members of their community to vote for him. However, a judicial review of other aspects of the election commissioner's rulings was refused, which meant that Mr Rahman failed in his bid to overturn his exclusion from public office. This judicial review application was later closed following the non-payment of a court fee.

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<sup>8</sup> The four petitioners were Andrew Erlam, Debbie Simone, Azmal Hussein and Angela Moffat.

<sup>9</sup> Judgment in the High Court of Justice, Queen's Bench Division, in the matter of the Representation of the People Act 1983 and in the matter of a Mayoral Election for the London Borough of Tower Hamlets held on 22 May 2014 (M/350/14).

<sup>10</sup> *Ibid.*

<sup>11</sup> [2016] EWHC 1280 (Admin).



Following a successful application for the original judicial review application to be reopened, Mr Rahman applied to amend the grounds of his judicial review claim. This came because of the MPS's decision in March 2016, that there was insufficient evidence to bring a criminal prosecution following its initial investigation. Mr Rahman argued that the election court rulings were incompatible with Article 6 of the European Convention on Human Rights in respect of 'presumption of innocence' and 'right to a fair trial', and that the MPS's decision amounted to an acquittal. The court refused this application<sup>12</sup> but on 4 April 2018, Mr Rahman was granted leave to appeal the decision. This further application is likely to be heard in 2019.

We comment further about legal matters elsewhere (see page 11).

### **Initial police investigations**

Initially, the MPS investigated a total of 164<sup>13</sup> allegations of electoral fraud and malpractice. The investigation was conducted by the force's special enquiry team (SET) but did not result in any convictions, although one individual was charged with electoral fraud. The CPS subsequently discontinued the case on the grounds that it was not in the public interest to proceed. Two other individuals were cautioned<sup>14</sup> for minor offences, while six were warned about their behaviour.

The CPS considered the evidence provided to the election petition hearing. However, as neither the court nor the Director of Public Prosecutions referred any matters to the MPS for investigation, the police did not examine the 27 files containing the court material. The MPS did investigate other allegations of fraud relating to the London Borough of Tower Hamlets. One of the most significant allegations concerned a £400,000 grant to a communities, localities and culture youth project that sought to dissuade young people from engaging in criminal activity. Again, the police investigation did not result in any charges.

On 16 March 2016, the MPS closed all investigations into these matters, as it considered there was insufficient evidence of criminal offences. This decision was published in a media statement.

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<sup>12</sup> [2017] EWHC 1413 (Admin).

<sup>13</sup> The SET's investigators identified a further five allegations when they reviewed the election commissioner's final judgment, making a total of 169. A further allegation was found by Operation Lynemouth, bringing the final total to 170.

<sup>14</sup> A caution in this sense is an alternative to being charged with an offence. A caution can be given for a minor crime. It is not a criminal conviction, although it could be used as evidence of bad character if the individual concerned goes to court for another crime. An individual must admit the offence and agree to be cautioned.

## Review and reassessment

The lack of prosecutions and convictions gave rise to concern. Notably, on 12 August 2016, the government's anti-corruption champion, Sir Eric Pickles, published his report *Securing the ballot*,<sup>15</sup> which levelled criticism at the MPS.

On 9 March 2017, the chairperson of the London Assembly Police and Crime Committee wrote to the deputy mayor for policing and crime. He stated, "We remain convinced that more could have been done to investigate the very many allegations of fraud and malpractice in Tower Hamlets before and during the 2014 Mayoral Election, and that those investigations that did take place were not done to the highest possible standards".<sup>16</sup> The chairperson asked the deputy mayor to refer the matter to HMICFRS.

On 20 March 2017, the acting commissioner of the MPS wrote to the deputy mayor, outlining the force's response to the concerns which had been raised. Essentially, a new police operation would review and re-investigate all the allegations.

On 21 March 2017, the MOPAC asked HMICFRS to inspect the review and re-investigation operation.<sup>17</sup> HMICFRS agreed to do so.<sup>18</sup>

On 2 May 2017, the MPS established Operation Lynemouth as the new police operation ('the operation').

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<sup>15</sup> [Securing the ballot: Report of Sir Eric Pickles' review into electoral fraud](#), HM Government, August 2016.

<sup>16</sup> [Letter from Steve O'Connell AM, Chairman of the Police and Crime Committee, to Sophie Linden, Deputy Mayor for Policing and Crime](#), 9 March 2017.

<sup>17</sup> *Op cit*, Sophie Linden, 21 March 2017.

<sup>18</sup> *Op cit*, Matt Parr, 10 April 2017.

### 3. Findings: Legislation and procedure

In February 2016, the Law Commission reported that: “Electoral law in the UK is spread across 17 statutes and some 30 sets of regulations. It has become increasingly complex and fragmented; it is difficult to access, apply, and update. Much of the law is rooted in 19th century language and practice, and doesn’t reflect modern electoral administration”.<sup>19</sup>

Mr Mawrey QC seemed to agree when he noted that modern-day offences are often very different from their original versions. For example, “Bribery by grant is, patently, some distance away from the simple and straightforward bribes paid by aspiring politicians in the days of Mr Disraeli’s first ministry”.<sup>20</sup>

The election commissioner described the function of an election court and the relevant legislation in his judgment<sup>21</sup> and it is not necessary to repeat the information in such detail here. An election court is both an adversarial and inquisitorial tribunal; it is a civil court rather than a criminal one. Under section 127 of the 1983 Act, a local election may be questioned on the grounds that the candidate who was elected was disqualified at the time of the election, was not duly elected, or was guilty of corrupt or illegal practice. In this instance, the election court was concerned with allegations of corrupt or illegal practices.

In accordance with a Court of Appeal decision in the case of *R v Rowe, ex parte Mainwaring*,<sup>22</sup> an election court must apply the criminal standard of proof (‘beyond reasonable doubt’), although any penalties imposed are separate from any imposed by a criminal court if the candidate is also prosecuted to conviction. In view of the election petition judgment, there was an expectation in some quarters that Mr Rahman would be prosecuted in a criminal court. When this did not materialise, questions were raised about the standard of the MPS’s investigation. However, the election court could admit evidence, particularly ‘hearsay’,<sup>23</sup> and draw inferences that a criminal court could not.

‘Hearsay evidence’ is admissible in criminal proceedings in certain circumstances but little, if any, would have been admissible in this case.<sup>24</sup> It was, of course, open to

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<sup>19</sup> See: [Electoral law: Current project status](#), Law Commission.

<sup>20</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 485.

<sup>21</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14).

<sup>22</sup> [1992] 1 WLR 1059.

<sup>23</sup> ‘Hearsay’ is defined by section 114(1) of the Criminal Justice Act 2003 as, “A statement not made in oral evidence in the proceedings that is evidence of any matter stated”.

<sup>24</sup> See: [Hearsay](#), CPS.

the police to interview potential witnesses to obtain direct evidence of that provided to the election court as 'hearsay'. However, if the relevant third parties could not be traced or identified, or if they refused to assist the police investigation (or, as in some cases, disputed the validity of what was being alleged), their 'evidence' would likely be inadmissible in criminal proceedings.

The petition before the election court was generally concerned with allegations which might constitute offences under the 1983 Act:

1. Personation, contrary to section 60;
2. Voting when not entitled to do so, contrary to section 61(1);
3. Double-voting, contrary to section 61(2);
4. Postal vote offences, contrary to section 62A;
5. Tampering with ballot papers etc, contrary to section 65;
6. Making false statements about a candidate, contrary to section 106;
7. Payment of canvassers, contrary to section 111;
8. Bribery, contrary to section 113;
9. Treating, contrary to section 114;
10. Undue influence involving the threat of spiritual injury, contrary to section 115;
11. Undue influence involving intimidation at polling stations, voters going into polling booths together or leaving campaign material inside polling booths, contrary to section 115;
12. Undue influence involving the misleading of voters by claiming that Mr Rahman was a Labour Party candidate, contrary to section 115; and
13. 'General corruption' in the Borough designed to secure Mr Rahman's election, contrary to section 164.

It would be useful at this point to examine the law in relation to some of these offences and their inherent difficulties. We should make clear that the election commissioner did not consider that all the offences were proven. By way of example, he decided that offences of 'voter intimidation' at polling stations (section 115) were not made out.

'Personation' was originally intended to cover instances where one person assumed the identity of another to cast a vote. Even now, this can be relatively simple to do in person at a polling station because, presently, the law does not demand that a voter provides identification. This might seem remarkable at a time when identification is needed for so many activities and is carried routinely. As one person remarked to us,

“You can’t take out a library book without identification, but you can vote”. We understand that the requirement to provide identification to vote is under review.<sup>25</sup>

The introduction of postal voting has greatly enhanced the possibility of vote-rigging through personation, particularly as candidates are aware of those who have registered for a postal vote. Recipients of postal vote packs are often vulnerable and might have little grasp of the language, a fear of giving evidence and uncertainty about whether it was wrong for someone else to take an unmarked ballot form from them or to tell them how to vote.

An offence of personation will also be committed when a person casts a vote for a non-existent person who has been registered to vote. Further offences will be committed by whoever was responsible for providing false information for the purposes of registration (section 13D of the 1983 Act). Mr Mawrey QC uses the term ‘ghost voters’ when referring to people whose names were entered on the electoral register when they did not reside at the address stated or did not even exist.

The matter of ‘residency’ can be particularly complex. It is not unusual for someone to have more than one place of residence (for example students, or people who work away from home), which makes it difficult to prove that an individual did not reside at a particular address at a specific time. As Mr Mawrey QC said: “In an electoral area with a huge electorate such as Tower Hamlets, identifying ghost voters is a difficult task. It is time-consuming and faces the problem that what the investigator is trying to achieve is, essentially, to prove a negative, to establish that Mr X does not reside at the address shown in the electoral register”.<sup>26</sup>

Prior to the 1983 Act, ‘treating’ was a common law offence which, before the introduction of a secret ballot, tended to manifest itself in providing 18th and 19th century voters with food and drink to enlist their support. The 1983 Act (section 114) refers to “any meat, drink, entertainment or provision” and, to prove the offence, it must be established that treating was done intentionally and corruptly with the objective of inducing votes. That alone can prove difficult, but the prosecution must prove also that at least one person had been so corrupted and induced to vote for the candidate in question.

Cases involving ‘spiritual influence’ are very rare. In this instance, it was alleged that Muslim clerics tried to persuade Muslims to vote for Mr Rahman because it was the voters’ religious duty to do so. Here again, the law appears archaic and, as the election commissioner said: “Undue spiritual influence (which is always going to be controversial) needs reconsideration. If it is to be retained ... it should be more clearly articulated and, if thought appropriate, re-stated for a 21st century

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<sup>25</sup> See: [May 2018 voter identification pilot schemes](#), Electoral Commission.

<sup>26</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 311.

environment”.<sup>27</sup> This sentiment was echoed in January 2016, when Mr Justice Lloyd Jones remarked, “The decided cases are largely concerned with conditions which prevailed in Ireland in the 19th century, conditions which are very different from those which prevail in this country today”.<sup>28</sup>

Generally, the police are in a difficult position: they need to remain apolitical and impartial in a political arena. Allegations can be difficult to prove and the police “remain heavily dependent on information supplied by the political rivals of the alleged wrongdoers”.<sup>29</sup> The police run the risk of acting as referees in disputes, where one candidate expects them to take a reasonable and proportionate approach to their own indiscretions but an uncompromising stand when it comes to those of their rivals.

Investigators are also subjected to time constraints, as there is a 12-month time limit from the date of the alleged offence for bringing a prosecution under the 1983 Act (although this can be extended by a further year in exceptional circumstances).<sup>30</sup> Problems can arise if allegations are not reported promptly or if, for example, bribery allegations relate to the award of hundreds of grants and would require protracted investigation. The police cannot circumvent this by using other legislation. Where conduct falls within the terms of a specific statutory provision, the accused “should be prosecuted under that provision unless there is good reason for doing otherwise”.<sup>31</sup>

However, the foregoing does not preclude the consideration of offences in circumstances that are not provided for by the 1983 Act or other electoral legislation, but which might nevertheless be made out. This could 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). And, of course, where appropriate the police could consider public order offences (under the Public Order Act 1986) when policing the election itself.

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<sup>27</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 669.

<sup>28</sup> *Op cit*, [2016] EWHC 1280 (Admin), paragraph 36.

<sup>29</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 664.

<sup>30</sup> 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: [Election offences](#), CPS.

<sup>31</sup> See *R v Rimmington* and *R v Goldstein (On Appeal from the Court of Appeal (Criminal Division))*: [2005] UKHL63, paragraph 30.

As a final comment, we note that the election petition was brought by four petitioners, at their own expense. We share concerns that Mr. Mawrey QC expressed on this point: “To bring an election petition as a private citizen requires enormous courage. If things go wrong and the petition is dismissed, the petitioners face a potentially devastating bill of costs which, unless they are very fortunate, may well bankrupt them. There is no access to public funding: Parliament has left the policing of fair and democratic elections to the chance that concerned citizens will become involved at their own expense. Whether that is an appropriate and sufficient way to protect democracy is open to question”.<sup>32</sup>

We understand that the Law Commission has made recommendations about electoral offences and the process for challenging elections.<sup>33</sup>

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<sup>32</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 643.

<sup>33</sup> For further information see: [Electoral law: A joint interim report](#), Law Commission, Scottish Law Commission and Northern Ireland Law Commission, February 2016 and [Electoral law: Current project status](#), Law Commission.

## 4. Findings: The 2014 election

### Resources and training

There is a history of allegations of electoral fraud and malpractice in Tower Hamlets. The election commissioner said that, “A disproportionate number of reported election cases relate[d] to Tower Hamlets”.<sup>34</sup> In March 2013, the Electoral Commission published a report regarding allegations of electoral fraud in the borough during April and May 2012.<sup>35</sup> The Electoral Commission was concerned that, “Without taking steps ... to begin rebuilding confidence and trust between the key participants in the election process ... the May 2014 local elections [would] again be damaged by allegations of electoral fraud”.<sup>36</sup> We consider here how the MPS responded in terms of resources and training, in the light of the Electoral Commission’s warning.

During the election court proceedings, Mr Mawrey QC remarked that, “Police forces can and do act when evidence is presented to them of electoral wrongdoing but they do not have the resources to be pro-active”.<sup>37</sup> We heard conflicting accounts, even from those involved in the operation, as to whether there were sufficient police officers and staff on the day. From our findings, we conclude that on this occasion the MPS did make resources available to prevent problems arising, or escalating, on the day of the election. The resourcing of the subsequent investigation was not as good.

On the day of the election, the MPS assigned a uniformed police officer to every polling station. We note that it was a source of complaint that all officers were not in position when the polling stations opened at 7.00am. This was for financial reasons, as bringing the officers on duty before the start of their normal working day at 7.00am would have incurred extra expense. In any event, they were in place soon afterwards. Senior officers from Tower Hamlets were also on duty in the borough and visited the polling stations, while a team of sergeants, who were each given responsibility for a cluster of stations, provided more immediate supervisory support to the officers deployed there. In addition, two police support units (PSUs),<sup>38</sup> led by a chief inspector, were available throughout polling day, should the need arise. Police officers were also present when ballot papers were counted at

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<sup>34</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 174.

<sup>35</sup> [Allegations of electoral fraud in Tower Hamlets in 2012: Report on the outcome of investigations](#), Electoral Commission, March 2013.

<sup>36</sup> *Ibid*, page four.

<sup>37</sup> *Ibid*, paragraph 664.

<sup>38</sup> A police support unit, or PSU, is a unit of police officers who have undergone specialist training in public order policing.



one central location the following day ('the count'). Again, PSU support was available if required.

The police recognised that communication difficulties might arise at polling stations as there was (and still is) a large Bangladeshi population in Tower Hamlets.<sup>39</sup> A significant proportion of this population did not speak English as a first language or, the electoral commissioner concluded, "to any real extent".<sup>40</sup> Indeed, during the election petition hearing, many provided their evidence through an interpreter. In an effort to address potential difficulties, the police in Tower Hamlets tried to deploy as many Bengali-speaking officers as they could to polling stations. Nevertheless, more would have been welcome, or in their absence, a greater use of interpreters would have been beneficial.

Two detective constables from the SET were also on duty throughout the time that the polling stations were open. However, the SET's staff did not attend the count at the end of the day. The SET currently sits within the MPS's homicide and major crime command (SCO1) and has done since 2013. It was originally a unit within the economic and serious crime command (then SCO6). The SET has a number of functions, which include acting as the MPS's lead for electoral offences.

The SET became the MPS's lead for electoral offences in September 2012; previously, this role was performed by the MPS's counter-terrorism command (SO15). Its role in this regard is to act as the force's point of contact for electoral fraud and malpractice allegations and to provide electoral advice to all the MPS's boroughs. While boroughs are responsible for the local policing of elections, including polling stations, the SET investigates electoral offences. The SET also works closely with the Electoral Commission and local authorities to prevent offences. Their work includes providing pre-election briefings to candidates and election agents about electoral law and roles and responsibilities.<sup>41</sup>

In view of its various functions – which go far beyond electoral matters – and wide remit, one might expect the SET to be a substantial unit. But, at the time of the 2014 election, it comprised seven detectives: one inspector, one sergeant and five constables. The vast majority of the allegations arising from the Tower Hamlets election that year (over 90 percent) were dealt with by the two SET detectives who assisted the borough on polling day. The SET has attracted a great deal of criticism

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<sup>39</sup> At the time of the 2011 census, the Bangladeshi population represented 32 percent of the Tower Hamlets population. This contrasted sharply with the proportion across London (three percent) and across England as a whole (under one percent) and represented the largest Bangladeshi population in England. See: [Ethnicity in Tower Hamlets: Analysis of 2011 Census data](#), Tower Hamlets Council, February 2013.

<sup>40</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 181.

<sup>41</sup> For further information see: [Candidates and agents at local elections in England](#), Electoral Commission.

since but, as we report later (see page 44), those two detectives undertook, and largely completed, a significant amount of work.

A further investigation, which did not involve electoral matters – but which fell within Operation Lynemouth’s terms of reference to consider – related to the award of grant funding in the London Borough of Tower Hamlets (see page 26). This investigation was initially allocated to a temporary detective constable from Tower Hamlets criminal investigation department (CID). We assume this officer would have had little, if any, experience of investigating allegations of that kind. After almost ten months, the investigation was passed to the MPS’s fraud squad (now part of the serious and organised crime portfolio – SCO7) as the borough’s CID did not have the capability and capacity to undertake the financial enquiries required. However, we noted that the same temporary detective constable then transferred (on a non-permanent basis) to the fraud squad and remained in charge of the investigation. The fraud squad subsequently became responsible for all allegations of fraud where the London Borough of Tower Hamlets featured as a suspect or a victim, while the SET focused on allegations relating to the election.

We do not criticise the SET detectives or the temporary detective constable for their efforts in difficult circumstances. Rather, we question whether the support provided by the MPS was sufficient. We should also make clear at this point that we do not subscribe to the harsh, external criticism that has been levelled at the detective inspector who was posted to the SET at the time of our review. She only took up a position in the SET in 2015 and was not even there at the time of the election. In reality, she has done much to improve the unit and its efficiency.

When the SET was first given responsibility for electoral matters, its small team had little, if any, knowledge of the relevant law and procedure. With the realisation that they were to be the MPS’s single point of contact (SPOC) for such issues, the staff set about training themselves but found there was little by way of assistance.

The College of Policing,<sup>42</sup> which was established in 2012, had not yet published guidance. It did not do so until 7 November 2014, when it produced authorised professional practice<sup>43</sup> on policing elections. This post-dated the 2014 election, although it was in existence throughout most of the subsequent investigation. The guidance was last modified in February 2018.<sup>44</sup> The college did not – and does

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<sup>42</sup> The College of Policing was established in 2012 as the professional body for everyone who works for the police service in England and Wales. The purpose of the college is to provide those working in policing with the skills and knowledge necessary to prevent serious crime, protect the public, and secure public trust.

<sup>43</sup> [Authorised Professional Practice \(APP\)](#) is developed and owned by the College of Policing and authorised by the college as the official source of professional practice on policing. Police officers and staff are expected to have regard to APP in discharging their responsibilities.

<sup>44</sup> See: [Policing elections](#), College of Policing.

not – otherwise provide any training on this subject, either by way of a formal course or through the National Centre for Applied Learning Technologies (NCALT).<sup>45</sup> Indeed, formal training only became available in 2017, with the introduction of a two-day ‘policing elections and investigating electoral fraud’ course by City of London Police’s Economic Crime Academy. We were pleased to find that, at the time of our review, all SET staff had attended this course at the earliest opportunity.

However, joint guidance was issued in 2014 by the Association of Chief Police Officers<sup>46</sup> and the Electoral Commission, which would have been available.<sup>47</sup> There was also a national network of those who performed the role of SPOC in different forces. This was led by a chief officer from another force, who still performs the role on behalf of the NPCC as holder of the NPCC’s electoral malpractice portfolio. The NPCC and Electoral Commission host the national electoral fraud seminar that we attended during our review (see page 7).

The borough police in Tower Hamlets faced similar problems in respect of training and, based on guidance and material that was available, devised their own training package for officers and staff. Nevertheless, different people who were involved with the election told us during our review that police officers who were on duty needed a better appreciation of the law and its application. Indeed, this was raised during a debrief of the policing operation on 4 June 2014.

Apparently, difficulties arose because of the need to deploy officers who did not work in the Tower Hamlets borough routinely but who had been redeployed there for the day to provide support. Local officers had been provided with more comprehensive training in advance while those from outside received a short verbal briefing on their arrival and an associated briefing pack. Therefore, it is likely that many did not know the area and did not have an in-depth knowledge of previous electoral problems in Tower Hamlets or of the law that was to be applied. While we would not expect officers from outside to have a detailed knowledge of Tower Hamlets, we would expect them to be educated so they know the relevant law prior to deployment in this electoral context.

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<sup>45</sup> The [National Centre for Applied Learning Technologies \(NCALT\)](#) is a collaboration between the College of Policing and the Metropolitan Police Service. It assists the 43 Home Office police forces in England and Wales and the wider policing community in adopting new learning technologies and produces local and national e-learning.

<sup>46</sup> The Association of Chief Police Officers (ACPO) was the representative body of chief police officers in England, Wales and Northern Ireland until it was replaced by The National Police Chiefs’ Council (NPCC) in April 2015.

<sup>47</sup> [Guidance on preventing and detecting electoral malpractice](#), Electoral Commission, February 2013.

## Policing the election

In March 2013, the Electoral Commission expressed concerns about the forthcoming 2014 elections in Tower Hamlets (see page 16). It recommended that the MPS should work with the local authority's electoral registration officer and returning officer<sup>48</sup> and review its plans for the election. This was to ensure that the local authority's plans reflected the police role during the pre-election period and when dealing with, and investigating, allegations of electoral fraud. The commission further recommended that, given the level of public interest, the MPS should review its communication strategy. We discuss communication later (see page 29).

The Electoral Commission recognised that it needed to provide support and attended meetings with local authority officials, local police and the SET. There were concerns that electoral fraud and intimidation, whether perceived or real, would create tension in the community, with a risk of public disorder. As a result of the meetings, and following consultation with the political parties, a protocol was produced to: "Regulate every aspect of the election. It was not confined to polling day itself but covered the registration of postal voters, the handling of postal votes and several other issues where it was felt difficulties might arise".<sup>49</sup> The protocol was not enforceable and amounted to a voluntary code of conduct. With one exception – and the reason why is unclear – all the parties and independent candidates (including Mr Rahman) signed the protocol.

The police planned for the election perhaps more thoroughly than is acknowledged. With so many candidates of divergent political beliefs, and allegations of extremism and racism from opposing factions, it would have been irresponsible to do otherwise. They met with the political parties, and community groups and their leaders, and monitored the situation, looking for any sign of increased tension in the borough. They also directed officers and staff to record any information they received about the election, including rumour and speculation, on an electronic system so that emerging patterns could be identified. The police were also informed by local press coverage, which closely followed developments and reported allegations of impropriety.<sup>50</sup> Based on all their findings, the police produced an assessment of

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<sup>48</sup> Electoral registration officers are responsible for maintaining accurate and complete electoral registers for a specific local authority area. They are also required to provide information about changes to the electoral register and lists of postal and proxy voters to elected representatives. Returning officers are responsible for administering the poll in their specific areas.

<sup>49</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 580.

<sup>50</sup> By way of example, on 25 March 2014, the Evening Standard claimed that "bogus workers" were posing as housing staff representing the local authority to canvas on Mr Rahman's behalf, while a BBC Panorama programme on 31 March 2014 ('The Mayor and Our Money') alleged financial irregularities during Mr Rahman's previous tenure of office as mayor. See: [Lutfur Rahman: 'bogus officials canvassed for Tower Hamlets mayor before East End ballot'](#), *The Evening Standard*, March 2014 and [London borough of Tower Hamlets could face inspection](#), BBC News, March 2014.

the election's effect on the community, which they updated to ensure that it was current and fit for purpose.

Because of the issues we have already described (see page 13), there was always a likelihood that postal voting might prove problematical. Subject to the constraints imposed by other resource demands and calls for service, officers were in the vicinity when ballot forms were delivered to voters for postal voting, to help ensure that they reached the intended recipient. Nevertheless, the system was still open to abuse and allegations of postal vote fraud, and other electoral irregularities, were reported either directly to the police or to the local authority's electoral services department. The police and local authority response depended on the nature of the allegation and ranged from a home visit with advice, to a SET investigation.

On the day of the election, the police wanted to ensure that people could attend polling stations, vote and return home safely. Uniformed officers were posted to the polling stations, patrolled the borough and provided support as we have described (see page 16). Representatives of the Electoral Commission also attended polling stations across the borough and the count, to observe proceedings under their statutory powers.

The count for the mayoral election and council elections was held at the Troxy, a landmark building in the London Borough of Tower Hamlets. The count for the European Parliament elections was held elsewhere. The Troxy first opened as a cinema in 1933 but more recently was converted to host events such as music concerts, conferences and parties. It is situated on Commercial Road, which is a busy thoroughfare for traffic (the A13). The consensus among those we interviewed was that it was an unsuitable venue for the count. This was due to its roadside position and lack of space for a gathering of this nature, with its associated furniture and number of attendees. It is estimated that over 800 people attended the count.

The count at the Troxy was always going to be a significant undertaking, with over a quarter of a million ballot papers in total. It was originally due to start at 8.00am on the morning after the election, Friday 23 May 2014, with an expectation that the result of the mayoral election would be announced at around 3.00pm that afternoon. As the day progressed, those predictions proved inaccurate, which made it more difficult for the police, and the others involved, to plan ahead.

As it transpired, the start of the count was delayed, and the result of the mayoral election was not announced until around 1.40am the following morning. The rest of the count, for the local elections, was then suspended until after the weekend. The police had always anticipated that more officers would need to be deployed when the result was announced, with opposing factions gathering outside in large numbers. Barriers had been erected outside the Troxy, both as a safety measure for the candidates' supporters and to maintain the flow of traffic. The police managed to contain the crowd but were concerned about crushing. As the crowd

grew to an estimated 1,500, they sent for reserves. It was only after Mr Rahman's appearance outside as the successful candidate that the crowd started to drift away.

Based on their observations at the time, the Electoral Commission, police and local authority initially thought that polling had gone well. The police only received nine allegations when the polling stations were open, almost all of which resulted in words of advice, as no offences were disclosed. The only occasion when the police chose to take direct action appears to have been when the SET detectives responded to a complaint that staff at a residential care home were assisting elderly voters to complete postal ballot papers before they were taken to a polling station. As it transpired, the staff were doing so with the best of intentions, but the SET officers explained this was not permissible and arranged for the forms to be reissued. The police were already aware of one other, unconnected allegation of postal fraud at a different location, which had been reported to them two weeks previously.

The impression that the police and officials had of polling day contrasts sharply with media coverage of the event and evidence that was later given by witnesses for the petitioners at the election petition hearing, who "painted a picture of rowdy mobs" of Mr Rahman's supporters, who intimidated and pressurised voters.<sup>51</sup> However, it has been noted that, in contrast, Mr Rahman's witnesses "painted a picture of a jolly family outing" where everyone was "friendly and welcoming".<sup>52</sup>

Whichever way it is assessed, the atmosphere would seem to have been at least boisterous, rather than one of "hushed, almost cloistral calm", which apparently the police and polling staff described.<sup>53</sup> Certainly, it would seem that provisions contained in the protocol, which almost all had subscribed to, were disregarded. The protocol permitted only two representatives per candidate at a polling station, but this alone allowed for a significant gathering because of the number of candidates, particularly in the larger wards. Any breach of the protocol compounded the problem, which was then exacerbated by the behaviour of some of those present. The election commissioner concluded that, "The conduct of Mr Rahman's supporters at polling stations on election day caused considerable disquiet".<sup>54</sup>

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<sup>51</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 577.

<sup>52</sup> *Ibid*, paragraph 578.

<sup>53</sup> *Ibid*, paragraph 579.

<sup>54</sup> *Ibid*, paragraph 607.

Regardless of differences of opinion about behaviour at polling stations, there was a perceptible change of atmosphere when it came to the count. When the polling stations closed at 10.00pm, the ballot boxes from all the polling stations were taken, under police escort, to Tower Hamlets Town Hall for safekeeping before the count the next morning. The actual movement of the boxes passed without incident, although the police had to intervene elsewhere to prevent a disturbance, following reports that right-wing extremists were distributing literature in the area.

The count was described as “chaotic”, with “arguments, threats and chaos at the counting tables”, and accusations that the “police had failed to ensure that counting would take place without interference”.<sup>55</sup> Mr Mawrey QC later commented, “There is no doubt that far too many people attended the count and the behaviour of many who attended was regrettable”.<sup>56</sup>

Following allegations in the media about the conduct of the election, the police and local authority appealed for any relevant information. This resulted in 164 allegations (including those the police were already aware of), which we discuss later (see page 24). The issue to be explored here is why the police were not already aware of the allegations through their presence at the polling stations and the count, even if no formal complaints were brought to their attention. Indeed, Mr Mawrey QC commented, “An unkind person might remark that the policemen and polling staff had appeared to take as their role models the legendary Three Wise Monkeys”.<sup>57</sup>

However, Mr Mawrey QC did not blame the polling station officials for allowing certain aspects of behaviour at the polling stations and was not inclined to blame the MPS. He acknowledged that policing Tower Hamlets was “not an easy task” and that “it would be unreasonable to expect of the police anything other than an approach of considerable caution”.<sup>58</sup> He also acknowledged that, rather than the provisions of the 1983 Act, the MPS’s “primary concern was the possible commission of public order offences”.<sup>59</sup> As conduct at the polling stations usually fell short of a public order offence and did not amount to the commission of an electoral offence of intimidation under the 1983 Act (section 115), the police could not be criticised for failing to take action in this regard.

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<sup>55</sup> [Elections 2014: London borough Tower Hamlets still counting ballot papers](#), *The Independent*, May 2014.

<sup>56</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 653.

<sup>57</sup> *Ibid*, paragraph 578.

<sup>58</sup> *Ibid*, paragraphs 609 and 610.

<sup>59</sup> *Ibid*, paragraph 611.

But this does not mean that the police can ignore their responsibilities in respect of electoral legislation. While we acknowledge that one of a police officer's primary functions is – and always has been – the protection of life and property, the success of an operation cannot be measured in those terms alone. The police have a duty to uphold the law in all its forms, but we found a general acceptance that, on this occasion, too many police officers did not know the relevant legislation and the powers it bestowed on them.

## **The initial investigation**

Here we include details of the MPS's initial investigation into the allegations arising from the 2014 election. We comment on the quality of the investigation later, when we consider Operation Lynemouth (see page 31).

We report on page 17 that the SET became the MPS's lead for electoral offences in September 2012. The first occasion on which it performed this role during an actual election was during the 2014 elections. During and following the 2014 election in Tower Hamlets, the SET received a total of 164 allegations, 47 of which were reported after an appeal for information by the local authority and the police (see page 23). The SET recorded every allegation and categorised 120 as potential offences under the 1983 Act. A further 44 did not relate to electoral fraud or malpractice but fell, for example, into the category that Mr Mawrey QC decided did not amount to either an electoral or a public order offence.

Due to the complex nature of the investigation, the SET liaised with the CPS throughout. It arrested two people and interviewed under caution<sup>60</sup> a total of nine, but found that there was insufficient evidence to bring a prosecution in the vast majority of cases. In addition, the SET did not find an orchestrated system of electoral malpractice. Ultimately, one person was charged under the 1983 Act (in connection with making a false statement on a candidate nomination paper), while two were cautioned and six were warned about their conduct. The case against the only person charged was later withdrawn at court for medical reasons.

The MPS was not a party to the election petition hearing in 2015, and so papers relating to it were not served on the force beforehand. As a result, the MPS was not aware of all the evidence to be relied on during the hearing and did not see all the witness statements and exhibits. However, the MPS did instruct a lawyer to deal with the disclosure of its own material to the hearing. By that time, the SET had investigated all 164 of the electoral fraud allegations and it provided 177 police witness statements to the hearing, which had been produced by police officers who

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<sup>60</sup> Under Code C of the Police and Criminal Evidence Act 1984 (PACE), a person whom there are grounds to suspect of an offence must be cautioned before any questions about an offence, or further questions if the answers provide the grounds for suspicion, are put to them if either the suspect's answers or silence may be given in evidence to a court in a prosecution.



had been on duty on election day. Only 30 of those officers provided evidence of incidents that they had witnessed. These incidents were all of a minor nature, related to all the political parties, and included allegations against members of the public.

In total, 39 officers were called to give evidence at the hearing. No SET officer was required but the detectives involved still attended the hearing as often as possible, subject to other demands. In any event, the SET obtained daily transcripts of the hearing as it was in progress. We understand that a Bengali-speaking officer from Tower Hamlets borough also attended and provided updates.

The CPS instructed counsel to attend the hearing and at its conclusion considered counsel's advice and the final written judgment. The CPS concluded that, on the evidence available to them, there were no apparent criminal offences. In addition, the election commissioner did not refer any matters to the CPS or the police for investigation. Nevertheless, the police were still entitled to re-investigate any allegations of their own volition and the SET reviewed the written judgment to ascertain whether there was any further evidence of criminality. However, the MPS did not submit a legal application after the hearing for authority to access the 27 court files of material that had been presented during it (see page 9).

Having reviewed the written judgment (which amounted to 200 pages), the SET decided that 47 allegations of intimidation at polling stations (from the original 164 allegations) were worthy of further exploration. The detectives also identified five further potential offences which had not been reported previously to the police (bringing the total number of allegations to 169). When those five cases were added to the 47 allegations, there were 52 allegations to review and possibly investigate (or re-investigate).

The five new potential offences all related to the 1983 Act and were therefore subject to a 12-month time limit from the date of the alleged offence for bringing a prosecution under the 1983 Act (see page 14). One of the five allegations was already beyond the time limit and so, to prevent a similar situation with the other four, the SET obtained a court order (under section 176(2A) of the 1983 Act) to extend their time limit. However, they also decided to still investigate the circumstances of the allegation for which the time limit had expired, to determine whether any offences might have been committed under other legislation.

The MPS then appointed a detective superintendent from homicide and major crime command (SCO1) to review the initial investigation and assess the five new allegations that had been found. A further team of detectives from SCO1 was enlisted to help and conducted enquires into the five new allegations and the 47 cases of potential intimidation that had been identified by the SET.

On 8 May 2015, the detective superintendent and officers from the SET met with the CPS to discuss their course of action. It was agreed that the MPS would submit their findings to the CPS in due course for consideration. The MPS did so on 19 November 2015, and the CPS appointed counsel to consider them. On 7 March 2016, the SET received written advice to the effect that there was insufficient evidence to merit a prosecution. On 16 March 2016, the MPS announced the result of its investigation (see page 9).

There was still a further investigation, which did not involve electoral matters but related to the award of grant funding in the London Borough of Tower Hamlets (see page 18). The MPS was first contacted about this allegation by a local authority representative on 19 July 2013. However, when the MPS call-handler who received the telephone call ascertained that the local authority was already conducting its own internal enquiries, the call-handler said that the MPS would not duplicate its efforts and advised the caller to refer the matter should it discover criminality. On 20 March 2014, an allegation of criminality was referred to the MPS for investigation. Five days later it was allocated to a temporary detective constable in Tower Hamlets borough for investigation. On 20 April 2014, the MPS also received a file from the BBC following the broadcast of a Panorama television programme about Mr Rahman ('The Mayor and Our Money').<sup>61</sup>

On 15 December 2014, a detective from the fraud squad met with a representative of the local authority, who asked the fraud squad to take responsibility for investigating these matters. After initial consideration, the fraud squad declined but, on 22 January 2015, following intervention by a detective chief superintendent, agreed to do so. It was then decided that the fraud squad would be responsible for all allegations of fraud where the London Borough of Tower Hamlets featured as a suspect or as a victim. As we report elsewhere, the temporary detective who was initially allocated the investigation was then attached to the fraud squad to complete it, under the supervision of a detective chief inspector, inspector and sergeant.

The fraud squad finished its investigation in August 2016. They decided that, despite the election commissioner's conclusion that "an alarming state of affairs"<sup>62</sup> existed in Tower Hamlets and the allegations made by the BBC, there was no evidence to prove the allegations to a criminal standard.

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<sup>61</sup> *Op cit*, BBC Panorama, 31 March 2014.

<sup>62</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraph 681.

## Governance

A recurring theme during our review was that, although there is a history of allegations of electoral fraud and malpractice in Tower Hamlets, the MPS did not seem to regard the 2014 election there as a corporate issue. While extra resources were made available for the day of the election and the subsequent count, matters such as planning, training and engagement with both the public and a wide range of individuals and organisations were essentially left to the police borough to arrange, with the support of a very limited number of inexperienced SET officers. We discuss communication and engagement further at page 29.

Officers felt that in the aftermath of the election in particular, when the police were attracting a lot of criticism and adverse publicity, visible leadership at chief officer level would have provided internal support and external reassurance. The MPS's deficiency in this regard contrasts sharply with the level of chief officer involvement during Operation Lynemouth, when officers of both assistant commissioner and commander rank provided oversight and direction as diamond and gold commanders respectively (see page 31). Again, in preparation for the 2018 elections in Tower Hamlets, the gold commander was a chief officer of commander rank. During the 2014 election, on the other hand, the Tower Hamlets chief superintendent performed the role of gold commander, without a nominated diamond commander.

It was not within our remit to examine the ways in which all the MPS's 32 boroughs prepared for elections in 2014. If they did so in virtual isolation, it might well have resulted in unnecessary duplication of effort, with 32 boroughs devising and delivering their own training and developing their own plans. However, we accept that a degree of consistency might have been applied by virtue of national guidance that was available (see page 19) and through the SET's oversight, although the SET's officers were new to role.

While the arrangements might have sufficed for some of the boroughs – if not the vast majority – clearly they did not meet the needs of Tower Hamlets, which needed the most support. This is demonstrated by the fact that, of the 208 allegations of electoral fraud and malpractice that were investigated across London after the 2014 elections, 164 (approximately 80 percent) related to the borough of Tower Hamlets.<sup>63</sup>

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<sup>63</sup> These numbers increased to 213 and 169 respectively when the SET recorded the five additional allegations we discuss at page 25.

Further problems were created during the investigation of the allegations through a lack of coordination at chief officer level, with the involvement of two assistant commissioners and different senior officers at intermediate levels. Both the SET and the fraud squad, which conducted different elements of the investigation, are answerable ultimately to the same assistant commissioner who has responsibility for specialist crime. But they have separate chains of command, involving different senior officers. In addition, the police borough of Tower Hamlets, which policed the election and then investigated allegations around grant funding for ten months (see page 18), lies within the portfolio of another assistant commissioner. It was not until a single assistant commissioner was nominated as diamond commander after the election petition hearing that the MPS adopted a holistic approach. In the meantime, while it is ultimately unknowable, it is feasible that investigators missed investigative opportunities, by mistakenly assuming that colleagues elsewhere were pursuing evidential leads.

We were also disappointed that we were unable to find evidence of a corporate debrief of the Tower Hamlets election, to identify failures and lessons to be learned. Certainly, those who had been involved in planning for, and policing, the election could not recall having attended one. Several claimed that HMICFRS's visit was the first time that anyone from outside their own borough or department had spoken to them about it. Some expressed the view that the MPS was not interested at a corporate level, in what they themselves regarded as a systemic failure.

That said, the police in Tower Hamlets did hold their own debrief and invited representatives of the local authority and the Electoral Commission. In addition, when the SET's detective inspector who was in post during our review was first posted to the unit in 2015, she arranged a similar event for her own staff. We were encouraged by such developments.

Finally, it would be unfair if we created an impression here that the chief superintendent and his team in Tower Hamlets did not introduce governance measures in advance of the election. As borough commander, and gold commander for the election, the chief superintendent convened a gold governance group at an early stage (which included representatives of the Electoral Commission and the local authority) and established a gold, silver and bronze command structure (see page 6) for the event. However, in reality, he needed more support.

## Communication and engagement

In advance of the 2014 election, the Electoral Commission recommended that the MPS should review its communication strategy (see page 20). How the MPS went about doing so is a matter of conjecture but whatever steps were taken proved generally ineffective. Indeed, during a meeting with the London Assembly Police and Crime Committee on 9 February 2017, which led to the formation of Operation Lynemouth, the officer who was to become the operation's gold commander accepted that there were "definitely lessons" to be learned around engagement. He said, "I think we could have done more and should have done more in terms of engaging with the four petitioners before and after that [election petition] judgment".<sup>64</sup>

However, the MPS needed to communicate far more widely than with the petitioners. The gold commander acknowledged this on 7 September 2018, when he announced Operation Lynemouth's completion and said that the MPS, "could have been more open in its engagement with a number of directly affected individuals and groups". The term 'directly affected' is very broad in this context and we submit that it includes the entire electorate in Tower Hamlets. We accept that there are language difficulties in the borough but the fact that so many allegations were made as a result of an appeal for information after the election (see page 23), suggests that many voters were unaware at the time that offences could have been committed. We discuss elsewhere a similar lack of understanding among police officers, which would have exacerbated the problem (see page 19).

That is not to say that the police in Tower Hamlets, and the SET, did not make any effort to engage and communicate with all concerned. By way of example, officers from the borough and the SET met with political and community representatives before the election. The SET invited the returning officers from all 32 London boroughs to a meeting to discuss proposed plans and provided an email address for reporting any allegations (which they also made available to the public). The police also ensured that they were readily accessible on the day of the election to assist officials, members of the public and all concerned. We discuss these matters further under Policing the Election at page 20.

Regardless of the success, or otherwise, of the borough's communication strategy, problems arose when it came to providing complainants, and the public in general, with details of the police's response to allegations. In the first instance, a formal system was not established for updating the local authority about complaints that it received and passed to the police. As a result, if a complainant re-contacted the local authority seeking a progress report, the local authority was unable to provide it. That would not have been a problem had the police communicated directly with those concerned, but that was not always the case. Complainants have a right to an

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<sup>64</sup> Available at: [Meetings: Police and Crime Committee](#), minutes of 9 February 2017, Appendix 3, Police and Crime Committee.

explanation about the action that the police have – or have not – taken, particularly when it has come to nothing.

This lack of communication and engagement, which also manifested itself in a failure to answer correspondence on occasions, not only caused resentment and a loss of confidence in the police, but also meant that evidence could have been overlooked. We appreciate that there are times when the police must exercise caution and extreme care when releasing information, for example to protect an informant or to avoid jeopardising an operation, but in this instance the election petition hearing raised expectations that criminal charges were to follow and the MPS should have explained why that did not happen. The MPS's communication failures only served to give rise to suspicion and allegations of collusion.

Issues of communication and engagement were not confined to interaction with members of the public. When the MPS announced, in March 2016, that the initial investigation was to be closed (see page 9), the CPS, which was referred to in the MPS's published statement, was not consulted beforehand about its content and disputed its accuracy.

## 5. Findings: Operation Lynemouth

In this section, we consider Operation Lynemouth's performance and assess the quality of the initial police investigations in the light of the operation's conclusions and our own review. We order our findings under four subheadings:

1. governance;
2. resourcing;
3. the investigation processes; and
4. the four strands of the operation.

### Governance

As we report at page 6, the MPS applied a tiered system of governance for Operation Lynemouth, which is commonly used in policing: the gold, silver and bronze command structure.

According to the College of Policing, the gold, silver and bronze structure "provides a framework for delivering a strategic, tactical and operational response to an incident or operation".<sup>65</sup> The model is flexible and can be applied to any type of incident or operation. Typically, the gold commander is in overall command.

On occasions, the MPS supplements this structure with a diamond level of command to ensure there is more senior management of a significant operation. For Operation Lynemouth, the MPS introduced a diamond commander as the most senior level of command. The diamond commander was an assistant commissioner. An officer of commander rank was appointed gold commander.

The high level of seniority ascribed to these roles matched the governance requirements of Operation Lynemouth. The diamond and gold commanders each chaired a governance group.

#### The diamond governance group

The diamond governance group generally met every two months and recorded its objectives as:

1. To provide senior oversight and scrutiny of the MPS response and ensure a proportionate and effective MPS response to the matters set out in paragraph (1) of the gold group strategic aims [see below].

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<sup>65</sup> [Operations: Command structures](#), College of Policing.

2. To ensure that any policing response, reviews or subsequent criminal investigations are reasonable and proportionate, and free from any external influence.
3. To rebuild stakeholder and community confidence in the MPS response to allegations of electoral fraud and other criminal allegations relating to Tower Hamlets Local Authority.
4. To support and facilitate the HMIC review of the response to allegations of electoral fraud in Tower Hamlets that was requested by the deputy mayor for policing and crime.
5. To support gold in the appropriate resourcing of the MPS response.
6. To help identify and act upon corporate learning leading to continuous improvement in the MPS response to electoral fraud and malpractice.

We attended diamond group meetings, in accordance with our second term of reference (see page 5). The meetings dealt mainly with matters such as:

- the progress of the investigation;
- reviews and inspections (i.e. the HMICFRS inspection, City of London Police 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 considered the objectives, the frequency of the meetings, the attendees and agenda items to be appropriate for the operation.

### **The gold governance group**

The gold group's strategic aims (which were set by the diamond group) were:

1. To oversee and co-ordinate any investigative assessments, reviews or subsequent criminal investigations into:
  - allegations of electoral fraud and malpractice, or other criminal allegations arising from the 2014 mayoral election in Tower Hamlets;
  - allegations of criminal offences involving Tower Hamlets Local Authority; and
  - allegations of criminal offences made against Lutfur Rahman while in his position as Mayor of Tower Hamlets.



2. To ensure that all of the matters referred to in paragraph (1) above are necessary and conducted in a proportionate manner.
3. To provide oversight of, and decision making for, any legal proceedings arising from the 2014 mayoral election in Tower Hamlets.
4. To rebuild stakeholder and community confidence in the MPS response to Tower Hamlets electoral fraud and other investigations into Tower Hamlets Local Authority.
5. At the conclusion of any criminal investigations and reviews, to effectively transition strategic oversight to the local policing commander and chief officer.

Originally, the gold group was scheduled to meet every month but, following discussion at a meeting on 2 October 2017, the gold commander decided that such frequent meetings were no longer necessary. As an alternative, the senior investigating officer was to circulate monthly progress reports to attendees; a decision would then be made as to whether to convene a meeting. While that arrangement may have been appropriate at the time, we recommended in our third report (published in February 2018) that gold meetings revert to a monthly schedule during an important phase of the operation. That recommendation was accepted.

We otherwise considered the frequency of the meetings – and the objectives, attendees and agenda items – appropriate for the operation. We attended meetings that dealt with matters such as:

- the progress of the investigation;
- communication with interested parties;
- community impact;
- legal issues; and
- risks to the operation.

Sensibly, the gold commander asked for the creation of a risk register at an early stage to focus attention on the management of some obvious risks, such as resourcing problems.

## Resources

One of the most important responsibilities of those charged with the governance of any police operation is to ensure that the right level of resourcing is provided. If they do not – or cannot – do this, the operation’s likelihood of success will be reduced. In Operation Lynemouth, resourcing is the diamond group’s fifth objective.

During our review, we looked at two issues: the senior investigating officer’s assessment of what resources the operation would need, and the actual level of resources made available and deployed to the operation.

### The resource requirement

In making his assessment, the senior investigating officer took account of the known scale of the operation, i.e. 169 allegations and 27 court files. There was also an unknown element to the scale of the operation: additional allegations which were not part of the electoral fraud investigation.

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”.<sup>66</sup>

The resource requirement was for the use of a HOLMES-equipped<sup>67</sup> major incident room, with a team of 16 police officers and two police staff:

- one superintendent (senior investigating officer);
- two inspectors;
- two sergeants;
- 11 constables;
- one HOLMES indexer/typist (police staff); and
- one analyst (police staff).

At the outset, we considered this resource requirement, including the use of HOLMES, to be appropriate. However, we noted that the operation had just begun and that the staffing level may need to be revised in due course, particularly when the full nature and extent of the additional allegations became clearer. We also commented that specialist support may be required as the investigation progressed.

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<sup>66</sup> Operation Lynemouth Costings Paper, 25 April 2017.

<sup>67</sup> The Home Office Large Major Enquiry System (HOLMES) is an investigation management system which is used by law enforcement agencies to investigate serious crimes.

## The actual resources

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, very soon after, five of the constables were redeployed to homicide investigations.<sup>68</sup> We felt the loss was manageable, so long as it was temporary. As it transpired, 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.<sup>69</sup> While they were away, the rate of progress was unsurprisingly slower and not as we had anticipated. The problem was further exacerbated by the amount of material involved, which was an unknown quantity from the outset and could not be avoided.

We raised our concerns and, despite the broader resourcing pressures which the MPS faced, the diamond and gold commanders agreed that Operation Lynemouth would maintain its required staffing levels. We were concerned also that, to meet demand, the force may deploy officers to the operation who had been involved in the original investigations. The gold commander and the senior investigating officer assured us that this would not happen.

However, by the time of our third inspection in January 2018, one of the detective constables had been transferred permanently to the Grenfell Tower investigation and had not been replaced. In addition, a detective sergeant who performed the important HOLMES office manager role was due to retire. A detective constable, who was awaiting promotion, had been identified as a suitable replacement for the sergeant but she was already a member of the Operation Lynemouth team, which created another vacancy.

The two vacancies still existed at the time of fourth inspection in April and May 2018, but the senior investigating officer considered it unnecessary to fill the vacancies at that time. We agreed, subject to any unforeseen developments. In any event, it had been decided that a significant part of the investigation should be conducted independently, outside the MPS (see page 45).

We commented at the outset that specialist support may be required as the investigation progressed and, in subsequent reports, agreed with the senior investigating officer's view that the operation would benefit from the addition of a suitably experienced financial investigator to offer strategic advice and support. We also recommended that the MPS should consider offering any short training courses in fraud investigation – that City of London Police could provide – to team

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<sup>68</sup> Between 2 April 2017 and 15 May 2017, there were 21 cases of homicide in the Metropolitan Police Service area, of which 18 were caused by stabbing. Based on the total homicide rate of 109 during 2016, this was approximately 68 percent higher than average for a six-week period.

<sup>69</sup> On 3 June 2017 there were terrorist attacks in the London Bridge and Borough Market areas of London.

members with limited, or no, relevant experience. Neither took effect, although both eventually became unnecessary because of the independent investigation. However, by then SET investigators had attended a two-day 'policing elections and investigating electoral fraud' course provided by City of London Police.

We also recognised from the start that there might be significant disclosure implications under the Criminal Procedure and Investigations Act 1996 (CPIA) (as amended by the Criminal Justice Act 2003).<sup>70</sup> This risk still exists in view of the ongoing independent investigation. We have been told that an officer has been identified to assist the independent investigation in this regard, which is encouraging.

## **The investigation processes**

It was evident from our first inspection that the Operation Lynemouth team, which was led by an experienced senior detective, had a sound grasp of the issues and what was required of them.

We were encouraged to find that the senior investigating officer had created a clear, logical process at the outset for the handling of all the material and its review and reassessment, to identify any further lines of enquiry and evidential opportunities. This was underpinned by a range of relevant strategies and policies, which included reporting and assurance measures. The process was developed and refined as the operation progressed but, when that occurred, work already completed was revisited to ensure consistency.

### **The four strands of the operation**

When the MPS established the operation on 2 May 2017, it divided it into four strands:

- a review of 27 files of evidence from the election petition;
- a review of evidence in relation to electoral fraud;
- a reassessment and review of other criminal allegations relating to Lutfur Rahman or the London Borough of Tower Hamlets; and
- a City of London Police review of the MPS's investigation into a communities, localities and culture youth project grant.

We consider the review and re-investigation of each of the strands at page 42.

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<sup>70</sup> 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.

## **Investigative parameters**

During our first inspection we were concerned that some aspects of the operation were very broad (particularly strand three – other criminal allegations). Therefore, we recommended that the senior investigating officer set investigative parameters to ensure that the operation remained reasonable and proportionate (and compliant with the diamond group's objectives that we discuss at page 31).

The senior investigating officer duly set investigative parameters, which were then 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.
2. Any other matter which the senior investigating officer considered so important that it warranted further investigation, irrespective of whether it met the above conditions.

We were satisfied that the first investigative parameter provided clarity and an appropriate timeframe. The second would need to be monitored by the gold governance group to ensure that the policy was applied consistently and objectively. However, we were also concerned that all criminal allegations would need to be recorded and investigated and that, if the senior investigating officer decided to refer an allegation elsewhere for investigation, his decision and rationale should similarly be recorded. We discuss further the recording of allegations below.

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 did not find any evidence to substantiate these claims but were provided with assurance by the diamond and gold commanders that any such evidence would be referred as appropriate for investigation. We also discussed these matters with the senior investigating officer, who produced a relevant policy, which was approved by the diamond and gold groups.

## **Recording allegations**

When the process of collating and cataloguing all the relevant material was under way – a necessary, but very time-consuming task – the Operation Lynemouth team began to build a master schedule of all the allegations, which it populated as the operation progressed. While we welcomed the schedule's introduction, we wanted to ensure also that the MPS correctly recorded allegations of crime.

In responding to our observations, the senior investigating officer consulted the MPS's force crime registrar.<sup>71</sup> The senior investigating officer then produced a decision log<sup>72</sup> outlining the crime recording process which Operation Lynemouth must adopt. We were satisfied that the process met the requirements of the national framework for the recording of crime. He also produced a crime recording policy based on his decision log. We monitored its application to ensure compliance.

As it transpired, the 169 allegations of electoral fraud (strand two), which the MPS had previously investigated, were recorded appropriately at the time. Any further allegations were to be recorded as they came to light during the course of the operation.

### **Review, reporting and assurance measures**

When Operation Lynemouth obtained the 27 files of evidence from the election petition hearing they comprised over 10,000 pages. An early assessment of the files indicated that they duplicated a lot of material that was available by other means and already in the MPS's possession because of the initial investigation (including daily transcripts of the hearing). However, the files were downloaded onto optical character recognition<sup>73</sup> software to enhance computer search capabilities. As a result, material in strand one (election petition files) could then be considered in conjunction with strand two (electoral fraud).

The previous investigation into the allegations relating to strand two was conducted by the SET. Unlike Operation Lynemouth, the SET did not have access to the HOLMES computer management system (see page 34) but used, as an alternative, another electronic system (referred to as the 'S' drive). When Operation Lynemouth commenced, it took possession of material the SET had previously accumulated, which comprised 29 box files and 2,300 files of electronically held data.

Material relating to the 169 allegations concerned was contained in three boxes (box numbers 1, 6 and 23). The remainder of the boxes and the digitally archived material on the 'S drive' was assessed but did not produce any significant new evidence. Typically, it consisted of material which was not relevant to Operation Lynemouth's terms of reference or duplicated other material.

Each of the 169 allegations was considered individually and a review report was produced for each one, resulting in a total of 169 reports. In the first instance, a

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<sup>71</sup> A force crime registrar is responsible for ensuring compliance with the [National Crime Recording Standards \(NCRS\)](#) and the [Home Office Counting Rules \(HOCR\)](#).

<sup>72</sup> A senior investigating officer records significant decisions that he or she makes during the operation. The decisions are recorded in written format on electronic decision logs.

<sup>73</sup> Optical character recognition (OCR) is a system for converting images and electronic versions of handwritten, typed or printed documents into machine-encoded text.

detective constable, as review officer, considered the evidence and started a report recommending further potential lines of enquiry and relevant actions to be undertaken.<sup>74</sup> The report was then passed to a detective sergeant, as review supervisor, who reviewed the recommendations and actions identified and considered any links to other offences. The review officer also submitted details to an analyst, who looked for crime patterns.

Each review report was also examined by a detective inspector, as investigating officer, thus providing a second stage of assurance. All reports eventually entered the major incident room system. Any actions then generated by the system were allocated to the original review officer for completion.

A similar format was applied to strand three (other criminal allegations). A summary and assessment of each allegation was presented to the detective inspector for review and recommendation. The detective superintendent, as senior investigating officer, then decided on any further action.

Strand four (youth project grant funding) was undertaken by City of London Police. They reviewed relevant documents and reports and interviewed the original case officer, junior managers and senior managers. City of London Police produced a written report of their findings.

Ultimately, the findings from all four strands were considered by the governance groups.

### **Interviewing witnesses**

A structured process for interviewing witnesses was introduced, to distil large quantities of information into material of relevance and potential evidential value. It required trust on both sides and interviewees were 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 included 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.

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<sup>74</sup> An action is any activity which, if pursued, is likely to establish significant facts, preserve material or lead to the resolution of the investigation.

## Exhibits

The exhibits officer<sup>75</sup> for Operation Lynemouth had the difficult task of dealing with two exhibits systems: that which was used for the original investigation and the operation's system for new exhibits. She introduced a logical process for merging the two systems, but difficulties arose when original exhibits, or accompanying witness statements, could not be located immediately. This presented a risk to the operation, as every exhibit had to be accounted for, but the exhibits officer identified and addressed any shortfall at an early stage.

## Engagement with the Crown Prosecution Service

Generally, when conducting a criminal investigation, the police make all investigative decisions without seeking advice from the CPS. When the police consider there may be sufficient evidence to charge a suspect, they can, in certain less serious cases – typically retail theft (shoplifting) or criminal damage to a value under £5,000 – make the charging decision themselves. However, in the majority of criminal cases, the police will provide the CPS with a file of evidence so that a lawyer can make a charging decision. Having assessed the evidence, the lawyer may authorise a charge (or charges), refuse a charge or return the case to the police for further enquiries.<sup>76</sup>

Pre-charge advice is the most frequent interaction between the police and CPS. In such cases, the decision to charge or otherwise is a CPS decision. However, in cases where the police close an investigation without submitting a file for a charging decision, that is a police decision.

Notwithstanding the above, providing advice to the police in all matters involving criminal offences is one of the primary statutory functions of the CPS.<sup>77</sup> Police requests for advice from the CPS may involve one or more of the following: informal advice, early investigative advice or pre-charge advice and a charging decision. Informal advice might be provided by telephone. For early investigative advice a lawyer may determine the information that the police need to provide.

In large, serious and complex cases in particular, the early involvement of a CPS lawyer will have considerable benefits. A lawyer will be able to advise on relevant legislation, so that evidential opportunities are not overlooked. This means the

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<sup>75</sup> 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.

<sup>76</sup> The Director of Public Prosecutions has issued charging guidance to police officers and crown prosecutors under section 37a of the Police and Criminal Evidence Act 1984. See: [Charging \(The Director's Guidance\)](#), CPS, May 2013.

<sup>77</sup> For more information see: [Police and CPS Relations](#), CPS.



police can make best use of their resources rather than pursuing less productive lines of enquiry.

Operation Lynemouth sought early investigative advice from the CPS in relation to strands one, two and three; strand four was dealt with by City of London Police. Acting on that advice, investigators reviewed the available evidence and decided that no allegations should be referred to the CPS for a charging decision.

We discuss interaction with the CPS during the initial investigation when we examine Operation Lynemouth's four strands.

### **Engagement with other interested parties**

In his letter of 9 March 2017 (see page 10), the chairperson of the London Assembly Police and Crime Committee remarked that, "the relationship between the Met and the petitioners ha[d] been unsatisfactory" and that there had been "a lack of positive engagement and a failure to communicate effectively". We wanted to see that the police had taken steps not only to address these concerns but also to engage with the wider community.

Translating this into practice, the gold commander wrote to the petitioners and other interested parties (16 in total) at the start of the operation, outlining the force's proposals and offering an opportunity to meet and discuss matters. He also attended a police independent advisory group meeting, which we also attended, on 24 April 2017, and held meetings with two local Members of Parliament.

At a gold meeting we attended on 10 May 2017, the gold commander emphasised that the operation comprised two main elements: investigation and engagement. Public confidence then remained an important component of the governance groups' aims and objectives throughout. The groups continued to monitor the effect of the operation on the community and the gold commander reviewed a media strategy at his monthly meetings. The gold commander also attended a meeting of the Tower Hamlets Safer Neighbourhood Board.

Investigators also took steps to engage with interested parties during the operation, both to gather evidence and to provide updates. However, their efforts were not always successful. For example, when the senior investigating officer wrote to 11 interested parties on 20 July 2017, to provide an update on the investigation, only two people replied.

Community engagement is one of a borough commander's main responsibilities and the borough commander for Tower Hamlets attended gold meetings throughout. As part of her role, she was in daily contact with the local community and she closely monitored developments during the operation. Difficulties arose when interested parties spread misinformation about the operation, whether deliberately or otherwise. The gold commander and the borough commander had to address an example of this.

When the gold commander announced Operation Lynemouth's completion on 7 September 2018 (see page 29), he issued a public statement and met with interested parties to explain the outcome.

In conclusion, we are satisfied that the MPS took adequate steps to engage and communicate effectively.

### **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 (see page 10), he stated that an external force was to be commissioned to conduct an independent review of the operation in three months' time.

In general terms, HMICFRS is supportive of such an approach. However, when we conducted our first inspection we did not feel that this further layer of assurance would be necessary at the three-month stage (August 2017). We felt that the question of an external review should be considered by the diamond and gold commanders when the four strands were nearer to completion.

When we conducted our third inspection in January 2018, we recommended that arrangements for such a review be considered at that point, with a view to it taking place in the summer of 2018. By then, the operation would have been established for over a year and decisions would have been made about its future direction.

As it transpired, when we conducted our fourth inspection in April and May 2018, we felt that a review was no longer necessary at that stage in view of the proposed independent investigation and – subject to developments – might not be required in the future. The independent investigation that we discuss at page 45 has been established and now we do not consider a further review necessary.

## **The review and re-investigation**

Here we consider the four strands of the operation and the initial investigation in the light of the operation's findings and our own review.

### **Strand one (election petition files) and strand two (electoral fraud)**

As strand one and strand two are so closely connected, we consider them together.

During the initial investigation, the SET did not obtain authority to access the 27 files of evidence from the election petition hearing. This was on the basis that they had assessed daily transcripts from the hearing and that the CPS had instructed counsel to advise on any potential criminal offences. The SET's failure to obtain and review the files attracted a lot of criticism. On 9 June 2017, following application by the MPS's directorate of legal services, the Election Commissioner, Mr Mawrey QC, granted permission for the MPS to access the files.

When Operation Lynemouth’s investigators considered the files, they did not find anything of additional evidential value. This might have been expected, as the SET, CPS and counsel had considered the evidence on a daily basis, while the hearing was in session. They had also considered the final judgment. In any event, had any further offences come to light it is likely that difficulties would have been encountered because of the time limits for bringing a prosecution under the 1983 Act (see page 14).

Those difficulties – which applied equally to strand two – were apparent from the outset. However, Operation Lynemouth continued to review the files in conjunction with the strand two material, for the purposes not only of identifying any unforeseen evidential opportunities that might still have existed but also to establish whether mistakes were made in the past and where lessons could be learned. As it transpired, during Operation Lynemouth’s review and reassessment, investigators identified a further allegation, increasing the total of strand-two allegations of electoral fraud from 169 to 170.<sup>78</sup>

When Operation Lynemouth considered the 170 allegations, it found that 84 did not amount to a criminal offence, nine were duplicate allegations that had previously been reported to the police, and 16 were reported in error. The remaining 61 allegations were reinvestigated as potential criminal offences. Operation Lynemouth did not refer any allegations to the CPS for a charging decision, although it did consult the CPS during its re-investigation. Investigators encountered the same difficulties that faced the initial investigation, such as archaic legislation and the admissibility of evidence that we discuss at page 11.

In essence, Operation Lynemouth supported the outcome of the initial investigation (see page 24). Namely, one person was charged under the 1983 Act (although the charge was later withdrawn at court for medical reasons), two were cautioned and six were warned about their conduct. Operation Lynemouth’s investigators discovered only one aspect where more could perhaps have been done. This concerned allegations of false registration, considered during the election petition hearing,<sup>79</sup> whereby candidates could have committed offences under the 1983 Act.<sup>80</sup> In one case in particular, the SET might have conducted further enquiries to help establish whether a candidate had provided a false address but, as we report

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<sup>78</sup> Some records indicate that the total number of allegations was 172. This was because Operation Lynemouth subdivided one of the allegations into three separate elements.

<sup>79</sup> *Op cit*, Judgment in the High Court of Justice (M/350/14), paragraphs 310–335.

<sup>80</sup> For example: a person registering to vote at an address where they are not in fact resident commits an offence under section 13 of the 1983 Act; a candidate commits an offence under section 65 of the 1983 Act if he knowingly states a false address on his candidate nomination form; and a person who has made a false statement as to residency commits an offence under section 61 of the 1983 Act when he votes at the election.

at page 13, non-residency can be very difficult to prove to a criminal standard. It would seem that the SET decided that it was not a reasonable and proportionate use of their limited resources to pursue this matter (which involved an unsuccessful candidate).

However, the SET – and, essentially, only two detectives – otherwise completed a great deal of work and reached the right decisions. Regrettably, due to deficient record keeping, the way in which the SET’s detectives reached those decisions was not always apparent. Operation Lynemouth’s staff found difficulty in locating documents because of a seemingly illogical filing system, and when they did so they could not easily discern the original investigator’s decision-making process and rationale. We are satisfied that these deficiencies did not prevent Operation Lynemouth from achieving its objectives, although they unwittingly created more work for the operation’s investigators.

Even when the SET sought advice from the CPS, which they regularly did (whether by email, telephone or in person), in a significant number of cases there was no written advice and the SET did not produce minutes of the meetings. Therefore, the exact nature of the advice was not recorded. Ironically, this contributed to Operation Lynemouth’s thorough and independent approach, as they could not rely on, and be guided by, previous legal opinion.

### **Strand three (other criminal allegations)**

This strand concerns the review and reassessment of other criminal allegations that did not fall into the categories of the previous two strands. As we report at page 18, it was decided in January 2015, that the MPS’s fraud squad would be responsible for all allegations of fraud where the London Borough of Tower Hamlets featured as a suspect or as a victim. The 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, making a total of 14.

Operation Lynemouth’s own investigators reviewed and reassessed 13 of the allegations; the remaining allegation was referred to City of London Police and is discussed under strand four. Of the 13 allegations, Operation Lynemouth concluded that:

- one required no further action as it had had been fully investigated by the fraud squad and had resulted in criminal charges (the defendant was acquitted at Crown Court);
- five required no further action because they had been investigated by other investigatory or regulatory bodies;

- six required no further action by Operation Lynemouth (for example, because they did not amount to a criminal offence, were merely speculation, or a civil matter), although some might be of interest to an independent investigation to be conducted by City of London Police; and
- one required further investigation under Operation Lynemouth.

We concur with Operation Lynemouth's findings, which were ratified by chief officers. However, we consider the matter of the independent investigation, and the allegation that is still being investigated by the operation, worthy of further comment.

During Operation Lynemouth's review and reassessment, investigators took an imaginative approach and adopted the broader perspective that was lacking in the previous investigation. As a result, they identified investigative opportunities and secured pivotal evidence that were missed or disregarded in the past. Having consulted the CPS as to whether the evidence provides realistic opportunities for further investigation and prosecution, the MPS has arranged for City of London Police to conduct an independent investigation on its behalf, due to City of London Police's expertise in such matters.

The allegation that is still being investigated under Operation Lynemouth arose from one of the allegations considered under strand two. It was initially investigated by the fraud squad and was concluded after the fraud squad submitted a briefing note for consideration by the assistant commissioner who was then diamond commander (see page 28). The briefing note contained four options, but its author favoured the closure of that particular investigation. The assistant commissioner agreed with the proposal and that investigation was closed in September 2016. It is not apparent that the CPS was consulted about this decision.

However, certain material facts were omitted from the briefing note. We have been unable to establish the reason for the omission, but we are concerned that the assistant commissioner was not aware of the full facts when reaching her decision. Just as in any organisation, business or profession, senior managers must be able to make fully informed decisions and are reliant on colleagues in junior positions to provide the relevant information.

We welcome the continued investigation into this allegation but do not consider it necessary to delay Operation Lynemouth's closure in order to do so.

## **Strand four (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 related to the award of a £400,000 grant. City of London Police agreed the following terms of reference for its review:

1. To identify if all reasonable lines of enquiry were progressed;
2. To identify if the decision-making process and outcome at the conclusion of the [original] investigation were appropriate;
3. To identify if there were any further reasonable lines of enquiry and opportunities that could be progressed to identify any criminal activity and if so, bring those responsible to justice;
4. To bring to the immediate attention of the SIO [senior investigating officer] any key information or concerns discovered during the review process, which had not previously been identified;
5. To identify any best practice for the benefit of the service; and
6. To identify any matters requiring remedial action by the MPS.

Clearly, the MPS did not consider this a matter of priority when it was first brought to its attention. With no disrespect to the officer concerned, the case was allocated to a temporary detective constable from Tower Hamlets CID whom, we assume, would have had little experience of complex fraud cases (see page 18). If the officer was in any doubt as to where his priorities lay, his supervisory officer made the point clear when he recorded on the crime report that while he recognised "the gravity" of any potential offences, their "main aim [was] the investigation of violent crime". We acknowledge that this is perhaps understandable when police officers are more readily held to account for certain categories of crime.

The temporary detective investigated the allegation for ten months while working in the borough. He then accompanied the case to the fraud squad, when that department was given responsibility for investigating allegations of fraud where the London Borough of Tower Hamlets featured as a suspect or as a victim. There he would have been able to focus on the investigation, under the guidance of officers with suitable experience. It is to his credit that City of London Police considered his work "extremely thorough and professional".

City of London Police concluded that all lines of enquiry had been adequately progressed but made four recommendations relating to:

- the timeliness and management of the investigation;
- the initial assessment and allocation of fraud allegations;
- supervision; and
- training.

The recommendations have been referred to the MPS's serious and organised crime command (SCO7) for appropriate action.<sup>81</sup>

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<sup>81</sup> We are aware that the MPS's police cadet force in Tower Hamlets also benefitted from grant funding that was awarded by the London Borough of Tower Hamlets. We further recommend that the MPS review this award and associated expenditure.

## 6. Conclusions

In drawing together our conclusions, we consider good practice and lessons learned.

Operation Lynemouth was established on 2 May 2017. When it was concluded on 7 September 2018, it had cost approximately £1.7 million and had diverted much-needed resources from other challenges that the MPS had faced for 16 months. This was avoidable, particularly so if the MPS's communication and engagement with interested parties had been better.

We acknowledge that the police in Tower Hamlets and investigators from the SET did more work than is perhaps recognised, but they lacked support. The MPS also failed in terms of communication and engagement. Chief officers should have better explained the reasons why investigations came to nothing, the difficulties with legislation, and the admissibility of evidence in a criminal court (which differs from an election petition hearing).

That is not to say that more effective communication would have put everything right – far from it. The policing of the election and the subsequent investigation was deficient in too many areas. There was a lack of corporate responsibility, a lack of training and insufficient resources for the SET investigation. In essence, the MPS did not consider the election and investigation a priority.

This was evident particularly from the review of allegations other than electoral fraud (strands three and four of Operation Lynemouth). A complex case was allocated to an inexperienced detective in Tower Hamlets CID, who worked on it for ten months before being transferred, on a temporary basis, to the MPS's fraud squad in order to complete it. We found, in some other fraud squad cases involving Tower Hamlets, a disregard for lines of enquiry that would have expanded or prolonged an investigation. Furthermore, it was not always apparent that the CPS was consulted as it should have been.

The SET, which investigated electoral fraud matters (strands one and two), undoubtedly spoke with the CPS on a regular basis. However, the SET failed frequently to keep an adequate record of their decisions and the rationale on which they were based. This may be unsurprising, given that only two SET detectives were allocated to the task, which involved 169 allegations.

There was an otherwise uncoordinated approach to all the investigations, with little oversight at a senior officer level for the first year, which meant that opportunities might have been missed. Fortunately, Operation Lynemouth's investigators have identified lines of enquiry that could still be explored, and City of London Police has agreed to undertake an independent criminal investigation.



Over four years have passed since these events started and we acknowledge that the MPS and its partner organisations have done much to improve processes and procedures in the meantime. These have been tried and tested in subsequent elections. They include better training, more effective communication and engagement, a recognised system for reporting allegations and receiving feedback, and measures to maintain order at polling stations (such as an external exclusion zone and a revised protocol for candidates, though these remain voluntary and non-enforceable). We understand that the government is also looking at ways to prevent identification-related offences.<sup>82</sup>

It would be a futile exercise now to provide a prescriptive list of measures that the MPS needs to complete when so much has already been done. However, the MPS must guard against complacency and so we highlight seven areas for continual consideration, which encompass our findings and should reduce the risk of a recurrence:

1. **Prioritisation:** the policing of elections and the investigation of electoral offences must be afforded the importance that a democratic society deserves.
2. **Leadership:** chief officers must provide visible leadership and governance, not only during the election but throughout an investigation such as this, and must ensure evidential opportunities are not overlooked or disregarded.
3. **Resources:** adequate and suitably trained officers and staff must be made available, both for policing elections and investigating any electoral offences.
4. **Consistency:** planning (subject to any local needs) and training must be consistent throughout the MPS, to avoid duplication and ensure that officers and staff can be redeployed to meet demand.
5. **Communication:** the MPS must communicate and engage with interested parties and, as appropriate, with the wider public, both before, during and after an election and any investigation.
6. **Record keeping:** the MPS must keep accurate records of allegations, investigations and decisions (with rationale).
7. **Legal decisions:** the MPS must consult the Crown Prosecution Service about complex legal decisions and, where appropriate, seek early investigative advice.

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<sup>82</sup> For further information see: [Electoral integrity pilots: Prospectus 2018](#), HM Government, August 2018.

Finally, we consider Operation Lynemouth itself. We were impressed throughout with the approach that the senior investigating officer and his team adopted and their commitment to the task. Their work was painstaking and thorough. We were also impressed with the governance measures applied by chief officers. We are satisfied that the operation has achieved its objectives and that the one outstanding line of enquiry that it is still undertaking (in addition to City of London Police's independent investigation) should not prevent its closure.