

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD186

Personal Injury Claims 2023-24

Executive summary:

This report requests the approval of the Deputy Mayor for Fire and Resilience to authorise the London Fire Commissioner (LFC) to commit expenditure in respect of personal injury cases claims set out in part 2 of the decision for personal injury claims settled in the financial year 2023-24. This decision relates to claims brought by current or former employees of the London Fire Commissioner.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the LFC to seek the prior approval of the Deputy Mayor before “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”.

Decision:

That the Deputy Mayor for Fire and Resilience authorises the LFC to commit expenditure, in respect of personal injury cases, for the amounts set out in part 2 of the decision. This expenditure is for personal injury claims settled 2023-24, and is to be spent provided that:

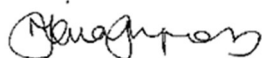
- the LFC obtains and follows the advice of specialist counsel on settlement, and the advice of a costs drafts person on costs claimed
- total spend on claims in 2023-24 is contained within the total funding for compensation matters, consisting of the base budget and earmarked reserve
- spend per claim is contained within the limit identified in part 2 of the report
- the LFC’s General Counsel notifies the Deputy Mayor when a claim that is anticipated to exceed £150,000 is received, and upon final settlement of such cases
- the LFC provides the Deputy Mayor with a year-end financial update on spend that occurred within the terms of this authority.

Deputy Mayor for Fire and Resilience

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

Signature:



Date:

23/02/2023

PART I – NON-CONFIDENTIAL FACTS AND ADVICE TO THE DEPUTY MAYOR

Decision required – supporting report

1. Introduction and background

- 1.1. Report LFC-0770y to the London Fire Commissioner (LFC) explains that the majority of personal injury (PI) claims against the LFC (or indeed the settlement of any other litigation) are less than £150,000 and are settled under the delegation provided in the LFC Scheme of Delegation. In respect of claims, the provision is for the settlement of any claim, including claims for costs, by or against the LFC, of up to £150,000 by the LFC's General Counsel on behalf of the LFC. Decisions to settle over £150,000 are a matter for the LFC and, under the terms of the current Mayoral Direction of 2018, the LFC is required to seek the prior approval of the Deputy Mayor for Fire and Resilience (the Deputy Mayor) before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...". Cases are settled based on advice provided by specialist counsel – which relies on well-established guidelines on damages and previous reported legal cases that set precedents and principles – and in relation to legal costs, on the advice of a costs draftsman experienced in such matters.
- 1.2. The procedure for dealing with high-value claims is not straightforward, especially if liability and/or causation are in dispute. The final value of these claims is often only fully quantified as the parties progress through the litigation process. An inability to negotiate settlement of these high-value claims at short notice creates the risk of being penalised in terms of additional costs and, reputationally, being perceived as delaying settlement.
- 1.3. The main claim types likely to exceed the amount that triggers the need for the Deputy Mayor's prior approval, and exceeding the current LFC delegation to General Counsel, are:
 - mesothelioma
 - other asbestos-related claims (asbestosis, lung cancer)
 - cancer-related claims
 - psychiatric injuries (usually PTSD)
 - any claim that results in medical retirement.
- 1.4. DMFD156 authorised the LFC to commit expenditure in respect of PI cases in 2022-23. GLA officers and the LFC consider this arrangement to have been effective since being introduced for the current financial year. This approach had enabled the LFC to respond to strict deadlines for committing expenditure without risking delay, while providing ongoing transparency on expenditure for the Deputy Mayor.

2. Objectives and expected outcomes

- 2.1. On the basis of details of the cases anticipated in 2023-24; the expert external legal and other advice sought on quantum and costs; the difficulties in anticipating exact figures, in terms of settlement and costs, within the litigation process; and the financial benefits of achieving early settlements, it is proposed that, subject to the Deputy Mayor authorising the expenditure, the LFC authorise General Counsel to settle claims up to the value set out in part two, on the terms set out in the recommendation.

- 2.2. The budgetary implication of the number and costs of cases received is clearly recognised. Accordingly, it is proposed that this arrangement remains subject to reporting mechanisms to the Deputy Mayor. This includes notifying the Deputy Mayor of cases where expenditure may exceed £150,000; and notifying the Deputy Mayor of confirmed costs when such cases are settled. The Deputy Mayor will also receive an update, at the end of 2023-24, on expenditure incurred on PI claims under this authority.
- 2.3. The authority sought is limited to 2023-24. Its use and effectiveness would be reviewed prior to any proposal to extend the authority for future years.

3. Equality comments

- 3.1. The LFC and the Deputy Mayor are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, taking this into account and then evidencing how decisions were reached.
- 3.2. It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.
- 3.4. The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
 - foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5. Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it
 - encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled

persons' disabilities.

3.7. Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard to the need to:

- tackle prejudice
- promote understanding.

3.8. There are no specific equality implications arising from this report.

4. Other considerations

Workforce comments

4.1. This report concerns individual issues. Accordingly, no staff-side consultations have been undertaken.

Conflicts of interest

4.2. There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

5. Financial comments

5.1. The report sets out a recommendation that the Deputy Mayor gives authority to the LFC to commit expenditure to settle all PI claims up to a maximum specified amount as contained in part 2 of this report. It is envisaged that these costs will be contained within existing base budget.

5.2. The 2023-24 LFC budget submission includes an amount contained in part 2 of this report as base funding. This budget is based on previous year's spend and future anticipated expenditure. It is currently estimated it will be sufficient to meet the costs arising in 2023-24. However, in unexpected circumstances, such as a large number of claims or a significant settlement, there is also an earmarked reserve specifically for these types of events.

5.3. There are no direct financial implications for the GLA.

6. Legal comments

6.1. Under section 9 of the Policing and Crime Act 2017, the LFC is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the LFC specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.

6.2. By direction dated 1 April 2018, the Mayor set out those matters for which the LFC would require the prior approval of either the Mayor or the Deputy Mayor. Paragraph (b) of Part 2 of that direction requires the LFC to seek the prior approval of the Deputy Mayor before "[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...".

- 6.3. The proposals in this report seek authority for the LFC to settle PI claims (or in the alternative a specific PI claim) in excess of £150,000; accordingly, this falls within those matters set out in the 2018 Directions and therefore requires prior approval of the Deputy Mayor.
- 6.4. These comments have been adopted from those provided by the LFC's General Counsel Department in report LFC-0770 to the LFC.

Appendices and supporting papers:

Appendix 1 – Report LFC-0770y Personal Injury Claims 2023-24

Public access to information

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FOI Act) and will be made available on the GLA website within one working day of approval.

If immediate publication risks compromising the implementation of the decision (for example, to complete a procurement process), it can be deferred until a specific date. Deferral periods should be kept to the shortest length strictly necessary. **Note:** This form (Part 1) will either be published within one working day after approval or on the defer date.

Part 1 Deferral:

Is the publication of Part 1 of this approval to be deferred? NO

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – YES

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer

Richard Berry has drafted this report with input from the LFC and in accordance with GLA procedures and confirms the following:

✓

Assistant Director/Head of Service

Niran Mothada has reviewed the documentation and is satisfied for it to be referred to the Deputy Mayor for Fire and Resilience for approval.

✓

Advice

The Finance and Legal teams have commented on this proposal.

✓

Corporate Investment Board

A summary of this decision was reviewed by the Corporate Investment Board on 13 February 2023.

✓

EXECUTIVE DIRECTOR, RESOURCES:

I confirm that financial and legal implications have been appropriately considered in the preparation of this report.

Signature:



Date:

15/02/2023