

## REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD207

### Title: Prevention and Protection establishment increase – Building Safety Regulator

#### Executive summary:

This report contains two decisions. The first requests the approval of the Deputy Mayor for Fire and Resilience to authorise the London Fire Commissioner (LFC) to commit revenue expenditure of £11,343,844 for the purposes of increasing establishment posts in the London Fire Brigade Protection team to assist the new Building Safety Regulator (BSR), as required by the Building Safety Act 2022 (BSA). The BSA introduces a new fire-safety regime for high-rise residential premises; this will be operated by the BSR, which has been established under the Health and Safety Executive. The recruitment, training, development, salaries and overheads will initially be funded through Home Office grant funding. After the grant-fund period, annual revenue pressures of £5,237,096 (at anticipated 2024-25 salary costs and on-cost rates) will arise for continued employment of staff; these are expected to be recovered from the BSR via a recharge process for hours of work undertaken for the BSR.

The second decision requests the Deputy Mayor for Fire and Resilience to authorise the LFC to commit revenue expenditure of £1,291,933 across financial years 2023-24 and 2024-25 for the purpose of employing a single national coordinator and staff to develop, manage and coordinate the national programme for providing assistance to the BSR. The recruitment, training, development, salaries and overheads of these staff will initially be funded through Home Office grant funding. After the grant-fund period, annual revenue pressures of £567,766 will arise for continued employment of staff; this is to be recovered from the BSR via a recharge process for hours of work undertaken for the BSR.

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 approves the London Fire Commissioner committing revenue expenditure of up to £11,343,844 in 2023-24 and 2024-25, and up to £5,237,096 annually thereafter, to increase establishment posts in LFB’s Protection team of 46 additional inspecting officers, 12 fire engineers and up to four managers.
- Subject to the receipt of assurances relating to future funding for 2024-25, the Deputy Mayor for Fire and Resilience approves the London Fire Commissioner to committing revenue expenditure of up to £1,291,933 in 2023-24 and 2024-25, and up to £567,766 annually thereafter, to employ a single national coordinator, a team leader and up to 11 national administration and finance staff to develop, manage and coordinate the national programme for providing assistance to the BSR.

#### 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:

25 July 2023

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 Report LFC-23-060 to the London Fire Commissioner (LFC) explains that Building Safety Act 2022 (BSA) introduces a new fire-safety regime for high-rise residential premises, in the light of failings in construction and building-control processes identified following the Grenfell Tower fire on 14 June 2017. The new regime will be operated by a new body, the Building Safety Regulator (BSR), established under the Health and Safety Executive. Sections 13 to 16 of the BSA make provision for fire and rescue authorities, also known as fire and rescue services (FRSs), to assist the BSR in the undertaking of its functions. FRSs may be directed by the BSR, if the Secretary of State gives consent to this.
- 1.2 The government and the BSR's expectation is that FRSs and their staff will work with the BSR to deliver the checks and inspections necessary for the new regime to operate. The government has recognised that this creates a new burden that will require funding. Consequently, a national grant to FRSs totalling around £26m over the period from 1 January 2023 to 31 March 2025 has been provided. This is to be drawn upon on the basis of actual spend during that period, which expires at the end of the existing spending review period.
- 1.3 The grant is being apportioned by the National Fire Chiefs Council (NFCC) to regions (including London) based on the proportionate number of higher-risk residential buildings (HRRBs) within the new safety regime's scope, in each region. The apportionment also takes into account that some work will require specialist fire-engineering knowledge. The resultant grant for use by London Fire Brigade (LFB) is up to £11,716,720 over the financial years 2022-25 to cover salary, training and associated costs for up to 46 additional fire safety inspectors at grade FRS D; four fire safety team leaders (regional managers) at grade FRS E; up to 12 additional fire engineers (grade FRS E or station officer) or engineering technicians (at grade FRS D), or a combination of these; and upgrading two posts to senior fire engineer at grade FRS F. As recruitment is not taking place until 2023-24, the staff cost figures, discounting 2022-23, are lower than the full available grant sum.
- 1.4 Details of the salary and on-costs, together with training costs used by the NFCC for these purposes (primarily based on figures for London) are provided within appendix 1 of LFC report 23-060. These assume a 5 per cent salary increase each year.
- 1.5 The recruitment, training, development, salaries and overheads will be initially funded (claimed back) through Home Office grant funding. After the grant-fund period, annual revenue pressures of £5,237,096 (at anticipated 2024-25 salary costs and on-cost rates) will arise for continued employment of staff, but are expected to be recovered from the BSR via a recharge process for hours of work undertaken for the BSR. Additional training costs will arise in the region of £16,615 per inspecting officer, and £9,956 per fire engineer, recruited after 2024-25. Negotiations will take place with the government for recovery of such sums if grant funding is not available. After expiry of the grant funding, the government proposes that additional FRS staff costs will be met by 'billing back' hours used to support the BSR.
- 1.6 With BSR work being undertaken at NFCC regional level, the NFCC has proposed a single national strategic lead officer, and a national administration hub, to deal with the BSR workload for FRSs; and to calculate and undertake financial billing and remuneration work for English FRSs as a whole, in respect of the BSR. This is in the interests of efficiency and consistency. The Home Office has allocated £1,291,933 over the financial years 2022-25 for this function.
- 1.7 The NFCC has advised the LFC that, due to the NFCC's charitable status, it cannot undertake the national role, and has proposed that it should be centralised within a single FRS. The proposal made being is that, as the largest FRS, LFB should host the national administration hub and employ the relevant staff. As with additional inspecting officers and fire engineers, it is proposed by the

government that running costs will be met until 31 March 2025 by grant funding (billed in arrears) of up to £1,291,933 and thereafter by billing the BSR through a cost-recovery premium added to the number of hours spent nationally on BSR work by fire safety inspecting officers and fire engineers. It is anticipated that actual spend will be in the region of £944,386 between 2023 and 2025. The request to spend up to the full available grant figure is made to allow for any necessary staffing adjustments, in the light of experience or additional set-up costs that require additional or specialist short-term staffing.

## **2. Objectives and expected outcomes**

- 2.1 The overarching objective for providing assistance to the BSR is to make buildings within the scope of the BSA safer; and, therefore, to ensure the occupants of those buildings are also safer. This includes new buildings and existing occupied buildings.
- 2.2 The LFC's objective to provide assistance to the BSR within London also supports several mayoral strategic priorities. In particular, it directly supports and underpins the delivery of key parts of the London Plan – specifically, Chapter 4 (Housing) Policies H1 to H16; Policy GG3, Creating a Healthy City; Policy GG4, Delivering the Homes Londoners Need; and Chapter 3 Policy D12, Fire Safety. It also indirectly supports several other objectives within the London Plan, related to the planning and building of safer new housing, and safety in existing housing.
- 2.3 The anticipated outcomes of the BSR, subject to its work being supported, will be safer high-rise housing within London; and all the advantages that brings to resident wellbeing, mental health, housing mobility and safety for vulnerable people. For the LFC, use of additional staff will mean risk-based inspection of other types of premises will be less adversely impacted, once sufficient staff are in place and have been brought to the requisite competence levels through training and experience.

## **3. Equality comments**

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience 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. The LFC will continue to have due regard and consideration to the Public Sector Equality Duty throughout the recruitment training and development of staff to deliver assistance to the BSR through its current policies and through the development of policies and procedures to deliver this service.
- 3.3 The purpose of this report is to describe and request agreement for the resources and methodology to implement the LFC's legal requirement, under the BSA, to provide assistance to the BSR; and the LFC's support for national delivery of the assistance to the BSR, to provide better regulation of new and existing occupied residential buildings. It is not in itself, therefore, creating any policy that affects delivery of the LFC Public Sector Equality Duty. This has already been considered within the legislation that LFC is assisting the BSR to deliver.
- 3.4 Alongside the governmental generic legislative equality impact assessment (EIA), the actual matters covered by this report are covered by existing EIAs: EIA 210616 (Recruitment Policy FRS and Control Staff) and EIA 210930 (FSR Centre of Learning and Excellence). The training aspects were subsumed within the EIA-accompanying report LFC-0736y. Changes to inspection activities due to changes in staff numbers are to be considered within the EIA associated with paper LFC-23-004 (Risk Based Inspection Programme). These changes should be kept under review with the EIA during the ongoing

development of that programme, from which the work associated with this paper is indivisible (as 'demand-led' work).

- 3.5 All activity arising from the decisions within this paper will be considered within and under those extant policies. Each extant EIA has, therefore, been reviewed by the LFC. This has not resulted in the identification of additional positives or negatives arising from this report's proposals. The potential to accelerate recruitment of staff from under-represented groups is possible due to higher recruitment rates, but this remains dependent on applications made for employment. Therefore, it is considered that a separate EIA is not required for this report or associated decisions; but an EIA will be required as any additional operational delivery policies and guidance are developed. The latter cannot yet be conducted, as the detail of what will be required or expected of the LFB is yet to be received from the BSR.

#### **4. Other considerations**

##### *Key risks*

- 4.1 Employing significant numbers of additional inspecting officers and fire engineers to permanent positions, to service the levels of work to support the BSR anticipated by the NFCC and government, is not without a degree of financial risk. This risk is exacerbated for the national roles where reliance is placed on funding arising from work being undertaken by other FRSs. This is explored in Appendix 2 of report LFC-023-60. Overall, the financial risk is minimal during the grant-funded period (until 2024-25), and then may be alleviated by provision of termination clauses in the memorandum of understanding (MoU) with the Home Office and others covering the undertaking of national BSR work.
- 4.2 Separately there is some reputational risk for the LFC if LFB (and so, the LFC) is regarded as being responsible (through the national coordinator and national administration functions) for any FRS failings across the country in respect of the functioning of the new regime, or of the timely free flowing of invoices and refunding of monies from the BSR to the FRS. Subject to any further information from the BSR, this does appear manageable by the national coordinator through reporting to the BSR and the consequent exercise of BSR powers to request action by each FRS. In the alternative, should the LFC choose to refuse the national administration role, then this could be seen by some as seeking to subvert the operation of the BSR and the associated regulatory regime. Clearly, the latter is not the intent of LFC or LFB.

##### *Workforce comments*

- 4.3 The LFC will have some workforce issues to overcome. The employment of a large cohort of people, as well as their induction, management, training and development, will put pressure on existing systems. This can be contained through management, BSR funding of additional middle manager/team leaders, and use of the LFB Centre of Learning and Excellence through reallocation of internal resources and use of Home Office Protection Uplift funding to address short-term needs. Additional pressures on senior managers may arise due to the increase in staff numbers and oversight of the national work; these pressures will need to be kept under review.
- 4.4 The national/regional coordination staff will be collaborating with several agencies and services. MoUs, policies and guidance will be required to enable delivery of the outcomes required.
- 4.5 Consultation with representative bodies will be important to ensure that collaborative working in the national role is effective. However, it is unlikely that negotiation will be required, as the staff roles are similar to existing roles.

##### *Sustainability issues*

- 4.6 There is some prospect of additional travel by inspecting officers. However, in areas where

there are more HRRBs, travel is almost exclusively made using public transport. For the national coordinator role, means of travel to other parts of the country has yet to be assessed, given the final nature of the role is yet to be agreed. This will be kept under review.

#### *Procurement comments*

- 4.7 Growing the number of staff will increase the call for uniform and associated equipment for staff at fire safety inspecting officer, team leader and fire engineer levels. However, given this is a normal issue, it is not anticipated that any undue pressures will arise for the procurement and provision to staff. In relation to IT equipment, inspecting staff normally use an electronic mobile device. Initial work with recruiting under existing agreements allows for orders to be placed sufficiently in advance of a cohort of recruits starting, so as to minimise risk from the supply chain. Other IT equipment (such as for home working) can be ordered under existing central contracts with significant notice, given through staff on-boarding procedures and a 25-week training period at LFB office locations where IT equipment is available. Therefore, procurement issues are not anticipated. The costs for equipment and training can be recharged to the government funding for the new additional posts, and refunded to departments or directed to central funds. This will be agreed between departments as the arrangements are further developed.
- 4.8 In respect of the national coordinator role, some short-term procurement issues may arise around the setting-up of FRSs as suppliers and customers, together with the BSR, to establish the 'bill back' charging system that is expected to follow on from the initial grant funding. The extent of this is unknown while the BSR itself develops relevant working practices and systems. Consequently, it will be kept under close review.

#### *Conflicts of interest*

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

### **5. Financial comments**

- 5.1 This report sets out recommendations to increase the establishment within LFB's Prevention and Protection department as a result of the implementation of the new BSR. This increase is set out in two elements.
- 5.2 The first recommendation is to increase the establishment by an additional 46 inspecting officers, 12 fire engineers and up to four managers. This is at an annual revenue cost of £6,106,748 in 2023-24; £5,237,096 in 2024-25; and then an ongoing revenue cost of £5,237,096 in 2025-26 and all future years. The total cost of £11,343,844 across 2023-24 and 2024-25 will be met from Home Office grant funding. It is expected that there may be movement in costs between years, according to recruitment and training dates. The ongoing revenue cost from 2025-26 is expected to be met from a recharge process to the BSR.
- 5.3 The second recommendation is to increase the establishment by a single national coordinator, and up to 11 national administration and finance staff, to develop, manage and coordinate the national programme for providing assistance to the BSR. This is at an estimated annual revenue cost of £376,570 in 2023-24; £567,816 in 2024-25; and then an ongoing revenue cost of £567,816 in 2025-26 and all future years. The total cost of £944,386 in 2023-24 and 2024-25 will be met from Home Office grant funding. The ongoing revenue cost from 2025-26 is expected to be met from a recharge process to the BSR.
- 5.4 The report notes that this may result in a financial risk to the LFC where costs are incurred in paying for staff, with no guarantee that work will be provided by the BSR to fully offset those costs. This risk is exacerbated for the national coordinator role, where reliance is placed on funding arising from work being undertaken by other FRSs.

- 5.5 The report also notes that the funding position for staff under training after 2024-25 remains unclear, as it may not be possible to bill back their time to the BSR after the grant funding ends. Government officials have given some assurance on this, but cannot give financial commitments outside of the current spending review period. Where there is uncertainty in future years, the net cost to the LFC will be reviewed as part of the annual budget-setting process.

## **6. Legal comments**

- 6.1 This report seeks approval to commit revenue expenditure for the purpose of recruiting additional posts to meet and discharge new obligations under the BSA.
- 6.2 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.
- 6.3 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 for Fire and Resilience (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”. Accordingly, the expenditure identified for the recruitment of new posts as identified in this report requires prior approval.
- 6.4 LFB is the enforcing authority for the Regulatory Reform (Fire Safety) Order 2005 in relation to the large majority of premises in Greater London, including those that are also to be regulated by the BSR. LFB has a positive duty to enforce the Order (in article 26) and may employ inspecting officers to do so, who will then have statutory investigative powers (under article 27) such as rights of entry to premises, to require production of relevant records and a (limited) power to take samples. By section 13(1) of the BSA, LFB has a general power to facilitate the BSR’s regulatory function at the BSR’s request. By section 13(2), the BSR might, with the consent of the secretary of state, ultimately direct LFB to do so. LFB can exercise this power to host the national strategic lead officer and a national administration hub to deal with the BSR workload for FRSs.
- 6.5 The BSR proposes that its officers will work in multidisciplinary teams with other regulators, including fire services. LFB officers will, therefore, be exercising their investigative powers under article 27 RR(FS)O 2005 when working with the BSR. By section 15(2) of the BSA, LFB must ensure officers assisting the BSR have appropriate skills, knowledge, experience and behaviours for this. This funding proposal recognises that this framework requires LFB to reassess its establishment of officers trained and experienced to exercise the relevant article 27 statutory investigation powers, and to facilitate the BSR’s regulatory functions.
- 6.6 These comments have been adopted from those provided by the LFC’s General Counsel Department in report LFC-23-060 to the LFC.

## **Appendices and supporting papers:**

Report – LFC-023-60 – Prevention and Protection Establishment increase – Building Safety Regulator

**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 be published either 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 – NO**

**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

**INTERIM CHIEF FINANCE OFFICER:**

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

**Signature:**



**Date:**

25 July 2023