

Procurement of an Independent **Advice and Investigation Service**

Deputy Mayor's Fire and Resilience Board
London Fire Commissioner

30 November 2022

Report by:
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Report classification: For decision

For publication

Recommended decisions

That the London Fire Commissioner (LFC) agrees to commit further expenditure of the amount specified in Part 2 of the report necessary for the establishment of an independent advice and investigation service with CMP Solutions Limited for complaints relating to bullying, harassment, and discrimination for a temporary 6-month period. The LFC also delegates authority to the Assistant Director People Services to finalise and agree the terms of the contract.

1 Introduction and background

- 1.1 On 25 November 2022, the Independent Culture Review of London Fire Brigade, led by Nazir Afzal was published. Nazir spoke to over 2000 LFB employees, and describes attitudes, behaviours and prejudices totally opposed to the Brigade's values. This includes 'horrendous racial abuse', homophobia and 'countless accounts of women being subject to abuse from colleagues on a day-to-day basis, pointing to a deep-rooted culture of misogyny'.
- 1.2 The report directly links this culture to the deterioration of mental health amongst staff. 'At its worst, as I saw in the case of LFB, it [poor culture] can mean people are frightened for their life'. Given the numbers of staff who spoke to the review team, and the potential impact of the publication of such a document on those who are already vulnerable, this indicates a genuine threat to the safety of our staff. There is therefore an immediate need to take quick and decisive action to support staff which this proposal is part of.

- 1.3 Most the incidents cited have never been reported to the LFB, and LFB was informed that none of the 2000 members of staff who spoke to the review team were willing for their name to be passed to the LFB for investigation. This demonstrates a deep lack of trust in LFB processes, with staff more reticent to give their names to their employer than having their experiences in the public domain. This lack of trust is notably related to People Services (HR) and managers and prevents staff from raising concerns. Over the last 5 years, the LFB has had 39 cases of bullying, harassment and discrimination, a figure which paints a very different picture to the one described in the report.
- 1.4 Nazir Afzal makes 23 recommendations, one of which is to adopt a zero-tolerance policy for bullying, racist and misogynistic behaviour and another to consider anonymised reporting of incidents relating to bullying, misogyny and racism. There are further recommendations to building trust in policies and processes.
- 1.5 In response, the LFB is setting out a zero-tolerance approach to bullying, harassment, and discrimination, and setting up an independent advice and investigation service for complaints relating to this. The independent advice and investigation service will receive and investigate complaints on behalf of the LFC and will do so confidentially. The line manager does not undertake any element of the investigation. Line manager briefings will be undertaken over the coming weeks to ensure managers understand how the new service works. To be clear, the new independent complaints service will not remove the role of the manager in taking appropriate action but will provide additional support and expert advice, and a service to carry out independent investigations of cases.
- 1.6 In addition, there is an expectation that there will be an increase in complaints from staff and related disciplinary cases, as the LFB responds to the review by setting out a zero-tolerance approach. The setup of an independent complaints service may also encourage more staff to come forward. It is therefore vital that the LFB can meet this increased demand if trust and confidence is to be built and hence the safety of our staff protected.

2 Recommendation from People Services

- 2.1 In response, the LFB is proposing to setup an independent bullying, harassment and discrimination complaints service with CMP Solutions, consisting of the following components:
- CMT project set up costs
 - Independent complaints phone line (including CMP Advisor call, Adviceline and Triage): providing emotional support, information and guidance to staff and managers who have experienced or witnessed poor behaviour, or who need to address poor behaviour.
 - Investigations: conducting of investigations relating to bullying, harassment, and discrimination, including disciplinary investigations arising from those complaints.
 - Independent Panel Members for Hearings Panels: Potential for independent disciplinary hearing panel members to ensure that bullying, harassment, or discrimination decisions are made transparently, fairly, robustly, and proportionately. The final decision at a hearing as to the sanction will remain with the Presiding Manager.
 - Quality Assurance of past cases: a review of all bullying, harassment and discrimination cases from the past five years.
 - Coaching and support for managers: A 'Just in Time' Management Coaching service to support managers prepare for a meeting with an employee relating to bullying, harassment or discrimination.
 - Mediation: to prevent and manage workplace conflict; building skills; and rebuilding

relationships between staff.

- Upskilling of managers and HR staff: on best practice policy review, application of policy and hearings and investigations.
- Other: training courses such as training for Hearing Managers, and Honest Conversations for managers to address behaviour, performance, and wellbeing challenges

- 2.2 The LFC has committed initial expenditure of up to £149,958 to procure through CMP solutions Limited components of that service which are necessary to address the report findings and to provide an independent support to LFB staff and managers.
- 2.2 This service will not remove the role of the manager in taking appropriate action but will provide additional support and expert advice. Managers are still expected to deal with poor behaviour immediately in line with LFB policies but will have access to support from the helpline. Guidance will be provided to staff and managers alongside the launch of the independent service so that they are clear on how to access the external service.
- 2.3 It is intended for the independent advice and investigation service to be in place for 26 weeks until 31 May 2023, whilst an external review of People Services is undertaken and plans put in place for the long-term handling of bullying, harassment and discrimination complaints. Thematic data and insights will be captured by CMP Solutions Limited which will feed into longer-term work to build trust in LFB policies and processes.
- 2.4 In Part 2 of the report there is a table which sets out the costs associated with each part of the service. Costs are anticipated to be up to the amount set out in Part 2 of this report depending on volumes and complexity of issues. Volumes of cases will be monitored daily to track expenditure and make sure the service is being used effectively and appropriately to ensure value for money. A further decision will be submitted if the LFB feels it is appropriate to exceed expenditure of the amount set out in Part 2 of this report or that the service length should be extended.

3 Recommended Provider

- 3.1 LFB has identified an existing service provider, CMP Solutions Limited who can quickly facilitate the provision of the independent advice line and triage service and wrap around investigation, coaching and mediation support. As set out elsewhere in this report the LFC has committed expenditure of up to £149,958 through a direct award within an existing framework. This report seeks the commitment of further expenditure to deliver an independent advice and investigation service over the course of a temporary six-month period.
- 3.2 LFB has an existing contractual relationship with CMP Solutions Limited. The company has undertaken a small number of independent investigations in support of LFB harassment complaints, grievances and disciplinary cases in the past, which have been beneficial for the organisation and noted for their objectivity and independence to the LFB.
- 3.3 CMP Solutions Limited has provided conflict resolution advice and support to hundreds of Public Sector clients, including the Ministry of Defence and Prison Service.

4 Objectives and expected outcomes

- 4.1 An independent advice and investigation service with CMP Solutions Limited will support staff that the Review of Culture has shown may be at immediate risk of harm, by providing an

external, trusted mechanism for concerns to be raised, and for poor behaviour to be investigated. It will also enable capacity to flex based on the potential increase in complaints following the publication of the review. The proposal is for the independent advice and investigation service to be in place for 26 weeks until 31 May 2023, whilst an external review of People Services is undertaken and plans put in place for the long-term handling of bullying, harassment and discrimination complaints.

- 4.2 LFB will have a Service Level Agreement in place as part of the contract, to ensure that all staff who contact the service receive a call back (or contact in their requested format) within 48 working hours.

5 Interim Steps

- 5.1 In order to give immediate effect to the recommendations of Nadir Afzal's report the LFC has committed expenditure of up to £149,958 to procure an independent support service via the Eastern Shires Purchasing Organisation (ESPO) framework for Strategic HR Services (reference 3S-22). This initial expenditure was agreed by the LFC's Director for People under delegated authority (following consultation with the Commissioner and Director for Corporate Services and following advice from the LFC's General Counsel and Assistant Director Procurement and Commercial), on 24 November 2022 in accordance with the LFC's Scheme of Governance. This report seeks to commit additional expenditure of up to the amount set out in Part 2 for the provision of services listed in paragraph 2.1 for a period of six months. The commitment of that additional expenditure requires prior approval of the Deputy Mayor for Fire and Resilience.

6. Equality comments

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.
- 6.5 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.
- 6.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include steps to take account of disabled persons' disabilities.
- 6.7 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, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 6.8 CMP have provided information on the diversity of their workforce, whilst they are broadly representative of the UK population, they are not representative of London and they have targets in place in investigator and mediator recruitment which has made some improvements since these stats were produced but they acknowledge they have a little way to go still.
- 6.9 Of their staff profile 56% are female and 44% male, 11% have declared they have a disability. 86% of the staff stated their ethnic group was white, with 14% of staff stating to be from an ethnic minority.
- 6.10 There is no evidence of the provision of the helpline and triage service will have any adverse impact on those staff with a protected characteristic although the Brigade would recognize that further ongoing work is needed as this is an interim measure. The Culture Review provides evidence that bullying, harassment, and discrimination are not currently being dealt with or reported and this outsourcing provider would improve the experiences for underrepresented groups.

7 Workforce comments

- 7.1 Prior to the release of the Culture Review report, consultation had to be balanced against the need to maintain the confidentiality of the contents of the report. To ensure the changes would be welcomed, People Services consulted with a small group of staff across Operations and Control on the setup of the external advice and investigation service alongside the wider initiatives announced following publication. Equality Support Groups and Trade Unions were also informed prior to publication and feedback invited. Positive feedback was received with no objections, and suggestions were taken on board where possible within the timescale, for example in developing a staff toolkit following feedback from the Women's Action Committee, which went live the week of publication of the report.
- 7.2 A series of all staff briefings have been and will continue to be delivered in days and weeks following the report's release and brigade wide communications issued which direct staff affected by issues raised in the report to a confidential support hotline. Questions and answers arising from the staff briefings will be available via LFB's intranet site for all staff to view.
- 7.3 Discrimination, Bullying and Harassment complaints and associated disciplinary investigation are currently managed by the Employee Relations team in People Services, alongside a small group of trained managers across the LFB. This work is a small part of the job descriptions of the team affected, and hence does not have any redundancy or TUPE implications. The capacity freed up by the setup of this service will be directed towards other high priority

projects in the team, whilst an independent review is undertaken of the People Services department (as recommended by the culture review report) to determine the long-term approach to managing such complaints. The team affected have been informed.

- 7.4 Any permanent changes would be consulted on with the appropriate representative bodies and staff and would be take forward in line with the LFC's Redundancy and redeployment code (Fire and Rescue Staff and Control Staff) (PN562).

8. Sustainability comments

- 8.1 There are no sustainability comments.

9. Procurement comments

- 9.1 Given the urgency with which an independent service had to be in operation, the LFC utilised the ESPO framework for Strategic HR Services (reference 3S-22) which covers a range of advice, support and provision of service in relation to HR consultancy, in order to place a contract with CMP Solutions Limited under the Direct Award provision of the framework agreement. The framework is compliant with UK procurement legislation including regulation 33 of the Public Contract Regulations (2015) and the Direct Award provision is allowed under the terms of the framework. All suppliers listed on the framework were assessed during the framework procurement process for their financial stability, track record, experience and technical and professional ability.
- 9.2 The LFC has an existing relationship with CMP Solutions Limited who has a proven track record of providing HR consultancy services to other similar organisations responding to culture reviews. That relationship and its proven track record of delivering Strategic HR Services across the sector was critical given the urgency with which the service had to be established, to be operational with immediate effect and delivering a high-quality service. A capability review was undertaken via email with the other suppliers on the framework Lot. The responses received indicated that CMP Solutions Limited were the only framework provider with the capability and/or capacity to deliver the requirement.

10. Communications comments

- 10.1 The service details will be included in all communication products as part of the Culture Review communications plan.

11 Financial comments

- 11.1 This report recommends that an independent advice and investigation service is setup for a 6-month period at a revenue cost of up to the amount set out in part 2 of this report. The first £149,958 has been committed to via a Single Tender Action and direct award through the ESPO Framework. This decision is for the total authority for expenditure for the amount as specified in Part 2 of this report. This will be incurred in the 2022/23 and 2023/24 financial years and will be met through the use of the Community Risk Management Plan (CRMP) Reserve. The CRMP reserve has been identified as an appropriate earmarked reserve that could cover this initial phase, whilst a longer-term funding arrangement is developed. It is recognised that use of the reserve reduces the amount immediately available for CRMP projects. However, addressing the cultural issues raised in the review report will benefit the delivery of the CRMP. The CRMP reserve has a forecast balance of £1,871,000 as at the end of the 2023/24 financial year, not

including the impact of the proposed decision. The volumes of cases will be monitored daily to track expenditure and make sure the service is being used effectively and appropriately to ensure value for money.

- 11.2 In response to a recommendation in the Culture Review Report, the LFB has committed to undertaking an independent review of the People Services department. This will build on existing plans to restructure HR Operations and implement a new HR system from April 2023. This will identify what scope there is to accelerate the return on the investment committed in the 2022/23 budget submission to earlier than 2027; the date set out in the 2023/34 budget response.

12 Legal comments

- 12.1 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the Commissioner") is established as a corporation sole with the Mayor appointing the occupant of that office.
- 12.2 Under section 327D of the GLA Act 1999, as amended by the Policing and Crime Act 2017, the Mayor may issue to the Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.
- 12.3 By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner 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 the said direction requires the Commissioner 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...". The decision to procure the external complaints service will therefore require approval from the Deputy Mayor.
- 12.4 The statutory basis for the actions proposed in this report is provided by Section 5A of the Fire and Rescue Services Act 2004 ("FRSA 2004"). Section 5A allows the Commissioner to procure personnel, services and equipment they consider appropriate for purposes incidental or indirectly incidental to their functional purposes.
- 12.5 The report seeks approval for the provision of an external advice and investigation service to be secured via Direct Award provision off a framework agreement and this is in compliance with the Public Contract Regulations (2015).
- 12.6 The report sets out that this is a temporary measure pending a review of the LFC arrangements. The elements of work proposed to be temporarily undertaken by the external provider is a small part of the roles of the LFC officers and as such a redundancy situation does not arise. Should a redundancy situation arise following the independent review of People Services, this would be dealt with in line with the LFC's Redundancy and Redeployment Code (Fire and Rescue Staff and Control Staff) (PN562) and officers will draft further reports.

Part two confidentiality

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

Is there a Part Two form: YES