

## REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD218

### Title: Personal Injury Claims 2024-25

#### Executive summary:

This report requests the approval of the Deputy Mayor for Fire and Resilience (Deputy Mayor) to authorise the London Fire Commissioner (LFC) to commit expenditure of an amount set out in Part 2 of this report. This is for the purposes of settling personal injury (PI) claims up to the amounts also set out in Part 2, and is for the financial year 2024-25.

The proposed decision will be to continue the arrangements for agreeing expenditure on PI claims introduced in 2021-22 (in Deputy Mayor for Fire and Resilience Decision (DMFD) 132. These arrangements continued in 2022-23 (DMFD156) and 2023-24 (DMFD186).

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 (Deputy Mayor) authorises the London Fire Commissioner (LFC) to commit expenditure for the amounts set out in part 2 of the decision, for personal injury claims settled in 2024-25. This is provided:

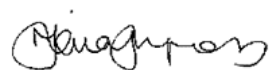
- the LFC obtains and follows the advice of specialist counsel on settlement, and the advice of a costs lawyer on costs claimed
- spend is contained within the total funding for 2023-24, as identified in part 2 of this decision
- spend per claim is contained within the limit identified in part 2 of the decision
- LFC’s General Counsel notifies the Deputy Mayor when upon receipt of a claim anticipated to exceed £150,000, 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:

15/12/2023

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

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

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

- 1.1. Report LFC-23-101 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, up to £150,000, by General Counsel. Decisions to settle over £150,000 are a matter for the LFC and trigger the LFC Governance Direction 2018. Cases are settled based on advice provided by specialist counsel, which relies on well-established guidelines on damages; on previous reported legal cases that set precedents and principles; and, in relation to legal costs, on the advice of a costs lawyer 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. The risks of not being able to negotiate settlement of these high-value claims at short notice include incurring additional costs and, reputationally, being perceived as delaying settlement.
- 1.3. The main type of claims that are likely to exceed the amount that triggers the Deputy Mayor for Fire and Resilience's (Deputy Mayor's) prior approval, and the current LFC delegation to General Counsel, are:
  - mesothelioma
  - possibly other asbestos-related claims (asbestosis, lung cancer)
  - cancer-related claims
  - psychiatric injuries (usually PTSD)
  - any claim that results in a medical retirement.

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

- 2.1. The objective of the LFC report is to seek authority to settle PI claims for 2024-25.
- 2.2. It is proposed that, subject to the Deputy Mayor authorising the expenditure, the LFC will authorise General Counsel to settle claims up to the value on the terms set out in the recommendation. This is based on the details of the cases anticipated in 2024-25; 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.
- 2.3. 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 2024-25 on expenditure incurred on PI claims under this authority. The report on forecast expenditure on PI claims for 2022-23 was provided to the Deputy Mayor in DMFD156.
- 2.4. The authority sought is limited to 2024-25. 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 under a duty to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions.
- 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-makers 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 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 authority is delegated 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 2024-25 LFC budget submission includes an amount contained in part 2 of this report as base funding. This budget is based on the previous year's spend and future anticipated expenditure. It is currently estimated that it will be sufficient to meet the costs arising in 2024-25. However, in unexpected circumstances such as a large number of claims or a significant settlement, there is also a reserve earmarked specifically for these types of events.

## **6. Legal comments**

- 6.1. Under section 327A of the Greater London Authority Act 1999 (GLA Act), the LFC is established as a corporation sole with the Mayor appointing the occupant of that office. Under section 327D of the GLA Act, 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 their functions.
- 6.2. The Mayor issued to the LFC the London Fire Commissioner Governance Direction 2018 which sets 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 the 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 the LFC report seek to provide delegated authority to General Counsel to settle PI claims (or in the alternative a specific PI claim) in excess of £150,000. Accordingly, these fall within those matters set out in the 2018 Direction and therefore require prior approval of the Deputy Mayor.

### **Appendices and supporting papers:**

Appendix 1 – Report LFC-23-101 – Personal Injury Claims 2024-25.

## 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 – 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 11 December 2023.

✓

## INTERIM CHIEF FINANCE OFFICER:

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

**Signature:**



**Date:**

11/12/2023