

Legal Costs Related to the Grenfell Tower Fire

Report to:

Date:

Investment and Finance Board

28 September 2023

Commissioner's Board

18 October 2023

Deputy Mayor's Fire and Resilience Board.....

26 October 2023

London Fire Commissioner

Report by: Yvonne McKenna, Head of Litigation, General Counsel's Department

Report classification:

For decision

For publication

PART ONE

Non-confidential facts and advice to the decision-maker

Executive Summary

Under the Mayor's Direction of April 2018, prior authority is to be sought from the Deputy Mayor for Fire and Resilience to incur expenditure of £150,000 or above. This report seeks authority to incur expenditure on legal costs for 2024/25 relating to the Grenfell Tower fire and delegation is sought from the London Fire Commissioner to the Director of Corporate Services to make decisions to incur such expenditure in 2024/25.

For the London Fire Commissioner

That the LFC delegates authority to the Director of Corporate Services to incur expenditure of up to £2,464,753 plus a 15 per cent contingency of £369,712, totalling £2,834,465 for the period 2024/25 to secure legal advice and representation for the LFC and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire.

1 Introduction and background

- 1.1 The Grenfell Tower Inquiry's ("the Inquiry") evidential hearings concluded in July 2022. Core Participants, including the London Fire Commissioner, provided further submissions to the Inquiry in the autumn of 2022, which were heard orally in November last year. It is now anticipated that the Chair of the Inquiry, Sir Martin Moore-Bick, will publish his report related to Phase 2 of the Inquiry in 2024. There is ancillary litigation related to the Grenfell Tower fire. Some of those claims have now been settled and others are ongoing.

External Legal Resource

- 1.2 It has been necessary for the LFC to engage external legal resource to assist General Counsel's Department in relation to work arising out of the Inquiry, and ancillary litigation.
- 1.3 The nature of the work, and requests made of the LFC by the Inquiry and ancillary litigation means that it is extremely difficult to predict accurately the totals for each legal resource and

when that resource will be needed.

- 1.4 This report is the latest in a series of reports over the past four years relating to authority to incur costs in respect of legal costs arising from the Grenfell Tower Fire.

2 Objectives and expected outcomes

- 2.1 The objective of this report is to seek authority to incur expenditure in 2024/25.
- 2.2 The expected outcome is that the LFC is able to properly resource its engagement with the Inquiry and the work related to the ancillary litigation.

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.
- 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, in particular, to the need to:
- tackle prejudice
 - promote understanding.
- 3.8 An Equality Impact Assessment (EIA) was undertaken on 27 July 2020 in relation to the legal costs related to the Grenfell Tower Fire. The EIA found that there is likely to be negligible impact on those with protected characteristics. The EIA has been reviewed and the position is unchanged in this report on the basis that this report does not propose any change which will impact on either the public or service users but simply seeks authority to incur additional expenditure in respect of legal costs in relation to the LFC's response to the Inquiry and ancillary litigation.

4 Other considerations

Workforce comments

- 4.1 The Fire Brigades Union is a core participant in the Grenfell Tower Inquiry and has its own legal representation. In the circumstances, decisions regarding LFC spend on legal representation and advice are not suitable for work force consultation, and the confidentiality rules preclude any meaningful discussion.

Sustainability comments

- 4.2 There are no sustainability implications arising from this report.

Procurement comments

- 4.3 There are no procurement implications arising from this report.

Communications comments

- 4.4 There are no communications implications arising from this report.

5. Financial comments

- 5.1 This report recommends that revenue expenditure of £2,464,753 is agreed for the period 2024/25, plus a 15% margin, to secure legal advice and representation for the LFC and appropriate individuals in relation to the Grenfell Tower fire.
- 5.2 If this decision is agreed the legal costs incurred, and anticipated, to date are as follows:

Financial Year	Costs
2021/22	£3,228,043
2022/23	£1,758,135
2023/24	£1,503,365
2024/25	£2,834,465
Total	£9,324,008

- 5.3 LFC's annual budget includes an amount of £694,000 for legal costs associated with the Grenfell Tower Inquiry. It is anticipated that the majority of any additional costs incurred over and above this budgeted sum of these costs will be recovered from the insurers. Part two of this report provides further information on anticipated expenditure.
- 5.4 If it is found that the costs recovered from insurers does not cover all future liabilities, LFC will be required to reduce its expenditure and/or find compensatory savings to meet any funding gap.

6. Legal comments

- 6.1 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. 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.
- 6.2 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").
- 6.3 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..." A number of the individual items in the Table attached as Appendix 1 do not fall within the category of matters for which prior approval must be sought: they are contracts and arrangements already entered into, or individually fall below the £150k threshold. However, it is considered prudent to provide details of the costs, insurance reimbursement and an overall financial picture, in addition to the reporting through the ordinary budget mechanisms, to seek prior approval of the Deputy Mayor for the avoidance of doubt.
- 6.4 The Commissioner may, under s222 Local Government Act 1972, where it is considered *'expedient for the promotion or protection of the interests of the inhabitants of their area ... prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and ... they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.'*
- 6.5 It is implicit in the above that the Commissioner may authorise spending and the instruction of outside experts. Notwithstanding this, the powers granted by Section 222 of the 1972 Act constitute a function of the Commissioner and Section 5A (1) of the Fire Rescue and Services Act 2004 ('2004 Act') states a relevant fire and rescue authority may do anything it considers appropriate for the carrying out of any of its functions, or anything that is considers appropriate for purposes incidental, whether directly or not, in relation to its functional

purposes. This includes incurring spending in furtherance of the powers under Section 222 of the 1972 Act.

- 6.6 The participation by and representation of the London Fire Commissioner in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within Section 222 of the 1972 Act and Section 5A(1) of the 2004 Act.

List of appendices

Appendix	Title	Open or confidential*
	None	

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