

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD121

Title: Authority to procure e-disclosure services related to the London Fire Commissioner's involvement in the Grenfell Tower Inquiry

Executive summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience, for the London Fire Commissioner (LFC) to commit expenditure to procure e-disclosure services to assist with the collation, review and disclosure of material to the Grenfell Tower Inquiry.

In 2017, at the outset of the LFC's involvement in the Grenfell Tower Inquiry, the LFC procured e-disclosure services through PA Consulting. This contract is now reaching the end of its four-year term with no further extensions allowed.

The LFC seeks authority to commit expenditure in order to enter into a contract for the re-procurement of the e-disclosure services for two years, from September 2021 to September 2023.

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:

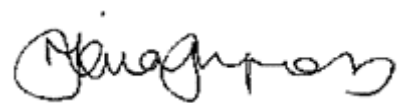
That the Deputy Mayor for Fire and Resilience authorises the LFC to commit revenue expenditure as set out in Part 2 of the decision to procure e-disclosure services.

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:

24 August 2021

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

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0457 to the LFC sets out the background for the request to approve revenue expenditure for the London Fire Brigade to enter into a contract for a period of two years for e-disclosure services.
- 1.2 In 2017 a procurement took place to obtain a provider of e-disclosure services to the LFC. The services covered the extraction of data from the LFC's file servers, the identification of potentially relevant material from that data set (according to instructions set by the LFC) and the provision of systems to enable the LFC, and its internal and external legal advisers, to review the extracted material. The successful bidder, PA Consulting, has provided the technology (Nuix and Relativity) to assist with that work. PA Consulting has also provided consultancy services to enable complex searches to be run over data held by the LFC; and has assisted the LFC in managing the significant amount of material it needed to review and provide to the Grenfell Tower Inquiry (the Inquiry).
- 1.3 The contract that the LFC entered into in 2017 was for an initial period of two years, and allowed two one-year extensions. It was necessary for the LFC to use the two additional years of the contract, but the contract does not provide for any further extensions. The Deputy Mayor has previously approved the LFC's e-disclosure costs up until 31 March 2022, based on previous forecasts of spending on these services (Deputy Mayor for Fire and Resilience Decision 103).
- 1.4 The delay in the Inquiry proceedings, due to COVID-19, has contributed to the uncertainty relating to the LFC's exact needs for its future e-disclosure services, and how long that service will be required. However, it is now clear that the Inquiry is likely to be holding public hearings well into 2022 and a new e-disclosure contract will be required. The systems provided by PA Consulting are used on a daily basis to review material provided to the Inquiry; and to respond to disclosure requests and queries from the Inquiry. The systems are integral to the LFC's proper engagement with the Inquiry as a core participant.

2. Objectives and expected outcomes

Procurement

- 2.1 The service currently provided by PA Consulting will need to be replicated by any new contract. The precise requirements are still being finalised for procurement processes; however, in summary, they are to provide suitably secure systems for:
 - data preservation and collection
 - document processing
 - document review
 - document production (disclosure to the Inquiry).
- 2.2 The LFC's Scheme of Governance requires that the Procurement Standing Orders are complied with, including compliance with the procedural rules set out in the Public Contracts Regulations 2015.
- 2.3 The Deputy Mayor has already approved expenditure generally in respect of Grenfell Tower Legal costs for the periods 2019-20, 2020-21 and 2021-22. This included provision for the costs of e-disclosure for these periods. However, this contract will continue beyond the current approval period, which expires on 31 March 2022. Approval is therefore required for this contract from 1 April 2022 until 11 September 2023. Hence, the LFC seeks approval to incur the costs of the proposed contract covering that period. The required expenditure is set out in Part 2 of this decision.

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 has not been completed as this report only requests authorisation of expenditure; it does not specify the final system to be implemented, as the final system has not been procured. Any procurement will consider the needs of groups with protected characteristics.

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 implications

- 4.2 There are no sustainability implications.

5. Financial comments

- 5.1 This report recommends that additional revenue expenditure is agreed to enter into a contract for a period of two years. The detail of the proposed expenditure is set out in the Part 2 form.
- 5.2 The cost in 2021-22 will be met from the Grenfell Tower Legal costs budget. The costs in 2022-23 and 2023-24 will be included as part of the budget-setting process for future years.

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 for Fire and Resilience (the Deputy Mayor).
- 6.3 Paragraph (b) of Part 2 of the said 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”.
- 6.4 The Deputy Mayor’s approval is accordingly required for the LFC to award a contract for e-disclosure services to the successful bidder after completion of a compliant procurement exercise.
- 6.5 The LFC may, under section 222 of the 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.”
- 6.6 It is implicit in the above that the LFC 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 LFC and section 5A(1) of the Fire Rescue and Services Act 2004 (the 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.
- 6.7 The participation by and representation of the LFC 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.

Appendices and supporting papers:

None.

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

If YES, for what reason:

Until what date:

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.

✓

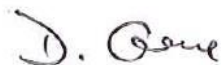
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 16 August 2021.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

24 August 2021