

# GREATER **LONDON** AUTHORITY

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD58

**Title: Authority to settle a personal injury claim**

### **Executive Summary:**

Report LFC-0321z to the London Fire Commissioner seeks approval for the General Counsel to settle a claim with an ex-employee of the London Fire Brigade.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire 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...”.

### **Decision:**

The Deputy Mayor for Fire and Resilience approves the expenditure outlined in report LFC-0321z to the London Fire Commissioner for the purpose of settling a claim against the Commissioner by an ex-employee of the London Fire Brigade.

### **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:**

2 March 2020

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

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

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

- 1.1. An industrial disease claim arising from alleged exposure to asbestos materials between 1956 and 1986 is being made against the London Fire Brigade (LFB). The Claimant, the widow of a firefighter who worked for the London Fire Brigade from 1956 to 1986 claims that as a result of this the firefighter suffered from Mesothelioma. Malignant mesothelioma is a rare and aggressive cancer which usually develops in the linings of the lungs or abdomen. It is associated with exposure to asbestos.

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

- 2.1. Liability, subject to causation, was admitted in the defence filed and served in August 2019, on the basis that the Claimant's husband was exposed to asbestos during the course of his employment with the Defendant and as a consequence developed mesothelioma as a result of the exposure to asbestos.
- 2.2. An Inquest was convened on 9 May 2018 where the cause of death was recorded as *"Malignant Mesothelioma". "The deceased was exposed to asbestos as a result of his work with the Fire Brigade, exact time and place unknown"*.
- 2.3. It is accepted that by at least the mid-1960s there was sufficient awareness that exposure to dust from asbestos materials in the structure of buildings was not safe and was associated with Mesothelioma. Also, during the relevant period, legislation intended to reduce/eliminate asbestos exposure was passed which LFB failed to comply with. Appropriate breathing apparatus was not introduced/made compulsory until the early 1980s (1982–83). Asbestos hoods and gloves were also not withdrawn until 1974.
- 2.4. Documentation and witness evidence obtained for the purpose of assessing previous claims of this type have established that:
  - Asbestos was contained in gloves, hoods and blankets but they were not withdrawn until 1974 at the earliest; and
  - Effective breathing apparatus was not available and enforced until 1982.
- 2.5. Mesothelioma claims are known as 'single fibre' (a claimant need only be exposed to one fibre of asbestos) and in this instance, there was no apportion of liability to be applied.
- 2.6. The Claimant relies on the expert evidence dated 19 June 2019 of a consultant in respiratory medicine and general internal medicine.

#### **3. Equality comments**

- 3.1. Decision-takers have due regard to the Public Sector Equality Duty when considering reports for decision.
- 3.2. Under s149 of the Equality Act 2010 (the Equality Act), as a public authority we must have due regard to the need to eliminate discrimination, harassment and victimisation, and any conduct that is prohibited by or under the Equality Act; and to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not.

3.3. The Public Sector Equality Duty (PSED) is as follows:

- a) The London Fire Commissioner must, in the exercise of their functions, have due regard to the need to:
  - i. Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Equality Act 2010. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful.
  - ii. Advance equality of opportunity between people who share a protected characteristic and those who do not.
  - iii. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- b) The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex, and sexual orientation.

3.4. There are no specific equality implications arising from this report.

#### **4. Financial comments**

- 4.1. Financial comments are contained within the Part 2 report. No additional funds from the Greater London Authority are required.

#### **5. Legal comments**

- 5.1. General Counsel to the Commissioner is the author of report LFC-0321z.
- 5.2. 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.
- 5.3. 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").
- 5.4. 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...".
- 5.5. The settlement of the claim against the Commissioner exceeds General Counsel's delegation and prior approval of the Deputy Mayor is required prior to settle this claim.

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

1. Part 2 – Authority to settle a personal injury claim

**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: The requirement to seek approval of the Deputy Mayor

Until what date: (a date is required if deferring).

**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 made outside the usual decisions process, with the agreement of the Chief of Staff, and will be noted by the Corporate Investment Board on 9 March 2020.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. J. Belle*

Date

2.3.20