

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD1639

Title: Contracts of mayoral appointments

Executive Summary:

Section 67 of the Greater London Authority Act 1999 (as amended) ("the GLA Act") stipulates that the Mayor can appoint up to 12 members of staff ("Mayoral Appointees"), including no more than two political advisers. Section 67(4) of the GLA Act states that none of these appointments can last beyond the end of the Mayoral term. The Mayoral Appointees are therefore appointed to roles on fixed term contracts that terminate by operation of law at the end of the Mayoral term. This report deals with the ending of the fixed term contracts and the proposed compensation payments to be made to the Mayoral Appointees.

Decision:

The Mayor is asked to:

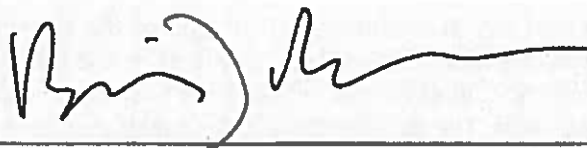
1. Note that the employment contracts of the Mayoral Appointees will terminate by operation of law at the end of the Mayor's term of office.
2. Agree that, before the end of the Mayor's term of office, the Authority enters into a Settlement Agreement with each of the Mayoral Appointees, under which the Authority agrees to pay each of the Mayoral Appointees a termination payment in full and final settlement of all claims they may have arising from their employment and/or its termination.
3. Authorise the Head of Paid Service to exercise delegated authority to negotiate other terms and conditions of the Settlement Agreements and, after consulting with the Authority's other statutory officers, to enter into those Settlement Agreements for and on behalf of the Authority.

Mayor of London

I confirm I have considered whether or not I have any personal or prejudicial interest in this matter and take the proposed decision in compliance with the Code of Conduct for elected Members of the Authority. Any such interests are recorded below.

The above request has my approval.

Signature



Date

31.03.16

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

Decision required – supporting report

1. Introduction and background

- 1.1** Section 67 of the GLA Act stipulates that the Mayor can appoint up to 12 Mayoral Appointees, including no more than two political advisers. Section 67(4) of the GLA Act states that none of these appointments can continue beyond the end of the Mayoral term. The Mayoral Appointees are therefore appointed to roles on fixed term contracts that will terminate by operation of law at the end of the Mayoral term. The end of the Mayoral term is specifically defined as the second day after the day on which the last of the successful candidates at the election is declared to be returned. At the end of the present Mayoral term, there will be eight Mayoral Appointees in post, including one political adviser (appointed under section 67(1) (a) of the GLA Act) and seven other staff (appointed under section 67 (1)(b) of the GLA Act). The Deputy Mayor for Policing and Crime is employed by the Mayor's Office for Policing and Crime ("MOPAC") rather than the GLA. His appointment ends by operation of law at the end of the mayoral term. MOPAC will mirror the process applied by the GLA set out below.

2. Issues for consideration

a) Links to strategies and Mayoral and corporate priorities

As section 67(4) of the GLA Act states that none of the appointments can continue beyond the end of the Mayoral term, the Mayoral Appointees are all appointed to roles on fixed term contracts that terminate by operation of law at the end of the Mayoral term.

The termination of the fixed-term contracts of the Mayoral Appointees is still a dismissal in law, requiring the Authority to have a fair reason for the non-renewal of the fixed-term contracts. Furthermore, the Authority would need to follow a fair process in bringing those fixed-term contracts to an end. As the fixed-term contracts come to an end by operation of law under the GLA Act, there is no redundancy situation.

In order to minimise the risk of the Mayoral Appointees bringing unfair dismissal claims either because there is no fair reason for the non-renewal of the fixed-term contracts (given that the Mayoral Appointee position will still exist post-election), or because the Authority has failed to follow a fair process in bringing the fixed-term contracts to an end and not considered suitable alternative employment, the Authority proposes to make payments to them in return for them entering into Settlement Agreements. The legal justification for making a payment in these circumstances is to remove the risk of an unfair dismissal claim. The payments will not therefore exceed the current statutory cap for unfair dismissal of £78,962 and will represent value for money. The payments would be made in full and final settlement of all potential legal claims that the Mayoral Appointees may have arising from their employment and/or its termination. The proposed payments take account of the actual length of service of the Mayoral Appointees, their current salaries and any potential Employment Tribunal claims that they may have.

The termination payment would be paid within one month of the end of the current Mayoral term but would be repayable in full if a Mayoral Appointee was re-appointed by the new Mayor to a post under section 67(1) of the GLA Act or took up any other employment post in the GLA Group within 12 months of the end of the Mayoral term. The termination payment may also have to be repaid if the proposed Government legislation on the recovery of exit payments is implemented over the next

few months conditional always on the transitional arrangements that may be put in place (this legislation stipulates that those employees earning over £80,000 who receive a termination payment on exiting a public sector organisation then return to the public sector within a year will be required to repay some or all of their termination payment). Mayoral Appointees who return to the Authority for a period of less than three months to undertake a handover with the new administration will not be required to repay their termination payments.

The Mayor is asked to authorise the Head of Paid Service to exercise delegated authority to negotiate other terms and conditions of the Settlement Agreements and, after consulting with the Authority's other statutory officers, to enter into those Settlement Agreements for and on behalf of the Authority.

b) Impact assessments and Consultation

Consultation is being undertaken directly with the Mayoral Appointees in order to confirm the termination of their fixed term contracts.

c) Risk

The risk of potential legal claims has been outlined above.

3. Financial Comments

The proposed payments would be met by drawing on the GLA Development Reserve which exists to fund pay settlements and reviews for all relevant staff and Members. All budget adjustments would be made.

4. Legal Comments

Under section 70(1) of the GLA Act the Mayor may appoint Mayoral Appointees on such terms and conditions as he sees fit, within the financial resources available to the Authority.

Under section 34(1) of the GLA Act, the Authority, acting by the Mayor, has the power to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any of the functions of the Authority exercisable by the Mayor. For the reasons set out in paragraph 2a above, it is considered that entering into the proposed Settlement Agreements is within the Mayor's powers contained in sections 70(1) and 34(1) of the GLA Act.

By virtue of section 38(6) of the GLA Act, the Mayor cannot delegate and must therefore personally exercise the powers of appointment under section 67(1) of the Act. By virtue of section 38(1) of the GLA Act, the Mayor is however permitted to delegate his powers contained in sections 70(1) and 34(1) of the Act. The Mayor is therefore permitted to authorise the Head of Paid Service to negotiate and enter into the Settlement Agreements as proposed in this Mayoral decision.

It should be noted that this Mayoral Decision is approved by the Head of Paid Service and Director of Finance as opposed to the Chief of Staff and/or the Mayoral Appointees due to the potential conflict of interest if the Chief of Staff or Mayoral Appointees were involved in proposing this decision, which directly affects them.

5. Investment & Performance Board

Comments are not required from the Investment and Performance Board as this relates to employment issues.

6. Background/supporting papers

None

Public access to information

Information in this form is subject to the Freedom of Information Act 2000 (FOI Act) and other legislation. Part 1 of this form will be made available on the GLA website within 1 working day of approval. Any facts and advice that should not be made automatically available on request should not be included in Part 1 but instead on the separate Part 2 form. Deferment is only applicable where release before that date would compromise the implementation of the decision being approved.

Is the publication of this approval to be deferred? YES

If yes, for what reason:

This Mayoral Decision needs to be signed and approved to provide authority for the GLA to negotiate and enter into the settlement agreements, and it is likely to seriously prejudice the GLA's ability to negotiate and conclude those agreements if publication of Part 1 is not deferred until 8 May 2016.

Until what date: 8th May 2016

Is there a part 2 form - Yes

ORIGINATING OFFICER DECLARATION:

	Tick to indicate approval (✓)
Drafting officer: <u>Juliette Carter</u> has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.	✓
Assistant Director/Head of Service: <u>Juliette Carter</u> has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.	✓
Sponsoring Director: <u>Martin Clarke</u> has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.	✓
Advice: The Finance and Legal teams have commented on this proposal.	✓

OFFICER APPROVAL**Executive Director, Resources**

I have been consulted about the proposal and confirm that financial and legal advice have been taken into account in the preparation of this report.

Signature

Tom Middleton
Tom MIDDLETON ON BEHALF OF MARTIN CLARKE

Date

31.03.16

Head of Paid Service

I am satisfied that this is an appropriate request to be submitted to the Mayor

Signature

J. James

Date

31. 3.16

