

## REQUEST FOR DIRECTOR DECISION – DD2418

**Title:** Access to Justice

### Executive Summary:

This DD seeks approval of expenditure of £310k of GLA funding as a contribution to the establishment of a London-focused element of a philanthropic funder collaboration currently entitled the “Access to Justice Fund” (working title) which aims to increase access to justice on immigration issues in the UK.

Other funders involved in the project include Trust for London and others. It is proposed that the GLA funding will be granted to the Paul Hamlyn Foundation, who are leading the establishment of the fund. This grant from the GLA aligns with the Mayor’s social integration priorities for Londoners with insecure immigration status and establishes the GLA as a founding partner in a 10-year national programme, aiming to pool funds of at least £5 million per year.

The aims of the “Access to Justice Fund” are to:

- improve access to legal advice for people in the immigration system;
- support collaboration, evidence building and policy work to advocate for better funding and infrastructure for legal services; and,
- create a coordinated strategy of funders and commissioners to increase impact over the medium to long-term.

MD 2461 (Communities and Social Policy Programme Budget 19/20) provided delegated authority to the Executive Director of Communities and Intelligence and the Assistant Director of Communities and Social Policy to approve this expenditure through a Director’s Decision Form.

### Decision:

That the Executive Director of Communities and Intelligence approves:

Expenditure of up to £310k as a contribution to the Paul Hamlyn Foundation’s costs in establishing a pooled charitable fund currently entitled “Access to Justice” that aims to increase access to justice on immigration issues in London and the wider UK.

### AUTHORISING DIRECTOR

I have reviewed the request and am satisfied it is correct and consistent with the Mayor’s plans and priorities. It has my approval.

**Name:** Sarah Mulley

**Position:** Executive Director for  
Communities & Intelligence

**Signature:**



**Date:** 03-05-20

## **PART I - NON-CONFIDENTIAL FACTS AND ADVICE**

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

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

- 1.1. This decision seeks approval for expenditure, from the Communities and Social Policy Unit budget, of up to £310,000. Authority to consider a request for this decision to be made has been delegated to the Executive Director or Assistant Director via a Director's Decision or Assistant Director's Decision (see MD2461).<sup>1</sup> The funding of a fixed term G9 programme post to support this work has already been approved through this delegation. The total spend for this programme will therefore be £370,000.
- 1.2. The Mayor pledged to invest up to £370,000 to support the Immigration advice sector in London on Windrush Day 2019. This funding is intended to help Londoners access the legal support they need to secure their immigration status and prevent injustices like the Windrush scandal from happening again.
- 1.3. The Mayor has said that the Windrush scandal highlighted the appalling effects that high fees and administrative barriers to residency and citizenship have on those who have lived in the UK for most of their life. There are many others still at risk from the same policies that led to the Windrush Generation experiencing discrimination, destitution, and deportation.
- 1.4. There are currently hundreds of thousands of young people who were born in the UK or brought here as young children, as with the Windrush generation, but are blocked from participating in the economic, social and political life of the UK. This is partly due to the prohibitive cost of applying for leave to remain or citizenship.
- 1.5. If the lessons of the Windrush scandal are to be learned, immediate action is needed to better meet the needs of young people with insecure immigration status, EU citizens at risk of becoming 'undocumented' and other groups who face barriers to documenting, extending or regularising their status.
- 1.6. Most people need to access legal advice in order to make an immigration application to the Home Office. The immigration and nationality system is extremely complex and many people are unsure of what application to make to secure their status. Due to the cost of rising application fees, many people are now forced to prioritise paying the fee instead of paying for legal advice.
- 1.7. Non-asylum immigration cases have been out of scope for Legal Aid since the Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012 came into effect on 1 April 2013. Evidence suggests that the legal aid 'safety net' of Exceptional Case Funding is woefully inadequate.<sup>2</sup> This meant, for example, that members of the Windrush Generation who should have been able to challenge negative Home Office decisions about their immigration status could not access the necessary support to do so. Legal aid is no longer available for many who need it, while those who may be eligible to access it find the process difficult and wide gaps in provision are not being addressed.
- 1.8. Over the last five years, there has been a 70% drop nationally in the number of new immigration cases that are publicly funded. The number of immigration legal aid providers across England and Wales has dropped by more than a third (from 249 to 160). With a shortage of lawyers across social welfare law, there has been a 30% increase of people representing themselves year-on-year since 2014. In light of

---

<sup>1</sup> Mayor of London (2019) MD2461 Communities and Social Policy Programme Budget 2019-20  
<https://www.london.gov.uk/decisions/md2461-communities-and-social-policy-programme-budget-2019-20> [Accessed 25 Nov 2019].

<sup>2</sup> Coram Children's Legal Centre (2018) 'Rights without remedies: Legal aid and access to justice for children'  
[https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies\\_Final.pdf](https://www.childrenslegalcentre.com/wp-content/uploads/2018/05/Rights-without-remedies_Final.pdf) [Accessed 25 Nov 2019]

this context and given the significant impact on Londoners with insecure immigration status, there is an unmet need both for legal advice and for strategic support for the legal advice sector.

- 1.9. This work also connects to wider GLA priorities on increasing the availability of social welfare advice for Londoners in need.
- 1.10. In 2018, the Paul Hamlyn Foundation came together with other funders to formulate a strategic response to the needs of the legal advice sector. This aligns closely with GLA priorities, which were mapped through independent consultation with the GLA's stakeholders. This decision seeks approval for the GLA to support this funder collaboration.
- 1.11. The award of GLA funding to the Paul Hamlyn Foundation's "Access to Justice" Fund will help to secure medium to long-term investment and mitigate the risk of small grant funding sustaining a depleted and burned-out sector, without addressing the overwhelming challenges in a holistic and strategic way. It is proposed that the fund will run for at least five years, with a potential second phase of a further five years if progress is achieved in phase one.
- 1.12. The Legal Education Foundation will provide oversight of the fund. A new subsidiary of The Legal Education Foundation will be established to host the Fund. This will be a registered charity and accountable to the board of trustees of The Legal Education Foundation. It is expected to be launched in spring 2020.
- 1.13. The GLA funding proposed will contribute to the Paul Hamlyn Foundation's costs of establishing the work of the Fund in London. It will be used specifically to:
  - a) immediately strengthen advice infrastructure and increase coordination of existing provision through recruitment of a London Advice Network Coordinator, responsible for building partnerships and strengthening referral pathways across providers in London, to prepare the ground for the launch of the fund in 2020 and then ensure effective join up with existing provision thereafter;
  - b) undertake in-depth research which maps out current advice provision and infrastructure, identifying sector strengths and weaknesses; and
  - c) develop a London strategy which will advise how statutory and philanthropic funds should be deployed in London to increase effectiveness of the immigration advice sector and attract further funding for immigration legal advice.
- 1.14. Once established, the fund will make grants to a network of legal advice providers around the UK, connected to national grants to build strategic legal capacity and deliver advocacy and influencing.

GLA investment will be ring-fenced for the London portion of the fund, but will also enable the GLA to input through participation in a national network. The funding would be used to shape the strategic direction and delivery of the project in London, with input from those with lived experience and sector expertise. It would provide organisational development support to key sector organisations, with the goal of strengthening the sector over the course of ten years.
- 1.15. The fund will be public-facing with the explicit goal of raising profile, support and resources for immigration legal advice provision. There will be potential for London-level branding to further enhance coordination in the capital and provide a national leadership role for the GLA to galvanise the support of local authorities and other City Regions.
- 1.16. The GLA will participate in a London advisory group, which will be responsible for developing a regional strategy and approach to funding immigration advice in London. This will include informing the London regional strategy and workplan, which in turn will inform the Fund's decisions on grant recommendations.

## 2. Objectives and expected outcomes

2.1. GLA funding will be expended by the Paul Hamlyn Foundation on the following activities:

Activity	How this work will be completed	Cost
Conducting in-depth research which maps out current advice provision and infrastructure, identifying sector strengths and weaknesses	Following Paul Hamlyn Fund's procurement processes, this work will be commissioned externally.	This would cost approximately £70,000.  (This is calculated on the basis of a day rate of £500 for 140 days of work, which is £70,000 or £84,000 with VAT).  £84,000 in total.
Developing a London strategy which will consult key stakeholders and advise how statutory and philanthropic funds should be deployed in London to increase effectiveness of the immigration advice sector and attract further funding for immigration legal advice.	Following Paul Hamlyn Fund's procurement processes, this work will be commissioned externally.	This would cost £10,000 for approximately 20 days' work at £500 per day.
Strengthening the advice infrastructure and increase coordination of existing provision through the recruitment of a London Advice Network Coordinator for the philanthropic funder collaboration; this role will sit within the Legal Education Foundation subsidiary organisation. This role will be responsible for building partnerships and strengthening referral pathways across providers in London.	Following Paul Hamlyn's concluded assessment and due diligence in accordance with their usual grant processes, this funding will be granted to an external organisation as a contribution toward its costs of conducting such work.	This work would be carried out by the full time London Advice Network Coordinator role.  £181,000 will be available to cover the costs of this role over three years.

2.2. Following the above expenditure, there would be £35,000 left as contingency (just over 10%). This would be held in Paul Hamlyn Foundation's account as restricted funds, which could only be used in line with the grant agreement. Depending on the final cost of the research, they may choose to recruit two part-time London Advice Network Coordinators to cover North and South London (£55,000 at 0.8 = £33,000 x 2 = £66,000, x 3 years = £198,000).

2.3. Once established, the fund will support a networked programme of four three clusters of activity:

- a) Legal representation
- b) Influencing & campaigning

c) Convening & learning

2.4. GLA capacity and learning from these funded projects will contribute to learning for the GLA and the advice sector:

- a) Increasing capacity will better enable advice services to use casework experience to push for wider change, including reform of immigration decision making processes. This will be supported by a clear influencing strategy linked to Mayoral priorities around social integration.
- b) By creating infrastructure to capture learning and actively use data, the fund will maximise the connection of work in London to national work, to achieve shared goals.

*Legal Representation*

2.5. Through the new Fund, funding would be awarded to create the equivalent of 24 full time posts for legal representatives at 12 partner organisations around the UK to focus on immigration cases that are out of scope of legal aid. In addition, up to 12 grants would be awarded to community advice organisations to strengthen referral pathways. The grants would be for a duration of 36 months.

2.6. This would include 7 posts in London:

- a) 4 specialist posts (OISC level 3 and above).
- b) 3 community-based advice posts (operating up to OISC level 2).

2.7. The fund will also look to support organisations with an overhead of 20% to ensure that they are able to engage with the fund and build new strategic partnerships.

2.8. Projected outputs over five years nationally:

- a) Casework and representation to between 10-14,000 individuals who are able to resolve their immigration matter. At least 1,200 individuals are able to resolve their immigration status in London.
- b) At least a further 3,500-4,500 able to access advice as a result of capacity building in community advice organisations, 900 of whom will be in London.

*Influencing Work*

2.9. This work will seek to take a preventative approach by securing process or system change that increases access to justice (for example, a reduction in fees and a simplified application process which are core to Mayoral advocacy on immigration).

2.10. Grant funding will be used to work with the network of specialist providers to scrutinise areas of law to identify failings. Based on monitoring and data, they will seek to resolve systemic barriers that prevent people from accessing justice: through influencing and policy advocacy work, as well as by addressing any gaps in training or support needs amongst practitioners in the network.

2.11. This work will situate the immigration case in the wider context of other social welfare issues as people often have multiple legal needs (for example, housing rights, welfare rights, employment rights), linking to the wider work of the GLA's Equality and Fairness team.

2.12. Projected outputs over five years are for:

- a) Around 20 areas of policy scrutinised with system failing identified;

---

<sup>3</sup> Gov.uk (2019) Office of the Immigration Services Commissioner <https://www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner> [Accessed 25 Nov 2019]

- b) Best practice guidance, training and second tier support on related emerging issues provided to a minimum of 150 practitioners per year (750 over 5 years).

### *Convening & Learning*

- 2.13. In addition to the overhead awarded to grantees, the fund will hold a budget for organisational development that can be drawn upon by those supported by the fund. This will be tailored to the priority needs that will be identified between funder staff, GLA staff and an organisations' leadership team. This could include leadership development, fundraising and business planning consultancy, technical support with systems and IT, or strategic planning and change management.
- 2.14. GLA officials will work closely with staff coordinating the fund in relation to London-focused work. This will ensure a collaborative approach to managing the portfolio of grants, proactively engaging new funders, convening and sharing in learning from grant funded programmes to inform GLA policy and projects.
- 2.15. The fund would work to support convening and action learning, commissioning external consultancy support if needed. They will capture data on activities and outputs on a rolling basis to inform key partners.

### *Outcomes*

- 2.16. The grant from GLA will lead to the following outcomes:
  - a) Improved data and evidence base about immigration advice provision and infrastructure in London, leading to more informed planning and strategic decisions about existing resources in the near term.
  - b) Improved access to existing advice and representation services for Londoners who need specialist advice on immigration and nationality issues.
  - c) Londoners with immigration problems will know where to get help and, as a result, fewer people will be in unsafe situations which exclude them from rights or risk impacting their social integration.
  - d) A strategic approach to improving Londoners' access to immigration legal representation and casework over the long-term.

## **3. Equality comments**

- 3.1. Under Section 149 of the Equality Act 2010, as a public authority, the GLA must have 'due regard' of the Public Sector Equality Duty (PSED), that is the need to:
  - Eliminate unlawful discrimination, harassment and victimisation;
  - Advance equality of opportunity; and
  - Foster good relations between people who have a protected characteristic and those who do not.
- 3.2. Equality, integration and inclusion are key areas of focus for this programme. This work aims to remedy some of the gaps in access to justice for vulnerable groups with immigration needs. The risks associated with this lack of access to this legal support includes discrimination; victimisation for those that are trapped in abusive or vulnerable situations without recourse to safety as a result of their immigration status; lack of equal opportunity for those that have insecure immigration status and cannot participate in daily life; the range of difficulties that individuals with insecure immigration status face in accessing housing, bank accounts, employment, driving licenses, support as victims of

crime and more as a result of Hostile Environment policies and discrimination in accessing services that others can depend upon as a result of insecure immigration status.

- 3.3. This project will enable those with insecure immigration status to access their rights and entitlements through access to quality, free immigration advice and representation.
- 3.4. The project will be inclusive of a diverse group and actively work to eliminate discrimination on the basis of the nine characteristics protected in the Equality Act 2010. In order to ensure the highest standards of equality, diversity and inclusion are upheld, the GLA will support with outreach and engagement to target activities at particular groups that are less able to engage or face greater barriers to engagement to enable them to participate, while ensuring that activities are open and accessible to all Londoners.

#### 4. Other considerations

Risk	Mitigation measures	Current probability (1-4)	Current impact (1-4)	RAG	GLA Lead
Fund will not be able to reach the groups that need it the most	The GLA and other funding partners will be involved in the development by the Paul Hamlyn Foundation and Legal Education Foundation of the full strategy for the project, including mapping of existing services and user needs within London, to ensure that the project reaches those who need it the most.	2	4	A	Social Integration Team
The work that this money will fund fails to deliver to expected quality or to time.	Set clear and specific parameters for delivery; build in regular milestones to check progress; work with trusted partners where possible.	2	2	G	Social Integration Team

- 4.1. There are no conflicts of interest to note for any of those involved in the drafting or clearance of the decision.

#### *Links to Mayoral strategies and priorities*

- 4.2. This work forms part of the Mayor's social integration strategy All of Us, to remove barriers to integration relating to ability to access legal rights to citizenship and residence.

- 4.3. On Windrush Day 2019, the Mayor announced £370,000 to fund legal advice for Londoners. This decision, together with the previous MD, gives effect to that commitment.<sup>4</sup>

*Impact assessments and consultations.*

- 4.4. The Social Integration team has worked closely with civil society, local authorities and other partners over the last few years. Issues around lack of availability of legal advice for Londoners has been repeatedly highlighted as an area of concern that prevents Londoners from accessing their rights and entitlements.
- 4.5. Through the Citizenship and Integration Initiative (CII) we are in close contact with civil society organisations that support the needs of Londoners that have insecure immigration status. Paul Hamlyn Fund is also one of the key funders in this area of work.

## **5. Financial comments**

- 5.1. Approval is being sought for expenditure of £310,000 as a contribution to the London-specific portion of a philanthropic funder collaboration, "Access to Justice Fund".
- 5.2. This expenditure will be contained within the 2019/20 Insecure Status programme budget, held within Communities and Social Policy unit.

## **6. Legal comments**

- 6.1. The decisions requested of the Director (pursuant to authority delegated by the Mayor under cover of MD2461) fall within the GLA's general statutory powers to do such things considered to further or which are facilitative of, conducive or incidental to the promotion of social development in Greater London and in formulating the proposals in respect of which a decision is sought officers have complied with the GLA's related statutory duties to:
- a) pay due regard to the principle that there should be equality of opportunity for all people (further details on equalities are set out in section 3 above) and to the duty under section 149 of the 2010 Act to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation as well as to advance equality of opportunity and foster good relations between people who share a protected characteristic and those who do not<sup>5</sup>;
  - b) consider how the proposals will promote the improvement of health of persons, health inequalities between persons and to contribute towards the achievement of sustainable development in the United Kingdom; and
  - c) consult with appropriate bodies.
- 6.2. In taking the decisions requested, the Director must have due regard to the Public Sector Equality Duty; namely the need to eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act 2010, and to advance equality of opportunity and foster good relations between persons who share a relevant protected characteristic (race, disability, gender, age, sexual orientation, religion or belief, pregnancy and maternity and gender reassignment) and persons who do not share it (section 149 of the Equality Act 2010). To this end, the Director should have particular regard to section 3 (above) of this report.

---

<sup>4</sup> Mayor of London (2019) Press release: To mark Windrush Day Mayor funds legal advice to help Londoners <https://www.london.gov.uk/press-releases/mayoral/to-mark-windrush-day-mayor-funds-legal-advice> [Accessed 25 Nov 2019]

<sup>5</sup> The protected characteristics and groups are: age, disability, gender reassignment, pregnancy and maternity, race, gender, religion or belief, sexual orientation and marriage/ civil partnership status.



- 6.3. Section 1 above indicates that the contribution of up to £310,000 to the Paul Hamlyn Foundation amounts to the provision of grant funding and not payment for services. In the event that the Director is minded to make the decision sought, officers must ensure that:
- a) the funding is distributed fairly, transparently, in accordance with the GLA's equalities and in manner which affords value for money in accordance with the Contracts and Funding Code; and
  - b) a funding agreement (on the GLA's standard funding terms) is put in place between and executed by the GLA and recipient before any commitment to fund is made.

## 7. Planned delivery approach and next steps

Activity	Timeline
Entry into and execution of funding agreement with Paul Hamlyn Foundation	(November - December 2019)
Mapping research of London provision in all Boroughs	(Dec – May 2020)
Development of London regional funder strategy	(May – June 2020)
Recruitment of London Advice Network Coordinator	(May 2020 – 2023)
Fund launched	(Spring 2020)
First round of grants made	(June 2020)

## Appendices and supporting papers:

None

**Public access to information**

Information in this form (Part 1) is subject to the Freedom of Information Act 2000 (FoIA) 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 it has been approved or on the defer date.

**Part 1 - Deferral****Is the publication of Part 1 of this approval to be deferred? YES**

If YES, for what reason: The subject matter of the content of this paper is intended for publication at a later date, the fund will be launched publicly in March 2020.

Until what date: 31 March 2020.

**Part 2 - Sensitive information**

Only the facts or advice that would be exempt from disclosure under FoIA should be included in the separate Part 2 form, together with the legal rationale for non-publication.

**Is there a part 2 form - NO****ORIGINATING OFFICER DECLARATION:**

Drafting officer to  
confirm the  
following (✓)

**Drafting officer:**

Rupinder Parhar has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Assistant Director/Head of Service:**

Sarah Mulley has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval

✓

**Financial and Legal advice:**

The Finance and Legal teams have commented on this proposal, and this decision reflects their comments.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 16 December 2019.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. D. All*

Date

17.12.19