

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD172

### Title: Legal costs on respiratory protective equipment reprocurement

#### Executive summary:

Deputy Mayor for Fire and Resilience Decision 124 (DMFD124) authorised the London Fire Commissioner (LFC) to undertake expenditure on the procurement of respiratory protective equipment (RPE) for London Fire Brigade.

DMFD125 included approval for estimated legal costs of up to £52,000, including contingency. As the procurement process has developed, legal costs have risen above this amount, and the LFC is now seeking approval for the expected final amount.

Additional legal costs above the amount approved in DMFD124 have already been incurred by the LFC. The Deputy Mayor for Fire and Resilience agreed to waive approval requirements under the LFC Governance Direction 2018, until such time as the anticipated total amount of additional legal costs were known. A full estimate has now been provided by the LFC's General Counsel; formal approval is therefore being sought from the Deputy Mayor for Fire and Resilience.

This report recommends that retrospective approval is now agreed for revenue expenditure of £75,639.90 for the legal costs in relation to the RPE reprocurement, plus an additional 20 per cent contingency (£15,127.98). Of this cost, £4,345.50 was incurred in the 2021-22 financial year and contained within existing budgets. The remainder is to be incurred in the 2022-23 financial year, and funded from the LFC's budget flexibility reserve. The budget flexibility reserve has a forecasted balance of £29.3m at the end of the 2022-23 financial year.

#### Decision:

The Deputy Mayor for Fire and Resilience approves expenditure by the London Fire Commissioner on legal costs in relation to the re-procurement Respiratory Protective Equipment of £75,639.90 and an additional 20 per cent of the total amount (£15,127.98) for any subsequent minor spend required on this matter.

#### 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: 18 August 2022

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

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

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

- 1.1 As part of the decision to reprocure the London Fire Commissioner's (LFC's) respiratory protective equipment (RPE) contract, the Deputy Mayor for Fire and Resilience gave prior authority to incur legal costs as follows: "Commit to expenditure of further external legal costs of up to £52,000 [£40,000 plus 30 per cent contingency] in the reprocurement of the RPE." This was agreed in Deputy Mayor for Fire and Resilience Decision 124 (DMFD124), which is appended to this decision for information (Part 1).
- 1.2 Subsequent updates to the Deputy Mayor for Fire and Resilience set out that the approved amount of expenditure on legal costs for the reprocurement was likely to be exceeded. In order to help prevent any delay to the procurement process, the Deputy Mayor for Fire and Resilience therefore agreed to waive approval requirements under the LFC Governance Direction 2018, until such time as the anticipated total amount of additional legal costs was known, at which point formal approval would be sought.
- 1.3 Under the Mayor's LFC Governance Direction 2018, the LFC is required to obtain approval from the Deputy Mayor for Fire and Resilience for expenditure above £150,000. Although the costs discussed in this decision form are below this threshold, DMFD124 consisted of a number of different types of expenditure, meaning that any increase in legal costs will lead to the approved amount given in DMFD124 being exceeded.

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

- 2.1. On 15 July 2022, the LFC's General Counsel provided an estimate for the total amount of additional legal costs, noting that the matter was at that point largely concluded.
- 2.2. The revised estimate for legal costs for the reprocurement was £75,639.90; approval is therefore sought for this amount.
- 2.3. It is also proposed that an additional 20 per cent be approved, amounting to £15,127.98, in the event that there are other, minor matters requiring legal advice relating to the procurement exercise, the cost of which needs to be met by the LFC.

#### **3. Financial comments**

- 3.1. This report recommends that retrospective approval is agreed for revenue expenditure of £75,639.90 for the legal costs in relation to the RPE reprocurement, and an additional 20 per cent contingency (£15,127.98). Of this cost, £4,345.50 was incurred in the 2021-22 financial year and contained within existing budgets, with the remainder to be incurred in the 2022-23 financial year and funded from the budget flexibility reserve. The budget flexibility reserve has a forecasted balance of £29.3m at the end of the 2022-23 financial year. If this proposal is accepted, the forecast balance of the budget flexibility reserve will reduce to £29.2m by the end of the 2022-23 financial year; this revised forecast will be used within all future DMFDs as appropriate.

#### **4. Legal comments**

- 4.1. 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.
- 4.2. 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.
- 4.3. Paragraph (b) of Part 2 of the said direction requires the LFC to seek the prior approval of the Deputy Mayor for Fire and Resilience before “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”. Therefore, prior approval of the Deputy Mayor for Fire and Resilience is required prior to settling this claim.

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

Deputy Mayor for Fire and Resilience Decision 124 (Parts 1)

**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**

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 – NO**

**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**

Emma Strain 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.

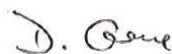
✓

**Corporate Investment Board**

A summary of this decision was reviewed by the Corporate Investment Board on 15 August 2022

**EXECUTIVE DIRECTOR, RESOURCES:**

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



**Signature**

**Date 16 August 2022**