

# GREATER LONDON AUTHORITY

## REQUEST FOR MAYORAL DECISION – MD2253

### Title: Funding for London Borough of Croydon following Sandilands tram overturning

#### Executive Summary:

Transport for London (TfL) has a strong desire to support the London Borough of Croydon following the overturning of a tram at Sandilands on 9 November 2016. A Mayoral delegation and direction is therefore sought to enable TfL to pay £750,000 to the London Borough of Croydon as a contribution to the its community recovery activities following the tragedy.

#### Decision:

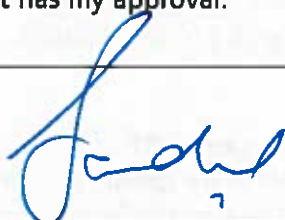
Recognising the strong desire of TfL to support the London Borough of Croydon; the Mayor Directs and delegates powers to TfL (in the form at appendices 1 and 2) for the purpose of making payments totalling £750,000 to the London Borough of Croydon as a contribution to the borough's community recovery activities following the tragic overturning of a tram at Sandilands on 9 November 2016.

#### Mayor of London

I confirm that I do not have any disclosable pecuniary interests in the proposed decision, and take the decision in compliance with the Code of Conduct for elected Members of the Authority.

The above request has my approval.

Signature:



Date:

9/3/18

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

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

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

- 1.1 On 9 November 2016, a tram overturned at Sandilands near Croydon. The Mayor has made clear that all the relevant agencies, particularly TfL, need to do all they can to prevent this type of incident from ever happening again.
- 1.2 Following the incident, TfL has engaged in a range of activities to support the Rail Accident Investigation Branch, British Transport Police and Office of Rail and Road in their investigations and continues to support those agencies. TfL has also commissioned an independent investigation seeking to identify root causes and produce recommendations specifically related to the operation of the Croydon Tram system which has recently been published.
- 1.3 Since the incident, TfL has introduced a number of safety measures to the tram network, including installing chevrons and speed-activated warning signs at significant bends, lowering the maximum speed limit across the network, and improving the protection that tram windows and doors provide to passengers. TfL has also rolled out a Driver Protection Device that detects the attention state of drivers and intervenes should this fail. TfL continues to work with the wider tram industry on these improvements and will continue to work with them to implement the recommendations from the RAIB's report which apply across the industry.
- 1.4 TfL has reported regularly to its Board, of which the Mayor is Chair, and its Safety, Sustainability and Human Resources Panel on the ongoing investigations and measures that are being implemented.
- 1.5 Since the tragic event, TfL has sought to support bereaved families and passengers who were directly affected through the provision of counselling, rehabilitation, financial compensation, free transport and other support. So far, TfL has paid more than £2m to bereaved families and passengers and is working proactively with all those affected and their legal representatives to progress their civil claims as soon as practicable. To help this, TfL and the operator of the tram service, Tram Operations Limited (a subsidiary of FirstGroup plc) have admitted liability for the purposes of the civil claims.
- 1.6 Over the course of 2017, TfL officers have had several discussions with officers of the London Borough of Croydon regarding potential support arrangements for people both directly and indirectly affected by the overturning tram at Sandilands. The London Borough of Croydon is now seeking a contribution towards the costs incurred by it and local commissioning groups in the immediate aftermath of the incident and for continuing community support initiatives, which they anticipate will be required for several years.
- 1.7 The impact of the tram overturning has been concentrated in a small local community around New Addington which already experiences some level of social inequality. The London Borough of Croydon anticipates that the incident has and will continue to exacerbate pre-existing issues in this small community. The London Borough of Croydon and local commissioning groups have proposed a range of activities that might help to mitigate the severity of the impact on the New Addington community, and that would supplement current activities aimed to tackle existing issues within the community. These activities include more community and social care and increases to adult and child mental health resources.
- 1.8 A proportion of the London Borough of Croydon's proposed activities to support the community will be recoverable under the insurance that is held jointly by TfL and Tram Operations Limited. However, a proportion will not and TfL proposes to make a contribution of £750,000 to the London Borough of Croydon for those activities that may not be otherwise met. An appropriate payment

schedule and a funding agreement will be agreed with the London Borough of Croydon. TfL is encouraging Tram Operations Limited to make a similar contribution.

- 1.9 The activities proposed to be undertaken by the London Borough of Croydon do not come clearly under TfL's statutory powers to secure the safe, integrated, efficient and economic transport facilities and services in London. Therefore, it is considered appropriate to seek delegation of the Mayor's statutory powers to enable TfL to make the proposed payment, which it strongly wishes to do.
- 1.10 Although TfL does not have general social well-being powers, the Mayor has a wide statutory power to do anything which he considers will further the promotion of, amongst other things, the social and economic development of Greater London. This would include the provision of funding to support the social well-being of an area. The Mayor may also do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).
- 1.11 The Mayor's powers under section 30 are limited by section 31(3)(c) and (d) of the Greater London Authority Act 1999 (GLA Act) which provide that the Mayor must not incur expenditure in the provision of health and social services where the provision may be made by a London borough council. However, the Mayor is able to incur expenditure in providing services or facilities for promoting improvements in or protecting public health (section 31(5A) of the GLA Act), and can incur expenditure in co-operating with, or facilitating or co-ordinating the activities of London borough councils (section 31(6)). The provision of funding to the London Borough of Croydon will facilitate the provision of health and social services to those in the local community who were directly and indirectly affected by the tram incident.
- 1.12 The Mayor and TfL are committed to ensure that the impact on the local community of the tragic incident in 2016 can be mitigated and that any impact on the social and health inequalities in the local area can be minimised. TfL has therefore requested that the Mayor delegate his wider powers under sections 30 and 34 of the GLA Act to TfL to enable it to progress with the financial support that it proposes; it is also proposed that the Mayor directs TfL in the form set out in Appendix 1 to ensure there is no technical impediment to TfL implementing that delegation.

## **2 Objectives and expected outcomes**

- 2.1 TfL will agree with the London Borough of Croydon those local commissioning groups most appropriate to receive funds and arrangements to specify and monitor their outcomes, together with a governance process within which to operate.
- 2.2 Potential activity may include:
  - a) Counselling and resilience programmes for students at nearby schools;
  - b) Additional and/or specialised support for mental health services and alcohol and substance abuse programmes; and
  - c) Healthcare professional training to better recognise trauma-based presentations.

## **3 Equality comments**

- 3.1 Section 149(1) of the Equality Act 2010 provides that, in the exercise of their functions, public authorities must have due regard to the need to:
  - a) Eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
  - b) Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and

- c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

Protected characteristics under the Equality Act are age, disability, gender re-assignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation, and marriage or civil partnership status (the duty in respect of this last characteristic is to eliminate unlawful discrimination only).

- 3.2 The obligation in section 149(1) is placed upon the Mayor, as decision maker. Due regard must be had at the time a particular decision is being considered. The duty is non-delegable and must be exercised with an open mind.
- 3.3 The London Borough of Croydon is under the same duty and will be responsible for ensuring that, in delivering the activities to which the funding contributes, the duty is met.
- 3.4 A large proportion of the impact of the tram overturning has been concentrated in a small community around New Addington which already experiences a level of social inequality, the proposed funding will support the mitigation of further health inequalities and disparities between communities within New Addington and neighbouring areas. There will undoubtedly be people from protected groups who have been affected by the tram overturning and who would benefit from the London Borough of Croydon's proposed activities through being better able to access the social and health well-being support they require. The London Borough of Croydon will take these issues into account when considering how to allocate the funds provided.

#### **4. Other considerations**

##### *Key risks and issues*

- 4.1 If TfL does not provide the payment to the London Borough of Croydon, the planned activities to address social and health well-being of the area affected by the derailment incident could be delayed or curtailed, which could have a detrimental impact on the area.

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

- 4.2 The Health Inequalities Strategy contains the Mayor's proposals and policies for promoting the reduction of health inequalities between persons living in Greater London. The proposals and policies address the mitigation of differences in general health determinants:
- Housing, transport and public safety
  - Employment prospects, earning capacity and anything else that affects prosperity
  - Access to public services
  - Lifestyle factors including tobacco and alcohol use
  - Anything else that determines health of life expectancy, except for genetic and biological factors.

##### *Impact Assessments and consultations*

- 4.3 No impact assessments or consultations are required for the Mayor to make this decision.

#### **5. Financial comments**

- 5.1 There will be no financial implications for the GLA from this decision. The proposed contribution of £750,000 is provided for within TfL's Business Plan that has recently been approved.

## **6. Legal comments**

### *Direction to TfL*

- 6.1 Under section 155(1) of the GLA Act the Mayor may issue general and specific directions to TfL as to the manner in which it is to exercise its functions.
- 6.2 Section 155(4) provides that any directions issued under section 155(1) must be issued in writing and notified to such officer of TfL as it may from time to time nominate to the Mayor for this purpose.
- 6.3 The proposed direction by the Mayor to TfL to make a financial contribution to the London Borough of Croydon in respect of its community recovery activities following the overturning of a tram at Sandilands on 9 November 2016 may be made under section 155(1)(c) of the GLA Act. The direction must be in writing. It is attached at Appendix 1.

### *Delegation of Mayoral powers*

- 6.4 The Mayor is being asked to delegate his powers under sections 30 and 34 of the GLA Act to TfL so that it has the necessary powers to be able to comply with the direction. Section 38 of the GLA Act provides that the Mayor may authorise TfL to exercise his functions.
- 6.5 Section 30 of the GLA Act gives the Mayor a general power to do anything which he considers will further one or more of the principal purposes of the GLA. The principal purposes, as set out in section 30(2), are:
  - (a) promoting economic development and wealth creation in Greater London;
  - (b) promoting social development in Greater London; and
  - (c) promoting the improvement of the environment in Greater London.
- 6.6 Although the Mayor's general powers are limited by section 31(3)(c) and (d), by virtue of section 31(6), nothing in sections 31(1) to (5A) prevents the Mayor incurring expenditure in doing anything in co-operating with, or facilitating or co-ordinating the activities of London borough councils (and other public bodies). Also by virtue of section 31(5A), the provision of health services does not include a reference to the provision of services or facilities for promoting improvements in, or protecting, public health.
- 6.7 Further, section 34 of the GLA Act allows the Mayor to do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of any of his functions (including his functions under section 30).
- 6.8 Section 38(7) of the GLA Act gives TfL the power to exercise any functions delegated to it by the Mayor pursuant to section 38, whether or not TfL would otherwise have had that power and irrespective of the nature of the function.
- 6.9 It is considered that in providing the proposed financial support to the London Borough of Croydon, TfL will be furthering one or more of the principal purposes in s30, and will be facilitating, the London Borough of Croydon's activities.
- 6.10 Section 38(10) of the GLA Act requires the section 38 delegation to be in writing. The proposed delegation is attached at Appendix 2.

## **7. Planned delivery approach and next steps**

- 7.1 Over the next four weeks, TfL will engage with the London Borough of Croydon to discuss phasing, governance arrangements and allocation of the funding.

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

Appendix 1: Mayoral Direction to TfL

Appendix 2: Mayoral Delegation to TfL

**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? YES**

If YES, for what reason: Publication to be deferred to coincide with proactive press announcement about funding being provided, likely w/c 12 March (TBC)

Until what date: W/c 12 March (TBC)

**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:**

Claire Hamilton has drafted this report in accordance with GLA procedures and confirms the following:

✓

**Sponsoring Director:**

Fiona Fletcher-Smith has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

**Mayoral Adviser:**

Valerie Shawcross CBE has been consulted about the proposal and agrees the recommendations.

✓

**Advice:**

The Finance and Legal teams have commented on this proposal.

✓

**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 5 March 2018.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

Signature

*M. D. Hla*

Date

*8.3.18*

**CHIEF OF STAFF:**

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

Signature

*D. Bellamy*

Date

*8/3/2018.*

