

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD103

### Title: Legal Costs Related to the Grenfell Tower Fire

#### Executive Summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for additional expenditure on legal costs relating to the Grenfell Tower fire of £265,826 for the period 2020/21. Prior authority was granted by Deputy Mayor to incur expenditure of £6,510,449 for 2019/20 and 2020/21 (Deputy Mayor for Fire & Resilience Decision 89 and Deputy Mayor for Fire & Resilience Decision 46), to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire. The total authorised expenditure for this purpose in 2019/20 and 2020/21 would be £6,776,275.

The report also seeks approval for the London Fire Commissioner to commit to expenditure of £2,953,984 plus 15% margin (totalling £3,397,082) for the period 2021/22, to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire.

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...”.

#### Decisions:

That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit to:

1. additional expenditure of £265,826 for the period 2020/21; and
2. expenditure of £2,953,984 for the period 2021/22 plus 15% margin (totalling £3,397,082),

to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, as further detailed in the Part 2 paper.

#### 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:

23 February 2021

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

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

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

- 1.1 This report sets out the background for the request to the Deputy Mayor to authorise the London Fire Commissioner (LFC) to commit to additional expenditure of £265,826 for the period 2020/21 on the estimated spend of £6,510,449 that was previously approved for 2019/20 and 2020/21 under Deputy Mayor for Fire & Resilience Decisions (DMFDs) 89 and 46, to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire. If agreed, the total authorised expenditure for this purpose in 2019/20 and 2020/21 would be £6,776,275.
- 1.2 The report also seeks approval for the LFC to commit to expenditure of £2,953,984 for the period 2021/22 plus 15% margin (totalling £3,397,082), to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire.

#### *Evidence analysis 2020/21 and ongoing costs*

- 1.3 Budgetary provision has been made on an ongoing basis for the costs of the London Fire Brigade (LFB) arising out of the Grenfell Tower fire that occurred on 14 June 2017. On 17 November 2020, the Deputy Mayor approved an updated figure for expenditure for 2019/20 and 2020/21 (DMFD89, which updated DMFD46). It was indicated in the last report submitted to the Deputy Mayor that legal costs as a result of the Grenfell Tower fire will continue beyond March 2021 and authority will be sought for 2021/2022 separately and this report does so. The report explained that the increase sought for 2019/20 and 2020/21 predominantly related to work required to analyse evidence received from and disclosed to the Grenfell Tower Inquiry. The analysis work was advised by leading counsel. Due to the nature of the work, it was very difficult to provide an accurate forecast of the cost.
- 1.4 The analysis work has been ongoing since the agreement of DMFD89 in November 2020. Throughout that time, the process by which the work is undertaken has been refined to ensure that it is of most benefit to the LFC. Changes have also been made to ensure that appropriate cost savings are made in respect of senior counsel's time by ensuring that there is a reduced need for them to review the underlying documents. With the work having progressed for a further 4 months, the LFC is in a better position to forecast the total work required and therefore the cost. As a result, the forecasted cost of the work required during 2020/21 has increased by approximately £265,826.

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

##### *External Legal Resource*

- 2.1 It has been necessary for the LFC to engage additional internal and external legal resources to manage the considerable additional demands placed on the LFC legal team. This is required to ensure proper representation of the LFC and those employees and former employees who will be giving evidence in Phase 2 of the Grenfell Tower Inquiry (GTI) and to identify, sift and present very large volumes of documents and material to the GTI. To date the LFC has served 99 statements and provided over 100,000 documents to the GTI. The scale and complexity of the matter means that estimating future costs remains a challenge.

### 3. Equality comments

- 3.1 The London Fire Commissioner and the Greater London Authority are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on those with protected characteristics (as set out in 3.3 below) taking this into account and then evidencing how decisions were reached.
- 3.2 It is important to note that consideration of the Public Sector Equality Duty is not a one-off task. The duty must be fulfilled before taking a decision, at the time of taking a decision, and after the decision has been taken.
- 3.3 The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership (but only in respect of the requirements to have due regard to the need to eliminate discrimination), race (ethnic or national origins, colour or nationality), religion or belief (including lack of belief), sex, and sexual orientation.
- 3.4 The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
- (a) eliminate discrimination, harassment and victimisation and other prohibited conduct;
  - (b) advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it; and
  - (c) foster good relations between people who share a relevant protected characteristic and persons who do not share it.
- 3.5 Having due regard to the need to advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
  - (b) take steps to meet the needs of persons who share a relevant protected characteristic that are different from the needs of persons who do not share it; and
  - (c) encourage persons who share a relevant protected characteristic to participate in public life or in any other activity in which participation by such persons is disproportionately low.
- 3.6 The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include, in particular, steps to take account of disabled persons' disabilities.
- 3.7 Having due regard to the need to foster good relations between persons who share a relevant protected characteristic and persons who do not share it involves having due regard, in particular, to the need to:
- (a) tackle prejudice; and
  - (b) promote understanding.
- 3.8 An Equality Impact Assessment (EIA) was undertaken on 27 July 2020 in relation to the legal costs related to the Grenfell Tower Fire. The EIA found that there is likely to be negligible impact on those with protected characteristics. The position is unchanged in this report on the basis that this report does not propose any change which will impact on either the public or service users but simply seeks authority to incur additional expenditure in respect of legal costs in relation to the LFC's response to the GTI.

## **4. Other considerations**

### *Workforce comments*

- 4.1 The Fire Brigades Union is a core participant in the Grenfell Tower Inquiry and has its own legal representation. In the circumstances, decisions regarding LFC spend on legal representation and advice are not suitable for work force consultation, and the confidentiality rules preclude any meaningful discussion.

### *Sustainability implications*

- 4.2 There are no sustainability implications arising from this report.

## **5. Financial comments**

- 5.1 This decision requests approval for additional expenditure of £265,826 by the LFC, bringing the total estimated spend on legal costs related to the Grenfell Tower fire to £6,776,275 over 2019/20 and 2020/21. This expenditure is reflected in the financial position report as at the end of Quarter 2.
- 5.2 The report also requests approval for expenditure of projected spend on legal costs of £2,953,984 in 2021/22 plus 15% (totalling £3,397,082), in relation to the Grenfell Tower fire.
- 5.3 The report notes that these figures can fluctuate depending on the actions, requests and decisions by other agencies. Actual legal expenditure in relation to this work, net of any relevant insurance income, will continue to be reported on as part of the LFC's published quarterly financial position reports and impact of the overall forecast of outturn. Any expected ongoing costs not met by insurance will be estimated and addressed in the budget process so that provision is made where costs are not covered by insurance. The LFC budget 2021/22 is to include an additional £0.2m to cover the uninsured costs, and this will be kept under review as further Grenfell legal costs are incurred and insurance payments settled.

## **6. Legal comments**

- 6.1 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.
- 6.2 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").
- 6.3 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..."
- 6.4 The part 2 decision sets out the updated forecast costs position for legal services for Grenfell Tower Fire related matters.
- 6.5 The proposed recommendations are within the London Fire Commissioner's general powers. Section 5A(1) of the Fire Rescue and Services Act 2004 ('2004 Act') states a relevant fire and rescue authority may do anything it considers appropriate for the carrying out of any of its functions or anything that is considers appropriate for purposes incidental whether directly or not in relation to its functional

purposes. Section 6 to 9 of the 2004 Act sets out the core functions of a fire and rescue authority, which includes and is not limited to, fire safety, firefighting, road traffic accidents and other emergencies.

- 6.6 The participation by and representation of the London Fire Commissioner in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within s222 of the 1972 Act and S5A(1) of the 2004 Act.

**Appendices and supporting papers:**

None.

**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**

**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.

✓

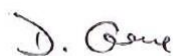
**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 8 February 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**



**Date**

23 February 2021