

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD127

Title: Routine Periodic Medicals – Asbestos Surveillance

Executive summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for the London Fire Commissioner (LFC) to commit revenue expenditure up to £184,250 for the completion of approximately 1,500 asbestos surveillance appointments by Health Management Limited (HML), LFB's external provider.

Throughout the Covid-19 pandemic, London Fire Brigade's (LFB's) face-to-face occupational health services have been limited. Medical assessments such as the routine periodic medical (RPM) have taken place on a paper-based screening questionnaire only, with telephone follow-up where clinically necessary to determine fitness for work. The RPM also comprises asbestos surveillance, as required for all operational staff as a result of potential exposure to asbestos, by Control of Asbestos Regulations 2012, on a three-yearly basis. This report recommends that expenditure be authorised for LFB to arrange asbestos surveillance appointments for all staff that now require one.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the LFC 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...".

Decision:

That the Deputy Mayor for Fire and Resilience authorises the LFC to commit expenditure of up to £184,250 for the purposes of completing approximately 1,500 asbestos surveillance appointments.

Mayor of London (in the absence of the 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: 4 November 2021

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

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0555y to the London Fire Commissioner (LFC) sets out the background for the request to approve expenditure for the London Fire Brigade (LFB) to invite staff who completed the RPM questionnaire between April 2020 and August 2021 to the Occupational Health Service, provided by Health Management Limited (HML), LFB's external provider, to complete an asbestos surveillance only.
- 1.2 Commencing with effect from September 2021, additional asbestos-surveillance-specific clinics will be arranged to assess the approximately 1,500 staff who require an updated Asbestos Certificate. This solution will require approval to commit revenue of up to £184,250.

Impact of the Covid-19 pandemic

- 1.3 During the Covid-19 pandemic, key face-to-face physical examinations were suspended following recommendations from the Health and Safety Executive (HSE), national Covid-19 guidelines and local risk assessments of the occupational health facility. Hence, there was a transition to a remote service model. Assessments impacted as a result of the temporary change to the delivery model include RPMs and new starter health assessments.
- 1.4 Interim processes were agreed with LFB's Wellbeing team and the Occupational Health Service for RPMs and new starter health assessments. The interim processes have created an increased risk to the organisation, staff and members of the public, because these individuals are not subjected to the usual levels of medical assessment and health surveillance. The interim processes involve relying on completion of a paper-based questionnaire and a clinical review of the responses. Where the staff member notes a new condition or has previously discussed a fluctuating condition with Occupational Health, a full telephone assessment is scheduled prior to advising fitness for work.
- 1.5 The three-yearly RPM is a requirement of the National Fire Chiefs Council (NFCC) for fire and rescue services. LFB consulted the NFCC regarding a recommended approach to resuming face-to-face RPMs, including RPMs for those who have completed the paper-based questionnaire between April 2020 and August 2021. The NFCC has confirmed that they do not intend to propose a methodology, and the decision regarding resumption of routine periodic medicals is to be made by individual fire and rescue services.

Statutory requirements for asbestos surveillance

- 1.6 Asbestos surveillance is a statutory health surveillance governed by Control of Asbestos Regulations 2012. Regulation 22, paragraph 3 states:

(3) For work with asbestos, which is not licensable work with asbestos, and is not exempted by regulation 3(2), the requirements in paragraphs (1)(a) to (c) apply and –

(a) a medical examination in accordance with paragraph (1)(c) and (2)(a) must take place on or before 30 April 2015;

(b) on or after 1 May 2015, a medical examination in accordance with paragraph (1)(c) and (2)(a) must take place not more than 3 years before the beginning of such exposure; and

(c) a periodic medical examination in accordance with paragraph (1)(c) and (2)(b) must take place at intervals of at least once every 3 years, or such shorter time as the relevant doctor may require while such exposure continues.

(4) Where an employee has been examined in accordance with paragraph (1)(c), the relevant doctor must issue a certificate to the employer and employee stating –

(a) that the employee has been so examined; and

(b) the date of the examination, and the employer must keep that certificate, or a copy of that certificate for at least 4 years from the date on which it was issued.

1.7 Covid-19-specific guidance, as published by the HSE and in place up to 1 July 2021, states:

Respiratory health surveillance

Providing a current respiratory health questionnaire does not raise any concerns and previous lung function tests were normal (where available), occupational health providers can defer spirometry for up to 18 months (including any previous deferral periods).

Spirometry can be performed where considered necessary. For example, as part of a safety critical medical, where there is a clinical concern or known lung function abnormality, or after a maximum 18-month deferral period. Where spirometry is considered necessary in these types of circumstances, the potential for aerosols containing coronavirus should be considered. It should be subject to a suitable and sufficient risk assessment and appropriate controls put in place, including the provision of suitable personal protective equipment (PPE).

- 1.8 Spirometry is a test used by medical professionals to help diagnose and monitor certain lung conditions by measuring how much air you can breathe out in one forced breath. It's carried out using a device called a spirometer, which is a small machine attached by a cable to a mouthpiece. For LFB purposes, the spirometry test is for surveillance only, and there is no clinical requirement resulting from a health concern to complete these tests. Early on in the pandemic, LFB's Occupational Health Service was advised by the HSE that these assessments should be suspended.
- 1.9 Assessments are completed by an Occupational Health Nurse, and a status regarding fitness to work is recommended. Following these assessments, the Occupational Health Physician reviews the results. During this review, focus is paid to the results of the lung function test; the results of this test, in addition to further examination, provide sufficient information for the Occupational Health Physician to complete the asbestos surveillance appointment.
- 1.10 Asbestos surveillance does not provide future predictions of asbestosis. However, the screening will detect any symptoms on the day of the assessment.
- 1.11 Following confirmation from the HSE that spirometry testing could resume from 1 July 2021, face-to-face RPMs and new starter health assessments resumed, as they become due, from August 2021.
- 1.12 The RPM comprises the following assessments:
- height and weight checks to ensure weight comes within the recommended limits
 - body fat measurement to review the amount of body fat and advise on exercise, diet and weight control
 - urine testing to detect infection or disease in kidneys or diabetes
 - audiometry tests to assess ability to hear clearly
 - a lung-function test to assess the efficiency of lungs (Spirometry)
 - blood pressure checks for abnormalities e.g. hypertension
 - a vision test to assess unaided far, intermediate and near vision; and tests for colour blindness

- a cholesterol test looks for major health risk factors such as coronary heart disease
- for Station Commander level and above, a fitness test (Chester step test) to assess overall fitness.

1.13 Between April 2020 and August 2021, approximately 1,500 staff due their RPM will have been required to complete a medical questionnaire. Medical questionnaires have been reviewed by an Occupational Health Nurse, who has provided confirmation of fitness to work where possible. Where, the staff member may have cited on the form a change to their health, or has previously declared a health condition that may fluctuate and impact their ability to work, a telephone assessment has been carried out via either an Occupational Health Nurse or an Occupational Health Physician, depending on the case background.

1.14 The HSE granted a one-year extension to all Asbestos Certificates. Therefore, those who were due their RPM in 2020 were not due further asbestos surveillance until the relevant month in 2021.

2 Objectives and expected outcomes

2.1 The HSE have confirmed that practices can resume spirometry (lung-function tests) for asbestos surveillance checks effective 1 July 2021. However, as a result of the agreed given notice of 28 days, LFB has resumed spirometry tests, and as a result asbestos surveillance checks, with effect from 1 August 2021.

2.2 Those who have had the one-year extension to their previous Asbestos Certificate, and who are due for review prior to August 2021, are required to complete a respiratory questionnaire. Successful completion of the respiratory questionnaire, with no concerns, enables the Occupational Health Physician to provide an Asbestos Certificate for a further six months. Those who completed their RPM questionnaire in April 2020 will have been required to complete the respiratory questionnaire in April 2021, resulting in an Asbestos Certificate being issued with an expiry date of October 2021. Should the spends requested be approved, the LFC intends to schedule the catch-up asbestos surveillance clinics in September for commencement in October 2021.

2.3 LFB recognises its duty to support the wellbeing of all of its staff. It also recognises that staff who have left the organisation throughout the pandemic may not have had access to the usual levels of wellbeing screening. As at the end of June 2021, 48 staff have left LFB either during the original Asbestos Certificate extension period or following completion of the respiratory questionnaire only.

2.4 From August 2021, those staff due an RPM will complete the full face-to-face RPM as set out in the report. From September 2021, those who have been due an RPM from April 2020 to August 2021, and who have completed the questionnaire exercise, will be invited for asbestos surveillance checks only, with a reminder of the services and support available should there be any concern with regards to their health.

2.5 On average LFB has 150 staff per month who are due their RPM. These numbers are factored into resource scheduling to ensure sufficient fire cover. In order to complete the asbestos surveillance for those due an RPM between April 2020 and August 2021, a further 150 staff per month will need to be released from regular duties.

2.6 Occupational Health have confirmed that 15 asbestos-related medical appointments can be conducted daily. Therefore 10 days of 15 appointments will be scheduled per month, with the specific days being varied subject to attendees and the watch calendar. Consultation with LFB's Establishment and Performance team have confirmed that this will not have a negative detriment on fire cover.

- 2.7 By July 2022, LFB will be back to a regular RPM cycle with all those impacted by the pandemic due to receive further invitation for a full RPM in that year.
- 2.8 LFB's Health and Safety team, and the Senior Occupational Health Physician, have been consulted regarding this proposal and agree with the approach recommended.

Costs

- 2.9 The cost of completing asbestos surveillance for the 1,500 staff members will be £128,975 in financial year 2021-22; and £55,275 in 2022-23. This will be completed by HML and the LFB's existing contract for occupational health services will be amended to include this additional provision.
- 2.10 Data provided by the Occupational Health Service, both before and during the pandemic, indicates a 'Did Not Attend' (DNA) rate of approximately 7 per cent. Staff are supported to attend their medicals during working hours. However, this can result in missed appointments if the staff member is attending an incident during the appointment time.
- 2.11 The recommended costs included in this report includes a contingency of 10 per cent (£16,750). This is anticipated to be sufficient to cover for non-attendance at appointments, predicted to be at a rate of 7 per cent based on existing Occupational Health Service data (£11,725), whilst retaining 3 per cent (£5,025) flexibility in case required. The remaining 3 per cent could cover up to 45 additional medicals if the DNA rate is to be greater than expected; or it could cover any additional unexpected costs associated with travel and accommodation for staff who have since left the LFC to attend Southwark for asbestos surveillance.
- 2.12 Contact will be made with the 48 staff who have left LFB to invite them to an asbestos surveillance appointment, should they wish to take part. Whilst it is expected that take-up will be low, predictions indicate additional costs of up to £2,500 for travel expenses should all 48 elect to participate. LFB's Assistant Director for People Services is aware of this and has agreed to these costs. This predicted cost of £2,500 for travel expenses is included in the totals captured within the recommendations.
- 2.13 In order to reduce travel costs, and potential accommodation costs for staff who have left LFB, those who wish to participate will be liaised with directly regarding a suitable appointment.
- 2.14 Any staff member who has left the LFC and joined another UK Fire Service is likely to complete an asbestos surveillance as part of the new starter medical assessment.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience are required to have due regard to the Public Sector Equality Duty (section 149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on different people, 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:
- eliminate discrimination, harassment and victimisation and other prohibited conduct
 - advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it
 - 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:
- remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic
 - 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
 - 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:
- tackle prejudice
 - promote understanding.
- 3.8 An Equality Impact Assessment has been completed and has highlighted a medium impact on older staff as a result of this proposal. During the RPM, the additional tests completed (set out in paragraph 1.12 above) can alert staff to changes in their health of which they were unaware. This enables the staff member to access further support from the appropriate treating specialist.
- 3.9 In the year prior to the pandemic (March 2019 to February 2020), 1.6 per cent of staff seen were referred to City University, LFB's eyecare specialist, for further sight testing. It is important to note that these were recommendations based on changes only, and no staff were taken off the run as a result of significant sight changes. It is not uncommon for eyesight to weaken with age; therefore, it is anticipated that the proposal to conduct only the asbestos surveillance may have a low adverse impact on older staff.
- 3.10 All staff required to attend asbestos surveillance will be given the option to request a full RPM or specific screening, should they have any concerns with regards to their health.
- 3.11 Enough time has been allocated to ensure that during the asbestos surveillance the staff member can raise any general health concerns. If necessary, following the RPM, the Occupational Health Physician will triage directly for further assessments.

- 3.12 All staff with known health conditions continue to be cared for via the relevant Occupational Health services/processes.

4. Other considerations

Procurement implications

- 4.1 The existing contract with HML includes the provision of RPMs and asbestos surveillance. However, the increased demand exceeds the pre-paid contract volumes and, therefore, a contract variation for the provision of up to 1,500 additional asbestos surveillance appointments is required. The existing contract can be varied in accordance with its terms and in compliance with the Public Contracts Regulations 2015. The temporary increase of Occupational Health services, with an agreed contract addendum, is in keeping with LFB's procurement guidelines.
- 4.2 The LFB is also required under the Control of Asbestos Regulations 2012, to ensure firefighters are placed under 'statutory medical surveillance' by an 'appointed doctor' (an appointed doctor is a registered medical practitioner appointed by the HSE to undertake statutory medical surveillance).

Sustainability implications

- 4.4 The LFB's sustainability team have reviewed the proposal and have confirmed that there is a neutral sustainability impact arising from the completion of approximately 1,500 asbestos surveillance appointments.

5. Financial comments

- 5.1 This report recommends that 1,500 asbestos surveillance checks are completed at a revenue cost of £184,250. This spend will be over the 2021-22 and 2022-23 financial years. There is no funding for this work included as part of the approved budget for 2021-22. As this work is required as a result of the impact of the Covid-19 pandemic, it is proposed that this is funded from the Covid-19 earmarked reserve. That reserve contains funding of £2,000,000 and was established to cover any arising costs as a result of the pandemic in the 2021-22 and future financial years.
- 5.2 There are no additional financial implications for the GLA.

6. Legal comments

- 6.1 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 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 LFC 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 LFC 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 LFC must also comply with the requirements of the Health and Safety at Work etc. Act 1974 (the 1974 Act). Section 2 of the 1974 Act imposes a general duty on the employer to 'ensure, so as is reasonably practicable, the health, safety and welfare at work of all of his employees.'
- 6.5 This general duty extends (amongst other things) to the plan and systems of work, the provision of information, instruction, training and supervision and to the provision and maintenance of a working environment that is, so far as reasonably practicable, without risks to health and adequate as regards facilities and arrangements for welfare at work.
- 6.6 The LFC General Counsel confirms that, in accordance with the Public Contracts Regulations 2015 and the existing contract terms, the LFC is able to vary the existing contract with HML to include additional service volumes, as set out in this report at paragraph 4.1.

Appendices and supporting papers:

Appendix 1 – LFC-0555y Routine Periodic Medicals – Asbestos Medicals

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: The commercial interests of the LFC require deferral of the decision until after the cooling off period for the contract award has expired.

Until what date: 01 December 2021

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

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.

✓

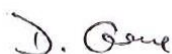
Corporate Investment Board

This decision was agreed by the Corporate Investment Board on 18 October 2021

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

21 October 2021