

GREATER LONDON AUTHORITY

REQUEST FOR MAYORAL DECISION – MD2781

Mayoral Delegation and funding for Transport for London to undertake public benefit digital connectivity works

Executive Summary:

The Mayor has secured grant funding to improve London's digital connectivity as part of his commitment to improve digital connectivity and broadband coverage across London, including areas of poor connectivity. Transport for London's (TfL) Telecommunications Commercialisation Project (TCP) and associated concession contract can be used as a delivery mechanism to achieve this. TfL would not ordinarily have the powers to undertake digital connectivity works to buildings and facilities owned or operated by third parties unconnected with its transport functions.

This decision therefore requests that the Mayor delegates to Transport for London (TfL) the Greater London Authority's (GLA) general and subsidiary powers under sections 30 and 34 of the GLA Act 1999 to do so including the ability to use its TCP concession contract. It also requests the Mayor approves a capital grant under section 120 of that Act to pass through funding secured from the MCHLG and the Mayor's Strategic Investment Fund.

Decision:

That the Mayor:

- i. delegates to Transport for London (TfL) the exercise of the GLA's functions under sections 30 and 34 of the Greater London Authority (GLA) Act 1999 for the general purpose of improving digital connectivity in Greater London and addressing areas (whether general or specific) of poor digital connectivity in accordance with the Mayoral Delegation set out at Appendix A.
- ii. approves the expenditure of £4 million under the GLA's MHCLG funding as described at section 1.5 below;
- iii. approves the transfer of £14 million of funding set out in 1.5 below to Transport for London in 2020-21 in its role as project delivery lead by means of a capital grant to TfL made under section 120 of the GLA Act 1999, noting that spend by TfL would happen over a longer period; and
- iv. delegates to the Executive Director of Good Growth to approve the making of further capital or revenue grants of any value to TfL under sections 120 or 121 of that Act where subsequent additional funding is secured for the digital connectivity project, following consultation with the Executive Director of Resources.

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:

8/3/24

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

Decision required – supporting report

1. Introduction and background

- 1.1. The Mayor has pledged to improve London's connectivity, making it a priority to tackle London's 'not spots' ensuring better access to public-sector property for digital infrastructure.
- 1.2. The Covid-19 pandemic has highlighted the importance of ensuring London's digital infrastructure is future-facing with many Londoners expected to continue home working to some extent post-pandemic. One of the key missions as part of London Recovery is the Digital Access for All mission: "Every Londoner to have access to good connectivity, basic digital skills and the device or support they need to be online by 2025." Public investment in London's 'notspots' is key to improving our connectivity for millions of Londoners where commercial investment is unviable or unlikely to materialise ahead of 2025. Unemployment in London is on the rise and digital skills are key for employers as remote working becomes the norm for many. Ensuring Londoners have access to full fibre connectivity is the pillar to improving digital skills.
- 1.3. In 2016, TfL began taking forward a project to commercialise TfL assets to deliver cellular (4G) services on the London Underground, a new fibre network for London, improved access to streetscape assets to deliver 5G and an improved Wi-Fi service on London Underground stations by means of the appointment of a contractor (concessionaire). This project is referred to as the Telecommunications Commercialisation Project (TCP). It is proposed that the TCP project acts as one of the major delivery mechanisms for digital connectivity proposals. The concession agreement will allow TfL to request the concessionaire to deliver works funded by grant. The procurement of a TCP Concessionaire is underway, with the Invitation to Tender released in July 2019. The projected award of the concession is mid-2021. The TfL concession agreement includes an option for TfL to request that the Concessionaire installs full fibre connections to third-party (i.e. non-TfL) owned/operated buildings and assets (to be funded as detailed below) and also permits London borough councils to request the installation of full fibre works by the Concessionaire at their facilities, premises and streetscape assets. TfL will work with individual boroughs on these projects.
- 1.4. The GLA's Connected London team has worked closely with TfL's TCP team since August 2017, when a funding application for London's Local Full Fibre Network (LFFN) project was submitted by TfL to the Department for Digital, Culture, Media and Sport (DCMS). The team has established a strong working relationship and understanding of TfL's TCP project. The team's value through its close working relationship with London's boroughs will act as a key bridge in ensuring successful delivery of full fibre to council assets that have been identified.
- 1.5. The GLA, TfL and London boroughs have successfully applied for funding and continue to explore new funding opportunities to improve London's digital connectivity infrastructure. Below is a description of the funding secured to date:
 - DCMS Funding – In the Chancellor's 2018 Spring Statement it was announced that TfL's application for funding from DCMS to upgrade public buildings and assets with fibre connections had secured £8.5m to link the future TfL concessionaire's fibre network to public buildings by September 2021. The organisations benefitting from this funding are the eight boroughs of Camden, City of London, Hammersmith & Fulham, Kensington & Chelsea, Lambeth, Southwark, Tower Hamlets, Westminster. The Old Oak and Park Royal Development Corporation (OPDC) is also a partner on this project.
 - £10m GLA funding – In 2019, the Mayor provided funding through MD2530 for full fibre connections to public sector assets via the Mayor's Strategic Investment Fund (SIF). £10 million will be used to grant fund further Public Sector Building Upgrade connections in

boroughs not benefitting from the other funding sources above. These boroughs are Bromley, Croydon, Hackney, Islington, Kingston upon Thames, Lewisham, Merton, Richmond upon Thames, Sutton and Wandsworth. As part of this MD approval, this SIF funding will be transferred by grant from GLA to TfL to fund approved digital connectivity works.

- **£6m MHCLG Funding** – In 2020, the GLA's Connected London team successfully bid to the Ministry of Housing, Communities and Local Government's (MHCLG) Getting Building Fund for funding for full fibre connections to public sector assets. MD2692 allocated £6m of funding to undertake works in outer London boroughs where rurality 'not spots' are prevalent. £4m of this grant funding will be transferred to TfL to fund approved digital connectivity works in 2020-21 and the remaining £2m will be transferred to Sub Regional Partnership, Local London, in 2021-22. MD2692 approved delegated authority to the Executive Director of Good Growth for the remaining £2m to be transferred.

- 1.6. The GLA and TfL will continue to identify and bid for additional funding sources to improve London's connectivity, working jointly on the application processes and in partnership with London boroughs to agree strategic objectives that align with the Mayor's connectivity ambitions. Successful bids will be assessed by the GLA and TfL to agree the scope and delivery route. If future funding can be delivered by the TCP concessionaire and is considered the most appropriate method of delivery for the identified connections, then works will be delivered using the concessionaire. If the assessment determines alignment with the TCP and delivery with the Concessionaire is not the best option, then alternatives will be considered, including using existing contracts and frameworks.
- 1.7. The connectivity works described above are expected to benefit London's economy, and its social development and environmental improvement.
 - *Addressing business need* - FTTP offers reliability for a constant connection which does not drop out due to weather, human or electrical interference and therefore provides businesses with the service they need and deserve. Unlike copper lines, FTTP offers the highest standard of security as the dedicated fibre lines cannot be penetrated by hackers.
 - *Delivering an uplift in business rates* – The delivery of full fibre will be delivering outcomes that will lead to an increase in business rates but delivering more viable commercial space and better business productivity. FTTP attracts new businesses to the area and breeds the next generation of start-ups, that are reliant on digital technology.
 - *Digital Access for All mission*– as part of London's Recovery work programme, tackling digital exclusion is a key measure to recovery and good digital connectivity across London is critical in ensuring the missions success.
 - *Coordinated delivery* – working in partnership with London's local authorities and TfL, delivery of infrastructure will be coordinated and collaboratively delivered to ensure minimal disruptions to London's streets.
- 1.8. TfL has no express statutory power to undertake connectivity works to third parties and to upgrade public buildings and assets with fibre connections, as this is unrelated to its own transport functions and estate assets, notwithstanding the general public benefits of the project. In order for the works set out in paragraphs 1.5 and 1.6 above to be carried out through the mechanism of the TCP concession agreement and for TfL to pass through funding from Government (present and future) and others, it is proposed that the Mayor delegates to TfL the GLA's general and subsidiary powers under sections 30 and 34 of the GLA Act 1999 for the general purpose of improving digital connectivity in Greater London and addressing areas (whether general or specific) of poor digital connectivity.
- 1.9. The proposed Mayoral Delegation is enclosed at Appendix A and permits TfL:

- (a) to provide a strategic oversight in the co-ordination, implementation, funding and operation of the Project and entering into arrangements with Government, the London Boroughs and any other relevant partners parties and organisations for those purposes;
- (b) to incur undertake digital connectivity works to (third party) buildings and facilities not owned or operated by TfL for the purposes of TfL's own functions, including those owned or operated by the London Boroughs, other relevant partners, parties and organisations;
- (c) to procure and utilise TfL's contracts and frameworks, including the TCP concession agreement, for those purposes;
- (d) to seek and provide funding for digital connectivity works and other matters connected with the project from the Greater London Authority, Government or other organisations and sources including in respect of works undertaken or to be undertaken by TfL, the TCP Concessionaire or third parties (including the London Boroughs); and
- (e) to incur expenditure in connection with the above.

1.10. The MHCLG funding (£6m) is held by the GLA and this MD seeks approval that £4m of this funding is to be transferred to TfL by means of a capital grant under section 120 of the GLA Act to fund the Concessionaire to undertake the connectivity works in outer London boroughs where rurality not spots are prevalent.

1.11. Approval is also sought that future funding for the digital connectivity project obtained from Government or other sources can be transferred to TfL as lead organisation. It is therefore proposed that the Executive Director of Good Growth should have delegated authority to approve the making of further capital or revenue grants of any value to TfL under sections 120 or 121 of that Act where subsequent additional funding is secured for the digital connectivity project. Such approvals would be following consultation with the Executive Director of Resources.

2. Objectives and expected outcomes

- 2.1. *TfL delegation for delivering digital connectivity as part of their core business* – The delegation of powers to TfL will ensure that existing and future grant funding to improve London's digital connectivity can be delivered using existing contracts or frameworks (including the TCP concession agreement).
- 2.2. *Improving London's full fibre availability* – Delivering grant funded connections through an existing contract or frameworks will result in more fibre connections being available in London. Grant funding will be prioritised in areas to support disadvantaged Londoners with poor digital access where commercial investment is unlikely. This outcome will support the Digital Access for All mission for all ensuring that connectivity is provided where it is needed the most.
- 2.3. *Aligning different boroughs' way of working* – TfL will provide a support and coordination function as lead organisation as part of delivery of this funding across boroughs. The delivery of this project will provide boroughs with resources and a framework that not only enables the delivery of the connections (for example through template legal documents, or street work approaches) but puts in place processes that will facilitate relationships with providers beyond 2021. It will also provide transparency and alignment of different local borough approaches to reduce the cost of deployment, ensuring investment goes further to provide greater coverage.
- 2.4. *Putting in place best practice and guidance for boroughs and providers* – Using the Connected London work programme to develop common approaches across multiple boroughs to digital infrastructure delivery, we are establishing practices that will assist providers with their deployment.

By working closely with London's boroughs, these common approaches make London more investment-ready, seeking to ensure all of London's premises are as commercially viable by having good digital connectivity without reliance on private sector funding which is likely only to deliver sufficient connectivity to commercially viable areas.

3. Equality comments

- 3.1. Under section 149 of the Equality Act 2010, as public authorities, the Mayor of London, TfL and the London boroughs must 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 have a protected characteristic¹ and those who do not.
- 3.2. The delivery of funding forms a key pillar of the Digital Access for All recovery mission, which aims to address digital exclusion and improve Londoners' access to affordable connectivity, devices, and basic digital skills.
- 3.3. Reducing digital exclusion is a foundational step in supporting London's communities, improving access to services and narrowing social, economic and health inequalities.
- 3.4. The grant funding being delivered by TfL is designed to positively impact London through reducing the digital divide faced by Londoners in not-spot areas where commercial investment is unlikely.
- 3.5. TfL have worked with the Connected London team and boroughs to use this funding for sites which include social housing, youth centres, and sheltered accommodation. Services will be delivered at these sites that will be designed to improve accessibility and reduce costs to address digital inclusion, as well as developing interventional programmes.
- 3.6. Specific proposals for individual workstreams undertaken will undergo individual assessments to ensure the public sector equality duty under the Equality Act 2010 is complied with and any potential negative equalities impacts identified, and relevant mitigations are considered. This includes the identification and prioritisation of public sector sites for upgraded connections where existing provisions for connectivity are poor.

4. Other considerations

Key risks and issues

- 4.1. The risk below relates to grant funding:

Risk	Impact	Mitigation	Post mitigation RAG rating
Grant funding could be recalled by the funding body	Grant funding requirements specifically from MHCLG's funding requires the GLA to commit funding by March 2021. Without	The GLA has agreed with MHCLG that funding will be constituted as committed if transferred to TfL, who are procuring a contractor through the	Medium

¹ These are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex, sexual orientation and in certain circumstances, marriage and civil partnership.

	a Mayoral Decision to commit, grant funding will need to be returned to MHCLG.	TCP concession agreement.	
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Links to Mayoral strategies and priorities

- 4.2. The decisions as outlined above will contribute to the delivery of Mayoral priorities. Grant funding will be used to deliver full fibre upgrades to public sector assets in 'not spot' areas. This delivers on the following commitments:
- The Smarter London Roadmap launched the Connected London programme mobilising public sector property across London to reduce the costs of full fibre deployment and prioritise investment. This supports the Mayor's pledge to improve connectivity, making it a priority to tackle London's 'not spots', ensuring better access to public-sector property for digital infrastructure.
 - Economic Development Strategy states: "The Mayor will, tackle the barriers to provision of fast, reliable digital connectivity through a comprehensive programme including: appointing a dedicated team in City Hall, promoting best practice and innovation, developing guidance, advocating the use of public sector assets for digital connectivity and championing the use of standardised agreements". The Mayor has supported the use of standardised agreements through part funding the City of London's standardised wayleave template and has also launched agreements for mobile access to rooftops and greenfield sites in partnership with the British Standards Institute and in consultation with industry, boroughs and other key stakeholders.
 - Digital Access for All mission – One of the key missions as part of London Recovery work is the Digital Access for All mission, "Every Londoner to have access to good connectivity, basic digital skills and the device or support they need to be online by 2025."
- 4.3. No GLA and TfL officers involved in the development of the project have any private or personal interests in its outcome, nor any other conflicts of interest to declare.

5. Financial comments

- 5.1. As detailed within this report, the GLA, TfL and London Boroughs have successfully secured funding that is to be utilised on improving London's digital connectivity infrastructure. This includes the following:
- £8.5m from DCMS as part of the Local Full Fibre Networks Fund;
 - £6m from MHCLG to GLA as part of the Getting Building Fund; and
 - £10m via the Mayor's Strategic Investment Fund (held by GLA).
- 5.2. It should be noted of the secured funding, the DCMS funding will be administered directly to the London boroughs and other delivery partners and will not go through the GLA's accounts. However, the £6m from MHCLG as part of the Getting Building Fund and the £10m from the Mayor's Strategic Investment Fund will be administered by the GLA to TfL and other delivery

partners.

- 5.3 As part of this proposal, £4m of the Getting Building Fund approved in MD2692 will be transferred to TfL in 2020-21. The balance of £2m will be transferred to the Local London sub-regional partnership, in 2021-22. Local London have procured an independent framework to deliver digital connectivity across their partner boroughs.
- 5.4 In addition, the £10m from the Mayor's Strategic Investment Fund will also be transferred to TfL – funding of which was approved by MD2530. However, this transfer of funds will be subject to the procurement process being completed, which has now been scheduled for 2021-22.
- 5.5 The above funding from MHCLG's Getting Building Fund (£4m in 2020-21) and Mayor's Strategic Investment Fund (£10m) will be transferred to TfL by means of the GLA making a capital grant under section 120 of the GLA Act. TfL has indicated that the grant funding it receives will be earmarked by TfL towards expenditure in connection with the digital connectivity works project for the London boroughs and other third parties to be performed under the Mayoral Delegation at Appendix A.
- 5.6 The GLA in liaison with TfL and other project partners will look to secure future funding to enhance the overall full fibre grant programme and undertake further digital connectivity works. Where paid to the GLA it will specifically look to transfer such funding, once secured, to TfL by means of further section 120 or 121 capital or revenue grant. A delegation is included to enable the Executive Director of Good Growth to approve the making of further capital or revenue grants of any value to TfL under sections 120 or 121 of that Act where subsequent additional funding is secured for the digital connectivity project. This will, however, be following consultation with the Executive Director of Resources.

6. Legal comments

- 6.1. The Mayor is asked to authorise and enable the delivery of the digital connectivity project by TfL under sections 30 and 34 (general and subsidiary powers), by means of a delegation of those functions under 38 (delegation) of the GLA Act. TfL would not normally have the powers to undertake connectivity or other works to buildings and facilities not owned or operated by TfL for the purposes of TfL's own transport functions. In order for TfL to undertake these activities it is proposed to supplement TfL powers by the Mayor approving the Delegation as set out in Appendix A.
- 6.2. 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.
- 6.3. It is considered that the digital connectivity projects will further all three of the principal purposes set out in section 30 above.
- 6.4. 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). It is proposed that TfL also be delegated these powers.

- 6.5. Sections 38(1) and (2) of the GLA Act allow the Mayor to authorise TfL to exercise functions under the GLA Act and other relevant legislation on his behalf, including those contained in sections 30 and 34. The delegation of the GLA's sections 30 and 34 functions is considered sufficient to enable TfL to undertake the role and activities envisaged under the digital connectivity project. 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.
- 6.6. The proposed authorisation to TfL is contained in the Mayoral Delegation in Appendix A. The Mayor may impose conditions on any such delegation. The proposed delegation is on standard terms.
- 6.7. Under section 120 of the GLA Act the Mayor may pay a grant towards meeting capital expenditure incurred or to be incurred by a functional body for the purposes of or in connection with the discharge of the functions of that body. A grant cannot be made subject to any limitation in respect of the capital expenditure which it may be applied towards and must be applied by the recipient solely towards capital expenditure incurred or to be incurred in connection with the discharge of its functions.
- 6.8. The approval of grants by the GLA to functional bodies under sections 120 (capital) and 121 (revenue) of the GLA Act is normally a Category 2 Mayoral Reserved Matter under 'Mayoral Decision Making in the GLA' ("the Framework"), being reserved by policy choice to the Mayor for decision rather than because of a specific legal requirement. Notwithstanding this, the statutory power available to the Mayor under section 38(1) and (2) of the GLA Act does allow for the proposed delegation to the Executive Director of Good Growth regarding decisions about future funding to be passed to TfL using the section 120/121 power, as set out in recommendation (iv), should the Mayor consider pursuant to this decision that is appropriate. As stated in the Framework, it sets out the default position that applies; it does not, however, prevent the Mayor making other delegations outside of the Framework as considered appropriate.

7. Planned activity timetable

Projected activity	Timeline
Identification of priority sites with boroughs (underway)	December 2019
Grant funding transferred from GLA to TfL	March 2021
TfL review existing contracts and framework to market	June 2021
Developing delivery plans with boroughs (including design, surveys and wayleave agreements)	July - September 2021
Value for Money assessment	July - September 2021
Delivery	September 2021
Project delivery end date	November 2022
Final evaluation	February 2023
Project closure	May 2023

Appendices and supporting papers:

Appendix 1: Mayoral Delegation to Transport for London

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? NO

Until what date: (a date is required if deferring)

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:

Sara Kelly has drafted this report in accordance with GLA procedures and confirms the following: ✓

Sponsoring Director:

Philip Graham has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities. ✓

Mayoral Adviser:

Nick Bowes 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 1 March 2021.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

D. Gane

Date

1 March 2021

CHIEF OF STAFF:

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

Signature

D. Bellamy

Date

1 March 2021

Appendix A - Mayoral delegation to TfL in respect of digital connectivity measures

MAYORAL DELEGATION TO TRANSPORT FOR LONDON

FOR THE FACILITATION, IMPLEMENTATION AND OPERATION OF

DIGITAL CONNECTIVITY WORKS AND FUNDING IN GREATER LONDON

Mayoral Delegation

1. The Mayor authorises Transport for London (TfL), under section 38(1) of the Greater London Authority Act 1999 (GLA Act, as amended), to exercise the Greater London Authority's functions under sections 30 and 34 of that Act to undertake all things TfL considers necessary or expedient for the general purpose of improving digital connectivity in Greater London and addressing areas (whether general or specific) of poor digital connectivity ("the Digital Connectivity Project"/ "Project").

Scope

2. The following measures and activities are included within the scope of the above Mayoral Delegation (without limitation) for the purposes of or in connection with the Digital Connectivity Project for TfL:
 - (a) to provide a strategic oversight in the co-ordination, implementation, funding and operation of the Project and entering into arrangements with Government, the London Boroughs and any other relevant partners parties and organisations for those purposes;
 - (b) to incur undertake digital connectivity works to (third party) buildings and facilities not owned or operated by TfL for the purposes of TfL's own functions, including those owned or operated by the London Boroughs, other relevant partners, parties and organisations;
 - (c) to procure and utilise TfL's contracts and frameworks, including the TCP concession agreement, for those purposes;
 - (d) to seek and provide funding for digital connectivity works and other matters connected with the project from the Greater London Authority, Government or other organisations and sources including in respect of works undertaken or to be undertaken by TfL, the TCP Concessionaire or third parties (including the London Boroughs); and
 - (e) to incur expenditure in connection with the above.

Conditions

3. The Mayoral Delegation above is made subject to the following conditions:
 - (a) The activities carried out by or on behalf of TfL in implementing the delegation will be the subject of regular updates and reports to the Mayor and relevant GLA officers on progress and developments;
 - (b) The powers conferred by this Mayoral Delegation are without prejudice to any powers or functions TfL otherwise has at common law or under any relevant legislation and the functions delegated by the Mayor shall be exercisable by TfL in accordance with section 38(7) of the GLA Act 1999;
 - (c) —In implementing this Mayoral Delegation TfL will comply with any instructions or guidance issued by the Mayor or by GLA officers;
 - (d) Unless otherwise authorised by the Mayor, no costs incurred in the implementation of this delegation shall be borne by the GLA; and

- (e) TfL shall at all times afford the person who is the GLA's Monitoring Officer for the time-being with all reasonable co-operation and access to documents and facilities as may be required from time to time in respect of that person's duties as Monitoring Officer to investigate and prepare reports under section 5(2) of the Local Government and Housing Act 1989 (as applied by section 73(6) of the GLA Act 1999).

Signed and Dated

 8/7/21

Sadiq Khan

Mayor of London