

GREATER LONDON AUTHORITY

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD180

Title: Operational Contingency Arrangements

Executive summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for the London Fire Commissioner (LFC) to commit to revenue expenditure as set out in part 2 of the report for provisions of operational contingency arrangements for London Fire Brigade (LFB), including entering into a contract with an external supplier of operational contingency services. The contract will be for an initial period of six years, commencing no later than November 2023, with an optional three-year extension.

LFB has a duty under the Civil Contingencies Act 2004 to plan for the purpose of ensuring, so far as is reasonably practicable, that if an emergency were to occur, LFB would still be able to continue to perform its functions. The current arrangements, known as Capital Guard, are the contingency measures implemented during times when gaps in normal service provision, operational response, and control are experienced. This report sets out the recommendations for a new contract to provide for the deployment of operational contingency crews during periods of workforce disruption. This follows a tendering process that has been completed as part of a wider project for operational contingency arrangements. Approval for other related expenditure by LFB on operational expenditure arrangements is also requested.

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 London Fire Commissioner to commit to revenue expenditure of up to the amount set out in the Part Two report, for the purposes of delivering operational contingency arrangements, including entering into a contract with a supplier for operational contingency crews and for up to nine years.

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:

7/11/22

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

Decision required – supporting report

1. Introduction and background

- 1.1. Report LFC-0746 to the London Fire Commissioner (LFC) explains that London Fire Brigade (LFB) has a duty under section 7 of the Fire and Rescue Services Act 2004 (FRSA), in relation to firefighting, protecting life and property in the event of fires in its area; and, in doing so, it must secure the provision of personnel, services and equipment necessary to efficiently meet all normal requirements. A duty also applies under section 8 of the FRSA, in respect of road traffic collisions. Section 9 of the FRSA deals with additional ‘emergencies’ other than fires and road traffic accidents.
- 1.2. Furthermore, under section 2 of the Civil Contingencies Act 2004 (CCA), LFB must formulate and maintain plans, for “emergencies” for the purpose of ensuring, “so far as is reasonably practicable”, that if an emergency were to occur, LFB would still be able to continue to perform its functions. Such emergencies include: an event or situation that threatens serious damage to human welfare, the environment or the security of the United Kingdom; war; or terrorism.
- 1.3. To comply with this legislation, and to ensure an emergency provision was in place, in 2014 LFB entered into a contract with Securitas Security Services (UK) Ltd to establish an emergency fire crew capability (EFCC) contract. These arrangements support internal provisions known as Capital Guard; these are the contingency measures implemented during times when normal service provision, operational response, and control cannot be provided. This includes events such as flu pandemics, or strike action taken by a representative body.
- 1.4. The original term of this contract expired in November 2020; extension arrangements were triggered enabling the service to continue for a maximum of three years. This extension is due to end in November 2023; as such, a new arrangement needs to be put in place.
- 1.5. The EFCC service cost LFB £4,600,000 in 2021-22, and will cost £4,800,000 in 2022-23. This is to maintain a steady state. Further costs are incurred if the capability is required to be stood up and deployed.
- 1.6. The EFCC contract secures the provision of trained operational contingency crews, command support teams (CSTs) and contingency control call-handling staff needed to deliver a response in times of Capital Guard activation. This is a necessary control measure for periods of service disruption, which is an identified risk in the LFC corporate risk register and national security risk assessment.
- 1.7. In order to support the Capital Guard arrangements, it is proposed that a further contract is agreed to provide these contingency crews for periods of workforce disruption. From the point of implementation, the service personnel provided by that contractor should be referred to as the operational contingency crews (OCCs).
- 1.8. The new contract will be for six years with an option to extend for a further three years.
- 1.9. An additional expenditure is also recommended so that operational contingency arrangements for other core LFB functions and national resilience obligations can be considered and implemented where necessary. These include control and mobilising, turntable ladders; Fire Rescue Units; response to chemical, biological, radiological and nuclear incidents; high-volume pumps; and urban search-and-rescue operations. This is necessary so that LFC’s contingency

arrangements are agile enough to respond to changing risks in the built environment, terrorism and climate change.

2. Objectives and expected outcomes

- 2.1. LFB is conducting a tender process, which has now reached evaluation stage, using a new operational specification for the LFC's requirements. Though numerous changes have been made to this specification, the underlying themes of this new specification (which differentiate it from the previous specification) are as follows:
- The new specification has removed the requirement for the contractor to approach incidents in defensive mode by default. This has been replaced with an emphasis on having a capability to assess every incident with respect to its needs; and to respond accordingly in defensive or offensive mode. This is necessary to adapt to the changing risk in the built environment and from climate change. 'Defensive' refers to a risk assessment where no personnel will enter the hazard area; 'offensive' is where they will. Having flexibility to operate in either mode allows for a greater variety of tactical options.
 - The new specification has removed the specific requirement to have CSTs in separate vehicles for deployment to incident. Instead, the requirement is now for suitable and sufficient command and control to be available for every incident. However, how the contractor fulfils this obligation is up to them.
 - The new specification has removed detailed guidance about how individuals should be trained or recruited. This is replaced with references to national guidance and best practice in the fire sector. This represents a key change in tone; where the specification previously focused on outputs required of the contractor, it now focuses on them delivering the outcomes expected.
 - In order to manage the future contract more effectively, there is a new requirement on the contractor to implement their own assurance framework. Whilst this includes provision of the LFC to carry out independent assurance, the increased responsibility on the contractor to provide this themselves is consistent with LFC's own strategic direction. It also conveys greater ownership over the quality of service provided to the provider itself.
 - The new specification builds on lessons learned from previous periods of workforce disruption, and has sufficient flexibility to be deployed from fire stations or, if required, alternative locations. As modelling suggests the best attendance times will be achieved from maximising the number of deployment locations, the use of the LFC estate will be the default option unless the decision is made that operational effectiveness would benefit from the use of alternative locations.
- 2.2. The timetable is influenced by the need to have a replacement contract in place prior to the expiry of the current provision in November 2023, which cannot be extended. A replacement contract can supersede the current arrangements at an earlier date if it is ready to be implemented, at the discretion of the LFC. A notice period of six months is required for the current contract. An implementation period of up to a year is preferable for the contractor.

Table 1 – Timeline for implementation of the new contract

Project phase	Task	Time frame	Start date
Tender period	Governance process		July to September 2022
	Clarification and evaluation of tenders	3 months	August to October 2022
	Award report drafting	3 months (parallel to evaluation)	August to October 2022
	Reporting period	4 months	August to November 2022
	Standstill period	10 days	November 2022
	Contract award		November 2022
Implementation and lead-up to go live	Implementation period		November 2022 to November 2023
	Go live with new provider/contract		November 2023

Attendance times

- 2.3. The current standards for EFCC crews are based on the first appliance attending emergency incidents in 10 minutes; the second appliance attending in 15 minutes; and 95 per cent of all first attendances within 20 minutes. Modelling indicates that this would be possible with the use of a minimum of 22 locations; the current arrangements do not enable this scenario, but it would be facilitated by the proposed contract.
- 2.4. Sufficient flexibility is included in the proposed arrangements that LFC could require the contractor's service personnel to ride across 32 fire appliances, rather than 27. As this would still provide a minimum of five service personnel per appliance, this is in keeping with standard practice in the sector. As the appliances are provided by LFB, there is also minimal additional cost associated with this request; but it would allow the LFC to deploy OCCs from up to 32 locations. However, it should be noted that the default position will be for the contractor to ride with six crew per appliance, as per current arrangements.
- 2.5. The table below indicates the benefits of the improved attendance times in the proposed contract; and the flexibility that exists to achieve even lower attendance times, if LFB wishes to utilise 32 fire appliances in contingency arrangements.

Table 2 – Attendance times

	First appliance	Second appliance
Current EFCC standard	10 minutes	15 minutes
27 fire stations	8 minutes 28 seconds	12 minutes 55 seconds
32 fire stations	7 minutes 45 seconds	12 minutes 5 seconds

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. The review of arrangements for the OCC capability is an opportunity to consider how this response can be provided with greater regard to the known risks and characteristics of London –

thereby providing a contingency arrangement that better reflects the needs of London and Londoners. The emphasis on using the existing LFB estate as attendance locations is intended to provide better equity of cover than is currently possible by using third party locations to deploy from.

- 3.9. An Equality Impact Assessment (EIA) has been carried out and has identified several adverse impacts. Following meetings between project leads and LFB's equalities team, and further consultation with the community safety team, the adverse impacts are all believed to be around the groups who are already vulnerable to fire. For these groups there is an inherent risk for any period where fire cover is reduced from normal business.
- 3.10. The groups identified in the EIA and the data drawn from Community Safety indicate the demographics who are vulnerable to fire and the effects of fire. In order to mitigate the increased risk to which these groups may be exposed during periods of workforce disruption, this will be considered in the workstream to inform the departmental products. This refers to the documentation for each department in LFB that acts as guidance during these periods. These documents are designed to mitigate risk associated with such periods, and provide the most appropriate opportunity to deal with the issues identified in the EIA.

4. Other considerations

Procurement

- 4.1. The procurement route undertaken is a one-stage open procedure, in line with the Public Contract Regulations (as amended). It is not anticipated, due to the nature of this contract and the current market, that there will be a large number of potential tenderers; and so a restricted procedure was not deemed to be required.
- 4.2. The procurement and legal resource required for this project has been considerable, with the necessary procurement manager funded as part of the project during the drafting stage of the documentation. The project is now supported by an additional Procurement Project Manager as a development opportunity within LFB's Procurement Department with the Head of Commercial – Operations leading this procurement.
- 4.3. Tenders were received on 16 August 2022. Following this, a thorough evaluation process is being undertaken with representatives from Operational Resilience, Training and Development, Fleet and Operations Support Group, Health and Safety, and People Services. It is anticipated that the evaluation process will be completed by October 2022, to allow sufficient time to award and secure a full-year implementation process, with a view to the new arrangement being in place prior to the deadline of 13 November 2022.
- 4.4. The implementation and launch of this project will be key, and will require dedicated resource from a range of LFB departments. A formal project plan will be published following the award.
- 4.5. Once implementation commences, a full review of Capital Guard will be required to ensure all departmental products meet with the new requirement (see 3.10 for further information with reference to departmental products). All departments that own products will have to engage in the process, which will be led by Operational Resilience.

Sustainability

- 4.6. The procurement activity will be undertaken in accordance with the Public Contract Regulations (as amended), the LFC's Scheme of Governance and the GLA Group Responsible Procurement policy. Where new policies and/or corporate projects arise, they are subject to LFB's sustainable development impact assessment process.
- 4.7. The nature of the contract means that for any periods during which it has been deployed, the contractor's carbon footprint is likely to be significantly lower than that with which LFB would normally operate – due to the more modest size of the workforce in operation, as well as the reduction in estate use and vehicle movements.

Workforce impact

- 4.8. This report outlines the need to engage with the representative bodies (RBs). This will be necessary to review key aspects that rely on mutual cooperation – such as the major incident protocol for a return to duty by personnel during periods of workforce disruption.
- 4.9. The area of contingency arrangements for periods of industrial action is a sensitive topic that must be explored with care and due consideration to avoid unnecessary confrontation with RBs. In order to properly manage this process, a separate project workstream for the RBs has been established and is led by the Assistant Commissioner for Operational Resilience and Control.

Conflicts of interest

- 4.10. There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

5. Financial comments

- 5.1. This report recommends that annual revenue funding is agreed to cover the implementation of the new arrangements for OCCs. This will be incurred in the 2023-24 financial year and end in the 2029-30 financial year. The request approval seeks delegated authority to activate this for a further three years after this date; and so the overall financial commitment of this paper being approved is a for a total of nine years.
- 5.2. Full details of the upper cost envelope are contained within Part Two of this report due to the commercial sensitivity.

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.
- 6.2. Section 1 of the FRSA states that the LFC is the fire and rescue authority for Greater London.
- 6.3. Section 7 of the FRSA places a duty on the LFC to make provision for the purposes of extinguishing fires in its area and protecting life and property in the event of fires in its area.
- 6.4. In making provision, the LFC must, in particular, secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements (i.e., requirements for normal fire risks in their area) as regards protecting life and property, including during abnormal

times. A similar duty is imposed upon the LFC in respect of rescuing people in the event of road traffic accidents in its area under section 8 of the FRSA. There is a broad operational discretion as to how to make the required provision.

- 6.5. The above duties are 'target duties'. In the case of such 'target duties' there is not an absolute standard that must be attained. There will not necessarily be a breach if there is just and reasonable excuse, which may be constituted by a temporary lack of provision on account of industrial action or other circumstances such as sickness caused by a pandemic. The grounds for non-provision must, however, objectively be considered to be 'compelling and reasonable'. Everything must be done that can reasonably be done to remedy the situation, including taking reasonable steps to provide cover, and making contingency plans that are reasonably reliable.
- 6.6. The LFC also has duties under the CCA to carry out contingency planning for emergencies. In particular the LFC must assess the risk of an 'emergency' occurring (the definition of which includes an event or situation that threatens serious loss of human life/injury/homelessness/damage to property) and maintain plans for the purpose of ensuring, so far as reasonably practicable, that if such an emergency (as defined above) occurs, the LFC is able to continue to perform its functions. These duties apply in relation to emergencies (as defined) if the emergency would be likely to seriously obstruct the LFC in the performance of its functions.
- 6.7. Additionally, when carrying out its functions, the LFC is required to have regard to the Fire and Rescue National Framework for England (National Framework) prepared by the Secretary of State (section 21 of the FRSA). The National Framework states that:

"Fire and rescue authorities must have effective business continuity arrangements in place in accordance with their duties under the Civil Contingencies Act 2004. Within these arrangements, fire and rescue authorities must make every endeavour to meet the full range of service delivery risks and national resilience duties and commitments that they face."
- 6.8. Although the above duties do not distinguish between life and property, life must be accorded a higher priority than property. The right to life under article 2 of the European Human Rights Convention is absolute whereas property rights are qualified.
- 6.9. To fulfil these duties – including, notably the requirements of the National Framework – the LFC may enter into contractual arrangements with third parties. This report sets out the nature of those contractual arrangements. The procurement activity will be undertaken in accordance with the Public Contract Regulations (as amended), the LFC's Scheme of Governance and the GLA Group Responsible Procurement policy.
- 6.10. Under section 327D of the Greater London Authority 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. 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).
- 6.11. Paragraph 2.1(b) of Part 3 of the direction requires that the prior approval of the Deputy Mayor shall be obtained before a decision is taken for a commitment to expenditure (capital or revenue) of £150,000 or above, as identified in accordance with normal accounting practices.
- 6.12. This report will include a request to commit expenditure of over £150,000; once the cost envelope is known, the Deputy Mayor's prior approval will be required. The cost envelope will be provided to the Finance and Investment Board to consider prior to this report progressing to the LFC and Deputy Mayor to take the decisions set out in this paper.

6.13. These comments have been adopted from those provided by the LFC's General Counsel Department in report LFC-0746 to the LFC.

Appendices and supporting papers:

Report LFC-0746 – Operational Contingency Arrangements (OCA): Future Contract 2023 to 2029 Part One

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

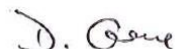
A summary of this decision was reviewed by the Corporate Investment Board on 7 November 2022

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

10/11/22