

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD170

Title: Occupational Health – Tender for Services

Executive summary:

This report requests the Deputy Mayor to authorise the London Fire Commissioner (LFC) to commit revenue expenditure, as set out in Part 2 of this report for the purposes of delivering occupational health (OH) services to London Fire Brigade, including procurement of a new contract for service provision of up to seven years' duration.

The LFC's current contract for OH services is due to cease on 4 March 2023, following a two-year agreed extension as set out in Deputy Mayor for Fire and Resilience Decision 94.

Following completion of a feasibility study, confirming that a shared OH service arrangement with Transport for London was not feasible within the next three years, the LFC has commenced an open-market procurement exercise to select an OH service provider.

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:

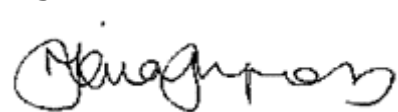
That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit revenue expenditure, as set out in Part 2 of the report, for the purposes of delivering occupational health services to London Fire Brigade.

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:

02/12/22

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

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0706y to the London Fire Commissioner (LFC) explains that Deputy Mayor for Fire and Resilience Decision (DMFD) 94 and report LFC-0437y set out the reasons for the LFC providing an occupational health (OH) contract. DMFD94 authorised the LFC to commit revenue expenditure of up to £3,202,000 (with the figure adjusted annually in accordance with any increase in the average earnings – all-employees index) to extend the existing contract with Health Management Ltd for two years from 5 March 2021. The current contract for OH services is due to cease on 4 March 2023.

Collaboration with Transport for London

- 1.2 As part of the earlier decision, the LFC committed to exploring opportunities to collaborate with Transport for London (TfL) on the provision of OH services to the LFC. TfL has an in-house OH service managed and delivered by its own employed staff. Utilising an external consultancy firm, the LFC and TfL completed a feasibility study to ascertain whether collaboration was feasible. The feasibility study ran over a period of 10 weeks and included many workshops to understand the LFC's requirements for OH services, and what TfL was able to provide LFC – including any implementation and running costs of doing so.
- 1.3 The study concluded that there is a cost saving to be realised by the GLA from TfL providing its OH services to the LFC in the range of approximately £27,000 to approximately £145,000 per annum, on an ongoing basis.
- 1.4 The study identified significant upfront costs associated with implementing change and integrating functions, in the range of approximately £1,607,000 to £2,250,000. As a result, the payback period could be high, subject to realised annual cost savings. Given the lengthy payback period of up to 15 years, the LFC would need to guarantee a long-term partnership with TfL.
- 1.5 Key contributors to the cost of implementation were:
- significant work currently being undertaken by both the LFC and TfL on their core IT systems
 - the predicted costs to transfer staff from the current OH service to TfL under a Transfer of Employment (Protection of Earning) (TUPE) process.
- 1.6 TUPE costs were estimated, as the LFC's current OH provider is not contractually obliged to share TUPE data with the LFC until 12 months prior to the contract end date.
- 1.7 Whilst the feasibility study outcome confirmed that collaboration was not feasible at this time, the findings suggest that, upon completion of key IT projects both by the LFC and TfL, collaboration could be revisited in three years' time.
- 1.8 The LFC and TfL have, therefore, agreed that, upon procuring OH services, the LFC will commence a contract with an initial term of three years, enabling the LFC and TfL to again explore collaboration at this time.
- 1.9 The LFC's Director for Corporate Services was made aware of the feasibility study outcome; and committed to ensuring that, where possible, IT is not a barrier for collaboration.
- 1.10 TfL Feasibility Study – GLA OH Collaboration Executive Summary was presented to the GLA Collaboration Board in October 2021, and the Board accepted the study's findings. The study was funded, in full, by the GLA Collaboration Board and cost approximately £150,000. This proved to be a worthwhile exercise, because at a high level the OH services appeared compatible.

2. Objectives and expected outcomes

- 2.1 The LFC has reviewed whether the OH products are delivered by OH staff at the appropriate clinical level. In completing this exercise, it has been found that products such as new starter health assessments and routine periodic medicals, which equate to about 2,000 appointments per annum, can be delivered by an OH technician as opposed to an OH nurse. This was also supported by TfL's clinical expertise during the feasibility study. On average, across the UK an OH technician is paid £24,000 per annum, whereas an OH nurse is paid £36,000. Adjusting the service to an appropriate level clinical resource would reduce potential TUPE costs in the future.
- 2.2 The LFC intends to implement this approach and has included the expected level of clinical resource to be used, per product, in the specification of the invitation to tender. As a result, when the opportunity to collaborate with TfL is reviewed in three years' time, the LFC should have reduced potential TUPE costs.
- 2.3 The LFC will also ensure that the agreed contract with the OH service provider will stipulate that TUPE data must be shared with the LFC, upon request, up to two years in advance of the contract end date. This will support more accurate conversations with TfL regarding implementation costs.

Other collaboration opportunities

- 2.4 Whilst supporting the Metropolitan Police Service (MPS) with a benchmarking exercise to determine the ongoing viability of its current contract with Optima, discussions regarding collaboration were revisited. At this time, the MPS confirmed its intentions to extend its contract with Optima to April 2026.
- 2.5 The London Ambulance Service (LAS) has also been identified as an organisation with which the LFC may collaborate on OH services. The LAS has recently completed its own OH tender and has awarded a contract with a start date of 30 June 2022. The initial contract term is three years, with the opportunity to extend by a further year on two occasions (five years in total).
- 2.6 Whilst it is not possible to consider collaboration at present, the LAS is keen to discuss collaboration and will consider this across NHS, Blue Light and other ambulance services.
- 2.7 At a high level the LFC and LAS product and service requirements are not the same, but, similar enough that it would be reasonable for these to be delivered under one contract. There are some key differences to the delivery model required. For example, LAS medicals require less equipment and can, therefore, be delivered from a number of hubs; LFC medicals are much more involved, and require equipment that is expensive to purchase and/or is not straightforward to move from one site to another.
- 2.8 Practical conversations to explore collaboration would need to commence no later than September 2022. LAS has the OH clinical resource to support these discussions.
- 2.9 Collaboration for a shared OH health service is a complex undertaking, and one that is unlikely to be achievable using either the LFC's or the LAS's OH and procurement subject-matter experts alone. Therefore, whilst it was agreed discussions would need to start by September 2022, a further feasibility study between the LAS and the LFC was required to understand the compatibility of the service, and the financial benefits to each organisation and wider pan-London budgets.
- 2.10 It was also discussed that if collaboration was feasible, this would require specialist input on how the LFC and the LAS work together under the one contract.
- 2.11 The LAS has recently increased the size of its Wellbeing team; and now also has a clinical team member supporting the management of the OH contract. The Head of Wellbeing confirmed the LAS would be sufficiently resourced to begin conversations in six months' time. Within the LFC currently, it is one senior manager and two administrators who manage and administrate the OH contract and the

current OH tender project. The OH project is also supported by a 0.8 FTE Project Support Officer who will be responsible for driving the IT integration. It would therefore be a challenge to allocate resource to a further feasibility study in September 2022, at which time the LFC will be in the procurement process or the mobilisation phase of its new OH contract.

3. Equality comments

- 3.1 The LFC and the Deputy Mayor for Fire and Resilience (the Deputy Mayor) 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 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 for the LFC's provision of OH services. A revised equality impact assessment will be drafted upon selection of the supplier and clarity regarding future

service delivery. The revised equality impact assessment will provide detail of locations, accessibility and processes.

4. Other considerations

Workforce comments

- 4.1 The LFC has an established forum, the Brigade Joint Committee for Health and Safety at Work, at which matters of health, safety and welfare are discussed. The staff-side representative for this forum has been contacted and the OH provision has been discussed. Whilst the OH provision is not changing, it has been accepted that there is no present need to consult. However, the project manager has committed to keeping the staff-side representative informed of project progression; and agreed to do so via the regular project board update emails that are distributed to key stakeholders.
- 4.2 The staff-side representative was keen that the LFC continue to explore the opportunity to collaborate with TfL, particularly as this provides the opportunity to deliver what was felt to be more of an 'in-house' service, rather than an outsourced service.
- 4.3 To protect the LFC's establishment numbers and minimising staff's time away from duty when attending OH, the staff-side representative requested that location of the service be revisited. The service is currently provided from a central location in Southwark. The invitation to tender shall stipulate that at least one location is to be provided in central London. However, the LFC was open to exploring with the agreed contractor alternative methods for delivering face-to-face medicals, whilst taking into consideration the cost of delivery.

Sustainability comments

- 4.4 A sustainability impact assessment has been completed. The sustainability impact is positive. Throughout the pandemic, the LFC has learned a great deal about how remote services, such as telephone or video case management appointments can be equally as successful as face-to-face services. This has been evidenced in management information received by the LFC's current OH provider. As a result, in the invitation to tender, the LFC has requested a hybrid service that reduces staff requirement to travel to their appointments; this, in turn, reduces the LFC's travel expense costs associated with staff attendance to OH appointments.
- 4.5 Additionally, the LFC has asked that any contractor provides a digitalised service for communicating details of appointments, issuing management outcome reports and storing clinical information.

Procurement comments

- 4.6 The LFC is conducting an open competition for the OH services contract, advertising on Find a Tender and allowing all interested parties to view the entire requirement with indicative TUPE information from the incumbent supplier using a one-stage process. Providing TUPE information will enable bidders to provide an accurate assessment of the cost to deliver OH services. An open competition will maximise access to providers that can offer the full scope of requirements to staff operating in safety-critical environments, as market research has shown the supplier base that can service the full requirement to be limited.
- 4.7 The OH service requirements largely maintain current service levels to align with existing budgets.
- 4.8 The initial three-year contract term, together with the flexibility in the extension options, will enable GLA collaboration to be revisited.
- 4.9 Alternative procurement approaches were considered, and two frameworks identified as potential routes to market: Crown Commercial Services RM6182 Occupational Health, Employee Assistance Programmes and Eye Care Services; and the ESPO Occupational Health Services Framework. Both

were reviewed as not viable, as they did not fully satisfy the specification, and the pricing model when benchmarked resulted in increased costs.

- 4.10 The procurement timelines were impacted by resource issues within the procurement team, and by the need to further rework the procurement documentation to ensure clarity of the LFC's requirements to the market. A decision was taken to recommence the procurement process to ensure the contract for the provision of OH Services will be procured in accordance with the Public Contract Regulations 2015, and the LFC's Scheme of Governance Part 3 Standing Orders relating to Procurement. This decision has given rise to the recommendation contained in the Part 2 report.
- 4.11 The procurement process 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.

Conflicts of interest

- 4.12 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 seeks approval to procure for the provision of OH services. It is anticipated that the new contract will require budget growth above the cost of the existing contract; and if this growth is not agreed for 2023-24, the LFC must seek to reduce the contract provision further. However, this would need to be considered alongside the statutory requirements under the Health and Safety at Work Act 1974, as well as the LFC's expectations on supporting the Wellbeing of its staff.
- 5.2 Additional finance comments are contained in part 2 of this report.
- 5.3 There are no direct financial consequences 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 LFC 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.
- 6.3 Paragraph (b) of Part 2 of that 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 Deputy Mayor's approval is accordingly required for the LFC to award a contract for the provision of OH services up to the amount set out in the Part 2 report.
- 6.5 The statutory basis for the actions proposed in this report is provided by section 7 (2)(a) of the Fire and Rescue Services Act 2004, under which the LFC must secure the provision of personnel, services and infrastructure necessary to efficiently meet all normal requirements for firefighting.
- 6.6 The General Counsel also notes that the contract for the provision of OH services will be procured in accordance with the Public Contracts Regulations 2015 and the LFC's Scheme of Governance Part 3 Standing Orders relating to Procurement.
- 6.7 Please note that further legal comments are contained in part 2 of this report.

6.8 These comments have been adopted from those provided by the LFC's General Counsel Department in report LFC-0706y to the LFC.

Appendices and supporting papers:

Part 2 of the report

Part 1 of report LFC-0706y – Occupational Health – Tender for Services

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.

✓

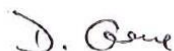
Corporate Investment Board

A summary of this decision was reviewed by the Corporate Investment Board on 21 November 2022.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature



Date

01/12/22