

REQUEST FOR DEPUTY MAYOR FOR FIRE AND RESILIENCE DECISION – DMFD190

Title: Legal Costs Related to the Grenfell Tower Fire

Executive summary:

This report requests the approval of the Deputy Mayor for Fire and Resilience to authorise the London Fire Commissioner (LFC) to commit revenue expenditure of £1,542,874 for 2023-24, plus 15 per cent contingency, to secure legal advice and representation for the LFC and appropriate individuals in relation to the Grenfell Tower fire, including but not limited to the Grenfell Tower Inquiry, and to include any consequent or related legal action in respect of the Grenfell Tower fire.

Deputy Mayor for Fire and Resilience Decision (DMFD) 103 gave approval for the LFC to incur revenue expenditure of £2,953,984 in 2021-22. DMFD150 gave approval for the LFC to incur additional revenue expenditure of £3,480,158, plus a 15 per cent contingency, for 2022-23 for legal costs related to the Grenfell Tower fire.

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 expenditure of up to £1,774,305 during 2023-24 on legal costs related to the Grenfell Tower fire.

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:

01/02/2023

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

Decision required – supporting report

1. Introduction and background

- 1.1 Report LFC-0769 to the London Fire Commissioner (LFC) explains that the Grenfell Tower Inquiry's (the Inquiry's) evidential hearings concluded in July 2022. Core participants, including the LFC, provided further submissions to the Inquiry in the autumn, and oral statements were heard in November 2022. It is anticipated that the Chair of the Inquiry, Sir Martin Moore-Bick, will publish his report related to Phase 2 of the Inquiry in 2023. The ancillary litigation related to the Grenfell Tower fire is ongoing, and will be for some time.
- 1.2 Deputy Mayor for Fire and Resilience Decision (DMFD) 103 gave approval for the LFC to incur revenue expenditure of £2,953,984 in 2021-22. DMFD150 gave approval for the LFC to incur additional revenue expenditure of £3,480,158, plus a 15 per cent contingency, for 2022-23 for legal costs related to the Grenfell Tower fire.

2. Objectives and expected outcomes

- 2.1 The objective of this decision is to enable the LFC to continue to engage in legal processes related to the Grenfell Tower fire during the financial year 2023-24.
- 2.2 It has been necessary for the LFC to engage external legal resource to assist the LFC's General Counsel's Department in relation to work arising out of the Inquiry, and ancillary litigation
- 2.3 The nature of the work, and requests made of the LFC by the Inquiry and ancillary litigation, mean that it is extremely difficult to predict accurately the totals for each legal resource and when that resource will be needed.

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, 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 (EIA) was undertaken on 27 July 2020 in relation to the legal costs related to the Grenfell Tower Fire. The EIA found that there is likely to be negligible impact on those with protected characteristics. The EIA has been reviewed and the position is unchanged in this report, on the basis that this report does not propose any change that will impact on either the public or service users, but simply seeks authority to incur additional expenditure in respect of legal costs in relation to the LFC's response to the Inquiry and ancillary litigation.

4. Other considerations

Workforce comments

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

Conflicts of interest

4.2 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 revenue expenditure of £1,774,305 is agreed for 2023-24, including a 15 per cent contingency, to secure legal advice and representation for the LFC and appropriate individuals in relation to the Grenfell Tower fire.

5.2 If this decision is agreed the legal costs incurred, and anticipated, to date are as follows:

- £3,228,043 for 2021-22
- £2,246,517 for 2022-23
- £1,774,305 for 2023-24.

5.3 The LFC's annual budget includes £194,000 for legal costs associated with the Inquiry. It is

anticipated that the majority of any additional costs incurred over and above this budgeted sum of these costs will be recovered from the insurers. Part 2 of this report provides further information on anticipated expenditure.

- 5.4 If it is found that the costs recovered from insurers does not cover all future liabilities, the LFC will be required to reduce its expenditure and/or find compensatory savings to meet any funding gap.

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...” A number of the individual items in the Table attached as Appendix 1 to Part 2 of report LFC-0769 report do not fall within the category of matters for which prior approval must be sought: they are contracts and arrangements already entered into, or individually fall below the £150,000 threshold. However, it is considered prudent to provide details of the costs, insurance reimbursement and an overall financial picture, in addition to the reporting through the ordinary budget mechanisms, to seek prior approval of the Deputy Mayor for the avoidance of doubt.
- 6.4 The LFC may, under section 222 of the Local Government Act 1972, where it is considered *“expedient for the promotion or protection of the interests of the inhabitants of their area ... prosecute or defend or appear in any legal proceedings and, in the case of civil proceedings, may institute them in their own name, and ... they may, in their own name, make representations in the interests of the inhabitants at any public inquiry held by or on behalf of any Minister or public body under any enactment.”*
- 6.5 It is implicit in the above that the LFC may authorise spending and the instruction of outside experts. Notwithstanding this, the powers granted by section 222 of the 1972 Act constitute a function of the LFC; and section 5A (1) of the Fire Rescue and Services Act 2004 (2004 Act) states a relevant fire and rescue authority may do anything it considers appropriate for the carrying out of any of its functions, or anything that is considers appropriate for purposes incidental, whether directly or not, in relation to its functional purposes. This includes incurring spending in furtherance of the powers under section 222 of the 1972 Act.
- 6.6 The participation by and representation of the LFC in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within section 222 of the 1972 Act and section 5A(1) of the 2004 Act.
- 6.7 These comments have been adopted from those provided by the LFC’s General Counsel Department in report LFC-0769 to the LFC.

Appendices and supporting papers:

Appendix 1 – Report LFC-0769 – Legal Costs Related to the Grenfell Tower Fire

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

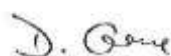
A summary of this decision was reviewed by the Corporate Investment Board on 30 January 2023. .

✓

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature:



Date:

02/02/2023