

REQUEST FOR MAYORAL DECISION – MD1385

Title: Direction to LFEPA on partial performance

Executive Summary:

At a meeting of its Appointments and Urgency Committee on 16 July 2014 the London Fire and Emergency Planning Authority (LFEPA) considered the issue of partial performance, whereby a firefighter is on strike for part of a period of duty. As part of its considerations, LFEPA rejected a proposal from some of its Members for the London Fire Commissioner to compile a report setting out the benefits and risks associated with LFEPA withholding payment from firefighters for part or the whole period of duty on which they are on strike. The Mayor has indicated that he wishes to direct LFEPA to instruct the London Fire Commissioner to present such a report to the 2 October 2014 LFEPA meeting, given the multi-million pound cost to LFEPA of the strike. The Mayor is also requiring LFEPA to provide him with some associated background information.

Decision:

The Mayor directs LFEPA in the manner set out at Appendix B to this decision form; namely:

- To instruct the London Fire Commissioner to take a report to the 2 October 2014 LFEPA meeting investigating the benefits and risks to LFEPA associated with withholding payment from firefighters for part or the whole period of duty on which they are on strike;
- To provide the Mayor of London with copies of the ballot result and the notification of the industrial action for the Fire Brigade Union's current action on its pension dispute with Government; and
- To provide the Mayor of London with a copy of the employment contract LFEPA has in place with its firefighters.

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: 22 July 2014

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

Decision required – supporting report

1. Introduction and background

- 1.1 At the 16 July 2014 meeting of LFEPA's Appointments and Urgency Committee, LFEPA Members considered the issue of partial performance, whereby a firefighter is on strike for part of a period of duty. In those circumstances LFEPA, as the employer, currently withholds payment for that part of the period of duty when the firefighter is not working.
- 1.2 As part of their considerations at the 16 July meeting, LFEPA Members rejected a proposal from some of its Members for the London Fire Commissioner to compile a report setting out the benefits and risks associated with LFEPA withholding payment to firefighters for part or the whole period of duty on which they are on strike.
- 1.3 The paper presented to the 16 July meeting is available via: <http://modern.gov.london-fire.gov.uk/mgconvert2pdf.aspx?id=3172>
- 1.4 The Mayor has indicated that he wishes to direct LFEPA to instruct the London Fire Commissioner to present such a report on the benefits and risks of withholding payment to the 2 October 2014 LFEPA meeting.
- 1.5 As noted in the financial comments below, there are significant additional costs arising for LFEPA from the dispute, including costs associated with providing cover for periods when firefighters are on strike. It is out of concern for these costs, in the light of the prolonged strike action, that the Mayor is requiring a report to be prepared.
- 1.6 The Mayor is also requiring LFEPA to provide him with some associated background information, specifically:
 - Copies of the ballot result and the notification of the industrial action for the Fire Brigade Union's current action on its pension dispute with Government; and
 - A copy of the employment contract LFEPA has in place with its firefighters.

2. Equalities comments

- 2.1 As public authorities, the GLA and the Mayor of London are subject to the general equality duty set out in section 149 of the Equality Act 2010, which requires them to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations by reference to people with protected characteristics. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. There is not considered to be any potential impact on any protected group as a result of this decision, which relates to an information-gathering exercise and an analysis of benefits and risks.
- 2.2 Any equality issues which may arise will be addressed by LFEPA in the first instance. Should there be further Mayoral action, future Mayoral decision forms will address any equality issues arising for the GLA.

3. Financial comments

- 3.1 There are no financial issues directly arising for the GLA from this decision.
- 3.2 LFEPA has reported that it incurred a net cost of £3.2m from the dispute in 2013-14 and a forecast net cost of £3.6m for 2014-15. The latter figure would increase were further strikes to be called for later in 2014-15.

4. Legal comments

- 4.1 LFEPA is a functional body of the GLA established by section 328 of the GLA Act 1999. Section 328A of the GLA Act gives the Mayor of London a power to issue to LFEPA directions as to the exercise of its functions and the manner in which it exercises those functions. In exercising the power of direction, the Mayor must have regard to the Fire and Rescue National Framework and fire safety enforcement guidance issued by the Secretary of State. A copy of any directions issued must be sent to the London Fire Commissioner.
- 4.2 This decision relates to LFEPA's functions as an employer of firefighters in London. It requires LFEPA to instruct the London Fire Commissioner to prepare a report on the risks and benefits associated with withholding payment to firefighters during strike periods. This falls within the Mayor's powers of direction in section 328A GLA Act.

5. Investment & Performance Board

- 5.1 This decision does not fall with the Investment & Performance Board's terms of reference.

Appendices and supporting papers:

- Appendix A: Covering letter
- Appendix B: Direction

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

If YES, for what reason:

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

Part 2 Confidentiality: Only the facts or advice considered to be exempt from disclosure under the FOI Act should be in the separate Part 2 form, together with the legal rationale for non-publication.

Is there a part 2 form – NO

ORIGINATING OFFICER DECLARATION:

Drafting officer to confirm the following (✓)

Drafting officer:

Tom Middleton has drafted this report in accordance with GLA procedures and confirms the following have been consulted on the final decision.

✓

Assistant Director/Head of Service:

Tom Middleton has reviewed the documentation and is satisfied for it to be referred to the Sponsoring Director for approval.

✓

Sponsoring Director:

Martin Clarke has reviewed the request and is satisfied it is correct and consistent with the Mayor's plans and priorities.

✓

Mayoral Adviser:

Sir Edward Lister has been consulted about the proposal and agrees the recommendations.

✓

Advice:

The Finance and Legal teams have commented on this proposal.

EXECUTIVE DIRECTOR, RESOURCES:

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

Signature

Date 21 July 2014

CHIEF OF STAFF:

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

Signature

Date 21 July 2014