



LONDON FIRE BRIGADE

Report title

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## Authority to procure e-Disclosure services related to the LFC's involvement in the Grenfell Tower Inquiry

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	Date
Report to	22 June 2021
Corporate Services DB	30 June 2021
Commissioner's Board	6 July 2021
Deputy Mayor's Fire and Resilience Board	
London Fire Commissioner	

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Report by	Report number
General Counsel	LFC-0547

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Protective marking: **OFFICIAL**  
Publication status: Published with redactions

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I agree the recommended decision below.

**Andy Roe**  
London Fire Commissioner

Date This decision was remotely signed on 01 September 2021

### Summary

In 2017, at the outset of the London Fire Commissioner's [LFC] involvement in the Grenfell Tower Inquiry ('the Inquiry'), the LFC procured e-Disclosure services through PA Consulting to assist it with the collation, review and disclosure of material to the Inquiry.

The existing contract ends on [REDACTED] and General Counsel seeks authority to enter into a contract for the re-procurement the e-Disclosure services for two years from September 2021 to September 2023.

### Recommendation

For the London Fire Commissioner

Subject to the Deputy Mayor giving prior approval for additional expenditure up to [REDACTED] the London Fire Commissioner delegates authority to the Assistant Director Technical to enter into a contract for a period of two years for e-Disclosure services with the successful supplier at a cost of up to [REDACTED]

## Background

1. In 2017 a procurement took place to obtain a provider of e-Disclosure services to the LFC. The services covered the extraction of data from the LFC's file servers, the identification of potentially relevant material from that data set (according to instructions set by the LFC) and the provision of systems to enable the LFC and its internal and external legal advisors to review the extracted material. The successful bidder, PA Consulting, has provided the technology (Nuix and Relativity) to assist with that work. PA Consulting has also provided consultancy services to enable complex searches to be run over data held by the LFC and assisted the LFC in managing the significant amount of material it needed to review and provide to the Inquiry.
2. The contract that the LFC entered into in 2017 was for an initial period of two years and allowed two one year extensions. It was necessary for the LFC to use the two additional years of the contract, but the contract does not provide for any further extensions and the contract ends on [REDACTED] 2021. The Deputy Mayor has approved the LFC's e-Disclosure costs up until 31 March 2022 (DMFD103 – Appendix 1). They were included as part of the overall expenditure annexed to the report that went to the Deputy Mayor's Fire and Resilience Board on 5 January 2021 (LFC0463 – Appendix 2). The LFC decision following Deputy Mayor approval was made on 25 February 2021.
3. The delay in the Inquiry proceedings, due to COVID, has contributed to the uncertainty relating to LFC's exact needs for its future e-Disclosure services and how long that service will be required. However, it is now clear that the Inquiry is likely to be holding public hearings well into 2022 and a new e-Disclosure contract will be required. The systems provided by PA Consulting are used on a daily basis to review material provided to the Inquiry and to respond to disclosure requests and queries from the Inquiry. The systems are integral to the LFC's proper engagement with the Inquiry as a Core Participant.

## Procurement

4. The service currently provided by PA Consulting will need to be replicated by any new contract. The precise requirements are still being finalised for procurement processes but in summary they are to provide suitably secure systems for:
  - a. Data Preservation and collection;
  - b. Document processing;
  - c. Document review;
  - d. Document production (disclosure to the Inquiry).
5. The LFC's Scheme of Governance requires that the Procurement Standing Orders are complied with including compliance with the procedural rules set out in the Public Contracts Regulations 2015.

## Costs

6. It is not possible to determine the precise cost of the contract at this stage as it will depend on the outcome of the procurement process and the costs of the successful tenderer. However, it is reasonable to work on the basis of an approximate cost of [REDACTED] per month based on current

expenditure and anticipated workloads. The total estimated cost for the two year contract, including 10% contingency, is £ [REDACTED] per month for 24 months, plus 10%). The costs will be split over the relevant financial years as follows:

[REDACTED]
[REDACTED]
[REDACTED]

7. The Deputy Mayor has already approved expenditure generally in respect of Grenfell Tower legal costs for the period 2019/20 and 2020/2021 which included provision for the costs of e-Disclosure for that period. However, this contract will continue beyond that period from 1 April 2022 until 11 September 2023 for which no prior approval for incurring expenditure has currently been given. The LFC seeks approval to incur the costs of the proposed contract (including 10% contingency) covering that period.

**Strategic drivers, including the relevant pillar of the Transformation Delivery Plan**

8. Outward facing by ensuring that the LFB can properly engage with the Inquiry as a core participant and assist it with its important public task.
9. Delivering excellence through the provision of quality legal representation.

**Finance comments**

[REDACTED] This report recommends that additional revenue expenditure of [REDACTED] is agreed to enter into a contract for a period of two years. This is in addition to an existing authorised revenue sum of

[REDACTED]

11. It is anticipated that [REDACTED]  
[REDACTED]  
[REDACTED] The cost in 2021/22 will be met from the Grenfell Tower Legal costs budget. The costs in 2022/23 and 2023/24 will be included as part of the budget setting process for future years.

**Workforce comments**

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

**Legal comments**

13. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") 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 Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.

14. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require [the prior approval] of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").
15. Paragraph (b) of Part 2 of the said direction requires the Commissioner 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...".
16. The Deputy Mayor's approval is accordingly required for the Commissioner to award a contract for e-disclosure services to the successful bidder, up to a value of [REDACTED] after completion of a compliant procurement exercise.
17. The Commissioner may, under s222 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."
18. It is implicit in the above that the Commissioner may authorise spending and the instruction of outside experts. Notwithstanding this, the powers granted by s222 of the 1972 Act constitute a function of the Commissioner 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 s222 of the 1972 Act.
19. The participation by and representation of the London Fire Commissioner in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within s222 of the 1972 Act and S5A(1) of the 2004 Act.

### **Sustainability implications**

20. There are no sustainability implications.

### **Equalities implications**

21. The London Fire Commissioner and decision takers are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions.
22. 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.
23. 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, Sexual orientation.
24. The Public Sector Equality Duty requires the LFC, in the exercise of all his functions (i.e. everything the LFC does), to have due regard to the need to:

- (a) Eliminate discrimination, harassment and victimisation and other prohibited conduct.
- (b) Advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
- (c) Foster good relations between people who share a relevant protected characteristic and persons who do not share it.

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:

- (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
- (b) 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;
- (c) 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.

25. The steps involved in meeting the needs of disabled persons that are different from the needs of persons who are not disabled include steps to take account of disabled persons' disabilities.
26. 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 to the need to—
- a) tackle prejudice, and
  - b) promote understanding.
27. An Equality Impact Assessment (EIA) has not been completed as this report only requests authorisation of expenditure and does not specify the final system to be implemented, the final system has not been procured. Any procurement will consider the needs of groups with protected characteristics.

### **Grounds for redaction within the report**

28. In preparing this report, General Counsel has identified sections of the text that it believes are commercially confidential pending the completion of the procurement process.
29. These sections should be afforded special protection so as not to influence the outcome of the proposed procurement by indicating to prospective bidders the Commissioner's financial allowances for a system beyond any information properly included in the procurement documentation.
30. It is recommended that the Commissioner exerts his rights to withhold the highlighted sections.

### **List of appendices to this report:**

**Appendix 1 DMFD103 (part 1)**

**Appendix 2 LFC0463 (and appendix)**

# GREATER LONDON AUTHORITY

## REQUEST FOR DEPUTY MAYOR FOR FIRE & RESILIENCE DECISION – DMFD103

### Title: Legal Costs Related to the Grenfell Tower Fire

#### Executive Summary:

This report seeks the approval of the Deputy Mayor for Fire and Resilience for additional expenditure on legal costs relating to the Grenfell Tower fire of £265,826 for the period 2020/21. Prior authority was granted by Deputy Mayor to incur expenditure of £6,510,449 for 2019/20 and 2020/21 (Deputy Mayor for Fire & Resilience Decision 89 and Deputy Mayor for Fire & Resilience Decision 46), to secure legal advice and representation for the London Fire Commissioner (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. The total authorised expenditure for this purpose in 2019/20 and 2020/21 would be £6,776,275.

The report also seeks approval for the London Fire Commissioner to commit to expenditure of £2,953,984 plus 15% margin (totalling £3,397,082) for the period 2021/22, to secure legal advice and representation for the London Fire Commissioner (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.

The London Fire Commissioner Governance Direction 2018 sets out a requirement for the London Fire Commissioner 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...”.

#### Decisions:

That the Deputy Mayor for Fire and Resilience authorises the London Fire Commissioner to commit to:

1. additional expenditure of £265,826 for the period 2020/21; and
2. expenditure of £2,953,984 for the period 2021/22 plus 15% margin (totalling £3,397,082),

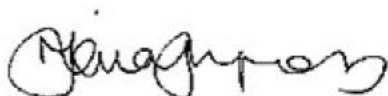
to secure legal advice and representation for the London Fire Commissioner (LFC) and appropriate individuals in relation to the Grenfell Tower fire, as further detailed in the Part 2 paper.

#### 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:

23 February 2021

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

### **Decision required – supporting report**

#### **1. Introduction and background**

- 1.1 This report sets out the background for the request to the Deputy Mayor to authorise the London Fire Commissioner (LFC) to commit to additional expenditure of £265,826 for the period 2020/21 on the estimated spend of £6,510,449 that was previously approved for 2019/20 and 2020/21 under Deputy Mayor for Fire & Resilience Decisions (DMFDs) 89 and 46, to secure legal advice and representation for the London Fire Commissioner (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. If agreed, the total authorised expenditure for this purpose in 2019/20 and 2020/21 would be £6,776,275.
- 1.2 The report also seeks approval for the LFC to commit to expenditure of £2,953,984 for the period 2021/22 plus 15% margin (totalling £3,397,082), to secure legal advice and representation for the London Fire Commissioner (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.

#### *Evidence analysis 2020/21 and ongoing costs*

- 1.3 Budgetary provision has been made on an ongoing basis for the costs of the London Fire Brigade (LFB) arising out of the Grenfell Tower fire that occurred on 14 June 2017. On 17 November 2020, the Deputy Mayor approved an updated figure for expenditure for 2019/20 and 2020/21 (DMFD89, which updated DMFD46). It was indicated in the last report submitted to the Deputy Mayor that legal costs as a result of the Grenfell Tower fire will continue beyond March 2021 and authority will be sought for 2021/2022 separately and this report does so. The report explained that the increase sought for 2019/20 and 2020/21 predominantly related to work required to analyse evidence received from and disclosed to the Grenfell Tower Inquiry. The analysis work was advised by leading counsel. Due to the nature of the work, it was very difficult to provide an accurate forecast of the cost.
- 1.4 The analysis work has been ongoing since the agreement of DMFD89 in November 2020. Throughout that time, the process by which the work is undertaken has been refined to ensure that it is of most benefit to the LFC. Changes have also been made to ensure that appropriate cost savings are made in respect of senior counsel's time by ensuring that there is a reduced need for them to review the underlying documents. With the work having progressed for a further 4 months, the LFC is in a better position to forecast the total work required and therefore the cost. As a result, the forecasted cost of the work required during 2020/21 has increased by approximately £265,826.

#### **2. Objectives and expected outcomes**

##### *External Legal Resource*

- 2.1 It has been necessary for the LFC to engage additional internal and external legal resources to manage the considerable additional demands placed on the LFC legal team. This is required to ensure proper representation of the LFC and those employees and former employees who will be giving evidence in Phase 2 of the Grenfell Tower Inquiry (GTI) and to identify, sift and present very large volumes of documents and material to the GTI. To date the LFC has served 99 statements and provided over 100,000 documents to the GTI. The scale and complexity of the matter means that estimating future costs remains a challenge.

### 3. Equality comments

- 3.1 The London Fire Commissioner and the Greater London Authority are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on those with protected characteristics (as set out in 3.3 below) 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:
  - (a) eliminate discrimination, harassment and victimisation and other prohibited conduct;
  - (b) advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it; and
  - (c) 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:
  - (a) remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
  - (b) 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; and
  - (c) 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:
  - (a) tackle prejudice; and
  - (b) 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 position is unchanged in this report on the basis that this report does not propose any change which 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 GTI.



#### **4. Other considerations**

##### *Workforce comments*

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

##### *Sustainability implications*

- 4.2 There are no sustainability implications arising from this report.

#### **5. Financial comments**

- 5.1 This decision requests approval for additional expenditure of £265,826 by the LFC, bringing the total estimated spend on legal costs related to the Grenfell Tower fire to £6,776,275 over 2019/20 and 2020/21. This expenditure is reflected in the financial position report as at the end of Quarter 2.
- 5.2 The report also requests approval for expenditure of projected spend on legal costs of £2,953,984 in 2021/22 plus 15% (totalling £3,397,082), in relation to the Grenfell Tower fire.
- 5.3 The report notes that these figures can fluctuate depending on the actions, requests and decisions by other agencies. Actual legal expenditure in relation to this work, net of any relevant insurance income, will continue to be reported on as part of the LFC's published quarterly financial position reports and impact of the overall forecast of outturn. Any expected ongoing costs not met by insurance will be estimated and addressed in the budget process so that provision is made where costs are not covered by insurance. The LFC budget 2021/22 is to include an additional £0.2m to cover the uninsured costs, and this will be kept under review as further Grenfell legal costs are incurred and insurance payments settled.

#### **6. Legal comments**

- 6.1 Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") 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 Commissioner 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 Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").
- 6.3 Paragraph (b) of Part 2 of the said direction requires the Commissioner 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 part 2 decision sets out the updated forecast costs position for legal services for Grenfell Tower Fire related matters.
- 6.5 The proposed recommendations are within the London Fire Commissioner's general powers. 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. Section 6 to 9 of the 2004 Act sets out the core functions of a fire and rescue authority, which includes and is not limited to, fire safety, firefighting, road traffic accidents and other emergencies.

- 6.6 The participation by and representation of the London Fire Commissioner in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within s222 of the 1972 Act and S5A(1) of the 2004 Act.

**Appendices and supporting papers:**

None.

**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.

✓

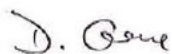
**Corporate Investment Board**

This decision was agreed by the Corporate Investment Board on 8 February 2021.

**EXECUTIVE DIRECTOR, RESOURCES:**

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

**Signature**



**Date**

23 February 2021



LONDON FIRE BRIGADE

Report title

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# Legal Costs Related to the Grenfell Tower Fire

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Report to

Corporate Services Directorate Board  
Commissioner's Board  
Deputy Mayor's Fire and Resilience Board  
London Fire Commissioner

Date

8 December 2020  
17 December 2020  
5 January 2021

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Report by

General Counsel

Report number

LFC-0463

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Protective marking: **OFFICIAL-SENSITIVE – legal privilege applies**

Publication status: **Published with redactions**

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## Summary

Under the Mayor's Direction of April 2018, prior authority is to be sought from the Deputy Mayor for Fire and Resilience to incur expenditure on legal costs relating to the Grenfell Tower fire. This report seeks an increase to the 2019/20 - 2020/21 approval and sets out the projected legal costs for 2021/22, the position regarding reimbursement via the insurance policies and seeks the Commissioner's agreement to continue to arrange legal advice and representation.

### For the London Fire Commissioner

1. Subject to the Deputy Mayor, Fire and Resilience giving prior approval to the expenditure, the London Fire Commissioner delegates authority to the Director of Corporate Services to incur additional expenditure of £265,826 to the previously delegated authority of £6,510,449 for 2019/20 and 2020/21 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.
2. Subject to the Deputy Mayor Fire and Resilience giving prior approval to the expenditure, the London Fire Commissioner delegates authority to the Director of Corporate Services to incur expenditure of £2,953,984 for the period 2021/22 plus 15% margin 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.

3. Notes the position regarding the reimbursement of legal costs relating to the Grenfell Tower fire via insurance, and the sum currently in dispute.

## Background

### Evidence analysis 2020/21 and ongoing costs

1. Budgetary provision has been made on an ongoing basis for the costs of the London Fire Brigade arising out of the Grenfell Tower fire that occurred on 14 June 2017. On 17 November 2020, the Deputy Mayor approved an updated figure for expenditure for 2019/20 and 2020/21. It was indicated in the last report submitted to the Deputy Mayor that legal costs as a result of the Grenfell Tower fire will continue beyond March 2021 and authority will be sought for 2021/2022 separately and this report does so. The Report explained that the increase sought for 2019/20 and 2020/21 predominantly related to work required to analyse evidence received from and disclosed to the Grenfell Tower Inquiry. The analysis work was advised by leading counsel. Due to the nature of the work, it was very difficult to provide an accurate forecast of the cost.
2. The analysis work has been ongoing since the submission of the report in August 2020. Throughout that time, the process by which the work is undertaken has been refined to ensure that it is of most benefit to the LFC. Changes have also been made to ensure that appropriate cost savings are made in respect of senior counsel's time by ensuring that there is a reduced need for them to review the underlying documents. With the work having progressed for a further 4 months, the LFC is in a better position to forecast the total work required and therefore the cost. As a result, the forecasted cost of the work required during 2020/21 has increased by approximately £265,826.

### Legal Advice and Representation in various legal forums

3. The Inquiry is currently within phase 2 of its work. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] Work in connection with the Inquiry and related proceedings will certainly continue into 2022/23 and authority for expenditure relating to that period will be sought in due course.

[REDACTED]  
[REDACTED]

[REDACTED]  
[REDACTED]

### External Legal Resource

6. It has been necessary for the LFC to engage additional internal and external legal resources to manage the considerable additional demands placed on the LFC legal team. This is required to ensure proper representation of the LFC and those employees and former employees who will be giving evidence in Phase 2 and to identify, sift and present very large volumes of documents and material to the GTI. To date the LFC has served 99 statements and provided over 100,000

documents to the GTI. The scale and complexity of the matter means that estimating costs remains a challenge.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

14. Against that background, Appendix 1 sets out the total legal costs to date and forecasted expenditure for 2021/22. It is extremely difficult to predict accurately the totals for each legal resource listed in Appendix 1, or when the legal resource will be needed.

## The insurance position

[REDACTED]

[REDACTED]

[REDACTED]

## Equality Impact

18. The London Fire Commissioner and the Greater London Authority are required to have due regard to the Public Sector Equality Duty (s149 of the Equality Act 2010) when taking decisions. This in broad terms involves understanding the potential impact of policy and decisions on those with protected characteristics (as set out in 3.3 below) taking this into account and then evidencing how decisions were reached.
19. 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.
20. 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.
21. The Public Sector Equality Duty requires decision-takers in the exercise of all their functions, to have due regard to the need to:
  - a. eliminate discrimination, harassment and victimisation and other prohibited conduct.
  - b. advance equality of opportunity between people who share a relevant protected characteristic and persons who do not share it.
  - c. foster good relations between people who share a relevant protected characteristic and persons who do not share it.

22. 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:
  - a. remove or minimise disadvantages suffered by persons who share a relevant protected characteristic where those disadvantages are connected to that characteristic;
  - b. 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;
  - c. 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.
23. 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.
24. 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:
  - a. tackle prejudice, and
  - b. promote understanding.
25. 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 position is unchanged in this report on the basis that this report does not propose any change which 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 GTI.

### **Procurement and Sustainability**

26. There are no sustainability implications arising from this report.

### **Strategic drivers, including the relevant pillar of the Transformation Delivery Plan**

27. Delivering excellence through the provision of quality legal representation.

### **Workforce Impact**

28. The Fire Brigade Union is a core participant in the Grenfell Tower Inquiry and has its own legal representation. [REDACTED]  
[REDACTED] In the circumstances, decisions regarding LFC spend on legal representation and advice are not suitable for work force consultation, and the confidentiality rules preclude any meaningful discussion.

### **Finance comments**

29. This report recommends that authority is agreed to commit to additional expenditure of £265,826 for a total estimated spend of £6,510,449 over 2019/20 and 2020/21. This expenditure is reflected in the financial position report as at the end of Quarter 2. The report also recommends that projected spend on legal costs be agreed of £2,953,984 in 2021/22 plus 15%, in relation to



the Grenfell Tower fire. This will result in a financial pressure of [REDACTED] as the total cost in 2021/22 less the amount that will be recovered from the insurers. This pressure will be included as part of the Final Budget Report for 2021/22.

30. The report notes that these figures can fluctuate depending on the actions, requests and decisions by other agencies. Actual legal expenditure in relation to this work, net of any relevant insurance income, will continue to be reported on as part of the published Quarterly Financial Position reports.

31. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] This forecast expenditure and income will continue to be reported on as part of the regular financial position reporting.

### Legal comments

32. Under section 9 of the Policing and Crime Act 2017, the London Fire Commissioner (the "Commissioner") 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 Commissioner specific or general directions as to the manner in which the holder of that office is to exercise his or her functions.

33. By direction dated 1 April 2018, the Mayor set out those matters, for which the Commissioner would require the prior approval of either the Mayor or the Deputy Mayor for Fire and Resilience (the "Deputy Mayor").

34. Paragraph (b) of Part 2 of the said direction requires the Commissioner 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 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 £150k 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.

35. The Commissioner may, under s222 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.'

36. It is implicit in the above that the Commissioner may authorise spending and the instruction of outside experts. Notwithstanding this, the powers granted by s222 of the 1972 Act constitute a function of the Commissioner 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 s222 of the 1972 Act.

37. The participation by and representation of the London Fire Commissioner in the Grenfell Tower Inquiry and associated enquiries and legal matters falls within s222 of the 1972 Act and S5A(1) of the 2004 Act.

### **Grounds for redaction within the report**

38. In preparing this report, General Counsel has identified sections of the text that it believes attract legal professional privilege (LPP), i.e. that these sections should be afforded special protection, enabling the Commissioner as client to retain confidentiality in relation to certain communications pertaining to legal advice and the conduct of litigation or anticipated litigation. The overall spending envelope is to be made public, as this non-specific figure is not considered to be covered by LPP. LPP is a right of the client, and it is for the client to seek to exert it or waive it. It is recommended that the Commissioner exerts his rights to withhold the highlighted sections because the additional details contained within them would divulge to a third party details of the Commissioner's operational and tactical approach to the ongoing and anticipated legal matters, including the ongoing dispute with the insurer the anticipated civil claims and the other matters discussed above in relation to the Grenfell Tower Inquiry. In addition, some of the information in the report was received from the GTI under the terms of the confidentiality undertaking that the GTI asks all core participants to sign. Therefore, it is recommended that those aspects are withheld until such a time as the confidentiality over the information is removed, for example when and if the GTI puts the information into the public domain.

### **List of Appendices**

<b>Appendix</b>	<b>Title</b>	<b>Protective Marking</b>
1.	Forecast costs position for legal services	OFFICIAL-SENSITIVE

**Grenfell Tower Fire Legal costs analysis 01/12/20**  
**Appendix 1**

A	B	C	D
<b>Legal Related Spend</b>	<b>2019/20 spend</b>	<b>2020/21 End of year forecast as at 1 December 2020</b>	<b>2021-2022 forecast</b>
Internal Legal Staff costs	[REDACTED]	[REDACTED]	[REDACTED]
<i>Sub total</i>	[REDACTED]	[REDACTED]	[REDACTED]
<b>External advice and representation</b>			
Queens Counsel	[REDACTED]	[REDACTED]	[REDACTED]
Junior Counsel	[REDACTED]	[REDACTED]	[REDACTED]
LFB Evidence Analysis Junior Counsel	[REDACTED]	[REDACTED]	[REDACTED]
Drafting Rule 9 statements for Phase 2 - Counsel	[REDACTED]	[REDACTED]	[REDACTED]
Management of Rule 9 process - Junior Counsel	[REDACTED]	[REDACTED]	[REDACTED]
Solicitors	[REDACTED]	[REDACTED]	[REDACTED]
Grenfell Civil Claims (Counsel costs)	[REDACTED]	[REDACTED]	[REDACTED]
Inquiry Paralegal 2021/22	[REDACTED]	[REDACTED]	[REDACTED]
<i>Sub total</i>	[REDACTED]	[REDACTED]	[REDACTED]
<i>Potentially recoverable amount</i>			[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]
<b>Disclosure costs</b>			
Inquiry Paralegal 2020/21	[REDACTED]	[REDACTED]	[REDACTED]
Junior Disclosure Counsel	[REDACTED]	[REDACTED]	[REDACTED]
Disclosure Paralegals	[REDACTED]	[REDACTED]	[REDACTED]
Disclosure Officer	[REDACTED]	[REDACTED]	[REDACTED]
Solicitors (disclosure)	[REDACTED]	[REDACTED]	[REDACTED]
Disclosure software processing and hosting costs	[REDACTED]	[REDACTED]	[REDACTED]

