

Extension of the Independent Advice and Investigation Service

Report to:	Date:
Investment & Finance Board.....	24 April 2023
Commissioner's Board.....	26 April 2023
Deputy Mayor's Fire and Resilience Board.....	12 May 2023
London Fire Commissioner	

Report by:
Sue Nicol, Interim Assistant Director, People Services

Report classification: For decision

For publication

I agree the recommended decision below.



Andy Roe

London Fire Commissioner

Date This decision was remotely signed on 08 June 2023

PART ONE

Non-confidential facts and advice to the decision-maker

Executive Summary

The external complaints service provided by CMP Solutions was set up on 28 November 2022 to handle complaints relating to bullying, harassment and discrimination, and a review of historic cases going back five years. The current approved budget (LFC 0780) for this service was approved to cover the period to 31st May 2023. The report seeks a decision on increasing the current approved budget allocation to cover existing service commitments and extend the period of service to the end of September 2023. Longer-term plans for an effective and efficient employee relations function are being developed as part of the overall restructuring of the People Directorate and development of a new People Strategy that supports the ambitions of the CRMP. A transition plan to integrate learnings, materials and insights from CMP Solutions will also be developed to ensure high standards of response and service are embedded into the new operating model.

Recommended decisions

For the London Fire Commissioner

That the London Fire Commissioner:

1. Commits expenditure of up to an additional £747,910 to extend the services provided by CMP Solutions Limited.
2. Delegates authority to the Assistant Director for Procurement and Commercial, in consultation with, the Interim Assistant Director People Services to finalise and agree the extension of the contract with CMP as set out in this report.

1 Introduction and background

- 1.1** On 28 November 2022, the External Review of LFB Culture was published and the report highlighted:
 - examples of unacceptable behaviours occurring within LFB which have not been dealt with, and in many cases not reported.
 - a lack of trust in LFB processes, notably People Services and managers, preventing staff from raising concerns, in relation to bullying, harassment and discrimination.
- 1.2** To restore trust and improve how we manage cases, an external complaints service relating to bullying, harassment, and discrimination was set up for 26 weeks until 31 May 2023 and was available to staff on the day the report was published. Originally, the service was setup while the People Services review could progress, which took place in January 2023 and the report available in February 2023. There have been key senior staff absences from January 2023 to date which has delayed the planning of a more sustainable approach to complaints handling (including

considering the balance between in-house and external provision).

1.3 Planning is underway to develop an overall programme of work to transform the People Directorate into a modern HR function supporting the London Fire Brigade to attract and retain staff and restore trust in LFB's policies, processes and People Directorate. The future modelling and functionality of the employee relations function is part of this work and will include skills mapping of current and future capability of skills to deliver an efficient, professional service. CMP will work with us on a transition plan to transfer data, learnings, and insights to inform our model and ensure there is a smooth handover.

- 1.4 As anticipated, we have seen a significant increase in the number of contacts from staff (current and former) to CMP, which includes filed complaints and related disciplinary cases (detailed in section 2.1). The LFB maintains the position of a zero-tolerance approach to bullying, harassment and discrimination under current LFB policy. Prior to the CMP Solutions set up, we had around 10 cases of harassment, bullying and discrimination per year. In the 5 months since go live on 28 November 2022, we have had 61 live cases with an additional 17 staff completing complaint information or considering their options. The historic review of discrimination, bullying and harassment cases in the last five years has so far reviewed 32 cases, 5 are currently being reinvestigated, 20 no further action and 7 going through decision process.
- 1.5 In addition to the CMP Solutions service, guidance has been provided to staff and managers in a toolkit which reiterates our zero-tolerance approach, with access to informative videos covering understanding 'allyship' and being an 'effective bystander' as well as understanding 'microaggressions' and dealing with 'banter' in the workplace. There have been EDI development sessions with leaders and over 1000 honest 'culture conversations' taken place.

2 Current service usage figures and costs to date

2.1 The suite of services from CMP Solutions available for LFB to utilise has not changed since November 2022 and consists of the following components (details of the services received can be found in section 2.1 in Part 2):

- Independent advice line and Practitioner calls: providing emotional support, information and guidance to staff (current and ex) and managers who have experienced or witnessed poor behaviour, or who need to address poor behaviour.
- Investigations: conducting of investigations relating to bullying, harassment, and discrimination, investigation is then included for any disciplinary actions arising from those complaints.
- Independent Panel Members/investigator disciplinary representation: Investigators will brief hearing managers on the investigation as part of disciplinary processes. There is also the option for CMP to provide independent disciplinary hearing panel members to ensure that bullying, harassment, or discrimination decisions are made transparently, fairly, robustly, and proportionately. The final decision at a hearing as to the sanction will remain with the LFB Presiding Manager.
- Quality Assurance of historic cases: a review of all bullying, harassment and discrimination cases from the past five years.
- Coaching and support for managers: A 'Just in Time' Management Coaching service to support managers prepare for a meeting with an employee relating to bullying, harassment or discrimination.
- Mediation: to prevent and manage workplace conflict; building skills; and rebuilding relationships between staff.
- Upskilling of managers and HR staff: on best practice policy review, application of policy and hearings and investigations.
- Other: training courses such as training for Hearing Managers, and Honest Conversations for managers to address behaviour, performance, and wellbeing challenges.

Current usage stats 28 November 2022 to 27 April 2023:

Adviceline and Triage, CMP Practitioner calls and coaching and support to managers	233 contacts (including 55 coaching calls)
Investigations	55 live, 6 completed
Historic case reviews	32 of approx. 50 reviews
Historic case reviews – reinvestigation/no further action	5 re-investigations, 20 No further action, 7 decisions pending
Mediation	4 cases

- 2.2 Feedback from users of the service has been positive (see Appendix 1). CMP send feedback forms to staff using the service and approx. 40 forms have been completed to date giving a majority excellent feedback assessment of the experience, helpfulness of the service, answering of questions and time allocated.
- 2.3 In Part 2 of the report there is a table that sets out the costs incurred to date. Volumes of cases are monitored weekly to track expenditure and make sure the service is being used effectively and appropriately. To ensure value for money, a monthly financial review meeting will be held to review costs against actual usage and budget remaining. CMP Solutions have provided LFB with a reduced rate on their standard charges per activity.

Calculations of un-invoiced costs for work in progress from CMP

- 2.4 Current live investigations in progress have an estimated cost of £358,950¹, which have not yet been invoiced but the service has been provided and therefore the expenditure has been incurred. On top of actual costs invoiced of £214,075, the anticipated invoiced expenditure will exceed our current £503,489 budget allocation. When assessing the cases CMP Solutions must provide an estimate of the time, they expect a case could take. This has many variables which include potential numbers of staff in scope (complainant, respondent (s) and witnesses etc). Therefore, the estimated time expected to be taken for the investigations have to date been overestimated by CMP Solutions Limited. For example, the investigation time and cost in relation to current cases to date was estimated at £114,450 but the invoice for the actual time taken was for £59,325.
- 2.5 Historic case reviews for the outstanding cases sit at circa £73,500.
- 2.6 In addition, the helpline costs (£6000 weekly costs to end of current arrangement) and any Practitioner calls still to be invoiced (volumes unknown).
- 2.7 Based on current usage rates and invoiced services of £214,075, estimated costs still to be invoiced of £438,450 and known information we will be over current agreed budget of £503,489 by £149,036.

LFB Staff costings

- 1.8 To manage the volume of cases and internal actions required to interface with CMP, we recruited temporary Employee Relations specialists and have seconded existing People Services staff to project manage the service (including contract and budget management, manager and staff liaison, introductions to investigators, investigation terms of reference sign off, historic case

¹ Figures in this paper exclude VAT as VAT is treated as recoverable.

transfer, data review and reporting, processes mapped, suspension oversight).

- 2.9 Our internal resources include FRS G and FRS F plus support from an FRS E HR Adviser to collate case information for the historic reviews have been allocated. We have recruited 2 x temp project resources @ £550 per day. HR Project Lead for current cases and suspensions, HR Project Lead for historic case reviews.
- 2.10 The LFB staffing costs are managed from within existing budgets.

3 Extension of service costings

- 3.1 To continue to provide a service to staff we require an extension of the CMP Solutions service from 1 June 2023 to 30 September 2023. In Part 2 of the report there is a table that sets out the indicative extension costs which are based on current usage rates. Volumes of cases will continue to be monitored weekly to track expenditure and make sure the service is being used effectively and appropriately to ensure value for money. CMP Solutions have provided LFB with a reduced rate on their standard charges per activity and have retained the same charges.
- 3.2 As set out above the agreed budget was £503,489, current costs invoiced total £214,075 and the estimated still to be invoiced for services in process is £438,450, therefore there is gap of £149,036 of expenditure to be incurred. If agreed the extension of the services could cost an additional £598,850 therefore there is an additional £747,910 of budget being requested, including a small £2,114 contingency, bringing the total to £1.25 million.

Additional LFB Staff costings

- 3.3 Given the volume of cases is on an upward trend, we will need 2 x HR Co-ordinator FRS D to support Hearing Manager and Disciplinary hearing meeting co-ordination at a cost of £44,333.
- 3.4 We will also need to replace the interim FRS G Senior ER Project Lead at £650 per day so the Senior People Partner currently covering this post can be urgently redeployed back into the People Directorate to support on the transformation and change and People Partner responsibilities.
- 3.5 The LFB staffing costs will be managed from within existing budgets.

Internal Capability

- 3.6 To further bolster our internal capability, we intend to run 8 cohorts of hearing manager training run by CMP Solutions to foster a cross organisation approach and enable a consistent approach, shared learning and raising of awareness and management of poor behaviour. These have been included in the extension costs table in Part 2 of the report.

4 Equality comments

4.1 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.

4.2 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.

4.3 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.

4.4 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.

4.5 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.

4.6 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.

4.7 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.

4.8 There is no evidence of the provision of the investigation, helpline and triage service has had any adverse impact on those staff with a protected characteristic although the Brigade would recognize that further ongoing work is needed as this is an interim measure. An EIA has been completed for the extension service and overall Equality Impact of this policy, project, decision or activity remains Low. This service provides an independent and anonymised advice line for staff and managers. The independent review of cases is capturing lessons learnt and identifying where changes need to be made to current practices and policies, will address issues raised in the Culture Review, in relation to a lack of trust and confidence in how cases have been managed. There are multiple contact options to use the service, through phone, online form or email, sessions with Practitioners are then agreed in a format best suited to the individual e.g. on phone, via Teams call or in person (based on reasonable adjustments). Whilst the service is a remote service, in-person interviews can be arranged for those with reasonable adjustments requirements. Remote service allows for flexibility and reduces the need to travel which better meets the needs of service users. Evidence from satisfaction surveys from service users has provided an overall 86.2% satisfaction rating of very good or excellent in "your experience of the complaint line". Therefore, the extension of the service is based on the requirement to continue to provide this external service for current and ex staff to access. The high usage of the service and significant increase in cases has also been shown to be delivering the expected results on providing an independent mechanism for staff to access guidance and advice and to raise complaints.

5 Workforce comments

5.1 This is an interim measure for further 4 months whilst the People Service operating model is defined. Any permanent changes being considered as part of the work to transform the People Directorate into a modern HR function including future modelling and functionality of the employee relations function would be consulted on with the appropriate representative bodies and will form part of specific reports.

6. Sustainability comments

6.1 There are no sustainability comments.

7. Procurement comments

- 7.1 Due to the value of the contract, and urgency of the service provision a framework was considered the best value for money route to market.
- 7.2 LFC utilised the Eastern Shires Purchasing Organisation (ESPO) framework for Strategic HR Services (reference 3S-22) which covers a range of advice, support, and provision of service in relation to HR consultancy, in order to place a contract with CMP Solutions Limited under the Direct Award provision of the framework agreement. The framework is compliant with UK procurement legislation including regulation 33 of the Public Contract Regulations (2015) and the Direct Award provision is allowed under the terms of the framework. All suppliers listed on the framework were assessed during the framework procurement process for their financial stability, track record, experience, and technical and professional ability.
- 7.3 A capability review was undertaken via email with the other suppliers on the framework Lot. The responses received indicated that CMP Solutions Limited were the only framework provider with the capability and/or capacity to deliver the requirement. CMP Solutions were identified to have the best value offer under the Espo Framework – Strategic HR Services: Ref 3S_22 which allowed for a direct award which has been pursued with help from the framework Manager.
- 7.4 Due to the immediate need of this service – post culture review: an initial short form was drafted for this enabled LFC to immediately utilise CMP Solution's services, whilst the call off contract was being drafted. The proposed extension in this report has been agreed internally with Procurement. All procurement activity has been conducted in compliance with the PCR regulations, and LFB's internal policies & procedures.

8. Communications comments

8.1 The service details are included in all communication products as part of the Culture Review communications plan.

9. Financial comments

- 9.1 This report is requesting an increase in budget allocation beyond the currently agreed £503,489 limit in order to cover existing service commitments of CMP Solutions. Additionally, the report is also requesting an extension to the service by a further 4 months to 30 September 2023.
- 9.2 The cost to cover existing service commitments of CMP Solutions is estimated to be £149,036 over the £503,489 existing allocation. If agreed, the extension of the services could cost an additional £598,850. Therefore, the additional funding requirement is £747,910, to be spent in the 2023/24 year between April and September 2023.
- 9.3 The current agreed funding is set at £503,489 to be covered from the Community Risk Management Plan (CRMP) Reserve. It is proposed that in the first instance, any underspends or savings in the People Services budget for this year would contribute towards the additional funding requirement, before drawing on Budget Flexibility Reserve (given that the CRMP Reserve will have other demands placed on it). The Budget Flexibility Reserve currently has a forecast balance of £7.3m at the end of the 2023/24 financial year, as set out in the 2023/24 LFC Budget Report. The additional expenditure included in this report will reduce this forecast balance to £6,550,000. The LFC also maintains a General Reserve at a balance of £16,387,000. This is based on a minimum general reserve requirement of 3.5% of the net revenue expenditure.

10 Legal comments

- 10.1 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.
- 10.2 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.
- 10.3 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"). 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...".
- 10.4 In accordance with the requirements of the direction , the Deputy Mayor has previously given her approval for the Commissioner to commit expenditure of £503,489 for the period from 28 November to 31 May 2023 for an independent advice and investigation service, which has been provide by CMP Solutions Limited. Additional expenditure of £149,036 during that period was incurred for which the Deputy Mayor's retrospective approval is required. The decision to incur expenditure of £598,850 in order to extend the service from 1 June 2023 to 30 September 2023 will also require approval from the Deputy Mayor. The £750,000 requested for approval in the report is a composite sum which includes both these amounts.
- 10.5 The statutory basis for the actions proposed in this report is provided by Section 5A of the Fire and Rescue Services Act 2004 ("FRSA 2004"). Section 5A allows the Commissioner to procure personnel, services and equipment they consider appropriate for purposes incidental or indirectly incidental to their functional purposes.
- 10.6 The report confirms the provision of the external complaint service will be secured via a direct award provision of a Public Contract Regulations 2015 compliant framework agreement (ESPO framework for Strategic HR Services).

Part two confidentiality

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

Is there a Part Two form: **yes**