

Legal Costs

Report to:

Date:

Deputy Mayor's Fire and Resilience Board..... 13 October 2023
London Fire Commissioner

Report by: Kathryn Robinson, General Counsel

Report classification:

For decision

For publication

I agree the recommended decision below.



Andy Roe

London Fire Commissioner

Date This decision was remotely signed on 16 February 2024

PART ONE

Non-confidential facts and advice to the decision-maker

Executive Summary

General Counsel seeks authority to incur legal costs on a particular matter up to an amount set out in Part 2 of this report for the financial years 2023/24 and 2024/25. The delegation sought exceeds that which is permitted by the London Fire Commissioner's Scheme of Governance.

For the London Fire Commissioner

1. Subject to approval of the Deputy Mayor Fire and Resilience, that the London Fire Commissioner delegates authority to the General Counsel to incur costs up to the amount set out in part 2 of the decision, in respect of a legal matter in 2023-24 and 2024-25 subject to compliance with the following reporting requirements;(i) spend is contained within the total funding for 2023/24 and 2024/25 as identified in Part 2 of this decision; (ii) the LFC provides the Deputy Mayor with a monthly financial update on spend that occurred within the terms of this authority.

1 Introduction and background

- 1.1 Under the 2018 Mayoral Direction decisions to incur expenditure over £150,000 or over requires the Commissioner to seek the prior approval of the Deputy Mayor ; “[a] commitment to expenditure (capital or revenue) of £150,000 or above as identified in accordance with normal accounting practices...”. In the legal matter explained in Part 2, external lawyers are appointed and it is considered likely that the legal costs of advice and representation will exceed this threshold.
- 1.2 It is difficult to establish the exact legal cost of the matter since the direction of the matter is not within the control of the London Fire Commissioner (LFC). Nor is it possible to provide details of when costs may arise and for those reasons a threshold of spend is sought with delegated authority to General Counsel to incur costs as and when the need arises, but subject to reporting requirements to the Deputy Mayor.

2 Objectives and expected outcomes

- 2.1 To obtain authority to incur legal costs in a particular matter in order to properly and advise and represent the LFC.

3. Equality comments

- 3.1 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.

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 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 to the need to:

- tackle prejudice
- promote understanding.

3.8 There are no specific equality implications arising from this report.

4 Other considerations

Workforce comments

4.1 This report concerns a legal case. Accordingly, no staff side consultations have been undertaken.

Sustainability comments

4.2 There are no sustainability implications arising from this report.

Procurement comments

4.3 There are no procurement implications arising from this report.

5. Financial comments

5.1 The report sets out a recommendation that authority is delegated to incur legal costs up to a maximum specified amount as contained in part 2 of this report.

5.2 For 2023/24 any costs will need to be covered by Budget Flexibility Reserve. For 2024/25 an update will need to be made to the LFC budget submission.

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") 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...".

6.3 The proposals in this report seek to provide delegated authority to General Counsel to incur legal costs on a particular matter, and accordingly this falls within those matters set out in the 2018 Directions and therefore requires prior approval of the Deputy Mayor.

List of appendices

Appendix	Title	Open or confidential*
	None	

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