



MOPAC

MAYOR OF LONDON
OFFICE FOR POLICING AND CRIME

Live Fire and Skills House Letter of Indemnity

MOPAC Investment Advisory & Monitoring meeting 05 September 2023

Report by Vince Fihosy on behalf of the Chief of Corporate Services

Part 1 – This section of the report will be published by MOPAC. It is classified as OFFICIAL – SENSITIVE [OPERATIONAL]

EXECUTIVE SUMMARY

Decision PCD1153 on 30 May 2022, approved the construction of the Live Fire & Skills House at Gravesend, noting that a variation would be agreed with Services Support Gravesend Ltd (the PFI Company) to suspend the site from the PFI.

The Skills House facility is located on the north east corner of the Gravesend training centre, which is owned and operated by the PFI Company under the terms of a PFI agreement which runs until 2028. The PFI Company is ultimately owned by 5 different banks, who require assurance that they are indemnified against any costs they may incur as a result of the construction and operation of the Skills House, which they do not need to provide nor are gaining any benefit from. This is a completely normal commercial requirement in such circumstances.

A letter has been agreed which provides the PFI Company with the ability to demand an indemnity from MPS should they incur costs in connection with the carrying out by MOPAC of the connection works.

Recommendation

The Deputy Mayor for Policing and Crime via the Investment Advisory and Monitoring meeting (IAM), is asked to approve that MPS can issue the attached Letter offering an on-demand indemnity to Support Services Gravesend Ltd in regard the services connection works for the Live Fire & Skills House, recognising that, while the indemnity (if demanded) is uncapped, the maximum expected cost liability is considerably lower than the uncommitted funds remaining within the approved project budget.

Time sensitivity

A decision is required from the Deputy Mayor by 19/09/2023, the standard advised earliest available date post-IAM.

Non-confidential facts and advice to the Deputy Mayor for Policing and Crime

Introduction and background

1. Decision PCD1153 on 30 May 2022, approved the construction of the Live Fire & Skills House at Gravesend, noting that a variation would be agreed with Services Support Gravesend Ltd (the PFI Company) to suspend the site from the PFI.
2. The Skills House facility is located on the north east corner of the Gravesend training centre, which is owned and operated by the PFI Company under the terms of a PFI agreement which runs until 2028. The PFI Company is ultimately owned by 5 different banks, who are not prepared to take on risk for an activity that they do not need to provide nor are gaining any benefit from, they require MOPAC to indemnify them against any costs they may incur as a result of the construction and operation of the Skills House. This is a completely normal commercial requirement in such circumstances.
3. The letter as agreed provides the PFI Company to demand an indemnity from MPS should they incur costs in connection with the carrying out by MOPAC of the connection works. Since the DMPC decision, work has progressed (a) with the construction works on the Skills House site and (b) with the negotiations with the PFI Company to finalise the Deed of Variation and Land Transfer documentation, both required to enable the operation of the new Skills House facility.
4. The construction works for the main facility, which are on a discrete and secured off part of the site, have progressed well. Works are now needed on the main site to provide the electricity, gas, water and data connections. The legal negotiations have taken longer than anticipated, both due to the complexity of the arrangements and due to the need for all documentation to be approved by all 5 funders.
5. The legal documentation for these long term agreements is now agreed in principle and we expect formal approval from funders imminently. This documentation will be submitted to Executive Committee in September 2023 for approval.

Issues for consideration

6. All works to date have been carried out in a fenced off corner of the operational training site, completely segregated from the operational facility and the PFI Company has been content to allow the construction works to progress pending completion of the Deed of Variation. However, we now need to carry out the connection works to join the new building to the existing electricity, gas and water connections which are situated on the operational site and are therefore on land owned by the PFI Company. Therefore, a decision from DMPC on this paper is required by the end of September 2023.
7. These connection works are straightforward construction works that are routinely carried out on any new building and will be carried out by contractors appointed by and under the control of MOPAC. The works will take c. 8 weeks to complete. Whilst the risk of disruption to their operations or damage to their property is very low, if they are to permit MOPAC to carry out these works on their land, the PFI Company nevertheless requires MOPAC to indemnify them against any costs they may incur as a result of the construction and operation of the Skills House. The PFI Company and its funders require MOPAC to put them in a “*no better, no worse*” position than had this proposal not been implemented. This approach is standard for variations of this nature. Given that most risks are covered by insurance, this primarily relates to the loss of availability charges should the site

not be operational for training.

8. The PFI agreement itself already includes an unlimited liability indemnity in regard any actions the MPS takes which may impinge on the PFI availability changes. This is replicated in the Deed of Variation which is to be presented to September Executive Committee.

Contributes to the MOPAC Police & Crime Plan 2022-25¹

9. The Mayor wants London both to be a safer city and for Londoners to feel safer. To deliver this vision the Police and Crime Plan sets out some key areas for action which include: Reducing and preventing violence; Increasing trust and confidence; Better supporting victims.
10. The works approved within PCD1153 at Live Fire & Skills House at Gravesend will allow critical and mandatory firearms training to be carried out in London, maintain the availability and resilience of key response teams, thus ensuring that key services are maintained, enabling the MPS to keep London safe in accordance with the MOPAC Police & Crime Plan 2022-2025.

Financial, Commercial and Procurement Comments

11. The Live Fire Skills House project has an approved budget of £10.973M including 10% of Optimism Bias. It is considered that the highest likely scale of cost that may be incurred by MOPAC under this letter of indemnity is below £250k, and, given the routine and carefully controlled nature of the works, it is expected that in all likelihood there will be no or only nominal costs incurred. All direct costs relating to the repair works after an incident should be covered by the insurance but some indirect and associated costs may be incurred. We have taken a cautious view on the build-up of these ancillary costs in our assessment of a maximum of £250k of cost to MOPAC – it should be noted that we still have significant uncommitted contingency funding in the approved budget that more than covers all likely expenditure.
12. **London Anchor Institutions' Charter²**. As part of their appointment onto the MPS frameworks, the delivery partners the MPS have used to deliver this project have committed to take specific actions to address the objectives of the LAIC. As part of the Framework Management approach, the linkage between individual appointments and actions taken and the effectiveness of those actions in delivering the above commitments will be reviewed and assessed. The contracts will encourage the use of London supply chain specific initiatives including: apprenticeship levies; adherence to modern slavery and London Living Wage obligations; social value impact opportunities.

Legal Comments

13. The Letter has been drafted by external legal advisors. Whilst uncapped indemnities are not normal, DLS are content that it is necessary in this exceptional case. Whilst we are confident that the financial exposure will be

¹ [Police and crime plan: a safer city for all Londoners | London City Hall](#)

² <https://www.london.gov.uk/coronavirus/londons-recovery-coronavirus-crisis/anchor-institutions-charter>

contained within approved budgets and delegated authorities, the offered indemnity is uncapped and therefore is not within the delegated approvals available to MPS or MOPAC. Hence, this decision requires DMPC approval in accordance with para 1.4 of the Scheme of Delegation "*...there will always be operational decisions which are significant either in terms of financial expenditure or public interest or which are in some other way novel or contentious. These have either been expressly reserved to the DMPC by this Scheme or, where the decision would otherwise be taken by staff/officers, will be referred to the DMPC for decision.*".

Equality Comments

14. A programme level Equality Impact Assessment (EIA) was approved by the Estate Transformation Board in July 2017, agreeing that project level EIAs will be produced locally by user group representatives. A site specific EIA was undertaken as part of the Detailed Design process (available on request). All buildings included in the Estate Transformation Implementation Plan will be Equalities Act Compliant. There are no foreseen negative Equality or Diversity implications arising from these works. All Framework Consultants and Contractors are evaluated at Framework tender stage for acceptable Equality and Diversity statements, as well as their ability to meet the MPS requirements under the Equality Act 2010 as a supplier to MOPAC.

Privacy Comments

15. The MPS is subject to the requirements and conditions placed on it as a 'State' body to comply with the European Convention of Human Rights and the Data Protection Act (DPA) 2018. Both legislative requirements place an obligation on the MPS to process personal data fairly and lawfully in order to safeguard the rights and freedoms of individuals.
16. Under Article 35 of the General Data Protection Regulation (GDPR) and Section 57 of the DPA 2018, Data Protection Impact Assessments (DPIA) become mandatory for organisations with technologies and processes that are likely to result in a high risk to the rights of the data subjects.
17. There are no privacy issues identified through the Data Protection Impact Assessment (DPIA) completed for this work. The project does not use personally identifiable data of members of the public, so there are no GDPR issues to be considered.
18. The Information Assurance and Information Rights units within MPS will be consulted at all stages to ensure the project meets its compliance requirements.
19. Under the requirements of the Surveillance Commissioners Code for CCTV, Data Protection Impact Assessments (DPIA) will be required for any adaptations/amendments undertaken on the Live Fire Skills House CCTV system. These assessments are well understood and are part of the contractual delivery of any CCTV works.

Real Estate Implications

20. The delivery of the Live Fire Skills House was the subject of previous approvals.

This decision enables the completion of that project in line with the programme and budget commitments previously made.

Background/supporting papers

21. None

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Part 2 – This section refers to the details of the Part 2 Decision Paper which is NOT SUITABLE for MOPAC Publication.

The Government Security Classification marking for Part 2 is:
OFFICIAL-SENSITIVE [COMMERCIAL]

Part 2 of Live Fire Skills House Letter of Indemnity decision paper as part of Programme 11 Transforming the Estate is exempt from publication for the following reasons:

- Exempt under Article 2(2)(c) of the Elected Local Policing Bodies (Specified Information) Order 2011
- The relevant section under the FOIA that would exempt this information from disclosure is Commercial Interest Section 43

The paper will continue to be exempt unless, on review, non-publishable sensitive data is redacted. To be reviewed no earlier than 1st September 2028.