

# GREATER LONDON AUTHORITY

## REQUEST FOR DEPUTY MAYOR FOR FIRE DECISION – DMFD246

**Title:** Resolution of Outstanding Outsourced Discrimination, Bullying and Harassment Cases

### Executive summary:

This report requests the approval of the Deputy Mayor for Planning, Regeneration and the Fire Service to authorise the London Fire Commissioner (LFC) to commit revenue expenditure of up to £420,000 for the purposes of resolving the remaining complex discrimination, bullying and harassment cases.

Following the publication of the London Fire Brigade's Culture Review in November 2022, LFB took the decision to move the responsibility for all advice on and investigation into concerns of discrimination, bullying and harassments (DBH), including reviewing all relevant cases going back five years from the date of publication, to an external organisation. This was taken to ensure all cases were considered fairly, impartially and independently, and to provide reassurance to staff, and delivered in line with a Culture Review recommendation. This work was taken on by CMP Solutions, who have specific expertise in workplace investigations. The level of demand from staff was high, which shows the need for this commitment from LFB.

As LFB moves to a new model of handling these concerns, it now needs to provide appropriate funding for the investigation of the final cases, as funding was provided on an interim basis only.

Deputy Mayor for Fire and Resilience Decisions 187 [DMFD187](#), 199 [DMFD199](#) and 212 [DMFD212](#) have previously approved the commitment of expenditure to CMP Solutions.

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...”.

### Decision:

That the Deputy Mayor for Planning, Regeneration and the Fire Service authorises the London Fire Commissioner to commit revenue expenditure of up to £420,000 for the purposes of resolving the remaining complex discrimination, bullying and harassment cases.

### Deputy Mayor for Planning, Regeneration and the Fire Service

I confirm that I do not have any disclosable pecuniary interests in the proposed decision.

The above request has my approval.

**Signature:**



**Date:**

02/09/2024

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

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

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

- 1.1 Report LFC-24-070 to the London Fire Commissioner (LFC) explains that In March 2021, the LFC initiated an independent review of LFB culture. Nazir Afzal OBE was appointed to conduct the review, and his final report was published in November 2022.
- 1.2 In his review, Mr Afzal found that LFB, at its best, is a beacon of distinguished service, selflessness, and bravery. However, he also found evidence of institutional racism and misogyny, as well as poor treatment of the disabled and neurodiverse. The review acknowledges the central role that Human Resources (HR) plays in determining organisational culture and describes the LFB People Services department as non-strategic and disconnected, inefficient, ineffective and slow.
- 1.3 The Culture Review made 23 recommendations overall, including a recommendation for a more detailed independent review of People Services by an HR specialist.
- 1.4 On publication, the LFC announced that all complaints relating to discrimination, harassment or bullying would be handed to an external complaints service, CMP Solutions, to assure staff that their complaints would be handled independently and fairly, whilst improvements to LFB's own functions were made. CMP Solutions, as an independent organisation, taking responsibility for advice and investigation would demonstrate a clear commitment to independence, enabling those colleagues who felt they could not speak up for fear of victimisation to share their concerns.
- 1.5 This was initially for six months, with an agreed budget of £503,489 to be provided (Deputy Mayor for Fire and Resilience Decision 187 [DMFD187](#) and LFC decision LFC 0780) up until the end of May 2023. This was the first phase of LFB's work with CMP Solutions.
- 1.6 In April 2023 (DMFD199 [DMFD199](#) and LFC decision LFC-23-044y) this was extended with a further £747,910 required up until September 2023, and then a further £150,000 was approved, along with £250,000 of contingency under DMFD212 [DMFD212](#) and LFC decision LFC-23- 086.
- 1.7 In January 2024, this contract was extended by a further fifteen months, with primary responsibility for new discrimination, bullying and harassment (DBH) complaints moving to the newly formed Professional Standards Unit (PSU). The PSU in January 2024 was implemented following the restructure of LFB's People Services function to maintain and uphold standards of behaviour across LFB, including taking appropriate action, if necessary, in any conduct or DBH matters. No additional funding was provided for allegations under investigation by CMP Solutions under the original contract.
- 1.8 As part of the transfer of responsibility from CMP Solutions to the PSU, CMP Solutions stopped taking new investigations directly, but were required to continue any investigation ongoing that had been commissioned by early February 2024. This is the second phase of this work.
- 1.9 As of June 2024, CMP Solutions are progressing or have completed 69 investigations for LFB, including five that are still being scoped. The original approval to move to CMP Solutions could not provide an estimate of usage, so funding was provided on an interim basis. With nineteen investigations remaining for the first phase of this work, LFB can provide an estimate of the funding required to bring this activity to a successful resolution.
- 1.10 The outstanding amount due comes to £170,000, which is to resolve all remaining ongoing investigations under the first phase of work. The five investigations currently being forecasted, as well as contingency for any over-running investigation, is proposed at a figure of between £150,000 and £250,000, bringing this request to £320,000 to £420,000 in total. Barring any unexpected eventualities, that will close all investigations that remain from the first phase of work with CMP

Solutions, commissioned as a result of the Culture Review. A range is being provided as the investigations may shift in scope and duration as they progress, and an exact figure is difficult to provide at the outset. This additional proposed expenditure was not included in the contract with CMP Solutions.

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

- 2.1 The complete movement of all DBH matters to an external organisation was an outcome of the Culture Review, and quickly implemented by LFB to ensure that staff could raise concerns in confidence outside LFB, and feel confident that they would be investigated fairly and impartially. The 2023 Staff Survey showed that only 39 per cent of LFB staff had confidence that if they raised a concern that it would be handled appropriately.
- 2.2 The implementation of the PSU has seen an initially high level of engagement and concerns being raised. CMP Solutions have continued to provide a helpline for advice and guidance for concerned staff in LFB, and usage of this sits at roughly one contact per month, compared to between ten and twenty at the end of 2023.
- 2.3 The commitment made by LFB in response to the Culture Review was to consider all complaints and concerns raised relating to DBH, and staff have raised their concerns with CMP Solutions on the basis of this commitment. At the outset of the commissioning to CMP Solutions, this was an unprecedented step. There was no way of knowing the likely take-up of complaints, nor the complexity and duration of any subsequent investigations.
- 2.4 If, at this late stage of the resolution of a Culture Review recommendation, LFB decided against making the funding available for the remaining CMP investigations, CMP would stop all investigations immediately. This would mean those staff who have raised a concern about their treatment in the manner LFB has instructed them to do so would then see no resolution, and there would be a requirement for the entire matter to be re-investigated from the start within LFB.
- 2.5 This is not a tolerable position for the final resolution of a Culture Review recommendation. Withdrawing from a commitment made to all staff to independently consider concerns relating to DBH due to higher-than-expected take-up and therefore cost would in effect reverse LFB's commitment to root out institutional racism and misogyny, and remove the trust of those staff who spoke up on LFB's insistence. The PSU would need to consider this, but they will not be able to demonstrate that they are fully independent in the way that CMP Solutions are.
- 2.6 Failing to deliver on a much-publicised commitment made as a response to the Culture Review will significantly harm LFB's reputation both internally and externally. It also will provide a high risk of employment tribunal claims for the impact on staff.

## **3. Equality comments**

- 3.1 The LFC and the Deputy Mayor for Planning, Regeneration and the Fire Service 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 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:
- tackle prejudice
  - promote understanding.
- 3.8 The Culture Review identified institutional racism and misogyny as significant issues for LFB, with staff experiencing negative treatment and detrimental outcomes relating to ethnicity and gender. CMP Solutions were commissioned to review historic cases relating to DBH, as well as take any new concerns relating to DBH. The additional funding for CMP Solutions will mean that staff who have raised concerns relating to protected characteristics under the Equality Act 2010 will not need to go back to the start of their investigation process, avoiding significant distress and concern. This will disproportionately impact women and colleagues from an ethnic minority background.

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

##### *Sustainability comments*

- 4.1 There are no sustainability issues arising from the recommendation.

##### *Procurement comments*

- 4.2 The funding of the CMP work is part of an existing contract with CMP Solutions. The existing contract was procured in a manner and with the scope to permit an extension to conclude the work on the 19 cases. LFB's Procurement team have been integral to ensuring a clear understanding of the current and future financial position.

## Workforce comments

- 4.3 The body of the report addresses the impact on LFB staff from the recommendation.

## *Conflicts of interest*

- 4.4 There are no conflicts of interest to declare from those involved in the drafting or clearance of this decision.

## **5. Financial comments**

- 5.1 This report requests an increase in funding allocation beyond the previously agreed £1,651,399 limit by between £320,000 and £420,000 to resolve all ongoing and forecasted complex DBH investigations under the first phase of work with CMP Solutions, including a contingency for any over-running investigations. Barring any unexpected eventualities, that will close all investigations commissioned through CMP Solutions as part of this first phase as a result of the Culture Review.
- 5.2 The additional fund is to be spent in the 2024/25 year.
- 5.3 It is proposed that in the first instance, any underspends or savings in the People Services budget for the 2024/25 year would contribute towards the additional funding requirement, before drawing on the Budget Flexibility Reserve. However, it is unlikely that there will be savings or underspends, hence, the full cost is earmarked to be met from the Budget Flexibility Reserve.
- 5.4 The 2024/25 forecast opening balance of the Budget Flexibility Reserve (BFR) was £14,200,000 as set out in the LFC Final Budget 2024/254 (LFC-24-027). This report included a forecast balance on the BFR at the end of 2024/25 of £8,800,000. The LFC is now finalising its first financial position report for 2024/25 (Q1) and this will include an updated forecast year end position on the BFR, reflecting the draw of up to £420,000 for which approval is sought in this report. The Q1 report is expected to be published on 16 August 2024.

## **6. Legal comments**

- 6.1 Under section 9 of the Policing and Crime Act 2017, the LFC 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 LFC 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 LFC would require the prior approval of either the Mayor or the Deputy Mayor for Planning, Regeneration and the Fire Service (the "Deputy Mayor"). Paragraph (b) of Part 2 of 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 In accordance with Section 5A Fire and Rescue Services Act 2004 (FRSA 2004), the LFC, being a 'relevant authority,' may do 'anything it considers appropriate for the purposes of the carrying- out of any of it's functions...'
- 6.4 Additionally, s7 of the Fire and Rescue Services Act 2004, states that the fire and rescue authority must make provision for the purpose of extinguishing fire in its area etc and in doing so must secure the provision of personnel, services and equipment necessary efficiently to meet normal requirements.

- 6.5 Following the Culture Review, CMP Solutions was commissioned to handle all complaints relating to DBH. Paragraph 1.8 of the Report, states that funding had been provided on an interim basis and there is now an outstanding amount of additional funding required to enable CMP to complete its investigatory task concerning DBH.
- 6.6 The Deputy Mayor for Planning, Regeneration and the Fire Service may authorise the London Fire Commissioner to commit the expenditure of up to £420,000 for resolving the remaining discrimination, harassment and bullying investigations from the first phase of work with CMP Solutions.
- 6.7 These comments have been adopted from those provided by the LFC's General Counsel Department in report LFC-24-070 to the LFC and the LFC have since confirmed that the proposed expenditure falls within the lawfully procured remit of the CMP Solutions contract.

**Appendices and supporting papers:**

Appendix 1 – London Fire Commissioner report LFC-24-070 - Resolution of Outstanding Outsourced Discrimination, Bullying and Harassment Cases

**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 – NO**

**ORIGINATING OFFICER DECLARATION:****Drafting officer**

Soeli Dayus 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 Planning, Regeneration and the Fire Service for approval.

**Advice**

The Finance and Legal teams have commented on this proposal.

**Mayoral Delivery Board**

A summary of this decision was reviewed by the Mayoral Delivery Board on 2 September 2024.

Drafting officer to confirm the following (✓)

✓

✓

✓

✓

**INTERIM CHIEF FINANCE OFFICER:**

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

**Signature:**



**Date:**

05/09/2024