


<b>Decision Maker</b>	Leadership Team	 THE ROYAL BOROUGH OF <b>KENSINGTON  AND CHELSEA</b>
<b>Date of Report</b>	27 November 2023	
<b>Forward Plan ref:</b>	KD1007505	
<b>Report title</b>	Settlement of Emergency Responders – Firefighter Claims	
<b>Reporting officer</b>	Maxine Holdsworth – Chief Executive	
<b>Key decision</b>	Yes	
<b>Access to information classification</b>	Public (Part A) with confidential/exempt appendix (Part B) not for publication due to it containing information relating to the financial or business affairs of any particular person (including the authority holding that information) and information in respect of which a claim to legal professional privilege could be maintained in legal proceedings and in all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.	
<b>Wards</b>	All	

**1. EXECUTIVE SUMMARY**

- 1.1 Since the Grenfell Tower tragedy on 14 June 2017, around 1,100 civil claims have been lodged for loss of life, personal injury, and other losses caused by the fire. While the Public Inquiry has been hearing evidence, these claims have been lodged in the Courts and lawyers for the claimants and the various defendants have been working hard to resolve them over the last few years. The majority of these claims have come from the bereaved families, survivors and local residents.
  
- 1.2 Within the 1,100 claims, there are also a group of 114 Fire Fighters which is largest portion of claims brought by emergency responders (Police and Fire Fighters). The proposals in this report relate to the vast majority of the Fire Fighters who claimed. This group were all serving Fire Fighters involved in responding to the Grenfell Fire and who are represented by a trade union solicitor firm and are currently participating in an alternative dispute resolution (ADR) process, where claimants and defendants seek to agree the outcome of claims outside of court proceedings. While progress is being made with all claimants, a way forward has nearly been agreed for this group of claimants who are in the ADR process.

- 1.3 This report sets out a proposal for the Royal Borough of Kensington and Chelsea (RBKC) to enter into a negotiated agreement to resolve these civil claims related to the Grenfell Tower disaster. This negotiated agreement includes four other defendants named in the civil proceedings and has been developed through an alternative dispute resolution process.
- 1.4 The Council understands the sensitivities within the community regarding the role of the fire service and its Fire Fighters on the night of the fire. As part of the alternative dispute resolution process, the Council has worked with other defendants to ensure that valid claims are resolved and compensated, in a way that mitigates the financial impact on the public purse.
- 1.5 Confidential/exempt information is contained in the exempt part B appendix as it contains information relating to the financial or business affairs of any particular person (including the authority holding that information) and also legal advice covered by legal professional privilege. In all the circumstances the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

## **2. RECOMMENDATIONS**

*The Leadership Team is recommended to:*

- i) Approve the Council entering into a global settlement agreement, as described in the exempt appendix, which will provide full and final settlement of those claims in the current alternative dispute resolution process.
- ii) Approve the Council entering into an apportionment agreement, as set out in the exempt Appendix.
- iii) Delegate authority to the Chief Executive following consultation with the Leader of the Council and following advice from the Monitoring Officer and Executive Director of Resources to agree and sign off the detailed terms of the settlement agreement and an apportionment agreement between defendants in the alternative dispute resolution process.

## **3. REASONS FOR DECISION**

- 3.1 Civil proceedings on behalf of a group of Fire Fighters were issued against the Council, KCTMO and a number of other defendants including those who were involved in the refurbishment of Grenfell Tower. Proceedings were stayed by the court to allow an ADR process to be progressed. The ADR process has resulted in a global settlement agreement being negotiated with the solicitors representing the Fire Fighters on behalf of their clients.
- 3.2 This report seeks approval for the Council to enter into the global settlement agreement. By the Council agreeing its share of the global settlement offer under

the ADR process, a full and final settlement can be reached. By agreeing the terms of the global settlement, along with other defendants, the Council is contributing to full and final settlement of valid claims, which will mitigate the financial impact on the public purse. Claims have been subject to specialist review and advice provided that the claims included in the settlement would be very likely to succeed in court if a settlement was not secured.

- 3.3 The Council needs to take this decision on an urgent basis to ensure that the settlement agreement can be finalised within the next three weeks. The Council is obliged to respect the fact that the terms of the agreement are confidential and that it has not yet been finalised. While the Council seeks to be open and transparent in its decision making, these factors have been taken into account in determining the information provided in this report and that which is contained within the exempt appendix.

## **4. BACKGROUND**

- 4.1 Since the Grenfell Tower tragedy on 14 June 2017, around 1,100 civil claims have been lodged for loss of life, personal injury, and other losses caused by the fire. As described above, there is one solicitor's firm representing the majority of those claims from fire fighters as part of the emergency responders to Grenfell Tower and are the parties concerned with this global settlement. There has been a previous report concerning the settlement of the majority of claims from bereaved families and survivors. ADR processes continue in respect of other emergency responders and the smaller group of bereaved families and survivors.
- 4.2 Although this paper uses the legal term 'defendants' the Council has always been clear that it is not trying to, and would not, defend the decisions made and actions taken that led to the tragedy. As with the Grenfell Tower Public Inquiry the Council is open, transparent, and proactive when it comes to highlighting the mistakes the Council made.
- 4.3 The ADR process allows for the outcome of the claims to be decided outside of court. Negotiations between the legal representatives of claimants and defendants have been facilitated by independent mediators.
- 4.4 The Council is one of a number of defendants engaged in the ADR process, with the Council acting on behalf of itself and KCTMO combined.
- 4.5 The Council was both owner and landlord of the Tower and made arrangements for KCTMO to act as its managing agent for its properties, including the Tower. This meant that KCTMO was responsible, under a management agreement, for delivering housing management and maintenance services as well as for delivery of the housing capital programme. Under the management agreement the Council agreed to indemnify KCTMO, and this included providing insurance coverage under the Council's insurance arrangements.

## **5. OPTIONS, ANALYSIS AND PROPOSAL**

- 5.1 As a result of progress to date in the ADR process, the defendants have made a global settlement offer to the larger group of fire fighters which includes a compensation offer for full and final settlement and is inclusive of their legal costs negating the need for further protracted negotiations and providing completion of this aspect of the work and certainty on the cost. This has been negotiated between the claimants' legal representative and the legal teams of the defendants. The Council will not be involved in the allocation or distribution of compensation to the claimants.

### *Acceptance by the claimants*

- 5.2 The terms of the draft global settlement offer are subject to the agreement of the claimants. This paper is required to seek the Leadership Team's approval to sign the global settlement agreement and to make payment for the Council's contribution.

### *Analysis and proposal*

- 5.3 The Council could have chosen not to participate in a pro-active claims engagement process, ultimately requiring HM Courts to rule upon the matter. However, this would have resulted in lengthy and costly litigation processes which could be mitigated through a negotiated settlement for valid claims.
- 5.4 It is therefore recommended that the Council enter into the global settlement arrangement. The claimants' lawyers have supported a global settlement and the advice from the Council's external legal advisers supports the overall sum and the Council's contribution to it. Not entering into the agreement would be likely to lead to considerable further legal costs if the claims were determined in the courts.
- 5.5 A summary of the confidential legal advice supporting this proposal is contained in the confidential appendix in Part B.

### *Other claimant groups*

- 5.6 While the ADR process outlined earlier in the report only applies to the claimants in the current ADR process, the defendants are also seeking to arrive at a negotiated settlement with other claimants. Currently the remaining groups are a smaller group of other first responders and a smaller group of bereaved, survivors and residents and ADR processes continue for these groups.

## **6. CONSULTATION AND COMMUNITY ENGAGEMENT**

- 6.1 The claimants' solicitors have been responsible for engaging with their clients in terms of the ADR process and the proposed global settlement agreement.

## **7. LEGAL IMPLICATIONS**

- 7.1 As set out in this report a significant number of claims have been issued in the High Court against the Council and other defendants for personal injury and other losses arising from the Grenfell Tower tragedy. Specialist external solicitors and counsel have advised the Council on the claims and the proposed settlement, and their advice supports the recommendations in this report.

## **8. FINANCIAL IMPLICATIONS**

- 8.1 The Council will be responsible for its contribution to the global settlement offer and claimants solicitors legal costs.
- 8.2 Other costs such as the mediators and our own legal costs have been paid as we have proceeded either by our insurers or from the Grenfell corporate costs budget.
- 8.3 The Council will be funding the payment for its contribution to the global settlement. This is likely to be from the capitalisation direction from the Department for Levelling Up, Housing, and Communities (DLUHC) detailed in previous reports. Further details on the amounts borrowed and cost of borrowing will be reported to the Leadership Team, when these are known.
- 8.4 The Council will always remain responsible for funding its share of the cost of the civil claims. However, it will be seeking to reclaim costs incurred during the response phase following the fire from other defendants. Any amounts recovered would be used to repay any borrowing incurred.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 A full Equality Impact Assessment has been conducted on the decision to enter into the agreement and is attached.

*Maxine Holdsworth*  
**Chief Executive**

### **Local Government Act 1972 (as amended) – Background papers used in the preparation of this report**

*None*

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