

The Royal Borough of Kensington and Chelsea

KEY DECISION

Report Title: Global settlement of claims KD1010917

Date: 22nd January 2025

Decision Maker	Leadership team
Reporting Officer	Maxine Holdsworth – Chief Executive
Key Decision	KD1010917
Access to information	Public with exempt appendix – not for publication due to it containing information relating to the financial or business affairs of any particular person (including the authority holding that information) and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.
Wards	All Wards affected

1. EXECUTIVE SUMMARY

- 1.1 A proposed settlement of the claims from a separate group of claimants impacted by the Grenfell tragedy and represented by Bishop Lloyd & Jackson (“BLJ”).
- 1.2 Since the Grenfell Tower tragedy on 14 June 2017, more than 1,100 civil claims have been brought for loss of life, personal injury, and other losses caused by the fire. These claims have been lodged in the High Court and the lawyers for the claimants and the various defendants have been working hard to resolve them over the last few years. The Council’s position has been to try and ensure the claims are resolved and compensated as fairly and quickly as possible and whilst the settlement details are confidential, and the Council is not involved in individual allocation of settlement payments the Council has worked hard to ensure parity with the previous settlement under [KD06400](#) which provided the basis for settling these groups of claims. The Council recognises how pivotal this stage of the journey is to people’s recovery.
- 1.3 This report recommends that the Council enter into a negotiated agreement to resolve the civil claims related to the Grenfell Tower disaster of those bereaved, survivor and resident claimants represented by BLJ. As the Leadership Team are aware, settlement has already been agreed with

solicitors who represented the larger group of such claims. This negotiated agreement involves contributions from other defendants named in separate civil proceedings and has been developed through an alternative dispute resolution process. It involves a global settlement offer for full and final settlement of those claims and settlement of the legal costs incurred in representing the claimants and whilst it has taken longer than envisaged will still ensure compensation is paid more rapidly than a court settlement and be a less traumatic process for the claimants involved.

- 1.4 Confidential/exempt information is contained in the exempt 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:

- 2.1 Approve the Council entering into a global settlement agreement to include a global settlement of the legal costs which will provide full and final settlement of those claims in the current Alternative Dispute Resolution (ADR) process.
- 2.2 Approve the expenditure provided for in the negotiated agreement, an explanation of which is set out in the exempt Appendix, which includes: the Council's share of the settlement sum and the Council's share of the associated legal costs which have been claimed on behalf of the claimants by their lawyers.
- 2.3 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 The Council was the landlord and owner of Grenfell Tower when the tragedy took place on 14 June 2017 and led to the loss of 72 lives. The Council's housing properties were managed by the Kensington and Chelsea Tenant Management Organisation (KCTMO) under a modular management agreement, in which the Council indemnified KCTMO. Civil proceedings were issued against the Council and KCTMO and the negotiated agreement proposed in this report includes contributions from 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

remaining group of the claimants who were bereaved, survivors or residents and whilst the settlement details are confidential, and the Council is not involved in individual allocation of settlement payments, the Council has worked hard to ensure parity with the previous settlement under [KD06400](#).^[OBJ]

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, the bereaved relatives, survivors and local residents involved will not need to go through court proceedings to receive compensation. It is generally accepted that court processes can be lengthy and traumatising, with people required to relive their experiences publicly and under scrutiny. By agreeing the terms of the global settlement, the Council will be able to help the bereaved relatives, survivors and residents avoid this additional traumatic experience, and ensure the claims are resolved and compensated as fairly and quickly as possible. The Council recognises how pivotal this stage of the journey is to people's recovery and the ADR process will help to ensure it passes as smoothly as possible.

3.3 Agreeing a settlement of legal costs with the claimants' solicitors avoids the need for detailed assessment proceedings to determine the costs to be paid by the defendants, which would cause delay and incur significant further legal costs for all parties, including the Council.

3.4 In taking this decision the Council is mindful in doing so it has due regard both to the privacy of individuals and families who will be covered by this agreement, and to 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, more than 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 a solicitor, BLJ, representing the remaining group of bereaved, survivor and resident claimants who agreed to participate in an ADR process and are the parties concerned with this global settlement.

4.2 Although this paper uses the legal term 'defendants' the Council has always been clear that we are 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 we are open, transparent, and proactive when it comes to highlighting the mistakes the Council made.

4.3 DWF Law LLP as the Council's external legal representatives and the RBKC internal insurance team have from the early days following this tragedy been

providing support within the legal process to those affected via their appointed solicitors with appropriate updates to and guidance from senior management. Initially this involved interim payments for damaged or lost personal effects and subsequently rehabilitation to aid recovery via external providers in consultation with claimants' solicitors. Once claimants and their solicitors were ready to begin a process to explore settlement of their clients' claims, the RBKC team joined by Leading Counsel have taken an active role in shaping the ADR framework agreement and then subsequently in the global settlement process.

- 4.4 The ADR process allows for the outcome of the claims to be decided outside of court. Negotiations between the legal representative of claimants and defendants have been facilitated by an independent mediator.
- 4.5 The Council is one of 9 parties engaged in the ADR settlement process, with the Council acting on behalf of itself and KCTMO combined.
- 4.6 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.
- 4.7 Some months after the fire, and following consultation with tenants and leaseholders, the Council in-sourced the housing management function and has been delivering housing management on an in-house basis since 1 March 2018.
- 4.8 This formal separation of the Council from KCTMO for the purposes of providing evidence to the Inquiry does not carry into the legal proceedings for compensation to claimants for injury or harm. Both parties have legal duties and responsibilities towards tenants and leaseholders in respect of the safe occupation of their homes.

5. OPTIONS, ANALYSIS AND PROPOSALS

- 5.1 As a result of progress to date in the ADR process, a global settlement offer has been negotiated which if agreed will settle the claims of the remaining group of bereaved, survivor and resident claimants. The compensation offer is in full and final settlement of the claims and is underpinned by endeavouring to ensure parity with the previous settlement. This has been negotiated between the claimants' legal representatives and the legal teams of the defendants. The Council will not be involved in the allocation or distribution of compensation to the claimants although the Council understands BLJ Solicitors have already agreed the allocation with their

clients and therefore distribution will be rapid and avoid the delays that have incurred in the previous process.

- 5.2 This report is seeking the Leadership Team's approval to sign the global settlement agreement when finalised and to make arrangements to pay the Council's contribution.
- 5.3 The Council could have chosen not to participate in a pro-active claim's engagement process, ultimately requiring HM Courts to rule upon the matter. This would not have met the Council's stated commitments to support the bereaved relatives, survivors and residents in their recovery, would have prolonged the timescale for and impact on the claimants in securing compensation and would have exposed the council to costly court action with greater legal costs incurred.
- 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 not be beneficial to the welfare of the claimants, and similarly would be likely to lead to considerable further legal costs if the claims were determined in the courts.
- 5.5 The confidential legal advice from leading Counsel supporting this settlement proposal is contained in the exempt appendix (Part B).

6. CONSULTATION AND COMMUNITY ENGAGEMENT

- 6.1 The solicitors for the claimants 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, PROPERTY AND ANY OTHER RESOURCES IMPLICATIONS

- 8.1 The Council is responsible for its contribution to the global settlement offer and claimants solicitors legal costs.
- 8.2 Other costs such as the mediators and the Council's own legal costs have been paid as the Council has proceeded either by the Council's insurers or from the Grenfell corporate costs budget.

- 8.3 The Council has used the remaining insurance indemnity to part fund its contribution to the global settlement.
- 8.4 The remaining costs relating to the settlement of all claims are being funded as part of the Council's £75m exceptional financial support request which was previously agreed by the government. These costs will be funded by external borrowing in line with the terms of this support.
- 8.5 Initially this request was agreed with the condition that any external borrowing would need to be at a premium rate (PWLB plus 1%) and the Council borrowed an initial £23.2m in March 2024. In October 2024 the Government announced this premium rate would be scrapped going forward. However, any loans already taken would still be charged at the premium rate. At the time the Council had outstanding borrowing of £20.9m already taken at the premium rate with a balance of £53.3m still to be borrowed.
- 8.6 Whilst the removal of the premium rate is welcome interest rates on borrowing have increased significantly since November 2024.
- 8.7 The revenue implications associated with this borrowing will be funded from the Civil Claims reserve, which is due to be utilised in full by 2026/27.
- 8.8 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 will be used to repay any borrowing incurred.

9. ENVIRONMENTAL IMPLICATIONS

- 9.1 None.

10. HUMAN RESOURCES IMPLICATIONS

- 10.1 None.

11. EQUALITIES IMPACT ASSESSMENT AND IMPLICATIONS

- 11.1 An EqIA has been completed and is attached to the decision report.
- 11.2 As settlement of claims is a positive outcome for all those involved, including any protected groups there are no mitigations to taken, consultation was untaken and distribution of funds rests with the claimant's solicitors.

12. OTHER CONSIDERATIONS

- 12.1 None.

13. APPENDICES

- 13.1 Appendix One : Appendix with Exempt information.
- 13.2 Appendix Two: Equalities Impact Assessment.

14. SUPPORTING AND BACKGROUND DOCUMENTS

14.1 None

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Mandatory clearance process

Cleared by **Corporate** Finance (LT)

Cleared by Legal Services (LP)

Cleared by Director of Communications and Public Affairs (NP)