

LONDON BOROUGH OF CAMDEN	WARDS: All
REPORT TITLE Delegation in respect of Settlement of Legal Proceedings: Chalcots Estate (CS/2021/14)	
REPORT OF Borough Solicitor	
FOR SUBMISSION TO Leader	DATE 21 May 2021
STRATEGIC CONTEXT <p>The Council is committed to replacing the cladding, curtain wall and windows at the Chalcots estate to the highest standard of safety. Recently, the Council has been engaging with residents during the conclusion of the design process and has a resident panel in place for the new procurement exercise which is progressing in line with the timescales set out in the November 2020 report to the Cabinet Member for Better Homes (SC/2020/100).</p> <p>In keeping with the Camden 2025 vision, the proposed work at the Chalcots estate is designed to keep residents safe, future proof homes in relation to ventilation and overheating, minimise the cost of future repairs and improve quality of life. The legal proceedings described in this report seek to recover costs incurred to date on the evacuation and emergency works, including cladding removal, also for the installation of a new cladding, curtain wall and windows.</p>	
SUMMARY OF REPORT <p>This report asks the Leader to delegate the decision to settle legal proceedings to the Executive Director Supporting Communities, in consultation with the Leader and Borough Solicitor and Executive Director Corporate Services. The legal proceedings concern a claim issued by the Council in respect of the re-cladding of the Chalcots Estate following the discovery of Aluminium Composite Material cladding on the tower blocks in June 2017.</p> <p>Under the terms of the Council's Constitution, the Cabinet Member for Better Homes has authority to settle legal proceedings and potential legal proceedings over £25,000 (and those below that threshold where matters of political sensitivity are concerned) within the relevant housing related parts of the Property Management, and Housing Management Divisions of the Supporting Communities Directorate and Housing Support Services Division of the Supporting People Directorate except for matters that are settled on the advice of the Council's insurers</p> <p>However, the Leader may personally discharge any Cabinet functions or may (without prejudice to his or her continued power to so discharge) make</p>	

arrangements for their discharge by the Cabinet, another member of the Cabinet, a Committee of the Cabinet or an officer of the authority. It is considered appropriate that this matter comes to the Leader because of the significance of this piece of litigation, both in terms of value and reputational impact.

Local Government Act 1972 – Access to Information

No documents that require listing have been used in the preparation of this report.

Contact Officer:

Andrew Maughan
Borough Solicitor
Law and Governance
5 Pancras Square
London
N1C 4AG
020 7974 5656
andrew.maughan@camden.gov.uk

RECOMMENDATIONS

That the Leader delegates authority to the Executive Director Supporting Communities, in consultation (to be undertaken as outlined in the report) with the Leader and Borough Solicitor and Executive Director Corporate Services, to take any decision to settle the legal proceedings, or any part of them.

Signed: 
Date: Tuesday 11 May 2021

1. CONTEXT AND BACKGROUND

- 1.1. This report asks the Leader to delegate the decision to settle a matter of legal dispute to the Executive Director Supporting Communities in consultation with the Leader and Borough Solicitor and Executive Director Corporate Services , in respect of a claim which the Council has brought.
- 1.2. The London Borough of Camden ('the Council') is the Claimant in proceedings commenced against five companies involved in the private finance initiative (PFI) refurbishment of the Chalcots Estate in 2006-2009 who it is alleged were responsible for the use of Aluminium Composite Material (ACM) cladding in the refurbishment of the Estate. This cladding caused the Council to have to evacuate the Estate in the aftermath of the Grenfell fire, and subsequently undertake works to replace the cladding and remedy other construction defects.

2. PROPOSAL AND REASONS

- 2.1 The Leader is asked to delegate authority to the Executive Director Supporting Communities, in consultation with the Leader and Borough Solicitor and Executive Director Corporate Services, to take any decision to settle the legal proceedings, or any part of them.
- 2.2 The delegation sought will be subject to consultation with three named individuals. For the avoidance of doubt and bearing in mind that the decision may need to be taken urgently the consultation will take the following form. Those to be consulted will be warned of the need to be ready to reply urgently when consulted. The consultation itself will involve at least an email to the individual together with a phone call to both the individual and their respective personal assistants. Should contact not be made a further email will be sent asking for comments within a specified time (which may because of the nature of these issues be short notice). The delegated decision maker will then irrespective or not of having received a reply make a decision.
- 2.3. The dispute will be the subject of a mediation in June 2021. It is a condition of attendance at the mediation that all parties' representatives have the authority to agree a settlement of the dispute at the mediation, hence the need for a delegation of this authority.
- 2.4 The reasons are set out in the Part 2 Appendix.

3. OPTIONS APPRAISAL

- 3.1 The options are to:

- (i) Agree the proposed delegation to give authority to the Executive Director Supporting Communities to settle all or part of the proceedings, in consultation with the Leader and Borough Solicitor and Executive Director Corporate Services; or
- (ii) Not to agree the delegation.

3.2 Option (i) is the recommended option. This will ensure Officers have the necessary authority to settle the proceedings or part of them should it be deemed in the interests of the Council to do so during the mediation. If a satisfactory agreement can be reached it will eliminate the risk and costs exposure to the Council which would otherwise persist if the litigation is continued. At a minimum, engaging in the mediation is expected to narrow down the issues in dispute amongst the parties.

4. WHAT ARE THE KEY IMPACTS / RISKS? HOW WILL THEY BE ADDRESSED?

- 4.1 If proceedings are continued, there is a risk that the Council loses the litigation and has to pay the other parties' costs. Litigation is by its nature uncertain. The risk justifies all parties making some attempt to compromise the litigation, provided that the level of compromise corresponds with the level of risk. A satisfactory outcome at the mediation would bring a substantial claim (and associated risk) to a complete end, and save future legal costs.
- 4.2 Even if the Council had to pursue the matter and won the litigation in its entirety, it would incur some irrecoverable costs in doing so.

5. CONSULTATION/ENGAGEMENT

- 5.1 None required

6. LEGAL IMPLICATIONS

- 6.1 Legal comments are contained in the Part 2 Appendix

7. RESOURCE IMPLICATIONS

- 7.1 Finance comments are contained in the Part 2 Appendix

8. ENVIRONMENTAL IMPLICATIONS

- 8.1 There are no environmental implications.

9. TIMETABLE FOR IMPLEMENTATION

- 9.1 As set out in paragraph 2.3 the proposed recommendations will enable officers to have the necessary authority to engage with the mediation in June 2021 and fulfil the conditions of attendance. If the recommendations in this report are approved, Officers will attend the mediation in June and will, taking on board the advice of Counsel, seek to narrow the issues in dispute as well as seek to achieve settlement in respect of all or part of the claim should this be deemed acceptable and in the best interests of the Council.

10. APPENDICES

Part 2 Appendix

REPORT ENDS