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19 November 2010

To: All Members of the Full Council

Dear Member,

Full Council - Monday, 22nd November, 2010

I attach a copy of the following reports for the above-mentioned meeting which were not available at the time of collation of the agenda:

12. TO RECEIVE REPORTS FROM THE FOLLOWING BODIES (PAGES 1 - 30)

b). Constitution Review Working Group– Report No.2 – 2010/11.

Yours sincerely

Ken Pryor
Deputy Head of Local Democracy and Member Services

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**REPORT OF THE CONSTITUTION REVIEW WORKING GROUP No. 02/2010-11
COUNCIL 22 NOVEMBER 2010**

Chair:
Councillor Cooke (substituting for Cllr Kober)

INTRODUCTION

1.1 This report to full Council arises from the 3 briefings considered by the Constitution Review Working Group (CRWG) at our meeting on 11 November 2010. These briefings were entitled:

- (i) Procedures for Complaints against Members in the Protocol for Member/Officer Relations,
- (ii) London Local Authorities “Gold” Resolution on Joint Emergency Arrangements, and
- (iii) Haringey Petition Scheme.

ITEMS FOR DECISION

**2. PROCEDURES FOR COMPLAINTS AGAINST MEMBERS IN THE
PROTOCOL FOR MEMBER/OFFICER RELATIONS**

- 2.1 We considered a briefing on this matter (Appendix 1) and noted that the issues had arisen originally from a Standards Panel hearing last year. The Panel had expressed concern about the long time taken to resolve a complaint against a Member and the apparent lack of a clear and transparent relationship between the statutory procedure under the Members’ Code of Conduct and the non-statutory procedures for complaints in the Protocol for Member/Officer Relations (“the Protocol”).
- 2.2 We were informed that the matter had subsequently been considered by the main Standards Committee on 10 June when the Committee had approved suggested text changes to the Protocol (Appendix 2) subject to the views of CRWG and the agreement of full Council. The Standards Committee had asked for further amendments to Appendix 2 at paragraph 9.16 to provide for (i) the Service Head having to consult both the Head of Human Resources and the Monitoring Officer on receipt of the initial complaint about the arrangements for investigating it, (ii) the ability to appoint a senior officer as investigator either from within the complainant’s Service/Directorate or from outside it, and (iii) a statement that an investigation should be completed within 6 months whenever practicable. The Standards Committee had also asked for changes to paragraph 9.18 which are now incorporated in Appendix 2.
- 2.3 We were advised that a complainant had the right to pursue the statutory procedure if unsuccessful or dissatisfied under the non-statutory procedures, or vice versa, and that only the non-statutory procedures in the Protocol are within the Council’s powers to amend. We considered that the advice of the Service Head and the Monitoring Officer about the appropriate procedure to

follow should be given to the complainant at the outset of his/her complaint and not just when the complainant is contemplating a change of procedure. The relevant text change is incorporated in Appendix 2 at the end of paragraph 9.16.

- 2.4 We noted the other main changes proposed to the non-statutory procedures under the Protocol as follows: (i) the power of the Monitoring Officer to reject plainly abusive complaints in paragraph 9.15 (ii) the introduction of a mediation process, if the parties agree, in paragraph 9.16 (a) (iii) provision for the maintenance of confidentiality in paragraph 9.19 and (iv) provision for reporting the outcome of complaints under the non-statutory procedures to the Standards Committee in paragraph 9.20.

WE RECOMMEND:

That Members adopt the changes set out in Appendix 2 to this report as amendments to the Protocol on Member/Officer Relations at Part 5, Section B of the Council's Constitution.

3. LONDON LOCAL AUTHORITIES "GOLD" RESOLUTION ON JOINT EMERGENCY ARRANGEMENTS

- 3.1 We received a briefing on the "Addendum" to the "Gold" resolution (Appendix 3) which had been proposed by the Leaders' Committee of London Councils on 13 July as an improvement to the London-wide arrangements for responding to emergencies. Haringey's Cabinet had agreed the revised arrangements on 12 October. The purpose of the report to CRWG and full Council was to make corresponding amendments to the Council's Constitution that reflected the revised arrangements. The proposed amendments are set out in Appendix 4 to this report.
- 3.2 We noted that under the existing arrangements each London Borough had agreed to delegate its powers to respond to emergencies and disasters to the Borough Chief Executive who, at the time, was acting as "LA Gold". Experience in recent years had shown that LA Gold performed an important role in co-ordinating the actions of the Boroughs through advice and guidance in situations that could be described as "rising tide" or disruptive events, such as severe weather or threatened pandemics, as distinct from very sudden emergencies. This role was limited to advice and guidance rather than the formal exercise of powers delegated by other Boroughs. Provision is now made for this as reflected in Appendix 4 at Article 11.07 (b).
- 3.3 We were advised that a new "trigger" mechanism was being introduced as an alternative to the existing trigger which was the convening of "Gold Command" under Police leadership. This new trigger mechanism was the convening of a London Partnership Meeting with the prior agreement of London Councils and it would be used for situations where a Police-led response was not appropriate. One or other of the trigger mechanisms was required before LA Gold would be able to exercise emergency powers delegated by other Boroughs. Provision for this is in Article 11.07 (c).

- 3.4 The other significant change to the arrangements was the new power of LA Gold to incur expenditure up to a limit of £1 million in response to an emergency before receiving confirmation from Central Government, or the Council whose area is affected, that the expenditure will be reimbursed. Provision for this is in Article 11.07 (e).

WE RECOMMEND:

That Members adopt the changes set out in Appendix 4 to this report as amendments to Article 11.07 on London Councils Arrangements for Co-ordinating Response to Emergencies at Part 2 of the Council's Constitution.

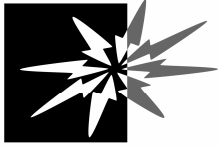
4. THE HARINGEY PETITIONS SCHEME

- 4.1 We considered a briefing on the proposed revisions to the Council's Petitions Scheme (Appendix 5). We noted that the Local Democracy, Economic Development and Construction Act 2009 (LDEDC) imposed a duty on local authorities to respond to petitions and that the duty came into force on 15 June 2010. From 15 December 2010 all local authorities will also be required to have an electronic petitioning system on their website.
- 4.2 We further noted that on 19 July 2010 Full Council agreed a petition scheme for Haringey and that section 11(5) of the LDEDC Act allows a Council to revise their Petition Scheme at any time, with full Council being required to approve any changes. The Council must publish its revised petition scheme on its website and in such manner as the Council considers appropriate to bring it to the attention of persons who live, work or study in its area.
- 4.3 The requirement to make available on the Council website an e-petitions facility has necessitated a number of changes to the Haringey Petition Scheme. Recommended changes to the scheme in light of this are based on the guidance produced by the Department for Communities and Local Government and were considered by us at CRWG.
- 4.4 CRWG also considered further amendments to the Petition Scheme in order to improve the running of the petition process in Haringey. The principle change is to provide further clarity around what information will be made available on the Council website in relation to petitions submitted. In addition it is recommended that a mechanism be established so that prior to any request by a lead petitioner for Overview and Scrutiny (OSC) to review steps taken in response to a petition, an opportunity will be made available for officers to consider such a complaint, in the first instance. This may avoid unnecessary referrals to the OSC. The changes are intended to reduce the burden placed upon officer time and Council Committees and to improve transparency around the Petitions process. Attached at Appendix 6 is the existing Petition Scheme with the revisions shown as tracked changes.
- 4.5 We asked for an amendment to the section in Appendix 6 headed "E-petitions" at the third paragraph so that the public will be told that an e-petition

should be published on-line as soon as practicable but this may take up to 5 working days to allow for checks to guard against unsuitable content. This has now been incorporated into Appendix 6.

WE RECOMMEND

That Members agree the revised Petition Scheme as set out in Appendix 6.



Haringey Council

APPENDIX 1

Briefing for:	Constitution Review Working Group	Item number:	
Title:	Review of Procedures for Complaints against Members in the Member/Officer Protocol		
Lead Officer:	John Suddaby, Head of Legal Services and Monitoring Officer		
Date:	11 November 2010		
Purpose:	To consider proposed changes to the Protocol on Member/Officer Relations (Part 5, Section B of the Council's Constitution), as set out in Appendix 2 to this briefing, which clarify the relationship between the various procedures available for making complaints against Members, and to recommend these changes to the full Council for adoption.		
Recommendations:	That the Constitution Review Working Group recommends the next full Council meeting to adopt the changes to the Protocol on Member/Officer Relations, set out in Appendix 2 to this briefing, as amendments to the Council's Constitution at Part 5, Section B.		

1. Briefing on the Procedures for Complaints Against Members in the Protocol for Member/Officer Relations - Background

- 1.1 This matter arises from the hearing of a complaint against a Member by a Standards Determination Hearing Panel and the recommendations made by the Panel to the Council (attached as Appendix 1 to that report and this briefing).
- 1.2 As can be seen in Appendix 1, the Panel was concerned about possible confusion in the minds of complainants about the procedures available under: (1) the statutory Members' Code of Conduct, and (2) the non-statutory Protocol for Member/Officer Relations ("the Member/Officer Protocol"). The Panel recommended that the Member/Officer Protocol be reviewed to ensure greater transparency and clarity and to achieve a better interface with the Members' Code of Conduct.

- 1.3 The Panel also asked for the independent monitoring of complaints under the Member/Officer Protocol which could be achieved by reports to the Standards Committee.

2. Report to the Standards Committee

- 2.1 A report was submitted to the Standards Committee on 10 June (attached to this briefing). The report explained the main features of the recommended changes to the Member/Officer Protocol at paragraphs 8.1. A substantially re-drafted version of the Protocol was attached to the Standards Committee report as Appendix 2 (see paragraph 3.3 below).
- 2.2 The main changes recommended were:
- (i) Introduction of a “mediation” process in the less serious cases if both parties agree.
 - (ii) Distinguishing the statutory procedure under the Members Code of Conduct from the non-statutory internal investigation.
 - (iii) Recognising that complainants have the right to start under one procedure and to change to another but stating that only one procedure will be followed at any one time.
 - (iv) Stating the expectation that complainants will seek advice from their Service Head and the Monitoring Officer before changing from one procedure to another.
 - (v) Making provision for the Monitoring Officer to reject clearly abusive complaints under the non-statutory procedures. Complaints under the statutory Members Code of Conduct can only be rejected by the Assessment Sub-Committee.
 - (vi) Making provision for maintaining confidentiality under the non-statutory procedures.
 - (vii) Empowering the Standards Committee to monitor the outcomes of complaints under the non-statutory procedures.

2.3 One issue that had caused particular concern to the Standards Determination Hearing Panel was the length of time taken to resolve the complaint in that case. This complaint had started with an internal investigation and had then continued as a complaint under the Members' Code of Conduct. While the difficulties in that case were somewhat exceptional, there remains the fact that it would not be possible, or necessarily desirable, to force complainants to opt for one procedure initially and to exclude their right to change to another procedure later should the first process prove unsuitable or unsuccessful. The best means available to avoid delay and confusion is to encourage complainants to seek advice from the Monitoring Officer both at the outset and subsequently before the complainant opts for any change in the procedure to be followed.

3. Views of the Standards Committee

- 3.1 The Standards Committee meeting on 10 June expressed the view that there should be a fuller description of the "internal investigation" procedure in paragraph 9.16 of the Member/Officer Protocol. The Committee wished the Service Head, on receiving the complaint, to consult the Head of Human Resources and the Monitoring Officer about the arrangements for the investigation. It should be made clear that the person appointed to investigate could be an officer from within the complainant's Service/Directorate or from outside it. The Committee considered that there should be an indicative time limit of 6 months for completing an investigation although circumstances would sometimes make this impossible.
- 3.2 There were also concerns about the lack of clarity in paragraph 9.18 of the Protocol which deals with the involvement of party groups and party Leaders in the complaints process. It would only be those complaints falling under the Members' Code of Conduct that could be referred to an Assessment Sub-Committee. This referral could be made, after advice from the Monitoring Officer, either by the party Leader or by the complainant or by both together.
- 3.3 The text that was proposed by the Standards Committee in paragraphs 9.16 and 9.18 of the Protocol is shown in Capital letters in Appendix 2 to this briefing. The text that is in lower case, underlined and in italics shows the other proposed additions to the Protocol approved by the Standards Committee. The text that is shown struck through represents proposed deletions from the current Protocol. The text in ordinary type (i.e. not underlined nor in italics nor struck through) is the wording of the current Protocol that will remain. Appendix 2 as now drafted was approved by the Chair of the Standards Committee after its meeting.

4. Comments of the Head of Legal Services

- 4.1 The legal implications are contained in the body of this briefing and in the attached report to the Standards Committee.

5. Comments of the Chief Financial Officer

- 5.1 There are no specific financial implications.

6. Recommendations

- 6.1 That the Constitution Review Working Group recommends the next full Council meeting to adopt the changes to the Protocol on Member/Officer Relations, set out in Appendix 2 to this briefing, as amendments to the Council's Constitution at Part 5, Section B.

7. Appendices

- 7.1 Report to the Standards Committee meeting on 10 June 2010 entitled "Review of Procedures for Complaints against Members in the Member/Officer Protocol".
- 7.2 Appendix 1 to that report - Recommendation to Council from the Standards Determination Hearing Panel.
- 7.3 Appendix 2 to that report (as amended) - Proposed Amendments to the Protocol on Member/Officer Relations (Part 5, Section B of the Council's Constitution).

APPENDIX 2

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Part Five, Section B
Protocol on Member/Officer Relations

Formal complaints about Members

9.14 These may be made to the employee's Service Head. Within five working days, they will give an indication of how the matter will be dealt with and roughly how long it might take. Any complaint by a Chief Officer should be referred to the Chief Executive.

9.15 Normally they will:

- ~~(a) investigate the matter, and~~
- ~~(b) (a) inform and involve the Monitoring Officer, and~~
- ~~(c) (b) advise the Leader of the party group of the complaint.~~

The Monitoring Officer may reject a complaint made under paragraph 9.16 (a) or (b) below on the grounds that it is vexatious, plainly ill-founded or substantially the same as a complaint previously determined under the procedures below. There is no right of appeal against the Monitoring Officer's ruling but this is without prejudice to any statutory rights to pursue the matter which the complainant may have. The Monitoring Officer has no power to reject a complaint made under the Members' Code of Conduct which must be considered by a Standards Assessment Sub-Committee.

9.16 Complaints will be handled under one of the following procedures:

(a) Through a process of mediation if this is appropriate and both parties to the complaint agree; or

(b) Through an internal investigation by the Service Head or ~~their nominee~~ their appointee. The Service Head will consult the Head of Human Resources and the Monitoring Officer about the arrangements for the investigation and may appoint an appropriate person from within or outside the complainant's Service/Directorate to investigate. Whenever practicable an investigation will be completed within 6 months but there may be circumstances where this is not possible. ~~If this fails to resolve the complaint, there will be an investigation and report by a senior officer from outside the complainant's Directorate. This~~

procedure is distinct from the statutory procedures under the Members' Code of Conduct;

(c) Through a formal complaint under the Members' Code of Conduct which is appropriate for more serious cases, or if the officer concerned requests it, provided that the facts fall within the scope of the Code.

Only one of the three procedures will be pursued at any time but a complainant has the right to discontinue under one procedure and to start the complaint afresh under another procedure. The advice of the Service Head and the Monitoring Officer on the options available in terms of procedures will be given to the complainant when the complaint is first made and before any change to a different procedure.

9.17 An officer making a complaint can ask the Monitoring Officer to advise whether the matter might amount to a potential breach of the Members' Code of Conduct. At all times, a complainant has the right to make a formal complaint that a Member has acted in breach of the Code of Conduct and any such complaint will be referred to an Assessment Sub-Committee of the Standards Committee for a decision as to whether it should be investigated under the Code. But not all complaints will fall within the scope of the Code and complainants will be advised wherever possible to refer less serious complaints to mediation or internal investigation.

~~9.16~~ 9.18 Some issues are matters of party discipline. Such breaches of this protocol will normally be dealt with by the party itself. More serious breaches falling under the Members' Code of Conduct, and where the Monitoring Officer advises that this is appropriate, will be referred to the Monitoring Officer and to the Standards Assessment Sub-Committee by the party Leader and/or by the complainant.

~~9.17~~ However, where the alleged breach of this protocol also amounts to a breach of the code of conduct for Members (a separate document), this will be referred by the party Leader to the Standards Board, an outside body, for investigation.

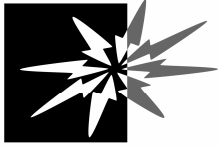
~~9.18~~ 9.19 Confidentiality should be maintained as appropriate.

Complaints under paragraphs 9.16 (a) and (b) will be kept confidential to the parties to the complaint, the investigator, persons interviewed in the course of the investigation, the party Leader and the Monitoring Officer. Complaints under 9.16 (c) follow the statutory procedure.

9.20 The outcome of complaints handled under paragraphs 9.16 (a) and (b) will be reported regularly by the Monitoring Officer to the Standards Committee for monitoring and for the Committee to

consider issuing guidance on ethical governance to the Council in the light of cases.

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Haringey Council

APPENDIX 3

Briefing for:	Constitution Review Working Group	Item number:	
Title:	Proposed Addendum to the London Local Authorities' "Gold" Resolution on Joint Emergency Arrangements		
Lead Officer:	John Suddaby, Head of Legal Services and Monitoring Officer		
Date:	11 November 2010		
Purpose:	<p>To consider a proposed Addendum to the existing Local Authorities' "Gold" Resolution which is intended to improve the London-wide arrangements for responding to both exceptional crises and lower impact emerging disruptive events. This Addendum has been approved in principle by the Leaders' Committee of London Councils but before the new arrangements can take effect the Cabinet/Executive of every London Local Authority must pass the relevant standard form resolution. The new arrangements should be incorporated into the Council's Constitution through amendments to Article 11.07 in Part 2. CRWG Members are requested to recommend these constitutional amendments to full Council consequent on the passing of the relevant resolution by Cabinet on 12 October.</p>		
Recommendations:	<p>That Members of the Constitution Review Working Group:</p> <p>(1) note the resolution passed by the Cabinet meeting on 12 October agreeing to amend the existing Local Authority "Gold" Resolution by the adoption of the proposed Addendum to it, as set out in Appendix 1 to this Briefing, and</p> <p>(2) recommend the full Council to adopt the changes set out in Appendix 2 to this Briefing as amendments to Article 11.07 (Joint Arrangements) in Part 2 of the Council's Constitution.</p>		

Briefing on the Addendum to the London Local Authorities' Gold Resolution on Joint Emergency Arrangements.

1. The Existing Gold Resolution and the Review

- 1.1 In 2003/2004 all the London Boroughs and the City Corporation adopted a standard form resolution ("the Gold resolution"), in terms agreed between Central Government and London Councils, on behalf of the Boroughs, which aimed to make formal arrangements for a co-ordinated London-wide response to emergencies or disasters. The Gold resolution was last amended in early 2006 to take into account the Civil Contingencies Act 2004 and the lessons of the July 2005 London bombings.
- 1.2 Under the terms of the existing Gold resolution certain powers are delegated by the other local authorities to a single Local Authority Gold Chief Executive ("LA Gold") so that he/she can co-ordinate the response to the emergency. The role of LA Gold is undertaken by each Borough's Chief Executive in turn on a rotating basis.
- 1.3 LA Gold can act formally only when the Gold Co-ordinating Group, or "Gold Command", usually led by the Police, has been convened to deal with an incident which, at the least, requires what has been known as a "level 2 response" (see paragraph 3.3 below). LA Gold has delegated powers to incur expenditure and to make grants or loans for the purposes of responding to the emergency but only if Central Government, or the Council affected, confirms that this money will be reimbursed. The powers delegated are those relating to response to emergencies and disasters in section 138 of the Local Government Act 1972.
- 1.3 A Review Panel of London Borough Chief Executives, who manage local authority interests in London-wide resilience planning, have considered the operation of the joint arrangements in the light of recent practical experience. Their proposals for change and improvement have been set out in an "Addendum" to the existing Gold resolution. The full text of both the existing resolution and the Addendum are set out in Appendix 1 to this Briefing.
- 1.4 The Addendum has been considered and approved in principle at a meeting of the London Councils Leaders' Committee on 13 July. The Cabinet or Executive in each of the 33 London local authorities is being asked to pass the relevant resolution in a standard form adopting the Addendum. The new arrangements will only come into force once all the Boroughs have passed the resolution. London Councils will co-ordinate this. Haringey's Cabinet passed the relevant resolution on 12 October.

2. Rising Tide or Disruptive Events

- 2.1 Experience has shown that the joint arrangements have operated usefully, albeit usually informally, in a number of situations that can be characterised as "rising tide" or disruptive where there is no major incident requiring an immediate Police led response but rather a more gradually unfolding serious problem. In February 2009

exceptionally heavy snow created a real challenge to local authority service continuity. The “swine-flu” pandemic in the Summer and Autumn of 2009 and the prolonged severe winter weather from December 2009 to February 2010 gave rise to a longer-running set of problems for local authorities and their partner agencies.

- 2.2 Gold Command was not convened for any of these episodes as they were never deemed an emergency. However, the LA Gold was actively involved in an informal way in co-ordinating action between agencies. For example, in the winter of 2010 this included the distribution of large quantities of highway salt and the co-ordination of 900 priority road gritting requests.
- 2.3 For the type of disruptive events noted above, London Councils considered that it would be desirable to amend the Gold resolution in order to formalise the role of LA Gold. This will enable LA Gold to co-ordinate the actions of several Boroughs by providing support, guidance and advice but without the power to formally “direct” other Councils, to exercise emergency powers delegated by them or to incur expenditure on their behalf. Provision is to be made for this in paragraph 3 of the Addendum (see Appendix 1).

3. Revised Arrangements for Responding to Emergencies

- 3.1 It has become apparent that some rising tide or disruptive events may develop into serious situations where LA Gold needs to exercise powers delegated by other Boroughs under section 138 of the Local Government Act 1972. In some cases Gold Command will be convened but there are likely to be many other situations not calling for Police led response where there should be an alternative formal “trigger mechanism” to empower LA Gold to act.
- 3.2 The alternative trigger mechanism approved by London Councils is the convening of the London Partnership Meeting which is normally led by the London Resilience Team of the Government Office for London. In addition, the prior agreement of London Councils on behalf of the Boroughs would have to be obtained. In practice, to facilitate urgent action, this power to agree will be delegated by London Councils to its own Chief Executive acting in consultation with the Leaders of the three main political groups on London Councils.
- 3.3 Members will note that under the existing Gold resolution, at paragraph 3, the formal trigger mechanism for the delegation of emergency powers to LA Gold is the convening of Gold Command in response to an incident requiring a “level 2 response”. Since 2006 the terminology used by Central Government has changed and the reference to a “level 2 response” is no longer helpful.
- 3.4 Therefore, paragraph 4 in the Addendum refers to two possible trigger mechanisms: either (a) the convening of Gold Command in response to a major incident, or (b) the alternative mechanism noted above, namely, the convening of the London Partnership Meeting with the prior agreement of London Councils.

4. Revised Arrangements for Incurring Expenditure

- 4.1 Under the existing Gold resolution at paragraph 6, LA Gold only has power to incur Expenditure, or to make grants or loans, if that expenditure is reasonably incurred to safeguard life or property, to prevent suffering or severe inconvenience or to promote community cohesion and a return to normality. In addition, it is a pre-requisite of LA Gold's power to incur expenditure that reimbursement has been confirmed either (i) by the Council in whose area the incident has occurred, or (ii) by the relevant Minister on behalf of Central Government.
- 4.2 However, there may be occasions when an incident occurs in the early hours of a Sunday or on a bank holiday where LA Gold is unable to obtain assurance from the affected Council or the Minister that expenditure will be reimbursed before it becomes essential to incur significant costs in response to an emergency situation. In order to make provision for this type of incident, London Councils have proposed that in future LA Gold would have power to incur expenditure (for the purposes noted at paragraph 4.1 above) provided this was kept to minimum levels and limited to no more than £1 million pending confirmation of reimbursement. This extension of the power to incur expenditure is set out at paragraph 5 of the Addendum.

5. Amendments to the Council's Constitution

- 5.1 Standing joint arrangements with other Councils are described in Part 2, Article 11 of the Constitution. Details of the joint emergency arrangements established through London Councils are set out in Article 11.07. In order to reflect the substantial changes being agreed as a result of the Addendum to the Gold resolution, Article 11.07 has been re-drafted as shown in Appendix 2 to this Briefing. Now that the Cabinet has passed the relevant resolution, CRWG Members are asked to recommend this constitutional amendment to full Council for adoption.

6. Memorandum of Understanding

- 6.1 There are already many informal understandings and arrangements for mutual aid in emergencies between various Boroughs. London Councils consider it desirable that these arrangements should be placed on a more formal and standardised footing. Accordingly, a Memorandum of Understanding has been drafted which provides for one Borough to provide another with personnel and/or equipment in the event of an emergency or other disruptive event. This assistance would be paid for on a cost recovery basis by the receiving Borough. The Memorandum is not legally binding. Following the Cabinet's resolution, the Chief Executive has signed the Memorandum of Understanding on behalf of Haringey Council.

7. Comments of the Head of Legal Services

- 7.1 The functions relating to response to emergencies and disasters under section 138 of the Local Government Act 1972 are “executive-side”. The agreement of the Leader and Cabinet are required for any new or amended joint arrangements with the “executives” of other Local Authorities. Accordingly, The Cabinet has passed a resolution amending the existing Local Authority “Gold” Resolution by the adoption of the proposed Addendum to it, as set out in Appendix 1 to this Briefing,
- 7.2 The amendments to the Council’s Constitution, which follow from the adoption of the Addendum, are to be recommended to full Council for adoption after consideration by the CRWG.

8. Comments of the Chief Financial Officer

- 8.1 There are no specific financial implications beyond those noted in the body of this Briefing.

9. Recommendations

- 9.1 That Members of the Constitution Review Working Group:
- (1) note the resolution passed by the Cabinet meeting on 12 October agreeing to amend the existing Local Authority “Gold” Resolution by the adoption of the proposed Addendum to it, as set out in Appendix 1 to this Briefing, and
- (2) recommend the full Council to adopt the changes set out in Appendix 2 to this Briefing as amendments to Article 11.07 (Joint Arrangements) in Part 2 of the Council’s Constitution.

10. Appendices

- 10.1 Appendix 1 is the text of the existing Gold resolution passed by Haringey’s Executive on 14 March 2006 followed by the Addendum to the Gold resolution approved in principle by London Councils on 13 July 2010.
- 10.2 Appendix 2 shows the re-drafted Article 11.07 of the Constitution reflecting the changes in the Addendum.

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APPENDIX 4

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HARINGEY COUNCIL CONSTITUTION

PART 2 – ARTICLES OF THE CONSTITUTION

ARTICLE 11 – JOINT ARRANGEMENTS

11.07 London Councils Arrangements for Co-ordinating Response to Emergencies

(a) The Council and Cabinet have resolved to delegate their powers under section 138 of the Local Government Act 1972 (power to incur expenditure to avert or alleviate the effects of an emergency or disaster) to an outside Chief Executive appointed to co-ordinate the response of London local authorities to a catastrophic *major* incident or a lesser emergency. This “L.A. Gold” Chief Executive will be appointed under arrangements approved by Central Government, London Councils and the London Resilience Team Forum. ~~The Gold Chief Executive will have power to incur expenditure needed in connection with a catastrophic incident or, subject to paragraph (c) below, an emergency.~~

(b) Where an incident, emergency or other event emerges over a period of time (such as a pandemic or extreme weather), and where the Gold Co-ordination Group (“Gold Command”) may not have been convened, L.A. Gold will be empowered on behalf of the London local authorities to co-ordinate any local authority response as necessary, providing advice and guidance as required. In these circumstances L.A. Gold will not have power to incur expenditure or to exercise delegated powers unless authorised under paragraphs (c)(ii), (d)(ii) or (e) below.

~~(b) These arrangements will only come into effect in the event that:~~

- ~~(i) the Minister of State for London Resilience declares that~~
- ~~a “catastrophic incident” has occurred, or is imminent,~~
- ~~or~~

~~(ii) there is an emergency requiring a level 2 response as defined in Guidance under the Civil Contingencies Act 2004.~~

~~(c) The delegation of powers under section 138 of the Local Government Act 1972 to L.A. Gold will only have effect in the following circumstances:~~

~~(i) after the convening of Gold Command, normally led by the Police, in response to the declaration of a major incident, or~~

~~(ii) for other disruptive events such as extreme weather which do not require the convening of Gold Command, after the convening of a London Partnership Meeting, normally led by the London Resilience Team, provided that the agreement of London Councils (under delegated powers) is also secured.~~

~~(c) (d) In the event of an emergency requiring a level 2 response, the Gold Chief Executive Subject to paragraph (e) below, L. A. Gold will only have power to incur expenditure once:~~

~~(i) the Minister of State confirms that H.M. Government will reimburse expenditure reasonably incurred by the Gold Chief Executive L.A. Gold in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience, or~~

~~(ii) The Council or Councils in whose area the emergency incident occurs confirm that it/they will reimburse expenditure incurred as for the purposes in (i) above.~~

~~(e) In the event that L.A. Gold has not been able to receive confirmation from the Council(s) in whose area an incident has occurred that expenditure will be reimbursed, and where it is absolutely essential for L.A. Gold to incur expenditure for the purposes in paragraph (d)(i) above or to promote community cohesion and a return to normality, it has been agreed that the Council(s) affected will meet that expenditure provided it is kept to minimum levels and does not exceed £1 million in total while confirmation of reimbursement is being sought.~~

~~(d) (f) All Council officers are authorised to take any action in accordance with instructions issued by the appointed L.A. Gold under the arrangements described above. Gold Chief Executive in the event that such a “catastrophic incident” is declared or an emergency requiring a level 2 response occurs.~~



Appendix 5

Report for:	Constitution Review Working Group
Title:	Haringey Petitions Scheme
Lead officer:	Ken Pryor, Deputy Head of Local Democracy and Member Services
Date:	11th November 2010

1. Purpose

To propose a revised petition scheme which will need approval by the full Council and to note the steps being taken to establish an e-petitions system.

2. Background

The Local Democracy, Economic Development and Construction Act 2009 (LDEDC) imposes a duty on local authorities to respond to petitions. The duty came into force on 15 June 2010. From 15 December 2010 all local authorities will also be required to have an electronic petitioning system on their website.

At full Council on 19 July 2010 a petition scheme for Haringey was agreed. It was also agreed that CRWG would consider any review of the scheme. Section 11(5) of the LDEDC Act allows a council to revise their petition scheme at any time, with Council being required to approve any changes.

On 24 September 2010 the Department for Communities and Local Government (CLG) issued a notice to Council Chief Executives announcing the withdrawal of the statutory guidance for petitions. The statutory duty to respond to petitions, as well as the requirement to provide an e-petitions facility will, however, remain. In setting up an e-petitions facility CLG has requested that councils consider 'current circumstances, and [have] regard to both the Government's commitment to remove unnecessary prescription for local authorities and the priority of cutting out all wasteful spending.' While the Council is statutorily obliged to promote the scheme, and revisions to it, the extent to which we do so is a matter for local discretion.

3. Review of the existing petitions scheme

Officers have made suggested amendments to the existing scheme in order to ensure that it is compatible with the introduction of e-petitions. A revised scheme is attached as Appendix 1. Principle recommendations for amending the scheme are as follows:

- Amendments to incorporate new ways to submit a petition. The sections titled 'e-petitions' and 'how do I sign an e-petition' are taken from the guidance produced by the Department for Communities and Local Government.



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- Information submitted on a petition by the petition organiser and the other petitioners will be made available publicly via the website.
- E-petitions to remain on the council website for a maximum of 6 months, with a default setting of 2 months (this default is prescribed by the modern.gov system however it can be amended). The guidance (non-statutory) suggests that most petitions run for 6 months, with a maximum of 12 months.
- That a step be added to the process of calling for a review so that discussion can take place between officers and the lead petitioner. It is anticipated that this would help to ensure that additional and unnecessary burdens are not placed upon Overview and Scrutiny.

Any additional amendments agreed by the CRWG will be incorporated into the scheme, which will then be need to be agreed by Full Council.

4. Establishing an e-petitions system

Officers have reviewed the market and consider that the best option is to make use of the e-petitions facility provided by our agenda management supplier – modern.gov. This has been offered as a free add-on to our current system and officers are satisfied that this system would meet the minimum statutory requirements. Minimal staffing costs associated with implementation can be contained within existing budgets.

A number of different companies offer e-petition systems and the market is quite congested however this has not resulted in significant reductions in cost such that they would be competitive with the modern.gov free offer.

It is recommended that in the initial stages the modern.gov system is used on the basis that it is free and relatively simple to set up, allowing us time to assess demand without committing to up-front costs. Should a more advanced system be required this could then be considered at a later date.

5. Implications for Haringey

The council currently receives on average 1-2 petitions per month, however the introduction of an electronic petitioning scheme is likely to increase this number.

In addition to this, a number of policy announcements by the coalition government may have implications for use of petitions and the number received. These include:

- Resident power to veto council tax rises
- New powers to help communities save local facilities and services from closure
- Resident power to instigate a referendum on any issue
- Council's right to challenge proposed closure of local services

For now, it is recommended that officers continue with a business as usual approach but be vigilant to any significant increase in the number of petitions and the potential impact on council resources.

Utilising the modern.gov petitions option will incur relatively small costs, arising from some necessary work by corporate IT and officer time in Local Democracy and Member Services. Any minimal costs arising will be contained within existing budgets.



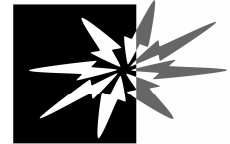
Haringey Council

6. Recommendations

That:

- Members of CRWG approve the amendments to the Haringey Petitions Scheme (Appendix 1) recommended by officers.
- Members of CRWG agree the scheme together with any further amendments required.
- The scheme is reported up to full Council.
- Officers set up the modern.gov e-petitions system and make it accessible via the council's website in accordance with the statutory timescales.

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Haringey Council

APPENDIX 6

[Additions to the scheme are underlined and sections that have been removed or replaced are crossed through]

Haringey Petition Scheme

The council welcomes petitions and recognises that petitions are one way in which people can let us know their concerns. All petitions sent or presented to the council will receive an acknowledgement from the council within 10 working days of receipt. This acknowledgement will set out what we plan to do with the petition. We will treat something as a petition if it is identified as being a petition, or if it seems to us that it is intended to be a petition.

You can submit a petition to the council by:

- Sending a paper petition to:

Ian Christie
Feedback and Information Manager
7th Floor, River Park House
225 High Road
Wood Green
N22 8HQ

- E-mailing an electronic (scanned) copy of the petition to petitions@haringey.gov.uk
- Signing and submitting your petitions online via our petitions homepage at www.haringey.gov.uk/petitions.
- Presenting your petition to a meeting of the council.*

*Dates of Council meetings can be found via the meetings calendar on the Council website. If you would like to present your petition to the council please contact Ken Pryor (details below) by 10 a.m. at least 5 clear working days before the meeting (e.g. Friday for a meeting on the Monday 10 days later) and the process will be explained to you. Further details of how to present a petition to full Council are outlined later in this scheme.

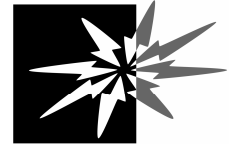
Ken Pryor
Deputy Head of Local Democracy and Member Services
7th Floor, River Park House
225 High Road
Wood Green
N22 8HQ
ken.pryor@haringey.gov.uk

Tel. 020 8489 2915

If you are submitting a paper petition please submit the original copy of the petition (If you have submitted a scanned version you may be asked to provide the original copy). Please also note that the council reserves the right to validate petition signatures and addresses.

What are the guidelines for submitting a petition?

Petitions submitted to the council must include:



Haringey Council

- A clear and concise statement covering the subject of the petition. It should state what action the petitioners wish the council to take
- The name, address and signature of any person supporting the petition.

Paper petitions may also be submitted alongside an electronic petition. Please clearly indicate on your petition form that signatures are also being collected on the website or vice versa.

Petitions should be accompanied by contact details, including the name, address and phone number of the petition organiser. This is the person we will contact to explain how we will respond to the petition. ~~The contact details of the petition organiser and the other petitioners, other than their name, will not be placed on the website.~~ If the petition does not identify a petition organiser, we will attempt to contact one of the signatories to the petition to agree who should act as the petition organiser. Copies of paper petitions will be made available on the council website. This means that the contact details of the petition organiser, and the other petitioners, that are submitted when signing a paper petition will be visible on the council website. If you sign an e-petition people viewing the petition online will be able to see your name in the list of those who have signed it but your contact details will not be visible. However in respect of e-petitions the Council may be obliged to disclose the street where petitioners live, in the event of a Freedom of Information Act request or following a requirement under another statutory ~~requirement~~ provision.

What will the council do when it receives my petition?

Where contact details have been supplied, an acknowledgement will be sent to the petition organiser within 10 working days of receiving the petition. It will let them know what we plan to do with the petition and when they can expect to hear from us again. It will also be published on our website.

If we are in a position to carry out the action in your petition then our acknowledgement may confirm the actions we have undertaken and the petition will be closed. If the petition has enough signatures to trigger a council debate, or a senior officer giving evidence, then the acknowledgment will confirm this and tell you when and where the meeting will take place. If the petition needs more investigation, we will tell you the steps we plan to take.

To ensure that people know what we are doing in response to the petitions we receive the details of all the petitions submitted to us will be published on our website, except in cases where this would be inappropriate. ~~Whenever possible we will also publish all correspondence relating to the petition. All sensitive personal details will be removed from any related correspondence.~~ As a general rule we will not publish correspondence relating to the petition unless we consider it necessary or otherwise appropriate.

When you sign an e-petition you will receive this information by email. We will not send you anything which is not relevant to the petition you have signed, unless you choose to receive other emails from us.

Are there any circumstances in which my petition will not be accepted?

Petitions which are considered to be vexatious, abusive or otherwise inappropriate will not be accepted and no action will be taken. We also reserve the right to reject petitions where they are substantially the same as a petition which has been submitted to the Council in the past 6 months. We will explain the reasons for this in our acknowledgement of the petition. The Monitoring Officer will make the final ruling on this.

In the period immediately before an election or referendum we may need to deal with your petition differently – if this is the case we will explain the reasons and discuss the revised timescale which will apply. If a petition does not follow the guidelines set out above, the council may decide not to do anything further with it. In that case, we will write to you to explain the reasons.



If the petition applies to a planning or licensing application, is a statutory petition (for example requesting a referendum on having an elected mayor), or on a matter where there is already an existing right of appeal, such as council tax banding and non-domestic rates, alternative procedures to this scheme will apply.

How will the council respond to petitions?

Our response to a petition will depend on what a petition asks for and how many people have signed it, but may include one or more of the following:

- taking the action requested in the petition
- considering the petition at a council meeting
- holding an inquiry into the matter
- undertaking research into the matter
- holding a public meeting
- holding a consultation
- holding a meeting with petitioners
- referring the petition for consideration by the council's overview and scrutiny committee*
- calling a referendum
- writing to the petition organiser setting out our views about the request in the petition

*The Overview and Scrutiny Committee is a committee of councillors who are responsible for scrutinising the work of the council – in other words, the overview and scrutiny committee has the power to hold the council's decision makers to account.

In addition to these steps, the council will consider all specific actions it can potentially take on issues highlighted in a petition.

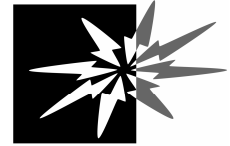
If your petition is about something over which the council has no direct control (for example the local railway or hospital) we will consider making representations on behalf of the community to the relevant body. The council works with a large number of local partners and where possible will work with these partners to respond to your petition. If we are not able to do this for any reason (for example if the petition calls for conflicts with council policy), then we will set out the reasons for this to you.

If your petition is about something that a different council is responsible for we will give consideration to what the best method is for responding to it. This might consist of simply forwarding the petition to the other council, but could involve other steps. In any event we will always notify you of the action we have taken.

Petitions to full Council

The Deputy Head of Local Democracy & Member Services should be notified of any Petitions by 10 a.m. five clear days in advance of the Council meeting e.g. Friday for a meeting on the Monday 10 days later. The petition will be handed to the Mayor, and recorded as received by the Deputy Head of Local Democracy & Member Services without any further debate. The relevant Cabinet member should report the Council's response to the petition at the next ordinary meeting of the Council. A copy of this response will be sent to the Petitioner.

If a petition contains more than 2,200 signatures it will trigger a debate by the full Council, unless it is a petition asking for a senior council officer to give evidence at a public meeting. This means that the issue raised in the petition will be discussed at a meeting which all councillors can attend. The council will endeavour to consider the petition at its next meeting, although on some occasions this may not be possible and consideration will then take place at the following meeting. The petition organiser will be given five minutes to present the petition at the meeting and the petition will then be discussed by councillors for a maximum of 15 minutes. The council will decide how to respond to the



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petition at this meeting. They may decide to take the action the petition requests, not to take the action requested for reasons put forward in the debate, or to commission further investigation into the matter, for example by a relevant committee. Where the issue is one on which the council executive are required to make the final decision, the council will decide whether to make recommendations to inform that decision. The petition organiser will receive written confirmation of this decision. This confirmation will also be published on our website.

Officer evidence

Your petition may ask for a senior council officer to give evidence at a public meeting about something for which the officer is responsible as part of their job. For example, your petition may ask a senior council officer to explain progress on an issue, or to explain the advice given to elected members to enable them to make a particular decision.

If your petition contains at least 1,100 signatures, the relevant senior officer will give evidence at a public meeting of the council's Overview and Scrutiny Committee. A list of the senior staff that can be called to give evidence can be found on the Council's website. You should be aware that the overview and scrutiny committee may decide that it would be more appropriate for another officer to give evidence instead of any officer named in the petition – for instance if the named officer has changed jobs. The committee may also decide to call the relevant councillor to attend the meeting. Committee members will ask the questions at this meeting, but you will be able to suggest questions to the chair of the committee by contacting the Overview & Scrutiny Manager by 10 a.m. at least 5 clear days before the meeting.

Overview and Scrutiny Manager
7th Floor, River Park House
225 High Road
Wood Green
N22 8HQ
scrutiny@haringey.gov.uk

Tel. 020 8489 6922

E-petitions

The council welcomes e-petitions which are created and submitted through our website. E-petitions must follow the same guidelines as paper petitions.

The petition organiser will need to provide us with their name, postal address and email address. You will also need to decide how long you would like your petition to be open for signatures. The default time set for petitions to run for is two months, but you can choose a shorter or longer timeframe, up to a maximum of 6 months.

When you create an e-petition we will try to publish it online as soon as possible however it may take up to five working days. If we feel we cannot publish your petition for some reason, we will contact you to explain why. You will be able to change and resubmit your petition if you wish. If you do not do this within 10 working days, a summary of the petition and the reason why it has not been accepted will be published under the 'rejected petitions' section of the website.

When an e-petition has closed for signature, it will automatically be submitted to the appropriate service. In the same way as a paper petition, you will receive an acknowledgement within 10 working days. If you would like to present your e-petition to a meeting of the council, please contact Ken Pryor (same details as paper petitions) within 10 working days of receipt of the acknowledgement. A petition acknowledgement and response will be emailed to everyone who has signed the e-petition and elected to receive this information. The acknowledgment and response will also be published on this website.

How do I 'sign' an e-petition?

You can find e-petitions available for signature via our petitions homepage at www.haringey.gov.uk/petitions. When you sign an e-petition you will be asked to provide your name, your postcode and a valid email address. When you have submitted this information you will be sent an email to the email address you have provided. This email will include a link which you must click on in order to confirm the email address is valid. Once this step is complete your 'signature' will be added to the petition. People visiting the e-petition will be able to see your name in the list of those who have signed it but your contact details will not be visible.

What can I do if I feel my petition has not been dealt with properly?

If you feel that we have not dealt with your petition properly, the petition organiser has the right to request that the council's Overview and Scrutiny Committee review the steps that the council has taken in response to your petition. It is helpful to everyone, and can improve the prospects for a review, if the petition organiser gives a short explanation of the reasons why the council's response is not considered to be adequate.

The committee will endeavour to consider your request at its next meeting, although on some occasions this may not be possible and consideration will take place at the following meeting. Should the committee determine we have not dealt with your petition adequately, it may use any of its powers to deal with the matter. These powers include instigating an investigation, making recommendations to the council executive and arranging for the matter to be considered at a meeting of the full council.

Prior to requesting a formal review by the Council's Overview and Scrutiny Committee of the steps taken in response to the petition, the petition organiser may contact the Feedback and Information Manager (details below), and the Council will look into your complaint. The Council may uphold your complaint wholly or partly at this stage and look again at the steps taken, or proposed to be taken, in response to your petition. If you remain dissatisfied you continue to have the right to request a review, by the council's Overview and Scrutiny Committee, of the steps taken in response to your petition.

Ian Christie
Feedback and Information Manager
7th Floor, River Park House
225 High Road
Wood Green
N22 8HQ
ian.christie@haringey.gov.uk

Tel. 020 8489 2557

Once the appeal has been considered the petition organiser will be informed of the results within 5 working days. The results of the review will also be published on our website.

There is no further internal right of appeal within the Council.

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