

Agenda item:

CABINET on 12 OCTOBER 2010

Proposed Addendum to the London Local Authority “Gold” Resolution on Joint Emergency Arrangements

Report of: **Julie Parker, Director of Corporate Resources**

Signed :

Contact Officer : Terence Mitchison, Principal Project Lawyer Corporate
8489 5936

Wards(s) affected: **All**

Report for: **Key Decision**

1. Purpose of the report (That is, the decision required)

- 1.1. To seek Cabinet approval to a proposed Addendum to the existing London Local Authority “Gold” resolution. This is intended to improve London-wide arrangements for responding both to exceptional crises and to lower impact emerging disruptive events.
- 1.2. The Addendum has been approved in principle by the Leaders’ Committee of London Councils. Before the new arrangements can take effect, the Cabinet/ Executive of every London local authority must pass a similar resolution to agree and accept the Addendum.
- 1.3. After Cabinet’s approval, the Constitution Review Working Group and full Council will be recommended to incorporate the new arrangements into the Council’s Constitution through amendments to Article 11.07 in Part 2.

2. Introduction by Cabinet Member (if necessary)

- 2.1. The Council is committed to contributing fully to London’s emergency arrangements, as a key part of ensuring that Haringey is prepared for any emergency.

- 2.2. The London Bombings, the Alexander Litvinenko incident and the severe winter weather have shown the need for multi-agency cooperation and inter-borough cooperation to effectively deal with large-scale emergencies. In each case, the London Local Authority Gold resolution has proven to be critical to allow the boroughs to cooperate effectively. In last winters snow, these arrangements allowed London's bus routes to remain gritted, despite the national salt shortage. As such, the changes proposed have cross-party support at the London Councils Leader's Committee.
- 2.3. The proposal represents an important tidying-up, to allow the resolution to keep pace with the reality of how the boroughs work together in emergencies in three ways. Firstly to formalise the role of Local Authority Gold in lower-impact, emerging incidents (such as influenza pandemic). Secondly to update the trigger for empowering Local Authority Gold, for example in the event of extreme and disruptive weather. And finally, to allow Local Authority Gold to take immediate action in extreme and rapidly developing situations.

3. State link(s) with Council Plan Priorities and actions and /or other Strategies:

- 3.1 Haringey Council's Integrated Emergency Management Plan makes provision for ensuring business continuity in the event of emergencies and disruptive events. This Plan takes into account the London-wide arrangements under the "Gold" resolution.
- 3.2 Amendments should be made to Article 11.07 in Part 2 of the Council's Constitution to reflect the new emergency arrangements resulting from the Addendum.

4 Recommendations

- 4.1 That Members agree and accept the Addendum to the existing London Local Authority "Gold" resolution set out in the Appendix to this report to take effect only once London Councils have notified that all London local authorities have agreed and accepted the Addendum.
- 4.2 That Members note the Memorandum of Understanding for Mutual Aid between the Boroughs, mentioned at paragraph 9.1 below, which is to be entered into by the Chief Executive under his delegated powers.
- 4.3 That Members request the Constitution Review Working Group and full Council to make the necessary amendments to the Council's Constitution to reflect the new emergency arrangements.

5 Reason for recommendation(s)

- 5.1 London Councils has reviewed the operation of the "Gold" resolution and related practical arrangements over the last few years. Changes were proposed by the Panel of Chief Executives concerned with resilience planning. The Leaders' Committee of London Councils at its meeting on 13 July 2010 endorsed the Addendum to the existing "Gold" resolution and called on all London local authorities to formally agree and accept it.

6 Other options considered

6.1 There is no alternative option under consideration.

7 Report

The Existing Gold Resolution and the Review

- 7.1 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.
- 7.2 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.
- 7.3 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 7.11 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.
- 7.4 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 the Appendix to this report.
- 7.5 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 a resolution in similar form agreeing and accepting the Addendum. The new arrangements will only come into force once all the Boroughs and the City Corporation have passed their own resolutions to agree and accept the Addendum. London Councils will co-ordinate this.

Rising Tide or Disruptive Events

- 7.6 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.
- 7.7 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.
- 7.8 For the type of disruptive events noted above, London Councils consider 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 the Appendix to this report).

Revised Arrangements for Responding to Emergencies

- 7.9 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.
- 7.10 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.
- 7.11 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”. This terminology (i.e. the “level 2 response”) is no longer used by Central Government and the London Resilience Team and so new terminology is used in the Addendum that better describes the proposed trigger mechanisms.

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.

Revised Arrangements for Incurring Expenditure

- 7.12 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.
- 7.13 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 7.12 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.

8 Amendments to the Council's Constitution

- 8.1 Standing joint arrangements with other Councils are described in Part 2, Article 11.07 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 will re-drafted. The Constitution Review Working Group (CRWG) will then be asked to recommend the re-drafted Article 11.07 to full Council for adoption. The amendments would take effect only when London Councils had notified Haringey Council that all other London local authorities had passed their resolutions agreeing the Addendum.

9. Memorandum of Understanding

- 9.1 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

<p>for on a cost recovery basis by the receiving Borough. The Memorandum is not legally binding. Given that this kind of operational arrangement falls within the Chief Executive's delegated powers, he proposes to sign the Memorandum of Understanding on behalf of Haringey Council once Cabinet has agreed this report.</p>
<p>10. Comments of the Chief Financial Officer</p> <p>10.1 There are no specific financial implications beyond those noted in the body of this report.</p>
<p>11. Comments of the Head of Legal Services</p> <p>11.1 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. There is no need for the full Council to approve the substantive arrangements.</p> <p>11.2 The amendments to the Council's Constitution, which will follow from the adoption of the Addendum, should be recommended to full Council for adoption after consideration by the CRWG.</p>
<p>12. Equalities & Community Cohesion Comments</p> <p>12.1 There are no specific equalities or community cohesion implications.</p>
<p>13. Consultation</p> <p>13.1 London Councils have consulted with Central Government, the Metropolitan Police and other organisations involved in resilience planning.</p>
<p>14. Service Financial Comments</p> <p>14.1 Not applicable.</p>
<p>15. Use of appendices</p> <p>15.1 The Appendix to this report 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.</p>
<p>16. Local Government (Access to Information) Act 1985</p> <p>16.1 Background papers: Report to London Council's Leaders' Committee on 13 July 2010 and its appendices. Haringey Council's Constitution.</p>

APPENDIX

LOCAL AUTHORITY “GOLD” RESOLUTION

Resolution passed in 2006 on behalf of each London Borough Council and the Common Council of the City of London (“the Councils”)

1. This resolution is made in accordance with section 138 Local Government Act 1972, section 101 Local Government Act 1972, section 19 Local Government Act 2000, Regulations 7 and 10 Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000 and all other enabling powers. The resolution has regard to “Emergency Response and Recovery” the non-statutory Guidance issued pursuant to the Civil Contingencies Act 2004.
2. As from the date of this resolution the Council’s functions under section 138(1) Local Government Act 1972 (Powers of principal councils with respect to emergencies or disasters) are delegated to the Council which has appointed the Head of Paid Service as defined in paragraph 3 below in the circumstances set out in paragraphs 4-7 below.
3. The Head of Paid Service is the person appointed by one of the Councils under section 4 Local Government and Housing Act 1989 who, following the convening of the Strategic Co-ordinating Group (“Gold Command”) to respond to an incident requiring a “Level 2” response (as defined in paragraph 4 below) has agreed to discharge the functions under section 138(1) Local Government Act 1972 (“the functions”) on behalf of the Councils.
4. An emergency requiring a Level 2 response is a single site or wide-area disruptive challenge which requires a co-ordinated response by relevant agencies.
5. The functions hereby delegated shall not be exercised until resolutions delegating the functions have been made by all the Councils.
6. The powers hereby delegated to the Council which has appointed the Head of Paid Service shall not include any power to incur expenditure or to make grants or loans to any person unless either:
 - the Head of Paid Service has received confirmation from the Minister that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience will be reimbursed by HM Government; or
 - the Head of Paid Service has received confirmation on behalf of the Council(s) in whose area(s) the incident has occurred that expenditure reasonably incurred by the Head of Paid Service in taking immediate action to safeguard life or property; to prevent suffering or severe inconvenience and to promote community cohesion and a return to normality, will be met by the Council (or the Councils in proportions to be agreed by them).

7. In the event the Minister has confirmed that expenditure will be reimbursed by HM Government, the Head of Paid Service shall, insofar as reasonably practicable, consult with and inform the Council(s) in whose area(s) the incident has occurred regarding any action proposed to be taken.

Addendum to the Local Authority ‘Gold’ Resolution to be agreed on behalf of each London Borough Council and the Common Council of the City of London (“the Councils”)

1. The purpose of this addendum is to clarify and amend the Local Authority “Gold” Resolution that has been entered into by the Councils to a) reflect changed procedural arrangements for responding to incidents b) permit the Head of Paid Service (Local Authority Gold) as defined in paragraph 3 of the Local Authority Gold Resolution to incur minimum essential expenditure where it has not been possible to secure the prior agreement of the Councils affected and c) agree that, in other circumstances known as rising tide or disruptive events, Local Authority Gold should be able to coordinate the local authority effort, including providing advice and guidance, as necessary, to help shape the responses of individual authorities.
2. The Local Authority “Gold” Resolution will, in future, operate in accordance with the following arrangements:

Coordination of the Local Authority Effort

3. Where an incident, emergency or other event emerges or has emerged over a period of time (such as pandemic influenza or extreme weather), and where the convening of the Gold Coordination Group (Gold Command) may not have occurred, Local Authority Gold will be empowered, on behalf of the Council(s) to coordinate any local authority response as necessary, providing advice and guidance as required. In these circumstances, Local Authority Gold will not have any power to incur expenditure unless authorised under paragraph 4 b) below.

Delegation of Powers

4. Local Authority Gold shall, in discharging the functions under section 138(1) Local Government Act 1972 on behalf of the Councils, do so

only in the following circumstances:

- a) following the convening of the Gold Coordination Group normally led by the Police in response to the declaration of a major incident (Gold Command);

or

- b) for other disruptive events such as extreme weather that do not require the immediate establishment of Gold Command, following 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 for Local Authority Gold to discharge the functions under section 138(1) Local Government Act 1972 on behalf of the Councils.

Minimum Essential Expenditure

- 5. In the event that it has not yet been possible for Local Authority Gold to receive confirmation from or on behalf of the Council(s) in whose area(s) the incident has occurred (in accordance with paragraph 6 of the Local Authority Gold Resolution) that expenditure reasonably incurred will be met by the Council(s) and where it is absolutely essential for Local Authority Gold to incur expenditure, for example to safeguard life or property, to prevent suffering or severe inconvenience and to promote community cohesion and a return to normality, it is agreed that the Council(s) in whose area(s) the emergency has occurred will meet that expenditure on the basis that it will be kept to minimum levels and limited to a sum not exceeding £1m in total, while the process is taking place to secure the necessary confirmation.

Agreement of all the Councils

- 6. The amendments to the Local Authority 'Gold' Resolution contained in this Addendum shall not take effect until this Addendum has been agreed and accepted by all the Councils.