



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.