

THE EXECUTIVE

5 APRIL 2006

REPORT OF THE ACTING DIRECTOR OF REGENERATION

REVISED LOCAL AUTHORITY GOLD RESOLUTION	FOR DECISION
<p>Summary:</p> <p>This report advises Councillors of revisions required to update the Local Authority Gold resolution, which vests the “Gold” Chief Executive with the necessary powers to act on behalf of all the London local authorities in an emergency.</p> <p>The revisions are required to take account of:</p> <ul style="list-style-type: none">• The impact of the Civil Contingencies Act 2004, and• Lessons learned from the July bombings, which have illustrated the need for a basis for boroughs to work together when an event has not been declared to be catastrophic. <p>The Association of London Government (ALG) has requested that all boroughs adopt this resolution individually.</p> <p>Wards Affected: All</p>	
<p>Implications:</p> <p>Financial:</p> <p>There are no direct financial implications arising from this report. The resolution would only confer the power to incur expenditure when the “Gold” Chief Executive has received confirmation from the relevant Minister that expenditure will be reimbursed by the Government or from Council(s) in whose area(s) the incident has occurred.</p> <p>Legal:</p> <p>Passing the resolution would authorise the Gold Chief Executive to act on behalf of the participating Councils in the circumstances set out in the report.</p> <p>Risk Management:</p> <p>In the event of a Major Incident occurring in London on the scale of the bombings in July 2005 there is a need for all London boroughs to work together. Failure to do so could:</p> <ul style="list-style-type: none">• Dilute the response below that necessary to carry out our legal obligations;• Expose the Council to significant reputational damage if we are seen to be out of step with our Local Authority Emergency Planning partners under the Civil Contingencies Act 2004.	

Social Inclusion and Diversity: None		
Crime and Disorder: None		
Recommendation(s)		
The Executive is recommended to agree the text of the resolution attached as Appendix B , which would vest a “Gold” Chief Executive with the necessary powers to act on behalf of all the London local authorities in responding to an emergency.		
Reason(s)		
A new ‘Gold’ resolution was needed to take account of two developments:		
<ul style="list-style-type: none"> • The impact of the of the Civil Contingencies Act 2004, which is being implemented in stages; and • The lessons learned from the July bombings, which have illustrated the need for a basis for boroughs to work together when an event has not been declared to be catastrophic. 		
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1. Introduction

London Resilience has been a successful and close partnership between the Minister for London Resilience (Phil Woolas MP), boroughs, the Mayor of London, the emergency services, London’s business community and other key public services. The partners deliver a co-ordinated approach to emergency planning for London, the value of which was demonstrated by the response to the July 2005 bombings.

2. “Local Authority Gold” Resolution

2.1 Every London borough and the Common Council of the Corporation of the City of London passed the “Local Authority Gold” resolution in early 2004. This resolution empowered a single London borough Chief Executive, the “Gold” Chief Executive, to act on all boroughs’ behalf in an emergency. The resolution has provided a useful tool over the last two years, underpinning boroughs’ willingness to work together on resilience issues. However, the resolution is formally invoked only if the Minister declares a catastrophic incident. The resolution empowers the “Gold” Chief Executive to incur expenditure only if the Minister has confirmed that central government will reimburse the expenditure.

2.2 The resolution requires review and amendment to take account of two developments:

- The impact of the of the Civil Contingencies Act 2004, which is being implemented in stages; and
- The lessons learned from the July bombings, which have illustrated the need for a basis for boroughs to work together when an event has not been declared to be catastrophic.

3. Legal Considerations

3.1 The main enabling power for the LA Gold resolution is section 138 of the Local Government Act 1972, which allows the London boroughs and the Common Council to incur expenditure in response to an imminent or actual emergency or disaster involving destruction of or damage to property which is likely to affect the whole or part of a local authority's area. Section 138 allows an authority to incur such expenditure as they consider necessary in taking action, either alone or jointly with any other person or body and either in the authority's area or outside it. This power is unaffected by the Civil Contingencies Act 2004.

4. The Civil Contingencies Act 2004

4.1 The Civil Contingencies Act 2004 does not confer any additional duties or powers on local authorities in respect of responding to, or incurring expenditure on, an emergency, apart from a duty to make arrangements to warn, inform and advise the public in the event of an emergency. There is an order-making power which allows a Minister to require authorities to take action in connection with an emergency, although the power does not extend to incurring expenditure. No Order has been made. There is also a power for Her Majesty by Order in Council to make emergency regulations.

4.2 Non-statutory Guidance has been issued pursuant to the Civil Contingencies Act 2004 on response to, and recovery from, emergencies. The guidance states that the role of local authorities in the immediate aftermath of an emergency is to:

- support the emergency services and crucially exercise a community leadership role;
- in emergencies that exceed existing mortuary provision, liaise with the coroner's office to provide emergency mortuary capacity;
- in the case of a protracted emergency, the provision of support to emergency response personnel (including catering, toilets and rest room facilities);
- as the emphasis moves from response to recovery, facilitate the rehabilitation of the community and restoration of the environment.

4.3 The Guidance states that emergency financial assistance may be available to affected local authorities under the Bellwin Scheme. The governing legislation for the Bellwin scheme restricts emergency financial relief to any *extra expenditure* on immediate action to safeguard life or property or to prevent severe inconvenience to inhabitants following an emergency.

4.4 The Guidance introduces a requirement for Regional Civil Contingencies Committees (RCCCs) whose role is to provide a prompt response to facilitate multi-agency planning and in due course strategic management, should this become necessary. It is expected that RCCC meetings will take place at one of three levels:

Level 1: Convened in the phase prior to an emergency, where prior warning is available - for example a significant human or animal disease outbreak.

Level 2: To co-ordinate the response to an emergency across a region including consequence management and recovery

Level 3: Following the formal declaration of a decision to take special legislative measures under Part 2 of the Civil Contingencies Act.

- 4.5 The ALG's legal adviser concludes that a fresh resolution authorising LA Gold to operate at RCCC Levels 1 and 2 is therefore required (Level 3 only coming into play following a decision to take special legislative measures).

5. Financial implications of the revised resolution

- 5.1 In light of the above, a revised resolution was required. However it was considered unlikely that boroughs would be willing to agree to such a resolution without some assurances regarding the funding of such expenditure. Sir Robin Wales, Chair of ALG Leaders' Committee, wrote to the Minister of State for London Resilience, Phil Woolas MP, on 10 December 2005, seeking clarity about how any revised "Local Authority Gold" Resolution might be activated and the arrangements for funding. Sir Robin's letter is attached as **Appendix C**
- 5.2 The Minister's reply of 19 January 2006 is attached as **Appendix D**. It states that in an emergency the Government will give urgent consideration to the case for reimbursing local authorities reasonable costs, taking into account the particular circumstances, and let them have a rapid decision. The Minister quotes the Government's willingness to consider the unique circumstances after the July bombings as evidence of its concern that an undue burden should not fall upon local authorities. Nevertheless, the letter also refers to the Bellwin scheme and indicates the Government's view that where the LA Gold representative incurs expenditure on behalf of another borough, reimbursement should in the first instance, be sought from the relevant borough.
- 5.3 In the light of the Minister's reply and the need for a basis for boroughs to work together when an event has not been declared to be catastrophic, the ALG's legal adviser has provided a revised resolution. The revised resolution is attached as **Appendix B**.
- 5.4 Members are asked to note that no power to incur expenditure will take effect unless:
- the Head of Paid Service ("Gold" Chief Executive) 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 "Gold" Chief Executive 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 or to prevent suffering or severe inconvenience will be met by the Council (or the Councils in proportions to be agreed by them).

6. Consultees

Portfolio holder:

Civic Services; Cllr H. Collins

Corporate Strategy

Muhammed Saleem; Solicitor to the Council and Monitoring Officer

Finance

Alex Anderson, Head of Finance, Department of Regeneration and Environment

Background Papers Used in the Preparation of the Report:

Existing LA Gold Resolution	Attached as Appendix A
Letter from Sir Robin Wales, dated 10 December 2005	Attached as Appendix C
Letter from Phil Wools MP, dated 19 January 2006	Attached as Appendix D

The Existing “Local Authority Gold” Resolution

Catastrophic Incident in Greater London: Delegation of Functions

Resolution to be passed by each London Borough 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 155 Local Government and Housing Act 1989, 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.
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 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, at the date of declaration of a Catastrophic Incident 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. A Catastrophic Incident is an incident declared as such by the Minister of State for London Resilience (“the Minister”) where destruction of or danger to life or property in Greater London has occurred, or, in the reasonable opinion of the Minister, such destruction or danger is imminent, or the Minister has reasonable grounds for apprehending such destruction or danger.
5. The functions hereby delegated to the Head of Paid Service shall not be exercised until resolutions delegating the functions to the Head of Paid Service have been made by all the Councils.
6. The powers hereby delegated to the Head of Paid Service shall not include any power to incur expenditure or to make grants or loans to any person unless 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.
7. In discharging the functions, the Head of Paid Service shall, insofar as reasonably practicable, consult with and inform any Council whose area is affected by the Catastrophic Incident regarding any action proposed to be taken in that Council’s area.

REVISED LOCAL AUTHORITY “GOLD” RESOLUTION

Resolution to be passed 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.