

CABINET

25 JANUARY 2011

REPORT OF THE CABINET MEMBER FOR ENVIRONMENT

This report is submitted under Agenda Item 12. The Chair will be asked to decide if it can be considered at the meeting under the provisions of Section 100B(4)(b) of the Local Government Act 1972 as a matter of urgency in order to avoid any delay in the signing up to the pan-London agreement.

Title: Revised London Local Authority 'Gold' Resolution and Mutual Aid Arrangements	For Decision
Summary: This report advises Cabinet 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, and the proposed mutual aid agreement. The current resolution has been successful in assisting the pan-London response to major incidents such as the London Bombings. However it has been less successful in assisting the work that has taken place during slow burn incidents such as the Flu Pandemic and the severe weather conditions of the past two winters. In addition it is felt that a more formal approach to resource sharing via a mutual aid agreement would also be of benefit. The London Councils Leaders' Committee supported the proposals at its meeting on 13 July 2010. Wards Affected: None	
Recommendation(s) The Cabinet is recommended to: (i) Approve the Addendum to the Local Authority 'Gold' Resolution as set out at Appendix A to the report; and (ii) Adopt the Memorandum on Mutual Aid as set out at Appendix B.	
Reason(s) To assist the Council in achieving its Community Priority of "Safe", this resolution helps to ensure that all Councils across London can support each other in the response to a major incident that is beyond the capacity of a single Council.	
Comments of the Chief Financial Officer The amended London Local Authority Gold resolution places no additional financial burden onto to the Council above its current financial risks should an emergency arise. That is to say that the funding of any emergency will either be met by Central Government or the	

Council's insurance arrangements (where relevant), or directly from the Council if the emergency is not covered by either of the former arrangements.

In relation to the mutual aid arrangements, the agreement contains relevant provisions which would enable the Council to be reimbursed on a cost recovery basis for any mutual aid assistance provided.

Comments of the Legal Partner

The legal issues are set out in the body of the report.

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1. Background

1.1 London Resilience has been a successful and close partnership between the London Resilience Team, 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 has been demonstrated on several occasions.

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 and its amendment in 2006. 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 since its agreement, 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 Following practical experience in exercises and recent serious incidents, the Gold Resolution has been reviewed and additions identified which will ensure it is fit for purpose in the future. The current resolution operates effectively for the 'Big Bang' incident, the amendments assist in the joined-up response to the 'Slow Burn' incidents such as the Flu Pandemic and the Severe Weather of the past two winters.

- 2.3 The amended resolution therefore states that 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.
- 2.4 Full details of the Addendum to the Resolution can be found at Appendix A.

3. Mutual Aid Arrangements

- 3.1 Informal arrangements and understandings currently exist between London local authorities for mutual aid. These arrangements are robust and well tested and they are frequently called upon by boroughs for the provision of staff and other resources. They supported the running of the temporary mortuary in the aftermath of London's 7/7 bombings and in the provision of assistance to local authorities outside London during the 2007 floods. During the severe weather of February 2009, 13 local authorities reported calling upon or offering mutual aid during the first four days of the incident.
- 3.2 The London Resilience Local Authority Panel believes that these arrangements would benefit from being on a more formal footing, and has developed the Memorandum of Understanding. It is not intended for the Memorandum to be a legally-binding contract, but rather an accepted set of guidelines for providing mutual aid between participating boroughs.

4. Financial Issues

Addendum to 'Gold' Resolution

- 4.1 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. Nevertheless the Government's view is 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.
- 4.2 Cabinet is asked to note that no power to incur expenditure will take effect unless:
- 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.

Memorandum on Mutual Aid

- 4.3 These proposals contain provisions whereby the Requesting Authority(s) undertake to reimburse the Responding Authority(s) on a cost recovery basis for the mutual aid assistance provided (see section 2 of Appendix B).

5. Legal Issues

- 5.1 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.
- 5.2 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.
- 5.3 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.
- 5.4 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.
- 5.5 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.

6. Other Implications

6.1 Risk Management.

There is a risk that the Duty London Local Authority Gold being the Chief Executive of another London Council could incur expenditure on behalf of this Council. However the Resolution specifies that all expenditure incurred by the Duty London Local Authority Gold must be agreed by the Borough on whose behalf the expenditure is taking place.

7. Background Papers Used in the Preparation of the Report:

- Report to London Councils Leaders' Committee 'Proposed Clarifications to the Gold Resolution and Arrangements for Mutual Aid', 13 July 2010
- London Councils Chief Executives' Circular, dated 15 July 2010

8. List of appendices:

Appendix A - 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")

Appendix B - London Local Authorities Mutual Aid – Memorandum of Understanding