

SUPPLEMENTARY 3



THE CABINET

Tuesday, 25 January 2011

**Agenda Item 12a Revised London Local Authority 'Gold' Resolution
and Mutual Aid Arrangements (Pages 1 - 16)**

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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
<p>Summary:</p> <p>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.</p> <p>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.</p> <p>The London Councils Leaders' Committee supported the proposals at its meeting on 13 July 2010.</p> <p>Wards Affected: None</p>	
<p>Recommendation(s)</p> <p>The Cabinet is recommended to:</p> <ul style="list-style-type: none"> (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. 	
<p>Reason(s)</p> <p>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.</p>	
<p>Comments of the Chief Financial Officer</p> <p>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</p>	

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

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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.

DATED [] 2010

**LONDON LOCAL AUTHORITIES
MUTUAL AID – MEMORANDUM OF UNDERSTANDING**

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STATEMENT OF PURPOSE

This agreement sets out the intentions of the local authorities listed in Appendix 1, all of which are Category 1 Responders for the purposes of the Civil Contingences Act 2004 (“CCA 2004”) (collectively referred to as “the Participating Authorities) to provide mutual aid and assistance to each other during an emergency or other disruptive or “rising tide” incidents.

Each of the Participating Authorities will endeavour to provide assistance to another of the Participating Authorities in the form of provision of personnel and/or equipment in the event of, or in the reasonable anticipation of, an emergency or other disruptive or rising tide incident when asked to do so in accordance with these procedures.

Background and Scope of the Agreement

- (a) Defined as Category 1 Responders in the CCA 2004, the Participating Authorities are subject to the full range of duties conferred upon them in relation to making arrangements for civil protection in an emergency.
- (b) Regulation 4 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 provides that general Category 1 Responders which have functions that are exercisable within a Local Resilience Area must co-operate with each other in connection with the performance of their duties under section 2(1) of the CCA 2004. That co-operation may take the form of two or more Category 1 Responders co-operating with each other.
- (c) Central Government guidance issued by the Cabinet Office (December 2008) recognises the shift away from purely local arrangements to the realisation of wide-area mutual aid arrangements,
- (d) The Participating Authorities are enabled to provide mutual aid support to each other under section 1 Local Authorities (Goods and Services) Act 1970, the “well-being powers” contained in section 2 of the Local Government Act 2000 and under sections 111 and 113 of the Local Government Act 1972.
- (e) This Agreement outlines the process for requesting mutual aid from any Participating Authority to another Participating Authority when responding to an emergency or other disruptive or “rising tide” incident.

- (f) This agreement details the process for obtaining support from boroughs whether activated as a result of the implementation of the Gold Resolution or as a result of a rising tide or other disruptive incident.

This document is intended to support, not replace, any local agreements which are already established and is not intended to be a legally binding contract

1 Activation of Mutual Aid Arrangements

1.1 Each of the Participating Authorities will endeavour to provide assistance in the form of personnel and other resources in the event of or in anticipation of an emergency or disruptive or rising tide incident affecting the area of any Participating Authority in accordance with the following procedures:

1.1.1 The initial request may be made by telephone, but written confirmation should be sent by e mail as soon as practicable to ensure clarity of the request and assist any subsequent requests for reimbursement.

1.1.2 The Responding Authority shall, so far as is reasonably practicable, provide staff and other resources as requested by the Requesting Authority.

1.1.3 If the Gold Resolution has not been activated a request for aid shall only be made by a person authorised by the chief executive of the Requesting Authority, to the chief executive or other Authorised Person acting for the Responding Authority.

1.1.4 If the Gold Resolution has been activated all requests and agreements for mutual aid between boroughs will be notified to the LLACC. Mutual aid will be brokered between boroughs unless:

- The scale and complexity of the incident determines that centralised, regional support through the LLACC is required.
- LLAG determines a strategy that requires centralised support for all mutual aid through the LLACC.
- A point is reached where by the LLACC can add value in support of a Borough brokering mutual aid.'

1.1.5 Termination of aid. The Responding Authority may at any time, on giving the Requesting Authority such notice as is reasonable in the circumstances, terminate the mutual aid if the chief executive believes failing to do so would jeopardise the responding authority's ability to deal with an incident within their own area. For the avoidance of doubt the decision to terminate assistance will not be taken lightly and is likely to be invoked only where an emergency or major incident occurs in the Responding Authority's area requiring resources that are on loan to a Requesting Authority.

2 Supervisory and Financial Arrangements and Recovery of Costs

2.1. The responsibility for co-ordinating aid and meeting all legal requirements for the supervisory control and health and safety of loaned staff rests with the Requesting Authority or, where more than one Participating Authority has been affected by the emergency or major incident (e.g. a cross boundary incident) by each of the Requesting Authorities in respect of the staff deployed to their Authority.

2.2. The Requesting Authority undertakes to reimburse the Responding Authority on a cost recovery basis upon the termination of the aid and where practicable within 28 days of receipt of the written submission to the Requesting Authority by the Responding Authority of documented accounts for settlement.

2.3. The cost and financial implications of providing mutual aid assistance are likely to include, but are not limited to:

- Staff salary and overtime costs;
- Out of pocket travelling expenses;
- Provision of resources used;
- Damage to rental/leased items;
- Contractor expenses.

Reimbursement of costs will NOT include any opportunity costs incurred whilst employing an officer to cover the duties of someone deployed on mutual aid unless agreed in advance by the requesting authority.

- 2.4 It is recognised that the resources and equipment physically held by local authorities have reduced significantly over the years. It is more likely that the sourcing of specialist resources to assist the emergency services or neighbouring Participating Authorities will have to be obtained via existing contracts or specific purchasing arrangements.

3 Personnel

- 3.1 During or following an emergency Participating Authorities may require additional personnel in order to respond to and/or maintain service delivery.
- 3.2 The Requesting Authority is responsible for co-ordinating additional personnel in the event of an emergency.
- 3.3 It is important that when personnel are deployed to assist a Requesting Authority they have the appropriate skills and competencies and have had previous training relating to the role.
- 3.4 Where personnel from a Responding Authority are deployed to provide mutual aid they will work within the existing crisis incident management structure of the Requesting Authority.
- 3.5 The Requesting Authority should also ensure that the welfare needs of responding staff are dealt with – this may include travel arrangements, accommodation and subsistence.
- 3.6 Responding Authority staff will receive the same debriefing and welfare support provided to the Requesting Authority's staff for the duration of their deployment. The Requesting Authority may also be liable to contribute towards any welfare costs incurred by the Responding Authority supporting staff who have completed mutual aid, providing the costs incurred are as a direct result of the officers attachment.

4 Facilities and Temporary Accommodation

- 4.1 Each of the Participating Authorities may have a number of facilities and/or locations that could be used in response to an Emergency. In certain circumstances it may be more appropriate for neighbouring Participating

Authorities to request use of these facilities, although their use would depend on the scale and nature of the emergency.

- 4.2 For example, in the event of an evacuation of an area on a borough boundary it might be more appropriate and/or safer to move evacuees to a Rest Centre established and run by the neighbouring Participating Authority.
- 4.3 Participating Authorities shall, where practicable co-operate in the use of such facilities and locations

5 Health and Safety and Insurance

- 5.1 The health and safety of all staff providing mutual aid is the responsibility of the Requesting Authority, the Responding Authority and individual members of staff.
- 5.2 A Requesting Authority shall not hold liable a Responding Authority, in respect of any claims arising from any loss, injury or damage suffered by the Requesting Authority or any third party as a result of the provision of assistance under this Agreement, unless, and to the extent that, such loss, injury or damage arises from the negligence of the Responding Authority or any of its employees (excluding the responding staff) or agents.
- 5.3 Each Participating Authority is responsible for ensuring that their liability insurance is appropriate and kept up to date for the duration of their participation in this Agreement.
- 5.4 The Requesting Authority is responsible for ensuring that a risk assessment is carried out prior to deployment of Responding Authority staff (with whom the risk assessment should be shared) and that any Personal Protective Equipment is available.
- 5.5 The Responding Authority is responsible for ensuring that its staff has the appropriate ID to identify their personnel and the Requesting Authority is responsible for facilitating the appropriate access to locations.
- 5.6 The Responding Authority is responsible for ensuring that any response staff deployed to engage with the public have the appropriate Criminal Records

Bureau (CRB) clearance (where necessary for the role in which they are deployed).

- 5.7 The Responding Authority should make arrangements to ensure that regular contact is maintained with its employee(s) working for the Requesting Authority and ensure that management issues are dealt with appropriately.

- 5.8 Any disputes between the Responding and Requesting Authorities should be resolved by negotiations between the Authorised Persons with a view to achieving an early amicable resolution. Any failure to resolve a dispute should be referred to an independent chief executive, that is, the chief executive of a Participating Authority which is not involved in the emergency (or if all Participating Authorities are involved, then to a senior authorised person of London Councils) who shall endeavour to resolve the dispute within 7 working days of the referral and whose decision shall be final and binding on the parties to the dispute.

This Agreement is activated by each Participating Authority signing a Memorandum of Participation on behalf of that Authority and such Memorandum of Participation shall be evidence of activation by that Participating Authority when annexed to this Agreement. Provided that this Agreement shall not come into effect until Memoranda of Participation have been activated by at least **half of all London Local Authorities**.

LONDON LOCAL AUTHORITIES MUTUAL AID

MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF PARTICIPATION

THIS MEMORANDUM is signed by an authorised signatory for [insert name of borough] .

Signed

Date.....

Appendix 1 to the Memorandum of Understanding on Mutual Aid

(This Appendix will comprise a list of those local authorities who agree to provide mutual aid and assistance to each other during emergency or other disruptive or 'rising-tide' incidents.)

To be completed