



**PORTFOLIO HOLDER DECISION
MEETING
WEDNESDAY 3 MAY 2006
9.00AM**

**COMMITTEE ROOM 4
HARROW CIVIC CENTRE**

MEMBERSHIP Leader

**Issued by the Democratic Services Section,
Legal Services Department**

Contact:

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HARROW COUNCIL
PORTFOLIO HOLDER MEETING
WEDNESDAY 3 MAY 2006

AGENDA - PART I

PROCEDURAL

1. Declarations of Interest
To receive declarations of personal or prejudicial interests, arising from business to be transacted at this meeting, from:
 - (a) all Members of the Committee, Sub Committee, Panel or Forum;
 - (b) all other Members present in any part of the room or chamber.

2. Petitions
To receive petitions (if any) submitted by members of the public/Councillors under the provisions of Executive Procedure Rule 14 (Part 4D of the Constitution).

3. Public Questions
To receive questions (if any) under the provisions of Executive Procedure Rule 15 (Part 4D of the Constitution).

(Note: Paragraph 15 of the Executive Procedure Rules stipulates that questions will be asked in the order notice of them was received and that there be a time limit of 15 minutes).

4. Matters referred to the Executive Member (if any)
In accordance with the provisions contained in Overview and Scrutiny Procedure Rule 22 (Part 4F of the Constitution)

5. Reports from the Overview and Scrutiny Committee or Sub-Committees (if any)

POLICY/CORPORATE

6. Local Authority Gold Resolution (Pages 1 - 14)
Report of the Chief Executive

General

7. Any other urgent business
Which cannot otherwise be dealt with

AGENDA - PART II

Nil



Ref: PHD 115/05

Subject:	London Authority Gold Resolution
Responsible Officer:	Chief Executive
Contact Officer:	John Robinson
Portfolio Holder:	Leader
Key Decision:	Yes
Urgent/Non Urgent:	Urgent
Power to be exercised:	Urgent - Portfolio Holders Responsibilities (Allocation of Responsibilities) – Paragraph 3 of Delegated Powers of Portfolio Holders, Appendix to the Executive Procedure Rules Part 4D of the Constitution
Status:	Part 1

Section 1: Summary

Decision Required

- 1.1 That the revised Local Authority “Gold” Resolution attached at Appendix C be approved.
- 1.2 To authorise the Chief Executive to make any such changes (as agreed by the ALG) that may be considered necessary to protect the Council’s position and that of the Chief Executive.

Reason for report

To inform members of the amendment to the “Gold” Resolution approved by Cabinet on 17 February 2004.

This proposed amended resolution broadens the powers of the “Gold” Chief Executive so as to enable him or her to act on behalf of all the London local authorities in responding to an emergency in London, not just an event classified by the Minister as a catastrophic incident.

Benefits

To ensure that satisfactory contingency arrangements are in place to deal with London emergencies which are emergencies requiring a Level 2, response even though such emergencies may not be classified as “catastrophic”.

Cost of Proposals

There are no immediate costs associated with this report. Likely costs to the Council may only be incurred in the event of an incident, which requires a Level 2 response.

Risks

The Council runs the risk of not benefiting from the co ordinate measures that are in place to deal with non-catastrophic Level 2 incidents.

Implications if recommendations rejected

Harrow community may not benefit from the co ordinate measures that are in place to deal with non-catastrophic Level 2 incidents.

Section 2: Report

2.1 Brief History

2.1.1 On 9th December 2003, the Association of London Government (ALG) Leaders’ Committee recommended that all 33 London Boroughs adopt a resolution on Local Authority Gold Command and Control in the event of a catastrophic incident.

- 2.1.2 The purpose of the resolution is to vest the “Gold” Chief Executive with the necessary powers to act on behalf of all London Boroughs in responding to a catastrophic incident, including the power to incur expenditure. The on-call Chief Executive would provide strategic input into the wider “Gold” group, chaired by the Metropolitan Police, and will manage the collective response to the catastrophic incident. The “Gold” group includes representatives of all emergency services, the health services and utilities.
- 2.1.3 Cabinet agreed the resolution attached at Appendix A on 17 February 2004. This resolution would only become operative where the Government has declared a catastrophic incident and when the Government has confirmed that it will reimburse any expenditure reasonably incurred in taking action.
- 2.1.4 Following the coming into force of the Civil Contingencies Act 2004 the ALG has reconsidered the previous gold resolution. The ALG now recommend that the resolution should be amended so as to broaden the powers of the Gold Chief Executive to enable them to deal with events, which are London emergencies (referred to as those emergencies requiring a “Level 2” response) even though such emergencies may not be classified as “catastrophic”.
- 2.1.5 The July bombings were not classified as catastrophic and as such may not have been covered by the previous resolution.
- 2.1.6 The new powers as set out in the amended resolution could be invoked once the Chief Executive had received confirmation from the government or the council(s) in whose area(s) the incident occurs that they will be reimbursed in relation to any expenditure they incur in taking immediate action to safeguard life or property or to prevent suffering or severe inconvenience.
- 2.1.7 The revised Resolution should be adopted as soon as is possible.
- 2.1.7 The report from the ALG and the letter from the ODPM are attached at Appendix B.

2.3 Consultation

None

2.4 Financial Implications

There are no immediate costs associated with this report.

However, in the event of a “catastrophic” incident expenditure may be incurred on receipt of confirmation from the government that such expenditure will be reimbursed. Similarly in relation to “non-catastrophic” incidents expenditure

could be incurred on receipt of confirmation from the Head of Paid Service in whose area the incident occurs that expenditure incurred to safeguard life or property or to prevent suffering or severe inconvenience will be reimbursed.

Signature Date

Name (print)

2.5 Legal Implications

Functions under section 138 of the Local Government Act 1972 are executive functions by virtue of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000.

The 1972 Act authorises the Council to incur expenditure in undertaking contingency planning to deal with a possible emergency, which if it occurred would involve destruction of or danger to life or property likely to affect its area.

In addition, under section 101 of the Local Government Act 1972 and regulations made under section 19 of the Local Government Act 2000, Local Authorities have the power to arrange with each other as to the discharge of their functions. When this occurs one authority can discharge another's function and subject to the terms of the arrangements which should explain who is responsible for the expenditure incurred, the authority at Gold would need no further approval.

Signature Date

Name (print)

2.6 Equalities Impact

No equalities impact arising from the recommendation. However, it is possible that implications may arise depending on the cause of an incident.

2.7 Section 17 Crime and Disorder Act 1998 Considerations

There are no direct implications arising from the recommendations. However, section 17 considerations and implications may arising in the aftermath of an incident.

Section 3: Supporting Information/ Background Documents

Appendices: Appendix A Resolution agreed on 17 February 2004.
Appendix B Report from ALG and letter from ODPM
Appendix C Revised Resolution

Background Documents: ALG Chief Executive' Circular (66/03 – 19 December 2003)

Signature:

Position *Insert Relevant Head of Service*

Name (print)
.....

Date:

FOR PORTFOLIO HOLDER/LEADER

* I do agree to the decision proposed

* I do not agree to the decision proposed

* Please delete as appropriate

Notification of personal interests (if any) :-

(Note: if you have a prejudicial interest you should not take this decision)

Additional comments made by and/or options considered by the Portfolio Holder

Signature:

Portfolio Holder

Date:

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APPENDIX A

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.

Phil Woolas MP
 Minister of State for Local Government
 Office of the Deputy Prime Minister
 Eland House
 Bressenden Place
 London SW1E 5DU

Contact: Marylyn Rankin
 Direct line: 020 7934 9504
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Our reference:
 Your reference:
 Date: 10 December 2005

Dear Phil

London Resilience: "Local Authority Gold" Resolution

You will know that our officials have been discussing the need to revisit the "Local Authority Gold" Resolution passed by all London boroughs in early 2004. I am also aware that Martin Pilgrim was recently able to brief you directly about the issues.

The current "Gold" Resolution empowers a single London borough Chief Executive, the "Gold" Chief Executive, to act collectively on all boroughs' behalf in an emergency. This has rightly been interpreted as an important manifestation of 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.

We have known for some time that we would need to review the resolution in the light of the Civil Contingencies Act 2004. But the July events have shown that we also need a basis for boroughs to work together and with other resilience partners when an event has not been declared to be "catastrophic".

Our officials are continuing to talk about a "Daughter of LA Gold" resolution which matches the typology of incidents in the Civil Contingencies Act 2004, and we hope soon to be able to produce a resolution in those terms. Our present plan is for leading elected members at the ALG to consider a draft of such a revised resolution in the next few weeks; to put that draft to the ALG Leaders' Committee for endorsement on 7 February; and then to put the resolution to boroughs for them each to adopt at a council meeting before the May 2006 borough elections. We feel that we need to move quickly for a number of reasons:

- The debriefs from the July bombings have shown that the "Gold" Chief Executive formally lacks powers and authority unless an incident is declared to be "catastrophic".

- The “live” experience of the July bombings has made those Chief Executives who undertake the “Gold” role feel vulnerable and open to personal liability; this could affect their playing a full part in any future incident.
- The Civil Contingencies Act 2004 is now fully in force and the “Gold” resolution should be brought up to date as soon as possible. The resolution needs to empower the “Gold” Chief Executive to act appropriately on boroughs’ collective behalf in a Regional Civil Contingencies Committee: before an emergency; in a “rising tide”; and in the extreme circumstances of special legislative measures being taken.
- London councils were rightly proud of the contribution they made to handling the July bombings and I am sure that they would wish to ensure that councils and their staff were equipped to undertake a similar role in any future incident; that means that they would be sympathetic to passing a reasonable “Daughter of “Gold” resolution. However, after May, there will be many new councillors and possibly new administrations. It would be easier to deal with present councils than with the new ones because the new ones will be less familiar with the background.

However, there remains one major unresolved issue on which we need early reassurance in terms which will give boroughs the confidence to pass the “Gold” resolution. The existing “Gold” resolution applies only if there is a catastrophic incident and if the Minister confirms that reasonable expenditure incurred by the “Gold” Chief Executive would be reimbursed by the Government. In the light of the July bombings, boroughs need a reassurance now from the Government:

- Ideally, that reasonable expenditure incurred by LA Gold following commitments made at an RCCC, beyond that which a borough could reasonably expect to incur on behalf of its own inhabitants, would be reimbursed by Government. I realise that this is what happened in the July bombings and we are grateful for the Government’s early decision then. But the decision took some time to make and for a short while the affected boroughs and “Gold” were in limbo.
- If Government cannot give such an undertaking now, then I could attempt to persuade boroughs to renew and revise the “Gold” Resolution on the basis of a Government promise now to put in place as soon as the RCCC or SCG is convened a process for deciding how and whether local authority costs would be reimbursed, so at least there would be an early understanding of our “rules of engagement” with the RCCC or SCG. However, any delay in making that decision, or any shortfall in a commitment to reimburse, would run a very real risk of diminishing the effectiveness of the “Gold” Chief Executive at the RCCC or SCG.

Once we have some undertakings from the Government about expenditure we can exhort boroughs to pass a resolution giving the “Gold” Chief Executive delegated authority to act on behalf of each and every borough. I feel we will not succeed without some very clear commitment from Government.

There are related issues about how we fund boroughs’ collective work on a day-to-day basis or how we might share costs from an incident across boroughs where those costs fall outside of

the existing mutual aid arrangements. London local government is continuing to look for solutions to these problems ourselves.

To recapitulate, we need to move quickly to ask boroughs to amend the existing "Gold" resolution and to do that we need urgent reassurances from Government about the reimbursement of reasonable expenditure arising from RCCC decisions. I look forward to hearing from you.

Yours sincerely



Sir Robin Wales
Chair



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Creating sustainable communities

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OUR REF: PW/007537/05

LONDON RESILIENCE: "LOCAL AUTHORITY GOLD" RESOLUTION

Thank you for your letter of 10 December about the "Local Authority Gold" Resolution.

I agree that this is an important demonstration of London Borough's willingness to work together on resilience issues. These arrangements benefit London as a whole and I strongly support your efforts to see them continue.

In an emergency we will, of course, 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.

However, there cannot be any presumption that the Government will in any event reimburse local authorities for all of the costs of responding to an emergency. There are well established means by which Central Government can support local authorities, principally the Bellwin Scheme. In addition, as in the July bombings, Government has clearly demonstrated its willingness to consider the unique circumstances that an emergency might present and to help where an undue burden would otherwise fall upon a local authority or local authorities. But there is no automatic entitlement to financial assistance. Ministers will decide whether or not to activate Bellwin or a similar scheme after considering the circumstances of each individual case.

Also as you will be aware, the Bellwin scheme, when it is applied, reimburses a proportion of eligible expenditure (currently 85% of expenditure above a threshold of 0.2% of the local authority's annual budget).



Office of the
Deputy Prime Minister
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We would expect, therefore, that where the LA representative at Gold incurs expenditure on behalf of another Borough, reimbursement should, in the first instance, be sought from the benefiting Borough.

Local authorities have the power to arrange with each other as to the discharge of their functions (under Section 101 of the Local Government Act 1972 and regulations made under Section 19 of the Local Government Act 2000). When this occurs one authority can discharge another's functions and, subject to the terms of the arrangement, the authority at Gold would need no further approval from the other authority or its officials before exercising those functions. The arrangement should explain who is responsible for the expenditure incurred through exercising the function.

We do not agree, therefore, that a guarantee of reimbursement by Government is a necessary condition for London Boroughs reaching agreement on representation at Gold Command.

PHIL WOOLAS

DRAFT – 19 JANUARY, 2006

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, at the date of 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 or to prevent suffering or severe inconvenience will be met by the Council (or the Councils in proportions to be agreed by them).
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 emergency regarding any action proposed to be taken in that Council's area.