

## 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.

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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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**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).



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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.