

Leaders Committee

Proposed Clarifications to the Gold Resolution and Arrangements for Mutual Aid

Item no: 5

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Summary:

The Local Authority 'Gold' Resolution underpins the pan- London local authority emergency response arrangements. Following practical experience in exercises and recent serious incidents, the Resolution has been reviewed and additions identified which will ensure it is fit for purpose in the future.

The proposed improvements can be accommodated in an Addendum to the existing Resolution, set out in Appendix B.

The proposed changes have been overseen by the Panel of borough Chief Executives which manages local authority interests in pan London resilience planning.

The substance of the proposed changes can be summarised as:

1. To formalise the role of Local Authority Gold in lower-impact, emerging incidents, enabling them to coordinate any local authority response as necessary. *(LA Gold would not have power to either direct Councils or incur any expenditure).*
2. In exceptional circumstances, to empower Local Authority Gold to respond to incidents and exercise delegated powers where Gold Command has not been convened, for example in the event of extreme and disruptive weather or other events. This could only happen where detailed safeguards are complied with and where absolutely necessary.
3. In extreme and rapidly developing situations Local Authority Gold may need to take the immediate action. It is proposed that, where this is absolutely essential, they should be able to exercise their delegated powers swiftly, including incurring minimum levels of expenditure up to a sum not exceeding £1m in total.

A separate Memorandum of Understanding on Mutual Aid has also been developed for adoption by those London Local Authorities wishing to participate. 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. A copy of the Memorandum is attached at Appendix C.

Recommendations:

That Leaders' Committee:

1. Endorse the attached Addendum to the Local Authority 'Gold' Resolution (Appendix B);
2. Call on all London Boroughs and the Common Council of the City of London to formally approve the Addendum;
3. Endorse the attached Memorandum of Understanding in relation to Mutual Aid (Appendix C);
4. Invite all London Boroughs and the Common Council of the City of London to participate in the arrangements and adopt the Memorandum on Mutual Aid.

Introduction

1. As part of the arrangements for dealing with major incidents or emergencies in the capital, all London Boroughs and the City Corporation adopted a resolution, known as the 'Gold Resolution', that delegates certain powers (see below for further detail) to the Gold Chief Executive so that he or she can act on behalf of all boroughs and the City to deliver a coordinated local government response in emergency situations. The role of Gold Chief Executive (known as London Local Authority Gold) is undertaken by Heads of Paid Service on a rotational basis. A copy of the Gold Resolution is attached to this report at Appendix A for information.

2. Under the resolution, London Local Authority Gold can act formally only where the Gold Co-ordinating Group (Gold Command) has been convened to respond to an incident requiring what was known as a 'level 2' response. Gold Command is normally led by the Police. The powers delegated to Local Authority Gold extend to incurring expenditure or making grants or loans but only if certain conditions are met such as confirmation that the expenditure will be reimbursed by HM Government or by the Council(s) in whose area(s) the incident has occurred. Further brief details about Government funding are set out for information in paragraphs 21-22 of this report.

3. The Gold Resolution was last reviewed and revised in 2006 and this paper sets out proposals to update and clarify the current arrangements in the light of experience over the last 3 - 4 years and changed circumstances.

Background to the Current Review

4. The heavy snowfall covering Greater London in February 2009 was an extreme and exceptional weather event. Such accumulations of snow had not been seen in the capital for a number of years and, across London, organisations faced considerable challenges in keeping their services running. Gold Command was not convened on that occasion (the incident was not deemed to be an emergency requiring a 'blue-light' response), but the Head of Paid Service on the 'Gold' rota was, nevertheless, active during the period, albeit informally, since there was a clear need for a local government response to be co-ordinated the across the Boroughs.

5. The LRRF agreed that it would be useful to look at what happened at that time, to identify lessons learnt and to make recommendations for the future. An interim report was produced at the end of February and this was followed by a more detailed document which was considered in May 2009. One of the findings of that review was that, as a consequence of the incident falling below the threshold for implementation of Gold Command, Local Authority Gold was operating 'without empowerment' ie. it had not been formally invoked under the Gold Resolution. It was agreed that a review of the Local Authority Gold Resolution should be undertaken to ensure arrangements for responses outside empowerment are included.

6. A review of the position has therefore been carried out and a number of amendments are proposed to the resolution in the following four key areas:-

- to reflect changes in procedural arrangements (currently Local Authority Gold can only respond to an incident requiring a 'level 2' response but the national terminology has changed and this is no longer relevant);
- to formalise existing arrangements whereby Local Authority Gold is expected to play a part in 'rising-tide' incidents, (for example severe weather and pandemic influenza) albeit without any formal authority. In these circumstances, Local Authority Gold's role should be confined to coordinating any local authority response as necessary, through guidance and advice;
- to agree an arrangement under which Local Authority Gold could be authorised, in exceptional circumstances, to exercise delegated powers in response to incidents where the ('blue-light' led) Gold Command has not been convened, subject to appropriate checks and balances; and
- to allow Local Authority Gold a limited amount of discretion to incur minimum expenditure on behalf of councils where prior consent may not be rapidly obtainable (for example, the need for an immediate response to a major incident that has occurred in the early hours of a Sunday or on a bank holiday).

The Need for the Resolution to be Amended

7. Set out below is further detail behind the need to update and amend the existing arrangements and attached at Appendix B is a proposed Addendum to the current

Gold Resolution that all Boroughs and the Common Council of the City of London will be invited to pass.

Major Incidents and Emergencies

8. In the event of an emergency, Section 138(1) of the Local Government Act 1972 allows Councils to “incur such expenditure as they consider necessary in taking action.....to avert, alleviate or eradicate.....the effects or the potential effects of the event”. The current gold resolution authorises Local Authority Gold to discharge functions under section 138(1) on behalf of the Councils following the convening of the Strategic Co-ordinating Group (Gold Command) called to respond to an incident requiring a “Level 2” response (defined as a single site or wide-area disruptive challenge which required a co-ordinated response by relevant agencies). This is the trigger mechanism for Local Authority Gold to be able to exercise their ‘executive’ powers.

9. Since the resolution was passed, the terminology used by Government has changed, with a “Level 2” response being no longer relevant. A more straightforward trigger mechanism is therefore now proposed but still linked to the convening of Gold Command. Gold Command is usually led by the Police and is only convened in the event of a significant incident or emergency; it is therefore proposed that, in future, Local Authority Gold will be able to discharge the functions referred to in paragraph 8 above following the convening of the Gold Command.

Responding to Rising-Tide Incidents and other Disruptive Events

10. In principle, there are two types of events that would require a local authority response, namely, major incidents or emergencies and incidents that are emerging or have emerged over a period of time. Arrangements for a coordinated local government response to major incidents or emergencies, such as the bombings in London in July 2005, where the Police and other emergency services are in command, are provided for within the existing resolution and Local Authority Gold is able to exercise his or her powers of delegation.

11. Over the last year or so, we have seen the impact of another kind of incident which, rather than having an immediate effect requiring a ‘blue-light’ response, has emerged over a period of time and can be termed as ‘rising-tide’ or disruptive.

Examples include the extreme weather conditions that we saw in February 2009, the gradual emergence of the swine flu pandemic that was also a feature of much of 2009 and the prolonged severe weather of December 2009 to February 2010. A coordinated response on the part local authorities to these types of incidents is also necessary and Local Authority Gold played a key part and contributed significantly to the way in which the events referred to above were dealt with and the role was well received by Government and other resilience partners. In these circumstances, however, Local Authority Gold operated outside the terms of the resolution in an 'informal capacity'.

12. The London Local Authority Co-ordination Centre (LLACC) was also actively involved in ensuring a coordinated London local authority regional response to the severe weather conditions and the maintenance of winter service provision, between 17th December 2009 and 26th March 2010. Undertaking 24/7 operations during peak periods of activity, the LLACC performed a number of critical tasks supporting London Local Authority Gold. These tasks included the co-ordination of 83 mutual aid transactions, resulting in the transfer of 5,300 tonnes of salt, and the process and dissemination of 912 priority gritting requests to local authorities following identification by TfL CentreCom and other partner agencies. Additionally the LLACC maintained regional situational awareness regarding the impact on council services and collated London borough grit stock levels on a daily basis, and produced grit stock usage projections, to inform the regional and national resupply prioritisation process.

13. The need for Local Authority Gold to play a part in 'rising-tide' incidents has been clearly shown in recent 'rising-tide' events where Gold Command has not been convened, although a London Partnership meeting (the London Regional Coordination Group) has been. In these circumstances, and bearing in mind the findings of the LRRF referred to in paragraph 5 above, it is proposed that the resolution should be amended to 'formalise' the role of Local Authority Gold enabling them to coordinate any local authority response as necessary, providing support, guidance and advice as required although they would have no power to direct Councils nor incur any expenditure.

14. If exceptionally, however, as a major rising-tide or other disruptive event develops, a more positive local authority response is called for, it may become necessary for Local Authority Gold to exercise delegated powers (including incurring

expenditure). A mechanism for facilitating that is proposed that is subject to the various triggers and procedures set out in paragraphs 15 and 16 below.

Ability to Respond to Emergencies

15. There may be exceptional circumstances where it could become appropriate for Local Authority Gold to be able to respond to incidents and exercise delegated powers where Gold Command has not been convened, for example in the event of extreme and disruptive weather or other events. The point in such 'rising-tide' events at which the full Local Authority Gold arrangements may need to be implemented will not be clear at the outset. Nor would it be triggered by the convening of a police-led Gold Command. To cover this eventuality and any unforeseen events, a process has been developed which permits the full Gold powers to be triggered in the absence of a police-led Gold Command being established, but only where certain procedures are complied with to give the Councils comfort that use of the delegated powers by Local Authority Gold will only be operated in exceptional circumstances and where absolutely necessary.

16. In these circumstances, before Local Authority Gold can exercise powers under section 138(1) of the Local Government Act 1972, a London Partnership meeting (which is normally led by the Government Office for London) will need to have been convened and, additionally, the prior agreement of London Councils, on behalf of the Boroughs, will need to have been obtained. In practice, London Councils will be consulted and its approval will need to be given before Local Authority Gold is able to exercise any delegated powers. Approval is sought for this power to be delegated to the Chief Executive of London Councils in consultation with the Leaders (or their deputies) of each of the three main political parties. The power of Local Authority Gold to incur any expenditure would be subject to further controls as set out below.

Discretion to incur expenditure on behalf of Councils

17. Whatever the circumstances under which the executive powers are triggered, Local Authority Gold will, as at present, still seek to obtain confirmation from the Council(s) in whose area(s) the incident has occurred that expenditure reasonably incurred by them 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 Councils in proportions to be agreed by them).

18. There may, however, be a situation where rapidly obtaining this confirmation is simply not possible, for example if an incident happens in the early hours of a Sunday or a bank holiday and Local Authority Gold is unable to make contact with all relevant Council(s). Local Authority Gold may still need to take the immediate action referred to in paragraph 17 above and it is proposed that, where this is absolutely essential, they should be able to exercise their delegated powers, including incurring minimum levels of expenditure up to sum not exceeding £1m in total, while the process is taking place to secure the necessary confirmation.

The impact of the 2012 Olympic Games

19. In the run up to and during the 2012 Olympic and Paralympic Games in London a national and London level control and coordination function will be required. Resilience and security arrangements during the Games are currently being developed and a number of mechanisms will come into play in the event of an incident. Local Authority Gold will be expected to play a key part in those plans and the arrangements proposed in the Addendum, particularly those in paragraph 3, will help to formalise the position. Current thinking includes maintaining operations during what is described as a 'steady state' and there is likely to be a borough chief executive or other senior local government representatives active in that process. There could also be a demand for further local government participation in other Olympic security arrangements in the Capital such as COBR and nationally in what is known as the National Operations Centre. The final details for London's local government are being considered and will be agreed with London Councils in due course.

Agreement of all the Councils

20. The amendments and clarifications proposed are such that they do not merit the existing Gold Resolution being re-drawn and the most practical way to deal with them is to include them in an Addendum to the Resolution. It will be necessary for all London Borough Councils and the Common Council of the City of London to formally agree and accept the Addendum, since its terms will not take effect until this has

happened. In future, and subject to that agreement, the Addendum will need to be read in conjunction with the current Resolution.

Government Funding of Emergencies

21. The Bellwin scheme provides for emergency financial assistance to local authorities in cases where an emergency or disaster involving destruction or danger to life or property occurs and, as a result, one or more local authorities incur expenditure on the taking of immediate action to safeguard life or property, or to prevent suffering or severe inconvenience. The scheme is administered by the Department for Communities and Local Government. There is no entitlement to financial assistance: Ministers will consider whether or not to activate a scheme depending on the facts of the case. Schemes have traditionally been activated as a response to bad weather incidents (mainly flooding) and the Department's guidance states that this is how the scheme will predominantly continue to apply. The Bellwin Scheme does not apply in the recovery phase. In the event of an exceptional emergency, individual government departments will consider providing financial support for various aspects of the recovery effort.

22. The Bellwin Scheme has been activated over 40 times since it started in 1983, most recently in response to flooding in Cumbria in November 2009. Bellwin was not activated for the 7/7 bombings although financial support was made available as a special grant.

Mutual Aid

23. 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.

24. The LRRF's debrief report in May 2009 (referred to in paragraph 5 above) also considered the arrangements in place for mutual aid. As part of that process, the

LRRF's Local Authority Panel concluded that those arrangements should be placed on a more formal footing and, as a consequence, a Memorandum of Understanding for mutual aid has been drafted for adoption by those London Local Authorities wishing to participate. 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. A copy is attached at Appendix C.

25. The Memorandum provides for participating authorities to endeavour to provide assistance to another participating authority 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. The authority requesting aid will undertake to reimburse the authority providing it on a cost recovery basis, although the reimbursement will not include any opportunity costs incurred whilst employing an officer to cover the duties of an officer deployed on mutual aid unless agreed in advance.

26. London Borough Councils and the Common Council of the City of London are invited to consider whether they wish to participate in these arrangements and adopt the Memorandum of Understanding.

Financial implications for London Councils

There are no direct financial implications for London Councils.

Legal Implications for London Councils

There are no legal implications for London Councils as a result of this paper.

Equality implications for London Councils

There are no equality implications for London Councils as a result of this paper.

Appendices:

- A) Local Authority 'Gold' Resolution
- B) Addendum to the Local Authority 'Gold' Resolution
- C) Memorandum of Understanding in relation to Mutual Aid