

<b>Committee:</b> Cabinet	<b>Date:</b> 6 May 2009	<b>Classification:</b> Unrestricted	<b>Report No:</b>	<b>Agenda Item No:</b>
<b>Report of:</b> Aman Dalvi Corporate Director D&R and Isabella Freeman ACE (LS)		<b>Title:</b> Five Boroughs Olympic Joint Committee		
<b>Originating Officer(s):</b>		<b>Wards Affected:</b> All		

## 1. SUMMARY

- 1.1 By virtue of an Agreement of 2006 (the Inter Authority Agreement) between the five host boroughs for the 2012 Olympic and Paralympic Games, co-operative joint working has taken place to secure local benefits and a sustainable legacy from the Games. This has proved to be a successful venture so far and the Five Boroughs collective has become increasingly the focus for third party Olympics related approaches.
- 1.2 The Five Boroughs arrangements were purposely not formalised and functions of the boroughs have not been exercised through them. It is now considered that to strengthen the partnership working of the Boroughs and to enable more effective and efficient outcomes it would be beneficial to establish a joint committee of the Five Boroughs exercising a range of executive functions insofar as they relate to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games.
- 1.3 This report is being submitted to the executives of the Five Boroughs and each is being requested to approve the recommendations to enable the establishment of a joint committee from 1 June 2009.

## 2. RECOMMENDATIONS

Cabinet is recommended to:-

- 2.1 Approve the establishment of a joint committee of the Five Host Boroughs for the 2012 Olympic and Paralympic Games as more particularly described in the Memorandum of Understanding (Appendix A to this report) with effect from 1 June 2009;
- 2.2 Agree the Memorandum of Understanding and authorise the Chief Executive to give effect to any matter necessary to achieve its objectives including agreement of a revised Inter Authority Agreement;

- 2.3 Agree the terms of reference specified in Appendix 1 to the Memorandum of Understanding and that the delegation of executive functions be discharged by the joint committee with effect from 1 June 2009;
- 2.4 Nominate two members to be the Council's representatives on the joint committee for the municipal year 2009/10 pursuant to paragraph 4.7 of this report.

### **3. BACKGROUND**

- 3.1 On 31 August 2006, the London Boroughs of Greenwich, Hackney, Newham, Tower Hamlets and Waltham Forest entered into an Inter Authority Agreement to work together to develop and implement a co-ordinated programme of activities and issues that arise as a result of the 2012 Olympic and Paralympic Games for the purposes of securing local benefits and a sustainable legacy for the geographical areas of the Five Boroughs.
- 3.2 The Agreement sought to facilitate strategic and operational coherence to the collaborative work of the Boroughs in relation to the Games and to aid that a Central Joint Borough Unit was established and the pooling and sharing of costs was agreed whereby each Borough would pay an agreed annual contribution for the currency of the Agreement.
- 3.3 As envisaged in the Agreement the chief executives of the Five Boroughs have met regularly as have the Leaders and Mayors and matters of mutual and collective interest have been considered. In accordance with the Agreement these meetings have not been formally constituted and have not exercised any of the functions of the constituent Councils.
- 3.4 As these arrangements have become established within the Boroughs and with external organisations such as the Olympic Development Authority, London Organising Committee for the Olympic and Paralympic Games, London Councils and the Department for Culture, Media and Sports the Five Boroughs collective has become the focal point for issues arising and impacting from the Games. Consequently, the efficiency and effectiveness of the collective arrangements would be enhanced greatly if they were formalised and a joint committee established to exercise specific executive functions in relation to the Games.
- 3.5 It is proposed that a joint committee be established in accordance with the Memorandum of Understanding attached as Appendix 1 hereto and that the

executive of each of the Boroughs be invited to approve these arrangements.

#### **4. LEGAL FRAMEWORK**

- 4.1 In order to establish a body with the power to discharge functions of the individual Boroughs each must agree to such arrangements in accordance with the provisions of the Local Government Act 1972 and 2000 and subsequent regulations.
- 4.2 Section 101(5) of the Local Government Act 1972 provides that two or more local authorities may discharge any of their functions jointly and that where joint arrangements are in force in respect of any functions, those functions may be discharged through a joint committee established by the authorities.
- 4.3 Section 101(2) of the Local Government Act 1972 provides that unless the joint arrangements specify otherwise, a joint committee can also establish a sub-committee to discharge any of its functions or delegate functions to an officer and unless the joint arrangements or joint committee specify otherwise, a sub-committee established by a joint committee may delegate functions to an officer.
- 4.4 Appointments to a joint committee are made under Section 102(1)(b) of the Local Government Act 1972 and the establishment of a joint committee is governed by The Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2000, issued under Section 20 of the Local Government Act 2000. the relevant Regulations provide:
- (a) Regulation 11(2A) – where a joint committee is established to discharge more than one function by the same authorities at the same time and at least one of those functions is an executive function in at least one authority, the joint arrangements may provide for one joint committee to discharge all the functions on behalf of all the authorities.
  - (b) Regulation 11(3A) – the decision on appointment to a joint committee should be taken by either the elected mayor, the council manager, the executive leader, the executive, a member of the executive or a committee of the executive (dependant on the detailed executive arrangements that are being operated by the authority), where the joint committee is to discharge only executive functions on behalf of the executive of the authority.
  - (c) Regulation 12(1) – where the executive is responsible for deciding on the appointment of members to a joint committee, an executive

Member must be appointed to the joint committee and the political balance requirements do not apply.

- (d) Regulation 12(1A(a)) – where a joint committee is discharging a function in relation to five or more local authorities and the executive is responsible for deciding on the appointment of members, both executive and non-executive members may be appointed to the joint committee by the executive and the political balance requirements do not apply.

- 4.5 At present the law does not permit local authorities to discharge their functions through non local authority bodies or through mixed bodies. Therefore, stakeholders and other partners will be involved in the operation of the joint committee as observers and in an advisory capacity only.
- 4.6 It is proposed that the joint committee should exercise only executive functions and thus approval of the arrangements, delegation of functions to be discharged by the joint committee and the appointment of members to the joint committee can be effected by the executive of each authority.

#### Membership

- 4.7 The joint committee will comprise 10 members, two nominated by the executive of each Borough. It is anticipated that the Leader or elected Mayor will be nominated and one other Member. Given that only executive functions are to be exercised by the joint committee it is likely that the second members will be executive members although the law does enable the appointment of non-executive members when the joint committee comprises five or more authorities.
- 4.8 The maximum term of office for any nomination may not exceed a Member's remaining term in office, so as London elections are due in 2010, initially appointments may not exceed beyond the end of the current municipal year.
- 4.9 The Chair will be appointed at the first meeting of the joint committee. It should be noted that the Five Boroughs have agreed and recorded in the Memorandum of Understanding that the Chair should be the Mayor of Newham but this cannot preclude the appointment of the Chair by the joint committee at its first meeting.

#### Quorum and Voting

- 4.10 It is important that decisions affecting any particular Borough are not taken without that Borough being represented at the meeting and consequently the quorum for meetings of the joint committee shall be at least one member from each Borough.

- 4.11 Similarly it is considered that the joint committee should not be able to determine matters in relation to a particular Borough if that Borough's representatives do not agree to the proposal. However, where there is no unanimity but several Boroughs wish to pursue a matter together without affecting all Boroughs, provision should be made to facilitate that. Thus, each Member of the joint committee will have one vote and all decisions of the joint committee must be unanimous to be effective in relation to all five boroughs, but two or more boroughs may decide to pursue initiatives together in the absence of unanimity. Where it is not possible to reach unanimity on an issue to be decided, any Member of the joint committee may propose that a qualified vote is taken so that any decision on the issue will only be effective in relation to the two or more boroughs where there is unanimity between the members present at the joint committee from those two or more boroughs.

#### Sub Committees

- 4.12 The joint committee will be able to establish decision making sub-committees to discharge specific functions and it is proposed that any sub-committee established by the joint committee will comprise one Member from each borough.
- 4.13 As with the joint committee, all decisions of any sub-committee(s) established by the joint committee must be unanimous to be effective in relation to all five boroughs, but two or more boroughs may decide to pursue initiatives together in the absence of unanimity. Therefore, where it is not possible to reach unanimity on an issue to be decided, any Member of a sub-committee may propose that a qualified vote is taken so that any decision on the issue will only be effective in relation to the two or more boroughs where there is unanimity between the members present and the sub-committee from those two or more boroughs

#### Delegation to Officers

- 4.14 The joint committee will be able to delegate specific functions to officers.

#### Constitution and Procedures

- 4.15 As a joint committee exercising executive functions of local authorities the legal requirements in relation to meetings of executives will apply. Meetings will be held in public unless the joint committee resolves to exclude the public to prevent the disclosure of confidential or exempt material, and the timetable for consideration of any key decisions will require the publication of a forward plan.

- 4.16 Once established, the joint committee will adapt a Constitution and procedure rules to cover all areas of process and conduct.

#### Overview and Scrutiny

- 4.17 A joint committee is subject to overview and scrutiny requirements under Section 21(2)(a) of the Local Government Act 2000 which provides that executive arrangements by a local authority must ensure its overview and scrutiny committee (or its overview and scrutiny committees between them) have power to scrutinise decisions made, or other action taken, in connection with the discharge of any functions which are the responsibility of the executive.
- 4.18 The 'call in' provisions also apply to a joint committee under Section 21(3) of the Local Government Act 2000 which provides that the above power of an overview and scrutiny committee under Section 21(2)(a) to review or scrutinise a decision made but not implemented, includes power to recommend that the decision be reconsidered by the person who made it.
- 4.19 It has not been possible to identify a statutory power enabling the establishment of a joint overview & scrutiny committee (save for matters relating to health) and it is therefore currently envisaged that the single process will require the Overview & Scrutiny Committee in each of the five boroughs to establish a sub-committee for the specific purpose of scrutinising decisions of the joint committee. Each of the sub-committees established will have uniform terms of reference and adhere to a uniform process for scrutiny and 'call in' of decisions of the joint committee. The scrutiny process will be administered by the clerk to the joint committee.
- 4.20 In the event that a decision of the joint committee is 'called in' by a scrutiny sub-committee, the chief executive (or an officer designated by them) for the relevant borough will attend the scrutiny sub-committee together with one or both of the members nominated by that borough to the joint committee.
- 4.21 A decision of the joint committee will be held in abeyance pending the outcome of the 'call in' which will be either to concur with the decision in which case it may be implemented, or to refer it back to the joint committee with recommendations for an alternative course of action.

#### Functions

- 4.22 It is proposed that the executive functions to be discharged by the joint committee shall be as set out in Appendix 1 to the Memorandum of Understanding.

## Administration

- 4.23 Under the Inter Authority Agreement the London Borough of Hackney has been the lead borough for the employment and management of staff in the Joint Borough Central Unit and for discharging the annual budget. Additionally administrative support for meetings has been provided.
- 4.24 It is proposed that the executive functions to be discharged by the joint committee shall be as set out in Appendix 1 to the Memorandum of Understanding.
- 4.25 Hackney will continue to be lead borough for the employment and management of staff. The Executive Director of the Joint Borough Central Unit will be responsible for day to day management and direction of the Unit reporting to the joint committee through the Chief Executive's
- 4.26 Similarly, Hackney will continue to be lead borough for the budget which the joint committee will manage with power to propose variations to the level of contribution by each borough.
- 4.27 Hackney will also provide administrative support to the joint committee and the Chief Executive of Hackney will be formally designated as clerk to the joint committee.

## **5. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 5.1 The costs of administering the joint committee will be incurred by Hackney Council and will be shared between the five Boroughs. Information on the cost involved is not available at the time of drafting these comments but it is anticipated that it will be met from within existing budgets.
- 5.2. The setting of budgets is a matter reserved to the Council. The joint Committee has no powers to require a constituent Council to increase its overall budget. All decisions of the joint Committee will therefore either need to be met from within existing budgets or referred back to constituent

## **6. CONCURRENT REPORT OF ASSISTANT CHIEF EXECUTIVE (LEGAL)**

- 6.1 The legal powers to set up the Joint Committee are set out in the body of the Report. The operation of the Joint Committee will give the 5 Boroughs more force when negotiating legacy matters and funding with Government and other bodies including the Olympic Agencies. The Joint Committee does not take away any of the Council's in-Borough statutory functions; it will only deal with Olympic Park functions and related matters as set out in

the Terms of Reference. It provides for unanimous voting so the Council cannot be bound by other Boroughs without its own agreement.

## **6. ONE TOWER HAMLETS**

- 6.1 The Joint Committee through the proposed Olympic Legacy Multi Area Agreement will deal with proposals for Housing, Worklessness and Skills and Public Realm which will support the Council's Community Plan objectives to address all of these issues which have an impact on poverty within the Borough.

## **7. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 7.1 There are no implications arising from this report.

## **8. RISK MANAGEMENT IMPLICATIONS**

- 8.1 There are no implications arising from this report.

## **9. EFFICIENCY STATEMENT**

- 9.1 The work dealing with contractual matters and other arrangements is shared between the Boroughs so that efficiencies in resources are achieved.

### **Local Government Act, 1972 Section 100D (As amended) List of "Background Papers" used in the preparation of this report**

Brief description of "back ground papers"

Name and telephone number of holder  
and address where open to inspection.

To be completed by author

To be completed by author ext. xxx

None

## **10. APPENDICES**

Appendix 1 – Memorandum of Understanding