

MEMORANDUM OF UNDERSTANDING

DRAFT 2

Five Host Boroughs London 2012 Olympic and Paralympic Programme

Establishment of a Joint Committee Introduction

1. The London Boroughs of Greenwich, Hackney, Newham, Tower Hamlets and Waltham Forest (the five boroughs) have decided to establish a joint committee to discharge executive functions on behalf of the five boroughs in so far as they relate to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games.

2. This Memorandum of Understanding sets out the basis for operating the joint committee and associated activities as agreed between the five boroughs. The Memorandum and the terms of reference for the joint committee (which are attached as Appendix One) will be approved by the Executive for each of the five boroughs.

Legal Framework

3. 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. 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.

5. 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 of 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.

6. 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 in an advisory capacity.

7. 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 their overview and scrutiny committee (or their 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.

8. 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.

9. The joint committee is not a separate legal entity and existing arrangements for lead boroughs to take on responsibility for particular activities will be made and/or continue to operate in accordance with the Inter Authority Agreement made between the five boroughs dated 31 August 2006.

Inter Authority Agreement (IAA)

10. The existing IAA excludes the operation of a joint committee and its terms will therefore be amended to remove that exclusion and also to give effect to other matters covered by this Memorandum of Understanding.

11. Under the terms of the IAA any variation must be agreed by each of the five borough Chief Executives and for the avoidance of doubt the Executive of

each of the five boroughs will also specifically delegate responsibility for agreement of the revised IAA to their respective Chief Executives.

Employment of Staff

12. The IAA currently designates the London Borough of Hackney as lead borough for the employment and management of staff in the Olympics Joint Borough Central Unit (OJBCU - the five host boroughs unit)). This arrangement will continue and the Executive Director of the OJBCU will be responsible for day to day management/direction of the OJBCU, reporting to the joint committee through the Chief Executive's Board (see 15 below).

Annual Budget

13. The IAA currently designates the London Borough of Hackney as lead borough for discharging the annual budget. This arrangement will continue and the joint committee will be responsible for managing the annual budget. As part of this function, the joint committee may also make proposals for any revision in the level of contribution made by each of the five boroughs to the annual budget for consideration as part of each of the five boroughs annual budget allocation process.

Five Borough Meetings

14. The IAA currently provides for regular meetings of the five borough Chief Executives and the five borough Leaders and elected Mayors. When the joint committee is established the latter will cease but the Chief Executives will continue to meet as at present as the Chief Executives' Board.

Administration

15. Administrative support for the meetings of the five borough Chief Executives and the five borough Leaders and elected Mayors is presently being provided by the OJBCU. When the joint committee is established, administrative support for the joint committee will be provided by the London Borough of Hackney on a lead borough basis and the Chief Executive of Hackney Council will be formally designated as clerk to the joint committee with responsibility for the provision of administrative support.

Overview and Scrutiny

16. Decisions of the joint committee will be subject to scrutiny and 'call in' under a single process to be agreed by the five boroughs. 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.

17. 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.

Key Decisions

18. In the event that a decision to be taken by the joint committee amounts to a 'key decision' it will be included in the forward plan for each and any of the five boroughs as appropriate, having regard to the criteria that have been adopted by each borough for the determination of 'key decisions'.

Constitution

19. Once established the joint committee will adopt a constitution to cover matters such as rules of procedure for meetings, public access to information (including arrangements for the publication of key decisions) and the scrutiny process agreed by the five boroughs.

Functions

20. The executive functions discharged by the joint committee shall be as specified in the terms of reference attached as Appendix One to this memorandum. The joint committee does not have power to exercise non executive functions on behalf of the five boroughs.

21. The functions of the joint committee will not be limited by area, but it will only discharge executive functions that relate to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games, including negotiation and agreement of any Strategic Regeneration Framework and Multi Area Agreement(s).

22. There will be no financial limit for decisions taken by the joint committee but it will only be able to take decisions about any funds allocated to it either as part of the annual budget, from external grant funding or other resources allocated to it in addition to the annual budget whether by any or all of the five boroughs or otherwise.

Membership and Chair

23. The Executive for each of the five boroughs will nominate two Members to the joint committee. The maximum term of office for any nomination may not exceed a Member's remaining term in office, so that in the first instance nominations may not extend beyond the end of the current municipal year.

24. The joint committee will be responsible for electing a Chair and it has been agreed by the five boroughs that this Memorandum should record that the intention of the five boroughs is that the Chair of the joint committee should be the Mayor of Newham.

Quorum and Voting

25. The quorum for meetings of the joint committee will be at least one Member from each borough.

26. 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.

27. Therefore, 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

28. The joint committee will be able to establish decision making sub-committees to discharge specific functions.

29. Any sub-committee established by the joint committee will comprise one Member from each borough.

30. 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.

31. 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 at the sub-committee from those two or more boroughs.

Delegation to Officers

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

Partner and Stakeholder Representation

33. Partners and stakeholders will be invited to send observers to meetings of the joint committee (and any sub-committees) as appropriate.

Commencement

34. The joint committee will be established with effect from 1 June 2009.

Appendix One

JOINT COMMITTEE TERMS OF REFERENCE

To act as a joint committee of the London Boroughs of Greenwich, Hackney, Newham, Tower Hamlets and Waltham Forest (the five boroughs) for joint collaboration in relation to the Olympic and Paralympic Games in 2012.

1. Functions:

To discharge on behalf of the five boroughs the executive functions listed below in so far as they relate to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games:

1. Management and expenditure of the annual budget as defined by the Inter Authority Agreement made between the five boroughs dated 31 August 2006
2. Management and expenditure of external funding and all other financial resources allocated to the joint committee, including any funding allocated to the joint committee by any or all of the five boroughs in addition to the annual budget.
3. Approval of an annual business plan.
4. Development, negotiation and agreement of any Strategic Regeneration Framework and Multi Area Agreement(s).
5. Development, negotiation and implementation of joint regeneration policies and programmes.
6. Development, negotiation and agreement of a joint approach to post Olympic legacy, including promotion of the five boroughs as a sub region.
7. Development, negotiation and implementation of joint legacy strategies.
8. Development, negotiation and implementation of joint arrangements in relation to bidding for, accepting and distributing external funding.
9. Development, negotiation and implementation of joint publicity and a joint communications strategy.
10. Development, negotiation and implementation of joint cultural event programmes and policies.
11. Development, negotiation and implementation of joint economic development and employment programmes and policies.
12. Development, negotiation, provision and implementation of joint building control policies and procedures for the Olympic Park. and Olympic venues in the five host boroughs.
13. Development, negotiation, provision and implementation of joint environmental health policies and procedures in relation to the Olympic Park and Olympic venues in the five host boroughs, including food safety & standards, health & safety enforcement, pest & pollution control and public health.

14. Development, negotiation, provision and implementation of joint parking, highways and traffic management policies and procedures.
15. Development, negotiation and implementation of joint policies for tourism and the business travel economy.
16. Development, negotiation and implementation of joint policies to maximise educational opportunities.
17. Development, negotiation and implementation of joint sports development policies.
18. Development, negotiation, provision and implementation of street naming/numbering and street scene enforcement policies and procedures for the Olympic Park and Olympic venues in the five host boroughs.

Any other executive functions relating to joint activities or areas of common concern in relation to the 2012 Olympic and Paralympic Games in relation to which funding is allocated through the annual budget or in respect of which external funding or any other financial resources are allocated to the joint committee.

2. Membership:

Ten Members, comprising two Members nominated by the Executive from each of the five boroughs for a maximum period not extending beyond any Member's remaining terms of office as a councillor.

3. Quorum:

At least one Member from each of the five boroughs.

4. Voting Requirements:

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.

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 be effective in relation to two or more boroughs where there is unanimity between the Members present at the joint committee from those two or more boroughs.

5. Sub-Committees:

The joint committee may establish such sub-committees to discharge any, some or all of the functions listed in paragraph 1 above and/or for such other purposes as the joint committee determines appropriate. Any sub-committee so established shall comprise one Member from each of the five boroughs, who shall each have one vote and all decisions taken by any sub-committee must be unanimous to be effective in relation to all five boroughs.

Where it is not possible to reach unanimity on an issue to be decided, any Member of the sub-committee may propose that a qualified vote is taken so that any decision on the issue will only be effective in relation to two or more boroughs where there is unanimity between the Members present at the sub-committee from those two or more boroughs.