



London Borough of Hillingdon
Finance & Property Services

Tel: 01895 556071
Fax: 01895 250871
email: cneale@hillington.gov.uk

Sir Michael Lyons
Lyons Inquiry into Local Government
Room 3/12
1 Horse Guards Road
London
SW1A 2HQ

14 July 2006

Dear Sir Michael,

**Local Government Functions & Funding Review – Unique Unfunded
Circumstances of the London Borough of Hillingdon**

I wish to present for your consideration the unique funding circumstances of the London Borough of Hillingdon, which highlight some of the limitations of the current system of local government funding. Although the formal deadline for consultation responses to your review into local government has passed, new issues continue to emerge that have a significant implication for the Lyons Inquiry into Local Government. These are demonstrated by the more recent agreement to the legal case brought by the Council that the actions by the Department for Education and Skills (DfES) in respect of funding services to unaccompanied asylum seeking children (UASC) should be subject to Judicial Review. I hope you can consider the issues I have set out below in shaping your final recommendations, as in my view it presents a clear case of a range of issues in need of urgent attention.

1. Summary

The main points that I wish to bring to your attention:

- i) The absence of Government funding to adequately fund statutory services for the national and international issues associated with Heathrow leaves Hillingdon with no other sources of funding to handle this pressure other than passing the burden onto Council Tax payers through higher taxes (subject to capping), or reduced quality of services;
- ii) The burden transferred by DfES to Hillingdon in 2006/07 regarding UASC services, being the first year of its impact taking into account DfES applying its decisions retrospectively to earlier agreed and accrued funding for 2005/06 and 2004/05, amounts to £10 million, equivalent to a 10% increase in Council Tax, and in future years will amount to a 5% increase in Council Tax.

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Civic Centre, High Street, Uxbridge, UB8 1UW

www.hillingdon.gov.uk

This burden transferred by central Government is thus totally beyond Council Tax raising limits imposed by central Government let alone any notion of reasonableness. In the only direct one-to-one discussions finally held last week, DfES suggest this is because they only need fund such a burden 'partially'. Should partial lack of funding have limitations placed on it in terms of a maximum percentage of local budgets or Council Tax?

- iii) Should central Government departments be allowed to make decisions affecting funding relating to prior years already ended? Should they not be required to make decisions on future funding before Council Tax setting, and if material as in this case, how can Directors of Finance confirm in accordance with the Local Government Act 2003 the robustness of budgets for Council Tax setting with this level of uncertainty regarding Central Government funding? (Representations have already been made by the Society of London Treasurers on this matter to the Minister for Local Government in 2003, but received no response).
- iv) Should central Government departments be allowed on a partial per head basis to fund pressures imposed by their legislation, when some local authorities have such a high percentage of the service (Hillingdon has around 20% of the total of England's support weeks for asylum seekers leaving care), and the sums are so large for some local authorities (i.e. amounting to a minimum of 5% of Council Tax each year for Hillingdon)?
- v) Should central Government departments be allowed finally to fund local government service providers years after they have incurred the agreed expenditure without bearing any of the interest costs for late payment (DfES for 2005/06 have proposed payment in September 2006, well after the expenditure being incurred)?
- vi) The different funding approaches of the Government departments involved and the failure to produce a joined-up settlement for the impact of Heathrow, in spite of years of attempts by local government to effect this;
- vii) The failure of the application of the 'new burdens' principle to provide an adequate settlement between local and central Government in respect of services arising from Heathrow;
- viii) The funding shortfall in relation to Heathrow could lead to perceptions of unfairness among Council Tax payers in relation to costs and funding. This is primarily manifest in trenchant public opposition to the further expansion of Heathrow, but could further undermine public confidence in the Local Government Finance regime, and lead to strained relations between the various communities in the borough of Hillingdon;
- ix) The UASC funding shortfall in particular has a £4.8 million direct ongoing budgetary impact, that affects the Council's ability to improve performance and outcomes for its communities.

This in turn is judged for Government by the Audit Commission, even though the shortfall in UASC funding has created an uneven 'playing field' as compared to the rest of local government. The Corporate Assessment of Hillingdon in 2005 acknowledged this very particular difficulty that was beyond their remit to resolve;

- x) Should there be a more cost effective and immediate way than Judicial Review of escalating a matter and getting to meet a Government department on a one-to-one basis when a local authority provides 20% of the national service?

The Council would welcome your consideration of these matters in your review, as lack of attention to them with the growth of Heathrow certainly imperils the financial viability of the Council under the current funding regime. There is cross party support on this issue as well as unanimous agreement by the local Members of Parliament.

I set out some further details below in case you wish them at this stage or for your officials in case they are not familiar with them or wish further substantiation of the points made above. There is also an LGA and ALG submission of 4 May 2006 giving some of the details, which I attach for ease of reference.

2. Location of Heathrow International Airport

Heathrow International Airport is located within the boundary of the London Borough of Hillingdon. It is the busiest international airport in the world, and the largest industrialised site in London, with around 70 million passengers passing through the airport each year. This number is expected to increase by a further 30 million passengers following the opening of Terminal 5 in 2008.

As the local authority serving Heathrow, Hillingdon has a range of responsibilities that are additional to serving the resident population of our borough. These responsibilities, especially in relation to health and social care for passengers arriving at Heathrow, have significant cost implications for the London Borough of Hillingdon. These costs are not properly funded through the current system of local government finance, leading ultimately to an excessive burden on local taxpayers. This is particularly so in respect of services to unaccompanied asylum seeking children, and to non-asylum seeking arrivals at Heathrow.

None of the work in respect of non-asylum seeking arrivals at Heathrow receives any recognition or funding from Government. Working with our Local Strategic Partnership (LSP) we have estimated that the total cost burden to local public services arising from their responsibilities to Heathrow, that is not funded by Government is in the region of £6 million – before considering the UASC shortfall described below. The LSP would be pleased to provide further analysis of the further local funding issues caused by Heathrow. The costs of Heathrow thus also affect the local PCT, which as you may know has one of the most significant deficits, showing the future possibilities for Hillingdon if this matter is not resolved, which I believe and hope you have a very particular opportunity to address in the review.

3. Funding for Services to Unaccompanied Asylum Seeking Children

The London Borough of Hillingdon has around 450 unaccompanied asylum seeking children (UASC) in the care of childrens' social services, plus a further 900 young asylum seekers aged 18 to 24 to which we have responsibilities under the Children (Leaving Care) Act 2000. These numbers are driven by the location of Heathrow within the borough. It is not only the size of the passenger numbers passing through Heathrow that is significant here, but also that Heathrow is the most global and diverse of airport hubs, serving 190 destinations through 90 airlines. The direct gross cost of these services in 2005/06 is equivalent to 67% of the mainstream childrens' social services direct gross expenditure. This is unique amongst social services authorities - no other local authority comes close to this proportion of impact on their mainstream childrens' social services budget.

The scale of the burden of looking after UASC following the 'Hillingdon Judgement' in 2003 caused the Home Office and the Department for Education and Skills (DfES) to introduce special funding arrangements via specific grants to cover the costs of these services. However, during the final quarter of 2005/06, the DfES retrospectively reduced the rate of funding for UASC services for 2004/05 and 2005/06 from £140 per week to £100 per week. This has resulted in a funding shortfall on these services totalling £5.3 million for 2004/05 and 2005/06, and an ongoing shortfall of £4.8 million for 2006/07 should the specific grant conditions remain the same, equivalent to a 5% increase in Council Tax.

Hillingdon has been granted leave to obtain a Judicial Review of the DfES decision, to challenge the basis on which they have changed the grant regime, which in our view runs totally opposed to established practice and convention, and the 'new burdens' principle. Having initially accepted the 'new burden' principle that to fulfil our statutory responsibilities required full cost reimbursement from the Government, the DfES has now backtracked and broken this important principle of local-central funding relations.

Unless a satisfactory resolution can be found in the near future, the Council will as a last resort fight the DfES' current decision, and any further irrational decisions which it may make in the future, all the way in the Courts. The Council feels very strongly about this issue and is not afraid to seek judicial remedies should the need to do so arise.

In order to manage the impact of this decision, we have needed to put in place an emergency savings package of £10 million for 2006/07, equivalent to a 5.8% reduction in our net budget requirement for 2006/07 of £172 million. The DfES decision has therefore threatened to undermine the financial standing of the London Borough of Hillingdon, and the impact of the emergency savings package has been to reduce services both to UASC and the wider community.

The lack of appropriate central Government funding for such a locally delivered, but centrally imposed and nationally required service threatens the viability of a local authority with unique responsibilities for one of the most important transport sites for

the United Kingdom and the world, where we consequently have currently the fourth lowest reserves in London at around £4 million, as a result of DfES misuse of them.

4. Impact of Non-Asylum Seeking Arrivals at Heathrow Airport

The social care client group of non-UASC Heathrow referrals is not funded through the Revenue Support Grant mechanism, as the clients are not ordinarily resident in the borough. Funding is not provided through grant funding for asylum seekers, as the clients in this group are not normally asylum seekers – they are people who have no connection to Hillingdon other than that they have landed at Heathrow in need of care and support, some for the very long-term.

Operation Paladin has led to dedicated Metropolitan Police Service (MPS) and Immigration resources now being permanently deployed at Heathrow to ensure that there is appropriate scrutiny of any child unaccompanied or accompanied arriving at Heathrow. Where safeguarding issues arise, we as the local authority are then required to intervene as appropriate to the needs of the child. As a consequence of Operation Paladin and this team's development, an increasing number of children are being identified as being at risk upon arrival and are entering our care.

In 2005/06 the growth in unfunded expenditure was £730k to support non-UASC clients presenting themselves at Heathrow. The majority of this cost (£610k) relates to non-UASC children. This is likely to significantly increase as a result of the 'Kingston Pilot'. The Kingston Pilot relates to the MPS Ports Safeguarding Team at Heathrow, funded by the Home Office, scrutinising the adequacy of arrangements for every child arriving from Jamaica unaccompanied or otherwise. This will lead to a further rise in Heathrow children coming into this authority's care, as will be the case when the pilot is expanded to include many other countries. For adult clients (£120k) this includes ex-patriots returning with various social care needs.

Despite this, the Joint Area Review (JAR) inspection in 2005 highlighted that the London Borough of Hillingdon has risen to the challenge presented by children arriving at Heathrow airport, ensuring that all children are protected, fulfilling obligations to those at risk from trafficking and to UASC which has been at considerable additional cost to the authority and erodes the monies available to fund other core services to children and more generally.

5. Consequences for Local Government Finance Regime

The two examples set out above show the limitations of the current system of local government finance to handle to the unique circumstances of the London Borough of Hillingdon. We face disproportionate risks in funding services to UASC from specific grants that are determined retrospectively and without reference to our unique circumstances. We receive no Government funding for non-asylum seeking social care service users arriving at Heathrow, since these service users are not counted among the ordinarily resident population of the borough in the census statistics that are used to determine local government funding. We do not have the powers as the local authorities with municipal airports do to introduce a passenger levy to fund these services.

Heathrow does not bring additional resources to the London Borough of Hillingdon, even though it provides employment to many of the boroughs residents. Non-domestic rate (NDR) payments are taken into the national pool – reflecting that NDR is effectively a national and not a local form of taxation. The Local Authorities Business Rates Incentive (LABGI) scheme is not certain to continue beyond 2007/08, so there is no guarantee that Hillingdon will receive any funding from this scheme at the time that Heathrow Terminal 5 opens, and even this would be insufficient to fund more than a part of its in year costs.

The resulting burdens fall on local Council Tax payers through either higher Council Tax or reduced services to the ordinarily resident population of the borough. This is despite the fact that the care of people arriving at Heathrow is clearly an issue of national if not international importance, to which a local ‘solution’ is in operation. The impact of Heathrow places a significant limitation on the local choices available to our communities regarding their public services.

In previous meetings with Government Ministers it has been suggested that every local authority has its own circumstances and that Heathrow is the London Borough of Hillingdon’s circumstance. This stance is in direct conflict with the additional central Government resources that have been provided to screen new arrivals at Heathrow as described above. It also shows that the ‘new burdens’ principle has not been properly followed by the DfES, and that greater protection is needed where this principle is broken, with more cost-effective remedies than legal action.

The effects of the Home Office action in funding the Metropolitan Police additional scrutiny of new arrivals at Heathrow, also show the limitations of the ‘new burdens’ principle as currently formulated, in that it is the indirect effects of central Government policy that are placing a burden on local resources, rather than the specific extension of statutory responsibilities through legislation.

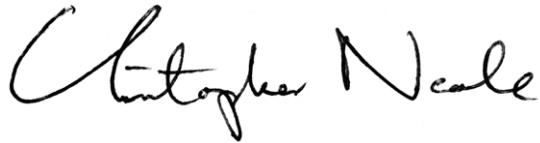
The Council has managed the impact of Heathrow thus far and continued to improve the performance of the London Borough of Hillingdon as a whole, but believes this is not sustainable. The funding arrangements for Heathrow-related services appear to be an example of ‘place-breaking’ as opposed to the ‘place-shaping’ role for local authorities advocated in your latest report.

The Council believes that a formal clarification of national and local government roles and responsibilities in relation to Heathrow is required. The Council notes that the fragmented nature of central Government, as manifest in the inconsistent and piecemeal nature of the funding arrangements for UASC through the Home Office and the DfES, have contributed to the current unsustainable solution.

The Council also urge you to consider further whether alternative forms of revenue raising power could be available to local authorities, and the London Borough of Hillingdon in particular, such as a passenger levy for Heathrow in particular that reflects the unique diversity of public service needs arising from Heathrow. This could be very simple to administer, and a nominal 10p passenger levy would equate to the shortfall identified by the LSP. Additionally a hotel bed levy could provide some compensation for our unique circumstances.

The Council would welcome your consideration of these matters in your review to provide a solution before the matter gets beyond local control, developing principles for the future that can reduce the likelihood of it reoccurring for a different new burden.

Yours sincerely

A handwritten signature in black ink that reads "Christopher Neale". The signature is written in a cursive style with a large initial 'C'.

Christopher Neale, BA, ACA, MBA
Director of Finance & Property Services

Enc. Local Government Association and Association of London Government joint survey of local authority support for unaccompanied asylum seeking children leaving care dated 4 May 2006