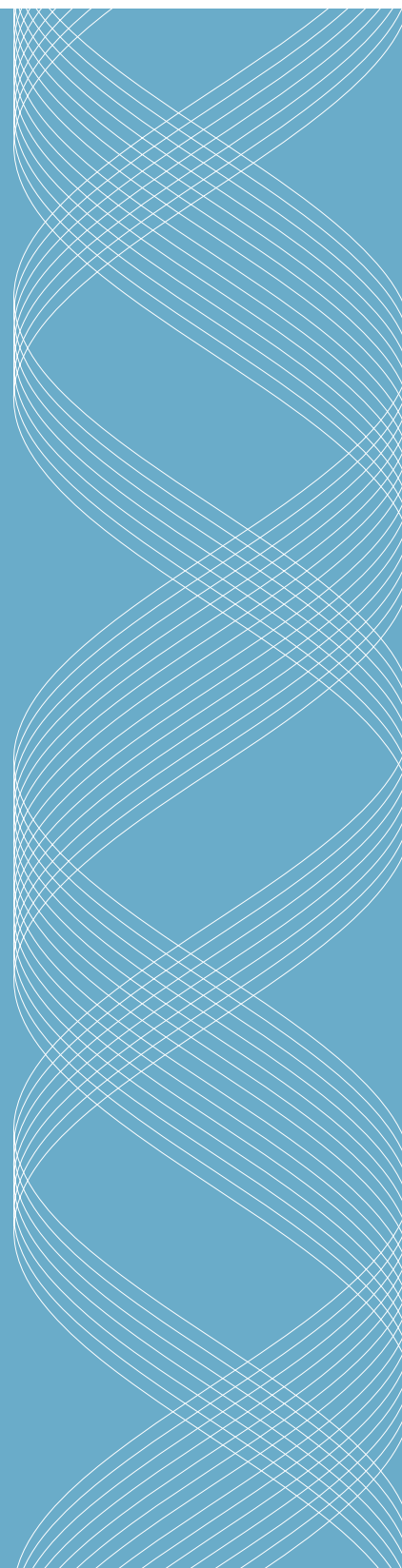




# **Draft Civil Contingencies Bill**

Consultation Document – June 2003



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## Ministerial Foreword

by Douglas Alexander



We are more aware than ever of the risks that society faces from disruptive challenge. Increasingly complex networks of economic and social activity, the threat of international terrorism and changing climate have led to a series of emergencies and heightened concerns for the future. The smaller scale emergencies that can affect local communities are, of course, of continuing concern.

Many of the certainties that determined the way in which the public, private and voluntary sectors prepared for past emergencies cannot now be relied upon. Civil defence no longer exists as a practical stand alone activity. Traditional emergency planning needs to be more flexible, and have greater regard to risk management. Legislation such as the 1920 Emergency Powers Act and the 1948 Civil Defence Act is outdated. A new framework is needed to build a wide range of co-ordinated, capable responses.

This document sets out how this will be supported and delivered through a Civil Contingencies Bill. As we trust is made clear, the Government is already making significant progress in enhancing the United Kingdom's resilience in emergencies.

Most importantly, this document sets out the detail of the proposed Bill, and seeks your views. The proposals have been developed through a consultative process, and we want that to continue. I hope that you will take the time to consider our proposals and comment on the questions we raise.

I look forward to hearing your views.

DOUGLAS ALEXANDER  
Minister for the Cabinet Office and Chancellor of the Duchy of Lancaster



## Executive Summary

**1.** The Government is seeking to improve the UK's resilience to disruptive challenge. The aim of building resilience is to reduce susceptibility to challenges by reducing the probability of their occurrence and their likely effects, responding effectively and efficiently when they occur and building institutions and structures in such a way as to minimise the possible effects of disruptions upon them. Disruptive challenges exist along a spectrum of severity ranging from local flooding to massive terrorist attack.

**2.** The UK's resilience to disruptive challenge is already high. There is a long standing tradition of effective planning and response at the local level. Fire, police and ambulance services are amongst the best in the world, and provide an excellent service when dealing with incidents whether routine or major. The emergency services generally work well with local authorities and others to deliver multi-agency planning and response. In addition, 30 years of Irish terrorism has established a capability within Government and an awareness amongst businesses and the public which puts the UK in a comparatively strong position.

**3.** Nevertheless, the Government is not complacent. Flooding and the fuel crisis in 2000, and the Foot and Mouth Disease outbreak in 2001 exposed weaknesses in existing arrangements. September 11 changed the frame of reference for counter-terrorism. As a consequence, the Government has renewed its focus on resilience.

**4.** The Government's approach to the resilience agenda has several strands:

- Improved horizon scanning activity to identify and assess potential and imminent disruptive challenges to the domestic UK and assist in the development of an integrated response.
- Increased investment in the capabilities that underpin response to emergencies, through a Capabilities Programme.

- An enhanced counter-terrorism framework, including investment in operational activity and new legislative measures.
- An emphasis across government on improved business continuity arrangements.
- New civil contingencies legislation.

**5.** This document addresses the last of these strands. The purpose of the Civil Contingencies Bill, and the accompanying non-legislative measures, is to deliver a single framework for civil protection in the United Kingdom. This is a key element of the Government's work to enhance our resilience to disruptive challenge. The current framework is disjointed in places, and the Bill will deliver consistency of approach and outcome. And those parts of the current arrangements that are outdated will be modernised, to deliver a new framework to meet the challenges of the twenty-first century.

**6.** The purpose of this document is to set out the proposals to allow wide consultation before the Bill is introduced to Parliament, and set out the specific questions on which we are seeking your views. The draft Civil Contingencies Bill and Explanatory Notes are published alongside this consultation paper. Two partial Regulatory Impact Assessments of the provisions set out in the draft Bill are published alongside this document.

### Proposals

**7.** The concept of resilience underpins the draft Bill. In practice, resilience means different things to different organisations because of variations in their size, purpose and interconnectedness. For the purposes of this legislation the Government is focusing on those disruptive challenges that can be called emergencies. Civil protection is about protecting the public from the effects of emergencies, and in a world of diffuse risks this is best delivered through an approach based on generic capabilities. More detail on this approach, including the measures the Government is already taking, are set out in Chapter 2.

**8.** The local response capability is the building block of our ability to deal with emergencies. Chapter 3 sets out the proposals for this tier. For the first time, legislation will give organisations that form the core of the local response a clear and consistent set of expectations and responsibilities in relation to civil protection. This will ensure consistency of activity across the local response, delivering improvements in performance and communication. Local responders will deliver civil protection based on key themes – risk management, emergency planning, business continuity and warning and informing the public. The Bill also provides for the setting out of the relationship between core responders and key co-operating bodies in both the private and public sectors. It provides for the establishment of arrangements for better communication, co-operation and information sharing, which will deliver practical benefits.

**9.** Chapter 3 also explains the accompanying measures that are not part of the draft Bill. The clarification of roles and responsibilities by the new framework provides the basis for robust performance management of civil protection activity to ensure operational effectiveness and financial efficiency.

**10.** The Government is establishing a new regional civil protection tier. Recent disruptive challenges have demonstrated both the weaknesses and potential of current regional arrangements. To take advantage of that potential the regions need clarity of role and responsibility, which has to be developed in partnership with local responders and central government to ensure it adds value. The new arrangements draw together activity already organised on a regional basis and providing a strong bridge between the centre and local areas. Regional Resilience Teams are already in place in Government Offices, and Regional Resilience Forums have been formed to bring together the key players.

**11.** Chapter 4 explains these changes, and sets out how the Bill will enhance this further, providing for the regions to take a role in emergency management and allowing for special legislative measures to be used on a regional basis.

**12.** Chapter 5 sets out the role of central government in preparing for and dealing with emergencies. The centre needs to be able to respond effectively, providing co-ordination where necessary, making the resources of central government available if required

and tackling the most serious emergencies using the full range of its powers where the situation demands it. The traditional central government framework was not geared towards modern disruptive challenges – too tightly focused on long established risks and threats and sometimes too slow moving.

**13.** Chapter 5 also shows that in large measure, improved arrangements are already in place. There is already a more effective machinery within central government based around the Civil Contingencies Secretariat, Lead Government Departments and a robust crisis management capability. These arrangements are continually reviewed and refined in the light of experience. The Government is also putting in place a standards and audit regime for proper performance management of civil protection activity in central government to ensure operational effectiveness and financial efficiency.

**14.** Turning to the Bill, Chapter 5 also explains the proposal to modernise the legislative tools available to Government to deal with the most serious emergencies, providing for greater flexibility, proportionality, deployability and robustness.

**15.** The new framework reflects the changes to the UK's constitution. All parts of the UK should enjoy the same degree of civil protection. And it is right that the administrations in Scotland, Wales and Northern Ireland play a key role in delivering this. In addition, London's unique status as city, region and capital requires special focus. The proposals contained in this document have differing territorial extents. Those relating to local responders would apply to England and Wales only while those on Emergency Powers would apply throughout the UK. Chapters 6 and 7 explain how the proposals will apply in each case.

## Consultation

**16.** The publication of the draft Bill follows a long period of formal and informal consultation on the organisation of civil protection. We are now consulting on the part of the new framework underpinned by the Civil Contingencies Bill. We are seeking comments from a wide range of organisations and individuals from across the UK, particularly:

- Organisations already involved in the consultation process, including representative organisations.



- Organisations from the public, private and voluntary sectors which have an interest in civil protection.
- Civil Protection professionals.

**17.** We would welcome your comments on the proposals for the new legal framework set out in the draft Bill. In particular, we are looking for respondents to reply to the specific questions raised in this consultation document. The questions can be found at the end of each chapter, and brought together as Annex A of this document. Details of how to comment are in Chapter 1. The deadline for responses is 11 September.

**18.** The analysis of the responses to the consultation will feed into the final policy development process to help the Government move towards a Bill ready for introduction when Parliamentary time allows.



# Chapter 1

## The policy development process and consultation

**1. Civil protection is a cross-cutting area of work, involving many, varying organisations, public private and voluntary, working together. In formulating policy in this area, Government recognised that it was essential to involve as many organisations as practically possible. Government made clear its commitment to including all key stakeholders in the policy development process. This fully inclusive process has enabled us to reach the position where the policy contained in this document has been agreed by a wide-range of organisations. We are confident that the quality of the policy reflects the input and variety of the many organisations involved in the policy development process. We are now seeking wide consultation with the public and with Parliament.**

### Catalysts for change

**2.** Following the fuel crisis and severe flooding in the autumn and winter of 2000, the Deputy Prime Minister announced a review of civil protection arrangements in England and Wales. In this review, Government made public its commitment to introducing new legislation in this area, recognising that civil protection in the 21st Century bore little resemblance to the 20th Century legislation in which it had its roots. Practitioners had been pressing for a change in legislation, to reflect the move from Cold War civil defence to modern civil protection.

**3.** A public consultation, lasting twelve weeks, was held in 2001, from August to October. A series of seven workshops was held as part of the consultation process: these were attended by 325 people. Written submissions were invited from all interested parties: 267 were received. These informed the final report on the consultation. The results of the 2001 Emergency Planning Review can be viewed on the Civil Contingencies website ([www.ukresilience.info/epr/index](http://www.ukresilience.info/epr/index)). The final report was made public in February 2002.

**4.** The way in which the foot and mouth disease outbreak in 2001 was managed drew widespread comment from a range of bodies. Negative perceptions were drawn from the regional and national response to the extensive flooding in 2000 and the fuel crisis. Government recognised that although arrangements to deal with disasters affecting a localised area were well established, arrangements at a regional level were unpractised and led to a disparity in response across the affected areas. Government concluded that robust regional arrangements needed to be put in place.

**5.** During the public consultation period of the Emergency Planning Review a significant event occurred – the attacks on the USA on 11 September 2001. This had a considerable impact on civil protection in the UK. It caused a fundamental review within government of its own procedures to deal with emergencies, as well as how well the UK as a whole would respond. This led to a reassessment of what should be encompassed within potential civil protection legislation. The whole government machinery for use in a crisis needed to be reviewed.

**6.** It no longer seemed appropriate to legislate principally for local responders: legislation needed to accommodate every level and every conceivable and inconceivable circumstance. Thus, the scope of potential legislation was broadened to comprise a review of all legislation relating to emergencies in the UK, including the outdated and recently unused Emergency Powers Acts. The existing powers contained within these Acts were limited in the types of emergencies in which they could be applied and only allowed for a national state of emergency. It was envisaged that Government might have to assume similar powers, but in a wider range of circumstances, should a wide-spread and/or high impact disaster of regional or national proportions occur.

**7.** A further reason for a general review of all legislation relating to emergencies was the necessity to appropriately accommodate the devolution settlements in legislation relating to planning and response to emergencies.

## Policy development

**8.** In addition to the catalysts for change, other work informed the policy development process. A study of comparative jurisdictions was carried out to identify best practice that could be drawn upon, and any international obligations or constraints that had to be reflected. Analysis of current practice and procedure informed decisions about the scope and structure of the Bill. The wider resilience agenda, including the capabilities based approach and the Lead Government Department concept. Work was done to compare civil protection with other areas of 'public protection' such as health and safety and environmental health. The current legislative framework was examined in detail, taking in both civil protection legislation and more general acts with a less specific relevance. The policy development was also informed by constitutional changes put in place since civil protection was last considered, including devolution, self government for London and the emergence of a regional tier of government. Finally, experience from previous emergencies was considered along with the likely nature of future threats and risks.

**9.** During the development of the policy, its potential impact on affected organisations was assessed (see the Regulatory Impact Assessments, published alongside the draft Bill) to ensure that no unnecessary burdens or nugatory regulations would be introduced. Consideration was given to the balance between risk and cost and ensuring the work was done. This in turn was within a light-touch, flexible framework to allow for variation, where appropriate, but continuing to ensure a measure of consistency between areas.

**10.** Representatives from Government Departments, organisational and professional bodies took part in the policy development, giving evidence on their areas of expertise and providing information and practical advice and guidance. Their interest and input has been invaluable to the development of the legislation. The organisations involved are listed in Annex B. A local authority civil protection officer has been seconded full-time to the team of Cabinet Office officials working on this area, providing a practitioner's viewpoint and expertise.

**11.** A number of groups were set up to look at different aspects of the issues involved, drawing on the appropriate membership and representation.

**12.** The policy development process was inclusive, involving all key stakeholders while remaining within a practicable scope and enabling the finalised policy to be delivered within the right timeframe. It is now time to put the emergent policy to the test and to consult with all organisations and individuals who may be affected by or interested in these proposals.

## Consultation on proposals

**13.** A public consultation is being held to give all interested parties the opportunity to contribute to the process of developing new legislation. Details are set out below.

**14.** Concurrent with, and extending beyond, the public consultation period, in line with current Government practice, a Parliamentary Joint Committee formed from members of both the House of Commons and the House of Lords will undertake pre-legislative scrutiny of the proposals contained within this document. Part of the Committee's examination will include consideration of the evidence from the public consultation. The Joint Committee is due to report its findings on or before 31 October 2003.

## Details of consultation

**15.** This consultation will run for 12 weeks from 19 June 2003. We will be considering all comments received by 11 September 2003. Please respond to:

Civil Contingencies Bill (Consultation)  
First Floor  
10 Great George Street  
London  
SW1P 3AE

or

E-mail: [ccbill@cabinet-office.x.gsi.gov.uk](mailto:ccbill@cabinet-office.x.gsi.gov.uk)

**16.** Comments will also be copied to the Parliamentary Joint Committee on the Civil Contingencies Bill unless your response specifies otherwise.

**17.** This document, the draft Civil Contingencies Bill, Explanatory Notes, and the Partial Regulatory Impact Assessment, can be found on the web site at: [www.ukresilience.info/ccbill](http://www.ukresilience.info/ccbill). This web site address

also contains the Discussion Document 'Emergency Planning Review – The Future of Emergency Planning in England and Wales', published in August 2001.

## Special Note

**18.** All responses will be made public unless confidentiality is specifically asked for. However, correspondents should be aware that confidentiality cannot always be guaranteed, for example where a response includes evidence of a serious crime.

**19.** The information you send us may need to be passed to colleagues within Cabinet Office and/or published in a summary of responses to this consultation. We will assume that you are content for us to do this, and that if you are replying by e-mail, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system unless you specifically include a request to the contrary in the main text of your submission to us.

**20.** If you have any comments or complaints about the consultation process please contact:

Mia Spreadbury  
Cabinet Office  
Kirkland House  
5th Floor  
22 Whitehall  
London  
SW1A 2WH

## Chapter 2

# Resilience, emergencies and civil protection

**1. The Civil Contingencies Bill is part of the Government's wider resilience agenda. Resilience is the ability to handle disruptive challenges that can lead to or result in crisis. The Bill builds resilience by focusing on managing risks associated with events or situations that can lead to emergencies through effective civil protection. This in turn links with the practical civil protection measures the Government has already put in place to build capabilities.**

### Resilience and risk

**2.** The Government is committed to enhancing the resilience of the United Kingdom to disruptive challenge. In recent years, the range of challenges that society faces has broadened as networks have become more complex. We can no longer work on the assumption that disasters in the UK or elsewhere can be localised or occur in isolation. Multiple events can occur at once and – irrespective of malicious intent – can be repeated or cause knock-on effects that demand far greater co-ordination and integration of activities.

**3.** Resilience is built around several key activities. Firstly, risks of disruptive challenge must where possible be identified, either by considering internal weaknesses or scanning the horizon for external threats. Anticipation allows choices to be made. In some circumstances it is possible to prevent disruptive challenges occurring by taking action at an early stage. In other cases, planning has to take place to prepare to deal with a disruptive challenge. If the disruption does occur it becomes necessary to respond, and once the situation is brought under control the focus becomes recovery. This cycle – anticipation, prevention, preparation, response, recovery – is at the heart of resilience.

**4.** Risk refers to uncertainty of outcome, whether positive opportunity or negative threat, of actions

and events. It is the combination of likelihood and impact, including perceived importance. In many cases, risks require an element of judgement. Risk management covers all the processes involved in identifying, assessing and judging risks, taking actions to mitigate or anticipate them, and monitoring and reviewing progress. Effective risk management requires processes in place to monitor risks; access to reliable, up-to-date information about risk; the right balance of control in place to deal with those risks; and decision-making processes supported by a framework of risk analysis and evaluation.

### A common definition of emergency

**5.** In practice, resilience means different things to different organisations because of variations in their size, purpose and interconnectedness. Disruptive challenges can take many forms, as can the responses. For the purposes of the proposed civil contingencies legislation, the Government is focusing on those disruptive challenges that can be called emergencies.

**6.** The draft Civil Contingencies Bill sets out a definition of emergency. Although there are differences in the way that definition is presented in each part of the Bill, the central tenets are common. An emergency is an event or situation which presents a serious threat to:

- human welfare. Events or situations which cause or may cause loss of human life, human illness or injury, homelessness, destruction of property, disruption of a supply of food, water, energy, fuel or another essential commodity, disruption of an electronic or other means of communication, disruption of facilities for transport or disruption of healthcare, education or other essential services.
- the environment. Events or situations which cause or may cause contamination of land, water or air, flooding or disruption to plant or animal life.

- political, administrative or economic stability. Events or situations which cause or may cause disruption of the activities of the Government, the performance of public functions or the activities of banks or other financial institutions.
- the security of the United Kingdom. War, armed conflict and terrorism.

**7.** This is a much broader definition of emergency than has previously existed in United Kingdom legislation. It is intended to cover the full spectrum of current and future events and situations, while at the same time establishing a clear minimum threshold for civil protection planning.

## Civil Protection

**8.** Civil protection is about protecting the public from the effects of emergencies (whatever their causes may be). In addition to risk assessment and planning, it includes taking action before an emergency to mitigate its possible effects and responding in such a way that minimises the impact of the emergency on the public and speeds recovery from that impact. In the case of terrorist attack, civil protection does not include action by the intelligence services or the police to prevent an attack from occurring or apprehending those involved (whether before, during or after the attack). Civil protection does include, however, protecting the public from the consequences of such an attack. In the case of a terrorist bomb, dealing with the effects and aftermath of the bomb would be regarded as civil protection.

**9.** Civil protection is not the same, however, as public protection (although it may be a subset of it). Public protection relates to a range of hazards and threats to public safety (with a lower threshold of seriousness or range of impact than is associated with civil protection), covering issues such as child protection, health and safety at work, community safety, protection from crime as well as the effects of emergencies. Some of these are concerned with the protection of individuals. Civil protection is concerned with events or situations that are likely to have an impact on numerous individuals and that generally require a timely and immediate response to limit the harm to the public.

## Recent achievements

**10.** The UK's resilience to disruptive challenge is already high. There is a long standing tradition of effective planning and response at the local level. Fire, police and ambulance services are amongst the best in the world, and provide an excellent service when dealing with incidents whether routine or major. The emergency services generally work well with local authorities and others to deliver multi-agency planning and response. In addition, 30 years of Irish terrorism has established a capability within Government and an awareness amongst businesses and the public which puts the UK in a comparatively strong position.

**11.** Nevertheless, the Government intends to do more. Flooding and the fuel crisis in 2000, and the Foot and Mouth Disease outbreak in 2001 exposed weaknesses in existing arrangements. September 11 changed the frame of reference for counter-terrorism. That is why the Government has already made significant improvements in the UK's resilience through investment as part of the capabilities programme and counter-terrorist measures.

**12.** For example:

- Under a £5 million programme, the Department of Health has provided 360 mobile decontamination units and 7,250 national specification Personal Protection Equipment (PPE) suits around the country, which will enable the Ambulance Service and A&E Departments to treat people contaminated with Chemical, Biological, Radiological, Nuclear (CBRN) material.
- The CBRN Police Training Centre has been established at Winterbourne Gunner and has already delivered command training to at least four Commanders from each force.
- The police now have over 2,350 officers trained and equipped in CBRN response, and this training roll-out is continuing.
- The Office of the Deputy Prime Minister (HM Fire Service Inspectorate) has signed a Memorandum of Understanding with the Department of Health which provides for Fire Fighters to support the Ambulance Service by decontaminating people at a CBRN incident.

- Fire brigades have all been involved in work to prepare for this role and an interim decontamination methodology has been disseminated to all brigades.
- £43 million from the Capital Modernisation Fund, plus an extra £13 million from ODPM has been provided for the Fire Service to provide a national mass decontamination capability. Procurement of equipment (response vehicles, portable contamination facilities and specialist protective clothing) is underway, supported by development of training.
- The Department of Health, in conjunction with Health Departments in devolved administrations, is funding measures to counter bio-terrorism:
  - A UK Reserve National Stock of vaccines and antibiotics suitable for the treatment of infectious diseases and specialist equipment has been built up over the past year and now stands ready for deployment. Guidance on handling infectious diseases was disseminated throughout the NHS in October 2001.
  - As the Minister of State for Health announced on 2 December 2002, 12 Regional Smallpox Response Groups are being established around the UK. Vaccine will be offered to volunteer healthcare personnel who will be able to react quickly and work safely with patients of actual or suspected smallpox. A similar group of specialist military personnel will also receive vaccination against smallpox. The Government has also identified reference laboratory centres capable of rapid diagnosis of the disease.
  - £16 million was allocated by the Department of Health in 2001-02 to provide healthcare counter-measures against CBRN agents and a further £80 million has been allocated for 2002-03, including spending on extra vaccines and antibiotics.
- All the emergency services have specific protocols for dealing with chemical or biological attack. These are regularly practised and refined. On 3 February 2003 the Home Office published Strategic National Guidance on the Decontamination of People exposed to Chemical, Biological, Radiological or Nuclear Substances or Materials for use by emergency services and other responders.
- Action has been taken to improve communications with local and regional responders through face to face briefings at senior level, presentations by the Civil Contingencies Secretariat at Emergency Planning College courses and a series of workshops in January and February 2003 in each of the Government Offices of the Regions to brief responders, including Emergency Planning Officers and the emergency services, on plans to enhance the regional resilience capability.
- Local authorities have seen specific Civil Defence grant rise by more than a third over the last two years to £19 million for 2002-03. The grant is central government's contribution to civil protection work undertaken by local authorities and is just part of what local authorities spend on resilience.
- In 2002-03, an additional £49 million of counter-terrorism funding has been given to the Metropolitan Police.
- Detailed work by London Underground has been carried out with the emergency services and Security Services to ensure systems are in place to deter or deal with an attack.
- The UK is now better able to anticipate and prepare for the potential impact of terrorist threats through a new capability within the Cabinet Office to identify potential challenges to the smooth operation of Government or the life of the nation. This complements the work of the Joint Intelligence Committee which provides strategic assessments on domestic and overseas terrorist threats.
- An important element of resilience is the confidence that plans will be effective on the day. A prioritised programme of exercises is being drawn up that will reflect and test effectively the Lead Government Department responsibilities, the involvement of devolved administrations, regional and local authorities and other responders. Under this new programme of co-ordinated exercises, it will be possible to test whether all key stakeholders are appropriately engaged and working together. Future planned exercises will cover a catastrophic incident in central London, disruption to the national gas supply and flood defences. The programme is expected to cover key capabilities such as mass evacuation and decontamination.
- The April 2003 Budget awarded £330 million over three years for counter-terrorism projects in the Office for the Deputy Prime Minister and the Cabinet Office, as well as the Home Office.



**Summary and consultation points**

In summary:

- Resilience is the ability – at every level – to anticipate, pre-empt and resolve challenges into healthy outcomes. The key to resilience is agility. The concept of resilience underpins the draft Bill.
- The ability to deal with emergencies is a key element of resilience, though disruptive challenges and the responses to them can take many forms.
- Civil protection is about protecting the public from the effects of emergencies.
- The Government is making significant improvements to the UK's resilience, building on a long-standing tradition of effective planning and response.

The Civil Contingencies Bill:

- sets out a common definition of emergency: a situation or event that threatens human welfare, the environment, political, administrative or economic stability or the security of the United Kingdom.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following question.

Q1. Is the definition of emergency the right one? If not, in what ways should it be tightened or expanded to exclude certain classes of event or situation?

## Chapter 3

### Clear roles and responsibilities at the local level

**1. The local response capability is the building block of our ability to deal with emergencies. For the first time, legislation will give organisations that form the core of the local response a clear and consistent set of expectations and responsibilities in relation to civil protection. The Bill also provides for the setting out of the relationship between core responders and key co-operating bodies in both the private and public sectors. This will ensure consistency of activity across the local response capability, delivering improvements in performance and communication, which in**

**turn will deliver practical benefits. The new framework provides the basis for robust performance management of civil protection activity to ensure operational effectiveness and financial efficiency.**

**2.** A wide range of organisations have an interest in civil protection at the local level. They are set out in the table below. These organisations have different roles and structures, though there is considerable commonality of purpose and approach when it comes to dealing with emergencies.

#### Local responder organisations

emergency services, Environment Agency, Health and Safety Executive, local authorities, Maritime and Coastguard Agency, National Health Service, transport operators, utility companies, voluntary organisations

**3.** The main statutory framework that supports local response to emergencies in the UK is the Civil Defence Act 1948. The aim of civil defence was to organise and protect the civil population at a local level in response to hostile attack from a foreign power. Over many years, however, the nature of the threat has changed and today's priorities when dealing with emergencies most often relate to domestic and civilian tragedies. Since the end of the Cold War, regulations made under the Civil Defence Act have been broadened, but there remains no coherent statutory framework supporting what local responder organisations do in the field of civil protection.

**4.** As a result, many local responder organisations rely principally on permissive powers and a wide variety of other legislation and regulation in determining how to act in the face of a local incident, which can include the possibility of a widespread or catastrophic emergency. Multi-agency arrangements have tended to work well on the basis of voluntary co-operation, particularly in regard to localised incidents concentrated

at a particular point. They can work less well in regard to wide area emergencies. Overall, it has been generally agreed for some years that a more robust and resilient emergency response culture will not be achieved until there is a new statutory duty covering all the main local responder organisations.

**5.** What is needed is a new framework that underpins the response capability of all the partner bodies at the local level and delivers more coherence, better co-operation and greater resilience. Local civil protection must be brought firmly into the mainstream of local public service delivery and community partnership.

#### A new civil protection duty

**6.** The Government believes that a single framework is needed covering local responder organisations. The new legislation will provide the framework to replace the Civil Defence Act, and also reduce the reliance on permissive powers. This will bring civil protection into the mainstream of each local responder organisation's

functions. Essentially, the Bill will establish a series of duties in relation to civil protection applied consistently across the local responder organisations.

**7.** Regulations to be made under the Bill will consolidate the emphasis on partnership working already established at the local level, and the common interest in and approach to civil protection of local response organisations in all areas. For the first time, legislation will give organisations that form the core of the local response capability a clear and consistent set of expectations and responsibilities in relation to civil protection. This will ensure consistency of activity across the local response capability, delivering improvements in performance and communication. The Bill will list “core” organisations (Category 1 responders), including the emergency services and local authorities, which are more likely to be involved in dealing with most incidents, and have accordingly been included as Category 1 responders at the outset.

**8.** The Bill also provides for the setting out of the relationship between core responders and a second category of key co-operating bodies in both the private and public sectors. “co-operating” bodies (or Category 2 responders) have been identified, which are less likely to be involved at the heart of planning work but will be heavily involved in incidents that affect their sector, for example, the utility and transport companies. The Bill provides for regulations to require Category 1 responders to join with Category 2 responders in establishing arrangements for better communication, co-operation and information sharing between them, which will deliver practical benefits.

**9.** The table below sets out the initial membership of the two Categories.

## Membership of Categories 1 and 2

**10.** Although shire districts have been placed within Category 1 it is proposed that, for the time being, county councils will take full responsibility for local authority civil protection planning in their area. This is a continuation of the current arrangement under the 1948 Civil Defence Act. The draft Bill provides for regulations to be made which will allow county councils to plan on the basis of the full range of local authority functions in their area, including those of the districts.

**11.** NHS Ambulance Trusts have been included within Category 1. Ambulance services are traditionally seen as an emergency service, so there is a case for specifying NHS ambulance trusts alongside the other emergency services (fire and police). However, the NHS consists of a number of separate organisations. Hospital and other services, provided by NHS Trusts (and in future, subject to the passage of legislation, by Foundation Trusts) also make a key contribution to the NHS’s emergency response. Responsibility for ensuring that these services are provided for particular populations lies, in England with Primary Care Trusts, whose performance is managed by strategic health authorities, and in Wales with local health boards, whose performance is managed by the National Assembly for Wales. There are in addition a number of NHS bodies with a national remit, including the National Blood Service and the Health Protection Agency. There could be a case for putting all these bodies under the duties proposed in the draft Bill, or there might be a case for giving some a lead responsibility in this respect (in which case, the Government would need to consider whether they would need any extra powers, for example to share any information they obtained as category one responders with other parts of the NHS). The Government would welcome views on which NHS bodies should be identified as Category 1 or 2 responders.

Category 1 responders	Category 2 responders
County Councils	Electricity suppliers*
Metropolitan District Councils	Gas suppliers*
London Borough Councils	Water undertakers*
Unitary Councils	Telecommunications operators*
Shire District Councils	Railway operators*
Police forces	Airport operators*
Fire Authorities	Harbour authorities*
NHS Ambulance Trusts	Health and Safety Executive
Environment Agency	*as defined in the Bill and by regulations
Maritime and Coastguard Agency	under the Bill

**12.** The HSE is to be placed in Category 2 because of the importance of its sharing information and co-operating fully with the other partners.

**13.** Voluntary organisations are not covered by the new duty. This is because voluntary organisations rely on the goodwill of their members and supporters to provide the services that they do, and because those services are not in themselves based on statutory obligations. As a consequence, the skills and expertise available to the voluntary sector may vary from place to place. Nevertheless, the Government continues to place a high value on the role the voluntary sector plays in the response to emergencies, and will continue to encourage their involvement in local multi-agency planning and response through the guidance that will underpin the new legislation.

**14.** Movement between the two Categories will be possible under the Bill. New organisations may be added in future in either Category.

### Civil protection duties

**15.** The Bill will deliver a variable duty, reflecting the different involvement of core and co-operating responders in local civil protection. It is proposed that Category 1 responders will be given a broad range of civil protection duties, with Category 2 responders being required in regulations to co-operate with multi-agency planning and share information.

**16.** The new framework obliges Category 1 responders to carry out the full spectrum of civil protection activities – assessment, prevention and planning (for emergency response and business continuity). It provides the flexibility for secondary legislation to require Category 1 responders to discharge any of their existing powers or duties for the purpose of responding to, or assisting in the recovery from, an emergency.

**17.** The duty on Category 1 responders places a strong emphasis on risk assessment, considering both the range of emergencies that they face and the risk of those emergencies making it necessary for the organisation to take action on the basis of its existing functions. In light of that assessment, organisations will plan to take action for the purpose of preventing the emergency, reducing, controlling or mitigating its effects and taking other action in connection with it. This planning must be refined in light of ongoing risk assessment.

**18.** The duty also reinforces the importance of informing and warning the public. The Bill provides for arrangements to be put in place in local areas to explain to the community how civil protection is provided, and how it might involve them. This will in turn improve awareness of risk and planning, and strengthen public co-operation in the response to emergencies. During emergencies, local areas will also have arrangements in place to issue warnings and make available information about the response.

**19.** As the Bill is an enabling bill covering a number of different types of body, the scope of the duties is drawn widely. The intention is that they will then be refined by regulation in relation to different bodies, localities and issues and as circumstances change in future years. In addition to regulations clarifying, among other things, the extent of the duties to be imposed on Category 1 responders and the relationship between Category 1 and Category 2 responders, secondary legislation under the Bill will also be used in some cases to limit the scope of the duties placed on Category 1 responders. For example, it would be inappropriate for each Category 1 responder to assess the likelihood of every conceivable type of emergency occurring. But Category 1 responders will be able to assess the consequences in terms of their own functions of an emergency, the likelihood of which has been assessed by a body qualified to do so.

**20.** As set out above, the regulation making powers as currently set out in the Bill are wide ranging. They are intended to allow the Government to set out expectations and limitations to ensure the consistency across agencies that is so vital in dealing with emergencies. Nevertheless, the Government is also committed to minimising the imposition of new obligations on local organisations, and to maximising the degree of discretion that local organisations have in the way in which they choose to deliver public services. The Government has developed the approach of allowing local authorities more discretion in the way they carry out their functions, reducing the degree to which the Secretary of State prescribes particular approaches or actions. The Government is continuing to consider whether the Bill strikes the right balance between local flexibility and consistency of civil protection, and the consultation process is an opportunity for local responder organisations to give their view, in particular about the degree to which the Secretary of State can prescribe the nature and content of these plans.

**21.** The Bill also provides for the Government to use guidance with a view to ensuring consistency of approach by responder organisations, and to provide advice on practical issues such as risk management.

## Business continuity management

**22.** Delivery of the Government's resilience agenda, which the focus on risk assessment introduces, is extended by a further duty to plan for business continuity. Under the Bill, planning in particular should be for the continuance of functions that may need to be delivered during an emergency. This aspect of the duty applies to all Category 1 responders. It is recognised that Business Continuity Management (BCM), as generally conceived, applies to a larger set of business interruptions than simply those caused by emergencies. By its focus on emergencies, the bill achieves coherence. Local responder bodies are of course free under other powers to develop a larger programme of BCM plans as part of good business and risk management practice.

**23.** As further evidence of the intention to generate a resilience culture at the local level, local authorities will also be required to promote BCM within their area. As a result, resilience will be further underscored by extending the civil protection duty beyond emergency planning to address risks to business in the local community generally.

## Multi-agency working

**24.** The Government believes that the Bill should establish a new framework to reinforce partnership working and inter-agency co-operation at the local level. Using regulations and guidance, the Government will seek to encourage the creation of Local Resilience Forums. These will bring together core and co-operating responders during the risk assessment and planning phases and help develop cross agency policies. These forums will be established on the basis of police force areas, and in many cases will develop from existing multi-agency groups.

**25.** This consistency of approach will have several benefits: improving co-operation between local areas; providing a channel for communication between the local area, the regions and the centre; offering a well-established entry point for organisations within communities that want to support local civil protection; and minimising duplication of effort.

**26.** The Bill will underpin this approach. The new framework will enable regulations to be made requiring both Category 1 and Category 2 responders to share information and to co-operate with each other. Co-operation will also be required to take place outside the context of the multi-agency groups, as appropriate, between the organisations covered by the duty. Past concern that some organisations have held back from supplying partners with information which they needed to complete their plans or risk assessments will be met by requiring the sharing of information, with appropriate safeguards that will limit the extent to which organisations are expected to supply sensitive information.

**27.** These co-operation and information-sharing duties will constitute the sole statutory obligations to be placed on the Category 2 responders under the Bill.

**28.** The Bill – and the proposals for LRFs – will provide a sound basis for integrating existing arrangements made under European-derived statutory regulations into the overall framework of civil protection. Statutory co-operation is working satisfactorily in areas which engage in COMAH planning for major accident hazards at industrial sites. Under the Health and Safety at Work Act, in addition to the COMAH regulations, procedures for radiation emergencies (REPPiR) and oil and gas pipelines (Pipeline Regulations) require multi-agency planning arrangements. LRFs will be expected to determine what relationship they will seek with these existing initiatives.

**29.** LRFs will not be the only multi-agency groups. Multi-agency working will continue as local circumstances dictate. For example, local authorities will continue to operate community leadership on a multi-agency basis within their own areas under their Local Government Act 2000 powers. LRFs will also not have a role in the response phase – existing multi-agency arrangements will be left unchanged.

## Joint arrangements

**30.** The Government believes that joint working between local responder organisations should be supported where it suits local circumstances. In a number of areas, unitary authorities undertake practical planning tasks which are co-ordinated by a central team, set up under joint arrangements and based at a host authority. The Bill will support continuance of these arrangements. In other parts

of the country, certain local authorities – metropolitan district councils, London borough councils and the Council of the City of London – have been permitted under Civil Defence regulations to make arrangements with Fire and Civil Defence Authorities (FCDAs) and the London Fire and Emergency Planning Authority respectively for the carrying out of Civil Defence planning functions on their behalf.

**31.** Joint working is, however, not always appropriate. In order to afford maximum flexibility, the Bill does not impose any such arrangements on local responder organisations. To that end, FCDAs will not exercise any aspects of the civil protection duties under the Bill on behalf of local authorities. FCDAs will be subject to the duty, but only in their capacity as fire authorities.

## Resources and Regulatory Impact

**32.** Civil protection planning within local authorities in England and Wales is currently funded by specific grant, the Civil Defence Grant. The Emergency Planning Review proposed that funding should be moved to general grant, currently Revenue Support Grant (RSG). The response to this proposal was mixed, but 68 per cent of respondents who commented on this proposal supported a move to mainstream funding, although with some reservations. These mainly related to concern that, in the absence of a statutory duty, the funding would be diverted by the local authority to meet more pressing statutory priorities and that it would enable Government to camouflage reductions in overall funding.

**33.** Under the new framework funding for local authority civil protection work will be brought into the mainstream. Direct Grant under Civil Defence legislation has reinforced the isolation of civil protection planning as a function. Both the Government and the Local Government Association (LGA) are committed to reducing the amount of ring-fenced and specific grants made to local authorities by streaming all funding through RSG, except in exceptional circumstances. There are no exceptional reasons why funding for Category 1 local authorities should not be routed through RSG. In addition to being in line with general Government policy, and that of the LGA, RSG funding allows individual authorities to determine how best to allocate their resources to fulfil their responsibilities and to meet their priorities. Changes in the funding mechanism are not likely to be introduced until the new statutory duty is in place.

**34.** The Bill will provide a proper framework against which judgements can be made about the level of investment in the local response capability. Any decision about extra funding for this area has to be made in the context of the wider resilience agenda, and other priorities more generally.

**35.** The Government believes that the current level of funding is sufficient to support the basic responsibilities for local authorities that flow from the Bill. This consultation process is an opportunity for responders to test that assertion. Analysis carried out as part of the Bill development process indicates considerable variations in levels of expenditure, the scope of the work undertaken by civil protection units and the balance of their activities.

**36.** The regulatory impact of the Bill is addressed in the separate partial Regulatory Impact Assessment (RIA). Of the organisations affected by the proposals, all are large and already have a significant civil protection function. The RIA seeks to quantify any new burdens, and reflects discussions with stakeholders during the policy development process. The main message of the RIA is that the likely benefits outweigh the likely costs by a considerable margin.

## Performance management

**37.** The reliance on the Civil Defence Act has made it impossible to develop clear regulations and guidance as a foundation for issuing standards and targets for civil protection work. Guidance on standards issued by the Home Office some years ago was effectively permissive and could not support a sound monitoring regime. The certainty provided by the new framework provides the basis for robust performance management of civil protection activity to ensure operational effectiveness and financial efficiency. While consideration has been given to establishing a new mechanism for performance management, perhaps through an inspectorate, the Government believes that the use of existing mechanisms will achieve its aims of ensuring consistency of performance and bringing civil protection into the mainstream.

**38.** The new framework will feed into established processes through bodies like the Audit Commission, the emergency services' inspectorates and the utility regulators. And in common with other areas of policy, the means are already in place to allow the Minister to monitor performance and take effective action in the event of poor performance or non-compliance.

### Summary and consultation points

In summary, it is proposed that the new civil contingencies legislation will:

- Replace the Civil Defence Act 1948.
- Place a range of civil protection duties on a group of core local responder organisations (Category 1).
- Place a supporting obligation on a group of co-operating local responder organisations (Category 2), involving co-operation in multi-agency working and information sharing.
- Provide for a more uniform structure for multi-agency working, through the creation of Local Resilience Forums based on police force areas.

In addition, the Government will:

- Bring performance management of civil protection activity within mainstream audit processes.
- Bring civil protection funding within mainstream funding mechanisms.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following questions.

- Q2. Do you agree that the obligations imposed on both Category 1 and 2 responders by or under the new framework will ensure operationally effective and financially efficient planning and response to emergencies at the local level? If not, how should these obligations be increased or reduced?
- Q3. Do you agree that the membership of Categories 1 and 2 is right? If not, which organisations should be added, moved or removed?
- Q4. Do you agree that the Bill gives the Government the right balance of regulation making powers to meet its aims of consistency and flexibility? If not, please explain how the powers should be expanded or constrained.
- Q5. Do you agree that consistent arrangements for multi-agency working should be established, through the creation of Local Resilience Forums? If not, how else should consistency be established?
- Q6. Do you agree that the partial Regulatory Impact Assessment accurately reflects the costs and benefits of the Bill proposals? If not, how should it be changed?
- Q7. Do you agree that funding for Category 1 local authorities should be transferred from specific grant (Civil Defence Grant) to Revenue Support Grant? If not, why should specific grant be retained?
- Q8. Do you agree that the level of funding to support the Bill is sufficient? If not, please explain why you believe it to be too high or too low.
- Q9. Do you agree that performance should be audited through existing mechanisms? If not, what mechanism would you like to see established?



## Chapter 4

### A new regional tier

**1. The Government is establishing a new regional civil protection tier, drawing together activity already organised on a regional basis and providing a strong bridge between the centre and local areas. Regional Resilience Teams are already in place in Government Offices, and Regional Resilience Forums have been formed to bring together the key players. This activity is non-statutory and is not addressed by the Civil Contingencies Bill. The Bill will, however, enhance this further, providing for the role of Regional Nominated Co-ordinator and allowing for special legislative measures to be used on a regional basis.**

**2.** Recent disruptive challenges have demonstrated both the weaknesses and potential of current regional arrangements. To take advantage of that potential the regions need clarity of role and responsibility, which has to be developed in partnership with local responders and central government to ensure it adds value.

**3.** A wide range of organisations have an interest in civil protection at the regional level. They are set out in the table below. These organisations have different roles and structures, though there is considerable commonality of purpose and approach when it comes to dealing with emergencies.

#### Regional responder organisations

Regional Assemblies, Government Offices (and regional representatives of central government departments), representatives of the emergency services, Environment Agency, representatives of local authorities, Maritime and Coastguard Agency, National Health Service, transport operators, utility companies, voluntary organisations, Government News Network, Armed Forces.

**4.** The regional tier sits between UK central government and local areas. In England its basis is the Government Office Regions. In Scotland, Wales and Northern Ireland this sub-UK tier is described as the national level. Not all regional responder organisations operate to boundaries consistent with these, but there is a great deal of consistency.

#### Objectives for the regional tier

**5.** The regional role in planning has to be clearly defined and well understood by other responders, particularly at the local and national levels. First and foremost, it must add value, avoiding duplication and nugatory effort. It will do this by:

- **Improving co-ordination at a regional level.**

The region will be well placed to map resilience at a regional level to identify gaps and interdependencies, to assist with the brokering of mutual aid agreements

and other contacts with and between regional partners and to establish a strong cadre of staff familiar with emergency procedures.

- **Improving co-ordination between the centre and the region.** Work will include maintenance of agreements on support from central government, provision of coherent, collated regional information for central government and more consistent communication flows between central and local government.

- **Improving co-ordination between the region and the local response capability.** Local responder organisations will be represented on the Regional Resilience Forums, and Regional Resilience Teams will be represented on Local Resilience Forums.

- **Improving co-ordination between regions.**

Regional resilience structures are well placed to establish links between regions. This will support cross-boundary working, mutual aid agreements and information sharing.



- **Supporting planning for a response capability.** Some capabilities may be better established on a regional basis. Regional structures will consult with both the central and the local level to determine which capabilities should be established, and promote the development of those capabilities through sub-committees of the Regional Resilience Forum.
- **Leading a regional response.** In the event of an emergency affecting the region, the new structures will provide regional level co-ordination or direction as necessary, through regional application of government advice and directions, a regional voice to the media and support for central government's response at the regional level.
- **Assisting with recovery.** The regions have a significant interest in the recovery phase of a wide-area emergency. This links closely to their wider remit in the economic development field.

**6.** During conventional, localised incidents, existing command and control arrangements should not change. There would probably not be a part to play for the regions in these 'normal' emergencies, such as train crashes, localised flooding, etc, unless specifically requested by the local level, or if the regional or national levels anticipate a wider area impact of the incident.

## Regional Resilience Teams and Forums

- 7.** Regional structures are already in place. Just as at the local and national levels, the Government is seeking to encourage multi-agency planning at the regional level. Regional Resilience Forums (RRFs) have been formed to bring together the key players, including central government agencies and the Armed Forces, and representatives of local responders such as the emergency services and local authorities.
- 8.** Regional Resilience Teams have been established in each of the Government Offices (GOs). These teams, drawing heavily on external civil protection experience, will facilitate much of the new regional activity.
- 9.** RRFs have already started to map resilience capabilities within their regions. Resilience Teams have begun to act as advocates for their regions in Whitehall, addressing issues such as inundation and FMD planning. As the capabilities programme begins to generate specific tasking for the regional tier, the RRFs will turn their attention to capability planning in close co-operation

with local responder organisations. Sub groups of the RRF will be established to deliver capabilities and horizon scanning.

## Regional Civil Contingencies Committees

**10.** Regional Resilience Forums would not have a role in response. Meetings of the RRF would be confined to the planning phase. A separate committee, called the Regional Civil Contingencies Committee (RCCC), would be formed to co-ordinate the regional response. Many of the same organisations represented on the RRF would attend the RCCC – central government's regional capability (NHS, GO, DEFRA, Armed Forces, Environment Agency), the emergency services and local authorities. Other organisations would be invited to attend depending on the nature of the situation.

**11.** The RCCC will meet at three levels. Level one meetings would be convened, where possible, in the phase prior to an emergency. Government Offices would convene a level one meeting (possibly at the request of a RCCC member) on the basis of a threat assessment or a local incident that could escalate. Membership would be the core group. The meeting would review the situation, with a view to escalating to Level Two if the situation warranted it. Level One meetings would be chaired by a senior official from the Government Office.

**12.** Level Two meetings would be convened in the event of a wide area disruptive challenge in the region. The meetings would be called by the GO, in consultation with members of the RCCC and central government crisis management machinery. They might also be convened if a national response or national co-ordination of an event was required, such as during a fuel distribution crisis.

**13.** Level Two meetings would seek to agree co-ordination of resources across the region, according to regional and national priorities, with regard to availability of resources. At Level Two, RCCC would be chaired by the Regional Nominated Co-ordinator (RNC) (details of which are set out in paragraphs 17 to 19). The RCCC would support the RNC in constructing and promulgating public information on the response. The RNC could act as regional spokesperson.

**14.** Level Three meetings could only be called following the formal declaration of a decision to take special legislative measures. Following the declaration,

the Government Office, in consultation with members of the RCCC, would apply to move to Level Three to the central government crisis management machinery. Central government would need to agree that special powers were necessary in the region, and regulations would be made under the new legislative framework. This would act as a safeguard to stop regions moving to Level Three without authority from central government.

**15.** The RNC, acting on advice from RCCC, would have powers conferred on him through the regulations with a view to facilitating the co-ordination of the response in the region to the emergency. This could

include the direction of resources to pursue national and regional priorities, or taking the lead role in explaining the response to the emergency to the public through the media. RCCC, via individual members or the GO support, would promulgate the RNC's directions and decisions to the local level. The RCCC would support the RNC in constructing and promulgating public information on the response. The RNC could act as regional spokesperson.

**16.** The table below summarises the levels of operation for both Regional Resilience Forums and Regional Civil Contingencies Committees.

Group	Situation	Example
RRF	Planning	Routine meetings, perhaps every six months, to review development of regional capabilities and to share information
RCCC level 1	Standing to	Ad hoc meeting called in advance of a predictable emergency (for example disruptive industrial action) or a heightened level of risk (for example, a heightened terrorist threat level).
RCCC level 2	Regional emergency	Ad hoc meeting called during an emergency affecting the region to co-ordinate efforts across the region and use of regional capabilities if necessary.
RCCC level 3	Special legislative measures	Ad hoc meeting only possible in the event of an emergency so serious that special legislative measures apply to the region. Purpose is as at Level 2, and additionally to allow the Regional Nominated Co-ordinator to discharge their role.

## Regional Nominated Co-ordinator

**17.** In order to ensure effective co-ordination and leadership at the regional level, the role of Regional Nominated Co-ordinator (RNC) will be established under the Bill. Potential RNCs would be pre-nominated by the organisations represented on the RRF.

**18.** The identity of the RNC would depend on the nature of the incident and which organisation had the lead for dealing with it. This mirrors at regional level the existing Lead Government Department concept. For flooding, it might be an official from DEFRA. In the case of a 'flu pandemic, it would be likely to be the Regional Director of Public Health. In terrorist incidents, it would most likely be a Chief Police Officer. The person selected as RNC might work within the region already (for example, the Regional Director of Public Health) but could be

attached from central government, with appropriate regional expertise provided in support. RNCs would be senior individuals, capable of exercising clear leadership and dealing directly with the media. RNCs would be broadly agreed in advance, to support appropriate training and to avoid delays or conflicts of interest during the response phase.

**19.** It is proposed that a RNC would not be formally appointed unless special legislative measures were to be taken. Such an action would require the Secretary of State to appoint a RNC in relation to each region of England to which those measures applied. Those measures would set out the functions to be given to the RNC for the purpose principally of co-ordinating activities to prevent, control or mitigate an aspect or effect of the emergency (whether wholly in the relevant region or partly here and elsewhere).

## Use of special legislative measures on a regional basis

**20.** To improve flexibility, the new framework provides for the use of special legislative measures on a regional basis. This is a common feature internationally, and improves the flexibility and deployability of the arrangements. The Level Three arrangements, set out above, could come into operation either as a consequence of a UK-wide declaration or a regional declaration. Further details are set out in Chapter 5.

### Summary and consultation points

In summary, it is proposed that the new civil contingencies legislation will:

- Establish the post of Regional Nominated Co-ordinator (RNC). The RNC will be tasked with exercising co-ordination and leadership during emergencies, and speaking publicly on progress of a response. The postholders would be nominated in advance during the planning stage, and would vary depending on the emergency.
- Allow special legislative measures to be used on a region by region basis if required. As well as supporting the response, the measures could confer powers on the RNC.

In addition, the Government has already:

- Established Regional Resilience Forums to support multi-agency planning at the regional level.
- Established Regional Resilience Teams to support the RRFs and regional capability planning.
- Agreed that stronger arrangements need to be put in place for the regional role in response, based around Regional Civil Contingencies Committees and cadres of staff in Government Offices.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following questions.

Q10. Do you agree with the role of Regional Nominated Co-ordinator? If not, who should take responsibility at the regional level, and with what responsibilities?

Q11. Do you agree with the principle of applying special legislative measures on a regional basis? Please explain your answer.

## Chapter 5

# Strong central structures and targeted powers

**1. It is vital that the centre has the full range of policy levers at its disposal and the organisational structure is in place to deal with disruptive challenges. The centre needs to be able to respond effectively, providing co-ordination where necessary, making the resources of central government available if required and tackling the most serious emergencies using the full range of its powers where the situation demands it. The traditional central government framework was not geared towards modern disruptive challenges – too tightly focussed on long established risks and threats and sometimes too slow moving.**

**2. The new framework tackles this. In large measure, improved arrangements are already in place. There is already a more effective machinery within central government based around the Lead Government Departments, the Civil Contingencies Secretariat and a robust crisis management capability. These arrangements are continually reviewed and refined in the light of experience. The Government is also putting in place a standards and audit regime for proper performance management of civil protection activity in central government to ensure operational effectiveness and financial efficiency.**

**3. Building on this, the Bill modernises the legislative tools available to Government to deal with the most serious emergencies, providing for greater flexibility, proportionality, deployability and robustness.**

### The Lead Government Department principle

**4.** Most emergencies in the UK are handled at a local level by the emergency services and the appropriate local authority or authorities with no direct involvement by central government. Where central government does become involved because the incident is of such a scale or complexity to require central co-ordination

or support, there will be a Lead Government Department in charge of the handling of the emergency.

**5.** All departments have a responsibility to plan, prepare, train and exercise for handling incidents and emergencies that might occur within their field of responsibility. They must be ready to take on the leading role on behalf of central government in managing the initial response to a crisis, mitigating its immediate effects, and organising the development of a recovery plan. A list of lead departments and the areas they are nominated to lead in can be found at [www.ukresilience.info/lead.htm](http://www.ukresilience.info/lead.htm).

**6.** To reinforce this, the Government is working to establish standards against which departmental contingency planning activities can be monitored and audited.

**7.** This process will ensure LGDs' planning and preparation work are performed to the high standard rightly demanded by the public and Parliament. Just as for the local response capability, the Government believes that robust performance management mechanisms should be in place to deliver operational effectiveness and financial efficiency.

### The Civil Contingencies Secretariat

**8.** The work by departments is supported from the centre by the Civil Contingencies Secretariat (CCS) of the Cabinet Office. It was established in July 2001, and reports to the Prime Minister through the Security and Intelligence Co-ordinator. It supports the Government's aim to improve the UK's resilience to disruptive challenge by working with others inside and outside Government on anticipation, preparation, prevention and resolution.

**9.** The fuel protests, the floods in the winter of 2000, and the outbreak of foot-and-mouth disease in 2001 confirmed that the Cabinet Office was best placed to draw together and co-ordinate the different strands

of Government activity that come into play in difficult situations. These can emerge relatively quickly and invariably have implications that go beyond the responsibilities of single Departments.

**10.** The role of CCS is to provide the central focus for the cross-departmental and cross-agency commitment, co-ordination and co-operation necessary if the UK is to deal effectively with disruptive challenges and crises. This focus goes beyond first response and consequence management and applies to systems for identifying new challenges, for assessing risks, for anticipating, planning, preparing and exercising for crises, for building up our resilience to them, and for systematically applying the lessons learned from particular incidents.

**11.** In all its work, CCS starts from the premise that the ability of central government to manage effectively the national capability to deal with disruptive challenges is a vital component of enhancing the UK's resilience. The Secretariat therefore will seek to work in close partnership with lead departments, helping them to:

- Enable and protect their own decision takers.
- Develop their own early warning systems.
- Prepare plans against various eventualities and make sure those plans are properly integrated with those of other departments and agencies.
- Identify the training and exercises needed to test the plans and enable continuous improvements.
- Build up the necessary management and professional expertise to maintain and activate the plans and to know where to turn for reinforcement and augmentation.
- Learn, and share their learning, with other departments.

## Modernisation of Emergency Powers legislation

**12.** In the most extreme circumstances, this central framework can come under considerable strain. Some disruptive challenges are of such a nature or scale they may require extraordinary measures to be taken to deal with their effects and aftermath which would not be appropriate in normal circumstances. States therefore have legislation in place that enables such measures to be taken to deal with emergencies that exceed the capacity or authority of the usual systems or cannot be dealt with most effectively under any existing legislation.

**13.** In the UK such legislation currently takes the form of the Emergency Powers Act 1920, which applies to Great Britain, and the Emergency Powers Act (Northern Ireland) 1926 as amended by the Emergency Powers Act 1964 and the Emergency Powers (Northern Ireland) Act 1964 respectively. This legislation is not as sophisticated and flexible as that which many other countries operate and adds very little to the resilience of the UK. The Civil Contingencies Bill offers an opportunity to develop a more effective and flexible framework.

**14.** The Emergency Powers Act was introduced in the face of what was seen as the growing threat of nationally disruptive industrial action and the risk of civil unrest. It has been used twelve times in its eighty-year history, the last time being in 1974, and only ever in times of industrial unrest. In the years since 1920, individual government departments have introduced many of their own emergency legislative measures to deal with times of crisis affecting their individual policy sectors, in part out of a recognition that Emergency Powers legislation was inadequate if emergency situations were to arise in their areas. There is though still a need for a latent capacity to rapidly make new temporary statutory provision where this is the most effective way of enabling the resolution of an emergency. As currently constituted the Emergency Powers Acts only allow this in a relatively small number of scenarios which means they are not currently a tool that can be deployed to address all forms of disruptive challenge.

**15.** The existing legislation does not reflect the realities of the early twenty-first century. It is based upon an assumption regarding the services needed by society in the 1920s that no longer holds in the much more integrated, technologically dependent, twenty-first century. This narrow and outdated focus coupled with the fact that the 1920 legislation allows only for a Great Britain-wide response when emergencies tend to affect only part of the country at a time, and the fact that the legislation does not incorporate the devolution settlements, means it is in serious need of modernisation. As currently constituted the Act does not serve a useful function in the early twenty-first century. It cannot be used rapidly and effectively to provide temporary statutory powers in many situations where the lack of these can prevent effective measures being taken to deal with an emergency.

**16.** This is why the Bill includes modern and flexible provision for the use of special legislative measures in times of serious emergency. The overall policy aim is to enhance the Government's capability to respond to an emergency. The new powers will:

- Provide a useable tool in the Government's crisis management tool-kit, a mechanism for enabling the most effective response to an emergency situation.
- Be capable of being deployed in any situation where its deployment would be beneficial to attempts to respond to or recover from a severe disruptive challenge but limited by appropriate democratic and other safeguards against the possibility of misuse.
- Be able to provide for a response proportionate to the emergency in question.
- Address devolution issues.

### When Emergency Powers may be used

**17.** A new definition of the circumstances where Emergency Powers can be used is needed. It should cover all forms of disruptive challenges – natural, accidental or deliberate – where the measures flowing from their use would aid response or recovery. This definition will form a threshold, which events would have to cross before being designated an emergency. This definition will ensure that use of special legislative powers will be possible, where appropriate, in the event of:

- Natural disasters, the effects of severe weather and epidemics in animals or plants.
- Major accidents (including Nuclear incidents).
- Major health crises, such as a flu pandemic.
- Serious economic crises (both financial and non-financial in origin).
- Attacks on or disruption to infrastructure – traditional and electronic.
- Disruption to the essentials of life – food, water, energy, fuel, communications.
- Disruption to the proper functioning of government, public and other vital services.
- The effects of major acts of terrorism.
- War-like situations or threat thereof.

- Contamination of air, water or land such as to threaten human or animal health or the natural environment.
- Disruption to and/or overloading of services and infrastructure, or elements of it, such as to threaten or cause its collapse.

**18.** This is not an exhaustive list but the existing definition of an emergency in the 1920 Act does not allow for the use of the legislation in the event of most of these, or if it does only in a narrow set of circumstances. The proposed new definitions will therefore extend considerably the potential situations under which the proposed legislation may be used as compared to the existing legislation. This is a vital element of making the powers usable and relevant, they must reflect the potential risks and threats we now face while offering sufficient flexibility to future-proof the new legislation as new risks and threats appear over time.

**19.** The definition is a starting point only, it is not intended that all incidents that fit the definitions will result in the use of Emergency Powers. The decision to use them in the event of an incident falling within the definition should be based on the following three guiding principles which represent a "triple lock" against possible misuse.

- Seriousness – the situation must be serious enough in nature to warrant the use of Emergency Powers.
- The need for special legislative measures – Emergency Powers allow the making of Emergency Regulations and should only ever be used if there is a genuine need to take such special legislative measures.
- Relevant geographical extent – A need for special legislative measures should be declared on the minimum geographical extent required. A UK emergency should not be declared where the declaration of a regional emergency will be sufficient.

**20.** Many emergencies will fulfil one or two of the criteria, without achieving the triple lock. This reflects reality – many national emergencies can be dealt with within the existing legal framework. And any local emergency will not be serious enough to warrant special legislative measures – an event of that seriousness would be likely to have a regional or national impact even if it was a single point incident (for example, an attack on a nuclear power plant). The triple lock would restrict the circumstances in



which special legislative measures could be instigated, to prevent calls for their use in inappropriate circumstances. Whether the three tests are met will be a matter for the Government to determine and to advise The Queen who will then normally make the formal declaration.

## Territorial extent

**21.** Under the existing legislation the territorial extent of a declaration must be GB or NI wide. Given that disruptive challenges more frequently appear at sub-national levels while other parts of the country remain unaffected, there is a strong argument for allowing special legislative measures to be used on a sub-national basis. The ability to declare a need for special legislative measures in a specific area is useful and common internationally but does not exist in the UK (except NI). The new framework will allow for this as a more flexible, targeted and proportional use of special legislative measures. It is proposed special legislative measures should operate on the following basis:

- UK – applying to the entire UK.
- Sub-UK – applying to one or more of the English Regions and/or the devolved countries.

**22.** The declaration of a sub-UK need for special legislative measures would allow for these to be used within a specified part of the UK without recourse to a full national declaration. This would demonstrate proportionality of response.

**23.** As the new framework will apply to the whole of the UK, there will no longer be separate Northern Ireland legislation.

**24.** The declaration by The Queen, acting on advice of Ministers, will be that she is satisfied that an emergency has occurred, is occurring or is about to occur, and that it is necessary to make emergency regulations. This replaces the declaration of a ‘state of emergency’. This more accurately reflects what these powers actually are and when they may be used i.e. only in situations where existing statutory provision is ineffective or hampers response and recovery efforts.

## The process

**25.** The formal process for declaring that special legislative measures are necessary and making emergency regulations should continue to rest with The Queen as Head of State, acting on the advice of Ministers. In order to ensure the powers can be used in the midst of an extreme emergency, however, a fallback option will be created. This will allow a Secretary of State to use the powers only where he or she is of the opinion that the circumstances which would justify the Queen making a Proclamation and an Order in Council are present but that the delay resulting from seeking to present those circumstances to The Queen for the formal declaration process might result in significant damage or harm. The power would be exercised by Ministers in accordance with the normal principles of Cabinet collective responsibility.

**26.** Emergency regulations would then be laid before Parliament and would have to be approved by both Houses within seven days. If they were not approved they would lapse.

**27.** The Government is also considering whether changes might be necessary to the mechanism under which the need for special legislative measures is declared. One possibility is that emergency regulations might be approved solely by Order in Council, removing the reliance on the formal Royal Proclamation that in some circumstances might prove impractical.

## Scope of Regulation making powers

**28.** While significant structural changes to the special legislative measures framework are intended, the heart of the power will remain a broad regulation making power within clear limits. This changes little from the 1920 Act formulation. The process for obtaining Parliamentary approval, thus requiring the Government to account to Parliament for its use of special legislative measures, will remain unchanged. The existing safeguards within the legislation will be maintained, namely a prohibition on the use of regulations to:

- Prevent strike action (though they may be used to deal with the consequences of strike action).
- Instigate military or industrial conscription.

- Alter any existing procedure in criminal cases, or confer any right to punish by fine or imprisonment without trial.
- Create an offence other than failure to comply with the emergency regulations.

**29.** Ministers must be satisfied that there is a serious threat before the use of special legislative measures is possible. They must also be satisfied that special legislative measures are genuinely necessary. In addition, they must be satisfied that existing legal provision is not sufficient for the purpose for which they wish to make emergency regulations, or believe that relying on existing legal provision would occasion serious delay. Finally, they must believe that the proposed provision, and not some less intrusive provision, is necessary for the purpose of preventing, controlling or mitigating a serious aspect or serious effect of the emergency.

## Human rights

**30.** The legislation will, as all legislation must, operate within the confines placed upon it by human rights legislation. The Bill is compatible with the European Convention on Human Rights.

**31.** During serious emergencies, the balance between individual rights and the need for action to mitigate the emergency can be difficult to achieve. That is why a procedure already exists to allow the Government to derogate from the Convention, and to make immediate adjustments to the Human Rights Act to reflect the derogation, in the event of a serious emergency.

**32.** As part of the work to modernise emergency powers, the Government has considered whether any additional flexibility is necessary.

**33.** Primary legislation can be challenged in the Courts, but cannot be quashed or prevented by injunctions on human rights grounds. Secondary legislation is subject to injunction and can be quashed. In an emergency, where speed is of the essence, it is not desirable for any emergency regulations to be held up by injunctions, especially where delay may prevent effective resolution of an emergency which threatens the safety of the community. Claims that human rights are being infringed may in the end prove unfounded, but a Court might on an interim basis order that emergency regulations be suspended.

**34.** The counter point to this argument is that the regulations should be subject to the standard process for dealing with human rights challenges to secondary legislation, with the usual safeguards and derogations available. In particular there is a procedure under which many, but not all, of the rights protected by the Human Rights Act may be suspended when there is a public emergency which threatens the life of the nation. If that derogation is relied on, and assuming that Courts would not lightly intervene in the Government's efforts to respond to an emergency, the risk of successful legal challenge is not substantial.

**35.** The Government is considering whether regulations introduced as emergency measures should be considered as primary legislation made by Parliament for human rights purposes. That way, emergency regulations are not slowed up or prevented by injunctions, but there is still the redress to the law courts if individuals or organisations considered that their rights had been infringed. The reasons for considering emergency regulations as primary legislation are that they would only be introduced in extreme, and very rare, special circumstances; they operate in effect as temporary primary legislation; they have a limited life-span; and, they have to be approved by Parliament as soon as practicable once made. The proposal would prevent the suspension or quashing of emergency regulations themselves, but it would not prevent courts suspending or quashing the actions of persons under the regulations on human rights grounds unless any violation of human rights were specifically required by the regulations.

**36.** The Bill includes a clause to this effect, but the Government believes that the case for its inclusion in the final Bill is by no means certain. The Government will be seeking further evidence from the consultation and pre-legislative scrutiny processes before it forms a final view.

## The role of the Armed Forces

**37.** Ministers have agreed that the proposed new special legislative measures framework will not affect the operation of military assistance in an emergency situation. Section two of the Emergency Powers Act 1964 provides an important legal basis for the provision of military assistance and will remain in place. No new powers will be granted to the military, their role will remain as it is at present.



### Summary and consultation points

In summary, it is proposed that the new civil contingencies legislation will:

- Modernise the mechanism for using special legislative measures to mitigate the effects of the most serious emergencies. The new mechanism will be more deployable, with a broader definition of emergency and an improved process. Sub-UK use of the measures will be possible.
- Retain the current ability for the Armed Forces to provide Military Aid to the Civil Authorities.

In addition, the Government has already:

- Identified Lead Government Departments that will take responsibility for planning for and dealing with the consequences of specific emergencies.
- Set up the Civil Contingencies Secretariat in the Cabinet Office to strengthen arrangements for resilience and civil protection.
- Put in place a standards and audit regime to monitor the performance of government departments, ensuring a high standard of performance across government.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following questions.

- Q12. Do you agree that the current emergency powers framework is outdated and needs to be replaced? If you do not think it should be replaced, please explain why.
- Q13. Do you agree that the circumstances in which special legislative measures may be taken should be widened from limited threats to public welfare to include threats to the environment, to the political, administrative and economic stability of the UK and to threats to its security resulting from war or terrorism? If not, how would you like to see the circumstances narrowed or extended?
- Q14. Do you agree that the use of special legislative measures should be possible on a sub-UK basis? If not, please explain.
- Q15. Do you agree that authority to declare that special legislative measures are necessary should remain with The Queen as Head of State, acting on the advice of Ministers? If not, who should it sit with?
- Q16. Do you agree that in the event the process of making a Royal Proclamation would cause a delay which might result in significant damage or harm, a Secretary of State should be able to make the declaration in the place of The Queen as Head of State, acting on the advice of Ministers? If not, is delay acceptable or is there another alternative mechanism?
- Q17. Do you agree that emergency regulations should be treated as primary legislation for the purposes of the Human Rights Act? If not, please explain why.

## Chapter 6

# Scotland, Wales and Northern Ireland

**1. The new framework reflects the changes to the UK's constitution. All parts of the UK should enjoy the same degree of civil protection. And it is right that the Administrations in Scotland, Wales and Northern Ireland play a key role in delivering this.**

2. The proposals contained in this document have differing territorial extents. Those relating to local responders would apply to England and Wales only while those on Emergency Powers would apply throughout the UK. The devolved administrations have been closely engaged in the development of policy upon the latter in what has been an open and inclusive policy-making process.

### Scotland

3. The Scottish Executive has responsibility for resilience at a local level in Scotland. The Scottish Executive Justice Department provides financial support and guidance to local responders for the purposes of integrated emergency management planning, training and exercising. Just as in the rest of the UK, multi-agency strategic groups take responsibility for fostering the co-operation that underpins the delivery and maintenance of civil emergency planning and management. These groups are geographically based on police force areas and provide for representation from all emergency services, local authorities, Health Boards and Trusts, utilities, Industry and the voluntary sector. This is consistent with the arrangements that the Bill will develop in England and Wales.

4. The local responders part of the draft Bill does not apply to Scotland. The Scottish Executive will carry out a separate consultation on these issues.

5. Multi-agency co-ordination across Scotland is delivered through the Scottish Emergency Co-ordinating Committee. It brings together senior Scottish Executive staff with representatives at Chief Officer level of all the agencies who would be involved in

responding to a major incident or dislocation of services in Scotland. The new framework will ensure that existing Scottish national resilience arrangements dovetail with English regional arrangements.

6. The Emergency Powers part of the Bill will apply to Scotland. It will specify that the Scottish Executive be consulted, where possible, in advance of the use of special legislative measures affecting Scotland.

### Wales

7. Local resilience in Wales is delivered within the framework established jointly with England. Local joint agency groups in Wales are currently based on the four police force areas (North Wales; Gwent; South Wales; Dyfed-Powys). In essence, the operation of these groups is consistent with their counterparts in England. In three of the Welsh police force areas conventional gold / silver group arrangements exist, whilst in North Wales, a strategic group oversees the work of a various number of task and finish groups. These local joint agency groups provide a forum for local responders to exchange information, co-ordinate local activity and prepare / plan for emergencies. The Welsh Assembly Government is represented on all of these joint agency groups, which creates a link between effort at the local and all-Wales levels. The Bill will reinforce these arrangements.

8. The Welsh Assembly Government will facilitate the operation of an all-Wales High Level Group. This Group will be chaired by an Assembly Minister and consist of senior representatives from local government, the emergency services, armed forces and other key stakeholders. The Group will provide a forum for discussion on issues of emergency preparedness at the strategic level and will be broadly consistent (in terms of purpose, membership, operation) with the groups proposed for the English regions. The new framework will ensure that there is a consistency between Welsh national resilience arrangements and English regional arrangements.

**9.** To underpin the High Level Group, the Welsh Assembly Government facilitates an Emergencies Working Group. This Group has been in operation since 2001 and it produced the overarching framework for the interaction between the local level and the national level in Wales (Wales National Emergency Co-ordination Arrangements).

**10.** The local responders part of the Bill will apply to Wales, and the categorisation of local responders will reflect the administrative arrangements. The Welsh Assembly Government will, as appropriate, co-operate with, be consulted on or take responsibility for delivery of the framework alongside the UK Government.

**11.** The Emergency Powers part of the Bill will similarly apply to Wales. It will specify that the Welsh Assembly be consulted, where possible, in advance of the use of special legislative measures affecting Wales.

## Northern Ireland

**12.** Just as in Scotland, local resilience in Northern Ireland is the responsibility of the devolved administration. However, the different structure of local and central government in Northern Ireland means that much of this work is led by the Northern Ireland departments.

**13.** Northern Ireland already has a central strategic committee framework for managing Civil Protection policy and the response to emergencies. This framework involves the Northern Ireland departments, emergency services, District Council Chief Executives and other key response organisations.

**14.** The local responders part of the draft Bill does not apply to Northern Ireland. The Office of the First Minister and Deputy First Minister will carry out a separate consultation on these issues.

**15.** The Emergency Powers part of the Bill will apply to Northern Ireland. It will specify that the First Minister and Deputy First Minister be consulted, where possible, in advance of the use of special legislative measures affecting Northern Ireland.

## Working with the UK Government in close co-operation

**16.** The devolved administrations already work closely with each other and the UK Government as part of the new framework. The devolved administrations are

represented in a range of forums at the UK level, closely involved in the Capabilities Programme and central crisis machinery. The devolved administrations have been active in working with the UK Government's response to emergencies.

## Special legislative measures in the devolved administrations

**17.** Just as local response arrangements are adjusted to meet the needs and responsibilities of the devolved administrations, the Government believes it is right that the mechanisms for taking special legislative measures should be as well. Scotland, Wales and Northern Ireland may also see the use of special legislative measures applied on a sub-UK basis. This allows for such measures to apply, for example, only to Wales. Where the post of Nominated Co-ordinator is activated, it will be re-titled "Emergency Co-ordinator"; for example, the Scottish Emergency Co-ordinator.

**18.** In addition to special legislative measures declared by the UK Government (with either a UK or sub-UK territorial extent) the Government is also considering whether each of the devolved administrations should be able to make such a declaration, and to take measures so far as they are within their competence.

**19.** If there were support and a strong practical case for such a provision, the Bill could allow each of the devolved administrations to declare that a situation or event constituted an emergency and that special legislative measures were necessary. Just as with the UK mechanism, it would then be possible for the devolved administration to make emergency regulations. The scope of these regulations would be constrained by the competence of each administration – they would not be able to act in a way inconsistent with the devolution settlement. This would mean that each of the administrations would have a different degree of freedom of action.

**20.** In the event that an emergency required special legislative measures that went beyond the competence of a devolved administration, or a UK-declared state of emergency was applied, the UK regulations would supersede any extant regulations made by the devolved administration.

**21.** There are both advantages and disadvantages to this approach. Devolved declarations would allow the administrations to make choices about the use of

their own functions and resources during emergencies, and to play a full role in tackling them. It would offer considerable flexibility, and dovetail with the Government's wider intention that response is best led from the level of government closest to the emergency.

**22.** There are, however, important questions about the utility of such a provision. Given that it would be constrained by existing competencies, it could be the case that few emergencies requiring special legislative measures would fit neatly within the devolution

settlement, thus ensuring that the UK Government would need to become involved. There are also important practical questions about the transition from devolved use of special legislative measures to the UK use of special legislative measures.

**23.** The Government is continuing to discuss this issue with the devolved administrations, and those discussions will be informed by the outcome of the consultation process.

### Summary and consultation points

In summary, it is proposed that the new civil contingencies legislation will:

- Clarify roles and responsibilities at the local level in Wales, as part of the wider local responder proposals.
- Provide for sub-UK application of special legislative measures on the basis of each of the devolved administrations.

In addition, the devolved administrations are already:

- Working closely together and with the UK Government to ensure effective co-operation across the UK, so that all citizens enjoy the same degree of civil protection.
- Providing multi-agency resilience forums at the national level.
- Supporting local resilience arrangements in Scotland that are consistent with proposed arrangements for England and Wales.
- Supporting local resilience arrangements in Northern Ireland that are consistent with its local government structure.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following questions.

Q18. Do you agree that the arrangements proposed for Scotland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?

Q19. Do you agree that the arrangements proposed for Wales strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?

Q20. Do you agree that the arrangements proposed for Northern Ireland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?

Q21. Do you agree that the role and accountability of the Emergency Co-ordinator in a devolved country should be flexible to reflect different types of emergency? If not, what alternative role should the Emergency Co-ordinator have?

Q22. Do you agree that the devolved administrations should be able to declare that special legislative measures are necessary, and take action accordingly? If not, please explain why.

## Chapter 7

### London

**1. London faces a unique challenge within the overall resilience agenda. It is the capital, with a concentration of government and business not found anywhere else. It is a huge conurbation, with a population of over seven million. And it is a region in its own right. A significant effort has already strengthened London's resilience. The Bill proposals provide the flexibility to meet London's requirements and complement existing arrangements, while at the same time ensuring co-operation and consistency.**

2. London has a strong track record in both preventing and dealing with the consequences of emergencies. Local authorities and the emergency services have dealt effectively with the full range of localised emergencies, as well as the impact of terrorism. But September 11 showed that a different scale of planning was necessary. A framework is already in place to deliver that enhanced capability.

3. A London Resilience Forum has been established, bringing together key stakeholders on a pan-London basis to deliver effective multi-agency planning and co-ordination. A wide range of stakeholders are represented, including the emergency services, local authorities, utilities, London Transport, the Office of the Mayor and central government. The London Resilience Forum is supported by a group of experts – the London Resilience Team. The team, part of the Government Office for London, is largely made up of people from the organisations represented on the Forum who have first-hand experience in the key areas. The aim of the team is to make sure that the emergency plans and procedures of London organisations vital to keeping the capital running fit together effectively and can stand up to different scales and types of threat.

4. Underpinning this work, London boroughs have continued to carry out civil protection planning, working in co-operation with each other and the London Fire and Emergency Planning Authority (LFEPA).

#### How the Bill will work in London

5. In large measure, the Bill will translate easily to London. Just as elsewhere, the Bill will improve co-ordination and consistency at the local level and deliver greater operational effectiveness and financial efficiency. But the application of the co-operation element of the local responders part of the Bill has to reflect London's needs. The Government believes that co-ordination of planning should be on a pan-London basis with two tiers of activity. The London Resilience Forum will lead work on regional capabilities, with London Boroughs leading on delivering the local capability. LFEPA will support co-operation between boroughs.

6. This enables the local and mutual aid group capabilities to form building blocks for the regional capability. It also meets the need, as identified by key stakeholders and in the London Resilience review, for strategic civil protection planning for London as both a city and region. It maintains the spirit of arrangements elsewhere whilst recognising the specific needs of London.

7. The arrangement will also allow the City of London Police to be involved in local planning as a category one responder, although the Metropolitan Police would continue to lead the 'Guardian Forces' in City and London wide planning.

**Summary and consultation points**

In summary, it is proposed that the new civil contingencies legislation will:

- By and large apply directly to London unchanged.
- Require different arrangements for co-operation, with two tiers of pan-London activity: regional resilience by the London Resilience Forum, local resilience by London Boroughs supported by LFEPA.

In addition, the Government has already:

- Established a London Resilience Forum, bringing together key stakeholders on a pan-London basis to deliver effective multi-agency planning and co-ordination.
- Established a Resilience Team in Government Office for London, to make sure that the emergency plans and procedures of London organisations vital to keeping the capital running fit together effectively and can stand up to different scales and types of threat.

You are invited to comment on these proposals. In particular, we would welcome your answers to the following question.

Q23. Do you agree that London should have different arrangements for co-operation, and that the proposals set out are the right way to deliver this? If not, what arrangements should be in put in place?

# Annex A

## Summary of consultation questions

This document sets out the Government's proposals for a new framework for civil protection in the United Kingdom. Comments should address the following specific questions.

### **RESILIENCE, EMERGENCIES AND CIVIL PROTECTION**

- Q1. Is the definition of emergency the right one? If not, in what ways should it be tightened or expanded to exclude certain classes of event or situation?

### **CLEAR ROLES AND RESPONSIBILITIES AT THE LOCAL LEVEL**

- Q2. Do you agree that the obligations imposed on both Category 1 and 2 responders by or under the new framework will ensure operationally effective and financially efficient planning and response to emergencies at the local level? If not, how should these obligations be increased or reduced?
- Q3. Do you agree that the membership of categories 1 and 2 is right? If not, which organisations should be added, moved or removed?
- Q4. Do you agree that the Bill gives the Government the right balance of regulation making powers to meet its aims of consistency and flexibility? If not, please explain how the powers should be expanded or constrained.
- Q5. Do you agree that consistent arrangements for multi-agency working should be established, through the creation of Local Resilience Forums? If not, how else should consistency be established?
- Q6. Do you agree that the partial Regulatory Impact Assessment accurately reflects the costs and benefits of the Bill proposals? If not, how should it be changed?

- Q7. Do you agree that funding for Category 1 local authorities should be transferred from specific grant (Civil Defence Grant) to Revenue Support Grant? If not, why should specific grant be retained?

- Q8. Do you agree that the level of funding to support the Bill is sufficient? If not, please explain why you believe it to be too high or too low.

- Q9. Do you agree that performance should be audited through existing mechanisms? If not, what mechanism would you like to see established?

### **A NEW REGIONAL TIER**

- Q10. Do you agree with the role of Regional Nominated Co-ordinator? If not, who should take responsibility at the regional level, and with what responsibilities?
- Q11. Do you agree with the principle of applying special legislative measures on a regional basis? Please explain your answer.

### **STRONG CENTRAL STRUCTURES AND TARGETED POWERS**

- Q12. Do you agree that the current emergency powers framework is outdated and needs to be replaced? If you do not think it should be replaced, please explain why.
- Q13. Do you agree that the circumstances in which special legislative measures may be taken should be widened from limited threats to public welfare to include threats to the environment, to the political, administrative and economic stability of the UK and to threats to its security resulting from war or terrorism? If not, how would you like to see the circumstances narrowed or extended?

- Q14. Do you agree that the use of special legislative measures should be possible on a sub-UK basis? If not, please explain.
- Q15. Do you agree that authority to declare that special legislative measures are necessary should remain with The Queen as Head of State, acting on the advice of Ministers? If not, who should it sit with?
- Q16. Do you agree that in the event the process of making a Royal Proclamation would cause a delay which might result in significant damage or harm, a Secretary of State should be able to make the declaration in the place of The Queen as Head of State, acting on the advice of Ministers? If not, is delay acceptable or is there another alternative mechanism?
- Q17. Do you agree that emergency regulations should be treated as primary legislation for the purposes of the Human Rights Act? If not, please explain why.
- Q19. Do you agree that the arrangements proposed for Wales strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?
- Q20. Do you agree that the arrangements proposed for Northern Ireland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?
- Q21. Do you agree that the role and accountability of the Emergency Co-ordinator in a devolved country should be flexible to reflect different types of emergency? If not, what alternative role should the Emergency Co-ordinator have?
- Q22. Do you agree that the devolved administrations should be able to declare that special legislative measures are necessary, and take action accordingly? If not, please explain why.

#### **SCOTLAND, WALES AND NORTHERN IRELAND**

- Q18. Do you agree that the arrangements proposed for Scotland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?
- Q23. Do you agree that London should have different arrangements for co-operation, and that the proposals set out are the right way to deliver this? If not, what arrangements should be in put in place?

#### **LONDON**



## Annex B

### Stakeholders involved in policy development

#### **Government Departments and Agencies**

Department of Health  
 Department of Trade and Industry  
 Department for Transport  
 Office of the Deputy Prime Minister  
 Ministry of Defence  
 Home Office  
 Foreign and Commonwealth Office  
 Department for International Development  
 Department of the Environment, Food and Rural Affairs  
 HM Treasury  
 Privy Council Office  
 Health and Safety Executive  
 Environment Agency  
 Wales Office  
 Cabinet Office  
 Scotland Office  
 Northern Ireland Office  
 Maritime and Coastguard Agency  
 Lord Chancellor's Department

#### **Devolved Administrations**

Scottish Executive  
 Northern Ireland Executive  
 Welsh Assembly Government

#### **Local Government Representatives**

Local Government Association  
 Welsh Local Government Association  
 Society of Local Authority Chief Executives  
 Association of London Government  
 Emergency Planning Society

#### **Emergency Services Representatives**

Association of Chief Police Officers  
 Chief and Assistant Chief Fire Officers Association  
 Ambulance Service Association

#### **Non-Government Organisations**

Water UK  
 National Steering Committee on Warning and Informing the Public

## Annex C

### Frequently asked questions

#### **Is the Bill fully compatible with the Human Rights Act?**

Yes, the Bill is compatible. However, in the event that a high impact incident occurs and Government assumes additional powers, under Emergency Powers regulations, a derogation may need to be obtained, for a specified period. Further details are contained in Chapter 5.

#### **Is the Bill a response to the events of September 11?**

No. The Bill's origins began before 11 September 2001, following more conventional emergencies. However, it has taken into account the impact of those events and the possibility that something similar might occur in the UK. Other factors that influenced the Bill are detailed in Chapter 1.

#### **Will the Bill change the way the UK deals with terrorism?**

No. The Bill is about dealing with emergencies generally, not specifically terrorism. The government has in place a series of classified contingency plans for responding to a wide range of terrorist threats, developed within the clear guidelines set out by the Home Office. These will be unchanged by the Bill.

#### **How will the Bill change existing practice at the local level?**

It will give a statutory basis to what is largely existing practice, providing a coherent framework across areas, leading to consistent expectations. Further details are contained in Chapter 3.

#### **Will the Bill mean that the Government makes use of special legislative measures more frequently?**

It is prudent for the Government to be prepared for every eventuality. The frequency with which special legislative measures are used will depend on events that will take place. Circumstances in which special legislative measures might be taken are outlined in Chapter 5.

#### **What will be the impact of the Bill on the private sector?**

The regulatory impact of the Bill is addressed in the separate partial Regulatory Impact Assessment (RIA). Of the organisations affected by the proposals, all are large and already have a significant civil protection function. The RIA seeks to quantify any new burdens, and reflects discussions with stakeholders during the policy development process. The main message of the RIA is that the likely benefits outweigh the likely costs by a considerable margin.

#### **What will be the impact of the Bill on the voluntary sector?**

Voluntary organisations are not covered by the new duty. This is because voluntary organisations rely on the goodwill of their members and supporters to provide the services that they do, and because those services are not in themselves based on statutory obligations. As a consequence, the skills and expertise available to the voluntary sector may vary from place to place. Nevertheless, the Government continues to place a high value on the role the voluntary sector plays in the response to emergencies, and will continue to encourage their involvement in local multi-agency planning and response through the guidance that will follow the new legislation.

#### **What safeguards will be put in place to restrict the way the Government uses special legislative measures?**

The circumstances in which special legislative measures can be used are limited to certain categories and situations. Special legislative measures can only be used under these conditions. As with other legislation, challenges can be made in the courts if applicants consider the Government is acting beyond its powers.

**Why doesn't the bill contain any specific measures relating to Chemical, Biological, Radiological, Nuclear (CBRN) incidents?**

The Bill is general in nature, putting in place a statutory framework to ensure that organisational structures exist to deal with emergencies, of whatever type, as they arise. This incorporates response to CBRN incidents. The work involved in the capabilities programme (see Chapter 2) covers many of the aspects of dealing with CBRN incidents.

**How does the new framework compare to those in other countries?**

Direct comparison is difficult because organisational structures within different legislatures vary so greatly. The British Institute of International and Comparative Law carried out a comparison of other legislatures. Government is confident that the framework contained in the Bill is the most appropriate for the UK and ensures a level of civil protection comparable with any other country.

**Is the Government considering other legislative changes in this area?**

Not to the overarching civil protection framework. This thorough revision of general emergency related legislation will result in a comprehensive legislative framework, appropriate for the twenty-first century, sufficient to deal with all emergencies. More generally, the Government will continue to consider related public protection measures or sector specific emergency measures as necessary.

## Annex D

### The consultation criteria

The consultation process on the draft Civil Contingencies Bill has been developed in accordance with the Government's "Code of Practice on Written Consultation", which was issued by the Cabinet Office in November 2000.

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (thought not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.



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