



## BRIEFING PAPER

Number 8488, 21 March 2019

# Brexit: contingency planning and powers

By Gabrielle Garton  
Grimwood and  
Louisa Brooke-Holland

### Contents:

1. What emergency powers does the Government have?
2. Civil contingency planning for a no-deal Brexit
3. Local Resilience Forums
4. Military aid to the civil authorities (MACA)



# Contents

<b>Summary</b>	<b>3</b>
<b>1. What emergency powers does the Government have?</b>	<b>5</b>
1.1 The statutory framework	5
1.2 Power to make emergency regulations	5
1.3 How is an “emergency” defined?	7
Threatening “damage to human welfare”	7
Inclusion of “political” events in the definition of emergency	7
<b>2. Civil contingency planning for a no-deal Brexit</b>	<b>9</b>
2.1 What has the Government said so far?	9
2.2 UK central government response to emergencies	11
2.3 NAO report on Operation Yellowhammer	12
2.4 Early Day Motion in February 2019	13
<b>3. Local Resilience Forums</b>	<b>14</b>
3.1 National Resilience Capabilities Programme	15
<b>4. Military aid to the civil authorities (MACA)</b>	<b>16</b>
4.1 Might the armed forces be deployed in the UK in the event of a no-deal Brexit?	16
4.2 Brexit-related preparations	16
4.3 Process of deploying in the UK	18
4.4 Further reading	19

## Summary

Media reports have speculated on whether the Government might be preparing to use its emergency powers conferred by the [Civil Contingencies Act 2004](#) (the 2004 Act) to manage various problems commentators have suggested may emerge after Brexit, particularly if there is no deal.

This briefing therefore looks at emergency planning in the UK and specifically at the how emergencies are defined, how the Government may deploy its emergency powers to deal with them, and how this relates to no-deal planning.

### What emergency powers does the Government have?

The statutory framework for planning for and dealing with civil contingencies derives from the 2004 Act. Under Part 2 of the 2004 Act, the Government has the power to make emergency regulations, as outlined in the Act's [Explanatory Notes](#), and so this briefing focuses primarily on those powers.

The [Civil Contingencies Act 2004 \(Contingency Planning\) Regulations 2005](#) (as amended) add further detail to the emergency planning regime.

### Military aid to the civil authorities

The Defence Secretary has said 3,500 troops are held in readiness to support any Government department with contingency needs but has rejected suggestions there are plans for military personnel to be used for public order post-Brexit. Nearly 30 military planners have been posted to other departments to assist with contingency planning and the MOD has formally issued a Call-Out order to call Reservists to full-time service 'in support of Government contingency planning for a no-deal exit'.

There is a clear process in place for deploying the armed forces in the UK if requested by local or civil authorities, known as Military Aid to the Civil Authorities (MACA). Ministerial approval is required for any request for assistance from other Government departments or civil authorities.

The legal authority to use Service personnel in operations under Military Aid to the Civil Authorities (MACA) is governed by the 2004 Act and the *Emergency Powers Act 1964* (Section 2). In addition, service personnel can deploy under the Royal Prerogative for [military tasks](#).

### Civil contingency planning for a no-deal Brexit

#### What has the Government said so far?

In a [letter in April 2018 to Meg Hillier MP](#) (the chair of the Public Accounts Committee), Philip Rycroft (the Permanent Secretary at the Department for Exiting the European Union) said that the Cabinet Office had 10 workstreams relating to exit, one of which related to civil contingencies. Likewise, in response to a [topical PQ in September 2018](#), the Cabinet Office Minister David Lidington said that the Civil Contingencies Secretariat in the Cabinet Office was taking "an active part" in contingency planning.

In January 2019, the [Chancellor of the Exchequer, Philip Hammond, said](#) that he had made "arrangements to ensure that Departments and the devolved Administrations can fund measures to address urgent civil contingencies in a no-deal scenario".

## 4 Brexit: contingency planning and powers

Media reports in late January 2019 suggested that Ministers were considering use of emergency powers, possibly including martial law, to deal with potential civil unrest after Brexit.

Soon after this, Sir Mark Sedwill (Cabinet Secretary and National Security Adviser) took a different line in [evidence to the Joint Select Committee](#) on the National Security Strategy. He dismissed the media talk of martial law in the event of no deal. Asked if there might be emergency regulations, he drew attention to Part 2 of the 2004 Act, which provides for certain emergency powers and which might, he said, be a “bridging solution”, where (for example) secondary legislation had not gone through or powers were unclear, although there was no expectation that it would need to be used. Emergency powers would (he suggested) be used only for unforeseen situations – foreseeable contingencies should be addressed through the usual primary or secondary legislation. He referred to Parliament’s “checks and balances”. When asked how long it might take, to put in place all the arrangements that would be needed, so as not to require use of the 2004 Act in the event of a no-deal Brexit, Sir Mark Sedwill said that the Government was doing all the contingency planning that it could, but there would be a “significant economic and indeed logistic impact” immediately after a no-deal Brexit (were that to happen) and then in the months afterwards.

Operation Yellowhammer is the name by which some elements of departments’ contingency planning (coordinated by the Civil Contingencies Secretariat) are known. In March 2019, the National Audit Office published its [report on Operation Yellowhammer](#), drawing attention to the scale of contingency planning required, in the number of areas of risk and number of bodies which might be involved in any emergency response.

The Cabinet Office’s [guidance on the UK central government response to emergencies](#) identifies three levels of emergency: significant emergency (level 1), serious emergency (level 2) and catastrophic emergency (level 3). Only the last of these (the guidance suggests) might require use of the 2004 Act’s emergency powers provisions. The guidance goes on to say that the central response framework, including the Cabinet Office Briefing Rooms (COBR), would be activated in the event of a level 2 or 3 emergency. It was [reported in March 2019](#) that COBR had taken control of no-deal planning and would be implementing contingency measures from 24 March 2019.

- The Commons Library briefing [Dealing with civil contingencies: emergency planning in the UK](#) (CBP 08016, 11 July 2017) looks more broadly at emergency planning.
- The UK central government response to emergencies (including the procedure for invoking emergency powers) is also discussed in the House of Lords Library briefing [Civil contingencies, Emergency Powers and No-Deal Brexit](#) (LLN-2019-0034, 19 March 2019)
- The Commons Library briefing [Military Aid to the Civil Authorities](#) (CBP 08074, 18 August 2017) provides a more detailed examination of using the armed forces.
- Other Commons Library briefings on related topics are available from the pages for [emergency services](#) and [emergencies and disaster management](#).

# 1. What emergency powers does the Government have?

## 1.1 The statutory framework

The [Civil Contingencies Act 2004](#) (the 2004 Act) was introduced to create a single framework for civil protection in the UK. It received Royal Assent on 18 November 2004.

The 2004 Act was intended to improve the quality of planning for civil contingencies and the response to them, around four main aims:

- Establishing a clear set of roles and responsibilities for organisations with a front line emergency response role, ensuring that they are prepared to deal effectively with the full range of emergencies
- Delivering greater structure and consistency of civil protection activity at the local level
- Facilitating more systematic co-operation between local responders and
- Establishing a sound basis for robust performance management of local responders.<sup>1</sup>

The 2004 Act applies to England and Wales, Scotland and Northern Ireland.<sup>2</sup>

The [Civil Contingencies Act 2004 \(Contingency Planning\) Regulations 2005](#) (as amended) add further detail to the emergency planning regime.<sup>3</sup>

## 1.2 Power to make emergency regulations

Under Part 2 of the 2004 Act, the Government has the power to make emergency regulations. In the words of the Act's [Explanatory Notes](#):

10. The Act ... confers a power on Her Majesty (or in certain very limited circumstances, a senior Minister of the Crown) [by Order in Council] to make regulations if an "emergency" has occurred or is about to occur. "Emergency" is defined broadly to include events and situations which threaten serious damage to human welfare in the United Kingdom, a Part or a region, the environment of the United Kingdom, a Part or a region or war or terrorism which threaten serious damage to the security of the United Kingdom. The Act gives further detail as to what provision may (and may not) be included in emergency regulations, including specific safeguards designed to prevent misuse. The Act expressly allows for emergency powers to have effect in a Part or region of the United Kingdom only. The Act also makes provision for

More background on the 2004 Act is available in the Commons Library briefing [Civil Contingencies Bill](#) (RP 04/07, 15 January 2004)

This briefing paper focuses primarily on the Act's provisions in Part 2 for making emergency regulations, as there has been speculation that these powers might be used in a no-deal Brexit.

<sup>1</sup> [Explanatory Memorandum to The Civil Contingencies Act 2004 \(Contingency Planning\) Regulations](#), SI 2005/2042

<sup>2</sup> Section 35

<sup>3</sup> SI 2005/2042

## 6 Brexit: contingency planning and powers

consultation with, and the conferral of functions on, the devolved administrations.<sup>4</sup>

**Section 20** confers the power for Her Majesty by Order in Council or a senior Minister of the Crown to make regulations. As the [Explanatory Notes also explain](#), a “senior Minister of the Crown” here will mean the Prime Minister, any of the principal Secretaries of State or Commissioners of HM Treasury, although in practice this would most likely be the Home Secretary (although another Minister might take responsibility, if the emergency were within a sector for which they were responsible).

**Section 21** lays down conditions for making emergency regulations. The [Explanatory Notes list](#) those conditions – which are that an emergency has occurred, is occurring or is about to occur; it is necessary to make provision for the purpose of dealing with the emergency; and the need for the provision is urgent - and observe that the 2004 Act presumes that emergency regulations will not be made where existing legislation (or provision which could be made under it) is adequate.

**Section 22** deals with the scope of any such emergency regulations and offers a non-exhaustive list of specific provisions – such as functions conferred on a Minister of the Crown or devolved administration - which may be included in emergency regulations. As [the Explanatory Notes show](#), the scope may be wide-ranging – any provision that the person making the regulations is satisfied is appropriate for dealing with an aspect or effect of the emergency – but the maker of the regulations must “have regard” to the importance of Parliament, the High Court and Court of Session being able to conduct proceedings in connection with them:

48. *Subsection (2)* specifies certain purposes for which provision may be included in emergency regulations. This list is not exhaustive. In broad terms, the particular purposes specified in subsection (2) reflect the definition of “emergency” in section 19. For example, an event or situation which causes or may cause serious human illness in the United Kingdom may be an emergency under section 19. Provision may be included in emergency regulations for the purpose of treating human illness (paragraph (b)). In addition, provision may be made for the purpose of protecting or restoring the activities of banks or other financial institutions (paragraph (h)), protecting or restoring activities of Parliament or any of the devolved legislatures (paragraph (k)) or protecting or restoring the performance of public functions (paragraph (l)). Disruption of these activities does not necessarily constitute an emergency.

**Section 27** makes provision for Parliamentary scrutiny, requiring (amongst other things) that a senior Minister of the Crown must lay any emergency regulations before Parliament as soon as is “reasonably practicable” and the regulations will cease to have effect if each House of Parliament passes such a resolution.

---

<sup>4</sup> Part 1 of the Act is concerned with local arrangements for civil protection and is discussed in the Commons Library briefing [Dealing with civil contingencies: emergency planning in the UK](#) (CBP 08016, 11 July 2017)

## 1.3 How is an “emergency” defined?

Section 1 (1) of the 2004 Act defines an emergency as

- an event or situation which threatens serious damage to human welfare in a place in the United Kingdom,
- an event or situation which threatens serious damage to the environment of a place in the United Kingdom (but only if this involves, causes or may cause contamination of land, water or air with biological, chemical or radio-active matter, or disruption or destruction of plant life or animal life)<sup>5</sup> or
- war, or terrorism, which threatens serious damage to the security of the United Kingdom.

### Threatening “damage to human welfare”

An event or situation threatens damage to human welfare only if it involves, causes or may cause loss of human life, human illness or injury, homelessness, damage to property, disruption of a supply of money, food, water, energy or fuel, disruption of a system of communication, disruption of facilities for transport, or disruption of services relating to health.<sup>6</sup>

Section 1(4) of the 2004 Act provides that Ministers may add a particular type of emergency to the definition; Ministers may provide by order that a particular event or situation (or class of event or situation) is to be treated as falling within (or outside) the definition of emergency. The Explanatory Notes explain this at more length and highlight how any order made is subject to the affirmative procedure in Parliament (that is, it must be actively approved by both Houses of Parliament):

This subsection also enables a Minister of the Crown to amend the list of events or situations which may threaten damage to human welfare by providing that in so far as an event or situation involves or causes disruption of a specified supply, system, facility or service, it is (or is not) to be treated as threatening damage to human welfare. This power is designed to ensure that should a new supply, system, facility or service become so essential that the civil protection duties of Category 1 responders should apply in relation to disruption of that supply, system, facility or service, the Act can be amended accordingly. Any orders under subsection (4) are subject to the affirmative procedure.<sup>7</sup>

### Inclusion of “political” events in the definition of emergency

The definition of an emergency does not include political events, but that was not the case when the Bill was first introduced to Parliament in draft form.

The original definition of “emergency” in the draft Bill was “serious threat to: human welfare; the environment; political, administrative, or economic stability; and the security of the UK or part of it”. The

Whether any set of circumstances constitutes an emergency will depend on interpretation of the Act’s provisions - something on which the House of Commons Library cannot offer an opinion.

The House of Commons [background paper on statutory instruments](#) provides more information on the affirmative procedure (SN 6509, 15 December 2016)

<sup>5</sup> Section 1 (3)

<sup>6</sup> Section 1 (2)

<sup>7</sup> [Civil Contingencies Act 2004 Explanatory Notes](#), commentary on sections, para 15

reference to political, administrative and economic stability was later removed, after the draft Bill had been scrutinised by the House of Commons and House of Lords [Joint Committee on the Draft Civil Contingencies Bill](#).<sup>8</sup>

### Removal of explicit reference to “political” events in the draft Bill

The Joint Committee argued that this definition was drawn too widely:

8. An exceptionally wide range of events or situations may give rise to a threat within the meaning of the draft Bill, including political protests, computer hacking, a campaign against banking practices, interference with the statutory functions of any person or body, an outbreak of communicable disease, or protests against genetically modified crops, among many others. We believe that the definition is drawn too widely in both Parts, especially in Part 2, where it could trigger substantial emergency powers. We suggest that key terms, such as “serious”, “essential” and “stability” must be defined within the Bill and that there needs to be a clear and objective trigger for action under Part 1 and 2.<sup>9</sup>

The Committee’s specific concern was that the inclusion of “political” could be used by the Government of the day to protect its own existence:

52. We have grave reservations about allowing enabling legislation to contain exploitable opportunities that could give the government of the day the power to protect its own existence when there may be no other threat to human welfare. We recommend that this clause should only remain in the Bill if it can be demonstrated that situations occurring under it will also present a threat to human welfare or safety. It should only cover those threats to human welfare caused by disruption to essential services.<sup>10</sup>

The explicit reference to “political” events was thus removed from the Bill and does not appear in the Act. The [Government’s Response to the Joint Committee’s report](#) explained that the Government agreed that, if possible threats to political, administrative or economic stability were great enough to justify use of emergency powers, they would fall within the definition of human welfare and so this part of the definition could be removed:

The Government has considered this issue carefully and agrees that the possible threats of disruption to political, administrative or economic stability it had in mind would, if they were serious enough to justify use of emergency powers, be captured within the definition of human welfare set out in clause 18. This provision of the Bill has therefore been removed.<sup>11</sup>

---

<sup>8</sup> House of Commons and House of Lords Joint Committee on the Draft Civil Contingencies Bill, [Draft Civil Contingencies Bill](#), 28 November 2003, HL Paper 184 HC 1074 2002–03

<sup>9</sup> As above: paragraph 8

<sup>10</sup> Contingencies Bill, [Draft Civil Contingencies Bill](#), 28 November 2003, HL Paper 184 HC 1074 2002–03: paragraph 52

<sup>11</sup> Cabinet Office, [The Government’s Response to the Report of the Joint Committee on the Draft Civil Contingencies Bill, Incorporating the Government’s Response to the Report of the House of Commons Defence Committee](#), CM 6078, January 2004: page 8



## 2. Civil contingency planning for a no-deal Brexit

Media reports have speculated on whether the Government might be preparing to use its emergency powers (conferred by the [Civil Contingencies Act 2004](#) (the 2004 Act)) to manage various problems which commentators have suggested may emerge after Brexit, particularly if there is no deal.

### 2.1 What has the Government said so far?

In a [letter in April 2018 to Meg Hillier](#) (the chair of the Public Accounts Committee), Philip Rycroft (the Permanent Secretary at the Department for Exiting the European Union) said that the Cabinet Office had 10 workstreams relating to exit, one of which related to civil contingencies.<sup>12</sup>

In a similar vein, in response to a [topical PQ in September 2018](#), the Cabinet Office Minister, David Lidington, said that the Civil Contingencies Secretariat in the Cabinet Office was taking “an active part” in contingency planning.<sup>13</sup>

In January 2019, the [Chancellor of the Exchequer, Philip Hammond, said](#) that he had made “arrangements to ensure that Departments and the devolved Administrations can fund measures to address urgent civil contingencies in a no-deal scenario”.<sup>14</sup>

Media reports in late January 2019 suggested that Ministers were considering use of emergency powers, possibly including martial law, to deal with potential civil unrest after Brexit. The Government have said this speculation is not accurate. The *Sunday Times* quoted unnamed sources as suggesting that the Government was examining how to use the powers within the 2004 Act to deal with civil unrest.<sup>15</sup>

The Health Secretary, Matt Hancock, was quoted as saying that, although martial law remained on the statute book, it was not the focus of the Government’s attention:

Asked about the reports, Mr Hancock said ministers were not “specifically” planning for martial law, but did not rule it out as an option.

“I wouldn’t put a stress on that,” he told the BBC. “Of course, Government all the time looks at all the options in all circumstances. It remains on the statute book but it isn’t the focus of our attention.”<sup>16</sup>

---

<sup>12</sup> [Letter from Philip Rycroft, Permanent Secretary, Department for Exiting the European Union](#) to Meg Hillier MP, Chair of the Public Accounts Committee, 30 April 2018

<sup>13</sup> [HC Deb 12 September 2018 c741](#)

<sup>14</sup> [HC Deb 29 January 2019 c638](#)

<sup>15</sup> “[Martial law plan to avert chaos after no-deal Brexit](#)”, *Sunday Times*, 26 January 2019 [subscription]

<sup>16</sup> “Minister admits martial law is ‘an option’ if no-deal Brexit sparks riots”, *i*, 28 January 2019. See also “[Last-resort plan for martial law shows the extent of this](#)

In [evidence to the Joint Select Committee](#) on the National Security Strategy soon after this, however, Sir Mark Sedwill (Cabinet Secretary and National Security Adviser) dismissed the media talk of martial law in the event of no deal:

Thank you for giving me the opportunity to put on the record that the martial law story is complete nonsense. I genuinely have no idea where it came from. I do not know who briefed it, but it is complete nonsense. I am grateful for the chance to say that, and that might well be the headline from this hearing.<sup>17</sup>

Asked if there might be emergency regulations, he drew attention to Part 2 of the 2004 Act which might, he said, be a “bridging solution” where (for example) secondary legislation had not gone through or powers were unclear, although there was no expectation that it would need to be used. He referred too to Parliament’s “checks and balances”:

There is an affirmative resolution, renewable after 28 days, et cetera. It is a very tightly supervised set of powers [in Part 2 of the 2004 Act] that enables the Government, in a genuine emergency, to react. Some of that arose from concerns about the fuel protest, foot and mouth, and other civil contingencies before. The Civil Contingencies Secretariat is involved in no-deal contingency planning. That is because we need the skills and planning techniques that we use for all sorts of contingencies. It is just contingency planning.

There is no expectation that we will need to employ Part 2 of the Civil Contingencies Act, and were we to do so it would be done only because, for example, we discovered that some secondary legislation had not gone through or there were areas where the powers were unclear and we needed a bridging solution until Parliament was able to act in the normal way.

At the moment there is no plan to use that, and it certainly does not involve anything as lurid as the use of the Armed Forces in the way described in those articles.

(...)

It is broad, but that is why it is also very limited by the checks and balances of Parliament itself having to approve it after a very short period.<sup>18</sup>

Discussing a recent exercise with lorries in Kent, Sir Mark Sedwill reiterated that emergency powers would be used only for unforeseen situations – foreseeable contingencies should be addressed through the usual primary or secondary legislation.<sup>19</sup> When asked how long it might take to put in place all the necessary arrangements, so as not to require use of the 2004 Act in the event of a no-deal Brexit, Sir Mark Sedwill said that the Government was doing all the contingency planning that it could, but there would be a “significant economic and indeed logistic

---

[Brexit madness](#)”, *The National (Scotland)*, 28 January 2019. Members and their staff may obtain copies of these (and any other) articles by ringing the Commons Library on 020 7219 3666.

<sup>17</sup> Joint Committee on the National Security Strategy, [Oral evidence: Work of the National Security Adviser](#), 28 January 2019, HC 625, Q42

<sup>18</sup> As above

<sup>19</sup> Joint Committee on the National Security Strategy, [Oral evidence: Work of the National Security Adviser](#), 28 January 2019, HC 625, Q42

impact” immediately after a no-deal Brexit (were that to happen) and then in the months afterwards:

We are doing all the contingency planning that we can. There are constant meetings, and we have run exercises and so on in order to mitigate as best we can the consequences. However, we cannot mitigate them fully, and there would be a significant economic and indeed logistic impact immediately afterwards and then over the subsequent months.

A great deal will then depend on what we are able to achieve in agreements with the EU either to mitigate the consequences or to put a new deal in place. It is not so much how much time we need, because we are already planning for it. We are already communicating with businesses, and in August last year we put out a hundred or so technical notices in order to try to ensure that the economy as a whole—business and citizens—are as well prepared as they can be. A lot of that is about communication. As the Government we must do our part, but a lot of it is about third parties, whether they are businesses, or citizens here, or other Governments.<sup>20</sup>

In reply to a [PQ in February 2019](#), the Defence Minister, Mark Lancaster, said that the police were responsible for public order and the Ministry of Defence had no plans to use military personnel:

'Martial Law' is not a defined term in the UK and is not a phrase recognised in UK Policing doctrine. The Police are responsible for Public Order in the UK and the Ministry of Defence has no plans to utilise military personnel for public order in the event of a no-deal Brexit. Defence remains closely engaged with other Government departments on wider no-deal contingency planning and remains available to support the civil authorities if necessary.<sup>21</sup>

## 2.2 UK central government response to emergencies

The Cabinet Office's [guidance on the UK central government response to emergencies](#) identifies three levels of emergency: significant emergency (level 1), serious emergency (level 2) and catastrophic emergency (level 3). Only the last of these (the guidance suggests) might require use of the 2004 Act's emergency powers provisions.<sup>22</sup> The guidance goes on to say that the central response framework,

---

<sup>20</sup> Joint Committee on the National Security Strategy, [Oral evidence: Work of the National Security Adviser](#), 28 January 2019, HC 625, Q43

<sup>21</sup> [PQ 221594, 19 February 2019](#)

<sup>22</sup> Cabinet Office, [Responding To Emergencies: The UK Central Government Response: Concept Of Operations](#), March 2010: pages 8-9

including the Cabinet Office Briefing Rooms (COBR), would be activated in the event of a level 2 or 3 emergency:

In the event of a Level 2 or 3 emergency, the central response framework would be initiated and would involve the activation of central government's crisis management facilities – the Cabinet Office Briefing Rooms (COBR). COBR would be activated in order to facilitate rapid co-ordination of the central government response and effective decision-making. In practice, the actual response to a specific emergency will need to take into account the nature of the challenge and other circumstances at the time.<sup>23</sup>

It was [reported in March 2019](#) that COBR had taken control of no-deal planning and would be implementing contingency measures from 24 March 2019.<sup>24</sup>

### 2.3 NAO report on Operation Yellowhammer

Operation Yellowhammer is the name by which some elements of departments' contingency planning (coordinated by the Civil Contingencies Secretariat) are known.<sup>25</sup>

In March 2019, the National Audit Office published its [report on Operation Yellowhammer](#). The NAO drew attention to the scale of contingency planning required, in the number of areas of risk and number of bodies which might be involved in any emergency response:

There are 12 Operation Yellowhammer areas of risk. These are each led by a relevant department and cover areas such as:

- movement of goods and people across borders;
- UK food and water supplies;
- healthcare services; and
- transport systems.

Coordinating the response of all the bodies involved under a no deal scenario would be a significant task. Should Yellowhammer become operational it could involve:

- more than 30 central government bodies, including almost all central government departments;
- 42 local resilience forums in England and Wales, and equivalent bodies in Scotland and Northern Ireland, which in turn will coordinate the work of local bodies, including police and local authorities;
- the Scottish and Welsh governments;
- the Northern Ireland Civil Service;
- Crown Dependencies, Overseas Territories (including Gibraltar) and Sovereign Base Areas in Cyprus; and,

The UK central government response to emergencies (including the procedure for invoking emergency powers) is discussed at more length in the House of Lords Library briefing [Civil contingencies, Emergency Powers and No-Deal Brexit](#) (LLN-2019-0034, 19 March 2019)

<sup>23</sup> Cabinet Office, [Responding To Emergencies: The UK Central Government Response: Concept Of Operations](#), March 2010: page 11

<sup>24</sup> ["Brexit vote: Cobra takes over planning for no-deal"](#), *Times* online, 21 March 2019 [subscription]

<sup>25</sup> [PO 173517, 18 February 2019](#)

- sectors and industries which are impacted.<sup>26</sup>

## 2.4 Early Day Motion in February 2019

On 12 February 2019, Jonathan Edwards [tabled an EDM](#), calling on the Secretary of State for Defence to “rule out the use of armed forces personnel for police functions or for social control”:

That this House notes the Secretary of State for Defence’s statement that 3,500 troops are on standby to deal with contingencies in the event of the UK leaving the EU without a deal; further notes that the Ministry of Defence has put in place the necessary order to enable the calling-up of reserves in this situation; expresses concern that the British Government has failed to provide details about its mission plan for such troops; notes with alarm claims in the Sunday Times that the British Government is discussing the imposition of martial law in the event of civil unrest; further notes that the last time states of emergency were declared in the UK was in the early 1970s to deal with the effects of strikes in essential services; believes that a democratic society is not a militarised society; and calls on the Secretary of State for Defence to rule out the use of armed forces personnel for police functions or for social control, and to make clear that the possibility of martial law is not under consideration.”<sup>27</sup>

The EDM had nine supporters as at 21 March 2019.

---

<sup>26</sup> NAO, [Contingency preparations for exiting the EU with no deal](#), HC 2058, 12 March 2019

<sup>27</sup> [EDM 52565, 12 February 2019](#)

### 3. Local Resilience Forums

The 2004 Act divides local bodies in the UK into two categories - Category 1 and Category 2 responders – with differing responsibilities.

- **Category 1 responders** must assess the risk of an emergency occurring and maintain plans for dealing with that emergency. They include local authorities, emergency services, health bodies, the Secretary of State in relation to maritime and coastal emergencies, and the environmental protection agency for each jurisdiction. The 2004 Act also empowers Ministers to require Category 1 responders to take certain actions.
- **Category 2 responders** must cooperate with category 1 responders. They include (amongst others) utility companies and transport providers.

[Local Resilience Forums](#) are multi-agency partnerships of Category 1 responders, supported by Category 2 responders and working with other partners in the military or voluntary sectors.

The Cabinet Office's [reference document on the role of Local Resilience Forums](#) sums up that role:

The purpose of the LRF process is to ensure effective delivery of those duties under the Act that need to be developed in a multi-agency environment and individually as a Category 1 responder. In particular the LRF process should deliver:

- the compilation of agreed risk profiles for the area, through a Community Risk Register;
- a systematic, planned and co-ordinated approach to encourage Category 1 responders, according to their functions, to address all aspects of policy in relation to:
  - risk;
  - planning for emergencies;
  - planning for business continuity management;
  - publishing information about risk assessments and plans;
  - arrangements to warn and inform the public; and
  - other aspects of civil protection duty, including the promotion of business continuity management by local authorities; and
- support for the preparation by all or some of its members of multi-agency plans and other documents, including protocols and agreements and the co-ordination of multi-agency exercises and other training events.<sup>28</sup>

It also sets out what LRFs must do (the statutory and mandatory requirements) and other things that they might do as a matter of good practice.

---

<sup>28</sup> Cabinet Office, [The role of Local Resilience Forums: A reference document](#), July 2013 (V2)

A Local Government Association (LGA) [briefing for councils on Brexit “No Deal”](#) in October 2018 examined how local authorities might need to respond to no deal and noted that local authorities would be contributing to Local Resilience Forums:

There is the immediate impact of a “no deal”. For example, the imposition of new checks on all goods arriving from or going to the EU could cause traffic backlogs at UK port towns. After the referendum, there was a rise in hate crimes and we would need to assure our communities that we had plans in place for any immediate community reassurance work.

In the short-to medium term, there would be scenarios that we would need to think through, such as the possible return of large numbers of largely elderly UK citizens from other parts of the EU, the impact on the local government workforce and key skills needs, and the additional capacity that was needed if more regulatory checks were required to keep on importing from or exporting to the EU.

A number of commentators including the Governor of the Bank of England, have also highlighted the potential macroeconomic consequences of “no deal” arising from trade and currency fluctuations, with impacts to household and business stability. This may lead indirectly to increased pressure on local public services and more challenging prospects for local growth.

Cabinet Office’s Civil Contingencies Secretariat and CLG’s Resilience and Emergencies Division have begun discussions with Local Resilience Forums to ensure preparedness for key issues; councils will be contributing to this and doing their own scenario planning at an organisational level to ensure prepared.<sup>29</sup>

The Commons Library briefing [Dealing with civil contingencies: emergency planning in the UK](#) outlines the role and responsibilities of Local Resilience Forums and, more broadly, of the local authority (CBP 08016, 11 July 2017)

### 3.1 National Resilience Capabilities Programme

The Cabinet Office’s [guidance on preparing and planning for emergencies](#) outlines the National Resilience Capabilities Programme, which aims to increase the UK’s capability to respond to and recover from civil emergencies, however caused.<sup>30</sup>

<sup>29</sup> Local Government Association, [Brexit “No Deal” briefing for councils](#), 5 October 2018

<sup>30</sup> Cabinet Office, [Guidance: Preparation and Planning for Emergencies](#), 20 February 2013, updated 30 May 2018

## 4. Military aid to the civil authorities (MACA)

### 4.1 Might the armed forces be deployed in the UK in the event of a no-deal Brexit?

The Defence Secretary has said 3,500 troops are held in readiness to support any Government department with contingency needs but has rejected suggestions there are plans for military personnel to be used for public order. Nearly 30 military planners have been posted to other departments to assist with contingency planning and the MOD has formally issued a Call-Out order to call Reservists to full-time service 'in support of Government contingency planning for a no deal exit'.

This section looks at MOD involvement in Brexit-related civil contingency planning and the process in place for deploying personnel in the UK, known as Military Aid to the Civil Authorities (MACA).

### 4.2 Brexit-related preparations

When asked what roles Service personnel might have in the event of the UK leaving the EU without a deal, the Ministry of Defence said on 29 January 2019:

The Ministry of Defence is closely engaged with other Government Departments on contingency planning for a range of scenarios. At this point no formal requests have been received for support.<sup>31</sup>

#### **3,500 personnel available**

When asked if the MOD had been approached to use the armed forces in the event of a no-deal Brexit, the Defence Secretary said:

As yet, we have received no formal requests from any Department, but we are making contingency plans. We will ensure that 3,500 service personnel, including regulars and reserves, are held in readiness to support any Department with contingency needs.<sup>32</sup>

Media [reports](#) suggested 10% of these could be Reservists although this figure does not seem to come from Government statements. Around 1,200 soldiers are maintained on 24-hour standby on an enduring basis to support UK operations.<sup>33</sup>

#### **No plans to use troops for public order**

The MOD said in January 2019 there are no plans to use the Service personnel for public order:

The Ministry of Defence has been working across Government, including the Home Office and the National Police Chiefs' Council, to ensure that Defence is prepared for a range of scenarios. There are no plans to utilise military personnel for public order in the

---

<sup>31</sup> [PQ211089, 28 January 2019](#)

<sup>32</sup> [HC Deb 18 December 2018 c665](#)

<sup>33</sup> Ministry of Defence Annual Report and Accounts 2016-2017, HC 21, July 2017, p36



event of a no-deal Brexit, however Defence remains closely engaged on contingency planning and remains available to support the civil authorities if necessary.<sup>34</sup>

The MOD's policy guidance document states "using military personnel armed with weapons for MACA operations will always be an exception".<sup>35</sup>

### **Seconding planners to other government departments**

The MOD has posted 28 military planners to other Whitehall departments to assist with contingency planning for leaving the EU. This is separate to the 12 civil servants dealing exclusively with defence issues relating to Brexit within the MOD. The MOD said staff are also "integrating ongoing contingency planning" into their day-to-day work in recognition of the possibility of a no-deal Brexit.<sup>36</sup>

### **Reservist call-out**

The MOD laid a Call-Out order to bring Reservists into service 'in support of Government contingency planning for a no deal exit' on 17 January 2019.<sup>37</sup> The order takes effect in February and will cease to have effect in February 2020.

The written statement explains the type of roles they may be expected to fulfil:

Defence is committed to assisting the Cabinet Office coordinated work programme to ensure that there are effective and proportionate contingency plans in place to mitigate the potential immediate impacts leaving the EU, under a 'No Deal' scenario, might have on the welfare, health and security of UK citizens and economic stability of the UK.

Reserve Forces will be on standby to deliver a range of Defence outputs such as: reinforcement of Regular sub-units, liaison officer roles and the provision of specialist skills. A particularly important role may be the planned reinforcement of Regional Points of Command, to enable their 24/7 operation and resilience. We would also expect Reserves to be drawn upon to support the implementation of contingency plans developed by Other Government Departments.<sup>38</sup>

Reservists have been used before on MACA operations in the UK, for example after the 2017 Manchester terror attack and the nerve agent attack in Salisbury in 2018.

Reservists are civilians who have trained to join the Reserves of one of the Services. They train a minimum number of days a year and may be called upon to serve full-time in the armed forces for a period of up to 12 months.

---

<sup>34</sup> [PO211088, 28 January 2019 and also in PO220847, 18 February 2019](#)

<sup>35</sup> Joint Doctrine Publication 02 [UK Operations: the Defence Contribution to Resilience and Security](#) third edition, para 2.21

<sup>36</sup> [PO212641, 4 February 2019](#)

<sup>37</sup> [HCWS1254](#)

<sup>38</sup> [HCWS1254, 17 January 2019](#)

## 4.3 Process of deploying in the UK

There is a clear process in place for deploying the armed forces in the UK if requested by local or civil authorities, known as Military Aid to the Civil Authorities (MACA).<sup>39</sup>

Over the years troops have supported flood relief efforts, stood-by to provide emergency fire services in the event of industrial action or assisted in response to or threat of a terror attack. Hundreds of personnel were drafted in at the last minute to help provide security for the 2012 Olympic Games. Explosive specialists are often called upon to make safe WW2-era bombs or mines. The MOD provided military aid to the civil authorities on over 130 occasions in Financial Year 2017-18 and 80 occasions in 2016-17.<sup>40</sup> Numbers are given in the Ministry of Defence's [Annual Report and Accounts](#) along with examples of activity.

### The legal authority

The legal authority to use Service personnel in operations under Military Aid to the Civil Authorities (MACA) is governed by the *Civil Contingencies Act 2004* and the *Emergency Powers Act 1964* (Section 2). In addition, service personnel can deploy under the Royal Prerogative for military tasks.

Ministerial approval is required for any request for assistance from other Government departments or civil authorities unless there is an imminent [threat to life](#).

### The MOD is not a lead department

The Cabinet Office assumes overall responsibility for cross-government resilience preparedness and response capability. The Ministry of Defence is not a designated [lead department](#) for planning for, and responding to, any civil contingencies, except in the event of a defence nuclear material accident or emergency.

However, current government policy is for Defence to be more involved in preparing for potential emergencies. The 2015 Strategic Defence and Security Review announced military planners were to be placed in key government departments to give the military a "wider and more formal role in supporting national resilience contingency planning". Ministerial authority is required for any request for military resources under MACA.

### Troops on standby?

The armed forces do not maintain specific forces to assist civil authorities, as assistance is provided depending on the requirement.

The army has designated three battalions to be placed at extremely-high readiness to respond to emergencies in the UK. This amounts to around 1,200 soldiers on 24-hour standby on an enduring basis.<sup>41</sup> Each battalion (of approximately 400 personnel) is given geographic areas of

---

<sup>39</sup> Previously known as MACP – military aid to the civil power

<sup>40</sup> [Ministry of Defence Annual Report and Accounts](#) 2016-2017 and 2017/18

<sup>41</sup> Ministry of Defence Annual Report and Accounts 2016-2017, HC 21, July 2017, p36

responsibility: North (Northern England, Scotland and Northern Ireland); Midlands and South West (Wales, the East and West Midlands and South West England); and London and the South East (remainder of the UK).<sup>42</sup>

### **MACA is not paid from the Defence budget**

With a few exceptions, MACA activity is not funded from the Defence budget. As such, the Ministry of Defence can recover the costs involved, depending on the assistance required. There is no cost involved if an immediate military intervention is required to prevent the loss of life. Full costs are recovered for non-emergency, planned routine support.

## **4.4 Further reading**

The Commons Library briefing [Military Aid to the Civil Authorities](#) provides a more detailed examination of MACA. Full details can be found in the MOD's Joint Doctrine Publication 02 [UK Operations: the Defence Contribution to Resilience and Security](#).

---

<sup>42</sup> JDP 02, para 4.23-4.25

### About the Library

The House of Commons Library research service provides MPs and their staff with the impartial briefing and evidence base they need to do their work in scrutinising Government, proposing legislation, and supporting constituents.

As well as providing MPs with a confidential service we publish open briefing papers, which are available on the Parliament website.

Every effort is made to ensure that the information contained in these publicly available research briefings is correct at the time of publication. Readers should be aware however that briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

If you have any comments on our briefings please email [papers@parliament.uk](mailto:papers@parliament.uk). Authors are available to discuss the content of this briefing only with Members and their staff.

If you have any general questions about the work of the House of Commons you can email [hcenquiries@parliament.uk](mailto:hcenquiries@parliament.uk).

### Disclaimer

This information is provided to Members of Parliament in support of their parliamentary duties. It is a general briefing only and should not be relied on as a substitute for specific advice. The House of Commons or the author(s) shall not be liable for any errors or omissions, or for any loss or damage of any kind arising from its use, and may remove, vary or amend any information at any time without prior notice.

The House of Commons accepts no responsibility for any references or links to, or the content of, information maintained by third parties. This information is provided subject to the [conditions of the Open Parliament Licence](#).