

Chapter 1 Introduction

Revision to *Emergency Preparedness*

Chapter 1 (Introduction) of *Emergency Preparedness, Revised Version*

Summary

- This volume of guidance, together with the accompanying *Emergency Response and Recovery*, sets out the generic framework for civil protection. As such, it deals with pre-emergency elements of integrated emergency management - anticipation, assessment, prevention and preparation ([paragraphs 1.4 and 1.58](#)).
- There is a standard structure for most chapters of this volume of guidance. The structure is: details of what the legislation (the Act and the Regulations) requires; good practice guidance on how Category 1 and 2 responders should carry out their duties to comply with the legislation; and useful information that is not governed by the legislation ([paragraphs 1.9-1.10](#)).
- Some issues in common underpin the main chapters:
 - the definition of emergency;
 - the importance of Category 1 and 2 responders' functions;
 - the distinction between Category 1 and 2 responders; and
 - the links between the duties ([paragraphs 1.29-1.34](#)).
- This chapter also summarises the role of the Minister ([paragraphs 1.35-1.49](#)).

- 1.1. Part 1 of the Civil Contingencies Act 2004 ("the Act") establishes a consistent level of civil protection activity across the UK. Consistency is sought too in the way the function is carried out between the local Category 1 and 2 responders as partners covered by the Act, and in different parts of the country.
- 1.2. The Act provides a basic framework defining what tasks should be performed and how co-operation should be conducted.
- 1.3. Local responders work to a common framework, and make their own decisions in the light of local circumstances and priorities about what planning arrangements are appropriate in their areas.

Purpose

- 1.4. The purpose of *Emergency Preparedness* is to accompany Part 1 of the Act, and its supporting Regulations (The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2012) (the Regulations). Integrated emergency management (IEM) comprises six related activities: anticipation, assessment, prevention, preparation, response and recovery. A volume of non-statutory guidance *Emergency Response and Recovery* <http://www.cabinetoffice.gov.uk/content/emergency-response-and-recovery>, describes the multi-agency framework for responding to, and recovering from, civil emergencies in the UK. This non-statutory guidance is targeted at all personnel who may become involved in emergencies. It aims to develop a shared understanding of multi-agency response and recovery arrangements across responding agencies.
- 1.5. *Emergency Preparedness* supports those individuals and organisations which have a role to play in the civil protection framework and, in particular, those organisations subject to duties under the Act.

- 1.6. This guidance sets out how the civil protection duties should be carried out in England and Wales. Other available guidance is referenced within the *Further Reading Chapter* that accompanies the *Emergency Preparedness* guidance.
- 1.7. This guidance also sets out how the civil protection duties should be carried out by certain bodies in Scotland, namely the Maritime and Coastguard Agency, the Health and Safety Executive and the British Transport Police. These bodies exercise functions which are largely reserved on a UK-wide basis and it is appropriate for them to be subject to guidance made by a Minister of the Crown. 'Minister of the Crown' or 'Minister' refers to the most appropriate minister in the given situation. The Scottish Ministers make separate regulations and guidance which apply to other Scottish Category 1 and 2 responders which fall within devolved competence. For more information, see Chapter 10: Scotland.
- 1.8. This guidance also applies to certain bodies in Northern Ireland, namely the Maritime and Coastguard Agency and telecommunications operators. The guidance applies to the Police Service of Northern Ireland (PSNI) only in relation to emergencies arising from war or terrorism threatening serious damage to the United Kingdom. The Department of Justice in Northern Ireland may make appropriate guidance for the PSNI in respect of other emergencies to which the Act applies. Neither this guidance nor the Act applies to other bodies in Northern Ireland. Arrangements similar to those established under the Act, the Regulations, and this guidance have been set up in Northern Ireland on a non-statutory basis. For further information, please refer to Chapter 12: Northern Ireland.

1.9. The guidance in this volume is divided into chapters. Each chapter deals with a specific aspect of preparedness within the civil protection framework. The main chapters (Chapters 2-8) describe the chief obligations imposed by the Act on Category 1 responders. Others (for example, Chapters 10-12, and 16) provide guidance which sets the work undertaken at the local level in the context of broader arrangements, including variations in Scotland, Wales and Northern Ireland. It is hoped that Category 1 and 2 responders will find these chapters helpful in understanding and delivering the wider civil protection framework.¹

1.10. Each chapter in this volume has a broadly similar format:

- o summary;
- o guidance on what the Act and the Regulations require of Category 1 and 2 responders;
- o guidance on how to carry out the requirements of the legislation; and
- o other information which may be helpful (much of which is contained in lined text boxes).

Supporting the chapters are: annexes, a glossary and a bibliography (collected at the end of this volume).

1.11. This guidance includes a number of boxes setting out additional information. The type of box used indicates the type of information contained within it:

- o lined text boxes - these unshaded boxes contain advice and information that may be useful to local responders, but are not directly supported by the Act.
- o figures - these diagrams illustrate aspects of the good practice guidance.

¹ Throughout the footnotes of this document the Regulations are referred to as regulation(s) with the appropriate number. Reference to the sections of the Civil Contingencies Act are referred to as e.g. s.2(1)(c).

WHAT THE ACT AND THE REGULATIONS REQUIRE

- 1.12. While the civil protection duties are detailed on the face of the Act, the detail of what those duties mean, and how they should be performed, is delivered through the Regulations.² The Act and Regulations are supported too by this guidance document, which includes guidance to which the organisations covered by the Act must have regard.³
- 1.13. However, all the duties specified in Part 1 of the Act are contingent on the definition of “emergency”.

The definition of “Emergency”

- 1.14. “Emergency” is defined in Part 1 of the Act as: an event or situation which threatens serious damage to human welfare in a place in the UK, the environment of a place in the UK, or war or terrorism which threatens serious damage to the security of the UK.⁴
- 1.15. The definition of “emergency” is concerned with consequences, rather than with cause or source. Therefore, an emergency inside or outside the UK is covered by the definition, provided it has consequences inside the UK.⁵
- 1.16. An emergency is considered to have consequences inside the UK if the serious damage is within the territorial sea of the UK.⁶ The territorial sea is the area of sea up to 12 nautical miles to seaward of the UK coast (or, more accurately, to seaward of the coastal baseline established by statute).

² s. 2(3). See also s. 4 and s. 6

³ s. 3(3), s. 4(8) and 6(6)

⁴ s. 1

⁵ s. 1(5)

⁶ s. 18(2)

- 1.17. A place in the UK may be anything from a small village to a town square to a large city. It may also include a part of a region or an entire region.
- 1.18. Determination of when an emergency has occurred, or is likely to occur, is addressed in three ways. The Act provides:
- o a specification of the kinds of event or situation which may cause “damage”;⁷ and
 - o two tests for determining whether an event or situation threatening such damage constitutes an emergency (one of which must be met).⁸
 - o The Regulations outline: The common procedures that Category 1 responders must follow in making the decision to activate a business continuity or emergency plan.⁹

Damage

- 1.19. The Act sets out a list of events or situations which may be considered to pose a threat of damage to human welfare, the environment or security.¹⁰

Two tests as to whether a response is required

- 1.20. A Category 1 responder must perform its duties under the Act only in relation to two situations, either of which poses a considerable test for that organisation’s ability to perform its functions.¹¹

⁷ s. 1(1)-(3)

⁸ s. 2(2)(a)-(b)

⁹ regulation 24

¹⁰ s. 1(2)-(3)

¹¹ s. 2(2)

- 1.21. The two tests are:
- o where the emergency would be likely to seriously obstruct its ability to perform its functions;¹²
 - o where the Category 1 responder:
 - o would consider it necessary or desirable to act to prevent, reduce, control, or mitigate the emergency's effects, or otherwise take action; and
 - o would be unable to act without changing the deployment of its resources or acquiring additional resources.¹³

One of these two tests must be met for the main duties of the Act to apply.

Procedure for determining when an emergency has occurred

- 1.22. A procedure for determining when an emergency has occurred must be written into business continuity and emergency plans. The procedure should enable the person who will make the judgment to be identified, and state how they will be advised and whom they must inform.¹⁴ The person will usually be a post-holder identified by their role or job title. More information on this can be found in Chapter 5 – *Emergency Planning*. It is particularly important that this is clearly stated in multi-agency plans.

The importance of Category 1 responder functions

- 1.23. The Act requires Category 1 responders to take up their civil protection duties by reference to their functions. Functions are defined as “any power or duty whether conferred by virtue of an enactment or otherwise”.¹⁵ The reference covers statutory powers and duties, as well as common law powers.

¹² s. 2(2)(a)
¹³ s. 2(2)(b)
¹⁴ regulation 24
¹⁵ s. 18(1)

- 1.24. The functions of Category 1 responders are called into play when an emergency occurs or is likely to occur.
- 1.25. Category 1 and Category 2 responders are referred to in the Act.¹⁶ The term “responder” is not defined. However, a main purpose of the legislation is to ensure that Category 1 responders are able to perform their functions so far as necessary or desirable to respond to an emergency.¹⁷

The role of Category 1 and Category 2 responders

- 1.26. Category 1 responders are listed in Schedule 1 to the Act.¹⁸ They are the main organisations involved in most emergencies at the local level: for example, the emergency services.
- 1.27. Category 2 responders are also listed in Schedule 1.¹⁹ They are likely to be heavily involved in some emergencies: for example, utilities and transport companies.
- 1.28. The Act brings both groups within its framework to ensure greater consistency and co-operation at the local level.

The links between the duties

- 1.29. The main civil protection duties fall on the Category 1 responders as follows:²⁰
- o risk assessment;
 - o business continuity management (BCM);
 - o emergency planning; and
 - o maintaining public awareness and arrangements to warn, inform and advise the public.

¹⁶ s. 3(4)-(5)

¹⁷ s. 2(1)(d)

¹⁸ Schedule 1, Part 1 (as amended). Part 2 of Schedule 1 sets out a list of Category 1 responders in Scotland who are subject to regulations and guidance made by Scottish Ministers.

¹⁹ Schedule 1, Part 3 (as amended). Part 4 of Schedule 1 sets out a list of Category 2 responders in Scotland who are subject to regulations and guidance made by Scottish Ministers.

²⁰ s. 2(1)

1.30. A fifth duty applies to local authorities alone:²¹

- o provision of advice and assistance to the commercial sector and voluntary organisations.

1.31. Two further duties are prescribed in the Regulations:²²

- o co-operation;
- o and information sharing.

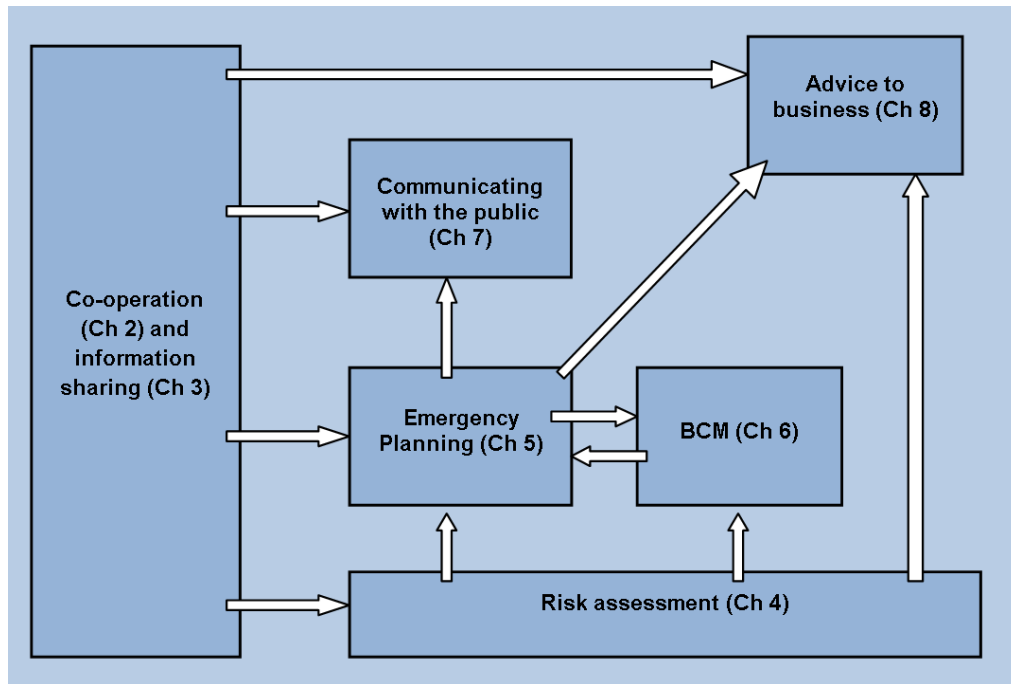
1.32. Risk assessment, supported by a collective process, provides the fundamental grounding for delivering the substantive elements of the Act.

1.33. Emergency planning is supported by BCM, and is underpinned by the risk assessment. Its purpose is to ensure that Category 1 responders can perform their functions effectively in an emergency. It supports public awareness work and also shapes arrangements for warning and informing the public. Category 1 and 2 responders must co-operate and share information in fulfilling these duties.

²¹ s. 4

²² s. 2(5)(h)-(i), Parts 2 and 8 of the Regulations.

Figure 1.1: How the seven civil protection duties under the Act and the Regulations fit together



- 1.34. Provision of advice and assistance to the local business community and voluntary organisations by the local authority is likely to be linked to emergency plans and to draw on risk assessments. (See Chapter 6 paragraphs 6.14 - 6.16 for further information). It will also be supported by co-operation and information sharing with partners.

THE ROLE OF THE MINISTER

- 1.35. In the event that any areas of civil protection arrangements do not address particular hazards or threats to the satisfaction of the Government, the Act permits the appropriate Minister of the Crown to issue new regulations or to make an order or issue a direction.²³ These powers are discussed in Chapters 3, 4, 5, 10, 11, 12 and 13.

²³ See CCA S 14(1) for Scotland, S 16(1)-(2) for Wales and S 29 for all Devolved Areas

1.36. Chapter 13: Support and challenge describes the systems in place which will help the Government to identify whether there are areas where government action needs to be taken. The role of the Minister of the Crown in relation to performance development is also explained within this chapter.²⁴

What the Act permits

1.37. A Minister of the Crown has certain functions available to him/her by virtue of the Act, which may be exercised, subject in certain cases, to Parliament's approval.

1.38. These are not likely to be used frequently, but may include:

- require a responder to perform a function and, derived from that, the power to direct in an urgent situation;
- amending the list of Category 1 and Category 2 responders; and
- monitor performance.

1.39. Ministers have a range of powers under Part 1 of the Act. Most of these powers relate to the issuing of guidance and Regulations to support the delivery of the main duties under the Act, and are dealt with elsewhere in this guidance.

1.40. This section does not deal with the emergency powers framework under Part 2 of the Act. The extent and exercise of emergency powers is addressed in *Emergency Response and Recovery*.

1.41. A Minister may amend the Regulations or guidance issued under Part 1 of the Act. The powers to amend the Regulations are broad; the Minister may make any provision about the extent of the duties under sections 2 and 4 and the

²⁴ See CCA S 14(1) for Scotland, S 16(1)-(2) for Wales and S 29 for all Devolved Areas

manner in which they are to be performed. Section 2(5) of the act lists a range of provisions which can be included in regulations, – but this is not exhaustive.

- 1.42. A Minister may also require a person or body to perform a function in relation to an emergency.²⁵ For example, the Minister could require responders to purchase a particular range of interoperable equipment (subject to appropriate funding being in place).
- 1.43. Finally, a Minister may legislate so as to amend the list of Category 1 and/or 2 responders.²⁶ This power is only exercisable if both Houses of Parliament have approved the order. The Minister may remove a responder from the list, upgrade the status of a Category 2 responder into a Category 1 responder (and vice versa) and add new responders.

Urgent powers of direction

- 1.44. There are circumstances during emergencies, or when they appear imminent, when consistent, decisive action is necessary. The response required might fall outside existing planning frameworks; Category 1 and 2 responders might lack the information or advice to deal with it effectively; or it may not be apparent to these responders how best to deal with the situation.
- 1.45. Section 7 of the Act is designed to enable action to be taken by a Minister of the Crown in cases of urgency where there is insufficient time to make legislation. It is an exceptional power designed to ensure that in cases of real urgency the Government can arrange for coherent, effective action to be taken at the local level.

²⁵ S 5
²⁶ S 13

- 1.46. The Act enables²⁷ a Minister to issue a direction containing any provision that could be made by secondary legislation under sections 5 and 6 of the Act, to responders or a class of responders.
- 1.47. An urgent direction must be in writing, though it could of course arrive by fax or e-mail. The Minister must revoke his direction as soon as is reasonably practicable (which will be, at the latest, as soon as it is possible to legislate). Even if not revoked, a direction will lapse 21 days after it has been made.

Monitoring powers

- 1.48. A Minister has a range of powers to assist him/her in monitoring and overseeing the new civil protection regime. He/she may ask any Category 1 or 2 responder to provide him/her with information about the action taken under the Act.²⁸ The Minister may require a Category 1 or 2 responder to explain why it has not taken action under the Act. If the Minister considers that a Category 1 or 2 responder has failed to comply with its obligations under the Act, he/she may take proceedings against that responder in the High Court.²⁹
- 1.49. These powers are not intended to be used to establish direct monitoring by the Government as a standard procedure. They will be used in exceptional circumstances. Details of mechanisms and tools to develop responder performance and compliance with the act can be found in Chapter 13.

²⁷ s. 7
²⁸ s. 9
²⁹ s. 10

Other statutory regimes in the field of civil protection

- 1.50. A particular set of risks is excluded from consideration under the legislation.³⁰ These risks are subject to the Control of Major Accident Hazards (COMAH) Regulations 1999, the Pipelines Safety Regulations 1996 or the Radiation (Emergency Preparedness and Public Information) Regulations 2001 and their Northern Ireland counterparts. Category 1 responders are not required to exercise their duties under the Act and Regulations in relation to emergencies which are covered by these provisions.
- 1.51. However, Category 1 responders may use the Act regime to support or supplement these separate regimes where they consider this appropriate. For example, if Category 1 responders wish to include COMAH risks in the Community Risk Register, this is acceptable. They can also make information requests under the Regulations to support the COMAH duties, if they wish.
- 1.52. One disadvantage of a separation between the two regimes, the one supported by the Act, the other by the Health and Safety Executive, is addressed by the inclusion of the Health and Safety Executive in Schedule 1 as a Category 2 responder. Further guidance on this can be found in Chapter 19, The CCA and the fit with other legislation, which looks at how key duties under the CCA link with those contained in other site specific legislation.

How the Act and the Regulations apply in Scotland, Wales and Northern Ireland

- 1.53. Chapters 10, 11 and 12 detail how the Act and the Regulations apply in Scotland, Wales and Northern Ireland. In addition, each of the chapters dealing with how the duties under the Act are to be performed contains information about how

³⁰ regulation 12

that particular duty is to be performed in Scotland, Wales and Northern Ireland. Note that the Regulations and this guidance do not apply to those responders in Scotland who are within devolved competence.³¹

HOW THE REQUIREMENTS OF THE ACT AND THE REGULATIONS MAY BE CARRIED OUT

Integrated emergency management and the Act

Integrated emergency management	<i>Emergency Preparedness</i>	<i>Emergency Response and Recovery</i>
Anticipation	√	
Assessment	√	
Prevention	√	
Preparation	√	
Response		√
Recovery management		√

1.54. Civil protection arrangements need to be integrated both within and between Category 1 and 2 responders. They should also be conducted according to a practical doctrine beginning with anticipation and assessment of risk and concluding with effective response and recovery arrangements.

1.55. The Act focuses on emergency preparedness but its requirements should be seen in the context of integrated emergency management (IEM).

³¹ The Regulations and this guidance apply to those responders listed in Parts 1 and 3 of Schedule 1 to the Act. These responders are referred to in the Regulations as "General responders" but for ease of reference they are referred to in this guidance as "Category 1 and Category 2 responders". Parts 2 and 4 of Schedule 1 to the Act list the responders that exercise functions which fall within the competence of the Scottish Ministers. These responders are referred to in the Regulations as "Scottish Category 1 responders" and "Scottish Category 2 responders"

- 1.56. The following six activities are fundamental to an integrated approach:
- anticipation;
 - assessment;
 - prevention;
 - preparation;
 - response; and
 - recovery management.
- 1.57. The Act focuses on two of these - assessment and preparation - and they are covered extensively in this volume of guidance on preparing for emergencies. The other volume of guidance, *Emergency Response and Recovery*, covers the final two - response and recovery management.
- 1.58. Anticipation is sometimes called horizon-scanning. Category 1 responders, with the support of Category 2 responders where appropriate, should aim to be aware of new hazards and threats which might affect their locality and be ready to revise their risk assessments and plans accordingly. They may also wish to consider a mechanism to inform the public of what to do according to any new hazards and threats.
- 1.59. Prevention is an important component of integrated emergency management. The Act does not deal with it to any great extent because it is largely a matter for other legislation, for example fire safety and industrial safety, building regulations, flood defence, maritime safety or health protection. More information can be found in Chapter 19 (The CCA and the fit with other legislation). Prevention under the Act is limited to actions that help prevent an emergency which may be about to occur. For example, activating an emergency plan in advance of a major public event.

- 1.60. Response and recovery management are addressed in *Emergency Response and Recovery* because they are not covered directly in the Act. They are concerned with managing the consequences of an emergency, rather than preparing to deal with one.
- 1.61. Although the Act focuses on preparedness for response to emergencies, it should be seen in the wider context of safety, risk and threat management. Also, although the discussion of preparedness under the Act concentrates on the maintenance of planning arrangements, effective management is the aim. Planning is a process of preparing a Category 1 responder, its managers and personnel for the act of managing an emergency.
- 1.62. The wide concept of IEM within and across Category 1 responders is geared to the idea of building greater overall resilience in the face of a broad range of disruptive challenges. If the response is to be truly effective in meeting the needs of everyone affected by an emergency, then all leaders of the community, industry and commerce should be aware of the contributions of local responders and other organisations. It may also be beneficial to educate the general community about how they can support themselves in disruptive challenges.
- 1.63. In an extended emergency, the amount of work may be overwhelming, while provision of everyday services will also need to continue. Category 1 responders should explore all options for maintaining critical services, not only during the response but also throughout the recovery and aftermath proceedings, which may be lengthy.