



## **Section D: Annex**

**Annex 1: Pitt Recommendations**

**Annex 2: Related Legislation**

**Annex 3: Example Terms of Reference for Utility Groups**

## Annex 1: Infrastructure-Related Recommendations - “Learning Lessons from the 2007 Floods” an Independent Review by Sir Michael Pitt <sup>1</sup>

**Recommendation 50:** The Government should urgently begin its systematic programme to reduce the disruption of essential services resulting from natural hazards by publishing a national framework and policy statement setting out the process, timescales and expectations.

**Recommendation 51:** Relevant government departments and the Environment Agency should work with infrastructure operators to identify the vulnerability and risk of assets to flooding and a summary of the analysis should be published in Sector Resilience Plans.

**Recommendation 52:** In the short-term, the Government and infrastructure operators should work together to build a level of resilience into critical infrastructure assets that ensures continuity during a worst case flood event.

**Recommendation 53:** A specific duty should be placed on economic regulators to build resilience in the critical infrastructure.

**Recommendation 54:** The Government should extend the duty to undertake business continuity planning to infrastructure operating Category 2 responders to a standard equivalent to BS 25999, and that accountability is ensured through an annual benchmarking exercise within each sector.

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<sup>1</sup> The Pitt Review:

<http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/the-pitt-review.html>

## Annex 2: Related Legislation

Duties and obligations under which the economic regulators operate are not static. In this respect, new and existing actions need to be taken into account before additional obligations and duties are considered. The Government response to Pitt Recommendation 53 stated this position was to be taken. Therefore the overarching legislative framework and its ongoing evolution need to be placed in context before the need, scope and appetite for additional duties are considered.

There are three main areas currently in development which extend resilience duties to the economic regulators in the utility sectors. The main areas are *the Civil Contingencies Act (2004)*, the *Adapting to Climate Change Act (2008)*, and the *Planning Act (2008)*.

### Civil Contingencies Act 2004

The *Civil Contingencies Act (2004)* provides a structure for co-operation and information sharing for emergency planning between Category 1 responders (emergency services, local authorities, Health Protection Agency and Environment Agency) and the Category 2 responders within the four regulated utility sectors. Under the Act, Category 1 responders have four core duties: risk assessment, business continuity management, emergency planning, and warning and informing the public. Category 2 responders have a duty to co-operate and share information to support Category 1 responders in fulfilling their duties. The principal mechanism for multi-agency co-operation under the CCA is the Local Resilience Forum (LRF), established to ensure effective delivery of the above duties in a multi-agency environment.<sup>2</sup> LRF activities include, among others, supporting the preparation of multi-agency plans, protocols and agreements and co-ordination of exercises and other training events.

At present, the *Civil Contingencies Act* is mid-way through an enhancement programme in which three relevant areas are being reviewed: increasing utilities'

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<sup>2</sup> Civil Contingencies Act 2004 (Contingency Planning Regulations 2005 4 (2) (b) and 4 (3))

representation and information sharing, encouraging adoption of business continuity, and reviewing the current categorisation of responders.

Utilities are often represented on an LRF. The Act requires Category 1 responders to meet through the LRF at least every six months.<sup>3</sup> Category 2 utility responders may be invited to attend and, in this case, need to make arrangements to be effectively represented. There are examples of LRFs and utilities providers working closely together but there is inconsistency in representation and involvement which may undermine the systematic objectives of the Act. Options to address this issue are being considered in the Civil Contingencies Act Enhancement Programme.

Under the Act, business continuity is a key duty of Category 1 responders.<sup>4</sup> There is no matching obligation on Category 2 utility providers.<sup>5</sup> A duty for Category 2 responders to have emergency plans in place was supported in *Pitt Review* Recommendation 54 and is again being considered.

Pitt specifically mentioned BS 25999 or an “equivalent standard”. While BS 25999 is taken as a reference standard and is acknowledged and accepted as best practice in industry, some sectors have developed more specific industry standards. These would equate to Pitt’s “equivalent standard”. Whether BS 25999 based or an equivalent, a common approach based on established standards is an essential element in building parity-of-esteem and confidence between different categories of responders.

Responder categorisation has been static since 2004. Changes to the categorisation within the Act or the extension of the duties and/or the categories will be considered as part of the enhancement programme.

Even if the categorisation has been static, new Category 2 responders have been added to the list since 2004. As part of future-proofing of the Act, the enhancement programme will identify any other essential service providers who either are not currently categorised as responders, or who may need a new categorisation to cover their functions.

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<sup>3</sup> Civil Contingencies Act 2004, Regulations 2005 4(4)

<sup>4</sup> Chapter 2, Emergency Preparedness

<sup>5</sup> Civil Contingencies Act 2004 s.2 (1) (c)

## Climate Change Act 2008

The *Climate Change Act (2008)* established new responsibilities for the water, energy and transport sectors and some involvement of the telecommunications sector. This grouping maps to the economically regulated utilities. The Act placed legally-binding obligations to report on carbon reduction as well as adaptation to long term climate change and its associated hazards.

The Adapting to Climate Change Programme (ACC) managed by the Department for Environment, Food and Rural Affairs (Defra), is a cross-government programme, associated with the Act and put in place to monitor and evaluate adaptation planning within the sectors over a 50 year timeframe.

The *Climate Change Act* established new powers for the government to ensure that organisations in key sectors are aware of, and prepared for, the impacts of the changing climate and is a key lever for the ACC programme. The adaptation reporting power within the *Climate Change Act 2008* gives the Secretary of State the power to direct public bodies and utilities companies, as “statutory undertakers”, to produce reports. There is no specified end point for the assessment of risk, and factors need to be considered that go beyond individual sector resilience.

Between July and November 2010, Defra will be directing organisations to report on how they intend to adapt to climate change and how this will be monitored and reported. Organisations to be directed cover the water, energy and the transport sectors. Defra will be inviting organisations in the information and communication technologies sector to report.

This adaptation work is broader than the work done by the Cabinet Office on sectoral resilience planning. The adaptation reporting powers provide a broader assessment of how future climates will change the demand and supply of essential services, and the challenges in ensuring service in the long-term.

Resilience information is a part of the information needed under the *Climate Change Act 2004*. The Cabinet Office is working with Defra to join-up information requests on emergency preparedness and sector resilience with the requests under the programme.

Notably, the ACC programme adds a secondary line of reporting directly to Defra on climate change actions, alongside that due to the lead government department on resilience.

## **Planning Act 2008**

The *Planning Act (2008)* has led to a revised methodology for major infrastructure projects in the utilities sectors of energy, transport and water. The act covers “nationally significant” projects. The *Planning Act* provides for safety and resilience assessment in the initial considerations for new infrastructure investment.

In each of the three sectors identified in the Planning Act 2008, a series of National Policy Statements (NPSs) have been, or will be, produced. Together, they form an overarching framework in which the water, energy and transport networks’ long-term development must be viewed.

Currently, there is a suite of six NPSs in the area of energy, covering fossil fuels, renewables, gas and oil infrastructure, electricity networks and nuclear power. Co-ordinated by Department of Energy and Climate Change (DECC), these statements have been published and are part of an ongoing national consultation.

In the short-term, within the transport sector, there are three national policy statements managed by the Department for Transport (DfT). The Ports NPS is already published and the remaining two transport NPSs are to be given a deadline for publication.

In the mid-term, three water NPSs are managed by Defra. Their publication is scheduled for between the end of 2010 and into 2011. The water NPS will be framed by the extensive work already undertaken in response to the Pitt Review.

NPSs state that the entire lifespan of a facility is to be considered in the planning phase. This ensures adequate consideration for an all hazard adaptation programme. The NPSs include an “operational continuity obligation” as part of the initial planning assessment to ensure that essential infrastructure is designed to remain operational during floods.

*Planning Policy Statement 25: Development and Flood Risk (PPS 25)*, published in December 2006, introduced a risk assessment and sequential approach to development and flood risk. Wherever possible, construction on flood plains is avoided. If, in exceptional circumstances, it is decided that infrastructure must be built on a flood plain, mitigation actions must be included in the initial planning and cost analysis.

*PPS25* is changing how essential services and infrastructure are located and designed. For example, the Tilbury Substation supplies hundreds of thousands of people on the flood plain around the Thames. However, due to the need for proximity of infrastructure to the serviced area, the substation *had* to be built on a flood plain. The mitigation plan required the entire substation to be built on stilts seven metres above ground level at an additional cost of seven million pounds. The cost of compliance was integrated in the operating costs by the asset owner.

## Annex 3: Example Terms of Reference for Utility Groups

### Aims

- To bring Category 2 and Category 1 Responders together to provide appropriate information to the relevant Local Resilience Forums (LRFs) for planning, exercising and emergency response purposes.
- To improve Category 2 responders' understanding of their resilience and interdependencies, to support effective business planning.
- To develop the strong relationships, trust and confidence, which is invaluable in providing an effective response to an emergency.

### Terms of reference

Initially, Group to agree principles on data protection and sharing of sensitive information.

Following this,

- To work with relevant LRFs to develop work programmes and make business decisions;
- To provide relevant LRFs and emergency planners with an assessment of key infrastructure interdependencies and possible cascade effects of infrastructure loss or service degradation, altering or adding to planning assumptions where appropriate;
- To provide the relevant LRFs and emergency planners with a summary of publically available infrastructure service and performance standards;
- To provide timely responses to requests from Category 1 Responders for further information on infrastructure resilience and to send representatives to LRF committee meetings, where appropriate;
- To improve understanding of infrastructure owners' roles and responsibilities in a civil emergency and their ability to restore services / provide alternative supplies;
- To share information on dependencies (including supply chain dependencies) for business continuity planning purposes; and
- To provide Category 2 responders with the necessary information to represent others at task and finish groups and Gold Command, where appropriate / necessary.



- To maintain a Utilities Directory for each LRF area (if useful for sharing contact information and summary of key facts to support emergency response).

### **Membership**

- All Category 2 responders with assets in the LRF area to be invited to attend.
- Key Category 1 responders (emergency services and LAs).
- Others, as agreed by a quorum. This may include other Category 1 responders, other relevant infrastructure providers and / or CTSAAs as appropriate.

[Sectors to be provided with the opportunity to designate representatives, by a voting or rotation system, so long as these representatives are provided with sufficient information to meet their responsibilities.]

### **Frequency**

- Meetings should be held as appropriate to progress this agenda. It may be necessary to meet quarterly for new Utility Groups.