

Title: Impact Assessment of The Civil Contingencies Act 2004 (Contingency Planning) (Amendment) Regulations 2012 Lead department or agency: Cabinet Office Other departments or agencies:	Impact Assessment (IA)
	IA No: CO1012
	Date: 28/10/2011
	Stage: Development/Options
	Source of intervention: Domestic
	Type of measure: Secondary legislation
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Summary: Intervention and Options

What is the problem under consideration? Why is government intervention necessary?

The Civil Contingencies Act 2004 establishes a set of roles and responsibilities for those involved in emergency preparation and response at the local level. The Act divides local responders into two categories, imposing a different set of duties on each (see evidence section for more detail).

The Civil Contingencies Act Enhancement Programme (CCAEP) assessed whether the Act is working as intended. Evidence from responders and independent reviews indicated that a lack of clarity had led to a failure in effective compliance in some areas. The implication is that emergency planning may not be carried out as effectively as possible.

What are the policy objectives and the intended effects?

The CCAEP recommends that the Regulations should be clarified and strengthened to support responders to fulfil their duties under the Act.

The changes are intended to clarify what is expected of responders in the delivery of their duty to co-operate. This greater clarity will underpin collaboration between responders and allow greater flexibility in the way they work together. A second objective is to reflect the way planning is currently delivered in London. Overall, these changes will reduce the burden on responders in carrying out the duty and support compliance.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Option 1 - Do nothing
 Option 2 - Clarify in legislation and guidance what is required from the Act and the Regulations
 Option 3 - Strengthen advice in the statutory guidance only
 Option 4 - Improve monitoring and enforcement
 Option 2 is preferred. CCAEP identified, through consultation, that co-operation was a duty on which responders would welcome clarification, and that it was necessary to amend the regulations to clarify the relevant co-operation duties, rather than simply strengthen statutory guidance. Implementing new resource intensive structures to monitor and enforce responders' duties is not seen as a feasible way of improving fulfilment of these duties. The regulations have not previously supported responders in co-operating as effectively as the Act intended.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 04/2017

What is the basis for this review? Duty to review. **If applicable, set sunset clause date:** Month/Year

Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?	Yes
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SELECT SIGNATORY Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible SELECT SIGNATORY: _____ Date: _____

Summary: Analysis and Evidence

Policy Option 1

Description:

Price Base Year	PV Base Year	Time Period Years	Net Benefit (Present Value (PV)) (£m)		
			Low: Optional	High: Optional	Best Estimate:

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low			
High			
Best Estimate			

Description and scale of key monetised costs by 'main affected groups'

We have consulted on this, however the response rate was low, and most did not provide quantitative evidence. However, of those that responded, the majority expected no change in costs, and discussions with stakeholders have supported this. Some cost increases have been estimated but given the low response rate we cannot identify how representative these are (see Annex 3 for details). Potential savings from introducing protocols will not be known until they are negotiated and implemented .

Other key non-monetised costs by 'main affected groups'

Additional staff days to carry out the duties under the Act, such as attending meetings, was cited as being an additional cost for those that were not currently fully fulfilling their duties. Some respondents noted that there would be an initial increase as new working arrangements were agreed but these would lead to subsequent efficiencies.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low			
High			
Best Estimate			

Description and scale of key monetised benefits by 'main affected groups'

The amendments have been influenced by the views of responders from previous consultations and discussions, therefore the changes should address responders' views. Responses to the consultation indicated that the clarification to the regulations should improve information sharing and co-operation and therefore reduce duplication of effort. Protocols will bring greater efficiency and economies of scale as the provisions relating to co-operation are agreed between responders .

Other key non-monetised benefits by 'main affected groups'

Full benefits cannot be measured until/unless responders use the new guidance and regulations to vary current arrangements. This is not mandatory. Where used, voluntary protocols will reduce uncertainty and allow flexibility in how Category 2 responders carry out the co-operation duty, thereby allowing responders to reduce costs in fulfilling this duty.

Key assumptions/sensitivities/risks

Discount rate (%)

All Category 1 responders in a local resilience area will be required to agree to the protocol which could make them difficult to manage.

There is some risk of proliferation of varying protocols across the country. Templates have been developed to mitigate this.

Direct impact on business (Equivalent Annual) £m):			In scope of OIOO?	Measure qualifies as
Costs: See Annex	Benefits:	Net:	No	NA

Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?	Other				
From what date will the policy be implemented?	01/04/2012				
Which organisation(s) will enforce the policy?	N/A				
What is the annual change in enforcement cost (£m)?	N/A				
Does enforcement comply with Hampton principles?	Yes				
Does implementation go beyond minimum EU requirements?	N/A				
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)	Traded:		Non-traded:		
Does the proposal have an impact on competition?	No				
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?	Costs:		Benefits:		
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes	Yes	Yes	Yes	No

Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
Statutory equality duties¹ Statutory Equality Duties Impact Test guidance	No	
Economic impacts		
Competition Competition Assessment Impact Test guidance	No	
Small firms Small Firms Impact Test guidance	No	
Environmental impacts		
Greenhouse gas assessment Greenhouse Gas Assessment Impact Test guidance	No	
Wider environmental issues Wider Environmental Issues Impact Test guidance	No	
Social impacts		
Health and well-being Health and Well-being Impact Test guidance	No	
Human rights Human Rights Impact Test guidance	No	
Justice system Justice Impact Test guidance	No	
Rural proofing Rural Proofing Impact Test guidance	No	
Sustainable development Sustainable Development Impact Test guidance	No	

¹ Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Pitt Review 2008 in to the summer 2007 floods - http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/thepittreview.html .
2	The Buncefield Investigation, recommendations - http://www.buncefieldrecommendations.co.uk/recommendations.asp# Recovery Recommendation 10.-
3	The Anderson review 2008 in to the 2007 outbreak of Foot and Mouth Disease - http://interactive.cabinetoffice.gov.uk/documents/fmd/fmd_2007_review.pdf?bcsi_scan_F8D0BFE83951C3DA=71aeWDKILR+HCpZnhU6BqFYAAABGvpxj&bcsi_scan_filename=fmd_2007_review.pdf
4	Statutory guidance 'Emergency Preparedness' - http://www.cabinetoffice.gov.uk/resource-library/emergency-preparedness
5	Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 – http://www.legislation.gov.uk/uksi/2005/2042/contents/made
6	CCAEP 2009 consultation response summary - http://www.cabinetoffice.gov.uk/resource-library/revision-chapters-emergency-preparedness-consultation-responses
7	Draft revised regulation are at Annex 2
8	Consultation results are at Annex 3

+ Add another row

Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

Annual profile of monetised costs and benefits* - (£m) constant prices

	Y ₀	Y ₁	Y ₂	Y ₃	Y ₄	Y ₅	Y ₆	Y ₇	Y ₈	Y ₉
Transition costs										
Annual recurring cost										
Total annual costs										
Transition benefits										
Annual recurring benefits										
Total annual benefits										

* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office
Excel Worksheet

Evidence Base (for summary sheets)

Background

The Civil Contingencies Act 2004 (the Act) delivers a single framework for civil protection in the United Kingdom. The Act is separated into two substantive parts: local arrangements for civil protection (Part 1) and emergency powers (Part 2).

Part 1 of the Act establishes a set of roles and responsibilities for those involved in emergency preparation and response at the local level. The Act divides local responders into two categories, imposing a different set of duties on each.

- Category 1: those organisations at the core of the response to most emergencies (e.g. emergency services, local authorities, NHS bodies). Category 1 responders are subject to the full set of civil protection duties.
- Category 2: organisations (e.g. Health and Safety Executive, transport and utility companies). These "co-operating bodies" are less likely to be involved in the heart of planning work but will be heavily involved in incidents that affect their sector. Category 2 responders have a lesser set of duties, they are required to cooperate and share relevant information with other Category 1 and 2 responders.
- Category 1 and 2 organisations will come together to form Local Resilience Forums (LRF) (based on police areas) which will help co-ordination and co-operation between responders at the local level.
- There are around 1,200 responders in England and Wales, of which about 12% are Category 2 responders

The Cabinet Office review of Part 1 of the Act began in 2008. The Civil Contingencies Act Enhancement Programme (CCAEP) was established to review whether the Act is working as originally intended, and if not, to recommend a course of action.

For more information see: <http://cabinetoffice.gov.uk/ukresilience/preparedness/ccact.aspx>

In the early stages, the Programme sought to introduce improvements that could be made within the scope of the existing legislation to address some of the concerns raised in independent reviews of the response to recent emergencies (such as the Buncefield Incident 2005, the Foot and Mouth Disease outbreak of 2007 and the summer floods of 2007).

The CCAEP review was conducted with the help of task and finish groups, including a Better Engagement Group, whose remit was specifically to explore the potential for improvements in the way the co-operation duty is undertaken and regulated. This group was made up of representatives from across industry, Category 1 and 2 responders and government departments. Through the task and finish group and the consultation it was established that, although generally across England and Wales co-operation was working well, there were some specific areas of difficulty with this duty. The most significant of these was the relationship between Category 1 and 2 responders. This was further borne out by anecdotal evidence gathered from workshops the CCAEP held around the country in which both Category 1 and 2 responders discussed the difficulties they have each faced in fulfilling the co-operation duty and the relative merits of establishing voluntary protocols in regulation.

Independent reviews of recent emergencies had highlighted similar concerns;

- The Pitt Review into the summer floods of 2007 highlighted the difficulties that Category 1 responders have in obtaining basic briefing on critical infrastructure in their areas. The Review suggested that 'The Government needs to respond by taking action to enable infrastructure operators and local responders to mitigate these risks, especially for single points of failure'.
<http://webarchive.nationalarchives.gov.uk/20100807034701/http://archive.cabinetoffice.gov.uk/pittreview/thepittreview.html>

- Investigation into the Buncefield Fire in 2005, found that national guidance needed to be reviewed to ensure LRF structures encourage multi-agency co-operation and information sharing. <http://www.buncefieldrecommendations.co.uk/recommendations.asp# Recovery Recommendation 10>.
- The Anderson review into the 2007 outbreak of Foot and Mouth Disease found that there had been a lot of improvements since the outbreak in 2001 but that poor co-ordination prior to the 2007 outbreak initially hampered smooth operations on the ground. *“We spoke to a number of members of the Local Resilience Forum – the cross-agency body responsible for emergency planning and response. A number of them commented on the limited engagement of the Reigate AHOD in the resilience process before the outbreak.*

Tackling an emergency – but especially a serious animal disease outbreak – requires close co-operation and mutual support between all stakeholders at the operational level. It also demands their prior engagement in meaningful contingency planning and exercising.”

http://interactive.cabinetoffice.gov.uk/documents/fmd/fmd_2007_review.pdf?bcsi_scan_F8D0BFE83951C3DA=7laeWDkILR+HCpZnhU6BqFYAAABGvpxj&bcsi_scan_filename=fmd_2007_review.pdf

The findings from the Better Engagement task and finish group informed the revisions to the statutory guidance on co-operation, which was then subject to a full public consultation. The consultation concluded in February 2010. A summary of the responses can be found at

<http://www.cabinetoffice.gov.uk/resource-library/revise-chapters-emergency-preparedness-consultation-responses>

Problem under consideration and rationale for intervention

During the earlier CCAEP consultation, there was a call from responders for changes to the regulations. Many responders felt that the only way to ensure fulfilment of these duties was for the Regulations to be more prescriptive. CCAEP is now addressing the highlighted need for amendments to the regulations. These will go hand in hand with further updates to the co-operation chapter in the statutory guidance.

As part of the Better Engagement Task and Finish Group, both Category 1 and 2 responders identified that there was an issue with the co-operation and information sharing duties in the Act. The Category 1 responders believed they did not receive the co-operation they needed from Category 2 responders and Category 2 responders felt that Category 1 responders placed unreasonable demands on them. Both sets of responders called for a clarification of what the duties involved. While this can be addressed in guidance, it was determined that strengthening and clarifying the meaning of the duties in Regulations would add weight where relationships had proved difficult.

Expert advisory groups have also concluded that changes to regulations are required. These included the CCAEP Steering Group, which is made up of representatives from other government departments, the Local Government Association, the Emergency Planning Society and the voluntary sector; and the task and finish group that was set up specifically to consider the co-operation duty, which consisted of experts in the field and responders.

Policy objective

It should be noted that the Act is permissive in nature, and the following should be viewed in that light. The amendments we are now proposing to make to the Regulations are designed

- a. to clarify what is required of both Category 1 and 2 responders in fulfilling the co-operation and information sharing duties as set out in the Act; and
- b. to add flexibility to the ways in which fulfilment of the duties can be achieved therefore reducing the burden, especially on Category 2 responders.

With regard to point a., the revised statutory guidance which will accompany (support) the new regulations, will emphasise that “co-operation” is a much larger activity than simply meeting occasionally at the LRF. That it is an activity which is expected to take place all the time between Category 1 responders themselves, between Category 1 and Category 2 responders and between Category 1 responders and responders not covered by the Act in fulfilling the five individual duties placed on

Category 1s under the Act. An explanation of the meaning and scope of co-operation in this sense will be contained in the revised draft co-operation guidance.

The revised regulations aim to give the LRF a stronger definition in terms of its structure, in order to:

- i. enhance the status of the Forum, with a significant local presence and extensive activities associated with it,
- ii. make it easier to clarify in guidance and through voluntary protocols the relationship between the strategic forum and its subordinate groups and, thereby, help to address the question of senior attendance required at the strategic group as well as the equally important delivery and development role of the general/ officer working group and sub-groups; and
- iii. reflect more accurately the way in which resilience planning activity is undertaken in London.

Other policy objectives are as follows:

- iv. to establish co-operation as a “two-way street”. That is, to enable Category 2 responders under the Act to require co-operation/ collaboration from Category 1 responders;
- v. to facilitate the introduction of protocols which will permit Category 1 responders to release some Category 2 responders from some of their obligations under the Act to engage at the local level within the local resilience area, on condition that those Category 2 responders meet those obligations in other ways which are acceptable to the Category 1 responders in that local resilience area, namely:
 - a. engaging in co-operation at a multi-LRF level;
 - b. making relevant information available at a national level (while continuing to engage with Category 1 responders at the local level in specified instances, as agreed);
- vi. to amend attendance and representation rules to clarify the obligations on Category 1 and 2 responders which are contingent on the changes requested at items i and iv above and to ensure that “new burdens” are not placed on Category 1 or 2 responders as a result of these changes.

Sub-paragraph v. above, is a key plank of the proposed changes. Protocols will facilitate Category 2 responders co-operation, ensuring that co-operation can take place in accordance with new principles in guidance on the Right Issue, at the Right Time, at the Right Level. This will introduce new flexibility which will give responders a new ability to work more efficiently and more effectively together.

Description of options considered

Option 1 - Do nothing

Doing nothing would involve a failure to address the fact that responders do not always co-operate with each other as effectively as possible to prepare for emergencies. The CCAEP review of the Act identified a need to address issues around the co-operation duty. The Pitt review of the summer 2007 floods also identified that there was a need to strengthen the duty on Category 2 responders to share information, *“The Government should strengthen and enforce the duty on Category 2 responders to share information on risk to their infrastructure assets, enabling more effective emergency planning within Local Resilience Forums”*.

Costs of Option 1: The impact of ineffective planning could vary enormously depending on the nature of the emergency. For example, the Buncefield fire that took place on the 11 December 2005 cost an estimated total quantifiable cost of £1 billion. It is not known to what extent emergency planning reduced the final cost, or how more effective planning could have reduced it further.

See <http://www.buncefieldinvestigation.gov.uk/reports/index.htm> for further information.

Benefits of Option 1:

Doing nothing would remove the need for new legislation or guidance and would save on the procedural costs of introducing the legislation.

Option 2 - Clarify in legislation and Statutory Guidance what is required from the Act and the Regulations

This is the preferred option. Expert advisory groups have concluded that changes to regulations are required as in certain instances, such as the co-operation duty, these duties were not being fulfilled as intended and the requirements in the regulations were seen as ambiguous. Changes to regulations will therefore clarify for responders what is involved in fulfilment of these duties.

During consultation on the Phase 1 amendments to the co-operation chapter of the statutory guidance, a number of areas were identified by responders as needing strengthening. These were: define co-operation more clearly, specify the use of protocols in regulations, and tighten the rules for LRF representation. These areas were not addressed as part of Phase 1 because they were out of scope, and are therefore being taken forward in Phase 2 of CCAEP which deals with necessary changes to the Regulations as highlighted by responders themselves. Consultation with responders showed that these areas were identified as needing clarity through amendments to the regulations as well as updates to the statutory guidance. The amendments to the regulations specifically address the use of protocols in co-operation between Category 1 and 2 responders in any given LRF. The amendments effectively allow a waiver of duties if an agreed protocol on how co-operation will be effected is put in place. Because protocols will allow responders to alter the duties that are assigned to them under the Regulations, this can only be achieved through regulation and not through statutory guidance alone.

Please see the following section and the table below for more detail on the main changes. In addition, see Annex 2 for a complete table detailing all the changes and expected impacts.

Detail of Regulation Changes for Option 2

1. *Reg 4(3): Encouraging Category 2 responders to co-operate with each other (Reg 4(3) of the 2005 Regulations (as amended))*

All Category 2 responders have a duty in the current regulations to co-operate with Category 1 responders. The amended regulations add a new paragraph that specifies that Category 2 responders should also co-operate with each other where it is necessary to enable each Category 2 responder to perform its duty to co-operate with Category 1 responders. This addition is intended to reduce the burden on both Category 1 and 2 responders by enabling co-operation to function across category 2 responders therefore meaning that Category 1 responders may have fewer requests to make of Category 2 responders, easing the flow and burden of information sharing and co-operation.

2. *Reg 4(4): Increasing flexibility in how responders co-operate (Reg 4(2)(a)-(b) of the 2005 Regulations (as amended))*

The regulations currently state that the co-operation duty may be bilateral co-operation between Category 1 responders and must include both Category 1 and 2 responders co-operating in a LRF.

The amended regulations change this to make clear that co-operation can take any form as agreed by relevant responders, but for Category 1 responders must include co-operation via a LRF. This allows more flexibility in the form of co-operation than the current Regulation.

3. *Reg 4(4): Clarifying the duty to share information (Reg 4(2)(a) of the 2005 Regulations (as amended))*

In response to concerns expressed by responders, the existing regulations will be amended expressly to state that co-operation must also include both Category 1 and 2 responders providing information that is necessary for responders to carry out their duties under the Act.

The changes are aimed at encouraging routine information sharing as part of day-to-day activity (except where the information is sensitive and the procedures in part 8 of the current regulations will continue to apply) to avoid the impression that information can only be shared if the formal mechanism in the existing regulations is used. It thereby aims to improve the easy flow of information and reduce the administrative burden of undertaking formal procedures. The task and finish group and anecdotal evidence from responders identified information sharing as an area of co-operation that was not always working as well as it might. This has also been addressed in amendments to the information section of the regulations, discussed in paragraph 11.

4. *Reg 4(7): Recognising existing groups and sub-groups in regulations (Reg 4(7) of the 2005 Regulations (as amended))*

The current Regulations state that a LRF must be held by all Category 1 responders in a particular local resilience area. It is the case that LRFs usually also have a number of groups and sub-groups and this is in fact recommended in the statutory guidance; however, currently these groups and sub-groups are not defined in regulation.

These amended Regulations change this by making it clear there must be a strategic level group known as the Chief Officer Group and that this group and its sub-groups all form part of the LRF. This strengthens the legal status of the LRF but adds no new burdens as these groups and sub-groups already exist and attendance at them is not compulsory. The current Regulations clearly state that Category 2 responders must consider attending or being represented at other meetings, groups and sub-groups, however, they do not say the same for Category 1 responders. These amended regulations clarify in legislation that Category 1 responders have the same duty. It was considered anomalous that the responsibility was put on Category 2 responders and not on Category 1 responders so this amendment to the Regulations supports current good practice.

5. *Reg 4(7)(a)-(c): Changing the structure of emergency planning in London (Reg 4(7) of the 2005 Regulations (as amended))*

The above change also results in a change to the structure of emergency planning in London. In London each Borough has had a Borough Resilience Forum (BRF) that worked in conjunction with the LRF. However, these BRFs were not defined in the Regulations.

These amendments change this by defining the BRF as a group of the LRF and specify that a meeting of the BRF must be held every six months. This means that all regulations referring to groups of the LRF also apply to the BRFs. This strengthens the role of the BRF in legislation and strengthens its links to the LRF but it does not add new burdens as they already exist. There will be more guidance on the BRF added to the statutory guidance. It will state that the membership of the BRF should be recommended by Category 1 responders through the London LRF, which all relevant Category 1 responders are already compelled by regulation to attend or at which they must be represented.

6. *Reg 4(9): Clarifying the definition of a 'Chief Officer' (Reg 4(4) of the 2005 Regulations (as amended))*

An important part of the co-operation duty is that each responder who attends the LRF must be represented by someone who has the required knowledge and seniority to speak on behalf of the responder as a whole and make decisions on their behalf. The evidence has suggested that this has not always been the case and inappropriate representatives have been sent to the LRF leading to delays in decision making.

The amended Regulations therefore clarify what is meant by 'Chief Officer'. They state clearly that this means the Chief Officer or an equivalent person employed by a general responder. This is not adding a burden as it has always the case that an appropriate person should be sent to the LRF; this amendment is makes that clearer.

7. *Reg 7(4): Broadening the definitions of protocols (addition to Reg 7 of the 2005 Regulations)*

The current regulations state that, in order to facilitate co-operation, general responders may enter into protocols with each other and suggest that such protocols may include provisions which relate to the timing of co-operation, the form of co-operation and contact details.

The amended regulations provide illustrations of particular provisions that may be included in protocols in order to clarify where protocols may be of use to all responders. As protocols are voluntary and the amended regulations are simply adding clarity, there is no increased burden.

8. *Reg 7(5): Clarifying the use of protocols in managing the co-operation duty (addition to Reg 7 of the 2005 Regulations)*

A further amendment to the current regulations concerning protocols is to specify that protocols can be used to vary the way Category 2 responders fulfil their co-operation duty. This aims to reduce the burden on Category 2 responders by allowing them to manage the impact of the co-operation duty in a way that suits them. This does not increase the burden on Category 1 responders as it is up to the Category 1 responders in the LRF to agree the protocol with the Category 2 responder.

9. Reg 44A: Encouraging informal information sharing (clarification of Reg 45 of the 2005 Regulations)

As well as amendments to the regulations concerning co-operation, these amended regulations also make minor amendments to the regulations concerning information sharing. Consultation has highlighted that this is another area where the intention of the Act has not been fully embraced and there was a worry that the information sharing duty was being hindered by responders being unsure of what they were allowed to share resulting in a high number of time consuming formal information sharing requests.

The amendments are therefore intended to encourage informal information sharing before adopting formal procedures. The aim is to reduce the burden on both Category 1 and 2 responders by clarifying the intention of the Act to encourage informal information sharing. The amendments go on to specify that a formal information request is a last resort and should only be used where the information cannot be supplied with an informal request. This aims to reduce the number and burden of formal information requests and will not lead to any increased burden on either Category 1 or 2 responders.

Costs of Option 2:

The CCAEP have tried to keep regulatory changes to a minimum and are only suggesting amendments where absolutely necessary to clarify the original intention of the relevant duties. The amendments do not add any duties but only clarify those that already exist; there should therefore be no increased costs to responders resulting from these amendments that were not already intended in the original Regulations.

The clarification of the guidance and Regulations may highlight compliance gaps for some Category 2 responders in fulfilment of their duties. They may experience this as an increase in costs if the new regulations drive up compliance. Furthermore, responders who choose to introduce protocols may experience some additional costs during the initial implementation phase, however long term benefits should be achieved once the protocols are in place.

We have tested this through consultation. However, the response rate was low, and of those who responded, the number of quantitative estimates provided was even lower. Annex 3 has more detail on the quality of the data and discussion of the cost implications.

The consultation grouped the changes into 7 main areas and asked how each would affect costs (see Table 1). The results of the consultation showed that the vast majority of respondents expected no change in cost from the proposals. Where an increase of cost was indicated, some provided estimates of the size of the impact but this varied, see Annex 3 for more details.

Table 1

Table 3 - Direction of Cost Impact					
	Increase cost	No change	Decrease cost	Don't know	Response Count
Category 1 and 2 responders to co-operate with each other (reg 4(1)-4(3))	8.8% (5)	75.4% (43)	1.8% (1)	14.0% (8)	57
Definition of information sharing as part of co-operation (reg 4(4)(a), 44A & 47(3)(b))	12.3% (7)	70.2% (40)	1.8% (1)	15.8% (9)	57
Agreeing arrangements for the LRF (reg 4(4)-(5))	8.8% (5)	71.9% (41)	3.5% (2)	15.8% (9)	57
Definition of LRF and its groups and sub-groups (reg 4(7)-(9))	10.9% (6)	70.9% (39)	0.0% (0)	18.2% (10)	55
Borough Resilience Forums (London only) (reg 4(7)-(9))	12.8% (6)	42.6% (20)	0.0% (0)	44.7% (21)	47
Enhanced protocol provisions (reg 7(4)-(5))	7.1% (4)	67.9% (38)	3.6% (2)	21.4% (12)	56
Changes to guidance	7.0% (4)	70.2% (40)	1.8% (1)	21.1% (12)	57
Total	17.0% (8)	61.7% (29)	0.0% (0)	21.3% (10)	47

Benefits of Option 2:

Reviews like the Pitt Review and the Buncefield Review made it clear that improvements to the co-operation and information sharing duties would lead to better emergency preparedness, ensuring that essential information for risk planning was available in advance of an incident occurring. Having consulted both Category 1 and 2 responders through a series of workshops, the clear majority believed that strengthening the regulations would improve contingency planning and increase compliance further than would be achieved with just changes to the guidance.

The proposed amendments to the Regulations are intended to increase compliance by all responders in fulfilling the co-operation and information sharing duties and thereby reduce the burden of this work, by ensuring that duplication of work and effort is minimised. Clarification of what is required of responders in fulfilling these duties will mean that there is less opportunity for uncertainty, with each category of responder knowing what is required of them under the Act and Regulations. The amendments encourage more informal co-operation and information sharing among Category 2 responders which should firstly make it easier for Category 1 responders to obtain the information they need quickly and secondly, lead to fewer requests from Category 1 responder to Category 2 responders for the same information.

These amendments also take further the definition of what can be achieved through a protocol; this is an integral aspect of reducing the burden on responders. Currently the demand on Category 2 responders can be great in relation to their resources making it difficult for them to meet the potential demands of the duties. Putting protocols in place will allow responders to vary how they fulfil these duties in line with what their resources will allow and it will bring flexibility to the process. The amendments to this section of the Regulations are, in effect, allowing a waiver of duties through the creation of a protocol. This can only be achieved through regulation.

Option 3 – Strengthen advice in the statutory guidance only

Changes to statutory guidance have already been made, and consultations in Phase 1 highlighted a desire from responders for changes to regulations as well as they have more weight than the statutory guidance alone (<http://www.cabinetoffice.gov.uk/resource-library/revised-chapters-emergency-preparedness-consultation-responses>). As discussed in option 2, changes to guidance only will not deliver the required impact

Costs of Option 3:

Further changes to guidance alone are not expected to deliver much change to responder behaviour, therefore we do not expect a significant cost with this option. See Table 1 above and Annex 3 for consultation evidence on how this is expected to impact on costs.

Benefits of Option 3:

Little above what has already been achieved from changes to the guidance as part of Phase 1 of CCAEP.

Option 4 – Improve monitoring and enforcement of the duty

There are provisions in the Act that allow for arrangements to be put in place to monitor and enforce duties under the Act. However, these provisions have not been used to put arrangements in place as they have been deemed disproportionate to the areas that have so far needed addressing. Enforcement would ultimately have involved taking individual responders to court.

Costs of Option 4:

Costs associated with this option would be substantially higher than those associated with the previous three options as it would involve setting up a framework of monitoring and enforcement and the costs involved have been deemed disproportionate

One In One Out

The BRE has advised that these changes are exempt from One In One Out on the basis that they relate to making preparations to manage an emergency under the Civil Contingencies Act 2004; and the regulations do not impact on civil society organisations or small businesses.

Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<p>Basis of the review: [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)]; Statutory. A five year review is set out in new Regulation 59.</p>
<p>Review objective: [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?] The intention will be to examine whether the intended objectives have been achieved and to assess whether they remain appropriate.</p>
<p>Review approach and rationale: [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach] Review is likely to encompass a survey of stakeholder views and data gathered via the National Capabilities Survey</p>
<p>Baseline: [The current (baseline) position against which the change introduced by the legislation can be measured] Stakeholder views gathered from previous consultations.</p>
<p>Success criteria: [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives] Data collection will indicate that protocols are routinely in place; fewer formal information sharing requests are made; and the principles of responder engagement, that is the right issue, at the right level at the right time are embedded in practice.</p>
<p>Monitoring information arrangements: [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review] Detail of monitoring arrangements to be determined, but will include National Capabilities Survey.</p>
<p>Reasons for not planning a review: [If there is no plan to do a PIR please provide reasons here]</p>

Annex 2 - Detail of regulation changes and expected impacts

Reg	Content	Effect	Impact
	Category 1 responders (Cat 1s)		
4(1)	a. must co-operate with each other	No change	N/A
	b. must co-operate with Category 2 responders (Cat 2s)	Clarifies the fact that Category 1 responders must co-operate with Category 2 responders in connection with the performance of their Category 1 duties, emphasising two-way nature of co-operation	N/A
4(2)	Cat 2s must co-operate with Cat 1s	No change	N/A
4(3)	Cat 2s must co-operate with Cat 2s in support of Cat 1s	Clarifies the current expectation that Cat 2s need to co-operate with other Cat 2s in connection with their support for Category 1 responders.	Clarifies existing responsibility on Cat 2s. Reduced burden by enabling Cat 2s to co-operate directly with each other rather than via the Cat 1s, thereby easing flow of information and ongoing generic co-operation activity.
4(4)	Co-operation shall take such form as may be agreed	Clarifies generic nature of co-operation which can take many forms. Reinforces the fact that, with specific exceptions, the form that co-operation should take is left to local determination.	N/A
4(4)	But must include		
	(a) providing information	Captures the role of information sharing as one important aspect of co-operation	Reduced burden. The change helps to support the informal nature of most information sharing and has potential to reduce the pursuance of formal procedures
	(b) co-operating in the LRF	No change	No change
4(5)	LRF arrangements to be agreed by all Cat 1s in LRF area	No change	No change
4(6)	Cat 1s must consult Cat 2s when forming LRF	Encourages involvement of all responders	Minimal
4(7)	(a) LRF may take the form of a forum with groups and subgroups and must hold Chief Officer meeting every six months	<ul style="list-style-type: none"> • Defines the LRF and its parts for the first time • No change in Chief Officer meeting • All LRFs already include these groups and subgroups – the change strengthens the legal definition of the LRF but adds no new burdens because the groups, 	Minimal

Reg	Content	Effect	Impact
		<p>other than the Chief Officers Group, and subgroups are voluntary. What the change allows is LRFs to strengthen their governance arrangements by agreement.</p> <ul style="list-style-type: none"> Chief Officer meeting is already mandatory 	
4(7)	(b) Each Cat 1 must		
	(i) Attend LRF CO meetings or be effectively represented	No change	N/A
	(ii) Consider attending other LRF meetings, groups and subgroups	Clarifies existing responsibilities	N/A
4(7)	(c) Each Cat 2 must		
	(i) Attend or be effectively represented at LRF CO group if invited by all Cat 1s	No change	N/A
	(ii) Consider attending or being represented at other meetings, groups and subgroups	No change	N/A
4(8)	Cat 1 responders must		
	(a) Keep all Cat 2s informed	No change	N/A
	(i) when LRF meeting take place	No change	N/A
	(ii) the venue	No change	N/A
	(iii) the agenda	No change	N/A
4(8)	(b) enable a Cat 2 to attend these meetings	No change	No change
4(9)	Defines "arrangements" in regs 4(5), 4(6)	Simply clarifies the meaning of these regs	See discussion above at regs 4(5), 4(6)
	Defines "Chief Officer" in regs 4(7)(a)-(c)	Simply clarifies the meaning of these regs	See discussion above at regs 4(7)(a)-(c)
7(4)	A protocol may include provision for	Provides illustrations of particular provisions that may be included in protocols	N/A
	(i) duty to co-operate		
	(ii) duty to attend LRF meetings		
	(iii) duty to share information		
7(5)	Allows the protocol to vary the way the reg 4 duties fall on Cat 2 responders	Enables Cat 2s to agree with Cat 1s how they will most effectively co-operate with them	Aims to reduce the burden on Cat 2s by allowing them to vary the impact of reg 4 on them

Reg	Content	Effect	Impact
16(4)	Provides that community risk registers should be provided to a Minister of the Crown instead of to the Secretary of State	Ensures that following machinery of government changes, community risk registers are shared with the Minister for the Cabinet Office who is not a Secretary of State	Reflects existing practice and ensures that the Minister for the Cabinet Office can require copies of the CRR. Responders already have to provide a copy so this creates no additional burden
44A.	Responders may provide information to each other	Clarifies existing powers. Helps to encourage informal information sharing before adopting formal procedures	Aims to reduce the burden on Cat 1s and 2s by clarifying the intention of the CCA which is to encourage informal information sharing
47(3)(b)	The requesting responder must be satisfied that a formal information request is needed.	Clarifies that a formal information request is a last resort	Aims to help reduce the number and burden of formal information requests.

Annex 3 - Consultation Results

Since the last Impact Assessment was submitted (IA No: CO1012) on 11 May 2011 the Cabinet Office has consulted broadly on the proposed changes to the Regulations.

Publicising the consultation

Prior to commencing the consultation, consideration was given to the best means to maximise the response rate. Our approach is outlined below:

- The consultation (and subsequent reminders and advice) were sent out via an online bulletin which is issued to all emergency responders, lead government departments and others involved in resilience work;
- The consultation was published on the Cabinet Office internet pages;
- Advice was taken from the Department for Communities and Local Government on how to maximise the number of recipients for the consultation at a local level and they agreed to publicise the consultation through their own network;
- A presentation was provided for a meeting of London responders to inform attendees of the consultation and, specifically, of the importance of completing questions in relation to the Impact Assessment;
- Some responders held discussion and consultation events at local level;
- The Cabinet Office presented a series of ten “roadshow” events around the country to publicise the programme and seek views. Each attracted 30-60 attendees; and
- Invitations were sent out to a number of responders directly to promote the consultation and to invite them to attend meetings to discuss the consultation and answer any queries they may have. Nine of these meetings were held in total.

Data Quality

The potential number of Category 1 and 2 respondents within the UK would be approximately 1,207 (around 1,060 Category 1 responders and 147 Category 2 responders). We received 86 responses to the consultation, of which 55 were Category 1 responders and 12 were Category 2 responders. This means that we received a response rate of around 5% for Category 1 responder and around 8% of Category 2 responders.

Table 1 – Response rates by type of responder

	Response Percent	Response Count
Category 1 responder	64%	55
Category 2 responder	14%	12
Civil society organisation	2%	2
Individual	6%	5
Government Department	0%	0
Other	14%	12

Note: ‘Other’ includes Water UK, British Standards Institute, International Association of Emergency Managers, and Local Resilience Forums (Resilience Forums are constituted of Category 1 and 2 responders. They defined themselves as “Other”) and the Staffordshire Contingencies Unit.

The size of the responder organisations also varies from those whose footprint covers one LRF to those that cover all LRFs. For example, respondents who provide services such as water or rail had a footprint that covered the majority of the UK; while councils and police forces, of course, cover only one LRF. Table 2 shows the number of LRFs covered by those that responded to the consultation.

Table 2 – Number of LRFs covered by type of responder

Number of LRF areas covered	Category 1	Category 2	Other
1	51	0	7
2-15	2	9	1
14-40	0	0	0
41+	1	3	4
Not known	1	0	7
Total	55	12	19

Given the response rate, we do not believe that the responses constitute a representative sample of the population of responders, and so it would be misleading to extrapolate the estimates received to arrive at an overall cost or average cost.

Of the 86 responses received, only 57 answered questions on likely direction of cost impacts, and less than 25 provided information on the extent of any costs.

Organisational size, structure and make up of responders also differ significantly. Estimates given of the current annual cost (of activities undertaken in relation to the current co-operation duty set out in the CCA regulations) included not known or negligible and, where figures were given, they ranged from £750 to £550,000. For Category 2 responders, baseline costs also included not known or negligible and, where estimated, costs ranged from £1,000 to £50,000.

In addition, a number of Category 1 and 2 responders reported to the Cabinet Office that they would not submit a response to the current consultation as they anticipated no impact on costs. If non-response is more likely from those who do not expect a cost impact, then any overall or average cost estimate would be biased upwards.

Furthermore, at discussions held with responders, specifically Category 2 responders, a number of them acknowledged that they were unaware of their current duties (particularly the duty to co-operate and share information with Category 1 responders and to work with other Category 2 responders to help Category 1 responders fulfil their duties under the Act). The clarification of the guidance and Regulations may highlight compliance gaps for some Category 2 responders in fulfilment of their duties. They may experience this as an increase in costs if the new regulations drive up compliance. Implementing the regulations may impact on costs in these cases though not necessarily through imposition of new duties.

However, the results are useful for understanding the expected impacts for responders that submitted a consultation response. These are described below.

Direction of Costs Impacts

Table 3 shows that 57 responses were received for the question 'How do you anticipate the changes to the regulations and guidance listed below to affect you?'

Table 3 - Direction of Cost Impact

	Increase cost	No change	Decrease cost	Don't know	Response Count
Category 1 and 2 responders to co-operate with each other (reg 4(1)-4(3))	8.8% (5)	75.4% (43)	1.8% (1)	14.0% (8)	57
Definition of information sharing as part of co-operation (reg 4(4)(a), 44A & 47(3)(b))	12.3% (7)	70.2% (40)	1.8% (1)	15.8% (9)	57
Agreeing arrangements for the LRF (reg 4(4)-(5))	8.8% (5)	71.9% (41)	3.5% (2)	15.8% (9)	57
Definition of LRF and its groups and sub-groups (reg 4(7)-(9))	10.9% (6)	70.9% (39)	0.0% (0)	18.2% (10)	55
Borough Resilience Forums (London only) (reg 4(7)-(9))	12.8% (6)	42.6% (20)	0.0% (0)	44.7% (21)	47
Enhanced protocol provisions (reg 7(4)-(5))	7.1% (4)	67.9% (38)	3.6% (2)	21.4% (12)	56
Changes to guidance	7.0% (4)	70.2% (40)	1.8% (1)	21.1% (12)	57
Total	17.0% (8)	61.7% (29)	0.0% (0)	21.3% (10)	47

Note: Figures in brackets represent number of responses

Excluding the London specific regulatory changes, the majority of responses (68%-75%) cited that the regulations would result in no change to costs. 7%-12% expected an increase in cost, 0%-4% expected a decrease in cost and 14%-21% did not know.

Turning to the London specific regulatory changes, 45% stated that they did not know. This will be partly due to the fact that only 13 of the 86 respondents were based within London or a London Local Resilience area. Of those that did state an opinion, 76% expected no change¹.

Taking all the changes together, 62% expected no overall cost impact, 17% expected an increase in cost and 21% did not know.

Impact on Category 2 responders

Table 4 replicates Table 3 for Category 2 responders only. The pattern of responses is similar, but it is important to note that there are only 8 responses left in this table.

Table 4 - Direction of Cost Impact (Category 2 Responders only)					
	Increase cost	No change	Decrease cost	Don't know	Response Count
Category 1 and 2 responders to co-operate with each other (reg 4(1)-4(3))	25.0% (2)	62.5% (5)	12.5% (1)	0.0% (0)	8
Definition of information sharing as part of co-operation (reg 4(4)(a), 44A & 47(3)(b))	12.5% (1)	87.5% (7)	0.0% (0)	0.0% (0)	8
Agreeing arrangements for the LRF (reg 4(4)-(5))	12.5% (1)	75.0% (6)	12.5% (1)	0.0% (0)	8
Definition of LRF and its groups and sub-groups (reg 4(7)-(9))	14.3% (1)	85.7% (6)	0.0% (0)	0.0% (0)	7
Borough Resilience Forums (London only) (reg 4(7)-(9))	16.7% (1)	33.3% (2)	0.0% (0)	50.0% (3)	6
Enhanced protocol provisions (reg 7(4)-(5))	12.5% (1)	62.5% (5)	12.5% (1)	12.5% (1)	8
Changes to guidance	0.0% (0)	87.5% (7)	0.0% (0)	12.5% (1)	8
Total	37.5% (3)	62.5% (5)	0.0% (0)	0.0% (0)	8

Note: Figures in brackets represent number of responses

Quantifying Change in Costs

As noted above the majority of both Category 1 and Category 2 responders expected no impact to costs:

Many organisations considered the duties to be part of their key roles and therefore, would not expect any increase in cost as a result of the proposed changes to the regulations. Others already attend all relevant meetings with LRFs. A sample of supporting quotes is given below:

- *“Nearly all organisations involved have staff in place whose roles and responsibilities already include the activities detailed in the changes”.*
- *“The LRF my organisation belongs to already has a meetings structure that Category 2 responders can attend also a Category 2 Responder sub-group”*
- *“I don’t perceive there to be any additional expenditure required due to amendments to the Act. The amendments would only have a minimal impact in that they clarify existing duties”.*
- *“It’s my ‘day job’ now. It’s all about co-operation for public benefit”.*

However, some did expect an increase in costs:

Some expected an increase in cost due to a potential increased requirement to be involved in exercises and greater attendance at LRFs and BRFs (although not a requirement of the revised regulations). One respondent quoted that an additional £1,200 would have to be spent on attending meetings; however they were unable to provide a base figure (specifically for Borough Resilience Forums (London only) (reg 4(7)-(9))). Another respondent estimated its cost would increase by £20,000 (against current costs of £50,000). However they noted that some of this increase in cost could be reduced if there were some merging of, or cross-border working between, LRFs. A third respondent quoted 10 additional staff days

¹ Of 47 responses, 21 stated they did not know. The remainder is 26, and of these, 20 (76%) expected no change.

would be required to review existing plans to ensure that they fulfilled their duties (against a current cost of £40,000).

Others expected additional time might be spent setting up systems to accommodate enhanced information sharing protocols. One responder quoted that £1,000 would have to be spent in addition to the £12,000 base cost (specifically, in relation to the definition of information sharing as part of co-operation (reg 4(4)(a), 44A & 47(3)(b))); another respondent estimated that attending meetings to discuss enhanced protocol provisions (reg 7(4)-(5)) would cost c.£150. A sample of supporting quotes is given below:

- *“It is envisaged that an increase in cost will be incurred as a result of these proposed changes due to a potential increase in the involvement in exercises and greater attendance at LRFs and BRFs. Some of this increase in cost could be reduced if there was some merging or cross-border working of LRFs. This would also help with improving the consistency of approach and implementation of the Civil Contingencies Act by LRFs”.*
- *“There would only be increased costs if there is a decision taken to hold more meetings as a result of changes or if more time is needed to work on enhanced information sharing procedures and protocols”.*

A minority expected a decrease in costs:

One respondent stated that £1,000 would potentially be saved (against current costs of £100,000) due to a reduction in the number of meetings attended (with regard to agreeing arrangements for the LRF (reg 4(4)-(5))), although overall they expected costs and savings to balance.

- *“A reduction in the number of LRFs, or at least the development of a process to facilitate an increase in cross-border working and co-ordination between LRFs, would help ensure a more focussed approach between LRF areas during cross-border incidents, a more consistent approach for tackling issues, a reduction in duplication of effort and the avoidance of conflicts of interest between LRFs. Such developments would also help reduce the burden on some Category 2 responders”.*

Qualitative Evidence

The consultation gathered information on a number of qualitative questions, much of which has been used to explain the quantitative costs above. Other elements, which provide an insight into the perceived impact of the proposed changes to the regulations are set out below;

- Excluding the London specific regulatory changes, the vast majority of respondents welcomed the regulations (76%-92% depending on the regulation in question). For the London specific regulatory changes, 58% had no opinion. Of those that did state an opinion, 64% welcomed the proposals².
- 75% of respondents indicated that the amended regulations will bring clarity to the co-operation duty making fulfilment of the duty easier for responders. 13% disagreed and 12% did not know or had no opinion on this question.
- 68% of respondents stated that the revised draft guidance (*Emergency Preparedness*, Chapter 2: Co-operation) will help improve co-operation between local responders. 11% disagreed and 21% did not know or had no opinion.
- 80% considered that the amended draft CCA regulations 2011 will help improve co-operation between local responders. 11% disagreed and 10% did not know or had no opinion.

² Of 67 responses, 39 stated they had no opinion. The remainder is 28, and of these, 18 (64%) welcomed the proposals.

STATUTORY INSTRUMENTS

2012 No.

CIVIL CONTINGENCIES

<i>Made</i>	- - - -	0000
<i>Laid before Parliament</i>		0000
<i>Coming into force</i>	-	1st April 2012

The Minister for the Cabinet Office, in exercise of the powers conferred by sections 2(3) and (5), 6(1), 12, and 17(6) of the Civil Contingencies Act 2004⁽³⁾, and—

- (a) having consulted the Scottish Ministers as required to do under section 14(1);
 - (b) having consulted the Welsh Ministers⁽⁴⁾ as required to do so under section 16(1);
 - (c) having consulted the Department of Justice in Northern Ireland as required by section 14A(1);
 - and (d) with the consent of the Welsh Ministers⁽⁵⁾, in so far as required by section 16(2) of that Act,
- makes the following Regulations:

Citation, commencement and interpretation

- 1. These Regulations may be cited as the Civil Contingencies Act 2004 (Contingency Planning) (Amendment) Regulations 2012.
- 2. These Regulations come into force on 1st April 2012.
- 3. In these Regulations “the Principal Regulations” means the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005⁽⁶⁾.

Amendment of the Principal Regulations

- 4. The Principal Regulations are amended in accordance with these Regulations.
- 5. For Regulation 4 (Co-operation and local resilience forums- England and Wales), substitute—
 - “4.—(1) General Category 1 responders which have functions which are exercisable in a particular local resilience area in England or Wales must co-operate—
 - (a) with each other in connection with the performance of their duties under section 2(1); and
 - (b) with general Category 2 responders in so far as such co-operation relates to or facilitates the performance of the general Category 1 responder’s duties under section 2(1).

⁽³⁾ 2004 c. 36.
⁽⁴⁾ The functions of the National Assembly for Wales under section 16(1) of the 2004 Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
⁽⁵⁾ The functions of the National Assembly for Wales under section 16(2) of the 2004 Act were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
⁽⁶⁾ S.I. 2005/2042, as amended by S.I. 2006/594, art 2 and S.I. 2011/xxx.

(2) General Category 2 responders which have functions which are exercisable in a particular local resilience area in England and Wales must co-operate with each general Category 1 responder which has functions which are exercisable in that local resilience area in connection with the performance by that general Category 1 responder of its duties under section 2(1).

(3) General Category 2 responders which have functions which are exercisable in a particular local resilience area in England and Wales must co-operate with each other in so far as such co-operation is necessary to enable each such Category 2 responder to perform its duties under paragraph (2).

(4) The co-operation referred to in paragraphs (1) to (3) shall take such form as may be agreed between the relevant responders, but must include—

- (a) co-operation in the form of all general Category 1 and Category 2 responders which have functions which are exercisable in a local resilience area providing information necessary for the performance of a general responder's duties under the Act in accordance with Part 8; and
- (b) all general Category 1 and Category 2 responders which have functions which are exercisable in a particular local resilience area co-operating together in a forum (referred to in these Regulations as the "local resilience forum").

(5) Subject to paragraphs (6), (7) and (8), the arrangements for each local resilience forum shall be agreed by the general Category 1 responders which have functions which are exercisable in the local resilience area.

(6) Before agreeing arrangements under paragraph (5), the general Category 1 responders which have functions which are exercisable in the local resilience area must consult all general Category 2 responders which have functions which are exercisable in that local resilience area.

(7) (a) General Category 1 responders which have functions which are exercisable in a particular local resilience area in England and Wales may hold meetings of the local resilience forum, its groups and sub-groups at such times as they may agree and must—

- (i) hold a meeting of the local resilience forum, to which the chief officer of each general Category 1 responder and each general Category 2 responder which have functions which are exercisable in the local resilience area is invited, at least once every six months ("the Chief Officers Group");
- (ii) in the local resilience area for London, hold a meeting in respect of each London borough and the City of London at least once every six months ("a borough resilience forum") to which each general Category 1 responder which exercises functions in the relevant area is invited.

(b) Each general Category 1 responder—

- (i) which has functions which are exercisable in a particular local resilience area in England and Wales must, so far as is reasonably practicable, attend meetings of the Chief Officers Group or be effectively represented at such meetings by another responder; and
- (ii) in all other cases, must consider, in relation to meetings of
 - (aa) the local resilience forum,
 - (bb) other groups or sub-groups of a local resilience forum, or,
 - (cc) in London, a relevant borough resilience forum,whether it is appropriate for it to attend the meeting or to be effectively represented at the meeting by another responder.

(c) A general Category 2 responder—

- (i) which has functions which are exercisable in a particular local resilience area in England and Wales must, so far as is reasonably practicable, attend or be effectively represented by another responder at meetings of the Chief Officers Group for that local resilience area if it is invited to do so by all of those general Category 1 responders which have functions which are exercisable in that local resilience area; and
- (ii) in the case of any other meetings of a local resilience forum, its groups or sub-groups, or, where the responder exercises functions in London, a borough resilience forum, must consider whether it is appropriate for it to attend the meeting or to be effectively represented at the meeting by another responder.

(8) For the purposes of enabling general Category 2 responders to comply with paragraph (7), the general Category 1 responders for the relevant local resilience area must—

- (a) keep each general Category 2 responder which has functions which are exercisable in the relevant area informed of—
 - (i) when meetings of the local resilience forum, its groups and sub-groups and, in London, relevant borough resilience forums, are to take place,
 - (ii) the location of such meetings, and
 - (iii) the matters which are likely to be discussed at such meetings;
- (b) enable a general Category 2 responder to
 - (i) attend meetings of the Chief Officers Group where it must do so, and
 - (ii) attend any meetings of the local resilience forum, its groups and sub-groups and, in London, relevant borough resilience forums, where the general Category 2 responder wishes to do so.

(9) For the purposes of this Regulation—

“arrangements” include the structures and administration of the local resilience forum, its groups and sub-groups and, in London, a borough resilience forum, and, subject to subparagraph (7)(a), the frequency with which meetings are held;

“chief officer” means the chief officer or equivalent person employed by a general responder;

.”

6.—(1) Regulation 7 is amended as follows.

(2) After paragraph 7(3) insert—

“(4) A protocol may in particular include provision relating to the performance of a general Category 2 responder’s duty under—

- (i) Regulation 4(2) (Duty to co-operate);
- (ii) Regulation 4(7)(c) (Duty to attend meetings of local resilience forums); and
- (iii) Part 8 (Information).

(5) Where a protocol entered into by a general category 2 responder and all general Category 1 responders which have functions which are exercisable in respect of a particular local resilience area includes any of the provision set out in paragraph (4), the general Category 2 responder’s duties under Regulation 4 or 49 as appropriate in respect of that local resilience area shall be varied to the extent specified in the protocol.”

7. In regulation 16(4) for “the Secretary of State” substitute “a Minister of the Crown”.

8. In Part 8 (Information), before Regulation 45 insert—

“44A. Subject to Regulations 45 to 53, general responders may provide information to each other for the purposes of their duties under the Act.”

9.—(1) Regulation 47(3) is amended as follows—

(2) After paragraph (3)(b) insert—

“; and

- (c) the general Category 1 responder or general Category 2 responder which holds the information will not provide or is unable to provide the information without a formal request under this Regulation.”

10. After Regulation 58 insert—

“Review

59.—(1) Before the end of the review period, the Minister for the Cabinet Office must—

- (a) carry out a review of these Regulations,
- (b) set out the conclusions of the review in a report, and
- (c) lay the report before Parliament.

- (2) The report must in particular
- (a) set out the objectives intended to be achieved by the regulatory system established by these Regulations,
 - (b) assess the extent to which those objectives are achieved, and
 - (c) assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation.
- (3) “Review period” means—
- (a) the period of five years beginning with [the day on which the Civil Contingencies Act 2004 (Contingency Planning) (Amendment) Regulations 2012 come into force]; and
 - (b) subject to paragraph (4), each successive period of five years.
- (4) If a report under this regulation is laid before Parliament before the last day of the review period to which it relates, the following review period is to begin with the day on which the report is laid.”.

Signatory text

Date 0000
Minister for the Cabinet Office

EXPLANATORY NOTE

(This note is not part of the Order)

These Regulations amend the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 (“the Principal Regulations”).

Regulation 5 substitutes a new regulation 4 in the Principal Regulations (co-operation and local resilience forums- England and Wales) which requires Category 1 and Category 2 responders which have functions which are exercisable in a particular area in England or Wales to co-operate with each other.

Regulation 6 amends regulation 7 of the Principal Regulations to specify the content of protocols which may be entered into by responders under regulation 7 of the Principal Regulations and to provide that such a protocol may vary a general Category 2 responder’s duties under regulations 4 and 49 of the Principal Regulations.

Regulation 7 amends regulation 16 of the Principal Regulations (sharing of community risk register- England and Wales) to provide that a general category 1 responder which has functions exercisable in a local resilience area in London must from time to time provide a Minister of the Crown with a copy of the community risk register it maintains under regulation 15.

Regulations 8 and 9 amend Part 8 of the Principal Regulations. Regulation 45 is amended to clarify the power of general responders to share information and a new sub-paragraph (3)(c) is inserted into regulation 47 to add a further condition which a responder must be satisfied exists when responding to a request for information from another responder made under that regulation.

Regulation 10 inserts a new Regulation 59 into the Principal Regulations which requires the Minister for the Cabinet Office to review the operation and effect of the Principal Regulations, including the amendments made by these Regulations, and lay a report before Parliament within five years after these Regulations into force. Following each review, the Minister will decide whether the Regulations should remain as they are, or be revoked or be amended. A further instrument would be needed to revoke the Regulations or to amend them.