

Chapter 13

Monitoring and enforcement

Summary

- The Act introduces a power for Ministers of the Crown to monitor performance of the civil protection duties (paragraph 13.1).
- The Government is not establishing a new inspectorate to monitor and enforce the duties under the Act. This will be done through Category 1 and 2 responders mainstream performance monitoring or regulatory regimes (paragraphs 13.9–13.14).
- However, the Government does not intend to use these monitoring powers on a regular basis to assess responders' performance. Further details of how the power may be used are provided in Chapter 16.

What the Act and the Regulations require

Monitoring by the Government and by local responders

13.1 The Act gives a Minister powers to require:

- the provision of information about actions taken by a Category 1 or 2 responder in the performance of its Part 1 duties;¹ and
- an explanation as to why the responder has not taken action to comply with its duties under Part 1 of the Act.²

13.2 However, there is no proposal to use these powers at the moment. Ministers are not seeking powers in the Regulations that would support general assessments of the performance of local responders.

13.3 Also, there are no specific requirements in the Act or the Regulations for local responders to monitor their own performance.

13.4 The Government will rely on current good practice in performance management and on established audit and regulatory bodies across the Category 1 and 2 organisations to assess performance.

13.5 In the future, however, where the Government has reason in a particular case to require more information about responder compliance with the duties and to seek an explanation for non-compliance, it may choose to use these monitoring powers.

Enforcement by the Government and by Category 1 and 2 responders

13.6 In a particular case, the Government may not be satisfied with the information received from a Category 1 or 2 responder about the performance by it of its duties, or with the explanation given for non-compliance. In these circumstances, the Minister may choose to take enforcement proceedings in the High Court or Court of Session.³

13.7 Similarly, a Category 1 or 2 responder may itself take court action, in respect of a failure by another responder body to comply with its main duties under the Act.⁴ An example of the cause for such an action might be where one responder is unreasonably withholding information from another.

13.8 It is not anticipated that these powers will be used frequently. Where they are used, the Act also gives the High Court or the Court of Session powers to grant any relief or make any order as it thinks appropriate.⁵

Performance monitoring

13.9 Performance monitoring for civil protection is carried out by the organisations that have responsibility for monitoring and regulation.

13.10 The Government has examined the range of existing performance monitoring mechanisms in regard to the relevant functions of each local responder. It has engaged with the various inspectorates, regulators and ministries themselves to ensure that the duties of the Act feature within their future performance monitoring frameworks. Thus, for example for local authorities, the proposed 2005 Comprehensive Performance Assessment (CPA) looks at "Safer and Stronger Communities". Within this broad heading, the CPA asks about local authority planning for internal and external emergencies. The Audit Commission discusses improvement plans, which are linked to issues identified in the CPA, on an annual basis.

13.11 Her Majesty's Inspectorate of Constabulary (HMIC) will assess performance of the duties in the Act by police forces in England, Wales and Northern Ireland through its Capability Review process. This will measure police forces' capability to "identify, analyse and assess all potential threats and hazards that may lead to an emergency and provide a commensurate response to manage the situation and manage its effects".

13.12 HMIC will undertake force-level assessments testing capability in this area against an established set of standards. These will be carried out on a rolling,

¹s. 9(1)(a)

²s. 9(1)(b)

³s. 10(1)(a)

⁴s. 10(1)(b)–(c)

⁵s. 10(2)

Box 13.1: Audit Commission self-assessment tool

One performance monitoring body has already provided details of the process which it suggests could be followed by local responders in anticipation of the provisions of the Act. The Audit Commission has devised an optional self-assessment tool for local authorities. This can be found at <http://www.audit-commission.gov.uk/emergencyplanning/index.asp>

risk-assessed basis once the main provisions of Part 1 of the Act have come fully into force.

13.13 Several inspectorate bodies work collaboratively. Working together reduces the risk of duplication, as many organisations are scrutinised by more than one inspectorate on broadly similar issues. This would involve the development of a common and/or consistent set of standards. For example:

- the Audit Commission and the Fire Service Inspectorate have a memorandum of understanding to look at areas of common interest; and
- the 10 main bodies responsible for inspecting, regulating and auditing healthcare signed a concordat in June 2004. The purpose of this agreement is to provide more joined-up inspection programmes.

13.14 This approach is reflected in the long-term Government strategy to rationalise the inspectorates that have responsibility for national public services. This will take the number of inspectorates from eleven to four, reducing the burden upon inspected

services. This strategy will result in greater collaborative working.

Self-assessment and audit: good practice and other information

Self-assessment

13.15 A series of seven self-assessment sheets has been developed in relation to the main duties of the Act. These are outlined in preceding chapters of this guidance. They may be used by local responders to help assess their own effectiveness in implementing the requirements of the Act and the Regulations. The sheets provide information to assist Category 1 and 2 responders meet the statutory requirements of the Act and the Regulations. They do not simply extract the requirements of the legislation, such as the requirement to maintain business continuity and emergency plans, as these are clearly laid out in the Act and the Regulations.

Chapter 2

Co-operation		
LRF	The Local Resilience Forum (LRF) facilitates the effective delivery of those duties that need to be delivered in a multi-agency environment	1-2-3-4-5
	All Category 1 and 2 responders are effectively represented on the LRF	1-2-3-4-5
	Appropriate voluntary organisations are effectively engaged in the LRF and/or its subgroups	1-2-3-4-5
	There is an effective secretariat to the LRF	1-2-3-4-5
	There is systematic upward and downward flow of information between the LRF and the RRF	1-2-3-4-5
	Effective arrangements are in place to link the LRF with its counterparts at the regional level and with other neighbouring RRFs	1-2-3-4-5
	The LRF has an agreed subgroup framework which allows it to deal with local issues effectively	1-2-3-4-5
Outside the LRF	Direct and bilateral co-operation between local responders operates effectively	1-2-3-4-5
Comments		

13.16 The sheets also reflect the good practice advice contained in the guidance to assist Category 1 and 2 responders in discharging their statutory responsibilities.

Use of the self-assessment sheets

13.17 The sheets use a series of statements and have a scale of agreement running from 1 to 5, where 1 is 'strongly agree' and 5 'strongly disagree'.

13.18 The sheets facilitate critical thinking about the effectiveness of performance and give an indication of areas for improvement and development.

13.19 Responders may choose to involve key internal and external stakeholders in the self-assessment process. These could be people such as elected members and senior officers, customers and key partners. It may be useful to benchmark performance and to share lessons learned with other Category 1 and 2 responders. The Local Resilience Forum (LRF) – and relevant subgroups – provide a framework which can be used to formalise the peer assessment process.

13.20 The sheets use a series of statements and have a scale of agreement running from 1 to 5, where 1 is 'strongly agree' and 5 'strongly disagree'.

Chapter 3

Information sharing		
General	Information sharing between Category 1 and 2 responders facilitates the effective performance of the civil protection duties	1-2-3-4-5
	Information is shared with the appropriate local partners within the area	1-2-3-4-5
	Most information is shared by way of informal agreement rather than formal request	1-2-3-4-5
	Responders are making full and effective use of open source information-where this is available	1-2-3-4-5
	Responders adhere to the framework for making formal information-sharing requests when these are required	1-2-3-4-5
	Civil protection duties are delivered collaboratively as far as is appropriate	1-2-3-4-5
Sensitive information	Responders show a good awareness of what sensitive information is	1-2-3-4-5
Comments		

Chapter 4

Risk assessment		
	Lead responsibility for assessing risks is clearly identified and agreed	1-2-3-4-5
	Individual responder risk assessments have been completed. They identify the sources of risk, assess their likelihood and impacts, and rank them in terms of their overall risk	1-2-3-4-5
	Individual responder risk assessments have been shared with the Local Resilience Forum (LRF)	1-2-3-4-5
	Community Risk Registers (CRR) have been completed and kept up to date	1-2-3-4-5
	CRRs have been approved by the LRF	1-2-3-4-5
	CRRs have been shared with the Regional Resilience Forum (RRF) or the Wales Resilience Forum in Wales	1-2-3-4-5
	CRRs are shared with the neighbouring LRFs and RRF	1-2-3-4-5
	CRRs are used to inform emergency planning and business continuity planning	1-2-3-4-5
Comments		

Chapter 5

Emergency planning		
General	The generic plan is flexible enough to mobilise staff and resources in relation to a wide range of possible scenarios	1-2-3-4-5
Risk assessment	Emergency plans are integrated with internal business continuity plans	1-2-3-4-5
	Emergency plans provide an effective framework to manage significant risks	1-2-3-4-5
	Plans are considered for revision as a result of revised risk assessments	1-2-3-4-5
Usability	Plans are clear, unambiguous and easy to use	1-2-3-4-5
Content	Planning has regard to the needs of diverse communities	1-2-3-4-5
	The needs of the more vulnerable members of society are identified	1-2-3-4-5
	Arrangements to respond in a co-ordinated way to different hazards and levels of threat are in place	1-2-3-4-5
	Robust call-out and activation procedures are in place	1-2-3-4-5
	Alternative arrangements that may need to be followed if the preferred action or arrangement fails are documented	1-2-3-4-5
	The concerns of partners have been taken into account	1-2-3-4-5
	The role of the media is detailed in the plan	1-2-3-4-5
	Emergency planning has regard to the needs of survivors	1-2-3-4-5
	Emergency plans address recovery as well as response issues	1-2-3-4-5
	Plans contain a clear policy on how to use voluntary effort	1-2-3-4-5
	Plans include processes for authorising expenditure	1-2-3-4-5
	Plans have regard for developments in technology and specialist equipment	1-2-3-4-5
Learning and validation	Plans include provisions for carrying out exercises at appropriate intervals	1-2-3-4-5
	Plans include provisions for carrying out the training of staff or other persons and recording who has received training	1-2-3-4-5
Resources	Plans are supported by adequate resources, such as in-house staffing, contractors, communications equipment, emergency operations centre	1-2-3-4-5
Comments		

Chapter 6

Business continuity management		
Programme management	Responsibility for business continuity issues is well embedded within individual services or management units	1-2-3-4-5
Formulation	Critical functions and processes within the responder organisation have been identified and have been agreed by the executive board	1-2-3-4-5
	A robust business impact analysis has been undertaken, drawing on assessments of risk maintained under section 2 of the Act	1-2-3-4-5
	Risk assessment has been used to focus effort on the areas of greatest need and to develop appropriate continuity strategies	1-2-3-4-5
	The generic business continuity plan is flexible enough to maintain continuity through a range of different disruptive events	1-2-3-4-5
Business continuity planning	A clear procedure exists for invoking the business continuity plan (BCP)	1-2-3-4-5
	BCPs identify objectives, personnel involved, and command and control arrangements	1-2-3-4-5
	BCPs set out a route map for delivering the response	1-2-3-4-5
	BCPs contain references to other sources of relevant information, advice and other documentation	1-2-3-4-5
	BCPs outline arrangements for communicating with partners, stakeholders and the media	1-2-3-4-5
	A clear procedure is in place to ensure that the BCP is kept up to date	1-2-3-4-5
Learning and validation	The exercise programme has clear objectives	1-2-3-4-5
	There is a balanced programme of exercise types which tests the full range of capabilities	1-2-3-4-5
	There is a documented process for capturing and taking forward the lessons identified	1-2-3-4-5
	There is a programme in place for training key staff and raising awareness throughout the organisation and its key stakeholders	1-2-3-4-5
Review and evaluation	There is an established review process and identified trigger points	1-2-3-4-5
	A clear mechanism is in place for measuring the effectiveness of business continuity management arrangements	1-2-3-4-5
	The review process drives improvement by identifying lessons, and appropriate action is taken	1-2-3-4-5
	The outcome of reviews is documented	1-2-3-4-5
Comments		

Chapter 7

Communicating with the public		
Public awareness and education	All or parts of the relevant risk assessments and emergency plans have been published in a format that the public will find useful	1-2-3-4-5
	Publicity materials have regard to other local, regional and national initiatives and to national messages	1-2-3-4-5
	Publicity materials employ clear and simple language, using media appropriate to the audience	1-2-3-4-5
Warning, informing and advising the public	Arrangements to warn, inform and advise the public are in place	1-2-3-4-5
	There is clarity between local responders about the responsibilities for warning and informing; lead responders have been agreed	1-2-3-4-5
	Arrangements have been made to ensure that vulnerable people can be warned effectively	1-2-3-4-5
	Arrangements for issuing messages are designed with the target audience in mind	1-2-3-4-5
	There is effective liaison with the local media	1-2-3-4-5
	Personnel who would deal with the media in an emergency, or who deliver public information lines, have received appropriate training	1-2-3-4-5
	All arrangements are tested and exercised on a regular basis	1-2-3-4-5
Comments		

Chapter 8

Advice and assistance to business and voluntary organisations		
Ownership	Where the authority has entered into collaborative arrangements with other organisations, the allocation of responsibilities is clear	1-2-3-4-5
	A senior responsible owner has been identified within the authority	1-2-3-4-5
Strategy	The local authority has a business continuity management (BCM) advice and assistance strategy that identifies clear objectives and the means of achieving them, and has clear success criteria	1-2-3-4-5
	Other Category 1 and 2 responders (especially other local authorities) have been consulted in the preparation of the strategy and the LRF has endorsed it	1-2-3-4-5
	The strategy reflects other local responders' business continuity work with business and voluntary organisations	1-2-3-4-5
	The local authority has a clear policy for dealing with requests for detailed business continuity advice	1-2-3-4-5
Delivery	The local authority makes appropriate use of staff with existing experience and responsibilities in liaising with local businesses and voluntary organisations	1-2-3-4-5
	The programme addresses the needs of the business and voluntary sector community and the risk profile of the area	1-2-3-4-5
	The authority has made available information on BCM issues through relevant mechanisms (eg identified local risks and the impacts they may have)	1-2-3-4-5
	The format used to deliver business continuity messages has regard to the needs of local businesses and voluntary organisations	1-2-3-4-5
	Key external partners (eg business representative groups, business support organisations and other Category 1 responders) are engaged in the delivery process	1-2-3-4-5
Review and evaluation	There is an established review process with identified trigger points	1-2-3-4-5
	The authority has got a mechanism and success measures for assessing the effectiveness of its BCM advice and assistance activity	1-2-3-4-5
	The review process involves a full range of stakeholders consulted in developing the strategy (eg partners, elected members and other responders)	1-2-3-4-5
Comments		