



**CABINET OFFICE**

Emergency Planning Review

# The Future of Emergency Planning in England and Wales

A Discussion Document

August 2001

# CONTENTS

Executive Summary

1. THE CONSULTATION PROCESS
2. TERMS OF REFERENCE FOR THE REVIEW
3. AIM OF THE DISCUSSION DOCUMENT
4. INITIAL PROPOSALS
  - A Proposed Emergency Planning Bill
  - Funding through the Standard Spending Assessment (SSA)
5. MATTERS FOR FURTHER CONSIDERATION
  - Announcement of the New Policy
  - Guidance and Monitoring
  - Partnership and Community Leadership
  - National and Regional Relationships
  - Devolved Administrations
  - European Derived Legislation
  - Prevention, Response and Recovery

Annex 1 The Consultation Criteria

# **THE FUTURE OF EMERGENCY PLANNING IN ENGLAND AND WALES**

## **An Executive Summary**

Following the fuel crisis and severe flooding in the autumn and winter of 2000, the Deputy Prime Minister announced a review of emergency planning arrangements in England and Wales.

The Review so far, conducted initially by the Home Office and now by the Civil Contingencies Secretariat of the Cabinet Office (CCS), has involved consultations with a number of key stakeholders and the preparation of this discussion document. The document has been published as a catalyst for the extensive consultation with local authorities and all other interested parties, including a series of workshops to be held in different parts of the country in July and September. Respondents are encouraged to address the many questions identified within each section. Comments may be sent to the Civil Contingencies Secretariat of the Cabinet Office by letter or e-mail by 31 October 2001 (see below). All responses will then be analysed and a report with recommendations will then be presented to Ministers.

The first three sections of the discussion document outline the consultation process, the terms of reference for the review and the purpose of this document. Then Sections 4 and 5 identify, respectively, areas where the Government is confident of the way forward and issues where proposals for the future have still to be determined. In both sections, respondents are invited to make their comments.

The Government has concluded that the Civil Defence Act, 1948, no longer provides an adequate framework for the delivery of emergency planning in England and Wales. In Section 4, initial proposals are outlined for introducing, when parliamentary time allows, new emergency planning legislation. The new duty would cover a range of partner organisations at the planning stage, under the community leadership of the local authority. The Section also highlights proposed changes to funding arrangements that may logically accompany new legislation.

The proposals in Section 4 give rise to a number of subsequent issues, which require further consideration. These are identified in Section 5 and include:

- Announcement of the new policy, providing an opportunity to bring to the public attention any new practices and structures arising from legislative changes
- Guidance and Monitoring, where it is suggested that the production of guidance and the sharing of best practice is formalised to ensure a more consistent approach and that opportunities for the monitoring of performance are agreed and clarified
- Partnership and Community Leadership, recognising the changing focus and role of local authorities under the Government's modernising agenda,

the impact of recent legislation, and the potential change this may have on the delivery of emergency planning services, not just within local authorities but also partner agencies

- National and Regional Relationships, which, following recent events, may need redefining, and require further clarification of roles and responsibilities
- Devolved Administrations – there is an issue about whether the responsibility for the administration of emergency planning in Wales should be moved from the Cabinet Office to the National Assembly for Wales.
- European Derived Legislation, where some current requirements and procedures are inconsistent with other emergency planning arrangements, which may need harmonisation
- Prevention, Response and Recovery, which identifies a potential need to broaden the remit for emergency planning to include not just planning, preparation, maintenance and response, but also prevention and recovery aspects

Comments should be sent to:

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London SW1H 9AT

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## 1. THE CONSULTATION PROCESS

- 1.1 Since the Review of Emergency Planning was commenced by the Home Office in February 2001, responsibility for the function at central government level has been transferred to the Cabinet Office. This change demonstrates an increased commitment by the Government to pursue the objectives of the Review (see Section 2) and implement any changes deemed necessary, but it has caused a delay in issuing the discussion document and beginning the consultation.
- 1.2 The Cabinet Office aims to consult as broad an audience as possible throughout this review. There is a commitment to encourage all interested parties to comment on their ideas for the future delivery of emergency planning throughout England and Wales. This document and the consultation process are aimed primarily at local response stakeholders although comments from government departments and agencies will be welcome.
- 1.3 The discussion document represents the beginning of the process. Consultation will not be confined to the production of just this one document and respondents will be invited to share their views through a range of consultation activities.
- 1.4 This document invites your comments on the key themes of the review. Themes are not confined to a single issue, but aim to address some of the wider matters of emergency planning delivery. Your comments may be sent to the Civil Contingencies Secretariat of the Cabinet Office in either written or e-mailed form (see Executive Summary for addresses).
- 1.5 There will be an opportunity to debate the issues during a series of Workshops, which are planned throughout the country in July and September 2001.
- 1.6 Following these processes all responses will be collated and the resulting views will be presented to Ministers through the Review's Steering Group. A report will be made to the Central Local Partnership (CLP) group.
- 1.7 This Cabinet Office review is one of a number being undertaken by central government departments. Other reviews include:
  - Flood defence funding (Joint: Treasury/DEFRA <sup>1</sup>)
  - Terms and funding of the Bellwin Scheme (DTLR <sup>2</sup>)
  - The Environment Agency's finances and management (DEFRA)

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<sup>1</sup> Department of the Environment, Food and Rural Affairs (covers the previous MAFF)

<sup>2</sup> Department of Transport, Local Government and the Regions (previously DETR)

- Further Planning Policy Guidance on Flood Plain Development (DTLR/ DEFRA).

A Ministerial Sub Group of the CLP is responsible for ensuring effective co-ordination of these and any further reviews.

- 1.8 If changes in the legislative framework are recommended, further consultation will be necessary to take these changes forward.
- 1.9 This review is not about detailed discussion of the level of any grant (specific or block) which may be provided to support arrangements in the future.

## **2. TERMS OF REFERENCE FOR THE REVIEW**

2.1 The Terms of Reference for the Review are as follows:

To consult widely with stakeholders and other interested organisations in accordance with the Government's Code of Practice<sup>1</sup>, in order to:

- (a) identify strengths and weaknesses in the current arrangements for emergency planning
- (b) suggest ways in which the community preparedness for emergencies (including prevention, response and recovery) can better be secured
- (c) provide advice to Ministers taking into account the consultation.

## **3. AIM OF THE DISCUSSION DOCUMENT**

3.1 The aim of this document is to encourage involvement and participation in the different aspects of the consultation process which, if taken forward, will help improve emergency planning arrangements in England and Wales

3.2 Proposals should enable:

- (a) delivery of an emergency planning function responsive at a local level to the needs of all citizens and organisations
- (b) mobilisation of resources with maximum effectiveness
- (c) effective co-operation at a local level between the relevant organisations
- (d) sound co-ordination arrangements, where needed, at a regional level
- (e) effective support for and co-ordination of the function at a national level.

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<sup>1</sup> Cabinet Office, "Code of Practice on Written Consultation", November 2000. See also Annex 1.

## **4. INITIAL PROPOSALS**

- 4.1 Since this review process was begun, the Government has transferred the responsibility for emergency planning from the Home Office to the Cabinet Office. However, the main issues under consideration in the Review remain outstanding.
- 4.2 Following initial consultations, the Government has concluded that proposals should be put forward for changes in the way that emergency planning is supported and delivered in England and Wales. Section 4 outlines key elements of the way forward, although much detail remains to be added. In Section 5, issues are highlighted which require more consideration and debate.

### **A Proposed Emergency Planning Bill**

- 4.3 In the Government's view, the Civil Defence Act of 1948 no longer provides an adequate foundation for modern emergency planning, particularly for local authorities. Its provisions (including later Regulations) relate to the organisation and protection of the civil population at a local level in response to a hostile attack by a foreign power.<sup>1</sup> Assumptions about the nature of potential threats to this country have now changed dramatically. Also, since the mid-1980s, the day-to-day reality has been that emergency planning concerns itself with preparations for responding to a wide variety of peacetime hazards.
- 4.4 One strength of emergency planning in England and Wales, inherited from the Civil Defence era, is that the response arrangements of the emergency services and local authorities, and the plans on which they are based, are determined at a local level. A weakness, however, is that emergency planning at the local level has tended to be set apart from other local services because of its roots in the Civil Defence Act, and its support by direct grant. There is a growing realisation that the function, if it is to be more effective, should be brought fully within the mainstream of local government service delivery.
- 4.5 Peacetime scenarios themselves are changing and making new demands. Significant technological advances over the past 50 years and changes in the structure of business and industry generally have transformed working practices. Wholly new risks and vulnerabilities have emerged. Some of these are the subject of a separate Cabinet Office review of the critical national infrastructure. Changes in climate and weather patterns are adding to an awareness that preparation is needed for the unexpected. Increasingly, much good practice in emergency planning relates to new challenges.

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<sup>1</sup> Section 9.-(1)

- 4.6 Public perceptions of acceptable risk and expectations of what will be done in an emergency are also changing. The speed with which the media reaches the scene and communicates its impressions has intensified public scrutiny of disasters. Increasingly, expectations are for causes to be identified and addressed quickly - and that response arrangements will be thought out well in advance and effectively co-ordinated. Generous and effective involvement from the public authorities is expected as a matter of right.
- 4.7 A key requirement of the new era is that public and private bodies responding to emergencies do so smoothly and with a clear perception of each other's role. Currently, the legal requirements for emergency planning vary considerably between different undertakings, and the position of the local authority in a community leadership role is in its infancy. The need for effective partnership working across organisational boundaries is a major requirement for emergency planning in future.
- 4.8 In the Government's view, greater consistency is needed in the delivery of the emergency planning service across England and Wales. Without an appropriate statutory framework, the service has been developed at the initiative of individual local authorities and other partner organisations, and often according to the skills and inclinations of individual practitioners. There have been many improvements in emergency planning practice across England and Wales, but different approaches are being consolidated at all levels and there is a danger that a patchwork of inconsistent policies and programmes will become the norm.
- 4.9 The distribution of hazards varies significantly across the country. As a result, it is inevitable – and appropriate - that emergency planning targets and delivery are specific to each area, with local priorities set differently. What is unsatisfactory, however, is that some parts of the country address the same hazard with greater rigour than others. In some areas, local risk assessments as the basis for emergency planning remain undeveloped. Additionally, the range and detail of response plans to different types of disaster can vary greatly, just as the priority given to training and exercising, the quality of these activities, and the dedication with which response arrangements are kept up to date can lack consistency.
- 4.10 In summary, the Government has concluded that the present wartime legislation is out of date and should be replaced with a new statutory duty for emergency planning. It believes that delivery of emergency planning across England and Wales will be improved if greater consistency can be achieved. As a result, it is considering proposals for changes in legislation along the following lines.

4.11 The Government proposes to bring forward, when Parliamentary time allows, a Bill to include the following points:

- (a) New legislation to cover County Councils, Shire District Councils, Unitary authorities including Metropolitan Districts and London Boroughs and all purpose authorities
- (b) Local authorities to be expected to perform a community leadership role in developing emergency planning arrangements with partner agencies
- (c) The duty to share in partnership arrangements to fall on the appropriate bodies including local authorities, emergency services, health authorities, Environment Agency, privatised utilities, transport operators and government departments.

4.12 The purpose of the new legislation would be:

- (a) to provide local authorities with the responsibility
  - to undertake hazard assessments which identify the main hazards in their areas and
  - to prepare, or co-operate in the preparation of, emergency plans which address and cover those hazards
- (b) to require local authorities to take the initiative in bringing together partner agencies to prepare plans
- (c) to require partner agencies, as listed above, to co-operate in the preparation of plans
- (d) to ensure that all local authority chief executives and departments attach a proper priority to the preparation and maintenance of plans, to training staff and exercising those plans, and to responding effectively to disasters
- (e) to provide a statutory basis for the preparation of national guidance which will
  - help local authorities fulfil their responsibilities
  - support the development of performance standards
  - help achieve greater consistency in emergency planning practice across the country

4.13 The Government invites comments on the following matters:

- (a) Do consultees endorse in broad terms the Government's proposals as outlined above – in particular, the proposal for a new emergency planning duty to fall on a range of partner bodies, with the local authority required to exercise community leadership?
- (b) How would those who disagree with the proposals seek to justify continuation of the current legislative basis – or some other proposal?
- (c) Should shire districts be brought within the scope of the new legislation? If so, what wide area arrangements would be appropriate?

- (d) What model of community leadership should be adopted for local authorities in the legislation?
- (e) How should the duty fall on partner bodies?
- (f) Should issues of wartime and peacetime planning be contained within the same statute? Indeed, should any distinction be drawn?
- (g) Should the detail of the new system be contained in the primary legislation or determined by regulations issued from time to time by the relevant minister?
- (h) To what extent should a definition of emergency planning be included in legislation?

### **Funding through the Standard Spending Assessment (SSA)**

- 4.14 Since 1953, local authorities have received specific grant from the Home Office in order to carry out their Civil Defence duties.<sup>1</sup> In the last decade or so, there has been a clear reduction in the threat of war and a substantial shift of focus at a local level to preparations for response to peacetime disasters. At the same time, local authorities have demonstrated a willingness to undertake emergency planning. The Government has now concluded that justification for specific grant to support wartime planning no longer exists.
- 4.15 The Government proposes that emergency planning should be supported through the Standard Spending Assessment (SSA) alongside other locally-delivered services.
- 4.16 If this transfer of funding into the SSA is implemented, local authorities will be free to determine how much they allocate to the emergency planning service - subject to requirements placed on them by the new duty and to advice contained in guidance. There is also likely to be monitoring to ensure that appropriate service standards are achieved and maintained.
- 4.17 The Government anticipates that local conditions will encourage some authorities to provide more than the SSA allocation just as at present they make a contribution above the specific grant provided by central government.
- 4.18 In the sum provided in the SSA for emergency planning purposes, central government will recognise, among other things, the implications of the new duty on local authorities to exercise community leadership and the extension of the duty to cover shire districts.
- 4.19 It is recognised that some local authorities are seeking specific authorisation in new legislation to permit them to carry out and charge for agency or consultancy work for private companies and other bodies in emergency planning, thus enabling them to employ larger teams.

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<sup>1</sup> Civil Defence (Grant) Regulations, 1953, as amended.

- 4.20 The Government invites comments on the following matters:
- (a) Do consultees endorse the proposal to support emergency planning in future through the SSA?
  - (b) How would those who disagree with this proposal seek to justify continuation of specific funding?
  - (c) Should shire districts receive funding through the SSA for their role in emergency planning?
  - (d) Should funding be provided for emergency response and recovery, as well as for plan preparation, training and exercising?
  - (e) What considerations should determine the overall sum allocated by government in the SSA for emergency planning purposes?
  - (f) Should local authorities be permitted in new legislation to carry out – and raise a charge for - agency or consultancy work on emergency planning?

## 5. MATTERS FOR FURTHER CONSIDERATION

- 5.1 The transfer of responsibility for emergency planning from the Home Office to the Cabinet Office signals a new era in emergency planning which is likely to require more than changes to legislation and funding arrangements, important as these are. The Review has identified a number of issues for further consideration.

### **Announcement of the New Policy**

- 5.2 Civil Defence benefited from a statutory duty, a clear national policy and direction, significant infrastructure and resources, and adequate staffing levels. Since the shift of priorities to peacetime emergency planning, there has been no systematic determination of a new framework for the service.
- 5.3 The introduction of a new statutory duty offers an opportunity to bring the practice and structures of emergency planning to greater public attention. The aim might be to announce a new vision and strategic policy for emergency planning in England and Wales.
- 5.4 Increasingly (as noted above at paragraph 4.6), members of the public expect a proactive, speedy and caring response in emergencies, irrespective of legal obligations and potential costs. A national relaunch of the service may provide an opportunity to raise awareness generally of roles and responsibilities. In particular, it could highlight the new partnership role and promote a general principle that all members of the community have a responsibility to protect themselves and each other during an incident.
- 5.5. The Government invites comments on the following points:
- (a) What advantage or disadvantage might there be from seeking heightened public awareness of emergency planning arrangements?
  - (b) How can attention best be drawn to the roles and responsibilities of the citizen when faced with an emergency in co-operation with the relevant organisations and as one element in the new concept and legal framework of partnership?

### **Guidance and Monitoring**

- 5.6 One criticism of the current emergency planning system is a lack of detailed guidance to practitioners - particularly, but not exclusively, those in local government - setting out general principles for the service and offering good practice norms. Advice on emergency planning practice tends to be *ad hoc* and from a variety of sources.

- 5.7 Some partner organisations, in particular the emergency services, are issued with frequent guidance, sharing good practice, disseminating lessons learnt following a major incident, or examining specific policy issues. Similarly, most well-established functions delivered by local authorities benefit from a coherent set of practice guidelines distributed nationally and consistently updated.
- 5.8 As the delivery of emergency planning moves into the mainstream of local government work and as local authorities assume a community leadership role, the importance of achieving a greater consistency of approach, as well as performance, is apparent. Moreover, a change in the legislative base would seem to require general guidance being issued to all organisations falling within its scope. The purpose of this guidance would be to ensure consistency of service and a clarification of respective roles and responsibilities.
- 5.9 It remains uncertain who might be responsible for producing this guidance. In some areas, advice on general principles and identification of good practice is a Government function: in others, Government facilitates this process, by bringing together experienced practitioners and publishing their conclusions. The production of guidance may be seen as a matter for individual professional bodies and the Local Government Association. There may also be a role in this area for the Emergency Planning College, which has also transferred from the Home Office to Cabinet Office.
- 5.10 A related issue is how Government can ensure, or be assured, that the new guidelines are being followed. The Home Office had issued Performance Standards<sup>1</sup> which have transferred to the Cabinet Office and will be supported by the new legislation (see paragraph 4.12(e) above). Performance may be best assessed by management at a local level, supported by regular third party audit. Another option may be monitoring by a permanent Inspectorate.
- 5.11 The Government invites comments on the following matters:
- (a) In the light of increasing expectations placed on the service, would emergency planning benefit from the production of national guidance on good practice and other issues?
  - (b) If national guidance is required, should it cover hazard assessment, as well as other matters?
  - (c) Who should be responsible for producing this guidance?
  - (d) What role should the Emergency Planning College play?
  - (e) How should good practice be monitored?
  - (f) Is there a role for regular auditing, or inspection, of performance?
  - (g) If so, how should this be undertaken?

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<sup>1</sup> Home Office, "Standards for Civil Protection in England and Wales", 1999

## Partnership and Community Leadership

- 5.12 At present, all the organisations likely to be involved in response to an emergency have some responsibility for making emergency preparations. Often (like the Fire Service) they recognise this by making arrangements beyond the legal minimum. However, as noted above (see paragraph 4.7), there is inconsistency in the legal requirements placed on the different partner organisations and this can give rise to misunderstandings, including unrealistic expectations, of each other's roles, response arrangements and capabilities. A solution to this problem may be to include in the new legislation a duty of partnership on all key agencies in relation to emergency planning.
- 5.13 A further consideration is that the current local government modernising agenda is taking local authorities into a new era of community leadership. Some partner organisations would like to see local authorities taking an active lead in promoting Integrated Emergency Management. Issues like community safety, regeneration, public protection, continuity of service delivery and business recovery have encouraged expectations that the local authority will adopt a proactive role. This role may include the preparation of multi-agency plans, such as, for example, flooding plans, or town and city centre evacuation plans. It could also take the form of co-ordinating a multi-agency hazard and risk assessment for a given area.
- 5.14 The many forums, formal and informal, which bring together partner organisations to address common emergency planning issues, some identified in "Dealing with Disaster"<sup>1</sup>, are an essential component of the well-established culture of Integrated Emergency Management. What is lacking is a clear framework for the development of multi-agency emergency plans.
- 5.15 The Government has concluded that emergency preparedness will be more soundly based if some form of emergency planning duty falls on all organisations likely to be involved in emergency response. It also believes that consistency and coherence will be improved if local authorities lead the multi-agency emergency planning process.
- 5.16 Such developments will match closely the Integrated Emergency Management policy in response and recovery. The proposed changes will, of course, in no way affect the firm principle that, in most cases, response arrangements are led by the emergency services. However, recent experience of wide area emergencies, such as flooding, the fuel crisis and the millennium preparations, demonstrated that a partnership response will not always be led by the Police.

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<sup>1</sup> Home Office, "Dealing With Disaster", 3<sup>rd</sup> Edition, 1997

- 5.17 Recent legislation, such as the Crime and Disorder Act 1998, the Health Services Act 1999 and the Local Government Act 2000, has consolidated requirements for local authorities, the emergency services and other agencies to work in partnership, in order to ensure consistent and integrated services and to meet best value criteria. These legal frameworks, and the initiatives associated with them, may provide a model for new emergency planning legislation.
- 5.18 The Government invites comments on the following matters:
- (a) To what extent does existing legislation requiring the emergency services, local authorities, privatised utilities and other bodies to prepare emergency plans already ensure that they *do* co-operate in multi-agency emergency planning arrangements?
  - (b) Can a duty to share in partnership arrangements for emergency planning help ensure a consistency of response from the relevant bodies?
  - (c) If the new legislation requires them to take on a community leadership role in emergency planning, what are the practical implications for local authorities?
  - (d) If local authorities adopt a community leadership role in emergency planning, will the lead agency roles and responsibilities in prevention, response and recovery require further clarification?

### **National and Regional Relationships**

- 5.19 A new national framework for emergency planning requires more than a redefinition of the roles of local authorities and their partner agencies in local response arrangements.
- 5.20 Organisations responsible at a local level for dealing with emergencies require information and support from national and regional bodies as appropriate. An effective national system needs the roles of the different organisations in a response to be predetermined and clear. In a regional or national emergency, partner agencies at a local level need to know that partnership arrangements will work vertically as well as horizontally, and that regional and national bodies have preplanned, well-rehearsed arrangements.
- 5.21 These issues are being addressed by the review of central government contingency arrangements and the review of the Critical National Infrastructure which were begun by the Home Office and are now being undertaken in the Cabinet Office, and are not directly within the remit of this review.
- 5.22 At the regional level, the Government Offices of the Regions have been called upon to play a role in recent national emergencies. This role, if it is to be formalised, needs to be clarified and reflected in pre-planned arrangements.

- 5.23 In terms of wide-area or particularly difficult disasters, it is sometimes suggested that local area response arrangements should be supported by a national presence, which might be specialist expertise or experience, or provision of physical resources. There is a precedent in, for example, the control arrangements for dealing with a potential major accident at a British nuclear power station.
- 5.24 The various changes proposed in this review also offer an opportunity to consider what the role of the Cabinet Office should be as national sponsor of the emergency planning service, the important issue being the development of an effective national, regional and local framework.
- 5.25 The Government invites comments on the following matters:
- (a) Are central government's response arrangements clear to its partner agencies?
  - (b) In what ways can more clearly defined lines of communication be developed between government departments and partner agencies and between levels of government?
  - (c) How can a greater clarity of roles and responsibilities at a national, regional and local level be achieved?
  - (d) To what extent should central government and regional bodies, including regional government, be consolidating generic and specific contingency plans according to the same principles and standards as those at local level?
  - (e) If such a common national framework and standard for emergency planning is desirable, how can it be achieved?
  - (f) To what extent is a national or regional capability needed to provide expertise and resources to local areas in emergencies?
  - (g) Do the changing priorities and delivery of emergency planning, associated, among other things, with the community leadership role for local authorities, provide an opportunity for revising or strengthening the sponsorship role of the Cabinet Office?
  - (h) Does the opportunity arise for the creation of a new national emergency planning agency to promote the service which is separate from central government departments?

### **Devolved Administrations**

- 5.26 The devolved administrations of Scotland and Northern Ireland have their own legislation and framework for emergency planning. Currently, the Cabinet Office has taken over from the Home Office, administration of the Civil Defence Act for England and Wales.
- 5.27 The emergency planning service across Scotland is administered by the Scottish Executive and, before 1999, by the Scottish Office. Since April 2001, financial support for local authorities in Scotland has been through the Scottish equivalent of the standard spending assessment, the Grant Aided Expenditure (GAE).

- 5.28 Given this, and the fact that the National Assembly for Wales in recent incidents has taken a lead role in emergency planning, many believe a similar arrangement should be introduced in Wales.
- 5.29 Change would enable greater consistency to be achieved in the way in which the emergency planning service is delivered across the devolved administrations.
- 5.30 The Government invites comments on the following matter:
- (a) Should responsibility for the delivery of emergency planning throughout Wales transfer to the National Assembly for Wales?

### **European Derived Legislation**

- 5.31 Emergency planning supported by the Civil Defence Act is the responsibility of the Cabinet Office. But there are other emergency planning regulations affecting local authorities and partner agencies administered by the Health and Safety Executive, sometimes in conjunction with the Environment Agency (EA) under the Health and Safety at Work Act<sup>1</sup> or the European Communities Act. Since the 1980s, these regulations have been introduced in response to European Directives and cover the areas of major industrial hazards (CIMAH/ COMAH) and response and information following major radiation emergencies (PIRER/ REPIR).<sup>2</sup> In addition, regulations on oil and gas pipeline safety (PSR) draw in part from CIMAH (and anticipate a further European directive).<sup>3</sup>
- 5.32 Generally, under these regulations, the local authority has the leadership role in association with partner organisations in co-ordinating the preparation of off-site emergency plans. The operator (or rail carrier) undertakes a risk assessment, which must be submitted to the regulator. Well-established arrangements exist between these bodies, including the emergency services. Funding under the Civil Defence Act is not available to support emergency planning work carried out under these regulations. Agencies may recharge reasonable costs to the operator of the facility (or the rail carrier transporting radioactive material).
- 5.33 A further distinctive feature of these regulations is that some hazards (industrial chemicals and radiation) have specific areas set out that emergency plans need to address, through the inclusion of Schedules. Guidance from the regulator supports the regulations, but is not prescriptive. Pipeline legislation also identifies hazards which require emergency plans.

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<sup>1</sup> The Health and Safety at Work etc Act, 1974

<sup>2</sup> Control of Major Accident Hazards (COMAH) Regulations, 1999; Public Information on Radiation Emergencies Regulations (PIRER), 1992.

<sup>3</sup> The Pipelines Safety Regulations (PSR) 1996

- 5.34 It is the experience in those areas with a high concentration of these specific hazards that there is likely to be a more rigorous risk assessment generally, because of the good practice developed under statutory regulation. For other types of hazard, such as flooding or risks associated with city and town centres, airports and railways, the production of specific multi-agency emergency plans is non-statutory and optional: their content and quality varies across the country, or local authorities may choose to rely on their generic major disaster plans.
- 5.35. Another area of inconsistency should be noted. Non-metropolitan unitary authorities have responsibility for the off site plans required under the regulations, whereas metropolitan districts and London boroughs (the primary emergency planning bodies and emergency responders in their areas) do not. The issue is complicated by the role in metropolitan county areas, including London, of the Fire and Civil Defence Authorities (FCDAs and the LFEPA in London) which have the duty to carry out the off site plans required under the regulations. Some metropolitan districts favour the FCDAs retaining a specialist role in carrying out this task; others claim it is illogical for a county-level joint board to retain statutory responsibility for one small area of the emergency planning task.
- 5.36 The Government invites comments on the following matters:
- (a) Should local authorities be permitted, and indeed encouraged to use government funding under the SSA to support work on the off site plans required under the Regulations?
  - (b) How can partner relationships established at local level under these Regulations, be harmonised with the new community partnership role in emergency planning?
  - (c) Under the proposed new emergency planning legislation, how can a greater consistency be achieved between the requirements and guidance associated with European derived legislation and what is expected of local authorities and partner organisations?
  - (d) Should the anomaly be addressed that the duty to prepare the off site plans required under the Regulations falls on non-metropolitan unitary authorities, but not directly on metropolitan districts and London boroughs?

### **Prevention, Response and Recovery**

- 5.37 Emergency planning is concerned with prevention, mitigation and recovery. Prevention includes hazard assessment, while mitigation covers planning, preparation (training and exercising), maintenance (keeping plans and call-out lists up to date) and response.
- 5.38 Local, regional and national hazard profiles are changing – and will change more in the future, as environmental and technological developments bring new risks. As noted in paragraphs 4.8 and 5.34

above, there are inevitable differences between areas in their hazard profiles, but currently, the rigour with which hazards are mapped varies greatly. Broadening legislation to cover prevention may encourage greater consistency in hazard assessments and the plans derived from them.

- 5.39 Increased public expectations and media interest are creating a shift of attention from planning and response to prevention in some areas. Where known local hazards exist, such as the risk of flooding, it is important that prevention measures are identified beforehand. For this work to be successful, agencies are finding it increasingly necessary to work in partnership and to involve the local community in the prevention, as well as the planning, phase. Legislation which encompasses preventative measures may help to raise awareness amongst the public as to their role and responsibilities in prevention.
- 5.40 For years, local authorities have noted that response and recovery arrangements are not supported by the funding for emergency planning, and that they have had to rely on compensation for disasters from the DETR (now DTLR) under the Bellwin Scheme (which is the subject of a separate Review)<sup>1</sup>. But local authorities are, increasingly, having to pay staff called out in emergencies beyond their normal working hours rather than rely on those staff acting voluntarily.
- 5.41 The new emphasis on community partnership and multi-agency response may also require resources in terms of purpose-built or specially adapted and maintained facilities. In the past, government funding was available for emergency control centres and communications. Increasingly, the huge undertaking of bringing together all the agencies who wish to participate in the strategic and tactical response to disasters is highlighting limitations in existing facilities and a need to provide new ones.
- 5.42 Given the importance increasingly attached to the recovery phase of an incident and the management, frequently by local authorities, of the multi-agency work involved, it may be appropriate for this too to be covered in new legislation.
- 5.43 The Government invites comments on the following matters:
- (a) Should emergency planning be defined in the new legislation to include responsibility for specific aspects of prevention, response and recovery?
  - (b) If aspects of prevention, and in particular, hazard assessment, are brought within the proposed new legislation, how should the limits of this duty be set?
  - (c) If elements of response and recovery are covered by the new duty, what should be the scope of this requirement?

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<sup>1</sup> The Bellwin Scheme, under section 155 of the Local Government and Housing Act, 1989.

## **THE CONSULTATION CRITERIA**

From “Code of Practice on Written Consultation”, Cabinet Office, November 2000

1. Timing of consultation should be built into the planning process for a policy (including legislation) or service from the start, so that it has the best prospect of improving the proposals concerned, and so that sufficient time is left for it at each stage.
2. It should be clear who is being consulted, about what questions, in what timescale and for what purpose.
3. A consultation document should be as simple and concise as possible. It should include a summary, in two pages at most, of the main questions it seeks views on. It should make it as easy as possible for readers to respond, make contact or complain.
4. Documents should be made widely available, with the fullest use of electronic means (thought not to the exclusion of others), and effectively drawn to the attention of all interested groups and individuals.
5. Sufficient time should be allowed for considered responses from all groups with an interest. Twelve weeks should be the standard minimum period for consultation.
6. Responses should be carefully and open-mindedly analysed, and the results made widely available, with an account of the views expressed, and reasons for decisions finally taken.
7. Departments should monitor and evaluate consultations, designating a consultation co-ordinator who will ensure the lessons are disseminated.