



CabinetOffice

Civil Contingencies Act 2004 – The Fit With Other Legislation

**Interim guidance to complement Emergency
Preparedness**

Civil Contingencies Act Enhancement Programme
January 2010

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Civil Contingencies Act 2004 – The Fit With Other Legislation

Consultation Paper

Introduction

1. The Cabinet Office is conducting a review of Part 1 of the *Civil Contingencies Act (2004)* (“CCA”), the *Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005* (“the Regulations”) and the statutory guidance, *Emergency Preparedness*. We are delivering this review through the CCA Enhancement Programme. Phase 1 of the programme includes a specific project: *Better Fit with Other Legislation*.
2. Through this project, we aim to produce guidance to ensure effective alignment and greater consistency between the planning and response arrangements established by the Civil Contingencies Act 2004 and other civil protection legislation.
3. This paper describes how the guidance was developed and provides details of how to respond to the consultation.

Consultation Details

Purpose

4. The purpose of this consultation is to give all interested parties the opportunity to comment on the draft interim guidance *Civil Contingencies Act 2004 - the Fit with Other Legislation* which is intended to complement *Emergency Preparedness*. We anticipate that once Phase 3 of the Civil Contingencies Act Enhancement Programme is completed, there will be a full review of *Emergency Preparedness*, at which point we will integrate this guidance within existing chapters.
5. Consultation responses will be used to finalise this guidance before it is published.

Timetable

6. The consultation will run for eight weeks from 4 January 2010. We will consider all responses received by **26 February 2010**.

How to respond

7. A separate response form accompanies this paper ([Annex A](#)). Please complete this form when responding to the consultation and send to: **ccact@cabinet-office.x.gsi.gov.uk** marking your response with 'Fit With Other Legislation' in the subject field of your email.
8. Should you require this document or the consultation response template in a different format, please advise us of your specific requirements:
 - email: ccact@cabinet-office.x.gsi.gov.uk
 - telephone: 0207 276 5017

Confidentiality

9. We may pass the information you send to us to colleagues within Cabinet Office. We may also publish your comments in a summary of responses to this consultation. We will assume you are content for us to do this and, when replying by email, your consent overrides any confidentiality disclaimer that is generated by your organisation's IT system unless you specifically include a request to the contrary in the main text of your response to us.

Background

Civil Contingencies Act 2004

10. Part 1 of the *Civil Contingencies Act (2004)* (CCA) establishes a statutory framework of roles and responsibilities for organisations involved in civil protection at the local level. It creates two categories of responders and places a different set of duties on each. In England, Category 1 responders include local authorities, emergency services, health bodies and the Environment Agency. Category 2 responders include utility companies, transport operators and the Health and Safety Executive.

11. The main civil protection duties fall on Category 1 responders and these are:

- risk assessment;
- business continuity management;
- emergency planning; and
- maintaining public awareness and arrangements to warn, inform and advise the public.

12. A fifth duty applies to local authorities alone: provision of business continuity advice and assistance to the commercial sector and voluntary organisations.

13. Two further duties, co-operation and information sharing, apply to both Category 1 and Category 2 responders, and these facilitate local level partnership working between responders. The *Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005* establish the Local Resilience Forum, the principal mechanism for multi-agency resilience work.

14. The majority of Part 1 duties came into force in November 2005, with the exception of the local authority duty to promote business continuity which came into force in May 2006.

Further details on the CCA and associated regulations and guidance can be found at:

www.cabinetoffice.gov.uk/ukresilience/preparedness/ccact.aspx

Civil Contingencies Act Enhancement Programme

15. In March 2008, the Government announced a review of the CCA in the *National Security Strategy*. This was consistent with Government's earlier statement of intent made during the development of the Civil Contingencies Bill in 2003-04. The timing of the review, three years after implementation, is consistent with wider Government policy on the periodic review of legislation to ensure statutory arrangements are fit for purpose.

16. Evidence from independent reviews and findings from the 2008 National Capabilities Survey indicate that implementation of the CCA has been largely successful and that it has made a significant contribution to enhancing emergency preparedness in the UK. However, during the initial stages of this work, evidence emerged, including findings from reviews of recent emergencies, which indicated that there are a broad range of CCA areas that would merit a more thorough review. The CCA Enhancement Programme was therefore established to deliver a number of policy projects through four phases to address the following objectives:

- i. assess whether there are aspects of the CCA where original intentions are not being met and develop solutions where these are needed;
- ii. consider whether the CCA needs to be modified to reflect relevant experience and changes in relevant structures which have emerged since the CCA came into force;
- iii. consider how to reflect best practice in the CCA regime and supporting guidance to help raise the standard of UK resilience activity;
- iv. evaluate whether the scope of the CCA should be broadened beyond emergency preparedness to cover the remaining aspects of integrated emergency management not already covered in Part 1; and
- v. ensure that the CCA framework is effectively aligned and integrated with relevant legislation and policy initiatives.

17. The first phase of the programme focuses on improving the standard and consistency of implementation of the existing CCA framework. The subject of this consultation, *Better Fit With Other Legislation*, forms part of phase one of the programme and contributes to meeting objectives i, ii, iii and v.

18. Phase two of the programme will consider how the CCA might be improved through more fundamental change, and will explore recommendations for improvement that, if implemented, would require amendments to either the supporting regulations or the primary CCA legislation.

19. Further information on the programme can be found at:

<http://www.cabinetoffice.gov.uk/ukresilience/preparedness/ccact.aspx>

The Fit With Other Legislation Project

20. This project aimed to ensure consistency across planning and response arrangements established by the CCA and other legislation, including Control of Major Accidents Regulations (COMAH), Radiation (Emergency Preparedness and Public Information) Regulations (REPPIR), and Pipelines Safety Regulations (PSR). It also sought to address a number of related recommendations arising from the Buncefield investigation and Sir Michael Pitt's review into the floods of 2007.
21. The rationale for undertaking this project was that:
- evidence suggests that local planning and response arrangements under different regimes are not always effectively integrated;
 - different standards apply to readiness and response;
 - some hazard specific regimes are not integrated well into the work of Local Resilience Forums (LRFs);
 - Warning and Informing arrangements for some regimes differ from the CCA requirements; and
 - inconsistency can cause confusion for the public and responders and increase the risk of poor planning and response.
22. At the beginning of 2009, stakeholders from across industry (Category 1 and Category 2 responders and lead government departments) were invited to join a task and finish group with the remit to identify common concerns on the interface between the CCA and other civil protection legislation. In addition, bilateral discussions took place with a range of stakeholders.
23. During the project, we did not identify a need for changes to legislation. Instead, we identified a need to build on existing guidance.

Development of the guidance

24. This guidance document has been prepared following discussions with practitioners from lead government departments, Category 1 and 2 responders and industry representatives. It aims to ensure that emergency plans produced under different legislation, or arising out of major incident reports, embrace the intent of the duties of the CCA without increasing the burdens on individual groups who are outside the Category 1 and Category 2 Responder status.
25. This guidance was developed in response to interfacing issues identified in recommendations in the [Major Incident Investigation Board Report](#) into the Buncefield Oil Depot explosion and fire, and [Sir Michael Pitt's Review of the Summer 2007 Floods](#). The recommendations arising out of the review and report, whilst focussing on a number of individual areas of concern, clearly had implications for the overall interface between the CCA and its accompanying guidance documents with the COMAH regulations and subsequent emergency plans prepared under these two regulatory regimes. In addition there are also recommendations in the Pitt Review on key issues that emerged during, and after, the major flooding emergency. In summary, both reports recommended that improvements be made to risk assessment, emergency plans, warning and informing, the operation of LRFs, and individual agency business continuity arrangements.
26. The main focus of this guidance document is therefore how CCA duties interface with the site specific legislation concerned with industrial emergency planning and safety at sports grounds and events. Particular focus is given to those CCA duties relating to Warning and Informing the Public, extendibility of plans, and Command and Control.
27. We have also included a section on 'generic considerations' which is intended to remind emergency planners of the need to consider the Human Rights Act 1998, Corporate Manslaughter and Corporate Homicide Act 2007, Health and Safety at Work Act 1974 and the Working Time Regulations 1998 in their work. This was developed in response to concerns raised by Category 1 and 2 responders about the need to ensure compliance with such legislation when managing major incidents.

Consultation, next steps and delivery

28. The consultation questions are detailed in the response form which is attached as a separate document ([Annex A](#)). The questions refer to the draft revised guidance ([Annex B](#)).
29. Responses to this consultation will inform the final version of the interim guidance which we anticipate publishing in Spring 2010.

Annex A: Consultation Response Form

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Annex B: Civil Contingencies Act 2004 – The Fit With Other Legislation

Interim guidance to complement Emergency Preparedness

Introduction

1. This guidance has been developed to complement [*Emergency Preparedness*](#), the statutory guidance which supports the Civil Contingencies Act 2004, and will be incorporated into an updated version in due course.
2. As responders fulfil their duties under the *Civil Contingencies Act 2004* (CCA) and accompanying regulations, *The Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005* (the “Regulations”), it is important that they consider how this interfaces with their duties under other civil protection legislation. As outlined in the statutory guidance issued under the CCA, responders may use the Act regime to support or supplement these separate regimes where they consider this appropriate (*Emergency Preparedness*, 1.37 – 1.38). However, the CCA does not supersede pre-existing sector-specific civil protection legislation which was brought in before 2004 to deal with specific hazards, some as a result of European Directives.
3. This guidance considers how key duties under the CCA link with those contained in other site specific legislation concerned with industrial emergency planning legislation and safety at sports grounds and events. It also aims to raise awareness of the following key considerations when aligning activity under different legislative regimes:
 - Extendibility of Plans;
 - Warning and Informing the Public; and
 - Command and Control (i.e. co-ordination and communication).
4. A separate section, ‘Generic Considerations’ is intended to remind emergency planners of the need to consider the Human Rights Act 1998, Corporate Manslaughter and Corporate Homicide Act 2007, and the Working Time Regulations 1998 in their work.

The Civil Contingencies Act 2004 and other site specific legislation

5. This section of the guidance deals with the following legislation regarding industrial emergency planning and safety at sports grounds and events:
- [Control of Major Accident Hazard Regulations 1999](#) (COMAH) (as amended 2005 & 2008)
 - [Radiation Emergency Preparedness and Public Information Regulations 2001](#) (REPPIR)
 - [Nuclear Installations Act 1965](#)
 - [Pipeline Safety Regulations 1996](#) (PSR)
 - [The Energy Act \(Carbon Capture and Storage\) 2008](#)
 - [Safety of Sports Grounds Act 1975](#)
 - [Fire Safety and Safety of Places of Sport Act 1987](#)
 - [Health and Safety at Work Act, 1974](#)

Duties under the Civil Contingencies Act 2004 and the fit with other site specific legislation

Risk Assessment

Requirements under the CCA:

6. Risk assessment is the first step in the emergency planning and business continuity planning processes. The CCA and associated Regulations place duties on all Category 1 responders listed in the schedule to the Act to:
- assess the risk of an emergency within, or affecting, a geographical area for which each Category 1 responder is responsible¹;
 - co-operate with each other and with Category 2 responders through the Local Resilience Forum (LRF) in maintaining a Community Risk Register ([CRR](#))²;
 - update the CRR “from time to time”³ or “as often as necessary”⁴; and
 - publish their risk assessment⁵.

¹ CCA s. 2 (1) (a)-(b), Regulation 13

² CCA Regulation 15

³ CCA s. 2 (1) (a)-(b)

⁴ Paragraph 4.8 of *Emergency Preparedness*

⁵ CCA s. 2 (1) (f)

The Regional Resilience Forum (RRF) also maintains a risk register. Chapter 4 of [Emergency Preparedness](#) provides further information about the risk assessment duty.

Requirements under other legislation

7. Under COMAH⁶, PSR⁷ and REPPiR⁸, site operators are required to undertake risk assessments when proposing new developments or changes to existing arrangements. The appropriate regulatory authority and the site operator are required to ensure that any changes to on-site risk assessments that impact on-off site emergency planning arrangements, are notified to the appropriate Category 1 agencies. In addition, Event Management and Sports Ground Management are also required to undertake risk assessments and to consult the relevant authorities⁹.

Aligning risk assessment activity:

8. When preparing and updating risk assessments, all responders need to consider the potential for major incidents, to occur at COMAH, REPPiR and PSR sites, as well as at sports grounds and event sites. Risk assessments should take into account the potential impact on the wider community. This can be achieved by considering site safety reports and site specific risk and impact assessments produced under other regimes as part of the community risk register assessment process for the LRF area. Risks should be recorded in the Community Risk Register ([CRR](#)), alongside the control measures needed.
9. Risk assessments should respond quickly to changes in the risk environment and, in line with the regulatory requirements under CCA, and those regulations mentioned in paragraph 7, should be regularly reviewed. The recommendations in the Buncefield report and the Pitt Review illustrate the importance of regularly reviewing risk assessments for COMAH sites and areas that frequently flood. Climate change is now a major concern, given the predicted increase in the range of future extremes of weather (as reflected in the Pitt Review recommendation 1 and the Government's response).
10. In addition to looking at the requirements under the legislation, you may find it helpful to refer to the following when preparing risk assessments:

⁶ Regulation 7 Safety Report

⁷ Regulation 23 Risk Assessment

⁸ Regulation 5 Risk Assessment

⁹ See Guide to Safety at Sports Grounds, 3.3e and The Event Safety Guide, paragraph 41

- Chapter 4 of the statutory guidance, [Emergency Preparedness](#);
- [Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders](#) which provides a further checklist of mandatory requirements for individual Category 1 and 2 responders;
- the [National Risk Register](#) (NRR);
- [Local Risk Assessment Guidance \(LRAG\)](#);
- Government Threat statements;
- [Event Safety Guide](#);
- [Guide to Safety at Sports Grounds](#);
- [The Government and the Competent Authority Response to Buncefield Incident](#);
- [Sir Michael Pitt's Review of the Summer 2007 Floods](#); and
- [UK Resilience Website](#).

Emergency Planning

Requirements under the CCA:

11. The chief requirement of the CCA in regard to emergency planning is for Category 1 responders listed in the schedule to the Act to maintain plans for preventing emergencies; reducing, controlling or mitigating the effects of emergencies; and taking other action in the event of emergencies¹⁰. The Regulations require an emergency plan to include provision for carrying out exercises and training staff or other people to ensure the plan is effective¹¹. The plan should also contain a statement about the nature of the training and exercising to be provided and its frequency¹². Chapter 5 of [Emergency Preparedness](#) provides further information about the emergency planning duty.

Requirements under other legislation:

12. There is a requirement under COMAH¹³, REPPiR¹⁴, PSR¹⁵, the Safety of Sports Grounds Act, 1975, and the Event Safety Guide¹⁶ (which brings together information to satisfy the requirements of the Health and Safety at Work Act 1974) to produce on-site emergency

¹⁰ CCA s. 2 (1) (d)

¹¹ CCA Regulation 25

¹² *Emergency Preparedness*, paragraph 5.41

¹³ Regulation 9 On Site Emergency Plan, Regulation 10 Off Site Emergency Plan, Regulation 11 Testing.

¹⁴ Regulation 9 Emergency Off Site Plan, Regulation 10 Testing Emergency Plans

¹⁵ Regulation 25 Emergency Plans

¹⁶ Chapter 1, Planning and Management

plans and procedures. Each legislative regime has its own testing and exercising requirements.

Aligning emergency planning activity:

13. This section includes consideration of both the extendibility of plans and Command and Control.

Extendibility of plans:

14. Emergency response and recovery plans should interface with the requirements of each regulatory regime; site specific plans developed under industrial emergency planning legislation, under the guidance for Safety at Sports Grounds and Event Safety Planning guidance, should link with multi-agency emergency plans required under the CCA. This is because a scenario or incident may develop beyond the pre-designated areas or site (e.g. Public Information Zones (PIZs) in the COMAH regulations, Detailed Emergency Planning Zones (DEPZs in REPPiR), sports stadia or event sites). Off-site emergency plans prepared under this other legislation and guidance should ensure that the whole community and their needs are considered, and not just those that are identified in the pre-designated areas. Equally, multi-agency emergency plans prepared under the CCA should be flexible enough to cope with the consequences of emergencies at pre-designated areas or sites which go beyond that required in other legislation.
15. The Department of Energy and Climate Change has produced a guidance document, [Nuclear Emergency Planning Liaison Group: Consolidated guidance](#), which includes a framework for extending nuclear plans. This should be adopted when preparing extended plans for COMAH sites and used in emergency plans prepared under the PSR. Such emergency plans should address the:
 - responsibilities and functions of the organisations which would respond to an emergency;
 - arrangements for the provision or receipt of aid from neighbouring emergency services and local authorities (for further guidance, see: [Mutual Aid – A Short Guide for Local Authorities](#));
 - arrangements for communication between organisations involved in the response, including a register of all communications facilities and equipment;
 - Warning and Informing the Public;
 - arrangements for media handling;
 - community information – population, transport availability, hospitals, schools;

- Reception Centres; and
 - recovery plans which should dovetail into off-site plans.
16. By considering and including this framework in off-site emergency planning, the COMAH emergency planning arrangements can transpose into the wider Major Incident Plans of responding agencies as the scenario or incident unfolds. This framework may also usefully complement the *Guide to Safety at Sports Grounds* and the *Event Safety Guide*.
17. Under the COMAH regulations, Local Authorities can make a charge on a company for the preparation of off-site plans. It is not possible to make an additional charge to site operators for additional work to extend the plan beyond the requirements of the COMAH regulations.
18. Many local authorities have established multi-agency event safety planning groups which prepare advice and consider emergency preparedness arrangements for proposed major events. Similarly as part of the requirements of the Safety of Sports Grounds Act 1975 (SSGA), many stadia have multi-agency stadium or ground safety advisory groups. The primary purpose of the sports ground safety advisory group is to provide specialist advice to the local authority so that it may effectively discharge its functions under the SSGA. In practice, it also provides a valuable forum within which the local authority and other agencies can develop a corporate approach, while each exercising their own responsibilities. Appointing local authority Emergency Planning Officers to these safety planning groups will help to ensure the interface between site safety plans and multi-agency emergency plans developed under the CCA.
19. Extended plans will, of course, require testing to check the interface between on-site and off-site plans, as well as with multi-agency plans prepared under the CCA. This may be achieved as an additional component of the exercising and testing regime of the appropriate regulation or guidance. Clearly there will be efficiencies by testing and exercising on-site and off-site components of emergency plans alongside extended emergency plans which have been produced as part of this guidance.
20. In addition, cross boundary emergency plans should reflect the interface between any different neighbouring LRF (Strategic Co-ordinating Group) command and control structures. This will ensure a more resilient response to cross boundary incidents including a greater understanding to joint response and recovery plans. Such emergency plans should also link with the regional and national emergency plans.

Command and Control

21. Whilst command and control structures should operate within the framework outlined in *Emergency Response and Recovery*, the interface between CCA and off-site emergency plans should reflect local operational procedures and culture. This means that it is vital in local arrangements for there to be ONE agreed Command and Control Structure for responding to emergencies which all Category 1 and 2 responders, industry and voluntary agencies understand, and agree. This agreed command and control structure should be consistently stated in all off-site emergency plans prepared under these different regimes. There is further advice and information available on command and control contained in Chapter 4 of the *Emergency Response and Recovery* guidance.
22. You may find it helpful to refer to the following when undertaking emergency planning:
- Chapter 6 of the statutory guidance, [Emergency Preparedness](#);
 - [Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders](#) which provides a further checklist of mandatory requirements for individual Category 1 and 2 responders;
 - [Emergency Response and Recovery Guidance](#);
 - [Nuclear Emergency Planning Liaison Group: Consolidated guidance](#);
 - [Mutual Aid – A Short Guide for Local Authorities](#);
 - [Event Safety Guide](#);
 - [Guide to Safety at Sports Grounds](#); and
 - [UK Resilience Website](#).

Business Continuity (including promotion of Business Continuity)

Requirements under the CCA:

23. The CCA requires Category 1 responders listed in the schedule to the Act to maintain plans to ensure that they can continue to exercise their functions in the event of an emergency, so far as is reasonably practicable¹⁷. There is a further duty on local authorities to provide advice and assistance to those undertaking commercial activities and to voluntary organisations in relation to business continuity management in the event of an emergency¹⁸. Chapters 6 (Business Continuity Management) and 8 (Advice and assistance to business

¹⁷ CCA s. 2 (1) (c)

and voluntary organisations) of [Emergency Preparedness](#) provide further information about these duties.

Requirements under other legislation:

24. It is considered good practice for site operators, event and ground safety operators to have business continuity plans in place. In addition, the Newton report (Buncefield Fire) and Sir Michael Pitt's review of the 2007 Summer Floods strongly recommends this approach.

Aligning Business Continuity Activity:

25. It is important that appropriate Category 1 responders understand the potential impact of an incident on business continuity. Local Authorities should seek to promote the benefits of BCM to site operators. The production of such plans will ensure that each agency and member of the business community, i.e. site operators, involved in contingency planning arrangements are able to maintain a level of response to incidents at all times.

26. When considering Business Continuity Management, you may find it helpful to refer to:

- Chapters 6 and 8 of the statutory guidance, [Emergency Preparedness](#);
- [Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders](#) which provides a further checklist of mandatory requirements for individual Category 1 and 2 responders;
- the [UK Resilience Website](#); and
- the [Business Link Website](#).

Co-operation and Information Sharing

Requirements under the CCA:

27. The CCA and associated Regulations place a duty on all Category 1 and 2 responders listed in the schedule to the Act to co-operate and share information within their LRF area¹⁹. Chapters 2 (Co-operation) and 3 (Information Sharing) of [Emergency Preparedness](#) provide further information about these duties²⁰.

¹⁸ CCA s. 4

¹⁹ CCA s. 2 (5) (h)-(i); parts 2 and 8 of the Regulations.

²⁰ A revised draft to Chapter 2 (Co-operation) of Emergency Preparedness has been prepared for consultation (closing date: 19 February 2010) and is available at: <http://www.cabinetoffice.gov.uk/ukresilience/preparedness/ccact.aspx>

Requirements under other legislation:

28. In COMAH, REPPiR and PSR there is a requirement to share information between site operators and Category 1 responders in order to fulfil the requirements of the duty for risk assessment, warning and informing the public and the preparation of on-site and off-site emergency plans²¹.

Aligning co-operation and information sharing activity:

29. Co-operation and information sharing between site operators and Category 1 and Category 2 responders will ensure that emergency plans prepared under different regulations are 'fit for purpose'.
30. When considering these duties you may find it helpful to refer to:
- o Chapters 2 and 3 of the statutory guidance, [Emergency Preparedness](#);
 - o [Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders](#) which provides a further checklist of mandatory requirements for individual Category 1 and 2 responders; and
 - o [Data Protection and Sharing – Guidance for Emergency Planners and Responders](#).
 - o *Security Vetting and Protective Markings: A guide for Emergency responders* (available on a restricted basis from regional resilience teams in Government Offices).

Communicating with the Public

Requirements under the CCA:

31. Under the CCA, Category 1 responders listed in the schedule to the Act are required to:
- o arrange for publication of all or part of the risk assessments and plans they have made²²;
 - and
 - o maintain arrangements to warn the public and provide advice and information to the public if an emergency is likely to occur or has occurred²³.
32. Within this requirement, the societal risk (i.e. the risk to the whole community) should be considered as well as the individual risk.

²¹ CCA s2 (5) (h) – (i); parts 2 and 8 of the Regulations.

²² CCA s2 (1) (f)

²³ CCA s2 (1) (g)

Requirements under other legislation:

33. Under COMAH²⁴, there is a requirement for site operators to provide information to people living in the area (Public Information Zone) about their operation and any potential incidents that may arise. Under REPPiR, there are similar requirements for site operators to ensure the public are properly informed and prepared in the unlikely event of an emergency occurring²⁵, as well as a duty on local authorities to ensure that those members of the public actually affected by a radiation emergency are informed promptly of the facts and the measures to be taken for their health protection²⁶.
34. The Health and Safety Executive has also produced an interim guidance note relating to carbon capture and storage²⁷. Those involved in the development of such schemes are required to give compliance demonstrations as CO₂ is classified as a dangerous substance/dangerous fluid under the COMAH and PSR regulations.

Aligning activity to communicate with the public:

35. It is important that all Category 1 and 2 responders at LRF and RRF level, as well as site operators, develop joint strategies for communicating with the public. This is to avoid conflicting advice being published and to ensure that key messages are transmitted to the whole community and not just those in designated areas or sites. These strategies should be exercised and tested as part of the exercising LRF/RRF regime.
36. Where possible, agencies' websites should be effectively linked to provide public information, before, during, and after the emergency. This is crucial, especially when the emergency involves a Strategic Co-ordinating Group (SCG), Regional Co-ordinating Group (RegCG)/ Regional Civil Contingencies Committee (RCCC) and central government response to public information.
37. When preparing plans to communicate with the public, you may find it helpful to refer to:
- Chapter 7 of the statutory guidance, [Emergency Preparedness](#);

²⁴ Regulation 14 public information.

²⁵ Regulation 16

²⁶ Regulation 17

²⁷ <http://news.hse.gov.uk/category/carbon-capture-storage/>

- [*Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders*](#) which provides a further checklist of mandatory requirements for individual Category 1 and 2 responders;
- [*The Ten Step Cycle – an informal guidance note*](#); and
- the [UK Resilience Website](#).

Generic Considerations

38. When undertaking emergency planning activity as part of fulfilling duties under the CCA, Category 1 and 2 responders should consider their duties under following legislation:
- [Human Rights Act 1998](#)
 - [Corporate Manslaughter and Corporate Homicide Act 2007](#)
 - [Health and Safety at Work Act 1974](#)
 - [Working Time Regulations 1998](#)
39. This guidance draws out particular areas for consideration in emergency planning. When planning for emergencies, Category 1 and 2 responders should obtain their own legal advice if they are concerned about the compatibility of their proposed actions with this legislation.

Human Rights Act 1998 (HR Act)

40. Where responders are public authorities, they need to have regard to their general duties under the HR Act and ensure that their actions are compatible with individuals' rights under the Act.
41. Human Rights are fundamental rights and freedoms that belong to all individuals regardless of their nationality and citizenship. The Human Rights Act, 1998 provides for 16 basic human rights (also known as Convention rights). They are concerned with matters of life and death, what a person can say or do, their beliefs, right to a fair trial, and similar basic requirements. The HR Act provides for different categories of rights: absolute rights, such as the right to life; limited rights, such as the right to liberty; and qualified rights where a balance may need to be struck between the rights of the individual and the needs of the wider community or state interest, for example, the right to have your private and family life respected.
42. Rights that may be of relevance for responders may include:
- Article 2: the right to life;
 - Article 3 the right to protection from torture, inhuman and degrading treatment;
 - Article 4: prohibition of slavery and forced labour;
 - Article 5: right to liberty and security;
 - Article 8: right to respect for private and family life;
 - Article 9: freedom of thought, conscience and religion;
 - Article 10: freedom of expression;
 - Article 11: freedom of assembly and association;

- Article 14: right to enjoy Convention rights and freedoms without discrimination; and
 - Art1 of the First Protocol: protection of property.
43. It is not possible, nor appropriate in this document, to cover every aspect of the HR Act, nor to consider the detailed aspect of each of the above rights. However, responders may find it helpful to consider the following areas when fulfilling their duties under the CCA and any duties under the HR Act:
- Risk Assessment: Contextualisation²⁸ - what risks are there that human rights may be contravened?
 - Emergency Planning: Vulnerable people, people affected by the emergency, survivors, family and friends²⁹
 - Communicating with the Public (Warning and Informing): Vulnerable people and those who have difficulty understanding the message³⁰.
 - Information Sharing: Personal information³¹, Data Protection and Sharing Information³².
44. The HR Act states that the rights of an individual should never be allowed to obscure public safety and the Convention recognises that there are situations where a state must be allowed to decide what is in the best interests of its citizens.

Corporate Manslaughter and Corporate Homicide Act 2007 (CMCHA)

45. The Corporate Manslaughter and Corporate Homicide Act, 2007 creates an offence where organisations can now be convicted of manslaughter if the way in which their activities are managed or organised causes a person's death and this amounts to a gross breach of a duty of care to the deceased.
46. A substantial part of the breach must have been in the way activities were managed by senior management. In carrying out their functions, responders will need to bear the provisions of the Act in mind, although there are exemptions where management actions involve wider questions of public policy and are already subject to other forms of accountability. For example, it does not apply to strategic decisions about spending public

²⁸ *Emergency Preparedness*, paragraph 4.30

²⁹ *Emergency Preparedness*, paragraphs 5.98 to 5.106 & Chapter 6 *Emergency Response and Recovery* guidance

³⁰ *Emergency Preparedness*, paragraph 7.40 and *The Ten Step Cycle for Communicating with the Public*

³¹ *Emergency Preparedness*, paragraph 3.17

³² *Data Protection and Sharing – Guidance for Emergency Planners and Responders*

money or military operations. Other functions, such as police operations and the response of the emergency services are also exempt, other than where these organisations owe a duty of care to employees or for the premises they occupy.

Human Resources

47. In the planning phase for emergencies, unrealistic expectations may be placed on management and personnel. It is important that all Category 1 and Category 2 responders build proper consideration for the welfare of employees into emergency plans. When identifying human resources requirements as part of the emergency response, responders should consider their duties under the Health and Safety at Work Act, 1974 and Working Time Regulations, 1998.

[Health and Safety at Work Act, 1974](#)

48. Employers have a duty to manage the risks to their employees that arise from their work. This includes those employees whose work includes responding to emergencies.

49. Managing risks means assessing the significant risks to employees (and others who might be affected by their work) and identifying suitable measures to control those risks. Such measures might include setting out safe systems of work which specify appropriate control measures, including the equipment to be used and the competences that workers are required to have. The risk control measures identified as necessary should be put in place. The findings of the risk assessment, and the control measures implemented, should be communicated to employees.

50. Risk assessments do not need to be overly bureaucratic but they should be robust, carefully considered, and their findings effectively implemented.

[Working Time Regulations, 1998 \(WTRs\)](#)

51. The Working Time Regulations (WTRs) relate to the number of hours that an employee can work during a single week, unless a workforce agreement is sought. During an emergency event, responders may need to make use of the special measures and the full flexibilities contained within the WTRs.

52. It may be that some of the extra work pressure can be absorbed by inviting relevant groups of workers to enter into an opt-out agreement which would permit the normal weekly maximum working time of 48 hours to be exceeded (permitted under Regulations 4 and 5 of the WTRs). However workers cannot be forced to sign an opt-out. Without any further special

measures (as below), this would allow a 78 hour maximum (allowing for 11 hours rest per day x 6 days and a weekly rest of 24 hours per week = 168 hours – 90 =78 hours).

53. Regulations 21 and 24 of the WTRs give a degree of flexibility where the worker's activities are affected by special circumstances. Regulation 21 makes special provisions, generally for less serious situations, allowing the non-application of rights to:

- restrictions on length of and protections connected with night work;
- daily rest (normally 11 hours per day);
- weekly rest periods (24 hours per week or 48 hours per fortnight); and
- rest breaks (at least 20 minutes per six hours).

54. The circumstances in which these provisions might be brought into play during an emergency include where:

- a worker's activities are located distantly from his place of residence (for example, specialist teams might be deployed at locations in the UK far from their home addresses - see regulation 21(a));
- a worker is engaged in security activities requiring a permanent presence to protect persons or properties (for example, where security requirements arise because of an emergency, e.g. security around quarantine sites or around sensitive or vital public buildings or locations – see regulation 21(b); and
- there is a need for continuity of service or production due to the emergency in one or more of the following activities:
 - Hospitals;
 - Transport; and
 - Civil protection services (e.g. police, fire service, ambulance service).
- where a workers activities in Category 1 and 2 responders, Central and Regional Government departments (and supporting industries as appropriate) are affected by:
 - an occurrence due to unusual and unforeseeable circumstances beyond the control of the worker's employer;
 - exceptional events, the consequences of which could not have been avoided; or
 - an accident or the imminent risk of an accident.

55. Regulation 24 of the WTRs provides that where normal rest entitlements have been abridged or lost, the worker should be allowed to take compensatory rest. Compensatory rest is normally a period of rest the same length as the period of rest, or part of a rest period, that a worker has missed. This means that the worker gets their rest entitlement later than normal.
56. Regulation 24(b) provides that there may be **exceptional** circumstances where it is not possible to grant such rest periods. In these circumstances the employer should still take steps to safeguard the worker's health and safety.
57. Under Regulation 18 (2) of the WTRs some provisions under the WTR including the 48 hour maximum and the various rest periods (e.g. daily, weekly and breaks at work) may be excluded where the armed forces, the police and certain civil protection activities (i.e. ambulance service, fire service and other Category 1 and 2 responders) are engaged in a manner that will "inevitably conflict with the provisions" of the WTR. In the event of a full scale national emergency, these services might have to be deployed free of these legislative burdens.
58. For further information please contact the Civil Contingencies Act Enhancement Programme team: ccact@cabinet-office.x.gsi.gov.uk