



Meeting

## COMMUNITY SERVICES SELECT COMMITTEE

date

31 January 2005

agenda item number

### **REPORT OF THE ASSISTANT DIRECTOR (COMMUNITY PROTECTION)**

#### **THE CIVIL CONTINGENCIES ACT - UPDATE**

##### **Purpose of the Report**

1. To provide an update on the report resented to the committee meeting of 27<sup>th</sup> July 2004 on the Civil Contingencies Act, and to advise on the implications arising for Nottinghamshire County Council.

##### **Information and Advice**

###### Background

2. As previously reported, following the floods and fuel crisis in 2000, and the Foot & Mouth Disease outbreak in 2001 the government set in motion the process to develop and introduce new legislation in the area of civil protection. This led to the Civil Contingencies Act gaining Royal Assent on the 18<sup>th</sup> November 2004.
3. This was followed by publication, on the 9<sup>th</sup> December 2004, of draft Regulations and Guidance to accompany the Act. The consultation on these is currently in progress and will run until 3<sup>rd</sup> March 2005. The final Regulations and Guidance will be drawn up in light of the responses to the consultation, and will come into effect from April 2005. Actual commencement of the duties will be from October 2005. New Civil Protection funding for local authorities starts from 1<sup>st</sup> April 2005.

###### Scope of the draft Civil Contingencies Act.

4. The Civil Contingencies Act is enabling legislation, and the full details of the requirements placed on local authorities are set out in supporting Regulations. The expressed purpose of the Act is to deliver a single framework for civil protection in the UK, providing greater flexibility and robustness to deal with the most serious emergencies. As part of this, it has created a new regional civil protection tier that sits between central government and local areas.
5. In overall terms, the new legislation:
  - Replaces the Civil Defence Act 1948.
  - Places a range of civil protection duties on a group of core local responder organisations (Category 1 responders) including Nottinghamshire County

Council is included as a Category 1 organisation, alongside other local authorities, the emergency services, and various government agencies and NHS bodies.

- Places a supporting obligation on a group of co-operating local organisations (Category 2 responders) including utility companies, transport operators and others.
6. The Act, and its accompanying regulations, establishes clear expectations and responsibilities for local responders. These are designed to ensure that they are prepared to deal effectively with the full range of potential emergencies. Category 1 bodies have the following duties to fulfil:
- Assess local risks and use this to inform emergency planning;
  - Put in place emergency plans;
  - Put in place Business Continuity Management arrangements;
  - Put in place arrangements to make information available to the public about civil protection matters and maintain arrangements to warn, inform and advise the public in the event of an emergency;
  - Share information with other local responders to enhance coordination;
  - Co-operate with other local responders to enhance coordination and efficiency; and,
  - Provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only)

#### A new Regional tier

7. The new legislation creates a new Regional tier of civil protection that sits between central government and local areas. This is intended to:
- Encourage multi-agency planning at the regional level by forming Regional Resilience Forums.
  - Facilitate stronger arrangements for the Regional role in response to emergencies, based on Regional Civil Contingencies Committees and cadres of staff in Government Offices.
  - Establish the post of Regional Nominated Co-ordinator who will provide co-ordination and leadership of regional response in emergencies.
  - Allow special legislative measures to be used on a region by region basis if required.
  - Seek an organisational structure capable of dealing with any disruptive challenge.
  - Modernise the mechanism for using special legislative measures to mitigate the effects of the most serious emergencies.
  - Identify Lead Government Departments to take responsibility for planning for and dealing with the consequences of specific emergencies.

#### Definition of Emergency

8. The Act provides a new definition of emergency. In essence this is that an emergency is an event or situation which presents a serious threat to human welfare; the environment; political, administrative or economic stability; or, the

security of the United Kingdom.

#### Emergency Powers.

9. Part 2 of the Act gives power to the Government to make Emergency Regulations in a Civil Emergency, and provides for the making of these at a National, Regional or Local level. It is now possible to use emergency powers on a regional and/or devolved administration basis. This ensures that any special temporary legislation will apply only in the part of the UK affected by the emergency, leaving other areas unaffected. The Act also contains safeguards against the misuse of the Emergency Powers.

#### Effect on current multi-agency structures in Nottinghamshire

10. The present structure of emergency planning and response in Nottinghamshire is broadly equivalent to the structure indicated in Act. Work to review the current cooperation, communication, roles, relationships and accountabilities of the existing groups is now underway, through a Civil Contingencies Act Steering Group, which reports to the Local Resilience Forum.
11. One significant issue arising from the legislation relates to the role of District and Borough Councils. These are now Category 1 organisations under the Act, and for the first time have funding with which to carry out their duties. The enhanced role of District and Borough Councils, and their place within existing structures is being discussed.

#### Implications for Nottinghamshire County Council

12. The implications for Nottinghamshire County Council relate to:
  - a) new burdens arising from the legislation, and
  - b) the funding of emergency planning activities.
  - c) Relationship with District and Borough Councils

#### **New burdens:**

13. In seeking to improve emergency planning (in particular by the introduction of new duties) the Civil Contingencies Bill gives rise to new work for all organisations that have a part to play, not least Nottinghamshire County Council. Part 1 of the Civil Contingencies Act imposes seven new duties; risk assessment, emergency planning, cooperation, information sharing, provision of warning and information to the public, council business continuity planning, and provision of business continuity advice and information to commercial bodies.
14. Existing emergency planning in Nottinghamshire provides a very firm foundation to enable the new duties to be addressed. As part of this the County Council has the benefit of having established a broadly based, well qualified and highly regarded, professional Emergency Planning Team. Therefore the conditions exist to enable the County Council to play a full part in realising the worthy aspirations of the Civil Contingencies Act.
15. Clearly, the County Council's ability to fulfil the entire range of duties under the new Act will depend on the availability of adequate financial resources.

**Funding:**

16. In the current financial year (and hitherto) in Nottinghamshire the Government has provided civil protection funding to the County Council. This has been in the form of specific, ring-fenced Civil Defence Grant amounting to £210,000 in this, the final, year of the grant. An additional sum of approximately £130,000 is provided by the County Council to cover Emergency Planning and Business Continuity work that is not covered by Civil Defence Grant.
17. The Cabinet Office has now announced that Nottinghamshire County Council will receive £307,000 civil protection funding with which to address the burdens imposed by the Act. There remains an expectation that local authorities will continue to supplement this figure from their own resources in order to fulfil the requirements of the Act.
18. It is relevant to note that the new civil protection funding from the Cabinet Office is provided within revenue support grant, and will go into an already under-resourced range of budgets. Since the sum provided for emergency planning is no longer ring-fenced there is potential pressure for the resource to be diverted towards other under-funded work, however there is no indication that this will occur at present.

**Relationship with District and Borough Councils:**

19. As described above District and Borough Councils are Category 1 organisations alongside the County Council, and will receive central government funding for the first time. At the same time, all Category 1 responders share the same overall duties under the Act, and so there is potential for duplication of effort if local responders do not cooperate with one another to agree how duties will be discharged.
20. The Act permits a Category 1 organisation to delegate its duties to another Category 1 responder should it wish to do so. Accordingly, it is being considered whether a partnership approach can be adopted in order to achieve economies of scale and eliminate potential duplication of effort.

**Consultation on the draft Regulations and Guidance**

21. The draft Regulations and Guidance published on 9<sup>th</sup> December 2005 included 40 specific consultation questions. The deadline for responding to these is 3<sup>rd</sup> March 2005, and the consultation process is being carried out in accordance with the Cabinet Office Code of Practice on Consultation.
22. As part of this consultation process the Cabinet Office has arranged a series of Workshops around the UK. The East Midlands event was held in Nottingham in mid-January and was attended by three officers from the County Council; the Assistant Director (Community Protection), Head of Emergency Management and one Emergency Planning Manager.
23. The Head of Emergency Management is currently drafting the County Council's response, in consultation with other officers, and the Assistant Director (Community Protection) is preparing a report for the Deputy Leader to respond formally on behalf of the County Council.

24. At the same time the Local Government Association (LGA) is preparing its response to the consultation, and has asked that member authorities await sight of the consolidated LGA response, and to see whether they can agree to support the LGA's key policy lines.

#### Conclusions.

25. The modernisation of UK emergency planning is long overdue and is much to be welcomed. The aim of developing an improved management structure, and the commitment to raising standards, offers the prospect of much improved resilience to emergencies. This is particularly important in view of the range of technological and natural disasters, and terrorist incidents, that threaten to disrupt normal life in this country.
26. In terms of existing plans and staff resources, Nottinghamshire County Council is well placed to embrace the new legislation and to make a substantial contribution to the multi-agency preparedness for future emergencies affecting the County. However, the County Council's ability to fulfil its new duties is predicated on the availability of adequate financial resources.
27. Consultation on the draft regulations and guidance is now in progress, and it remains impossible to know the precise implications for local authorities until the finalised version are announced later this year.

#### **Update**

28. The Deputy Leader has been kept informed of the progress of the Civil Contingencies Act and local preparations to respond to its requirements. The view of the County Council is that the new legislation is welcomed and that progress is being made with its implementation.

#### **Statutory and Policy Implications**

30. The report has been compiled after consideration of implications in respect of finance, equal opportunities personnel, Crime and Disorder, and users. Where such implications are material, they have been brought out in the text of the report.

#### **Recommendations**

31. It is recommended that the Community Services Select Committee notes that the Regulations made under the Civil Contingencies Act will come into effect from 1<sup>st</sup> April 2005, and that the likely implications for Nottinghamshire County Council relate to the new duties, the adequacy of funding for the service, and the relationship with other Category 1 responders, particularly the District and Borough Councils.

**Richard Hodge**  
**Assistant Director (Community Protection)**

**Legal Services Comments [IR 20.1.05]**

The implications of the new legislation have been dealt with in the body of the report. The County Council will have to ensure that it fulfils its statutory obligations once the new Act comes into force.

**Director of Resources Financial Comments (C&C/RWK)**

To follow.

**Background Papers Available for Inspection**

None.

**Electoral Divisions Affected**

All.