



Meeting	COMMUNITY SERVICES SELECT COMMITTEE	
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Report of the Assistant Director (Community Protection)

The Civil Contingencies Bill: Implications for Nottinghamshire County Council

Purpose of the Report

1. To provide information about the forthcoming Civil Contingencies Bill and to advise on the implications arising for Nottinghamshire County Council.

Information and Advice

Background

2. The floods and fuel crisis in 2000, and the Foot & Mouth Disease outbreak in 2001 exposed weaknesses in the national arrangements for major emergency planning and response. As a consequence of this the government launched a review of emergency planning which included a public consultation exercise. The outcome of this exercise reinforced the Government's view that existing legislation no longer provides an adequate framework for modern civil protection work and that new legislation is needed.
3. At the same time, the September 11 2001 terrorist attacks on the USA demonstrated the need, around the world, to be adequately prepared to cope with potential terrorist attacks. The events since 9/11 have indicated that the scale and nature of the current terrorist threat is without peacetime precedence, and that previous planning assumptions are no longer valid.
4. A draft Bill, setting out a proposed new framework for civil protection work at the local level was introduced to Parliament on 7 January 2004 and is currently progressing through parliament. The legislation is expected to go to the House of Lords during the summer and to gain Royal Ascent in the autumn. It is expected to come into effect from Spring 2005.

Scope of the draft Civil Contingencies Bill.

5. The Civil Contingencies Bill will be an enabling bill. Full details of the requirements to be placed on local authorities will be set out in supporting regulations to be published for public consultation once the bill has received royal assent.
6. The expressed purpose of the Bill 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 will create a new regional civil protection tier that will sit between central government and local areas.
7. The Bill is separated into two substantive parts, both of which are intended to modernise outdated legislation: **PART I** concerns Local Arrangements for Civil Protection and **PART II** deals with Emergency Powers.
8. In overall terms, the proposed new legislation will:
 - Replace the Civil Defence Act 1948.
 - Place a range of civil protection duties on a group of core local responder organisations (**Category 1 responders**) including the Emergency Services, local authorities, and others.
 - Place a supporting obligation on a group of co-operating local organisations (**Category 2 responders**) including utility companies, transport operators and others.
 - Provide local responders, such as County Councils, with a clear set of expectations and responsibilities, such as risk assessment, prevention and planning (for emergency response and business continuity), and informing and warning the public.
 - Encourage the creation of strategic-level Local Resilience Forums (such as the one already established in Nottinghamshire) to bring together key people from the principal emergency response organisations to co-ordinate their planning and preparations for emergencies.
 - Include the performance management of civil protection activity within mainstream audit processes.
 - Bring civil protection funding within mainstream funding mechanisms.
9. The draft Bill is based on the concept of “Resilience”, this being the ability to anticipate, pre-empt and resolve challenges into healthy outcomes. In overall terms, the Bill seeks to build resilience by focusing on managing risks.

A new Regional tier

10. The new legislation will also create a new Regional tier of civil protection that will sit 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.
- Seeks 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.
- Identified Lead Government Departments take responsibility for planning for and dealing with the consequences of specific emergencies.

Definition of Emergency

11. The Bill 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.

Categories of local responders

12. The Bill will give a defined structure to planning and response to Civil Protection issues, especially at a local level. It divides local responders into two Categories, as follows:
13. Category 1 responders include:
 - Local Authorities (including Unitary, County and District Councils)
 - Emergency Services
 - Health Organisations
 - The Environment Agency
14. These agencies will have legal duties placed upon them to:
 - Assess local risks and use this to inform emergency planning.
 - Put in place planning arrangements to exercise their functions in order to prevent emergencies and to respond to emergencies.
 - Put in place planning arrangements for Business Continuity Management
 - Put in place arrangements for warning and informing the public in the event of an emergency.
 - Share Information with other local responders to enhance co-ordination.
 - Co-operate with other local responders to enhance co-ordination and efficiency.
 - Promote Business Continuity Management (Local Authorities only)

15. Category 2 organisations will be placed under a lesser duty of co-operating with other organisations and sharing relevant information. Category 2 organisations include:
- Utilities
 - Public Communications Providers
 - Transport Organisations
 - The Health & Safety Executive

Emergency Powers.

16. Part 2 of the draft Bill will give 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. For the first time it will be possible to use emergency powers on a regional and/or devolved administration basis. This will ensure any special temporary legislation will apply only in that part of the UK affected by the emergency, leaving other areas unaffected.
17. The Bill is also intended to provide safeguards against the misuse of the Emergency Powers.

Effect on current multi-agency structures in Nottinghamshire

18. The present structure of emergency planning and response in Nottinghamshire is broadly equivalent to the structure indicated in the draft Bill, and will require only slight adjustment to comply with the forthcoming legislation.
19. The Nottinghamshire Strategic Forum meets twice per year under the Chair of the Assistant Chief Constable of Nottinghamshire Police, with representatives from the other Emergency Services, Local Authorities (Unitary & County Councils, plus one representative from a District Council), Health, Military and the Environment Agency. The tactical Emergency Services Liaison Group comprises Emergency Planning Officers from the above organisations and reports annually to the Strategic Forum. Beneath this structure there are various other standing groups involving District Councils, Critical Infrastructure organisations, and Voluntary Agencies, for example
20. It is intended that the cooperation, communication, roles, relationships and accountabilities of all these existing groups will all be reviewed and improved as appropriate to comply with the letter and the spirit of the forthcoming legislation, once the details are known.

Implications for Nottinghamshire County Council

21. The key implications for Nottinghamshire County Council relate to:

- a) new burdens arising from the legislation, and
- b) the funding of emergency planning activities.

a). New burdens:

- 22. 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.
- 23. Part 1 of the Civil Contingencies Bill will impose seven new duties on all councils; 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.
- 24. 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 Bill. However, the County Council's ability to fulfil the entire range of duties under the new bill will depend on the availability of adequate financial resources.

b). Funding:

- 25. Papers accompanying the draft bill indicate the government's view that the current level of funding provided to local government will be sufficient to meet the requirements of the new legislation. However, the Local Government Association and emergency planning practitioners have argued against this stance. The expressed view of the LGA is that:

"It is not possible, until the draft regulations and guidance are finalised, to know exactly what implications there will be. However, part one of the bill sets out seven duties for all councils, all presenting significant new financial burdens."

- 26. Currently the government provides just over £19 million per annum nationally for local authority emergency planning. This is shared between top tier councils and ring-fenced through Civil Defence Grant. The overall figure of £19 million represents a reduction from the £24.5 million provided in 1991.
- 27. Local authorities have received no extra resources for terrorism related work following the 9/11 attacks in the USA (unlike police and fire services), and no

additional resources to address matters arising from the fuel and fire disputes of recent years. A major LGA survey in 2003, demonstrated that the emergency planning service is already severely under-funded, even before the new duties are added, with councils contributing £17 million (47% of the total) over and above the central government grant.

28. The position for Nottinghamshire County Council is likely to be compounded by changes to the mechanism by which the funding is provided. At present the County Council receives specific, ring-fenced Civil Defence Grant, currently amounting to £210, 000 per year. Within this figure, the formula used provides £70,000 because there are seven District and Borough Council's in Nottinghamshire (at present these Council's do not receive any grant at all). The main changes are that Civil Defence Grant will cease (and instead funding will be provided as part of the normal revenue support grant), and that District and Borough Councils will receive funding for the first time.
29. In view of the fact that the Cabinet Office has, as far, adopted the position that there will be no new money overall for local authority emergency planning, it can be assumed that money to be provided to shire Districts will effectively reduce the sum going into the County Council's revenue support grant. In due course it may be possible to agree arrangements with District Council's to provide a service to them in return for a proportion of their allocation of funding. However, shire districts will themselves be anxious that they have sufficient resources themselves to fulfil their duties under the legislation.
30. There is a further concern that funding provided within revenue support grant will go into an already under-resourced range of budgets. Since the sum provided for emergency planning will no longer be ring-fenced there will be pressure for the resource to be diverted towards other under-funded work.
31. It is also relevant to consider that the heightened concern over the terrorist threat to UK cities may mean that, overall, resources may be re-directed away from rural areas and towards major cities.

Current Budget for the County Council Emergency Planning Function.

32. The current budget for emergency planning comprises of Civil Defence Grant from central government plus an additional sum (38% of the total) provided by the County Council. This amounts to around £340,000.

£210,000	Central government grant to Nottinghamshire County Council
£130,000	Contribution from Nottinghamshire County Council (including nearly £42,000 for business continuity management)

Conclusions.

33. 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.
34. 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.
35. Clearly, until the draft regulations and guidance are finalised, it is not possible, to know precise what implications there will be for local authorities. However, it can be seen that the new duties for local authorities all indicate significant new financial burdens. Burdens which the LGA suggest cannot be fulfilled without substantial increased funding.

Statutory and Policy Implications

36. 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.

Update

37. The Deputy Leader has been kept informed of the progress of the Civil Contingencies Bill through parliament 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 monitored with interest.
38. The Civil Contingencies Bill is likely come into effect from 1st April 2005, and the likely implications for Nottinghamshire County Council relate to new duties and possible changes in central government funding for the service.

Recommendations

- 39 That Community Services Select Committee note the report.

Richard Hodge
Assistant Director (Community Protection)

Executive Head of Democratic and Legal Services (IR 1.7.04)

40. Any legal issues arising are dealt with in the body of the report.

Director of Resources' Financial Comments (CC/RWK)

41. The financial implications are set out in the report.

Background Papers Available for Inspection

42. None

Electoral Division(s) Affected

43. All.