



# **Government Response to the Public Consultation on the Revised Guidance on Amended Regulations, Co-operation and London under the Civil Contingencies Act 2004**

## Introduction

1. *Emergency Preparedness* is the statutory guidance relating to Part I of the Civil Contingencies Act and its supporting regulations. The guidance is being updated to introduce greater clarity and to reflect new practices and arrangements. In the summer of 2011, we undertook a public consultation, which ran from Wednesday 6<sup>th</sup> July 2011 to Tuesday 27<sup>th</sup> September 2011, on a series of revised drafts of chapters of this guidance, including consultation on revisions to: Chapter 2, Co-operation; Chapter 9, London; and the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005.
2. The revisions to the chapters and guidance were made as a result of ongoing consultation and the findings of various independent reviews. There was a call from responders for changes to the regulations. Many responders felt that the only way to ensure greater compliance was for the Regulations to be more prescriptive. Category 1 responders believed they did not receive the co-operation they needed from Category 2 responders and Category 2 responders felt that Category 1 responders placed unreasonable demands on them. Both sets of responders called for a clarification of what the duties involved. While this can be addressed in guidance, it was decided that strengthening and clarifying the meaning of the duties in Regulations would be helpful where relationships had hitherto proved difficult.
3. The London chapter of *Emergency Preparedness* has been amended to reflect the currently proposed regulatory changes in addition to those made earlier in the year. The earlier changes redefined the London Resilience Area as the pan-London level; altered the duties assigned to the London Fire and Emergency Planning Authority (LFEPA); and named the Greater London Authority (GLA) as a Category 1 responder.
4. The consultation was announced on the CCS Gateway and made available on the CCS website.
5. As illustrated by the below table (Table 1), 75 separate organisations responded to the questions on Chapter 2 Co-operation, Chapter 9 London and the regulatory changes.

**Table 1: Organisations who responded to the consultation by CCA category**

CCA Category	Class	Number
Category 1 responders	Environment Agency	1
	Fire and Rescue Services	10
	Local Authority	26
	NHS	6

CCA Category	Class	Number
	Police Forces	5
Category 2 responders	Transport organisations	4
	Utilities	7
Voluntary Sector		2
Individual		1
Government Department		0
Other	Associations	3
	Regulators	1
	Local Resilience Forums	9

The detailed list of organisations is shown in Annex A.

**Table 2: Responses to the Consultation**

No.	Question	Yes % (number)	No % (number)	No opinion/Don't Know % (number)
1	Do you consider that the amended draft CCA regulations 2012 will help improve co-operation between local responders?	79.7 (59)	10.8 (8)	9.5 (7)
2	Do you consider that the amended regulations will bring clarity to the co-operation duty making fulfilment of the duty easier for responders?	74.7 (56)	13.3 (10)	12.0 (9)
3	Do you consider that the revised draft guidance (Chapter 2: Co-operation) will help improve co-operation between local responders?	68.0 (51)	10.7 (8)	21.3 (16)
4	Do you think the introduction of Borough Resilience Forums to the regulations will have a positive effect on emergency planning in London?	18.3 (13)	8.5 (6)	73.3 (52)
5	Do you welcome the proposed changes to regulations?	-	-	-
	• Category 1 and 2 responders to co-operate with each other (regulation 4(1)-4(3))	86.7 (65)	1.3 (2)	12.0 (8)
	• Definition of information sharing as part of co-operation (regulation 4(4)(a), 44A & 47(3)(b))	92.0 (69)	1.3 (2)	6.7 (4)

	• Agreeing arrangements for the LRF (regulation 4(4)-(5))	85.1 (63)	4.1 (3)	10.8 (8)
	• Definition of LRF and its groups and sub-groups (regulation 4(7)-(9))	81.3 (61)	8.0 (3)	10.7 (11)
	• Borough Resilience Forums (London only) (regulation 4(7)-(9))	26.9 (18)	6.0 (6)	67.2 (43)
	• Enhanced protocol provisions (regulation 7(4)-(5))	76.0 (57)	2.7 (8)	21.3 (10)

## Summary

### Do you welcome the proposed changes to the Regulations?

- Between 76 -92 per cent of responses were content with the proposed changes to the regulations (not including the London specific regulatory change).
- Several respondents felt that the amended regulations would support greater consistency of approach between LRFs.

### Do you welcome the proposed changes to Regulations [Borough Resilience Forums (London) regulation 4(7)-(9)]? And do you think the introduction of Borough Resilience Forums to the Regulations will have a positive effect on emergency planning in London?

- The high percentage of '*Don't know/No opinion*' answers to the London focused questions may have been due to the majority of respondents not being familiar with, or having an interest in, the current London structure.
- 67 per cent (43) of respondents had no opinion, or did not know whether they welcomed the proposed changes to the regulation on Borough Resilience Forums. Similarly, 73 per cent (52) of responses to the question on whether respondents thought the introduction of Borough Resilience Forums to the regulations would have a positive effect on emergency planning, did not know or had no opinion. However, only 13 of the 67 responses to the question on the proposed changes to the regulations were based within London or a London Local Resilience Area and of these 13, nine were content. Likewise, 12 of the 71 respondents to the question regarding the effect on emergency planning on London with the introduction of BRFs, were based within London or a London LRA. Of these 12, five were content.
- A number of respondents raised the point that BRFs will only work if: there is consistent engagement across resilience forums; the attendees are

appropriate responders or representatives; and information and papers are properly disseminated.

- A Category 1 responder indicated that the three tier structure for London will allow issues to be resolved at the most appropriate level.

**Do you consider that the amended draft CCA regulations 2012 will help improve co-operation between local responders?**

- 80 per cent of respondents considered the amended draft CCA regulation 2012 will help improve co-operation between local responders. Only 11 per cent were not content and a further ten per cent had no opinion.
- A number of respondents asked how Local Resilience Forums could enforce co-operation when the LRF has no legal powers. The regulations have not been amended to assign any additional powers to the LRF; however, section 10(1)(b-c) of the Act allows Category 1 and 2 responders to take court action against responders who fail to fulfil their duties under the Act. This process is set out in Chapter 13, of *Emergency Preparedness*.

**Do you consider that the amended regulations will bring clarity to the co-operation duty making fulfilment of the duty easier for responders?**

- 75 per cent of those that answered the question on whether the amended regulations would bring clarity to the co-operation duty making fulfilment of the duty easier for responders answered yes.
- A general view was that responders would not know the full benefits of the amendments to the regulations until some time after they were implemented.

**Do you consider that the revised draft guidance (Chapter 2: Co-operation) will help improve co-operation between local responders?**

- 68 per cent replied yes to the above question, 21 per cent did not know or had no opinion and 11 per cent replied no.
- Respondents were keen to see firmer wording throughout the chapter on co-operation to ensure all responders followed the guidance. However, Category 2 responders have not been assigned the same duties as Category 1 responders and we can not use language that suggests anything to the contrary. We can only encourage and stress the importance of all responders having due regard to the guidance (where there is no duty).

**Detailed Responses**

## **Do you welcome the proposed changes to the Regulations?**

- A few Category 2 respondents asked for further clarity as to what the structure for information sharing between Category 1 and 2 responders should look like at a local level; and also the structure for LRF meetings and subgroups. The amendments to the regulations around co-operation and information sharing have gone some way to emphasise the duties of Category 1 and 2 responders with regard to information sharing and co-operation between responders. However, partly in accordance with feedback received in response to earlier consultations, and partly because the legislation has been intentionally designed to align with the Government's approach to decentralisation, a deliberate decision has been taken that the regulations should not be prescriptive about what form co-operation and information-sharing should take locally or, specifically, how this should be done, except for the requirement for the LRF to hold Chief Officers Group meetings every 6 months.
- Furthermore, it would be inappropriate to create a core list of attendees for LRF groups and subgroups, with regard to a request for regulatory definition, as the appropriate attendees differ between areas and groups. It is advisable, however, for Category 1 responders to liaise with other Local Resilience Areas to ensure cross boundary issues can be addressed appropriately. See Chapter 17 Co-operation at the regional level in England for more information. Please be aware that this, along with other chapters of the *Emergency Preparedness* guidance is under review and revised versions will be available on the UK Resilience website <http://www.cabinetoffice.gov.uk/ukresilience> in April 2012.
- One respondent asked why we continue to link LRFs with Police Force Areas. There needs to be a common structure for defining LRF areas and Police Force Areas are a logical way of segmenting these areas; this does not mean that membership of LRFs should be restricted to responders within the Local Resilience Areas. Where appropriate, responders from other areas should be invited to LRF meetings.

## **Do you welcome the proposed changes to Regulations [Borough Resilience Forums (London) regulation 4(7)-(9)]? And do you think the introduction of Borough Resilience Forums to the Regulations will have a positive effect on emergency planning in London?**

- A Category 1 responder stated that Borough Resilience Forums being given a statutory footing was a welcome addition to resilience planning in London and secures the engagement of appropriate partners on a more local footing.
- A respondent asked whether the structure of London Borough Resilience Forums could be applied to other areas of the UK which are of a similar size and structure. The revised regulations do, in fact, allow for this.

- A respondent felt that the amendments to the regulation should ensure greater parity between BRFs, which have existed for a number of years on a non-statutory basis with variations in format, attendance and frequency between boroughs.

**Do you consider that the amended draft CCA regulations 2012 will help improve co-operation between local responders?**

- A respondent asked for specific examples of the roles and requirements of Category 1 responders and suggested that this should be provided through case studies of good practice. CCS is currently creating a forum to share good practice case studies which will be published on the National Resilience Extranet (NRE). The request for examples on roles and requirements will be put forward for further investigation.
- A concern was raised that there was no sanction that could be applied to responders who failed to comply with the Regulations. The current Chapter 16 Role of the Minister, paragraph 16.11, outlines the actions that will be taken by the Minister if he/she considers that a Category 1 or 2 responder has failed to comply with its obligations under the Act. Chapter 16 Role of the Minister is currently under review and may be merged with Chapter 13 Monitoring and Enforcement. The new chapters will be published alongside other revised chapters in April 2012.
- A question was raised, in response to the consultation, about whether it would be beneficial to revise the status of some of the Category 1 and 2 responders. This has been reviewed under the auspices of the Civil Contingencies Act Enhancement Programme. Any changes will be announced as and when appropriate. Some amendments will arise as a result of the NHS structural changes.
- Some Category 2 responders had concerns about the difficulties experienced by organisations with a national footprint, seeking to engage with multiple LRFs, and BRFs in London, when different approaches may be taken by each. There was a particular worry that this would be exacerbated following the demise of the Regional Resilience Forums. This is explored further in Chapter 16 (Collaboration and Co-operation between Local Resilience Forums in England). (This chapter is currently under review. The new chapter will be published alongside other revised chapters in April 2012.) It may be partially resolved by the adoption of multi-LRF protocols.
- One responder suggested a need for clarity within the regulations around the financial and legal position of LRFs. This is addressed in the statutory guidance.

- One responder was concerned about the potential for the reference to the Chief Officers Group to discourage chief executives from attending. The statutory guidance and the regulations emphasise the fact that chief officers, i.e. chief executive level personnel, are expected to attend these meetings of the LRF.

**Do you consider that the amended regulations will bring clarity to the co-operation duty making fulfilment of the duty easy for responders?**

- A Category 2 respondent commented that the clarification of the guidance will help with consistency across multiple LRFs. There will be differences due to the nature of each individual LRF area; however, a consistent approach is needed for key tasks and plans.
- Changes to the regulation 4(1)-4(3) regarding Category 1 and 2 responders needing to co-operate with each other was received positively. However, there was concern about how this would work in practice between Category 2 responders (regulation 4(3)) due to the commercial and, in some cases, competitive nature of Category 2 responders.

**Do you consider that the revised draft guidance (Chapter 2: Co-operation) will help improve co-operation between local responders?**

- A responder stated that they felt table 1 of the amended chapter was useful in tying together the duty to co-operate and to share information as well as outlining the relationship with the five main duties. This should allow Category 1 and 2 responders to work more closely together within the right circumstances, in the execution of their duties. With regard to information sharing, the table clarifies expectations of both recipients and senders of requests.
- One Category 1 responder had concerns about the appropriateness and likelihood of their being required to attend each meeting of the each BRF. The statutory guidance (Chapter 9: London) makes it clear that Category 1 responders at the London LRF will recommend which Category 1 responders should form the core membership for each BRF; and responders that have been identified as appropriate to form the core membership of a particular BRF must take that recommendation into account when deciding whether to attend.

**ANNEX A**

**List of Respondents**

**London Borough of Hillingdon**  
**Southern Water Services Ltd**  
**London Borough of Barnet**  
**North Yorkshire County Council Emergency Planning Unit. Also on behalf of:**  
**NYCC Health and Adult Services and City of York Council EPU**  
**London Fire Brigade**  
**West Yorkshire Resilience Forum**  
**Lancashire County Council**  
**United Utilities**  
**Water UK**  
**Network Rail Infrastructure Ltd**  
**Metropolitan Police Service**  
**Lancashire Fire and Rescue Service (LFRS)**  
**South Kesteven District Council**  
**Anglian Water Services Ltd**  
**Manchester City Council**  
**NHS Sussex (Sussex PCT Cluster)**  
**City of London Police**  
**Oxfordshire County Council**  
**Birmingham City Council**  
**ATOC Ltd. (Association of Train Operating Companies)**  
**University Hospital of North Staffordshire**  
**British Standards Institute**  
**Hereford & Worcester Fire and Rescue Service**  
**East Sussex Fire and Rescue Service**  
**International Association of Emergency Managers (IAEM)**  
**County Durham and Darlington Local Resilience Forum**  
**Private individual**  
**Bradford Council**  
**Cheshire local resilience forum**  
**Bristol Water plc**  
**Plymouth City Council**  
**Sussex Resilience Forum**  
**Cornwall Council**  
**Hertfordshire County Council**  
**Emergency Planning Shared Service Rotherham and Sheffield**  
**Worcestershire County Council**  
**Heathrow Travel Care**  
**Merseyside Fire & Rescue Service**  
**Great Ormond Street Hospital**  
**Northumbrian Water Limited**  
**Medway NHS Foundation Trust**  
**Continuity Forum**  
**Hampshire Fire and Rescue Service**

**Wiltshire Police**  
**Thurrock Council**  
**ConnectPlus**  
**Sussex Resilience Forum**  
**Sussex Police**  
**Health Protection Agency**  
**Surrey County Council**  
**NHS Sussex**  
**North Yorkshire Fire and Rescue Service**  
**Staffordshire Civil Contingencies Unit (CCU)**  
**East Staffordshire Borough Council**  
**Highways Agency**  
**Bedfordshire & Luton Local Resilience Forum (BLLRF)**  
**Suffolk Resilience Forum**  
**South Yorkshire Local Resilience Forum**  
**Southampton City Council Emergency Planning Unit**  
**West Yorkshire Fire & Rescue Service**  
**Humber Emergency Planning Service (joint local authority team)**  
**National Grid**  
**Beds and Luton FRS**  
**Cleveland Emergency Planning Unit and LRF**  
**Doncaster Council**  
**Devon and Cornwall Police**  
**West Yorkshire Fire & Rescue Service**  
**Emergency Planning Society - West Midlands Branch**  
**Environment Agency**  
**East Sussex County Council**  
**London Borough of Redbridge**  
**Health and Safety Executive**  
**Reigate and Banstead Borough Council**