



Cabinet Office

## **Civil Contingencies Act**

## **Post-Implementation Review 2022**

Presented to Parliament pursuant to Regulation 59 of the Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005, as amended by the Civil Contingencies Act 2004 (Contingency Planning) (Amendment) Regulations 2012

<p><b>Title:</b> The Civil Contingencies Act 2004 - 2022 Post-Implementation Review</p> <p><b>Original IA/RPC No:</b> CO1012</p> <p><b>Lead department or agency:</b> Cabinet Office</p> <p><b>Other departments or agencies:</b></p> <p><b>Contact for enquiries:</b> ccs.strategy@cabinetoffice.gov.uk</p>	
	<b>Date:</b> 29/03/2022
	<b>Type of regulation:</b> Domestic
	<b>Type of review:</b> Statutory
	<b>Date measure came into force:</b> 2004
	<b>Recommendation:</b> Amend

## Questions

### 1. What were the policy objectives of the measure?

1. Establish a consistent level of civil protection activity across the UK;
2. Encourage consistency between Category 1 and 2 responders in the way this is carried out;
3. Define the tasks that should be performed and establish that organisations should cooperate;
4. Ensure local responders retain the ability to make decisions – in light of local circumstances and priorities – about what planning arrangements are appropriate in their areas;
5. To provide powers for the government to make temporary regulations to deal with the most serious emergencies

## 2. What evidence has informed the PIR?

The National Resilience Strategy Call for Evidence public consultation and 'Global Britain in a Competitive Age: Integrated Review of Security, Defence, Development and Foreign Policy'.

Workshops and engagement events including The Department for Levelling Up Housing and Communities (DLUHC) 'Big Resilience Conversation' with local resilience stakeholders.

A review of lessons and recommendations from previous and ongoing emergencies including responses to EU exit and the coronavirus pandemic.

## 3. To what extent have the policy objectives been achieved?

The Act continues to achieve its stated objectives. Duties are placed upon local responders, with the principle of subsidiarity ensuring they retain the flexibility to collaborate in a way that is suitable to their specific needs. The recommendations made (including changes to the guidance) aim to strengthen the fulfilment of the Act's objectives, but there is no case at this stage for a fundamental overhaul of the legislation. Whilst the objectives and the Act's fulfilment of them are broadly fit for purpose at present, the evolving risk landscape, as well as work on the Integrated Review commitments to consider strengthening LRFs and develop a National Resilience Strategy, may create a need for further changes to the Act in future.

**Sign-off for Post Implementation Review:** Chief Economist and Paymaster General

**I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the measure.**

Signed:



Date: 29/03/2022

Signed:



Date: 28/03/2022

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## A. Introduction and background

### *Background to the legislation and its objectives*

1. The Civil Contingencies Act 2004 (CCA or 'the Act') sets out a framework for emergency preparedness in the UK. It defines what an emergency is, creates the conditions for effective multi-agency working at the local level and provides emergency powers which allow the government to react quickly to make temporary special legislation in the most serious of emergencies.
2. Emergency preparedness is essential to protect the UK from risks and incidents that have the potential to cause harm to its inhabitants, property and businesses. The CCA provides a basis for a spectrum of local responders in the UK to cooperate and jointly prepare for emergencies. It also gives scope for UK government to utilise emergency powers in the event that existing powers are insufficient.
3. Part 1 focuses on local arrangements for civil protection, establishing a statutory framework of roles and responsibilities for local responders. It provides structure and consistency for emergency preparedness activity.
4. It also defines two different categories of responder and the duties that they are required to perform; the details of those duties are described in the associated Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005 ('the Regulations').
5. The Act requires Category 1 responders to fulfil a full set of duties around assessing risk and planning for civil emergencies. Category 1 organisations include blue light services (such as Ambulance, Police and Fire & Rescue) which are likely to be involved in most emergencies. Category 2 responders, some of which are businesses such as utility companies or transport operators, have a lesser set of duties around cooperating and sharing information with fellow responders (see Figure 1). Category 2 organisations are not involved in all emergencies, but play a highly significant role in some emergencies.
6. Collectively, these duties facilitate emergency preparedness between these organisations at a local level by ensuring access to shared knowledge and plans, opening communication channels both between the organisations and with the public and placing clear legal responsibility upon organisations to assess risk and plan for the outcomes of the risks that have been assessed. The CCA and the Regulations are also supported by statutory and non-statutory guidance, which describe how responders can comply with the legislation, identifies good practice and provides associated useful information.<sup>1</sup>

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<sup>1</sup><https://www.gov.uk/guidance/preparation-and-planning-for-emergencies-responsibilities-of-responder-agencies-and-others>

Category 1	<ul style="list-style-type: none"> <li>● Assess the risk of emergencies occurring and use this to inform contingency planning</li> <li>● Put in place emergency plans</li> <li>● Put in place business continuity management arrangements</li> <li>● 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</li> <li>● Share information with other local responders to enhance co-ordination</li> <li>● Co-operate with other local responders to enhance co-ordination and efficiency</li> <li>● Provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only)</li> </ul>
Category 2	<ul style="list-style-type: none"> <li>● Co-operate and share information with other local responders to enhance coordination and efficiency</li> </ul>

**Figure 1.** Duties for Category 1 and 2 responders

7. The CCA provides a basic framework defining what tasks should be performed and how cooperation should be conducted. Local responders work to this common framework, but make their own decisions (under the principle of subsidiarity) in light of local circumstances, risk profiles and priorities about the appropriate planning arrangements for their areas.
8. Without Part 1 of the CCA, collaboration between local responders would be optional and highly inconsistent. Through the categorisation of responders, and the duties placed upon them, clear lines of responsibility are placed on organisations to prepare for the consequences of emergencies, and wherever possible keep impacts to a minimum.
9. Part 2 of the CCA allows for the creation of temporary special legislation (emergency regulations) in an emergency without prior parliamentary scrutiny. An emergency is defined within the Act to include events and situations which threaten serious damage to human welfare or the environment, as well as war or terrorism which threaten serious damage to the security of the UK.
10. Emergency regulations are intended to be used for the most serious emergencies, when the government needs to bring in powers rapidly. The use of emergency regulations is a last resort option and planning arrangements at any level should not assume that emergency powers will be made available. They can only be deployed in exceptional circumstances.
11. Emergency regulations can only be used under specific conditions, and will elapse after seven days unless both Houses of Parliament pass a resolution approving them. If parliamentary approval is granted, emergency regulations automatically lapse at the latest 30 days after they are made. Further regulations can be made for a further 30 days, but again require approval by each House within 7 days, with provision for

compulsory recall if either House is in Recess. They can be amended or rejected at any of these points and therefore at most provide a temporary legislative solution.

12. The Act also specifies a number of things that the regulations cannot do and places three primary conditions on their use, known as the 'triple lock'. These are as follows:
  - a. An emergency has occurred, is occurring or is about to occur.
  - b. The provisions sought are necessary and urgent for the purpose of preventing, controlling or mitigating an aspect or effect of the emergency.
  - c. The legislation is appropriate and proportionate.
13. To date, the emergency powers in Part 2 of the CCA have never been used.
14. If emergency regulations are introduced under the provisions of Part 2 of the CCA, it is a condition of the legislation that the government appoints a Regional Nominated Coordinator (RNC) for each region in England to which the emergency regulations relate, and separate Emergency Coordinators (EC), for Scotland, Wales and Northern Ireland. The RNCs/ECs are among a number of persons who could be given special powers of direction over organisations, their staff, and the wider population as well as the ability to requisition property and equipment.

#### *Legal duty to review*

15. Government has a legal obligation to review the Regulations every five years. This is established by Regulation 59 of the Regulations. In line with this legal requirement, the previous review, which also considered the Act as a whole, concluded in March 2017 and found the Regulations and the Act to be fit for purpose. For the present review, the government is again taking the opportunity to review the Act as a whole alongside the Regulations.
16. The statutory review requirement is to:
  - a. Set out the objectives intended to be achieved by the regulatory system established by these Regulations;
  - b. Assess the extent to which those objectives are achieved; and
  - c. Assess whether those objectives remain appropriate and, if so, the extent to which they could be achieved with a system that imposes less regulation
17. The CCA, Regulations and guidance underpinning the legislation are designed to deliver a single framework supporting civil protection in the UK. The regulatory system establishes clear duties and tasks for responders in relation to emergencies and emergency planning. It intends to:
  - a. Establish a consistent level of civil protection activity across the UK;
  - b. Encourage consistency between category 1 and 2 responders in the way this is carried out;
  - c. Define the tasks that should be performed and establish that organisations should cooperate;
  - d. Ensure local responders retain the ability to make decisions – in the light of local circumstances and priorities – about what planning arrangements are appropriate in their areas.

18. If these objectives are not achieved, the UK would not be adequately positioned to prepare for (and therefore respond to) emergencies. We are therefore content that these objectives are the right ones, and that the Regulations (and CCA) must remain in place to ensure the objectives set out above are met, with anything less unlikely to meet the requirements set out.
19. To assess whether these objectives have been achieved, government has drawn upon an evidence base consisting primarily of consultation and stakeholder input. By its nature, consistency of civil protection, as well as cooperation and collaboration between responders, is highly challenging to measure. The majority of the information gathered is therefore qualitative and subjective. However, in line with the principle of subsidiarity encouraged by the Act, this review relies on the expertise of local responders, and the conclusions they have drawn from working within the framework set by the CCA.

## **B. Approach to the 2022 Post-Implementation review**

### *Overview*

20. Our understanding of the risk landscape has evolved substantially since the last Post-Implementation review (PIR) in 2017. The events of recent years, such as planning the UK's exit from the European Union and responses to the Salisbury Novichok attack, the Manchester Arena attack, the Grenfell Tower fire and the Coronavirus pandemic, have created a need to review the national approach to resilience.
21. The 2022 PIR recognises that there are a range of ongoing inquiries and reviews, at various stages of completion, which are considering the events of recent years. Where findings and recommendations are available the 2022 PIR has considered the lessons of these reports and, where relevant, assessed the case for amendments to the legislation. The timing of the 2022 review is in keeping with the statutory requirement to review the legislation but it has also provided the opportunity to identify amendments where strong evidence is already available and supports the case for change. As with any legislative review, the findings of this report do not preclude future changes to the legislation.

### *Integrated Review: a new Resilience Strategy and LRF reform*

22. The government set out its ambition in the 2021 Integrated Review (IR) which included an overarching objective on building resilience at home and overseas, improving our ability to anticipate, prevent, prepare for and respond to risks ranging from extreme weather to cyber-attacks.<sup>2</sup> This will also involve tackling risks at source – in particular climate change and biodiversity loss.

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<sup>2</sup> <https://www.gov.uk/government/collections/the-integrated-review-2021>



23. A key commitment of the IR was to develop a new Resilience Strategy. The Strategy will set out an ambitious new vision and approach for the UK's resilience to 2030. The Strategy will therefore consider a wide range of issues that are relevant to our national resilience. Legislation, including the CCA, will be one such issue.
24. In addition to committing to a new Resilience Strategy, the IR also set out a commitment to '*consider strengthening the role and responsibilities of local resilience forums (LRFs) in England*'. Significant work is taking place to investigate how LRFs could be supported to meet future needs (see 'Local Stakeholder Engagement' in the evidence section).
25. The review of the CCA is one mechanism to support the commitments set out in the IR. Throughout this review the aim has been to consider where direct changes to the structure of and provisions in the legislation are needed, where smaller changes can supplement wider work and where the CCA is not the correct vehicle to deliver the benefits that are needed for the future.
26. Beyond this review, the government will continue to consider what policy changes may be required to ensure local levels of preparedness meet future needs effectively. Where requirements are covered by statutory responsibilities, we will look to review and update where necessary the relevant statutory and non-statutory guidance. We will also consider how government departments could facilitate the sharing of good practice and where future guidance would be helpful to improve local resilience.
27. The 2022 PIR has been developed within the concept of this broader landscape. This report therefore focuses on the statutory requirement to review and makes recommendations for changes to the Act and supporting legislation. It does not, however, preempt or preclude any other potential policy changes through the Resilience Strategy and LRF Reform work.
28. The implementation of the recommendations made within this PIR will be contingent on a subsequent process of impact assessment and stakeholder engagement to ensure they will achieve their intended purpose, as well as being proportionate and appropriate.

### *Devolved Administrations*

29. Scotland, Wales and Northern Ireland each have separate resilience arrangements and devolved responsibilities under the CCA and therefore any changes to the CCA have been carefully considered in terms of their impact on the respective administrations. Across this report references to LRFs encompass arrangements in England and Wales, with Regional Resilience Partnerships (RRPs) in Scotland and Emergency Preparedness Groups (EPGs) in Northern Ireland representing equivalent forums.

30. To reach the recommendations in this report and build the necessary evidence base to support them, the Civil Contingencies Secretariat in the Cabinet Office carried out engagement with the Scottish, Welsh and Northern Irish governments. Each administration was in agreement that the Act is broadly meeting its objectives but welcomes the set of targeted changes proposed in this report. The recommendations set out in this report will be taken forward in continued discussion with the Devolved Administrations, and in a way that respects the devolved responsibilities and settlements in the UK.
31. Under current arrangements Northern Ireland has a limited number of responders categorised in the Act. To increase multi-agency cooperation the Northern Ireland Executive is considering whether to categorise additional responders in their specific section of the Act. Whilst this is not covered in a recommendation within this report, it is an opportunity to note that these changes are being researched and explored.
32. In reviewing the CCA, the government has worked with the Scottish Government, to ensure that any changes proposed that impact on Scotland are in accordance with existing resilience structures, and accountability and assurance arrangements. Any future amendments, or improvements, to arrangements in Scotland could be made by amending the Civil Contingencies Act 2004 (Contingency Planning) (Scotland) Regulations 2005, and updating the set of comprehensive guidance documents, *Preparing Scotland*.<sup>3</sup>
33. The Welsh Government are conducting their own assessment of emergency preparedness and resilience structures in Wales. This may call for further engagement after this PIR concludes regarding how effectively the legislation is working for Wales and how it may need to be adjusted to address any gaps identified.

## C. Evidence gathering

### *Overview*

34. A significant evidence gathering exercise was carried out to support the production of this report and wider CCA consideration. This involved: a public call for evidence; the Integrated Review and associated reports; bespoke extensive stakeholder engagement and drawing upon information gathered and lessons learned from previous emergencies. Details of these individual evidence sources are set out below.

### *Resilience Strategy Call for Evidence*

35. The Resilience Strategy launched a public Call for Evidence (CfE) on 13 July 2021 which ran until 27 September 2021.<sup>4</sup> In this CfE there was a dedicated section on the CCA. This gave stakeholders, academics, businesses and other interested parties,

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<sup>3</sup> <https://ready.scot/how-scotland-prepares/preparing-scotland-guidance>

<sup>4</sup> <https://www.gov.uk/government/consultations/national-resilience-strategy-call-for-evidence>

including the general public, the opportunity to submit their views on how the Act was working at present and where there was scope for improvement. This broad approach allowed us to understand a diversity of opinion that went beyond the views of local responders, and helped set the direction for further engagement as work on the PIR progressed.

36. 214 responses were received on the specific CCA section of the CfE. All of these were reviewed and the evidence was used to inform the final recommendations. We received responses from a wide range of organisations across the UK including representatives of 33 out of the 38 Local Resilience Forums (LRFs) in England, Councils, Emergency Services (including the National Police Chiefs Council and National Fire Chiefs Council), Charities, Academia and business (including utilities and transport).
37. The questions posed in the CfE steered respondents to consider the scope for improvement and to identify challenges they had experienced under the current arrangements. Many respondents also provided positive feedback on the legislative framework provided by the CCA. There was strong support for the principle of subsidiarity and many reflected on the centrality of cooperation between agencies to effectively prepare for emergencies. There was praise for the approach the legislation takes to embed and support these principles in UK civil contingencies arrangements. The review of the evidence has identified challenges but the majority of suggestions for change build on the current framework, with many of the suggestions aiming to bring in additional measures to encourage partners from across the resilience community to work collaboratively to more effectively discharge their duties and responsibilities.
38. Some of the challenges identified in the responses were as follows:
  - a. The **list of organisations categorised** by the Act **should be reviewed**, with new organisations added and others considered for re-categorisation from Category 2 to Category 1.
  - b. The legislation in its current form **does not do enough to compel the participation of certain Category 2 organisations**.
  - c. **The ability to share information between partners in preparation for, and response to, an emergency requires additional clarity**. Inconsistent interpretation among partners at the local level can create barriers to collaboration.
  - d. Respondents indicated that current mechanisms for **assurance** were insufficient, and more needed to be done to improve **accountability**, as well as improve consistency across the UK.
  - e. There were a wide range of views of the **role of elected figures**, including their involvement in emergency preparedness, response and recovery, as well as opportunities to support local authorities in their duty to maintain public awareness.
  - f. There is a disconnect between responders and government in the Act, as duties are placed primarily on the local tier, not on the national.

- g. **Funding is a barrier for LRFs in England.** Limited resources and reliance on partner budgets impact preparedness and the ability of organisations to collaborate effectively.
- h. The **role of the Chair is 'too big'** with LRFs in England often relying on 'force of personality' or the Chair coming from the 'correct' partner organisation to operate effectively.
- i. There was a lack of up to date **UK guidance** to support best and leading practice.

39. Amendments to the CCA would not be the appropriate tool to address all of these findings, but they are important to help understand the context in which the recommendations made in this PIR sit. The findings that are not addressed by this PIR will be considered as part of the development of the Resilience Strategy and through broader work on LRF reform.

40. For more information on the CfE please see the public response which was published on 15th December 2021.<sup>5</sup>

#### *Integrated Review Call for Evidence*

41. To inform the UK's Integrated Review of Security, Defence, Development and Foreign Policy a public call for evidence took place, concluding in September 2020. To support the PIR work, submissions relevant to the CCA were reviewed again and evidence extracted to inform the recommendations.

42. Many of the respondents to the Resilience Strategy Call for Evidence had also responded to the IR, so there was some repetition of evidence, with the key themes of the IR greatly similar to those of the Resilience Strategy CfE (listed in the previous section). Nevertheless, work was carried out to ensure all information of relevance was extracted to support development of the PIR.

#### *Local Stakeholder Engagement*

43. The Department for Levelling Up, Housing and Communities (DLUHC) led a series of in-depth workshops with representatives from Local Resilience Forums across England. This 'Big Resilience Conversation' aimed to give local responders the opportunity to directly contribute to the evidence base which supported decision making on the CCA Review, the development of the Resilience Strategy and the Integrated Review commitment to consider strengthening the roles and responsibilities of LRFs.

44. This engagement included over 50 hours of discussions with LRFs and local resilience colleagues exploring themes such as assurance, risk planning and funding. There were also 11 detailed interviews with LRF chairs to understand more about the barriers to effective collaboration and senior leadership at the local level. Further

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<sup>5</sup><https://www.gov.uk/government/consultations/national-resilience-strategy-call-for-evidence/outcome/public-response-to-resilience-strategy-call-for-evidence>

engagement was also carried out with Category 2 responders and Local Government representatives.

45. Cabinet Office supported the 'Big Resilience Conversation' by facilitating discussions on the CCA Review and development of the Resilience Strategy whilst also leading a series of 'Roadshows' with the local resilience community. This evidence collection has informed the process of determining what changes are needed to support the local tier and wider ambitions for UK resilience; how these can be achieved through a combination of legislative reform and shaping future policy through the direction set by the Resilience Strategy; and other mechanisms such as providing LRFs with funding.

#### *Additional Sources*

46. We have considered relevant lessons learned from previous emergencies, as well as utilising feedback from the local tier observations from within central government on recent events.
47. We have drawn from experience on responses to EU exit and the coronavirus pandemic. We have also considered preparedness for and responses to the Salisbury Novichok attack, the Manchester Arena attack and the Grenfell Tower fire, noting that we are unable to fully assess the findings of these until the respective inquiries conclude.

#### *Evidence Methodology*

48. As set out above, this PIR has drawn upon a variety of sources, most of which are qualitative in nature.
49. The CfE question set covered the full legislation in a logical fashion (following the provisions sequentially) and allowed us to capture views and supporting evidence from participating members of the public. This included views on those sections where it was unlikely there would be appetite for change.
50. Data from the other sources set out above, and especially the 'Big Resilience Conversation', were consolidated with the CfE evidence. We drew out areas of commonality and gaps in data collection, as well as identifying areas where the argument for change is strongest.
51. The Resilience Strategy Call for Evidence included closed (Yes/No) questions as well as open questions (inviting respondents to type in their answers). The closed questions were included to gauge consensus on changing certain elements of the Act. Relevant percentages, based on the quantitative data collected through the closed questions, are set out on an issue-by-issue basis in the *findings and recommendations* section of this document.
52. The open questions allowed for the gathering of detailed views on the Act, giving scope for stakeholders with a particular interest in certain issues, or the Act as a whole, to provide fuller, nuanced responses than the closed questions allowed for. It

enabled government to understand not just *what* respondents' views were, but *why* they held them, and allowed for the identification of areas for further investigation to support recommendations. Whilst there was a relatively small number of respondents to the CCA section of the Call for Evidence (214), the level of detail provided by certain respondents, such as LRF members and non-categorised organisations involved in specific emergencies, was substantial.

53. To consolidate the information available the evidence was processed under four themes which were applicable across all the data sources. These are 1) Role of LRFs and resilience structures across the UK, 2) Assurance 3) Categorisation and duties on responder organisations and 4) Part 2 (Emergency Powers and Regional Nominated Coordinators). These four themes are set out in more detail in the *findings and recommendations* section of this document.
54. Naturally, not all information received from the CfE and through other sources has been reflected in this PIR. The information discounted from this process includes returns where unsubstantiated views were given or where they were not supported by other returns.
55. Evidence was also received on issues such as broader LRF reform (for example: ways of working, sharing of best practice, LRF funding) which are out of scope for this PIR. This information has still been considered as part of the Resilience Strategy and will continue to be drawn upon as part of ongoing work to consider strengthening the role of LRFs - as set out in the Integrated Review. This work includes DLUHC's recent commitment to provide 3 years of core funding for English LRFs from April 2022 (see Annex 1).

## D. Findings and Recommendations

### *Headline findings*

56. The Act has broadly served responders well since it was created in 2004, and establishes a consistent level of civil protection across the UK. The principles of subsidiarity and multi-agency cooperation remain crucial to our resilience and emergency preparedness at the local level. In this aspect **the Act clearly fulfils its objective** to ensure local responders retain the ability to make decisions and plan flexibly based on risks in their areas.
57. There has been **no material appetite for a fundamental overhaul of the legislation** in the evidence we have gathered and sweeping changes could potentially damage preparedness in the local tier, as well as conflicting with other workstreams and ambitions to reform LRFs.
58. As highlighted throughout this PIR, legislation is not the only vehicle for improving UK resilience and supporting local tier. We must rely on all the available avenues for strengthening resilience, and **wider reform of resilience at the local level will be considered through the forthcoming Resilience Strategy and the Devolved Administrations' own considerations**. This includes action such as updating

guidance, facilitating the sharing of best practice among local responders, upgrading information sharing arrangements and building strong relationships between the local and national level.

59. Despite this, there is still **a case for a set of targeted changes to the Act that will deliver immediate benefits to local resilience** and set the foundation for further work. The recommendations for change in this PIR aim to do exactly this, and also do not preclude further changes to the Act once the implementation outcomes from the review are known, the Resilience Strategy has set a clear strategic direction and further policy development has been conducted on the future of LRFs.

### **Theme 1: Role of LRFs and resilience structures across the UK**

#### **Findings**

60. The principles that underpin local planning and preparation as set out in the CCA remain, broadly, effective. Subsidiarity and multi-agency collaboration through the local resilience arrangements (Local Resilience Forums and equivalents in Scotland and Northern Ireland) remain crucial to the UK's resilience and emergency preparedness at the local level.
61. It is clear that the Act has broadly served responders and the UK well since it was passed in 2004 and there was minimal appetite among local responders for a fundamental overhaul of the foundational principles. However, the evidence considered has identified that there are challenges in the level of engagement; the role of the chair and how resilience activities are coordinated; accountability; assurance; and the level of investment in local resilience. However, these challenges are not universal and do not necessarily reflect the situation in all LRFs.
62. Local responders want clearer expectations on the roles and responsibilities of LRFs. There is also a general desire for greater standardisation, a view which is shared by HMG departments, to drive greater consistency. It is important that any reform of LRF arrangements should balance standardisation and subsidiarity. The principle of subsidiarity relies to a large degree on LRFs having the flexibility and freedom to develop local resilience structures and approaches (within the framework set out by the CCA and accompanying guidance, and other sector specific legislation requiring multi-agency collaboration) to build emergency preparedness that is appropriate for their local context. Changes to the CCA must balance these two, at times, competing priorities.
63. At the time of the 2022 PIR, DLUHC had embarked upon a programme of work seeking to achieve the Integrated Review commitment to consider strengthening the roles and responsibilities of LRFs in England. Working with the Cabinet Office, and other government departments, the LRF reform programme will also determine the future role of legislation including any potential changes to the CCA separate to this current statutory review.

## Recommendations

64. **This PIR recognises that there is a need for enhanced accountability for the multi-agency preparedness activities conducted by local resilience arrangements.** While individual organisations remain responsible for their own duties under the CCA, there is a clear gap in who is accountable for ensuring how all these component parts come together and for maintaining effective cross-agency planning; cross-cutting issues including warning and informing; community resilience, etc. This will, in part, be considered as part of the LRF reform programme which will address the future role of local accountability in England.
65. **The statutory and non-statutory UK guidance that accompanies the CCA should be updated.** The guidance should be refreshed and strengthened to set clear and consistent expectations for English LRFs and their Chairs. This update, created in partnership with responders, would develop an agreed and collective view of responsibilities which reflect the growing coordination role that the local resilience arrangements are fulfilling while placing clearer boundaries on what government could expect from partnerships.

## Theme 2: Assurance

### Findings

66. The duties of individual responder organisations set out in the CCA are often fulfilled through the coordinated activity of LRFs. While some, but not all, individual responder organisations are subject to regulation and inspection regimes, there is currently no formal assurance of the activities undertaken by the LRF as a collective body. Individual frameworks by which established inspectorates and regulatory bodies assess sectors and organisations against their duties under the CCA do not necessarily cohere and so do not provide assurance of the way in which multiple stakeholders work together to build collective preparedness for risks.
67. A core set of resilience standards for LRFs were developed between 2017-2020 and have been published online.<sup>6</sup> They comprise a set of individual standards for LRFs that set out good and leading practice in thematic areas, and present an authoritative and consistent guide for the assessment of responder and multi-agency capabilities and overall level of readiness. The current set spans a range of themes linked to duties under the Civil Contingencies Act (e.g. risk assessment and emergency planning), generic enablers (e.g. interoperability) and a number of risk-specific standards (e.g. cyber and flooding) that codify additional expectations in those contexts. The Cabinet Office will continue to review the standards following emergencies as part of the lessons cycle, with the coronavirus pandemic signifying the need for a death management standard as a recent example.

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<sup>6</sup><https://www.gov.uk/government/publications/national-resilience-standards-for-local-resilience-forums-lrfs>



68. LRF uptake of at least some of the standards is very high, but they have no formal status and so their use is voluntary. The standards have been received positively by LRFs. While these standards have brought a degree of consistency and robustness to LRF self-assessment and peer review, their impact is inherently limited by their voluntary status.
69. In response to the CfE, there was significant appetite in the local tier for greater assurance and many respondents recognised the benefits of standards as a means to achieve greater consistency and drive improvement. LRFs are also keen for mechanisms to be available to hold partner agencies to account for their role in collective preparedness.
70. Assurance is intrinsically linked to the findings and recommendations in Theme 1 around accountability and the forthcoming Resilience Strategy will look to set out the reviewed approach to assurance. DLUHC also set out in the Levelling Up White Paper the ambition to 'empower local leaders and communities' and to ensure 'all combined authorities have a clear role for them in local resilience'. DLUHC, working with the Cabinet Office and other government departments, will take forward ambitions for stronger local assurance to be developed and clear lines of democratic accountability in England, utilising current governance arrangements as well as the new accountability framework for English institutions with devolved powers announced in the Levelling Up White Paper.

### Recommendations

71. The CCA aims to establish a consistent level of civil protection activity across the UK. The findings from our evidence analysis show that although the CCA has brought a certain level of consistency, more robust assurance mechanisms could drive further improvements. The 2022 PIR is putting forward recommendations to achieve this aim:
- a. **To place an obligation on categorised responders to set out publicly how they comply with their responsibilities under the Act.** While there is already a duty on responders to publish assessments and plans, a new obligation would require reporting on how partners have fulfilled their duties under the CCA, including cooperation and information sharing. The public reporting of how CCA obligations have been met could drive up standards across the board and improve geographical consistency across local resilience arrangements; creating an accessible forum for the sharing of best practice; and organically developing accountability. The details of this structure are being developed, with support from the Devolved Administrations, as part of the forthcoming Resilience Strategy.
  - b. **To recognise that we need to go further than voluntary assessment and public reporting and that there is a demonstrable gap in assurance of multi-agency preparedness and interoperability.** This theme and future intentions to address this gap will likewise be considered in the Resilience Strategy.

- c. **To place the Resilience Standards on a statutory footing** for Category 1 and 2 responders, requiring they have due regard to the standards whilst fulfilling their duties under the Act. The standards are already frequently used by the LRF community; this change would raise their profile with the aim to increase consistency. Further work is required to build an assurance framework but it has been assessed that this change would set the foundations for a more formalised standards-based assurance framework. Appropriate, parliamentary oversight of the standards may be required in order to deliver this change.

### **Theme 3: Categorisation and duties on responder organisations**

#### **Findings**

72. As different types of emergencies evolve, so do the roles and involvement of organisations in emergencies. This has resulted in certain Category 2 responders playing a more integral role in strengthening preparedness than their current categorisation within the Act describes. It has also created a need for responders to work with organisations that are not currently categorised within the Act at all. The Resilience Strategy CfE asked stakeholders whether they thought there were gaps in critical representation of responder organisations included in the CCA. 69% of respondents (out of those who answered the question) referenced gaps and this view was seen most strongly amongst LRF respondents and those organisations that believe they have a case for inclusion.
73. In reviewing categorisation within the Act it is imperative to balance having select critical organisations involved in local resilience planning and preparation with the need for an efficient operational structure. Widening the cast list too broadly to organisations with limited contributions could lend itself to a number of unintended consequences regarding efficiency for local responders. Therefore, several organisations were considered for inclusion in the Act which were ultimately considered to be best placed outside of the categorisation system at the present time. The Act in its current form provides a framework for responders to foster good working relationships and encourages stakeholder engagement wider than that of Category 1 and 2 where risk appropriate - meaning that not all organisations need to be categorised to contribute to emergency preparedness.
74. To varying degrees, consistency of Category 2 responder engagement has been raised as an area of concern from CfE respondents. To mitigate this there were calls in a number of returns from Category 1 organisations to strengthen obligations on certain Category 2 organisations in order to increase their collaboration within local resilience arrangements.
75. At this stage however, there is insufficient evidence to justify increasing duties on Category 2 responders, bringing them into line with those on Category 1. Our assessment is that for existing Category 2 organisations to be redesignated as Category 1 responders they would have to meet all of the following conditions: the

organisation must be one of the main organisations involved in most emergencies (response and preparedness) at the local level; placing all of the civil protection duties upon this organisation would be proportionate; and there is substantial evidence of a current gap in capabilities to justify their inclusion as a Category 1 responder. We will therefore draw upon the other measures set out in this PIR to deliver progress in this space, such as the duty on responders to have due regard to the resilience standards and publicly report on CCA obligations, as well as the statutory and non-statutory guidance which will be updated to set clearer expectations of both categories of responder.

76. The local level relationship with national government and vice versa could be better aligned with some local partners believing the relationship to be more one way, with the government able to call on local responders for information but not always reciprocating data sharing. Respondents to the Resilience Strategy CfE were in favour of duties being placed on central government with 78% (out of respondents who answered the question) and 93% of LRFs believing that the CCA should place specific duties on central government. Generally, our evidence has indicated that duties for government, insofar as the local level is concerned, should relate to information sharing and cooperation.

### Recommendations

77. The **Met Office** should be made a **Category 2 responder**. Evidence gathered from LRF members indicates that the Met Office is already fulfilling the responsibilities required of a Category 2 responder and there would be benefits to formalising their role. Whilst the Met Office remain ready to share information, there is a concern that LRFs are not using all the services they offer to prepare for the impacts of severe weather events; categorisation would bring the Met Office into the system and allow them to collaborate with local resilience arrangements in a more consistent and structured way.
78. **The Coal Authority** should be made a **Category 2 responder**. The Coal Authority is increasingly being called upon to support responders on major incidents related to the mining legacy. These risks include but are not limited to sudden ground collapses, emissions of water or gas, land drainage related to mine subsidence, coal tip slips and incidents of spontaneous combustion on the coalfield. The Coal Authority also manage and respond to incidents relating to metal mine pollution. The current engagement is informal and inconsistent, often resulting in delays to responding agencies taking appropriate action and is usually reactive during the response phase. 26 of the 42 LRFs across England and Wales and all 3 Regional Resilience Partnerships in Scotland are either on the coalfield or have notable metal mine risks. By categorising the organisation they will ensure multi-agency planning takes account of the hazards relating to former mining sites and improve awareness across the UK resilience landscape.
79. **The requirement to produce a community risk register (CRR) should be strengthened** to require responders to consider community demographics

(particularly vulnerable groups) in preparing and communicating their Community Risk Register to inform their planning. We know risk impacts some communities more than others and this will help ensure the plans drawn up by responders are informed by the communities they serve. Drafting of this requirement would need to consider any potential interactions with the Public Sector Equality Duty.

80. Obligations on central government departments should be considered as part of the Resilience Strategy, including the case for duties enshrined in legislation. In order to increase collaboration and coordination in preparedness, **this should include how government Departments could provide more information and improve alignment between National and Local planning.**

#### **Theme 4: Part 2 (Emergency Powers and Regional Nominated Coordinators)**

##### Findings

81. The primary conditions placed on the use of Part 2 powers are deliberately stringent, preventing misuse of the power and ensuring that, wherever possible, any legislation required to respond to an emergency goes through Parliament in the normal way. 77% of respondents to the question on the 'triple lock' protections in the Resilience Strategy CfE were against changing this aspect of the legislation.
82. First and foremost, therefore, the government relies on sector-specific emergency legislation rather than the generic powers in the CCA. These provide powers for use in specific scenarios (such as disruption to energy or water supply) and as such they have undergone the oversight and scrutiny to ensure they are proportionate to the circumstances that present themselves. As existing legislation, they are also known to those using or subject to the legislation, enabling effective implementation.
83. There will be times, however, where new legislation is required to respond to an emergency. In recent years the government has carefully considered using CCA powers to help deal with some of the most serious of emergencies, such as the coronavirus pandemic. Ultimately though, the Part 2 emergency powers have not needed to be used. However, the government cannot foresee every eventuality, and therefore the CCA powers remain an important option of last resort to ensure that Ministers have the tools they need to respond to the most serious of emergencies.
84. The role of the Regional Nominated Coordinator was included in the CCA to assign a responsible person in an emergency to facilitate the coordination of the use of the powers. At the time the Act was created there were regional government offices in England (East Midlands, East of England, London, North East, North West, South East, South West, West Midlands and Yorkshire and the Humber), these offices were closed in 2010 with their work now covered by UK Government departments.
85. In the event of an emergency occurring and the emergency powers being activated it was envisaged that a Regional Nominated Coordinator could be used to facilitate work under the Act in the government designated region(s) in which they were being

deployed. The role of the Regional Nominated Coordinator is described in the Act as follows: “*The principal purpose of the appointment shall be to facilitate coordination of activities under the emergency regulations.*”

86. In the Act, the Regional Nominated Coordinator is required to follow the direction set by a Senior Minister of the Crown (government minister), but will not be regarded as an agent or servant of the Crown.

87. In the Resilience Strategy CfE 74% of respondents were in favour of removing the role of the Regional Nominated Coordinator.

### Recommendations

88. The powers **continue to be fit for purpose** as an option of last resort and the 'triple lock' conditions on their use provide robust and necessary safeguards that should not be amended.

89. Wherever possible, **the government should continue to rely on sector or issue specific emergency legislation and powers** which provide bespoke and tailored solutions to certain risks or incidents, as opposed to the broad powers in the CCA.

90. The wider landscape of emergency powers is being considered as part of the development of the Resilience Strategy. **No changes should be made to the emergency powers set out in Part 2 of the CCA.**

91. **The Regional Nominated Coordinator role set out in part 2 of the CCA should be removed** at the next available opportunity as it is a legacy of the former regional arrangements and does not reflect current structures in England. Furthermore, the limitations set on who may fill the position are outdated and create both practical and democratic concerns around their potential use.

## **E. Conclusions**

### *Post Implementation Review outcomes*

92. This PIR has reviewed the objectives and operation of the Act, as well as exploring what may be needed to strengthen UK resilience in the future. It has made immediate term recommendations based on evidence gathered to improve the Act and resolve challenges highlighted by stakeholders in the short term. However, we are also considering future needs of UK emergency preparedness, and this PIR has detailed how the Resilience Strategy, plans to strengthen the role of LRFs, as well as other inquiries and reviews, will take forward work to understand what can be done legislatively and non-legislatively over the coming years to meet these needs. These wider issues highlighted in this PIR and taken forward by these other pieces of work may necessitate further changes to the CCA, its guidance and its core objectives.

93. Based on the evidence collected it is clear that the Act still broadly achieves the objectives envisaged when it was created - with no impacts or consequences from its creation and continued operation that were unintended. It clearly defines an emergency, and establishes a consistent basis for civil protection across the UK with

clear responsibilities for Categorised responders. These responsibilities are well understood by those in the local tier, with organisations routinely fulfilling their obligations under the Act. Without the Act, the UK would lack the organisation, clear designation of responsibility and multi-agency cooperation required to prepare for emergencies.

94. As set out in the '*Finding and Recommendations*' section of this PIR, this does not mean that the Act cannot be improved. Adjustments to the Act on the assurance of responders will help to strengthen consistency and use of best practice across the UK, as does a duty to publicly report how they have fulfilled their obligations under the CCA.
95. The principle of subsidiarity remains the cornerstone of the Act and this PIR has demonstrated that local responder organisations remain best placed to make decisions in response to local circumstances and priorities. The Act continues to give them this freedom, whilst updates such as the categorisation of new organisations essential to emergency planning, and updates to supporting guidance, hold promise in strengthening multi-agency cooperation and the ability of local resilience arrangements to make informed decisions.
96. The provisions to create special temporary legislation, as set out in Part 2 of the CCA, continue to provide government with the capability needed to respond to emergencies in a timely but proportionate manner. Part 2 of the CCA therefore remains a suitable option of last resort.

#### *Next steps*

97. Following this PIR, a series of impact assessments will begin to carefully assess how the recommendations in this paper could be implemented successfully.
98. The Resilience Strategy publication will follow this PIR, as will continued work on the Integrated Review commitment to consider strengthening roles and responsibilities of LRFs. These will collectively set out a long term vision for the UK's national and local resilience. Should further legislative change to the CCA be required to deliver on these ambitions, this will be carefully considered and could take place outside of the five-yearly statutory review cycle.

## Annex 1: Theoretical and financial assessment

1. The Theory of legislative change for the UK is set out below, this sets out the theoretical basis for the legislation.

<p style="text-align: center;"><b>Theory of legislative change</b></p> <p style="text-align: center;"><i>This is an established methodology to help demonstrate the theory underpinning this legislation, how it leads to its impacts, and how the analysis, evidence and findings in this report relate to its functioning.</i></p>		
Context	Why is the legislation needed?	Emergency preparedness is how organisations in the UK minimise the negative impacts of risks and hazards materialising. The Act is needed to ensure this takes place in a structured way, with clear statutory responsibilities, with the ultimate aim of keeping people, the environment, property and businesses safe.
Inputs	What does the legislation do?	It sets out the arrangements for civil protection in the UK by assigning duties to local responders and creating a framework for multi-agency cooperation. It also sets out emergency powers, allowing central government to react quickly (under certain conditions) to the most serious of emergencies by making new temporary legislation ("emergency regulations").
Outputs	What does the legislation deliver?	Through the legislation, local resilience arrangements were established as the principal mechanism for multi-agency cooperation and coordination. They ensure effective delivery of those duties under the Act that need to be developed in a multi-agency environment. In particular the structure of LRFs in England and equivalent groups in the other UK nations, ensure cooperation and information sharing to support the delivery of local: risk assessment and risk communication; emergency planning; testing and exercising; business continuity management; promotion of business continuity arrangements to businesses and the voluntary sector; arrangements to warn and inform the public.
Outcomes	What are the consequences of this?	The Act is broadly delivering on its objective to establish a consistent level of civil protection across the UK - although greater assurance of the Act could drive further benefits in terms of standardising best practice and performance (see Theme 2: Assurance).
Impacts	What are the long term consequences or effects?	The CCA will continue to set the framework for local arrangements to deliver emergency preparedness and provide government with the emergency powers it needs in the most serious of emergencies.

**Figure 2. Theory of Legislative Change**

2. The Act does generate costs for organisations which are categorised. Many of the organisations categorised under the CCA are publicly funded. Agencies contribute from their existing budgets to service the LRF. DLUHC piloted additional core funding to the 38 English LRFs in 2020/21 and have recently committed to a further 3 years of core funding. This funding does not displace partner contributions.

3. The Act provides a framework for these organisations to work within, but does not however, require them to fulfil roles that could be considered beyond their natural remits. This means funds allocated to duties set out under the CCA would likely be spent towards meeting similar objectives to those set out under the Act were it not in place. Despite this, it cannot be regarded that the Act has a net zero cost to organisations that are categorised under the Act, but it does not place any cost pressures on businesses or organisations outside of the legislation.



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