

DRAFT CIVIL CONTINGENCIES BILL
Consultation Document – June 2003

JOINT RESPONSE BY
ALL ESSEX AUTHORITIES
July 2003

Essex County Council
Essex Police
Essex County Fire & Rescue Service
Essex Ambulance Trust

Basildon District Council	Braintree District Council
Brentwood Borough Council	Castle Point Borough Council
Chelmsford Borough Council	Colchester Borough Council
Epping Forest District Council	Harlow District Council
Maldon District Council	Rochford District Council
Southend Borough Council	Tendring District Council
Thurrock Borough Council	Uttlesford District Council

1. Introduction

The Essex Authorities welcome the draft Civil Contingencies Bill and the opportunity to comment on the Cabinet Office Consultation Document. We are committed to achieving a consistent standard of emergency planning throughout the United Kingdom at national, regional and local level, and meeting the requirements of the resilience agenda.

The structure in Essex already has many of the features proposed in the Bill and it has therefore been possible to agree a common response to the Cabinet Office Consultation Document on behalf of all Essex Authorities, in general. We accept both the definition of an emergency and the need to revise the Emergency Powers in the UK to reflect a changing world and national situation. Whilst we applaud the recognition of District Councils in Category 1, we would wish to further define the responsibilities within each category. This is particularly important in Essex where we have 3 tiers of local authority: County, Unitary and District. We cannot support the view that no additional resources are required to meet the wider scope and potentially higher standards envisaged by the Bill. We will seek to outline our evidence for this view in ongoing consultation. While we recognise the functions of the regional tier we have concerns over democratic accountability at that level particularly in Stages 1 and 2.

For Essex the proximity to London gives rise to the need for special and additional resource requirements and political and liaison arrangements.

2. RESILIENCE, EMERGENCIES AND CIVIL PROTECTION

Q1. Is the definition of emergency the right one? If not, in what ways should it be tightened or expanded to exclude certain classes of event or situation?

Yes. However, Part I Meaning of “emergency” 1 (1) a – d ‘..in/of a place..’ needs to be clearly defined in terms of place i.e. is this 3 miles offshore or in UK waters?

3. CLEAR ROLES AND RESPONSIBILITIES AT THE LOCAL LEVEL

Q2. Do you agree that the obligations imposed on both Category 1 and 2 responders by or under the new framework will ensure operationally effective and financially efficient planning and response to emergencies at the local level?

Yes we agree in outline, however, we believe there is a need for further definition within Category 1 particularly in two-tier areas where it will be important to clarify the functions of each tier. We would be comfortable that this might be covered in Regulations provided there was clear flexibility with local agreement.

In terms of Business Continuity Management we would see the District tier identifying those businesses for whom continuity planning was vital to delivery of the local response, while we would see it as the duty of the relevant ‘lead’ authority to provide this service. There will be a need to finance these new obligations either through raising of taxes or general financing of Emergency Planning.

We believe that it is necessary to include the term ‘Unitary District Council’ in the list of Category 1 responders in order to more clearly define the responsibilities of the various tiers of government that exist within the County.

In terms of a response, the District clearly co-ordinates the immediate joint response, and will deal with medium and long term responses that naturally fall to it, while the County Council mobilises the wider area and more strategic long-term responses and recovery, where necessary and appropriate.

With reference to Part 1, 2 (3) (e) we feel that greater flexibility would be afforded to the County Resilience Forum if this were to be worded ‘...on behalf of or in lieu of..’.

There are some potential issues here ‘... or in lieu of...’ could involve a County negotiating with a District for the application of resources in

connection with statutory functions of Districts that Counties require in order to fulfil its perceived obligations of the Emergency Plan. This could apply under the existing wording, in any event.

It is difficult to provide a comprehensive comment in the absence of the Regulations that will form an integral part of the Bill. We are not yet aware of the extent of such regulations and would therefore wish to reserve judgement until such documents are available for comment.

It will not be possible to definitively comment on the financial efficiency until greater definition is provided in the Regulations.

Q3. Do you agree that the membership of categories 1 and 2 is right? If not, which organisations should be added, moved or removed?

There is a need for great clarity over how Health is to be represented in Category 1 and 2. We would argue that the Strategic Health Authority should provide the overall responsibility in Category 1, perhaps with the Health Protection Agency. But that Primary Care Trust and other health trusts more properly fall into Category 2.

We are also of the opinion that social Housing Providers should be added to this category as this is an important point for the many districts that have transferred their housing stock.

There is concern that the failure to separately identify Unitary Councils would be misleading in terms of defining the responsibilities for each type of authority.

Q4. Do you agree that the Bill gives the Government the right balance of regulation making powers to meet its aims of consistency and flexibility? If not, please explain how the powers should be expanded or constrained.

Yes. We believe that the Bill provides the capacity for the correct balance to be struck but clearly evidence of this balance will only be apparent when there is greater detail available of the Regulations that will be made. There is concern that consistency must relate to outcomes in terms of standards whilst maintaining flexibility to the framework and methods of local delivery.

Q5. Do you agree that consistent arrangements for multi-agency working should be established, through the creation of Local Resilience Forums? If not, how else should consistency be established?

Yes. We believe that this framework accurately reflects proven best practice, which already exists in Essex.

Q6. Do you agree that the partial Regulatory Impact Assessment accurately reflects the costs and benefits of the Bill proposals? If not, how should it be changed?

Totally disagree. The partial Regulatory Impact Assessment does not take proper account of the wider scope of risk assessment, business continuity and scale covered by the new definition of emergency in the Bill. We believe resource requirements must be based on a proper and evidenced assessment taking into account standards, geographical proximity to identified risk e.g. London and extendibility criteria for nuclear installations.

Q7. Do you agree that funding for Category 1 local authorities should be transferred from specific grant (Civil Defence Grant) to Revenue Support Grant? If not, why should specific grant be retained?

Yes, because grant funding is seen to be a marginalising factor when seeking wide ownership of fully integrated planning and joint response.

A decision to fund through Revenue Support Grant should ensure that District and County Councils have sufficient resource to conduct properly costed planning and response and should be done in such a way as to ensure flexibility in delivery but ownership of outcomes. Transitional arrangements will be necessary in line with plans for incremental introduction of the legislation to ensure continuity of existing service

Q8. Do you agree that the level of funding to support the Bill is sufficient? If not, please explain why you believe it to be too high or too low.

No it is not enough in terms of the current local authority share of grant and recent budget provision for building resilience. While the overall sum might be considered sufficient there is no recognition of the additional burden that falls on local authority in comparison with health and emergency services. Evidence of this might be seen in the true cost of preparing local resilience plans in response to London resilience and in identifying accommodation, transport and welfare for large numbers of displaced persons from outside county boundaries.

Business Continuity is not currently a responsibility, and therefore not resourced, for any of the Category 1 authorities in relation to the public or business sector.

Q9. Do you agree that performance should be audited through existing

mechanisms? If not, what mechanism would you like to see established?

We are comfortable that the Audit Commission carries out this function provided that it is based on the experience gained in the recent joint multi-agency review of Crime and Disorder in Essex. In particular that the team draws on the experience of local specialists in undertaking their work.

4. A NEW REGIONAL TIER

Q10. Do you agree with the role of Regional Nominated Co-ordinator? If not, who should take responsibility at the regional level, and with what responsibilities?

We do agree with the role, however, we have considerable concerns over both the process for identifying and selecting the holders of the posts in specific situations. The lack of a democratically elected regional tier of government in the English Regions would make it very difficult at stages 1 and 2 to agree the powers of this post in relation to the democratically elected tiers below. It may be simpler to accept that this a central government appointment perhaps with the advice of the Regional Resilience Forum until the democratic position changes.

Q11. Do you agree with the principle of applying special legislative measures on a regional basis? Please explain your answer.

Yes. We would however wish to see mechanisms for powers to cover areas which span regional boundaries and are far more limited than a total region e.g incidents in the proximity of London affecting only a limited area around the Thames including therefore 3 regions.

5. STRONG CENTRAL STRUCTURES AND TARGETED POWERS

Q12. Do you agree that the current emergency powers framework is outdated and needs to be replaced? If you do not think it should be replaced, please explain why.

Yes. Reflecting the nature of the threat both nationally and internationally.

Q13. Do you agree that the circumstances in which special legislative measures may be taken should be widened from limited threats to the environment, to the political, administrative and economic stability of the UK and to threats to its security resulting from war or terrorism? If not, how would you like to see the circumstances

narrowed or extended?

Yes. Properly reflecting the new definition of an emergency in the Bill.

Q14. Do you agree that the use of special legislative measures should be possible on a sub-UK basis? If not, please explain.

See Question 11.

Q15. Do you agree that authority to declare that special legislative measures are necessary should remain with The Queen as Head of State, acting on the advice of Ministers? If not, who should it sit with?

Yes. It should always remain with The Queen.

Q16. Do you agree that in the event the process of making a Royal Proclamation would cause a delay which might result in significant damage or harm, a secretary of State should be able to make the declaration in the place of The Queen as Head of State, acting on advice from Ministers? If not, is delay acceptable or is there another alternative mechanism?

We cannot foresee a situation in which it would not be possible for The Queen or her nominated deputy to be contacted within the required timescale. We believe the alternative gives rise to a major constitutional change and this Bill is not the appropriate place for that discussion.

Q17. Do you agree that emergency regulations should be treated as primary legislation for the purposes of the Human Rights Act? If not, please explain why.

Yes, in line with other legislation covering such things as disease control.

6. SCOTLAND, WALES AND NORTHERN IRELAND

Q18. Do you agree that the arrangements proposed for Scotland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?

Not applicable.

Q19. Do you agree that the arrangements proposed for Wales strike the right balance between reflecting the devolution settlement and

ensuring consistency across the UK? If not, what changes are necessary?

Not applicable.

Q20. Do you agree that the arrangements proposed for Northern Ireland strike the right balance between reflecting the devolution settlement and ensuring consistency across the UK? If not, what changes are necessary?

Not applicable.

Q21. Do you agree that the role and accountability of the Emergency Co-ordinator in a devolved country should be flexible to reflect different types of emergency? If not, what alternative role should the Emergency Co-ordinator have?

Not applicable.

Q22. Do you agree that the devolved administrations should be able to declare that special legislative measures are necessary, and take action accordingly? If not, please explain why?

Not applicable.

Q23. Do you agree that London should have different arrangements for co-operation, and that the proposals set out are the right way to deliver this? If not, what arrangements should be put in place?

We would agree that London, as the capital city, requires special arrangements for co-operation but that the proposals need to be amended to include those with its immediate neighbouring authorities. This should provide a basis for justifying the appropriate level of resourcing to support London resilience. Such resourcing must cover information sharing, training and exercises as well as the more obvious ones of capacity building.