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Status	This circular gives information to FRAs about the Fire and Rescue Services (Emergencies) (England) Order 2007.		

The Fire and Rescue Services (Emergencies) (England) Order 2007 – ‘the Emergencies Order’

Issued by:

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Addressed to:

The Chair of the Fire and Rescue Authority
The Chief Executive of the County Council
The Clerk to the Fire and Rescue Authority
The Clerk to the Combined Fire and Rescue Authority
The Commissioner of the London Fire and Emergency Planning Authority
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Summary

This circular gives guidance on how FRAs meet the requirements of the Emergencies Order coming into force, subject to parliamentary approval, from 6 April 2007.

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1.0 Background

- 1.1 The Government’s New Dimension programme is completing the roll-out of specialist equipment and training to FRAs. This gives FRAs capabilities to deal with key types of emergencies: chemical, biological, radiological or nuclear emergencies (‘CBRN emergencies’) and emergencies requiring the freeing of people from collapsed structures or non-road transport wreckages (urban search and rescue, or ‘USAR emergencies’).
- 1.2 FRAs currently deploy the capabilities for CBRN and USAR emergencies using discretionary powers available under the Fire and Rescue Services Act 2004. FRAs are reimbursed for costs of maintaining the specialist staff training and equipment by means of grants made under section 31 of the Local Government Act 2003.
- 1.3 A public consultation on proposals to give FRAs mandatory, rather than discretionary, functions in connection with key types of emergencies by an Emergencies Order was held from September to December 2004. The Government published its response and revised proposals in November 2005.
- 1.4 As well as the CBRN and USAR emergencies included in the Emergencies Order, the initial proposals included giving FRAs mandatory functions in connection with major flooding, tunnel collapses and major transport incidents involving vessels. The public consultation highlighted the need to look at the existing provision and capability available for these types of emergencies before giving each FRA mandatory functions irrespective of their local circumstances.
- 1.5 In the case of transport incidents involving vessels, the policy need is being met by the Government’s Sea of Change programme led by the Department for Transport’s Marine and Coastguard Agency (MCA). This has equipped and trained strategically located fire and rescue services around the coast designed to respond to maritime incidents (8 in England, 15 in total for the UK). As a result, the MCA can request a response from suitably trained services for incidents up to 250 miles from the UK coastline. The capability can also be used for non-maritime incidents. Hence FRAs will retain their existing power to make provision for such incidents in conjunction with the MCA. This will be monitored, with an option for FRAs to be given mandatory functions in connection with such incidents in future through some separate order.
- 1.6 In the case of tunnel collapses, the New Dimension USAR equipment provided to FRAs for use in collapsed structure situations can be used in confined spaces which include some tunnel incidents. In the occasional situations where an FRA’s equipment is inadequate then it is more appropriate to call upon others, including specialist agencies, with relevant expertise and equipment.
- 1.7 The policy on tunnel rescue for FRAs is being met by two existing legal components:
 - a) The Civil Contingencies Act 2004, by its placing a duty on local responders such as FRAs to plan and prepare for likely disruptive incidents. Capabilities planning guidance makes clear that planning assumptions include incidents involving tunnels.

b) The FRS Act 2004, by giving FRAs the power to respond to emergencies such as tunnel incidents using the New Dimension USAR equipment provided – and being able to call on others, including specialist agencies, where these would be better placed to deal with the emergency.

1.8 In the case of major flooding, Defra is the lead department and is examining the existing flood response capability and what may be necessary to improve existing provision. Hence giving every FRA a mandatory duty to make provision would be premature at this stage. The option of FRAs being required to make provision for major flooding in some future separate Order is still available. FRAs will retain the power to make the provision they deem necessary according to their local circumstances. Government has also provided high volume pumps (HVPs) specifically to help deal with such incidents. The locations of these were determined after a risk assessment.

1.9 Consequently transport incidents involving vessels, tunnel collapse and flooding are excluded in the Emergencies Order coming into force, subject to parliamentary approval, from 6 April 2007. A copy of the Order is attached at Annex A.

2.0 Purpose

2.1 The aim of the Emergencies Order is to improve national resilience to disruptive incidents such as terrorist attacks and serious accidents by giving FRAs in England mandatory functions in connection with CBRN and USAR emergencies. This underpins the New Dimension programme.

2.2 The Emergencies Order, on request from an affected authority, gives FRAs a mandatory duty to use specialist CBRN or USAR resources (personnel and/or equipment) outside their own areas to an extent reasonable to deal with that emergency. In practice, FRAs participating in the national mutual aid protocol for serious incidents may receive such a request through the FRS National Coordination Centre in West Yorkshire (see FRS Circular 42/2006 at <http://www.communities.gov.uk/index.asp?id=1501503>). FRA participation in such mutual assistance arrangements enables FRAs to have agreed on the response terms before an incident has occurred and so prevents any unnecessary delay.

2.3 The specific mandatory functions given to FRAs by the Emergencies Order further aids the sustainability of the capabilities for CBRN and USAR emergencies, making them ‘core’ rather than ‘discretionary’ activities.

3.0 General FRA Requirements

3.1 In broad terms, the Emergencies Order at Annex A gives FRAs mandatory functions for CBRN and USAR emergencies and specifies the actions required of FRAs:

- to secure trained personnel to operate the specialist equipment provided by the New Dimension programme for CBRN and USAR emergencies;
- to deploy specialist resources (personnel and/or equipment) outside its area when asked by another FRA (or indirectly via the FRS National Coordination Centre);

There is no requirement on FRAs to purchase any equipment for the CBRN and USAR emergencies specified in the order as this has been procured centrally under the New Dimension programme.

4.0 Provision for CBRN Emergencies

4.1 Article 2 of the Emergencies Order is entitled ‘Chemical, biological, radiological or nuclear emergency’. It requires FRAs to make provision for:

- removing CBRN contaminants from people (i.e. mass decontamination), and
- containing for a reasonable period any water used to remove such contaminants.

4.2 The incident response units (IRUs) for mass decontamination located in each FRA area have a 1-hour capacity to contain such water and so constitutes the reasonable period to which the article relates.

4.3 Article 2 also requires FRAs to take reasonable steps to prevent or limit serious harm to the environment when undertaking mass decontamination.

4.4 Adhering to the most recent Water UK’s ‘Protocol for the Disposal of Contaminated Water’ will enable FRAs to meet the requirement to prevent or limit serious harm to the environment when undertaking mass decontamination. It is available from Water UK on 01473 320311 or at <http://www.water.org.uk/home/policy/positions/disposal-contaminated-water> on the internet.

4.5 The protocol states that the Environment Agency and the water companies should be informed immediately and their advice sought during the 1 hour IRU capacity period. Ultimately fire and rescue services would have a range of options after this period depending on the nature of the contaminant, including disposal to foul sewer, depending on circumstances and the need to minimise risk to human life.

4.6 The protocol also states that in general, pollution law clearly recognises that in an emergency involving risk to human health, protection of human life is paramount. It is a legitimate defence to the offence of causing pollution of controlled waters if the pollution was caused in an emergency to avoid danger to health, that reasonable steps as were practicable at the time were taken to minimise the pollution and that the Environment Agency was informed as soon as reasonably practicable. [Water Resources Act 1991 Section 85 and 89]. Similarly there are defences covering the unauthorised deposit, treatment or disposal of waste where it is done in an emergency to avoid danger to the public. [Environmental Protection Act 1990 Section 33(7)(c)].

4.7 Separate to the Emergencies Order, further information and guidance to FRAs on specific arrangements with health organisations for the mass decontamination of people is contained in FRS Circular 58-2006 ‘Memorandum of Understanding on Mass Decontamination’ [on the Department’s website at <http://www.communities.gov.uk/index.asp?id=1501503>].

5.0 Provision for USAR Emergencies

5.1 Article 3 of the Emergencies Order is entitled ‘Rescue and protection in case of certain emergencies’. It requires FRAs to make provision for rescuing people in the event of:

- a) an emergency involving the collapse of a building or other structure, and
- b) an emergency involving a train, tram or aircraft which is likely to require an FRA to use its resources beyond the scope of its day to day operations (i.e. a serious transport incident).

Article 3 qualifies the definition of a structure and means that FRAs are not required to duplicate provision made for quarries, mines, tunnels, caves and pot-holes. This is already being met by organisations such as quarrying companies, mining companies, cave rescue associations and pot-hole rescue teams.

It also requires an FRA to make provision to protect people, following rescue, to the extent that an FRA considers it reasonable to do so. This mirrors the requirement which FRAs already have for road traffic accidents, given by section 8(1)(b) of the Fire and Rescue Services Act 2004 [on the internet at <http://www.opsi.gov.uk/acts/acts2004/20040021.htm>].

5.2 Separate to the Emergencies Order, the national mutual aid protocol in FRS Circular 42/2006 helps to describe more fully transport incidents requiring FRAs to use resources beyond the scope of day to day operations (serious transport incidents). It defines a serious incident as:

“any event or circumstance (happening with or without warning) or combination of events and circumstances that causes or threatens immediate death or injury, disruption to the community, or damage to property or to the environment on such a scale that the effects cannot be dealt with as part of normal day-to-day activities of the affected authority. This includes any emergency that requires the implementation of special arrangements by the primary emergency services, the National Health Service or other public safety services in relation to one or more of the following emergency events:

- a) the initial rescue, decontamination, treatment, or evacuation of a large number of casualties;
- b) the involvement either directly or indirectly of large numbers of members of the public;
- c) the need for the large-scale resources of two or more of the primary emergency services; or
- d) the large-scale mobilisation of the emergency services and supporting organisations to deal with the death, serious injury or homelessness to a large number of people or the threat or possibility of such an outcome.”

6.0 Actions required of FRAs

- 6.1 Article 4 of the Emergencies Order is entitled ‘Action required for purpose of functions conferred by Order’. It describes what an FRA needs to do to meet the mandatory functions for CBRN and USAR emergencies.
- 6.2 The actions broadly mirror those set out for firefighting and road traffic accidents in sections 7 and 8 of the Fire and Rescue Services Act 2004. The main difference is that FRAs only need to secure the provision of trained staff to operate specialist (New Dimension) equipment, so maintaining the effectiveness of the CBRN and USAR capabilities. FRAs are not required to secure the provision of equipment, as New Dimension has already provided it.
- 6.3 FRAs also need to make arrangements for dealing with calls for help, obtaining information and ensuring reasonable steps are taken to prevent or limit property damage whilst dealing with an incident. These actions are the same as those which FRAs already take when dealing with fires or road traffic accidents.

7.0 Responding in another FRA’s area

- 7.1 Article 5 of the Emergencies Order is entitled ‘Responding to emergencies outside an FRA’s area’. It gives an FRA a duty to use on request from an affected authority the specialist CBRN or USAR resources provided by New Dimension outside of its area to an extent reasonable for dealing with that emergency. In practice, FRAs participating in the national mutual aid protocol for serious incidents (FRS Circular 42/2006) may receive the request through the FRS national coordination centre.
- 7.2 This duty builds on the already close cooperation existing between FRAs. It is qualified by using specialist resources to an extent which is reasonable for dealing with the emergency. Whilst precise examples of ‘reasonable’ depend on each individual type and size of an incident, it would be reasonable for an FRA to deploy its specialist resources outside of its area where it is not affected by the same type of incident. The 2005 explosion at the Buncefield Oil Depot in Hertfordshire offers a good example of this.

8.0 Responding in another FRA’s area

- 8.1 The Regulatory Impact Assessment (RIA) at annex B gives an analysis of two options regarding the order :
- Option A - rely on existing powers in the FRS Act 2004, or
 - Option B – make an Emergencies Order.
- 8.2 Paragraphs 41 and 42 of the RIA detail the costs to FRAs arising from making provision for CBRN and USAR emergencies. They show that the costs are the same for each of the above options.

9.0 Responding in another FRA’s area

- 9.1 The Emergencies Order does not cover FRA response costs arising from the deployment of specialist CBRN and USAR resources to an incident. Dependent on the type, size and duration of an incident, these are covered by the national mutual aid protocol for serious incidents in FRS Circular 42/2006, on the Department’s website at <http://www.communities.gov.uk/index.asp?id=1501503>.

MIKE REED

HEAD OF FIRE AND RESILIENCE POLICY DIVISION

STATUTORY INSTRUMENTS

2007 No. 735

FIRE AND RESCUE SERVICES, ENGLAND

The Fire and Rescue Services (Emergencies) (England) Order 2007

<i>Made</i> - - - -	<i>6th March 2007</i>
<i>Laid before Parliament</i>	<i>13th March 2007</i>
<i>Coming into force</i> - -	<i>6th April 2007</i>

The Secretary of State for Communities and Local Government makes the following Order in exercise of the powers conferred by sections 9 and 60 of the Fire and Rescue Services Act 2004(a).

In accordance with section 9(5) of that Act, she has consulted such persons as she considered appropriate.

Citation, commencement and application

1.—(1) This Order may be cited as the Fire and Rescue Services (Emergencies) (England) Order 2007 and shall come into force on 6th April 2007.

(2) This Order applies in relation to fire and rescue authorities in England only.

Chemical, biological, radiological, or nuclear emergency

2.—(1) A fire and rescue authority must make provision in its area for the purposes of—

- (a) removing chemical, biological, or radio-active contaminants from people in the event of an emergency(b) involving the release or potential release of such contaminants; and
- (b) containing, for a reasonable period, any water used for a purpose mentioned in sub-paragraph (a).

(2) In taking action for a purpose mentioned in paragraph (1) a fire and rescue authority must make arrangements for ensuring that reasonable steps are taken to prevent or limit serious harm to the environment.

Rescue and protection in case of certain emergencies

3.—(1) A fire and rescue authority must make provision in its area for the purpose of rescuing people who may be trapped and protecting them from serious harm, to the extent that it considers it reasonable to do so, in the event of—

- (a) an emergency involving the collapse of a building or other structure; or
- (b) subject to paragraph (2), an emergency falling within section 58(a) of the Fire and Rescue Services Act 2004 which—
 - (i) involves a train, tram, or aircraft, and
 - (ii) is likely to require a fire and rescue authority to use its resources beyond the scope of its day to day operations.

(a) 2004 c. 21. The power of the Secretary of State under section 9 is, in relation to Wales, exercisable by the National Assembly for Wales by virtue of section 62.
(b) “Emergency” is defined in section 58 of the Fire and Rescue Services Act 2004.

(2) Paragraph (1)(b) does not apply to provision for an emergency to the extent that it involves the collapse of a tunnel or mine.

(3) In this article—

- (a) “structure” does not include a tunnel or mine;
- (b) “tunnel” means a man-made passage; and
- (c) “mine” means a mine within the meaning of section 180 of the Mines and Quarries Act 1954^(a).

Action required for purpose of functions conferred by Order

4. In making the provision required by article 2 or 3, a fire and rescue authority must—

- (a) secure the provision of such personnel, services and training as may be necessary efficiently to meet all reasonable requirements;
- (b) make arrangements for dealing with calls for help;
- (c) make arrangements for obtaining necessary information; and
- (d) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken pursuant to such provision.

Responding to emergencies outside a fire and rescue authority’s area

5.—(1) This paragraph applies where—

- (a) a fire and rescue authority maintains specialist resources (“the first authority”);
- (b) an emergency of a type specified in article 2 or 3 has occurred or is likely to occur in the area of another fire and rescue authority (“the second authority”); and
- (c) the second authority has requested the first authority to use those resources in the second authority’s area.

(2) Where paragraph (1) applies, the first authority must use its specialist resources in the area of the second authority to such extent as is reasonable for the purpose of dealing with the emergency.

(3) In this article, “specialist resources” means resources maintained for the purpose of taking action pursuant to provision made in accordance with article 2 or 3 including any personnel who have received specialist training for that purpose.

Signed by authority of the Secretary of State for Communities and Local Government

Phil Woolas
Minister of State

6th March 2007

Department for Communities and Local Government

^(a) 1954 c.70, relevant amending instruments are S.I. 1993/1897 and S.I. 1999/2024.

EXPLANATORY NOTE

(This note is not part of the Order)

The core functions of fire and rescue authorities are set out in sections 6 to 8 of the Fire and Rescue Services Act 2004 (the Act). These are functions in connection with fire safety, fire-fighting and road traffic accidents. Section 9 allows the Secretary of State to specify by order other core functions relating to emergencies for which fire and rescue authorities must make provision. Emergencies are defined in section 58 of the Act.

This Order specifies functions in connection with the emergencies described in Articles 2 and 3.

Article 2 is concerned with emergencies involving chemical, biological, or radio-active contaminants.

Article 3 is concerned with emergencies involving a structural collapse or a train, tram or aircraft (“transport emergencies”), but does not apply in relation to transport emergencies unless the incident is likely to require a fire and rescue authority to use resources beyond the scope of its normal day to day operations. Authorities are not required to make provision for dealing with emergencies to which this article relates to the extent that they involve the collapse of a tunnel or mine.

Article 4 specifies the things that fire and rescue authorities must do in making provision for emergencies of the descriptions in articles 2 and 3.

Where a fire and rescue authority has specialist resources, including specialist trained personnel, to enable it to deal with emergencies of a kind described in this Order, and such an emergency occurs or is likely to occur in the area of another authority, article 5 requires the authority with the specialist resources, if asked to do so, to use those resources in that other authority’s area so far as is reasonable for the purpose of dealing with the emergency.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available on the website of the Department for Communities and Local Government at www.communities.gov.uk and is annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.

ANNEX B

REGULATORY IMPACT ASSESSMENT (RIA)

Title of Proposal

1. Fire and Rescue Services (Emergencies) (England) Order 2007

Purpose and Intended Effect of Measure

Objective

2. To improve national resilience to disruptive incidents such as terrorist attacks and serious accidents by giving fire and rescue authorities (FRAs) in England mandatory functions in connection with key types of emergencies: chemical, biological, radiological or nuclear emergencies ('CBRN emergencies') and emergencies requiring the freeing of people from collapsed structures or non-road transport wreckages (urban search and rescue, or 'USAR emergencies').

Background

3. FRAs currently exercise their discretionary power to make provision for types of serious incidents (including the 'emergencies' described in the draft Order) using equipment and initial training provided centrally by the Government's New Dimension Programme¹. FRAs are reimbursed for costs of maintaining the specialist staff training and equipment, currently by means of grants made under section 31 of the Local Government Act 2003.
4. The FRAs' discretionary power to make provision for such incidents is derived from the Fire and Rescue Services Act 2004. This came into effect from October 2004 (in England) and November 2004 (in Wales). The Act gives FRAs the power to make provision for any type of emergency likely to cause individuals to die, be injured or become ill.
5. The Act also gives FRAs mandatory, rather than discretionary, functions in connection with fires and road traffic accidents. For other types of emergencies that s/he considers necessary, the Secretary of State can, by order under section 9 of the Fire and Rescue Services Act 2004, give mandatory functions to FRAs in England (an 'Emergencies Order'). The National Assembly for Wales can do the same for FRAs in Wales and plans to do so later in 2007.
6. The Scottish Executive has given mandatory functions to FRAs in Scotland in connection with key types of emergencies by making the Fire (Additional Function) (Scotland) Order 2005 under section 11 of the Fire (Scotland) Act 2005. Northern Ireland's Department of Health, Social Services and Public Safety is expecting to consult on similar proposals in 2007.

¹ Government has committed over £200 million to the New Dimension Programme. It is equipping and training fire and rescue services, giving them an organisational capability to provide a co-ordinated national response to a range of catastrophic incidents such as terrorist attacks.

Rationale for government intervention

7. The process of rolling out specialist equipment and training to FRAs, paid for by the Government's New Dimension programme, will be complete in 2007. This gives FRAs capabilities to deal with CBRN emergencies and USAR emergencies using the discretionary powers available under the Fire and Rescue Services Act 2004. There are two areas of potential concern:
 - i. Should an incident occur, there is no assurance that an FRA which has specialised equipment will actually respond outside its own area (for example, it may withhold equipment because of concerns over a second incident in its area);
 - ii. The equipment hosted by any particular FRA is expressly part of a wider national response capability rather than being sized to fit local needs. Hence over the longer term, despite receiving funds in recognition of the extra costs of hosting New Dimension capability, an FRA might let the capability degrade due to day-to-day budget pressures from other activities (e.g. fires or road traffic accidents) which are mandatory.

8. Broadly, there are two approaches to these issues. The first is to recognise that in major incidents FRAs have generally worked closely together and there is no specific concern that this is likely to change. A good example of such co-operation was during the large fire at the Buncefield oil depot in Hertfordshire in December 2005. This used high volume pumps provided to FRAs by the Government's New Dimension programme from across the country. Currently, there is no evidence that FRAs would allow the capabilities to degrade in the long term, so long as funding continued. The duties on local responders under the Civil Contingencies Act 2004 to prepare for risks, including national-scale disasters, already mean that FRAs will maintain the necessary capability across their regions by working together through Regional Resilience Forums. These considerations would argue that there would be no reason for a change to current legislation.

9. The second view is that a duty on FRAs hosting specialist equipment to respond to CBRN and USAR emergencies outside their own areas is necessary to underpin that response and ensure it takes place. Although the possibility of a hosting FRA choosing not to respond may seem remote, the incidents which the New Dimension programme addresses are by their nature unusual. Over the longer term, specific mandatory functions would aid the sustainability of the capabilities, because FRAs would give a mandatory, statutory 'core' function more weight than a discretionary one. This would increase national resilience to disruptive incidents.

Consultation

Within government

10. All 23 members of the Domestic Affairs Cabinet Committee were consulted to approve publication of the government response document following public consultation on the initial proposals.

Public consultation

11. Public consultation was held from September to December 2004, including the (then) 47 FRAs in England and other key stakeholders such as the Chief Fire Officers' Association and the Fire Brigades' Union. After the receipt of comments from 52 organisations, the Government published its response and revised proposals in November 2005.
12. As well as the CBRN emergencies and USAR emergencies included in the Emergencies Order, the initial proposals included giving FRAs mandatory functions in connection with major flooding, tunnel collapses and major transport incidents involving vessels. The public consultation highlighted the need to look at the existing provision and capability available for these types of emergencies before giving each FRA mandatory functions irrespective of their local circumstances.
13. In the case of transport incidents involving vessels, the policy is being met by the Government's Sea of Change programme led by the Department for Transport's Marine and Coastguard Agency (MCA). This has established an MCA-led structure by equipping and training strategically located fire and rescue services around the coast (8 in England, 15 in total for the UK) designed to respond to maritime incidents. This enables the MCA to request a response from suitably trained services for incidents up to 250 miles from the UK coastline. The capability can also be used for non-maritime incidents. Hence FRAs will retain their existing power to make provision for such incidents in conjunction with the MCA. This will be monitored, with an option of FRAs being given mandatory functions in connection with such incidents in future through some separate Emergencies Order.
14. In the case of tunnel collapses, the specialist USAR equipment provided to FRAs by the New Dimension programme for use in collapsed structure situations can be used in confined spaces which include some tunnel incidents. In the occasional situations where an FRA's equipment is inadequate then it is more appropriate to call upon others, including specialist agencies, with relevant expertise and equipment. Tunnel rescue is already reinforced by two existing legal components:
 - a) The Civil Contingencies Act 2004, by its placing a duty on local responders such as FRAs to plan and prepare for likely disruptive incidents. Capabilities planning guidance makes clear that planning assumptions include incidents involving tunnels.
 - b) The Fire and Rescue Services Act 2004, by giving FRAs the power to respond to emergencies such as tunnel incidents using the New Dimension USAR equipment provided - and being able to call on others, including specialist agencies where these would be better placed to deal with the emergency.

15. In the case of major flooding, Defra (as lead department for flooding) is examining the existing flood response capability and what may be necessary to improve existing provision. Hence giving every FRA a mandatory duty to make provision would be premature at this stage. The option of requiring FRAs to make provision for major flooding in some future Emergencies Order is still available. FRAs will retain the power to make the provision they deem necessary according to their local circumstances. Government has also provided high volume pumps (HVPs) specifically to help deal with such incidents. The locations of these were determined after a risk assessment.
16. Hence as a result of consultation, flooding, tunnel collapses and transport incidents involving vessels are not included in this Emergencies Order.

Options

17. Two options have been identified:
 - A) Do nothing and use existing FRA powers
 - B) Make an Emergencies Order

Option A - Do nothing and use existing FRA powers

18. This option describes the existing situation whereby Government is providing specialist equipment and initial training to FRAs, providing them with new capabilities to deal with CBRN and USAR emergencies.
19. Coupled with the Government's provision of specialist equipment and initial training, FRAs receive grants made under s31 of the Local Government Act 2003 to maintain the capabilities provided. In the longer term, such funding would typically be mainstreamed through inclusion within local authority Revenue Support Grant.
20. This option uses the existing power of FRAs under the Fire and Rescue Services Act 2004 (FRS Act) coupled with existing FRA duties provided by the Civil Contingencies Act 2004 (CCA).
21. The FRS Act enables FRAs to make provision to maintain the capabilities for CBRN and USAR emergencies provided by Government. FRA maintenance of these capabilities is dependent on continued Government funding which will continue whilst the need for them is required.
22. The CCA requires FRAs to address risks in their areas together with other local responders, such as the police and ambulance service. These risks are derived, in part, from the Government's national planning assumptions and include CBRN and USAR incidents. The Regional Resilience Forums provide a framework where local responders in the region can consider whether they are able to deal with the risks derived from national planning assumptions, as they are required to do by the CCA. So in effect, the CCA should ensure that local FRAs maintain the capabilities for CBRN and USAR emergencies provided by Government, enabling a response both within and outside their own local areas.

23. The advantages of this option are that it requires no secondary legislation and is in line with a 'light touch' approach. It avoids placing mandatory duties on FRAs where there is no reason or evidence to assume that they will allow the capabilities for CBRN and USAR emergencies to degrade over time or refuse to act outside their own areas when needed.
24. The disadvantage of this option is that relying on FRAs' discretionary powers, even where they receive central funding, means that they could still decline to use the specialist resources to aid other authorities, or in future decide to stop maintaining the capabilities provided by Government. In particular, authorities have an incentive due to immediate local pressures to make provision for likely local needs, rather than ensuring that collectively there is provision for very unlikely large-scale incidents. This could, over time, reduce national resilience to such disruptive incidents.

Option B - Make an Emergencies Order

25. This option describes the situation whereby an Emergencies Order is made and comes into effect once the new capabilities for CBRN and USAR emergencies provided by Government are fully operational.
26. An Emergencies Order would give FRAs mandatory functions, as opposed to discretionary ones, in connection with the types of emergencies it specifies i.e. CBRN and USAR emergencies.
27. The advantages of this option are that mandatory functions send a clear signal that CBRN and USAR emergencies are core activities for fire and rescue services, underpinning their response using specialist resources to incidents outside their own individual areas and giving weight to the need to maintain the capabilities for such types of emergencies in the long term.
28. The disadvantage of this option is that it could appear heavy-handed, reducing local discretion for FRAs to decide the types of emergencies for which they consider it appropriate to make provision according to their individual circumstances.
29. In summary an Emergencies Order, by giving FRAs mandatory functions in connection with CBRN and USAR emergencies, would improve national resilience to these disruptive incidents. It decreases the risk of FRAs not making provision for CBRN and USAR emergencies, or of not deploying the associated resources outside of their own areas, at the expense of increased restriction on their freedom.

Alternative options considered

30. One other option was to make an Emergencies Order giving FRAs mandatory functions for key types of emergencies without central government procuring specialist equipment and initial training for FRAs. It would then have been the responsibility of local FRAs to secure new capabilities for CBRN and USAR emergencies within their individual areas.
31. This option, whilst maximising local FRA autonomy, was regarded as unfeasible. This is because the capabilities are likely to be deployed across FRA boundaries and so the central procurement and delivery of uniform specialist equipment and initial training was seen as the most effective and quickest way of delivering a common capability for CBRN and USAR emergencies to FRAs.

Costs and Benefits

Sectors and groups affected

32. The public sector is the sector affected by the costs of the proposal: Central Government provides FRAs with capabilities to deal with CBRN and USAR emergencies by procuring and delivering the specialist equipment and initial training to FRAs; local FRAs maintain the capabilities thereafter. The initial costs will be met through general taxation; the care and maintenance costs will be supported by Government so, ultimately, will also be met by the general taxpayer.
33. All members of the public and the economy as a whole benefit from FRAs having capabilities to deal with CBRN or USAR emergencies: In the event of such disruptive incidents occurring, the ready deployment of the capabilities should reduce the number of seriously injured persons or deaths. This should also enable all parts of the economy to return to their normal functioning capacity more quickly.
34. There are no costs to businesses from this proposal. Indirectly, business will benefit from the greater resilience to CBRN and USAR emergencies provided through the Government's New Dimension programme.

Race equality assessment

35. The proposal has neither a beneficial nor adverse impact on race equality. A full race equality assessment is not considered necessary for this proposal.

Health impact assessment

36. The proposal has an indirect beneficial impact on health: FRA maintenance of capabilities for CBRN and USAR emergencies should, following their deployment, reduce the number of serious injuries and deaths in the event of such incidents occurring. A full health impact assessment is not considered necessary for this proposal.

Rural considerations

37. The proposal has neither a beneficial nor adverse impact on rural areas. A full rural impact assessment is not considered necessary for this proposal.

Benefits

Option A - Do nothing and use existing FRA powers

Option B - Make an Emergencies Order

38. For both options A and B there are no direct social, environmental or economic benefits.
39. For both options A and B there are indirect benefits. The deployment of FRA maintained capabilities to deal with CBRN and USAR emergencies should mean that there would be fewer injuries and deaths, enabling the general economy to return to its normal functioning capacity more quickly.

Option B - Make an Emergencies Order

40. For option B, mandatory FRA functions for CBRN and USAR emergencies should further ensure the provision of the capabilities and their deployment outside individual FRA areas. This would better secure the indirect benefits described above and further improve national resilience to disruptive incidents.

Costs

Option A - Do nothing and use existing FRA powers

Option B - Make an Emergencies Order

41. For both options A and B, there are no social or environmental costs arising from this option.
42. For both options A and B, the costs for FRAs of making provision for CBRN and USAR emergencies will be met either through continued use of direct grants to local authorities under section 31 of the Local Government Act 2003 or, when this becomes possible, by the addition of funds within the revenue support grant. As the delivery of capabilities to FRAs will be complete in 2007, there will be no initial set-up or delivery costs for FRAs. Hence the cost base will remain stable from spring 2007 and for each year thereafter. The estimated cost breakdown is therefore as follows:

FRAs' FIRE and RESCUE SERVICE STAFF²		
	<i>CBRN £M pa</i>	<i>USAR £M pa</i>
Staff Crewing	0 ³	14.00 ⁴
Staff Training	3.45	1.97
sub-totals⁵	3.45	15.97
Total		19.42

² Estimates are correct as at February 2007

³ The Local Government Association and Chief Fire Officers Association have agreed that this will be crewed from existing resources

⁴ This figure arises from a calculation based on the number of crew per team and the pay rates and non-pay costs for the different grades within the team, taking account of the most recent pay deal

⁵ The Emergencies Order makes no demands on FRAs regarding equipment; Government has secured this separately and is establishing long term management structures together with the Local Government Association, Chief Fire Officers Association and FRAs.

Small Firms' Impact Test (SFIT)

43. An SFIT is unnecessary as the proposal only affects the public sector (FRAs).

Competition Assessment

44. A competition assessment is unnecessary as the proposal only affects the public sector (FRAs).

Enforcement, Sanctions and Monitoring

45. The monitoring and review of FRA performance in relation to maintaining the capabilities for CBRN and USAR emergencies will be introduced in the Comprehensive Performance Assessment (CPA) process undertaken by the Audit Commission.

Implementation and Delivery Plan

46. Government is currently giving FRAs a capability to deal with CBRN and USAR emergencies by delivering specialist equipment and initial training to FRAs (options A and B). These capabilities are planned to be fully operational in 2007.
47. Government plans to make an Emergencies Order in the first quarter of 2007, to take effect in spring 2007. This would give FRAs mandatory functions relating to CBRN and USAR emergencies (option B).

Post-Implementation Review

48. In addition to the CPA process described in paragraph 45, the Government's New Dimension programme is exploring ways to ensure that the national resilience capability remains inter-operable between fire and rescue services and in line with agreed national targets. Such targets will be reviewed on an annual basis by the Department and the Chief Fire Officers' Association.

Summary and Recommendation

Option	Total cost per annum	Total benefit per annum
A - Do nothing and use existing FRA powers	- £19.42M	- Direct: £0 - Indirect: Likelihood of fewer deaths and corresponding lesser economic impact
B - Make an Emergencies Order	- £19.42M	- Direct: £0 - Indirect: Likelihood of fewer deaths and corresponding lesser economic impact

49. Option B is the recommended option. It would make it mandatory for FRAs to make provision for CBRN and USAR emergencies, deploying the associated capabilities on request outside individual FRA areas to an extent reasonable to deal with the emergency. This would further improve national resilience to such disruptive incidents.

Declaration and Publication

I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs

Phil Woolas
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Department for Communities and Local Government