

# Legislation

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The strategic commander may feel it appropriate to access objective legal advice during the response to an incident, due to the scale and complexity of some emergencies and major incidents. Legal advice may be sought on:

- procedures – to limit a police force's exposure to civil litigation and possible implications of future parliamentary or judicial review of the incident
- interpretation of statutory or common law relevant to the response during that incident

Forces require robust and flexible emergency planning and interoperability arrangements to meet legislative requirements.

This page provides information on the relevant national legislation in relation to civil protection.

## Civil Contingencies Act 2004

The Civil Contingencies Act 2004 (CCA) and associated guidance deliver a single framework for civil protection in the UK.

The CCA is separated into substantive parts.

- Part 1 – local arrangements for civil protection.
- Part 2 – emergency powers.

### CCA Part 1

Part 1 of the CCA, supporting regulations and the [statutory guidance on Emergency preparedness](#) establish a clear set of roles and responsibilities for those involved in emergency preparation and response at the local level.

The CCA divides local responders into two categories, imposing a different set of duties on each. The Act requires category 1 and 2 responders to come together to plan and prepare for emergencies. This requirement is achieved through Local Resilience Forum (LRF) structures. Each emergency service should ensure that it is represented at a senior level at every meeting of an LRF.

## Category 1 responders

Category 1 responders are subject to the full set of civil protection duties. They are required to:

- assess the risk of emergencies occurring and use this to inform contingency planning
- put in place emergency plans
- put in place business continuity management arrangements
- put in place arrangements to make information available to the public about civil protection matters
- maintain arrangements to warn, inform and advise the public in the event of an emergency
- share information with other local responders to enhance coordination
- cooperate with other local responders to enhance coordination and efficiency
- provide advice and assistance to businesses and voluntary organisations about business continuity management (local authorities only)

## Category 2 responders

Category 2 responders are 'cooperating bodies'. They may be referred to as 'statutory undertakers'.

These organisations are less likely to be involved in the heart of planning work, but will be heavily involved in incidents that affect their own sector.

Category 2 responders have a lesser set of duties that involve cooperating and sharing relevant information with other Category 1 and 2 responders. Category 2 responders may support strategic coordination groups (SCGs) with a single decision-maker who links in with the SCG chair as required.

## CCA Part 2 – Emergency powers

Part 2 of the CCA allows for the making of temporary [special legislation](#) (emergency regulations) to help deal with the most serious of emergencies.

The use of emergency powers is a last resort option, which is subject to a robust set of safeguards. They can only be deployed in exceptional circumstances.

Local-level planning arrangements should not assume that emergency powers will be made available.

The process map for the activation of emergency powers under Part 2 of the CCA is accessible through ResilienceDirect.

## **Responders without duties under the CCA**

Certain organisations and groups are excluded from a legal requirement to perform duties under the CCA. They may, however, have duties to assist Category 1 and 2 responders under other legislation and regulations.

### **Military aid to the civil authority (MACA)**

Military operations in the UK are placed under the overarching title of military aid to the civil authority (MACA).

There should be proactive and early consideration by SCGs of military capabilities. These considerations and capabilities should be reflected in local planning arrangements.

Some military support, however, falls outside the scope of MACA. This includes bomb disposal.

#### **MACA principles**

MACA provision is guided by four principles. Military aid should be provided only where:

1. there is a definite need to act and the tasks the armed forces are being asked to perform are clear
2. other options have been discounted – including mutual aid, commercial alternatives and the voluntary sector
3. the civil authority lacks the necessary capability to fulfil the task and it is unreasonable or prohibitively expensive to expect it to develop one
4. the civil authority has all or some capability or capacity – but it may not be available immediately, or to the required scale – and the urgency of the task requires rapid external support from the

## Ministry of Defence (MoD)

The MACA principles make UK government ministers formally responsible for the deployment of the armed forces within the UK at the request of a government department or civil authority.

### MACA process

- MACA is initiated by a request to the MoD and ministers via the relevant UK government department or agency.
- The SCG chair makes the request through the joint regional liaison officer (JRLO) or government liaison officer (GLO) from the relevant government department. This can also be made through one of the other single service regional liaison officers. For example, a Royal Navy regional liaison officer (RNRLO) or Royal Air Force regional liaison officer (RAFRLO).
- The MoD assesses the resources that may be needed to achieve the desired effect and whether the request can be met.
- Military support will be provided only if resources are available. MACA should, therefore, be regarded as a contingency and not as a standard response.

### Costs

- Full cost recovery – this is usually set for non-urgent requests for military support.
- Marginal cost recovery – this is usually set if the request is in response to an emerging or ongoing disruptive challenge.
- Zero cost recovery – this is set if there is an imminent threat to life, a need to alleviate distress or a need to protect significant property.

The costs are met by the responding agency or group of agencies that has most benefited from the use of military resources.

The SCG chair must consult with SCG members on the use of military resources and secure agreement from the relevant agencies for liability for the marginal costs incurred.

For further information see [MoD policy guidance on armed forces support](#).

## Government financial support in major incidents

The response to an emergency or major incident is likely to incur significant financial costs for the police force or forces affected.

An individual or team within the command support function (strategic coordination centre) should be made responsible for setting up procedures to capture all costs reasonably incurred in responding to that incident. A separate budget code or cost centre may need to be created to which all relevant expenses can be attributed.

The strategic commander and SCG should be given updates on expenditure during the response phase. Clarity should be sought on the financial accounting arrangements to be used when the lead coordinating agency responsibility passes from the police to the local authority or other organisation.

These costs may have to be borne by the police force concerned, but it may be possible to reclaim the costs or a proportion of them from another agency. Options for cost recovery include the [Bellwin scheme](#), which is updated annually. Devolved nations have similar schemes.

## Voluntary sector

It is beneficial to involve the voluntary sector who have a diverse range of voluntary organisations that can support responding organisations. LRFs have a number of workstreams, one of which focuses on the voluntary sector.

Voluntary sector capability varies from region to region. It may be beneficial to have an established relationship and understanding of the voluntary sector to make the most of the resources available. There are, however, national assets that can be activated if required.

The Voluntary and Community Sector Emergencies Partnership is made up of a range of organisations within the sector, with the aim of improving coordination at national and local levels before, during and after emergencies.

## Statutory instruments

There are businesses and operators who have specific duties under the following statutory instruments.

- [Control of Major Accident Hazards \(COMAH\) Regulations 2015](#)

- [Radiation \(Emergency Preparedness and Public Information\) Regulations 2019 \(REPPIR\)](#)
- [Pipelines Safety Regulations \(PSR\) 1996](#)

## Incidents at civil nuclear sites

Additional response procedures apply to an emergency or major incident involving nuclear material. This subsection applies to non-deliberate incidents.

Planning for the response to a nuclear accident is required by the [Radiation \(Emergency Preparedness and Public Information\) Regulations 2019 \(REPPIR\)](#). These regulations place the responsibility for preparation of the on-site plan with the site operator, and the off-site plan with the relevant local authority. The Office for Nuclear Regulation oversees the compliance through a regular testing and exercise regime.

Deliberate acts that result in the release of nuclear fission products fall within the remit of a chemical, biological, radiological or nuclear (CBRN) incident. This will invoke a counter terrorism response.

## Tags

Civil emergencies