



Office of the
Deputy Prime Minister

Creating sustainable communities

Draft Fire and Rescue Services (Emergencies)
(England) Order 2004

Emergencies for
Fire and Rescue Authorities

A consultation document

September 2004

Office of the Deputy Prime Minister: London

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Executive Summary

1. The Fire and Rescue Services Act 2004 ('the Act') received Royal Assent on 22 July 2004. Sections 6 to 9 of the Act describe the core functions for which fire and rescue authorities must make provision.

They are:
 - a) fire safety;
 - b) firefighting;
 - c) road traffic accidents; and
 - d) emergencies.
2. The Act defines an 'emergency' as an event or situation that causes or is likely to cause:
 - a) one or more individuals to die, be seriously injured or become seriously ill, or
 - b) serious harm to the environment (including the life and health of plants and animals).
3. Section 9 of the Act empowers the Secretary of State, by Order, to confer duties on fire and rescue authorities (FRAs) in respect of emergencies other than fires or road traffic accidents.
4. This consultation seeks views on the scope and content of the initial draft Order which:
 - **Specifies the emergencies for which FRAs must make provision.**
 - **Stipulates the provision that FRAs must make for the specified emergencies.**
 - **Describes the circumstances when a FRA must respond to emergencies outside its area.**
5. The draft Order seeks only to clarify the existing role and functions of FRAs regarding emergencies which have developed piecemeal over a number of years. Its purpose is not to impose new costs on FRAs. The only exception to this is where FRAs have new duties in relation to the New Dimension programme (improving resilience to terrorism and natural disasters). The Government recognises that this presents a new challenge for FRAs and is investing up to £188 million in training and equipment for the programme: £56 million on phase one, covering mass decontamination, and up to £132 million planned for phase two, which will cover search and rescue.
6. The Government is also in discussion with the Chief Fire Officers' Association (CFOA) and the Local Government Association (LGA) about the extent of additional funding necessary to cover the crewing of the new search and rescue vehicles and equipment provided under phase two of the New Dimension programme. Government will be allocating a sum of money to cover crewing; how it is spent will be left to the discretion of FRAs.

7. The detailed proposals in the draft Order are set out fully later in this document, including the following questions to which we are keen to have responses:
- Q1.** Are there emergencies not already listed in the draft Order which should be specified – if so, what are they and why should they be included?
- Q2.** Should any of the current proposed emergencies be excluded from the final Order – if so, what are they and why should they be excluded?
- Q3.** Could the proposed definitions for the specified emergencies in the draft Order be improved?
- Q4.** Is the provision and nature of the provision that FRAs must make for the specified emergencies in the draft Order sufficient – if not, what else should be specified and why?
- Q5.** Are there any circumstances not already listed in the draft Order when a FRA should respond to an emergency outside its area – what are they and why should they be included?
- Q6.** Are there any circumstances when it would be inappropriate for a FRA to respond to an emergency outside its area– what are they and why should they be excluded?
- Q7.** How reasonable and workable in practice do you think the draft proposals would be should they form part of the final Order?
- Q8.** Do you have any other comments or observations concerning the draft Order?
8. We welcome your responses and comments via e-mail, letter or fax by 13 December 2004, sent to:

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Purpose of Consultation

9. This consultation seeks views on the scope and content of the draft Order reproduced in Appendix B. We are keen to ensure that the final Order:
 - Defines emergencies comprehensively and effectively;
 - Details reasonable and adequate provisions which FRAs must make for a specified emergency;
 - Includes sufficient circumstances when a FRA must reasonably respond to an emergency outside its own area;
 - Is workable in practice.
10. We welcome your responses to the specific questions asked in the 'Proposals' section of this document and any other comments you may have generally.

Background

11. The demands on FRAs have moved on since the Fire Services Act 1947 provided them with a statutory function relating exclusively to fighting fires. All the other major areas that FRAs are involved in are effectively voluntary. Examples of these duties include containing chemical spills, freeing trapped passengers from vehicles or sea vessels, aiding people affected by flooding or undergoing search and rescue activities. Whilst authorities deal effectively with many of these challenges, there is no solid statutory base that requires them to plan, train and equip for such emergencies which raises potential issues of consistency and effectiveness of response.
12. The gap between what FRAs actually do and what the law requires them to do means we need to broaden the statutory duty on authorities beyond fire fighting to include emergencies.
13. As well as clarifying the existing role and duties of FRAs, the Government wants to improve its capability to respond to, or mitigate the effects of, natural disasters, large scale accidents or terrorist incidents. This is particularly relevant following the attacks of 11 September 2001 and the increased terrorist threat we face.
14. For that reason, the Government launched the 'New Dimension' programme. This seeks to ensure that the fire and rescue service is sufficiently trained and equipped to deal safely and effectively with major emergencies. Examples include chemical, biological, radiological and nuclear (CBRN) incidents or the aftermath of a building collapse.
15. The Government has already purchased equipment for use by FRAs for phase one of the New Dimension programme. This equipment includes purpose-built response vehicles, portable shower units and specialist protective clothing for the purposes of mass decontamination after a CBRN incident. Phase two of the New Dimension programme will include the purchase of modern search and rescue equipment such as heavy lifting gear, search cameras and high volume water pumps.

16. Sections 6 to 9 of the Fire and Rescue Services Act 2004 describe the core functions for which fire and rescue authorities must make provision.

These are:

- a) fire safety;
 - b) firefighting;
 - c) road traffic accidents; and
 - d) emergencies.
17. An emergency is defined in Section 58 of the Act, and for the draft Order, as an event or situation that causes or is likely to cause:
- a) one or more individuals to die, be seriously injured or become seriously ill, or
 - b) serious harm to the environment (including the life and health of plants and animals).
18. Annex A reproduces Section 9 of the Act. It deals specifically with emergencies and empowers the Secretary of State, following consultation, to make an Order which confers duties relating to emergencies on FRAs. The Order can specify the types of emergency to which FRAs must respond and the nature of the provision which they should make to respond to such incidents. As mentioned in paragraph 16, the Act sets out separately the responsibilities for FRAs in relation to firefighting and road traffic accidents and so they are not covered by the Section 9 Order.
19. Essentially, the draft Order would provide a statutory requirement for FRAs to **make provision for**:
- a) Removing chemical, biological or radioactive contaminants from people (using the mass decontamination equipment provided under the Government's New Dimension programme) and capturing any water used to remove such contaminants.
 - b) Ensuring that reasonable steps are taken to prevent or limit serious harm to the environment resulting from action taken to remove chemical, biological or radioactive contaminants from people.
 - c) Any incident involving search and rescue. This would include any terrorist incident which is not already covered by their duty to attend CBRN incidents, and any other incidents where there is the potential for persons to be trapped, or where it is necessary to use search and rescue equipment to detect individuals. Examples of such incidents include landslides and explosions resulting in collapsed buildings and other collapsed structures such as tunnels.
 - d) Any major flooding incident where there is a serious threat to human health or welfare. For example, firefighters would be needed to assist in the rescue of people trapped by large floods and their transfer to safety. This excludes smaller and more localised flooding events, such as a burst water main to which FRAs may decide to respond using powers under Section 11 of the Act: 'Power to respond to other eventualities'.

- e) Any serious non-road transport incidents such as major railway, tramway or aircraft incidents and incidents involving vessels at sea or inland waters. For example, fire fighters would be required to free any trapped passengers from a wreckage or rescue people involved in any incident such as an accident or terrorist attack. This excludes road traffic accidents, which are covered by Section 8 of the Act: 'Road traffic accidents'.
20. The draft Order also describes the **nature** of the provision that would be necessary for FRAs to carry out their emergency functions described in paragraph 19 above. These are to:
- a) Secure the provision of:
 - i) equipment necessary to meet efficiently all reasonable requirements of making provision for major flooding and major transport incidents;
 - ii) personnel, services and training necessary to meet all reasonable requirements of the Order;
 - b) Make arrangements for:
 - i) dealing with calls for help;
 - ii) obtaining information needed for dealing with an incident, such as its location and details; and
 - iii) ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for dealing with an incident;
21. Finally, the draft Order would require a FRA to respond, where requested by another FRA and where reasonable to do so, to a specified emergency arising outside its own area. In the event of an FRA being unable to request such assistance, due to an unforeseen or unusual incident, then Section 10 of the Act would also give the Secretary of State the power to direct a FRA to attend an emergency outside its area.
22. As set out in paragraph 5 above, the Government is investing additional new resources in new equipment and training for its New Dimension programme. Phase one of the programme has already seen the mass decontamination equipment being staffed, in agreement with CFOA and the LGA, using existing FRA resources. Phase two of the programme, the Government provision of search and rescue equipment to FRAs, will also see the Government providing additional new funds for the training and crewing costs attributable to New Dimension duties, in agreement with CFOA and the LGA.
23. Essentially, the draft Order seeks to make it statutory to deal with many of those existing Special Service Incidents (SSIs) classed as an emergency by the Act and to which FRAs already respond at present. Its purpose is not to impose new costs on FRAs additional to those they already have in exercising existing statutory and non-statutory duties. Where FRAs are given new duties in relation to the New Dimension programme, the Government will be providing new resources in agreement with CFOA and the LGA. The costs for attending SSIs, including those classed as an emergency, are already being met from existing FRA funding streams.

24. We believe that the draft Order does not impose a new financial burden on FRAs when the extra resources provided under the New Dimension programme are taken into account. We expect that, following the Integrated Risk Management Plan process, a FRA will currently have the necessary resources to discharge their statutory duties in conjunction with existing or new reinforcement schemes for securing mutual assistance with other FRAs.

Proposals

EMERGENCIES FOR WHICH FIRE AND RESCUE AUTHORITIES MUST MAKE PROVISION

[Articles 2, 6(1)(b) and 7(3) of the draft Order]

25. Within the definition of an emergency described in paragraph 2, the draft Order further specifies emergencies as:
- a) Chemical, biological, radiological and nuclear incidents.
 - b) Search and rescue events.
 - c) Major flooding incidents.
 - d) Major transport incidents, including at sea.

The relevant definitions are:

- i) A 'chemical, biological, radiological or nuclear incident' means an event or situation involving the release or potential release of chemical, biological or radioactive contaminants.
- ii) 'Major transport incident' means an event or situation involving a train, tram, vessel or aircraft that causes or is likely to cause one or more individuals to die, be seriously injured or become seriously ill.
- iii) 'Major flooding' means flooding that causes or is likely to cause one or more individuals to die, be seriously injured or become seriously ill and which results from:
 - a) natural causes;
 - b) an escape of water from a large raised reservoir.
- iv) 'Sea' means the territorial sea of the United Kingdom.
- v) 'Large raised reservoir' has the same meaning as in section 1 of the Reservoirs Act 1975.
- vi) 'Specialist resources' mean resources maintained for discharging the specified emergency functions, including personnel who have had specialist training.

Specific areas where we are seeking views:

Q1. Are there emergencies not already listed in the draft Order which should be specified – if so, what are they and why should they be included?

Q2. Should any of the current proposed emergencies be excluded from the final Order – if so, what are they and why should they be excluded?

Q3. Could the proposed definitions for the specified emergencies in the draft Order be improved?

PROVISION THAT FIRE AND RESCUE AUTHORITIES MUST MAKE FOR THE SPECIFIED EMERGENCIES

[Articles 3, 4, 5, 6 and 8 of the draft Order]

26. The draft Order proposes that a FRA must make the following provision:
- a) For the purpose of enabling action to be taken in the event of a chemical, biological, radiological or nuclear incident, make provision for:
 - removing contaminants from individuals;
 - capturing any water used to remove contaminants; and
 - making reasonable arrangements for its subsequent disposal.
 - b) Make provision for rescuing and protecting individuals from death, serious injury or serious illness in the event of:
 - i. An incident where one or more persons have been trapped following
 - a landslide, or
 - the collapse of a building, tunnel or other structure;
 - ii. major flooding;
 - iii. a major transport incident, including at sea where a FRA borders the sea and the Maritime and Coastguard Agency has requested it to act.
27. The draft Order also describes the **nature** of the provision necessary for a FRA to carry out their emergency functions described in paragraph 26 above. These are to:
- a) Secure the provision of equipment to rescue and protect people in the event of:
 - i. major flooding; or
 - ii. a major transport incident, including at sea where a FRA both borders the sea and the Maritime and Coastguard Agency has requested it to act.
 - b) Secure the provision of personnel, services and training to rescue and protect people in the event of a specified emergency.
 - c) Make arrangements for dealing with calls for help.
 - d) Make arrangements for obtaining information needed for carrying out their specified emergency functions (e.g. obtaining the location and details of an emergency incident).
 - e) Make arrangements for ensuring reasonable steps are taken to prevent or limit damage to property resulting from action taken in carrying out their emergency functions.

Specific areas where we are seeking views:

Q4. Is the provision and nature of the provision that FRAs must make for the specified emergencies in the draft Order sufficient – if not, what else should be specified and why?

CIRCUMSTANCES WHEN A FIRE AND RESCUE AUTHORITY MUST RESPOND TO EMERGENCIES OUTSIDE ITS AREA

[Article 7 of the draft Order]

28. The draft Order proposes that:

A FRA would be required, where reasonable, to use its specialist resources and trained personnel **outside** its area after a request for assistance from another FRA.

29. In the event of an FRA being unable to request such assistance, due to an unforeseen or unusual incident, then Section 10 of the Act would also give the Secretary of State the power to direct a FRA to attend an emergency outside its area.

Specific areas where we are seeking views:

Q5. Are there any circumstances not already listed in the draft Order when a FRA should respond to an emergency outside its area – what are they and why should they be included?

Q6. Are there any circumstances when it would be inappropriate for a FRA to respond to an emergency outside its area– what are they and why should they be excluded?

GENERAL VIEWS AND COMMENTS

Q7. How reasonable and workable in practice do you think the draft proposals would be should they form part of the final Order?

Q8. Do you have any other comments or observations concerning the draft Order?

Regulatory Impact Assessment

30. The Fire and Rescue Services Act 2004, including the proposed Order made under Section 9, takes forward the commitments of the June 2003 White Paper ‘Our Fire and Rescue Service’. We do not consider the draft Order to place additional costs to business, charities, the voluntary or public sector.

Consultation Contact

31. We welcome your responses and comments on the draft Order via e-mail, letter or fax by 13 December 2004, sent to:

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After the Consultation Period

32. Within 3 months after 13 December 2004 we will analyse the responses to the consultation and produce a feedback document which summarises the:
- received responses and comments;
 - the impact on the proposals as a result of the consultation.
33. The replies to this consultation will inform the final Order which the Secretary of State plans to make in 2005.
34. Please note that responses, including the names and addresses of respondents, will be made available to anyone who asks for them unless confidentiality is specifically requested or disclosure would prejudice third parties.

The Consultation Criteria

35. The Government has adopted a code of practice on consultations. The criteria below apply to all UK national public consultations consisting of a document in electronic or printed form.
- i. Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.**
 - ii. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**

- iii. Ensure that your consultation is clear, concise and widely accessible.**
- iv. Give feedback regarding the responses received and how the consultation process influenced the policy.**
- v. Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.**
- vi. Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.**

36. The code does not have legal force but is regarded as binding on UK departments and their agencies unless Ministers conclude that exceptional circumstances requires a departure from it. The full consultation code may be viewed at:

www.cabinet-office.gov.uk/regulation/Consultation/Introduction.htm.

37. If you are not satisfied that this consultation has followed the above criteria, or you have any other observations about ways of improving the consultation process, then please contact:

David Plant
ODPM Consultation Co-ordinator
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26 Whitehall
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Annex A: The Fire and Rescue Services Act 2004

SECTION 9 – EMERGENCIES

- (1) The Secretary of State may by order confer on a fire and rescue authority functions relating to emergencies, other than fires and road traffic accidents in relation to which the authority has functions under section 7 or 8.
- (2) An order under this section may require functions conferred on a fire and rescue authority under this section to be discharged outside the authority's area.
- (3) An order under this section may make provision as to what a fire and rescue authority must or may do for the purpose of a function conferred under this section, and may in particular require or authorise a fire and rescue authority:
 - (a) to secure the provision of personnel, services and equipment;
 - (b) to secure the provision of training for personnel;
 - (c) to make arrangements for dealing with calls for help and for summoning personnel;
 - (d) to make arrangements for obtaining information needed for the purpose of discharging the function;
 - (e) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from discharging the function.
- (4) An order under this section may confer a function, including a function of providing particular equipment, on a particular authority.
- (5) Before making an order under this section the Secretary of State must consult any persons he considers appropriate.

SECTION 10 – DIRECTIONS RELATING TO PARTICULAR FIRES AND EMERGENCIES

- (1) The Secretary of State may direct a fire and rescue authority to take, or not to take, action specified in the direction in relation to:
 - (a) a fire specified in the direction, or
 - (b) an emergency of another kind specified in the direction.
- (2) A direction under this section may require a fire and rescue authority to act outside the authority's area.
- (3) A direction under this section may be varied or revoked by a further such direction.

SECTION 58 – MEANING OF 'EMERGENCY'

In this Act "emergency" means an event or situation that causes or is likely to cause:

- (a) one or more individuals to die, be seriously injured or become seriously ill, or
- (b) serious harm to the environment (including the life and health of plants and animals).

Annex B: Draft Fire and Rescue Services (Emergencies) (England) Order 2004

STATUTORY INSTRUMENTS

2004 No.

FIRE AND RESCUE SERVICES, ENGLAND

Fire and Rescue Services (Emergencies) (England) Order 2004

<i>Made</i>	200x
<i>Laid before Parliament</i>	200x
<i>Coming into force</i>	200x

The First Secretary of State, in exercise of the powers conferred upon him by sections 9 and 58 of the Fire and Rescue Services Act 2004¹, after consulting with such persons as he considers appropriate, hereby makes the following Order:

Citation, commencement and application

1. (1) This Order may be cited as the Fire and Rescue Services (Emergencies) (England) Order 2004 and shall come into force on [] 2004.
- (2) This Order applies in relation to fire and rescue authorities in England only.

Interpretation

2. (1) In this Order:
 - “chemical, biological, radiological or nuclear incident” means an event or situation involving the release or potential release of chemical, biological or radio-active contaminants;
 - “large raised reservoir” has the same meaning as in section 1 of the Reservoirs Act 1975² (ambit of Act and interpretation);
 - “major transport incident” means an event or situation involving a train, tram, vessel or aircraft that causes or is likely to cause one or more individuals to die, be seriously injured or become seriously ill;
 - “major flooding” means flooding that causes or is likely to cause one or more individuals to die, be seriously injured or become seriously ill and which results from:
 - (a) natural causes; or
 - (b) an escape of water from a large raised reservoir.
- (2) Any reference in this Order to protecting people from serious harm shall be construed as a reference to protecting individuals from death, serious injury or serious illness.

¹ 2004 c.

² 1975 c. 23. Section 1 was amended by the Water Act 1989 (c. 15), section 190(1) and Schedule 25.

Chemical, biological, radiological, or nuclear incidents

3. For the purpose of enabling action to be taken in the event of a chemical, biological, radiological or nuclear incident in its area, a fire and rescue authority must:
 - (a) make provision for removing chemical, biological or radio-active contaminants from people and capturing any water used to remove such contaminants; and
 - (b) make arrangements for ensuring that reasonable steps are taken to prevent or limit serious harm to the environment resulting from action taken for the purpose of paragraph (a).

Search and rescue

4. A fire and rescue authority must make provision for the purpose of rescuing persons who may be trapped and protecting them from serious harm in the event of:
 - (a) a landslide; or
 - (b) the collapse of a building, tunnel or other structure.

Major flooding

5. A fire and rescue authority must make provision for the purpose of rescuing people and protecting them from serious harm in the event of major flooding in its area.

Major transport incidents

6. (1) A fire and rescue authority must make provision for the purpose of rescuing people and protecting them from serious harm in the event of:
 - (a) a major transport incident in its area; or
 - (b) a major transport incident at sea where the Maritime and Coastguard Agency has requested the fire and rescue authority to act; and for the purposes of this article, “sea” means the territorial sea of the United Kingdom.
- (2) Paragraph (1)(b) only imposes a duty on a fire and rescue authority where its area borders the sea.

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

7. (1) This article applies where:
 - (a) a fire and rescue authority maintains specialist resources;
 - (b) an emergency of a type specified in articles 3, 4, 5 or 6 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 fire and rescue authority to act.
- (2) Where this article applies, a fire and rescue authority must, to the extent that it is reasonable to do so, use its specialist resources in the area of the second authority to deal with the emergency.
- (3) In this article, “specialist resources” means resources maintained for the purpose of discharging functions under this Order, including any personnel who have received specialist training for that purpose.

Nature of provision for emergencies

8. For the purpose of carrying out its functions under this Order, a fire and rescue authority must in particular:
- (a) secure the provision of such equipment as may be necessary efficiently to meet all reasonable requirements of articles 5 and 6;
 - (b) secure the provision of such personnel, services and training as may be necessary efficiently to meet all reasonable requirements;
 - (c) make arrangements for dealing with calls for help;
 - (d) make arrangements for obtaining information needed for those purposes; and
 - (e) make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from action taken for those purposes.

Signed by authority of the First Secretary of State

Minister of State
Office of the Deputy Prime Minister

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 9 of the Fire and Rescue Services Act 2004. These are the functions for which fire and rescue authorities must make provision and include promotion of fire safety, firefighting, responding to road traffic accidents and such other functions relating to emergencies as the Secretary of State may specify by order.

This Order specifies those additional functions relating to emergencies which are to be core functions. In particular, it creates core functions for fire and rescue authorities in relation to chemical, biological, radiological and nuclear incidents, search and rescue, major flooding, and major transport incidents. Where a fire and rescue authority has available to it specialist resources, including specialist trained personnel, to enable it to discharge its functions under this Order, article 7 requires the authority to use those resources outside its area in response to a request for assistance from another fire and rescue authority. Article 8 stipulates what provision fire and rescue authorities must make for the specified emergency situations.

Annex C: List of Consultees

Association of Chief Police Officers
Association of Train Operating Companies
Cabinet Office
Chairs of Fire and Rescue Authorities
Chief Fire Officers
Chief Fire Officers' Association
Civil Aviation Authority
Confederation of British Industry
Department for Environment, Food and Rural Affairs
Department for Transport
Department for Work and Pensions
Department of Health
Environment Agency
Federation of Small Businesses
Fire Brigades Union
Fire Officers' Association
Fire Service College
Health and Safety Executive
Her Majesty's Fire Services Inspectorate
Home Office
Local Government Association
London Fire and Emergency Planning Authority
Maritime and Coastguard Agency
Ministry of Defence
Mountain Rescue Council
National Council for Local Authorities' Fire Brigades
Network Rail
Northern Ireland Department for Health, Social Services and Public Safety
Northern Ireland Office
Rail Accident Investigation Branch
Regional Chambers
Regional Government Offices
Regional Management Boards
Regional Resilience Teams
Retained Firefighters Union
Royal National Lifeboat Institution
Scotland Office
Scottish Executive
Wales Office
Welsh Assembly Government

Annex D: List of Abbreviations

CBRN	Chemical, Biological, Radiological and Nuclear
CFOA	Chief Fire Officers' Association
FRA	Fire and Rescue Authority
LGA	Local Government Association
ODPM	Office of the Deputy Prime Minister
SSI	Special Service Incident