

PAPER 14

ANCILLARY LEGISLATIVE PROVISIONS - CONTINGENCY PLANNING POST RPA

Key Issue

Background

1. Civil Contingencies activities are undertaken by organisations in order to ensure that the risk of an emergency occurring is minimised, that the organisation can respond effectively if an emergency happens and that essential public services are maintained throughout any disruption. The NI Civil Contingencies Framework (NICCF), effective from November 2005, sets out in a non-statutory way, the expectations on all public service organisations to contribute to the overall resilience of Northern Ireland by individually and collectively engaging in appropriate Civil Contingencies activities.
2. The Framework also requires NI departments to take opportunities to promote Civil Contingencies in their associated organisations in line with the Framework principles (which are themselves based on the principles contained in Part 1 of the Civil Contingencies Act 2004, which places specific Civil Contingencies duties on organisations in GB).

Purpose

3. The RPA offers the opportunity to strengthen local Civil Contingencies activities in NI in line with policy and practice elsewhere in the UK. The RPA legislation provides the vehicle for DE to exercise its responsibility under the NICCF, and more generally an opportunity for statutory duties to be introduced across the restructured education service. This would be part of a wider introduction of statutory civil contingencies duties for new and restructured organisations under the RPA, in particular district councils and the Strategic Health Authority. The benefits of this approach would be:

- i. To ensure that the existing level of Civil Contingencies activity is maintained when functions are transferred to the new post-RPA organisations.
- ii. To provide an explicit framework for Civil Contingencies activities in the Education and Skills Authority and schools which would be consistent across the sector and which would link with similar duties in District Councils and the Strategic Health Authority.
- iii. To strengthen further the protection provided for pupils and employees by establishing standards for Civil Contingencies preparedness.
- iv. To promote local involvement in Civil Contingencies within the education sector and within the community whilst ensuring that the Department retains the power to issue both general and specific directions in relation to Civil Contingencies planning and response so as to maintain uniformity of practice across Northern Ireland and to ensure co-ordination of delivery of the emergency response.
- v. To create a framework for enhanced co-ordination of local emergency planning in line with good practice elsewhere in the UK.

Existing Arrangements

4. A considerable amount of Civil Contingencies activity is already undertaken by the Department and by Education and Library Boards and the Council for Catholic Maintained Schools (CCMS). DE has an Emergency Management Steering Group which oversees the Civil Contingencies arrangements for DE and the education sector. The Group includes in its membership officials from the 5 Education and Library Boards (ELBs) and the CCMS. The Group oversees the DE Emergency Management Development Programme, the focus of which is on developing emergency plans and arrangements to respond to emergencies happening in the wider community and on Business Continuity arrangements to support the Department's and the ELBs' delivery of their emergency response and "essentials of life" services.

The ELBs currently provide advice and guidance to all schools in their areas on emergency planning issues, including for example the issue of School Emergency Plans.

Summary of Current Legal position

5. NI Departments do not currently require a statutory base for Civil Contingencies duties in respect of their functions, as they have been committed by their Ministers to comply with the NICCF. There is currently no statutory duty on education bodies to engage in Civil Contingencies activities, although some degree of civil contingencies responsibility is inherent in the existing functions of all public service organisations, as set out in the Framework.

Proposal

6. In order to exercise its responsibilities under the NICCF, and to contribute to the strengthening of Civil Contingencies preparedness across Northern Ireland, DE wishes to take the opportunity to include Civil Contingencies provision in the Education Restructuring Order. To achieve the objectives listed above, it is proposed that two strands of legislation are included in the Education Order, and that a third strand of provision in relation to the ESA is included in District Council RPA legislation:

Strand 1 would provide for a general mandatory duty on the Education and Skills Authority (ESA) to undertake Civil Contingencies activities in relation to its functions.

Strand 2 would provide for powers for the Department of Education to give directions and guidance to the ESA and/or schools on the discharge of their Civil Contingencies responsibilities and to give directions to the ESA and/or schools on how they should respond to a specific emergency. These may also provide for co-ordination of a response at a regional level as necessary.

Strand 3 would place a requirement on the ESA (along with other organisations) to participate in local civil contingencies co-ordination which would be led by District Councils. This provision would be included in District Council legislation rather than the Education Restructuring Order.

Views of Stakeholders

7. Central Emergency Planning Unit, OFMDFM has been leading on the issue of how the legislation implementing the RPA should reflect Civil Contingencies requirements. To date, consultation on the three strands set out above has taken place with key stakeholders.
8. The proposal to introduce Civil Contingencies legislation into the Education Restructuring Order was the subject of initial discussion with officials from the ELBs & the CCMS at a meeting on 1 September 2006. A further meeting took place on 8 November, when the proposals were discussed again and there was broad agreement that Civil Contingencies should have a proper legislative basis in the new education structure. It was noted that the introduction of a statutory duty would require a more strategic approach to resourcing the activity within the ESA than is currently the case.
9. Further consultation will take place with key partners over the coming months on the detail of the Civil Contingencies activities to be undertaken by ESA.

Conclusion

10. It is proposed to include provisions relating to Civil Contingencies activities in the Education Restructuring Order in line with Strands 1 and 2 above. These would be basic enabling provisions, with the detail being added through subordinate legislation/DE directions or guidance.
11. Provision would also be made for monitoring, audit, accountability and finance arrangements for Civil Contingency planning in the ESA, which would be consistent with the overall framework for the organisation.

12. It is intended that the first two strands mentioned above will also be included in legislation implementing the RPA in the district council and health sectors, so ensuring a consistent approach to civil contingencies planning across agencies at the local level. The third strand will provide a framework for organisations to co-ordinate their Civil Contingencies planning for the benefit of the areas within which they operate. Taken together, these measures will create a framework for co-ordinated preparedness at community level which will maintain and enhance the protection provided to the people of Northern Ireland.

Corporate Services Division
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