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HEALTH AND SAFETY EXECUTIVE

The HSE Board

The interplay between the Major Incident Response Investigation Arrangements and Civil Contingency Arrangements

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Issue

1. To clarify any uncertainties regarding the relationship between HSE's major incident response and investigation arrangements (MIRIA) procedures and those put into place for civil contingency events.

Timing

2. Routine

Recommendation

3. The board is asked to:
 - confirm the need for separate procedures for the two eventualities, acknowledging the separate roles required of HSE and the lack of conflict between the procedures due their separation in time
 - consider whether this paper should be circulated wider to promote understanding of the arrangements.

Background

4. Not all civil contingency events will require a Major Incident to be declared by HSC/E nor are all HSE Major Incidents civil contingencies. To date there has not been any instance where a civil contingency event has been investigated as a MI by HSE. For example

5.

	Major incident	
Civil Contingency	Yes	No
Yes	Major Hazard incident with substantial casualties	Major Terrorist attack on London
No	Buncefield	Local incident with 1 to 2 fatalities

6. Usually in the early stages of an incident there is uncertainty whether it will be a civil contingency event or a major incident (or indeed neither). In all circumstances HSE would continue to act responsibly to provide advice and support to stakeholders (e.g. emergency services) as required, and to prepare for an investigation if appropriate.

Notification of Incidents and Co-ordination of Briefings

7. Out of hours notification of incidents is received using the Duty Officer system. Under civil contingency arrangements when alerted by Whitehall, the Duty Officer notifies the duty Executive member, the appropriate FOD Divisional Director and the HSE Secretariat and civil contingency coordinator. Under the MI procedures the Duty Officer alerts the relevant contacts in the Directorate concerned. Under the MI procedure as information flows up the management chain the Secretariat is informed. Thus effectively these two procedures result in the same briefing arrangements.
8. The Secretariat is required to alert the duty press officer (out of hours) so that they can brief the press. The Secretariat continues to inform other internal and external stakeholders (e.g. Ministers, DWP officials, OGDs) of the incident as appropriate, and disseminate updated information as it becomes available.

Civil Contingency Event

9. Under the Civil Contingencies Act 2004 (CCA) a civil contingency event is an emergency which:
- exceeds the capabilities of local or regional responders to respond effectively and where emergency regulations, under the CCA, have been invoked or,
 - COBR (a specific Cabinet Office committee) has been activated.

Only the Government can declare a civil contingency event, it cannot be declared by any regional assembly or local authority.

10. Under Part 1 of the CCA there are two categories of responders:
- **Category 1:** identified organisations which are front line responders to civil contingency events, and include local authorities, the emergency services and organisations such as the Environment Agency and MCA.
 - **Category 2:** identified organisations which have a duty to co-operate with, and to provide information to, Category 1 responders in connection with their civil protection duties. HSE is a Category 2 responder
11. The arrangements for dealing with nuclear emergencies are defined under separate DTI procedures, under which HSE's role is similar to that of a Category 1 responder.

12. HSE has a role in planning for emergencies where it is the Lead Government Department (LGD) for planning issues relating to civil contingency events involving an industrial site – especially a major hazard chemical, biological, or radiological / nuclear site – regardless of whether the event is precipitated by natural disaster, deliberate (i.e. terrorist) action or by an industrial accident. HSE would not, however, have the lead in responding to an emergency, which would rest with the emergency services, but would be expected to contribute its relevant expertise.

Major Incident Event

13. Incidents are reported to HSE under Health and Safety legislative requirements (RIDDOR, COMAH etc). A major incident is declared by either the HSC or the Executive and is defined in our corporate procedures as *“a significant event, which demands a response beyond the routine resulting from uncontrolled developments in the course of the operation of any establishment or transient work activity. The event may either cause, or have the potential to cause:*

- *either multiple serious injuries, cases of ill health (either immediate or delayed), loss of life,*
- *serious disruption or extensive damage to property, inside or outside the establishment, or*
- *events which, taken in isolation, may not warrant classification as major incidents but may do so when considered together.*

Significance is determined by the severity of the incident, the degree of public concern and the nature and extent of HSE's previous involvement with the duty holder(s). The nature and extent of HSE's previous involvement would not normally, on its own, result in an incident being declared as 'major'”.

14. Therefore under CCA, HSE acts primarily as an advisor to Government, during a civil contingency event declared by Government in accordance with procedures established under the CCA. Under MIRIA HSE undertakes investigations under HSWA on events the HSC/E declare as major.

Argument

15. In the event of an incident, which may be declared a civil contingency event or subsequently a MI the initial notification and briefing procedures are effectively the same. The later determination is no block to HSE's initial actions, providing advice and support to stakeholders (e.g. emergency services). Even where a MI is not declared a civil contingency event, it is likely that Cabinet Office will nevertheless coordinate the activities of Government Departments and report to Ministers on this, cf Buncefield.
16. Where an incident is declared a civil contingency event the civil contingency procedures set out a means for HSE both to respond initially and to maintain appropriate support *before* HSE's full investigatory and other resources are brought to bear (if appropriate) when the incident will be investigated as a major incident.
17. This means there is no conflict between HSE's role and commitments between the two procedures, where HSE's advisory role in the civil contingency procedures would be tailing off as any HSE MI investigation would be ramping up. In event of a conflict

(difficult to foresee) between the two roles, legal advice is that commitments under the CCA would take primacy.

Civil Contingency Event

18. Under a civil contingency event, senior members of HSE would be required to attend COBR or other relevant meetings in Whitehall and the relevant FOD divisional director (or relevant deputy) would attend the regional Gold Command to supply information and advice. Both would need a support team to gather and respond to information requests. Details of the duties are given in the Civil Contingencies procedures on the intranet operational procedure site <http://intranet/ogprocedures/civil/index.htm>.

Major Incident Event

19. In a major incident, senior members of HSE are initially involved in confirming whether, in their opinion the event is a major incident, advising the relevant head of directorate of the event, and action taken. The head of directorate advises the Executive of the incident and possible legislative implications. The incident is declared a MI by the Executive or the HSC (under section 14(2) of HSWA) and investigated as a MI.
20. For the investigation senior members of HSE may well be involved as the investigation manager with attendant duties detailed in the Major Incident procedures on the intranet operational procedure site <http://intranet/ogprocedures/majorincident/index.htm>.

Consultation

21. Policy Group, OPSD and Legal Advisors Advisory & Drafting Unit have been consulted.

Presentation

22. If the Board agrees the necessity, this paper will be subject to wider dissemination.

Costs and Benefits

23. No additional costs are foreseen for HSE. HSE will benefit from the ability to respond appropriately to civil contingency and major Incident events.

Financial/Resource Implications for HSE

24. N/A

Environmental Implications

25. N/A

Other Implications

26. There is a business risk to HSE if any response to a major incident or civil contingency event is perceived to be inappropriate. This risk is addressed by separate procedures for each type of event.

Action

27. That the board recognise the necessity for the two separate procedures as recommended in para. 3 and give a view on the desirability of a wider dissemination of this paper.