‘Keep Calm and Carry On’: Informing the Public under the Civil Contingencies Act 2004

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Abstract (196 words)

Part 1 of the Civil Contingencies Act 2004 provides a framework that governs the planning and preparations for a wide range of potential emergencies. It requires the engagement and co-operation of numerous ‘public’ bodies including central government, local authorities and the emergency services, as well as a range of ‘private’ organisations such as utilities companies. It is apparent that information plays a fundamental role in the Part 1 planning provisions and associated guidance. This article will focus on one specific information-related provision, namely the duty to maintain plans to warn and inform the public in the event of an emergency. It undertakes detailed analysis of the CCA provisions, secondary legislation and extensive government guidance regarding informing the public and related media-handling. It will analyse these measures in light of two competing organisational models identified by Walker and Broderick as being present across various CCA arrangements. The tensions between traditional authoritarian ‘command’ structures on the one hand, and more flexible, de-centralised arrangements on the other, are particularly pronounced in the context of informing the public. They reflect the challenges of maintaining political authority whilst handling and disseminating information that is fluid and in nature and evades control.

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Introduction

Part 1 of the *Civil Contingencies Act 2004* (CCA) provides a framework that governs the planning and preparation for a wide range of post-Cold War potential emergencies, including terrorist incidents, cyber-attacks and natural hazards such as flooding or extreme weather.[1] The sturdy, reliable planning required by Part 1 CCA has been relatively neglected by lawyers, in favour of the potential dystopian dangers of government emergency powers in Part 2. Nevertheless, emergency planning is a global concern that fuels a vast inter-disciplinary research industry[2] and further scrutiny of Part 1 reveals illuminating material regarding modern government in the ‘Information Age’.

Across various accounts of emergency planning literature there emerges a basic, recurring tension between two broad organisational structures. The first model, characterised as ‘command-and-control’, is a centralised hierarchy directed by a clear single point of leadership. In contrast, the second approach is de-centralised, flexible and locally-situated in nature. The tension between both models is especially pronounced regarding the function and organisation of information within the CCA regime. The role of information dominates Part 1, arguably reflecting the Pitt Review’s claim that it is ‘the lifeblood of effective emergency planning’.[3] However, this article will examine just one specific information-related measure in the CCA, its regulations[4] and associated government guidance: provisions to warn and inform the public in the event of an emergency.

[1] These are identified as three of the 4 ‘top-tier’ threats to UK: HM Government, *A Strong Britain in an Age of Uncertainty: The National Security Strategy* (Cm 7953, 2010) p 27.

[2] See e.g. Ben Wisner, JG Gaillard Ilan Kelman (eds), *The Routledge Handbook of Hazards and Disaster Risk Reduction* (Routledge 2012).

[3] The Pitt Review, *Learning Lessons from the 2007 Floods*, <http://webarchive.nationalarchives.gov.uk/20100807034701/http:/archive.cabinetoffice.gov.uk/pittreview/thepittreview/final_report.html> accessed 10th November 2013, at 18.1.

[4] Civil Contingencies Act 2004 (Contingency Planning) Regulations 2005, SI 2011/615 (hereinafter referred to as CCA(CP)R).

This article will start by providing a brief outline of the emergency planning regime, before providing an overview of the two alternative models. It will then look at how these models operate in the context of warning and informing the public under the CCA.

Emergency Planning: Overview

To achieve local-level emergency planning across the country the CCA places legal obligations on a range of relevant organisations, divided into two groups. The first group, termed 'category 1 responders' because they form the front-line of local emergency services, includes local authorities, the police, fire brigade and ambulance services.[5] The second group, termed 'category 2 responders', may also be heavily involved in specific types of emergency and includes private organisations such as utilities companies and transport operators.[6] Though this latter group's involvement in various aspects of emergency planning is required under the CCA, its duties are less onerous than 'category 1s' who bear primary responsibility for such planning.[7] Within each locality (based on police districts) these category 1 and 2 responder groups are required to co-operate,[8] share relevant information[9] and participate in a local group called a 'Local Resilience Forum' (LRF).[10] This forum organises and performs various CCA-prescribed emergency planning activities, though it has three main related tasks, all of which are undertaken by its category 1 members. First, drawing on government guidance[11] and local expertise,[12] the LRF carries out risk assessments of potential emergencies that may affect the locality.[13] Second, the forum compiles a 'Community Risk Register'[14] based on the risk assessments. This register sets out the various potential emergencies, their likelihood and potential impact. Third, the forum produces a range of emergency plans which outline the response arrangements to be followed

[5] Listed in Civil Contingencies Act 2004, Part 1, Schedule 1.
[6] Listed *ibid* Part 3, Schedule 3.
[7] CCA(CP)R (n 4) reg 4.
[8] *ibid* reg 4(1)-(3).
[9] *ibid* reg 4(4)(3).
[10] *ibid* regs 4(4)(b), 4(7), 4(9).
[11] Cabinet Office, *Emergency Preparedness* (March 2012) <https://www.gov.uk/government/publications/emergency-preparedness> accessed 10th November 2013, at 4.41-4.42, Box 4.4.
[12] *ibid* 4.36 –4.37.
[13] CCA (n 5) s 2(1)(a); CCA(CP)R reg 13.
[14] CCA(CP)R (n 4) reg 15. The current CCR for Northumbria Local Resilience Area can be accessed via: <http://www.northumberland.gov.uk/pdf/CRR%207.1%20-%2023%20Apr%202012.pdf> accessed 10th November 2103.

if particular emergencies occur.[15] In the event of an emergency local responders use the plans to guide their response. Where an emergency is more serious, select senior members of the LRF will form a 'Strategic Co-ordinating Group' (often termed 'Gold Command').[16] This group, usually chaired by a senior police representative, provides management and strategic leadership to direct the emergency response.[17]

The CCA supporting regulations and extensive government guidance[18] detail how these arrangements should be put into practice, e.g., by prescribing: the methods of planning; the format of documents; the procedures for allocating planning tasks to responders and information-sharing etc.; standards of 'good practice' and model protocols. Though planning occurs at a local level, this is overseen by central government; all responders are accountable to Ministers for their emergency planning activities[19] and must take account of central government guidance in their planning.[20] Central government will also become involved where an incident escalates; in a 'significant' level-1 emergency it will provide the leadership of an appointed 'Lead Government Department' with expertise in the relevant emergency area.[21] Alternatively, 'serious' level-2 emergencies and above will involve the leadership of the COBRA Cabinet committee of senior ministers.[22]

[1] Command vs Decentralised Structures

The influence of two alternative organisational models, one hierarchical and the other decentralised, is apparent across various parts of the CCA. For example, when discussing potential forms of relationship between responder agencies, Walker and Broderick

[15] CCA (n 5) s 2(1)(d). For an example of an emergency plan, see the flood response plan for the Northumbria area, accessible via: <www.northumberland.gov.uk/idoc.ashx?docid=9ea03264-2f6d-4eca-9a48-d27b97e8163f&version=-1> accessed 10th November 2013

[16] Cabinet Office, *Emergency Response and Recovery* (April 2010) <https://www.gov.uk/government/publications/emergency-response-and-recovery> accessed 1st October 2013, at 4.2.19-4.2.33; Cabinet Office, *Responding to Emergencies, The UK Central Government Response* (April 2013) <https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/192425/CONOPs_incl_revised_chapter_24_Apr-13.pdf> accessed 10th November 2013, at 5.3-5.8.

[17] *Emergency Response* (n 16) 4.2.23.

[18] Particularly *Emergency Preparedness* (n 11) and *Emergency Response* (n 16).

[19] CCA (n 5) ss 9(1)-(4).

[20] CCA(CP)R (n 4) reg 26.

[21] *Responding to Emergencies* (n 16) Section 2.

[22] *ibid*, Section 3.

distinguish between '*a purely hierarchical system in which all is directed or at least cascaded from the centre*' and, alternatively, '*a networked or nodal model whereby emergency planners coalesce in horizontal, heterarchical partnerships in the co-production of security*',[23] the latter being more effective for emergency planning purposes. This part outlines the relevant properties and theoretical justifications/rationales associated with both models.[24]

'Command-and-Control' Model

The first model, characterised as 'command-and-control', assumes authority vested in a single individual (or group) who can provide strong, decisive leadership. It therefore involves a distinct hierarchical, top-down linear structure where a 'commander' 'controls' the 'commanded'. This model, based on a somewhat authoritarian leadership culture, has been particularly cogent in times of crisis or war.[25] Its influence, therefore, in emergency planning[26] and response at national and local level is to be expected. The rationale for this model is exemplified by Whitty, who claims:

"*Emergencies most frequently develop into disasters because of the inadequacies of command and control. Confidence in commanders is established before an incident occurs and is dependent upon a number of qualities, the most important of which is leadership*".[27]

Similarly, noting the importance of strong leadership in emergency response, though in more circumspect terms, Twigg refers to '*the history, character and culture of disaster work, with*

[23] Jim Broderick and Clive Walker, 'Applying 'Civil Protection': A Review of the Civil Contingencies Regime in the UK' [Reference] p 10-11. See also Clive Walker and James Broderick, *The Civil Contingencies Act 2004, Risk, Resilience, and the Law in the United Kingdom* (OUP 2006) 17.

[24] These the two most influential models that recur across government guidance and literature. For further discussion see Timothy Sellnow and Matthew Seeger, *Theorizing Crisis Communications* (Wiley-Blackwell 2013) ch 5, 114-119.

[25] See, e.g. *Burmah Oil v Lord Advocate* [1965] AC 75(HL) p 100 (Lord Reid); Peter Hennessy, *The Prime Minister, The Office and Its Holders Since 1945* (Penguin, London, 2001) 103.

[26] The Buncefield Incident 11 December 2005, The Final Report of the Major Incident Investigation Board, Volume 1 <http://www.buncefieldinvestigation.gov.uk/reports/> accessed 10th November 2013, at [153].

[27] Garth Whitty in Joint Committee on the Draft Civil Contingencies Bill, *Draft Civil Contingencies Bill* (HL 184, HC 1074 2002-3) Annex 7, 108-9.

its command and control mentality, blue-print planning, technocratic bias and disregard for vulnerable communities' knowledge and expertise.'[28]

Command-and-control features are apparent across the CCA regime. The model's influence is particularly marked in Part 2 of the Act which confers emergency powers on ministers, but also in Part 1 regulations that allow ministers to issue orders or urgent directions that category 1 responders must perform.[29] Such tendencies also influence central government's ongoing desire to maintain its traditional monopoly regarding national security-related information.[30] Further hegemonic tendencies are evident in the Act's disparate allocation of legal duties between central government and local responders; this results in 'bottom-heavy' responsibilities and a lack of higher accountability.[31] Yet, as guidance indicates, there remains '*a public expectation that [government] will give a strong lead at a time of crisis, take charge of events and manage situations.*'[32]

The centrality of the command-and-control model in emergency response closely reflects traditional demands for a strong protective leader in times of crisis or disaster. This model is very much epitomised by Thomas Hobbes' *Leviathan*, written during the chaos of civil war.[33] This background climate clearly influenced Hobbes' account of the lawless 'state of nature' as chaotic, disordered, and uncertain, filled with conflict, 'continuall feare and danger of violent death';[34] a hypothetical disaster zone of sorts. Hobbes' social contract advocates the creation of a strong, powerful sovereign monarch whose command can maintain peace, order and individual security.[35] In doing so, this patriarchal monarch must be given the unconditional obedience of the populace.[36] Hobbes' grand narrative legitimises modern liberal nation states, yet it is also, as critics have suggested, a model ultimately grounded in

[28] John Twigg, 'Disaster Risk Reduction, Mitigation and Preparedness in Development and Emergency Programming' <http://www.odihpn.org/hpn-resources/good-practice-reviews/disaster-risk-reduction-mitigation-and-preparedness-in-aid-programming> accessed 10th November 2013, at 118.
[29] CCA(CP)R (n 4) regs 5, 7.
[30] *Applying Civil Protection* (n 23) 12; *Pitt Review* (n 3) ES.96.
[31] *Draft Civil Contingencies Bill* (n 27) [101]; *Risk Resilience & the Law* (n 23) 243; Clive Walker, 'Governance of Critical National Infrastructure' [2008] PL 323.
[32] Cabinet Office, *Communicating Risk* (January 2011) <https://www.gov.uk/government/publications/communicating-risk-guidance> accessed 10th November 2013, at 52.
[33] Thomas Hobbes, *Leviathan* (first published 1651, Penguin 1985)
[34] *ibid*, 183-188.
[35] *ibid* 192.
[36] *ibid* 227.

fear.[37] Such dynamics are arguably implicit in modern approaches to emergency management where government policies are buttressed by rhetoric that, for example, terms the present era the 'age of uncertainty'.[38] Yet, as modern theorists explain, this uncertainty is 'manufactured'; a paradoxical and inescapable '*consequence of scientific and political efforts to control or manage (earlier) [risks]*.'[39] That the four main threats identified in the UK's *National Security Strategy* are primarily man-made tends to support this.

Decentralised model

The 'decentralised' model in emergency planning represents contrasting characteristics to the command model. This form of arrangement is less formally structured and more flexible. It does not situate authority at a single point issuing top-down commands, but is instead non-hierarchical and works at local, ground-level. It entails people working in a horizontal network-type arrangement in a collaborative, co-operative and democratic culture.[40] This model is most influential in the CCA regime's strong emphasis on co-operation between local responders[41] and provisions to facilitate information-sharing.[42] Walker and Broderick identify these measures as decentralised in nature, and claim that in making institutional arrangements to attain resilience,

"*the late modern state is being* forced *to adopt styles of governance intended to achieve influence in complex horizontal (or heterarchical), decentred and networked relationships, with an emphasis on shared knowledge and consensus*."[43]

This comment indicates that the decentralised model is not necessarily compatible with the pre-existing culture or dynamic of the state in emergency management mode (which arguably more comfortably fits with the command model). It implies that this decentralised model is not the preferred or natural choice, but is nonetheless necessary for emergency management.

[37] Pierre Schlag, 'The Empty Circles of Liberal Justification' (1997) Mich L Rev 96(1) 1, 26-7;Jacques Derrida, *The Beast and the Sovereign, Volume 1* (University of Chicago Press 2009) 39-40. For a discussion of fear in the context of disasters see Frank Furedi, 'New Dimensions: The Growth of a Market in Fear' in Havidan Rodriguez, Enrico Quarantelli and Russell Dynes (eds) *Handbook of Disaster Research* (Springer 2006).
[38] A term repeatedly used in *National Security Strategy* (n 1).
[39] Ulrich Beck, 'Politics of Risk Society' in Jane Franklin (ed) *The Politics of Risk Society* (Polity 1998) 12; Anthony Giddens, 'Risk Society: the Context of British Politics' in *ibid* 28.
[40] *Sellnow and Seeger* (n 24) 117-119.
[41] CCA(CP)R (n 4) reg 4(1)-(3).
[42] *ibid* regs 44A, 47-50.
[43] Emphasis added. *Applying Civil Protection* (n 23) 3.

One crucial underlying reason for this is arguably the nature of information that constitutes the very 'lifeblood' of the system.

The decentralised model is broadly reflective of, and more compatible with, the nature of information itself. With the emergence of what some commentators term the 'Information Society' rather than the 'Risk Society',[44] there have emerged theories exploring the nature and properties of information, particularly in light of technological developments. In this context, three related features of information are significant. First, information is intangible, incorporeal and cannot be understood as a physical thing.[45] Digitisation replaces physical information-storage with a '*complex – and highly liquid – pattern of ones and zeroes*.'[46] This view of information, or rather its movements, as being liquid in character is also evident in common accounts of information 'flows'[47] and 'leaks'. Pitt's depiction of information as 'lifeblood' similarly draws upon a metaphor of liquidity.[48] Second, as Lash argues, information acts to compress time as it travels distances rapidly, allowing real-time communication.[49] For Lash,

"*The primary qualities of information are flow, disembededness, spatial compression, temporal compression, real-time relations. It is not exclusively, but mainly, in this sense that we live in an information age.*"[50]

Though rapid transmission is a clear consequence of advancements in digital technology, Lash explains that this is a continuation of trends that started with the emergence of the mass media in earlier times.[51] Third, information works in a non-linear and disjointed way, which Lash refers to as '*a quasi-anarchy of information proliferation and flows*'.[52] It works via a range of networks (at individual level, but with global reach) which play a crucial role in the

[44] Scott Lash, *Critique of Information* (Sage 2002) 1.
[45] John Perry Barlow, 'The Economy of Ideas, Selling Wine Without Bottles on the Global Net' <https://homes.eff.org/~barlow/EconomyOfIdeas.html > accessed 10th October 2013.
[46] *ibid.*
[47] Manuel Castells, *The Rise of the Network Society* (Wiley-Blackwell 2010) ch 6, 500; *Emergency Response* (n 47) 4.4.22, 8.3.3.
[48] Zygmunt Bauman proposes 'fluidity' as 'the leading metaphor for the present stage of the modern era': *Liquid Modernity* (Polity 2000) 2.
[49] *Lash* (n 44) 3, 18-21.
[50] *ibid* 2, 18-20; *Castells* (n 47) xxxi-xxxii, ch 7.
[51] *Lash* (n 44) 73-5.
[52] *ibid* 4.

Information Society.[53] Lash claims that technology stretches and breaks the linear bonds associated with the nation state. But these bonds are 'reconstitute[d] as the links of non-linear and discontinuous networks.'[54]He also notes the decline of traditional organisations[55] into 'disorganisations' that 'are perhaps less hierarchical than horizontal',[56] and more fluid, mobile[57] and reflexive.[58] Such developments raise questions about the standing of the nation state[59] and power more generally.[60] Because '*Information wants to be free*'[61] it poses major challenges for those who wish to tightly control or monopolise it in the Information Age.

Summary

Both models reflect alternative, even opposing, properties that may be necessary for emergency planning and response. There is a long-established tradition of the need for clear, decisive leadership in an emergency. Yet in our technologically complex 'Information Society' any information-reliant endeavour, such as emergency preparation and response, must be arranged to enable information to be handled effectively, and must therefore understand its nature. How do these conflicting models, and the values they represent, operate in the context of warning and informing the public?

[2] Warning and Informing the Public

Government guidance states that '*Communicating with the public is an integral part of preparing for and responding to incidents and cannot be done in isolation*'[62] and furthermore '*Good public communication is vital to the successful handling of any emergency and should be incorporated in all contingency planning.*'[63] So as part the general duty to assess and plan

[53] *ibid* 20, 26; *Castells* (n 47) xviii-xxvii, 501.
[54] *Lash* (n 44) 20.
[55] *ibid* 39.
[56] *ibid* 40.
[57] *ibid* 41.
[58] *ibid* 42.
[59] *ibid* 35.
[60] *ibid* xi, 25.
[61] Brand quoted by *Barlow* (n 45).
[62] *Emergency Preparedness* (n 11) 7.31.
[63] Emphasis added. *Emergency Response* (n 16) 8.1.1. See also *ibid* 7.4.2.

for emergencies,[64] category 1 responders must '*maintain arrangements to warn the public, and to provide information and advice to the public, if an emergency is likely to occur or has occurred.*'[65] Guidance divides this duty into two specific functions. First, it requires those responders to inform the public about the risk of emergencies in their locality by undertaking ongoing awareness-raising, education and community engagement.[66] Second, it requires responders to have plans in place to warn and advise the public in case an emergency actually arises, encompassing e.g. evacuation alerts and practical advice about what action to take. Though the two functions are related, the second aspect of the duty is the focus of this article. This second aspect of warning the public must be covered by emergency plans[67] and, in turn, responders must follow ('regard') these plans when advising the public in an emergency.[68] This ensures that a pre-prepared communications strategy, covering before, during and after an emergency,[69] is 'fully integrated' into emergency plans.[70]

Guidance divides the public into three broad groups, each with different informational needs: first, those directly involved in the emergency; second, local people and/or relatives of those directly involved; and third, the wider public and news media.[71] Guidance also highlights the needs of vulnerable groups within the public, such as the elderly, those with mobility issues or non-English-speaking groups.[72] However, across various groups, the basic rationale for the 'public advice' duty is '*the belief that a well-informed public is better able to respond to an emergency and to minimise the impact of the emergency on the community*'.[73] So better public information will enable people to make better decisions, and is therefore empowering.[74]

[64] CCA (n 5) s 2.
[65] *ibid* s 2(1)(g).
[66] *Emergency Preparedness* (n 11) 7.1, 7.6-7.7, 7.38-7.40; *Emergency Response* (n 16) 8.3.1.
[67] CCA (n 5) s 2(1)(g); CCA(CP)R (n 4) reg 20.
[68] CCA(CP)R (n 4) reg 28.
[69] *Emergency Preparedness* (n 11) 7.35.
[70] *ibid* 7.26.
[71] *ibid* 7.105.
[72] *ibid* [para].
[73] *Emergency Preparedness* (n 11) 7.6.
[74] Cabinet Office, Expectations and Indicators of Good Practice Set for Category 1 and 2 Responders (April 2009) <https://www.gov.uk/government/publications/expectations-and-indicators-of-good-practice-set-for-category-1-and-2-responders> accessed 1st October 2013, at 27.

CCA Arrangements: Overview

Under the CCA, category 1 responders must co-operate to appoint one of their number as having lead responsibility for maintaining and implementing plans to inform the public in the event of an emergency.[75] Public information plans may cover general matters such as the generic advice to 'go in, stay in, tune in'[76] deployable in various emergencies, or relate to more specific emergencies, e.g. instructions to evacuate a particular area such as a city centre.[77] The lead 'must' be able to collaborate with other category 1 responders, and 'must' inform them of its actions (and proposed actions) to inform the public;[78] they in turn 'must' regularly consult with the lead on these matters.[79] Collaboration, partnership and information-sharing between category 1 responders is 'the critical element in the effective delivery of information to the public'[80] and protocols can be used to help achieve this.[81]

Guidance sets out more detailed arrangements for informing the public in the event of an emergency, with particular emphasis on managing media interest in an emergency.[82] It confirms that responder information should be co-ordinated from the outset of an emergency.[83] This might entail arrangements such as a shared media brief, a central press office and the involvement of a media liaison officer.[84] As the emergency develops this may be headed up by an experienced media communications specialist.[85] Where Gold Command is involved in directing an emergency response it too must 'implement media-handling and public communications plans',[86] though this can be delegated. Gold Command will also be supported and advised by a media communications 'cell'.[87] These arrangements ensure that responsibilities are clearly allocated, preferably in advance, to enable senior personnel to provide clear leadership in informing the public.

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[75] CCA(CP)R (n 4) reg 32.
[76] HM Government, *Preparing for Emergencies, What you Need to Know* (2004) <http://www.direct.gov.uk/prod_consum_dg/groups/dg_digitalassets/@dg/@en/documents/digitalasset/dg_176618.pdf> accessed 10th November 2013.
[77] CCA(CP)R (n 4) reg 29.
[78] *ibid* reg 33.
[79] *ibid* reg 34.
[80] *Emergency Preparedness* (n 11) 7.22; Annex 7D, step 3.
[81] *ibid* 7.99.
[82] *Emergency Response* (n 16) ch 8 ('working with the media'). See also Clive Walker, 'The Police and the Mass Media in Emergencies' (2011) *Human Rights Review* 1(1) 15-34.
[83] *Emergency Response* (n 16) 8.3.5.
[84] *ibid* 8.5.8-8.5.11.
[85] *ibid* 8.5.3-8.5.5.
[86] *ibid* 4.2.23, 4.2.25.
[87] *ibid* 8.51-8.52.

Central government occupies a background role at planning stage; the Cabinet Office issues national guidance on informing the public for responders to follow. The Cabinet Office is in turn advised by an independent committee whose stated objectives are to improve warning mechanisms, and to ensure public information is timely and effective.[88] Where an emergency becomes national in scale, central government will become involved in managing information to the public.[89] A News Co-ordination Centre can be set up at national level.[90] Government will 'support and complement' local responders' efforts by undertaking various activities, including 'determining the public information strategy and co-ordinating public advice in consultation with [Gold Command].'[91]

Maintaining authority in an emergency

The concern of CCA guidance in fostering clear, hierarchical leadership in emergency handling extends to communicating with the public. The reason for this is arguably the CCA regime's focus on the needs and response of the public, or specific groups within the public.[92] Overall, the regulations stress the importance of avoiding unnecessary panic. They state that category 1 responders '*must* have regard to the importance of not alarming the public unnecessarily' when publishing emergency plans[93] and when maintaining arrangements to warn and advise the public in an emergency.[94] Related to this, guidance indicates a recurring concern with maintaining public confidence in an emergency. The *National Risk Register* recognises that most emergencies will have a psychological impact upon the public affected.[95] The purpose of providing information in such circumstances is for practical

[88] National Steering Committee on Warning and Informing the Public, <https://www.gov.uk/government/policy-advisory-groups/national-steering-committee-on-warning-informing-the-public> accessed 10th November 2013.
[89] *Emergency Response* (n 16) ch 13.
[90] *ibid* 8.2, 13.4.1. See also: *Emergency Preparedness* (n 11) Annex 7A; *Responding to Emergencies* (n 16) 3.40-3.42.
[91] *Emergency Response* (n 16) 13.1.4.
[92] See e.g. *Communicating Risk* (n 32) 3.4; Cabinet Office, *Social and Behavioural Science Guidance for Local Resilience Forums in Planning and Conducting Civil Alerts* (September 2012) <https://www.gov.uk/government/publications/public-emergency-alerts-reviews-and-guidance> accessed 10th November 2013.
[93] CCA(CP)R (n 4) reg 27.
[94] *ibid* reg 30.
[95] Cabinet Office, *National Risk Register* (July 2013) <https://www.gov.uk/government/publications/national-risk-register-for-civil-emergencies-2013-edition> accessed 10th November 2012, at 1.16.

guidance *and* vital reassurance,[96] though it is widely acknowledged that panic and the breakdown of social order are 'disaster myths'.[97]

One method of fostering public calm and confidence is via a reassuring authority figure. This will be particularly vital to those directly involved in the emergency.[98] Yet guidance suggests that this should also be planned for those in the vicinity of an emergency because '*the majority of people need leadership and direction; some need to be controlled. … the majority of individuals are likely to need some level of support.*'[99] More broadly, there is a concern not just to have clear command structures in place, but to ensure that leadership is also *visible* to the public. For example, *Emergency Preparedness* recommends that trained spokespersons will be more effective '*if ...already recognised as a trustworthy authoritative person,'*, for example '*because they already have a good public profile in the area or are in uniform (research shows that the public have great confidence in spokespeople from the emergency services).*'[100] This emphasis on the uniform as a powerful visual indicator reflects guidance advising authorities to make use of images.[101] Similarly, the Pitt Review into the 2007 floods across England found that in areas where 'Gold Command' was used there was more visible leadership and better involvement of media which helped essential information to reach the public.[102] Pitt also noted the value of local leaders with a high media profile who provided reassurance to the public and used the media to communicate advice.[103] So strong leadership in emergencies is insufficient per se; it must also effectively project itself when communicating with the public. The aim is to maintain authority *and the appearance of authority* in order to foster public trust and reassurance.

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[96] *Emergency Response* (n 16) 2.6.6; *Indicators of Good Practice* (n 74) 56.
[97] Thomas Drabek and David McEntire, 'Emergent Phenomena and the Sociology of Disaster: Lessons, Trends and Opportunities from the Research Literature' (2003) *Disaster Prevention and Management* 12(2) 97, 98-9; *Wisner et al* (n 2) 477.
[98] London Assembly, *Report of 7 July Review Committee* (June 2006) <http://www.london.gov.uk/sites/default/files/archives/assembly-reports-7july-report.pdf> accessed 10th November 2013, at 4.1; recommendation 22.
[99] *Emergency Preparedness* (n 11) 7.109.
[100] *ibid* 7.103.
[101] Use of images is one of 6 guiding principles of a communications strategy advocated in *Communicating Risk* (n 32) 46.
[102] *Pitt Review* (n 3) ES.75
[103] *ibid* 23.10-23.11, recommendation 68.

Authoritative information in an emergency

The maintenance of responder authority is partially reliant upon its capacity to provide information that is itself authoritative; '*The flow of* authoritative *information … underpins the resilience of a community to disruptive challenges*'.[104] Thus CCA guidance affords much attention to ensuring that information, particularly that provided to the public, is 'authoritative' and credible.[105] A useful starting point for such examination is the core objective of public communications in an emergency:

"*When an emergency occurs, the key communications objective will be to deliver* accurate, clear *and* timely *information and advice to public so they feel confident, safe and well informed.*"[106]

To foster public confidence the information it is provided must be clear, accurate and provided quickly. Rapid dissemination will be particularly essential for early alerts or warnings of sudden emergencies which must 'reach as many people as possible as quickly as possible'.[107] But beyond this, government guidance suggests that in the first hour of an emergency the public needs information regarding the basic details of the incident, health implications, practical advice (e.g. what to do, where to go) and reassurance if necessary.[108] Next, clarity requires any technical information, e.g. scientific guidance regarding the health or environmental implications of a particular emergency, to be communicated in terms that people can understand.[109] But most importantly, it requires a unified and consistent message to the public and the importance of this is repeatedly stressed in guidance.[110] Appointing a lead responder to inform the public assists in this aim by avoiding unnecessary duplication of information and conflicting messages.[111] The ideal is responders 'speaking with one voice',[112] and this is especially important regarding emergency warning systems, e.g.

[104] Emphasis added. *Emergency response* (n 16) 2.6.7. See also *Communicating Risk* (n 32) 47.
[105] Guidance indicates that maintaining public credibility is an ongoing challenge for governments: *Communicating Risk* (n 32) 8, 52.
[106] Emphasis added. *Emergency Response* (n 16) 8.1.1. See also: *Emergency Preparedness* (n 11) 7.4.2; *Responding to Emergencies* (n 16) 3.40.
[107] *Emergency Preparedness* (n 11) 7.42-7.43.
[108] *ibid* 7.58. See also *Communicating Risk* (n 32) 46.
[109] *Emergency Preparedness* (n 11) 7.59
[110] *ibid* 7.15, 7.60, 7.62, 7.86. See also *Communicating Risk* (n 32) section 6.4.
[111] *ibid* 2.28, 7.16.
[112] *Emergency Response* (n 16) 95 (case study).

evacuations.[113] Finally, information to the public must be accurate.[114] Factually correct information is vital to ensure the public is adequately informed about the situation so they can make informed decisions,[115] and in this sense contributes to public empowerment.[116]

Information must also be effectively disseminated and guidance states that: '*The key to effective communication with public is getting the message right for the right audience*'.[117] One key way in which the CCA regime seeks to ensure that the 'right message' reaches the 'right audience' is by utilising the media, particularly local radio and television, as a means of dissemination. Though media organisations are not afforded Category 2 responder status, they do have a 'public service' role or 'duty' in the event of an emergency.[118] During the 2007 floods the media, particularly local radio, undertook this role by providing information and updates about the flood.[119] Guidance confirms that in the event of an emergency the media can deliver information to large numbers of people and it is often the quickest most effective means of delivery.[120] So in emergency situations media organisations, particularly television and radio, may undertake a key 'conduit' function,[121] channelling vital messages from responders to the wider public. For this reason CCA guidance states that media organisations have a key role to play and should be encouraged to participate in LRFs and planning.[122] It also advises ongoing liaison and contact-building with media representatives so that parties can work together effectively in the event of an emergency.[123]

Summary

Overall, authority (actual or perceived) partly rests on having command of information. The ideal set out by government guidance is fast, clear authoritative information issued from a single, credible official source and disseminated widely via a conduit media, or in Twigg's

[113] Juan Carlos Villagran de Leon, 'Early Warning Principles and Systems' in *Wisner et al* (n 2) 486.
[114] *Communicating Risk* (n 32) 18.
[115] *Emergency Preparedness* (n 11) 7.57.
[116] *Communicating Risk* (n 32) 8.
[117] *Emergency Response* (n 16) 8.3.2. See also *Emergency Preparation* (n 11) 7.32.
[118] *7/7 Report* (n 98) 6.2-6.3.
[119] *Pitt Review* (n 3) 23.1, 23.2
[120] *Emergency Preparation* (n 11) 7.121, but see 7.111.
[121] *7/7 Report* (n 98) 6.1, 6.4.
[122] *Emergency Preparedness* (n 11) 15.3-15.4, 15.13.
[123] *ibid* 7.125, 7.137. See also Ford Burkhart, *Media Emergency Warnings and Citizen Response* (Westview 1991) 27, 31.

terms, 'information command and control'.[124] Discussing warning systems, Sorensen claims that though this 'linear' communications model, which 'assumes a top-down flow of 'official' warning information to the public' is 'not without merit', it 'needs to be revised' in light of social and technological changes.[125] So how viable is 'information command and control' in light of shifts in technology and culture?

[3] 'Command-and-Control' of Information: An Uncertain Future

As previous emergencies highlight, there are recurring problems achieving the objective of fast, clear, accurate information. The decentralised, fluid nature of information means that the ideal model of a clear authoritative voice is difficult to sustain in the reality of an emergency.

The implications of failure to provide fast, consistent and accurate information in an emergency were starkly illustrated in the London bombings of July 7th 2005 (7/7). Though the 7/7 Review Committee Report found that the emergency response had been excellent in many respects, there were recurring flaws with communications between responders and to the wider public. For example, newspapers obtained information about the London Underground explosions within minutes of the first bombing.[126] However, official confirmation of the explosions was not provided until approximately two hours after the first bomb.[127] Official information initially confirmed (incorrectly) that there had been a 'power surge' on Tube[128] and was quickly overtaken by media coverage. As a result, news editors confirmed that the credibility of official information came into question.[129] The committee found that the gap between known information and police confirmations can result in a loss

[124] Twigg (n 28) 314.
[125] John Sorensen and Barbara Vogt Sorensen, 'Community Processes: Warning and Evacuation' in *Rodriguez et al* (n 37) 198.
[126] *7/7 Report* (n 98) 6.18
[127] *ibid* 6.20, 8.1.
[128] *ibid* 6.19.
[129] *ibid* 6.17.

of credibility and appear secretive.[130] Furthermore the committee found that basic information and advice on 7/7 should have been provided to the public sooner,[131] within 1 hour.[132] The public information provided in the aftermath lacked practical instructions for people to follow, and some messages were contradictory.[133] The 'go in, stay in, tune in' message was disseminated for longer than necessary and this caused public confusion.[134] Subsequent incidents have also highlighted problems with timely dissemination of public information[135] and clarity of message.[136]

The provision of fast, clear and accurate information is not readily achievable in emergency circumstances. Establishing an accurate account of factual events on the ground is often intensely difficult in the confusion and uncertainty of a rapidly developing emergency situation.[137] Furthermore, the ideal may be frustrated by conflicts between these standards, e.g. between accuracy and speed.[138] Finally, information will be produced and disseminated by other bodies, particularly the media, that potentially undercuts and/or competes with the single, authoritative voice of responders.[139] As Twigg claims, '*in an age where people have access to more and more sources of information – in the media and in the internet – [the] controlling and centralising of information supply is no longer feasible*'.[140] It is to these alternative sources of information that discussion now turns.

The media as an alternative source of information

CCA guidance provides detailed coverage of media handling as part of the public warning duty.[141] Because the media largely shapes the public's perception of an emergency[142] it will

[130] *ibid* 6.21. See also *Communicating Risk* (n 32) 12.
[131] *7/7 report* (n 98) 6.11 onwards.
[132] *ibid* recommendations 35 and 41.
[133] *ibid* 7.7, 8.6. Guidance acknowledges that inconsistent, contradictory messages can damage public confidence and be hard to repair: *Emergency Preparation* (n 11) 7.62; *Emergency Response* (n 16) 8.3.4.
[134] *7/7 report* (n 98) 8.1, 8.3, 8.17, recommendation 43.
[135] Department for Environment, Food and Rural Affairs, *Exercise Watermark Final Report* (September 2011) <https://www.gov.uk/government/publications/exercise-watermark-final-report> accessed 10th November 2013, at 3.111-3.112, recommendation 30.
[136] The *Pitt Review* (n 3) found that public information during the 2007 floods was difficult to find, inconsistent (ES.99, 20.10), not explained clearly (ES.63) or too technical (10.24). In essence, 'there was no single authoritative voice' for warning and informing the public (ES.62; recommendation 35).
[137] *Emergency Response* (n 16) 8.3.3, 2.5.1, 4.4.17.
[138] *Emergency Preparedness* (n 11) 7.83. See also *7/7 report* (n 98) 6.21.
[139] *Sellnow and Seeger* (n 24) 30.
[140] *Twigg* (n 28) 177.
[141] *Emergency Response* (n 16) ch 8.

also influence the emergency response.[143] *Emergency Preparedness* therefore indicates that media management can be categorised as 'other action in connection with an emergency' and that emergency plans should cover such matters.[144]

As well as the public service 'conduit' function, during an emergency the various forms of media will also undertake their usual reportage and, where necessary, the 'watchdog' function of holding officials to account.[145] Thus they are both 'vital allies' and 'potential adversaries'.[146] Guidance recognises that the media's emergency reportage will be concerned with the performance of the responders; '*the handling of the emergency, as well as the emergency itself, will all be part of the story.*'[147] It advises category 1 responders to plan ahead to deal with potential criticism and to avoid 'inconsistencies in presentation or message'.[148] The media's reportage role also frequently involves relaying the experiences of individuals involved in or affected by the emergency. By doing so the media may provide a platform for alternative narratives of the incident.[149] These may compete with the responders' singular message, particularly if there are varying perceptions regarding the efficacy of the response.[150]

Guidance indicates a clear concern to retain a degree of influence over the media coverage of the emergency, to ensure that the official narrative dominates. It draws a distinction between official and unofficial or informal information; '*It is important to be aware that information can be generated by official or unofficial sources*'[151] Failure to provide official information to the media will lead them to informal or alternative sources.[152] '*This may lead to a loss of messaging control … and put [responders] in a position of having to defend themselves*

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[142] *Emergency Preparedness* (n 11) 7.118. See also *Communicating Risk* (n 32) 19.
[143] *Emergency Preparedness* (n 11) 7.117.
[144] *ibid* 5.12-5.13.
[145] *Pitt Review* (n 3) 23.3; *Emergency Preparedness* (n 11) 7.122. See also *Burkhart* (n 123) 12.
[146] *Communicating Risk* (n 32) 48.
[147] *Emergency Preparedness* (n 11) 7.124.
[148] *ibid* 7.123.
[149] "*The multiple voices of disaster are easily lost over time, leaving posterity with only the official account of what took place. Such narratives need to be handled with care as they inevitably obscure how some use such events for their own profit.*" Greg Bankoff, 'Historical Concepts of Disasters and Risks' in *Wisner et al* (n 2) 42.
[150] Robert Littlefield and Andrea Quenette, 'Crisis Leadership and Hurricane Katrina: The Portrayal of Authority by the Media in Natural Disasters' (2007) *Journal of Applied Communication Research* vol 35(1), 26-47, 42.
[151] *Emergency Response* (n 16) 8.1.2. See also *Emergency Preparedness* (n 11) 7.122.
[152] *Communicating Risk* (n 32) 56, 61; *Emergency Response* (n 16) 8.5.6, 8.4.3.

against unfounded criticism or inaccurate analysis'.[153] The assumption that unofficial information will be inaccurate and/or critical is present elsewhere in guidance.[154] As well as effective management of the media agenda, guidance also stresses the importance of retaining ownership (and perceived ownership) of official information.[155] Yet, despite the preoccupation with such matters, media reportage may actually provide valuable information that potentially assists the emergency response. For example, the media helped to highlight the 'highly inadequate' response in crisis leadership during Hurricane Katrina.[156] Additionally, according to guidance, the media's real-time reportage, which will include individual experiences and/or analysis of the emergency response, is 'an important source of information' that will be fed back to Gold Command[157] and presumably may be used as a basis for further action.

In short, responders need the media (as a conduit to the public *and* as a source of intelligence) but simultaneously compete with the media (in reportage mode) where we see a struggle for narrative control and informational authority. The clear, authoritative voice of responders becomes potentially just one among many.

The impact of new technologies and media

The emergence of digital technologies, particularly mobile phones and web-based media such as social networking sites (SNS) like Facebook and Twitter raises further challenges (as well as opportunities) regarding informing the public in emergencies. Government guidance does recognise the potential uses of social media in emergency communications with the public. Though it outlines certain risks with the medium,[158] it suggests that LRFs might consider producing social media protocols.[159] The volume of SNS-related guidance has gradually increased,[160] arguably reflecting official recognition of its social significance.

[153] *Emergency Preparedness* (n 11) 7.124.
[154] *ibid* 7.122
[155] *Emergency Response* (n 16) 8.3.2. See also *Communicating Risk* (n 32) 60.
[156] *Littlefield and Quenette* (n 150).
[157] *Emergency Response* (n 16) 8.5.1-8.5.2. Guidance states that media monitoring is one of 6 guiding principles of a communications strategy*: Communicating Risk* (n 32) 46.
[158] *Emergency Preparedness* (n 11) 7.132.
[159] *ibid* 7.133, 7.110.
[160] This has been a particular focus for the National Steering Committee on Warning and Informing the Public (n 88).

As demonstrated in the 2004 Asian tsunami, new technologies enable the global dissemination of ground-level information in real-time. *Emergency Preparedness* states,

"*Mobile phones with cameras and other similar devices mean that the public are able to publish their own content. Within seconds of a disaster, pictures can be broadcast around the world, sometimes before the emergency services have had a chance to respond.*"[161]

This user-generated content (UGC) provides material for traditional media organisations[162] whilst also competing with them,[163] adding yet more 'voices' to the plethora, and ultimately increasing pressure on responders to provide timely information.[164] Yet this aspect of new technology is also particularly valuable to responders because UGC provides potentially vital intelligence during an emergency. Rather than linear, bottom-down communication, social media sites provide live two-way communications; they enable information to be communicated to the public,[165] but also information *from* members of the public to be gathered.[166] Yet they also crucially facilitate communications between the members of the public.[167] Guidance states that '*Analysis of social media can … aid situational awareness and better understanding of the working context*',[168] and indeed SNS have been utilised by Australian responders to assist flood response.[169] For this reason guidance states that social media does potentially play a role in emergency preparation and response.[170] Furthermore, it is '*an area that emergency responders cannot ignore;* whilst having little control over it.'[171] Consistent with this, recent research confirms that SNS adjust the traditional dynamic between 'commander' and the 'commanded' public:

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[161] *Emergency Preparedness* (n 11) 7.128. For actual examples see *Emergency Response* (n 16) 95.
[162] 'City Evacuations: Preparedness, Warning, Action and Recovery, Final Report of the DFUSE Project' (March 2013) <http://www.cityevacuations.org/uploads/6/8/1/7/6817950/finalpublic.pdf> accessed 10th November 2013, at 6.
[163] *ibid* 5.
[164] *Emergency Response* (n 16) 8.4.3.
[165] Though traditional media is arguably a more effective initial warning mechanism: *DFUSE Report* (n 162) 13-15, 37.
[166] *Exercise Watermark* (n 135) 3.117-119; *Emergency Response* (n 16) 8.3.14; *Emergency Preparedness* (n 11) 7.131
[167] Castells terms this 'mass self-communication': *Castells* (n 47) xxx-xxxi. See also *Sellnow and Seeger* (n 24) 127-131.
[168] *Emergency Preparedness* (n 11) 7.131.
[169] *Exercise Watermark* (n 135) 3.117.
[170] *Emergency Preparedness* (n 11) 7.131. See also, *Exercise Watermark* (n 135) vii and recommendation 32.
[171] Emphasis added. *Emergency Preparedness* (n 11) 7.130.

"*[They] present a disruptive technological challenge to the assumption of publics as passive recipients and consumers of one directional emergency broadcasts through traditional medial channels (e.g. radio and television)*".[172]

Despite limitations,[173] such technology is empowering and 'the citizen … is recast from passive recipient to potential searcher, creator or collator of communication.'[174]

These developments exacerbate the difficulty responders face in dominating the wider coverage of an emergency, and aptly highlight the great disparity between the command-model and the decentralised, fluid means by which information operates. The disparity was recognised by Exercise Watermark which found:

"*The speed of social media means that some command and control structures are not flexible enough or fast enough to respond to public questions and this can undermine the authority of responders and the public's trust.*"[175]

Such challenges are not restricted to informing the public in emergencies and indeed arise in other areas of law that involve ineffective attempts to control information, particularly in the digital domain, e.g. privacy injunctions[176] and enforcing copyright to prevent illegal downloads.[177]

All of this indicates that, as Twigg states, '*command and control of information is [now] unrealistic. The public are increasingly* consumers *of information from different sources, choosing what information to use and where to obtain it.*'[178] As a result, Twigg argues that emergency planners will have to move away from command-and-control communicative approaches to alternatives that recognise these developments.[179] In short, '*public information*

[172] *DFUSE Report* (n 162) 6, 12. See also *Sellnow and Seeger* (n 24) 73.
[173] E.g. reliance on social media to disseminate emergency information may marginalise groups without access, and also presupposes the resilience of this technology in such circumstances.
[174] *DFUSE Report* (n 162) 7.
[175] *Exercise Watermark* (n 135) 3.123. See also *DFUSE Report* (n 162) 5, 25.
[176] E.g. *CTB v News Group Newspapers Ltd* [2011] EWHC 1334 (QB)..
[177] *Barlow* (n 45).
[178] *Twigg* (n 28) 314. See also *Sorensen* (n 125) 186.
[179] *Twigg* (n 28) 177.

and planning needs to become interactive, dynamic and responsive',[180] or we might even say reflexive.

Conclusion

Though clear, decisive leadership is an important aspect of an effective emergency response (alongside co-operation and flexibility), a command-and-control approach to information management in emergencies is increasingly outmoded and unviable, particularly in light of the potentially democratising forces of new technology. Information dissemination in emergencies does not follow a basic top-down, linear model; instead the flow of information is more complex and reciprocal, fluid and evasive. Government guidance does on occasion acknowledge this, e.g. by claiming that the monitoring of media and SNS can yield valuable intelligence for responders. Thus it becomes apparent that the authorities provide information to the media and public, the media provides information to the public and authorities and, finally the public provides information to the media and authorities. This circulating information is used by all parties as a basis for action, therefore producing more information, which is used in turn as a basis for further (or modified) action.

Yet elsewhere government guidance reveals the ongoing tendency to cling onto an informational hegemony. For example, despite accepting that the media and SNS may provide useful information, elsewhere guidance indicates an underlying assumption that such information will be false or critical and the best way to minimise this risk is to tactically feed information and manage media (old and new) so that the official narrative dominates. This is arguably justified at the height of an emergency where (e.g.) responders need people to take specific actions. But beyond this, government needs to grasp that the 'official' narrative of events is not the only, or indeed the correct, one. Sometimes the authorities get it wrong, and sometimes official information about a crisis is not the only truth.

[180] *DFUSE Report* (n 162) 25.

Government guidance on informing the public reveals an ongoing preoccupation with maintaining institutional authority (local or national) as much as empowering the public. Unlike in other forums,[181] 'official' information is not always *automatically* revered as definitive by the public and, arguably, nor should it be. Instead, informational authority must be *earned*. The concern to provide authoritative information is at least partially linked to the (actual or perceived) authority[182] that this fosters, though such authority is ostensibly required to assist an effective response. So, ultimately, though government guidance advises engagement with new technologies and recognises the fluid realities of the 'Information Society', its implicit aim is still command-and-control of information of sorts, albeit by more sophisticated, complex means.

[181] Rebecca Moosavian, 'Judges and High Prerogative: The Enduring Influence of Expertise and Legal Purity' [2012] PL 724, 740-748.
[182] *Communicating Risk* (n 32) 46.