# WRITTEN STATEMENT

# BY

# THE WELSH GOVERNMENT

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| **TITLE**  | **The Transfer of Executive Functions under Part 1 of the Civil Contingencies Act 2004** |
| **DATE**  | **29 June 2018** |
| **BY** | **Carwyn Jones, The First Minister** |

### In a written statement 19 June 2018, I confirmed that the Welsh Ministers (Transfer of Functions) Order 2018 had come into force from 24 May. This was part of the package of reforms to Wales’ constitutional settlement under the Wales Act 2017 and included the transfer of the executive functions under Part 1 of the Civil Contingencies Act 2004.

### In exercising these functions, Welsh Ministers will be able to play a more influential role in setting the direction and delivery of civil contingencies in Wales. This not only includes developing policy which is more appropriate to Wales but also, being able to provide greater support to the devolved agencies delivering those services.

### Existing UK legislation provides Welsh Ministers very limited formal powers in respect of civil contingencies but this has not prevented us from exercising a *de facto* leadership and co-ordination role. This is evidenced by the work of the Wales Resilience Forum, which I chair, and its relationship with the four Local Resilience Fora and individual agencies, all working together to strengthen our ability to respond effectively to emergencies.

### Evidence provided by the Wales Audit Office, the Public Accounts Committee and the Report of the Commission on Devolution in Wales, all showed that the statutory position on civil contingencies was complex and confusing. Changes were necessary to provide a clear understanding on roles and responsibilities and to strengthen strategic oversight of the legislation. This transfer creates an opportunity to provide a less ambiguous constitutional platform from which to develop preparedness across all agencies and so strengthen resilience against the growing risks. It is the most effective way of clarifying accountability and it recognises the Welsh Ministers’ existing *de facto* role and the co-ordination function the Welsh Government undertakes.

### Welsh Ministers will now have powers to issue guidance in relation to the civil contingency duties, monitor compliance of the duties of devolved services under the Act and to enforce duties under the Act by way of proceedings in court. Additionally, after consultation with a Minister of the Crown, Welsh Ministers will be able to make regulations, orders and directions in relation to devolved responders, and to make an order amending the list of responder organisations that fall within devolved competence.

### No functions will be transferred to Welsh Ministers which will allow them to have powers over the Police or National Security under the Act. Welsh Ministers will not have the power to change the meaning of an emergency under Section 1 of the Act. This reflects the reserved position on policing in Wales and avoids the potential for a situation to arise where there could be a difference between the police and devolved Welsh responders in understanding what constitutes an emergency.

### Powers under Part 2 of the Act will not be transferred. This Part of the Act deals specifically with Emergency Powers which the UK Government reserves on a UK basis.

### There are compelling arguments at this time for Welsh Government to exercise greater devolved responsibility over civil contingencies in Wales. At a time where the threat of terrorism remains high, cyber attacks are becoming more frequent and the impact of climate change is expected to increase the risk of flooding and other hazards, it is more important than ever that Welsh Ministers have appropriate powers to shape how Wales prepares itself for these risks.

How these functions will be exercised in practice will be an evolving process. I want to work closely with Local Resilience Forums and individual responder agencies to understand where the new powers can add value. I want to obtain assurance of consistent and acceptable performance standards being maintained across devolved services in relation to the duties under this Act. I wish to look at ways we can move away from a self-assessment scrutiny process to one where Welsh Government takes a more active role in the performance management of devolved services.

On policy, we now have an opportunity to develop our own guidance and regulations in relation to the various civil contingencies functions but I want to ensure that this is taken forward in close collaboration with emergency services, local authorities, NHS and other responder agencies.

### There is a good tradition of multi-agency emergency planning in Wales. I want to exercise these powers appropriately to build upon this solid foundation to continue to strengthen our preparedness for the challenges ahead.