

TERRORISM (PROTECTION OF PREMISES) DRAFT BILL
“MARTYN’S LAW”
INFORMATION REPORT

Relevant Portfolio Holder	Councillor C B Taylor
Portfolio Holder Consulted	No
Relevant Head of Service	Simon Wilkes – Head of Worcestershire Regulatory Services
Wards Affected	All Wards
Ward Councillor Consulted	N/A
Non-Key Decision	

1. SUMMARY OF PROPOSALS

The Terrorism (Protection of Premises) Bill has been published in draft form by the Government to allow for pre-legislative scrutiny of the legislation by the Home Affairs Select Committee.

This report has been prepared to provide Members with information on the provisions contained in the draft bill and how these may impact and interact with the Council’s role as a licensing authority under the Licensing Act 2003.

2. RECOMMENDATIONS

2.1 That Members note the contents of the report.

3. KEY ISSUES

Financial Implications

3.1 There are no direct financial implications arising from this report.

Legal Implications

3.2 The legal implications of the draft legislation will become clearer as development of the legislation progresses.

Service / Operational Implications

- 3.3 Currently the UK's approach to protective security is essentially entirely voluntary. This means those responsible for publicly accessible locations are not currently under any legal obligation to consider the risk of terrorism and put in place security measures, where required, in order to protect the public.
- 3.4 On 22nd May 2017, twenty-two people were killed in a terror attack at the end of a concert taking place at the Manchester Arena. In addition to those who lost their lives, hundreds of others were injured.
- 3.5 In October 2019 the Home Secretary established the Manchester Arena Inquiry, a statutory public inquiry set up to investigate the deaths of the victims of the attack. The inquiry was chaired by the Hon Sir John Saunders.
- 3.6 As well as establishing the public inquiry, in its 2019 manifesto the Government made a commitment to improve the safety and security of public venues. Further to that manifesto commitment, the Government launched a public consultation in February 2021 on proposals to bring in legislation to implement a "Protect Duty" to ensure that those responsible for publicly accessible locations are ready and prepared to take appropriate action, were a terrorist attack to happen.
- 3.7 The "Protect Duty" has also become widely known as "Martyn's Law" in tribute to Martyn Hett who lost his life in the Manchester Arena attack. Martyn's mother Figen Murray has campaigned tirelessly, alongside other representatives of the Survivors Against Terror Campaign Team, for legislation to ensure a specific legislative requirement is developed.
- 3.8 The report produced following the Manchester Arena Inquiry was published in three volumes. Volume 1 of the inquiry report was published in June 2021 and focussed on security arrangements in place at the arena and made a number of recommendations. One of these recommendations was that a "Protect Duty" should be enacted into law by primary legislation.
- 3.9 The Government published its response document to the Protect Duty public consultation in May 2023 in which Damian Hinds MP, Minister for Security and Borders, reaffirmed the Government's commitment to taking forward legislation to introduce "Martyn's Law."

- 3.10 Alongside its consultation response document, the Government published a draft version of the Terrorism (Protection of Premises) Bill. At the same time, the Government also wrote to the Home Affairs Select Committee to invite the Committee to conduct pre-legislative scrutiny of the draft legislation. A copy of the draft bill can be seen at **Appendix 1**.
- 3.11 Under the draft legislation, a person responsible for qualifying public premises or a qualifying public event will be subject to the terrorism protection requirements set out in the Bill. A person is responsible for a qualifying public premises if the person has control of the premises or event, both of which must be accessible to the public as described in the Bill. Premises are included by reference to their use and both events and premises must have the minimum capacities specified.
- 3.12 Qualifying public premises may be located within other premises, such as a retail store within a shopping centre. The requirements will not apply to premises (or parts thereof) that are used as private dwellings or offices.
- 3.13 Qualifying public premises may be either standard duty premises or enhanced duty premises. Enhanced duty premises are those with a public capacity of 800 individuals or more. Standard duty premises are those with a capacity of 100 to 799 individuals. The Bill allows for provision to be made for some premises to be treated as standard duty premises when they would otherwise be enhanced duty premises, and vice versa.
- 3.14 The requirements which will apply to enhanced duty premises will also apply to qualifying public events. These are public events held at premises that are not qualifying public premises with a capacity of 800 or over, where express permission is required to enter for the purpose of attending the event (with or without payment).
- 3.15 The public capacity of premises and events will be determined in accordance with regulations made by the Secretary of State. Such regulations might require some types of premises to determine their capacity differently from others.
- 3.16 Persons responsible for standard duty premises will be required to undertake what are intended to be low-cost activities which seek to improve protective security and preparedness. They will be required to ensure that relevant workers are given appropriate terrorism protection training.
- 3.17 It is expected that they will be able to utilise free terrorism protection training materials to educate relevant personnel on the threat posed by terrorism, and the actions personnel should undertake in response.

- 3.18 Persons responsible for standard duty premises will also be required to undertake a standard terrorism evaluation in which they consider how best to respond in the event of a terrorist event, e.g. procedures to evacuate their premises.
- 3.19 Persons responsible for enhanced duty premises or qualifying public events will also be required to ensure that terrorism protection training is provided to relevant workers at their premises. In addition, they must appoint an individual as the designated senior officer for the premises or event and must complete and regularly review their terrorism risk assessment.
- 3.20 In completing this assessment, they will consider the types of terrorist act most likely to occur at or around their premises or event and the 'reasonably practicable' measures that might be expected to reduce the risk of such an act occurring, or the risk of physical harm to individuals as a result of such an act.
- 3.21 Persons responsible for enhanced duty premises or a qualifying public event must implement reasonably practicable security measures to reduce the risk of, and harm caused by, terrorist acts occurring at or near the premises or event. Measure must include, for example, those relating to monitoring the premises and vicinity and procedures to be followed in the event of an attack.
- 3.22 Persons responsible for enhanced duty premises or a qualifying public event must keep and maintain a security plan, which must also be provided to the regulator. The security plan documents, amongst other things, information about the premises or event, the persons responsible for the premises or event, and information arising out of compliance with the other requirements.
- 3.23 Other persons who to some extent have control over premises – whether qualifying public premises or those at which a qualifying public event is to be held - will be under a duty to co-operate with the person responsible for the premises or event under the Bill insofar as it relates to a matter within that other person's control.
- 3.24 For example, the person responsible for a store within a shopping centre must comply with the operator of the shopping centre as necessary for the operator to fulfil their duties under the Bill.
- 3.25 Persons responsible for both standard and enhanced duty premises will also be responsible for ensuring premises are registered with the regulator. Persons responsible for qualifying public events will be required to give notice of the event to the regulator.

- 3.26 The Government envisage that the majority of people will want to comply with the Bill, and to that end foresee the regulator primarily providing a guidance function for businesses. However, in the event of non-compliance, the regulator will have a range of sanctions to swiftly address non-compliance and impose penalties where appropriate.
- 3.27 The Bill will provide the regulator with the ability to impose a range of civil sanctions which will be utilised to address non-compliance, reducing potential harm and placing a lower burden on the criminal justice system in providing an alternative to criminal sanctions. Due to the seriousness of some contraventions and in line with other regulatory regimes, the Bill will nonetheless also provide for certain criminal offences.
- 3.28 The regulator will be able to issue a contravention notice to a person they consider to have contravened, or be contravening, a relevant requirement under the Bill. A notice will require the person to remedy the contravention by taking specified steps or providing evidence as to their compliance.
- 3.29 In rare cases, a restriction notice may be issued to a person in relation to enhanced duty premises or a qualifying public event. These notices are to be issued where:
- a person is contravening, or has contravened, a relevant requirement (whether or not that person is the recipient of the notice);
 - that requirement relates to enhanced duty premises or qualifying public event; and
 - giving the notice is necessary to protect the public, or a section of the public, from the risk of harm arising from acts of terrorism at, or in the immediate vicinity of, the premises or event.
- 3.30 The regulator will be able to issue civil monetary penalties. In many cases, it is expected that these will be issued following a failure to comply with a contravention or restriction notice.
- 3.31 For standard duty premises, the regulator will have the power to issue a fixed penalty up to a maximum of £10,000. And for enhanced duty premises and qualifying public events, the regulator will be able to issue a maximum fixed penalty of the higher of £18m or 5% of worldwide revenue.
- 3.32 It will be possible for the regulator to require payment of daily penalties until a contravention ceases (up to a specified maximum amount), where non-compliance with a requirement persists after the period for payment of the fixed penalty expires.

- 3.33 It will be a criminal offence to fail to comply with a contravention notice (unless it relates to standard duty premises) or restriction notice and to provide false or misleading information in compliance, or purported compliance, with a requirement of the Bill.
- 3.34 Clause 1 of the draft Bill provides for a regulator which will have the powers of inspection and enforcement set out in the Bill and, unless specified in regulations by the Secretary of State, will be the Secretary of State. A regulator specified in regulations must be a public authority.
- 3.35 It is unclear at this stage who the Secretary of State intends to specify as the regulator under the draft legislation. This could be existing public bodies such as local authorities or the Health and Safety Executive. Alternatively, an entirely new public body could be created to act as the regulator.
- 3.36 Whether or not local authorities are ultimately specified as the regulator, there will be implications for the Council when the legislation is brought into force. This is because many of the publicly accessible locations that will be subject to the requirements set out in the draft legislation, will have been issued a premises licence by the Council under the Licensing Act 2003 in its role as the licensing authority under that legislation.
- 3.37 Likewise, many qualifying public events that will be subject to the requirements set out in the draft legislation, will also require authorisation under the Licensing Act 2003 if those events involve the carrying on of licensable activities.
- 3.38 Therefore, the future progress of the draft legislation will need to be followed closely by officers to ensure that the Council can publicise and signpost relevant guidance and information to those who will be affected by the duties that the draft legislation will eventually impose.
- 3.39 The Council may also need to revise its Statement of Licensing Policy published under the Licensing Act 2003 in light of the implementation of the legislation.
- 3.40 Further reports will be presented to the Licensing Committee in due course as the process for enacting the draft legislation progresses.

4. RISK MANAGEMENT

4.1 None

5. APPENDICES

Appendix 1 – Terrorism (Protection of Premises) Draft Bill

AUTHOR OF REPORT

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