



United Kingdom Crowd Management Association

UKCMA Strategy Group Response to 'Protect Duty' Legislation Consultation Report

19th January 2022

The following is a series of notes around the government responses to the Proposed 'Protect Duty' Legislation Consultation.

There are 2 parts to this document- Initial Observations for UKCMA members (pages 2-3) which assumes a prior knowledge of Protect, with Analysis of the Government's response (pages 4-6). It is important to read both parts.

Please read this in conjunction with the [Protect Duty Consultation Outcome](#) and the [Consultation outcome- Government response document](#)

The responses noted are restricted to the areas of most interest to UKCMA Members.

Initial Findings for UKCMA members re the Government response to the Consultation.

1. **Definition of Publicly Accessible Locations-** There is no clarity as to what 'public spaces' definition will look like. The question remains, what is a 'Publicly Accessible Location?'. The physical remit and the definition of PALs requires further clarity. Is the legislation expected to cover such open spaces as parks/riverbanks etc. where informal but substantial gathering might reasonably be expected, and if so, to what extent would Local Authorities or Responsible Persons be required to assess the threat and establish mitigation proportionate to the safety offered by a live event or even a busy summers afternoon? We should also consider this in the context of smaller events and venues, such as community and charity events to understand what is achievable.
2. **Delineation of responsibility/ 'Grey Space'-** There no response to requests relating to delineation of responsibilities/ authority over 'Grey Space'. These spaces are the epitome of complexity regarding any legislation i.e. who 'owns' the space. Shared responsibility requires clear documentation, and the source of guidance here is currently very limited (such as the Occupiers Liability Act). It is noted that Baroness Casey in her review of the Wembley 2020 Euro Finals has specifically identified work to be done regarding Zone Ex. In recommendation 3 she states: *"There should be clear accountability for public safety in Zone Ex. The question of who was responsible for public safety on Olympic Way was a contributing factor to the inability to deal with the disorder seen in the build-up to kick-off. The police and stadium operators have for many years contested the issue of who is responsible for safety and security in Zone Ex (the area of public space outside the stadium used by supporters) and the financing of it remains a contested issue. This should be resolved"*.
3. **Reasonability-** What is 'Reasonable' in this context? If we consider the consequence as almost always being catastrophic, we should be trying to reduce the risk to almost zero, but we know this is not possible.
4. **Roles and Responsible Persons-** The concept of responsible person is still extremely vague and requires clarification; currently "venues and organisations owning, operating or responsible for Publicly Accessible Locations should take appropriate and proportionate measures to protect the public from attacks". Any new legislation should clearly identify the level of responsibility placed on the licence holder for each event/venue and the parameters of their boundary of responsibility. Complex multi-agency and multi-stakeholder working is required at most venues/events. A clear understanding of how these relationships operate and where liability sits needs to be agreed and documented.
5. **State Responsibility-** Whilst we agree that that the Government, Police and Security Services cannot be held entirely accountable for all aspects of Counter Terrorism, we would be remiss if we did not similarly challenge any attempt to apportion culpability to the private sector if those expectations are beyond its means and outside its powers to implement. When considering the Government's own statement: "The first duty of the Government is to protect the public. The terrorist threat we currently face is multifaceted, diverse and continually evolving", State Obligation is a major part of a cohesive, integrated approach.
6. **Risk Assessment-** The request for a generic risk assessment template (795) would not be fit for purpose. Who is competent to produce it? Would it stand up in a court or inquiry or be just a tick box document? A risk assessemnt relies heavily on the understanding that each place/activity is different.

7. **Risk Based Approach-** There is no indication that Counter Terror risk sits as part of the wider risk matrix, taking into account a balance and probability of risk. Application should not be determined by a fixed criterion: a risk-based approach should be adopted where each potential risk is identified, assessed, and mitigated. Many different factors contribute to the overall picture, and individual risks should not be viewed in isolation. For example, mitigation measures which have the potential to increase queuing into the public domain must be balanced against any perceived CT threat within the venue.
8. **Standards and Training-** The Government to consider implementing its own supported standards for counter-terrorism risk assessments and advice (622), followed by accredited training for individual professionals (579), regulation of counter-terrorism consultants SIA (475), and Government supported 'approved contractors' (475). Processes and standards to be implemented are something which are unclear at this stage, and are likely to have direct impact on operations. It will be important to ensure such measures are proportionate to role and activity, and commensurate to the activities of personnel who have no more powers than members of the public. Further detail will be required here.
9. **Existing Skills Gap-** Currently there is significant lack of specialist expertise in CT within the private sector. There is a clear difference between 'event security' as it exists under the Security Industry Authority (SIA) licensing, and specialist CT risk management. If new measures seek to vest more responsibility with private companies, venues and LAs, then the equivalent functions to those of CT SecCo and CTAs must be considered. This existing skills gap needs addressing and a step change implementation of legislation be considered.
10. **Access to Education-** Improving access and funding for training and education should be seen in the wider context of training for all, including specialists, stakeholders, security staff, wider employees and the general public.
11. **Existing Legislative Framework-** There is no reference to existing legislation and how that will work with expected changes. Clear guidance is required regarding how the new legislation fits into the existing framework of guidance/legislation.
12. **Enforcement-** Sufficient and continual enforcement will also be required, alongside Communication, Coordination and Cooperation.
13. **Data Breakdown-** It is unclear as to which sectors responded. The breakdown of data into industry, public, local authority and wider stakeholders is dismissed in the opening of the report. "Due to the self-selecting nature of the method, findings should not be aggregated up to be representative of any type of participant, nor be used to represent the wider opinion of any particular sectors".
14. **Wider Context-** This consultation must be seen in the context of the wider discussion regarding all aspects of the Counter Terror prevention. We await Parts 2 and 3 recommendations.
15. **Time Scales-** There is no further indication of the time scale for implementation of the Protect Duty.

Analysis of the Government response to the Consultation.

Response rates

There were a total of 2,755 responses to the consultation, 1,785 non stakeholder, 479 stakeholder and 296 campaign responses.

Therefore, it must be understood that the consultation findings, as reflected through this report, can only be used to record the various opinions of the members of the stakeholder and non-stakeholder participants who have chosen to respond to the proposals contained within the Consultation Document. Due to the self-selecting nature of the method, findings should not be aggregated up to be representative of any type of participant, nor be used to represent the wider opinion of any particular sectors.

Support for a Protect Duty

Around seven in ten of those who responded to this question in the consultation (1,664) agreed or strongly agreed, whilst around one in five (421) disagreed. There were over 70 suggestions as to the type of venues and places which they felt the Protect Duty legislation should apply to.

Section 1- Who (or where) should legislation apply to?

- Most participants agreed that venues and organisations owning, operating or responsible for Publicly Accessible Locations should take appropriate and proportionate measures to protect the public from attack. Participants also made suggestions for the type of venues and places where the Duty should apply. The most mentioned locations were all Publicly Accessible Locations (53), all organisations/venues/regardless of the size (32), all venues of large gatherings (31), places of worship/religious institutions (31), all organisations/venues (26) and private venues (20).
- The majority of those that responded felt that venue capacity should determine whether a Duty should be applied or not. Half (1,267 out of 2,388) thought capacity should be the main criteria.
- Most participants agreed that venues and organisations owning, operating or responsible for Publicly Accessible Locations should prepare their staff to respond appropriately in the event of a terrorist attack
- There was strong agreement that parties should work together where there is a shared organisational responsibility for a venue. A majority of 979 out of 1,198 thought this was appropriate. Furthermore, 711 out of 763 (who own or run a Publicly Accessible Location) believed that they are aware of their organisations' classification and whether it falls within the scope of the definition of a Publicly Accessible Location.
- The majority of participants didn't think there should be other exemptions from a Protect Duty (excluding those listed in Annex 1). Out of 2,340 who responded, 1,347 did not think there should be other exemptions, however two in five responding to this question (993) did think there should be.

The criteria for inclusion in the Protect Duty legislation

- 1,267 out of 2,388 felt venue capacity should determine whether a Duty should be applied.

Some participants proposed that Publicly Accessible Locations should have to meet multiple, rather than just one, criteria in order to be in scope of the Duty. Approximately half (428 out of 806) thought that the threshold should be 100 and therefore agreed with the Government proposal.

Section 2 – What should the requirements be?

- Accountability was considered to be a cornerstone of the Duty. This predominantly referred to the need for clear roles and responsibilities, particularly amongst event organisers and those at senior level within the venues and organisers.
- About the same amount said their organisation produced a risk assessment (540) as those who did not (543). The majority of organisations which conduct risk assessments review them at least once a year, with less than half (400 out of 977) reviewing them multiple times a year.
- The most commonly mentioned mitigations against terrorism were liaison with police or other resources on threats and appropriate security measures, working to ensure security behaviours are adopted by workforces, staff training to raise awareness of the threat and ensuring evacuation procedures that are in place are understood by staff. In terms of existing activities and mechanisms which result in the best protective security and organisational preparedness, the most common responses were staff awareness raising, training courses and communication campaigns
- Where there is current Government security advice, most (872 out of 1,351) believe it would be appropriate for this guidance to become legislative under Protect Duty.

Section 3 – How should compliance work?

- Participants were split almost equally between those which supported an inspection regime (194) and those who opposed it (191). Suggestions on how a compliance regime could operate included: training (115), regular visits/inspections (104), audits (65), penalties/punishments for noncompliance (64).
- Overall, opinion towards the use of fines for non-compliance was relatively split with 517 supporting civil penalties and 547 opposing them.

Section 4 – How should Government best support and work with partners?

- The most common suggestions for useful measures to help comply with a Protect Duty were a digital service where you could access relevant material (806), a risk assessment template (795). Other themes mentioned included the need for information on undertaking a risk assessment for terrorism threats (671), easy to digest information regarding threat and attack methodologies (667), advice on what constitutes reasonably practicable and appropriate mitigations for my circumstances (657) and staff training and awareness courses (654).
- In terms of the advice and support required for organisations within the scope of Protect Duty, the most commonly raised themes were ensuring advice and support is bespoke and not 'one size fits all'.

- In terms of what the Government could do to support partners in the delivery of Protect Duty, the main support identified was the need for Government to provide funding and resources.
- Of those participants who own/operate a Publicly Accessible Location (1,083) there were more who said they did access Government advice regarding threat, protective security, and preparedness (599) than those who said they did not (484). The two main reasons for not accessing Government advice and guidance included not knowing it existed (217) and not thinking they needed to address the threat (200).
- With regards to accessing counter-terrorism information and working with local partners in the future, one of the key themes emerging from responses was that participants see a combination of groups, meetings and forums as central to success.
- Almost four in five participants responding (1,822) said they would access counter terrorism information if the proposed service was available to them, while just over one in five (519) said they would not.
- Participants were asked what they thought the Government should consider in order to support the provision of high-quality advice and guidance from private sector security professionals providing counter-terrorism security advice. The most commonly selected option amongst participants was for the Government to consider implementing its own supported standards for counter-terrorism risk assessments and advice (622), followed by accredited training for individual professionals (579), regulation of counter-terrorism consultants (475), and Government supported 'approved contractors' (475).

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