

Terrorism (Protection of Premises) Bill

Prepare to Protect

What you need to know about Martyn's Law

POOL^{Re} 
REINSURING TERRORISM RISK

Martyn's Law Briefing

June 2023



Home Office



Why: the need for change

A shifting threat...

- Publicly Accessible Locations remain a **likely target**.
- **Targeting is threat actor dependant**. It remains an individual choice which **cannot be predicted**.

...new research insights...

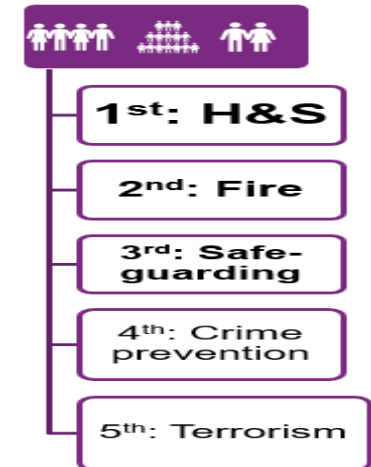
- **626,000 different organisations** which may own or operate at least one publicly accessible location in the UK.
- **99% of these are SMEs** (16%) and Micro enterprises (83%).
- Organisations are more receptive to engagement and advice at **local level** and prefer to **embed CT in existing schemes/practises**
- Without **legislation**, CT engagement from organisations will be limited

...external commitments...

- The Conservative manifesto commits to improving the **safety and security of public venues**.
- **'Martyn's Law'** campaigns for increased safety measures at public venues.

...and Inquest recommendations.

- Review the **crowded places definition and criteria** for identifying crowded places in the UK - ensuring it is less 'excessively rigid'
- Consider introduction of **legislation** to govern the duties of public authorities or produce guidance to outline the legislation currently in place so everyone understands roles and responsibilities
- Ensure that police and Local Authorities are aware of measures that can be implemented for new threats.
- The **Manchester Public Inquiry** has also focused on these challenges



Scope

Public
premises
and events

- The public are permitted to access the premise (or a part of the premise) or event

Qualifying
Activities
(premises)

-
- Primarily used for specified types of activities/purposes
 - Shops/services
 - Food and drink
 - Nightclubs etc.
 - Entertainment activities
 - Sports Grounds
 - Recreation, exercise or leisure
 - Libraries, museums and galleries
 - Exhibition halls etc.
 - Hotels etc.
 - Places of worship
 - Health care
 - Transport (where Regulations do not already apply)
 - Education sectors
 - Public authorities

Scope

Qualifying
Premises
and
Events

Premises

- A building, including land occupied with the building (including part of a building, or a group of buildings); or
- Any other land which has a readily identifiable physical boundary (whether permanent or not)
 - Premises comprising land in the open air in scope are those subject to express permission (i.e. payment or ticketed entry)

Events

- Event held at premises which are not qualifying public premises
- Public have access (for purposes of attending the event)
- Have a capacity of greater than 800
- Access to the event is by express permission (whether or not on payment)

Capacity
thresholds

-
- Max capacity used to determine premises in scope, and what tier premises will be drawn into.
 - Standard Tier – 100-799 persons max capacity (Premises only)
 - Enhanced Tier - 800+ persons max capacity (Premises and events)
 - Capacity calculations.

Requirements

Standard Tier (simple yet effective activities and processes to improve preparedness)

- Standard Terrorism Evaluation

Enhanced Tier

- Carry out a **risk assessment process**
- Develop a **security plan** which takes forward reasonably practicable mitigating **security measures** (recorded and auditable)
- Framework of security requirements to be considered / taken forward
- Mitigating measures that organisations may take forward to achieve those outcomes:
 - Physical measures e.g. exterior lighting, access control measures, search and screening
 - People e.g. developing staff vigilance and a security culture, training
 - Systems and processes e.g. emergency response arrangements, invac or evac, encouraging organisations to consider security across their premises, the assets they own and the services they deliver, as well as in their projects and programmes

Next Steps/Timings

- The Bill was published on the 2nd May
- Scrutiny by the Home Affairs Select Committee (HASC)
- HASC report and Government response
- Legislation will be taken forward as soon as parliamentary time allows
- If and when the Bill becomes an Act, there will be time before it is commenced for engagement and communication of requirements with stakeholders, and to ensure their preparedness

Terrorism (Protection of Premises) Bill



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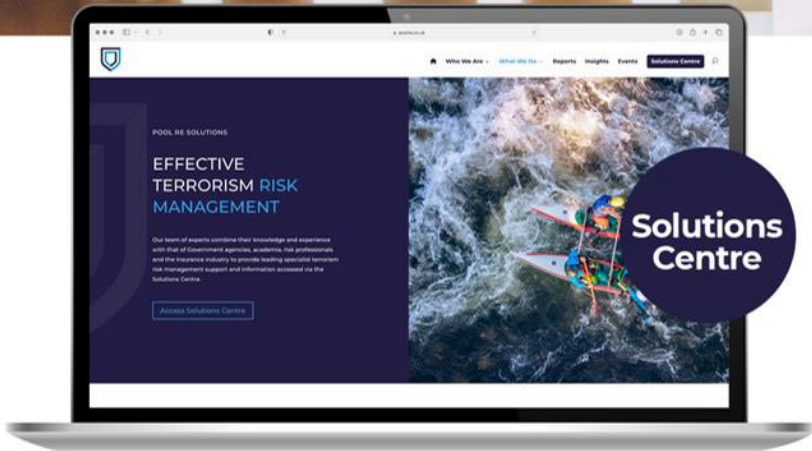
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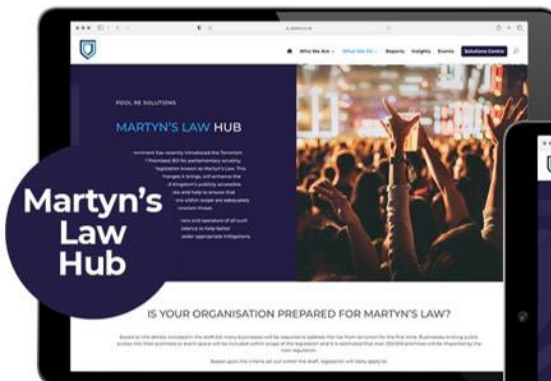
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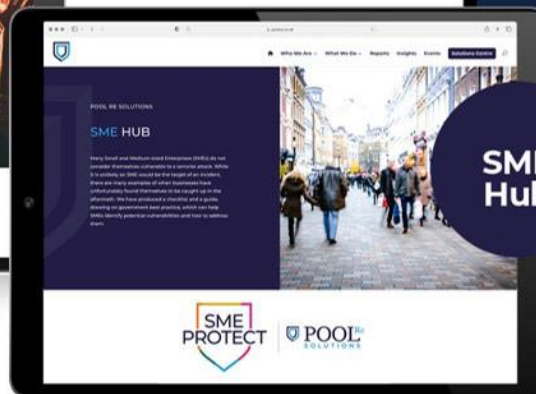


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More resources on Martyn's Law:



www.poolre.co.uk/martyns-law



www.poolre.co.uk/sme-hub



www.protectuk.police.uk

Please submit any questions regarding the webinar to solutions@poolre.co.uk

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Following the webinar, the panel answer the common questions and concerns raised.

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Purpose

Q: Would Martyn's Law have had any substantive effect upon terrorist attacks in the UK, if this legislation had been introduced previously?

A: During the Home Affairs Select Committee Jonathan Hall (Independent Review of Terrorism Legislation) argued the proposed legislation would have had little impact in relation to UK terrorist attacks over the last 30 years. However, comparing utility of Martyn's Law against previous threats and target selection of groups such as the IRA is limited in utility. The threat picture has changed considerably in recent years, moving to a crude mantra of 'anyone a target, anything as a weapon' and marauding attack methodologies targeting public spaces.

Matt Jukes (Assistant Commissioner – Metropolitan Police) highlighted in his evidence that of 37 late stage plots disrupted since 2017, 10 targeted locations would be in scope of the draft legislation, with 7 in the standard tier and 3 in the enhanced tier. It is therefore clear that the legislative proposals have direct relevance to the current threat picture, reducing the impact from terrorism through protection and preparedness steps at publicly accessible locations. Examples such as London Bridge (2017) where premises successfully locked doors and evacuated to protect people, after attending Action Counters Terrorism Training, shows the benefits that such legislation could have in protecting life.

(Calum, Senior Risk Consultant – Pool Re)

Purpose

Q: Does Martyn's Law take away from the idea of 'proportionality'? No other country has any proposals like this.

A: Not taking effective protection steps just because other countries haven't done something similar yet should not be an argument for not implementing Martyn's Law, and the UK should rightly be at the forefront of protecting its people. The key issue highlighted is one of proportionality. The legislative approach is based upon an extensive Home Office public consultation exercise to ensure proportionality, and as demonstrated by the threat to the UK, there is a relevant need for such legislation. What will be key to the success of the Bill however, is removing any burden on businesses through the provision of clear, simple and free materials to support small businesses in being compliant, through subsequent guidance notes and resources provided by the Home Office. The argument of proportionality should also be viewed in relation to the wholly disproportionate impacts caused by terrorist attack, including death, injury, financial loss and ongoing psychological trauma.

(Calum, Senior Risk Consultant – Pool Re)

Purpose

Q: If, say a village hall in the Orkney Isles, judges that the threat of a terrorist attack is insignificant, will they still be obliged to act?

A: The requirements in the draft legislation for standard tier premises focus on proportionality, ease of application and simplicity. It will be for each venue to complete a 'standard terrorism evaluation' considering if they may be impact by a terrorist attack, and by what methodologies. It must be remembered that the current threat picture is that of targeting any publicly accessible location, so all in-scope premises must adequately consider the terrorist threat. In such an example of very minimal risk, such as a village hall in the Orkney Isles, simple steps such as having an evacuation route would be wholly appropriate.

(Calum, Senior Risk Consultant – Pool Re)

Tiers/Scope

Q: Why were the specific attendee tier categories chosen at those levels? Is there an evidence basis for this?

A: The threshold for the enhanced and standard tiers were developed in conjunction with partners from across Government, in particular the security expertise within Counter Terrorism Policing and the National Protective Security Authority. They also took in to account the views of key stakeholder groups, including the response received to the public consultation exercise.

(Kevin – Home Office)

Grey spaces and adjacencies

Q: Where an adjacent site directly or indirectly increases the risk to your site, how will this be expected to be managed?

A: The draft legislation asks premises to consider acts of terrorism that could occur “within the immediate vicinity” of your site, so considering who your neighbours are and if they could be a target is an important step, particularly when considering many terrorist methodologies are marauding in nature. It is asking businesses to understand how your site could be impacted, even if not the primary target, recognising previous experiences such as London Bridge market traders unable to access their stalls during the Police cordon. The key priority will be to ensure your aware of the potential risks, and then to engage in communication with said neighbours on things like preparedness – coordination could be as simple as setting up a WhatsApp chat with neighbours to alert one another in event of an incident. Cooperation notices will provide for a formal mechanism for working with the responsible person of neighbouring premises.

(Calum, Senior Risk Consultant – Pool Re)

Grey spaces and adjacencies

Q: Will Martyn's Law help in consolidating cooperation between businesses and local authorities on security matters? Taking Hostile Vehicle Mitigation as an example, whilst a business may seek to improve their protective security arrangements, this requires engagement and planning acceptance at a local authority level – will the legislation help support improved cooperation?

A: If legislation is agreed and introduced, it will provide a basis for what considerations and resulting mitigations need to be legally undertaken by different premises and events within scope. This should provide a more defined basis for engagement with other stakeholders and processes. It is also envisaged that where there are other relevant processes, that those Guidance documents associated with these will make appropriate reference to the requirements of Martyn's Law. It is hoped that these would lead to improving and consolidating co-operation on security matters.

In addition, the Protective Security Team in Homeland Security Group, alongside NaCTSO, are developing policy and activity to support Local Authorities (LA) in delivering security across their areas of responsibility. The aspiration is to have security mindedness running as a 'golden thread' through all local decision making processes – which includes, but are not limited to, LA departments such as roads, planning and licensing - in order to develop a cohesive and co-ordinated, local approach to security.

A pilot has been conducted within the North Eastern (NE) CT region around building such capability across LA's, and the results have been very positive. The intention is to roll-out the approach piloted in the NE across all other CT regions.

(Kevin – Home Office)

Grey spaces and adjacencies

Q: Inadequate security provision withing ‘grey space’ was highlighted in the Manchester Attack inquiry as a key failure. ‘Grey space’ is not mentioned within the proposed legislation – is this an omission?

A: The legislation has a broad definition of qualifying premises which seeks to include the entirety of the premise (noting that the Manchester attack took place within the broader Victoria Exchange Complex). The definition of a building also includes any land occupied with the building – seeking to account for premises where activity also takes place on land associated with a building. Also, the requirements relating to a premise or event asks for the consideration of terrorist threats and reasonably practicable measures in the immediate vicinity of the premise or event – recognising that mitigations may on occasion be limited by where the responsible party has control of that vicinity.

(Kevin – Home Office)

Open sites

Q: Will organised parades be included such as Pride parades be within scope? These have been targeted in the recent past by terrorist actors.

A: Currently the draft Bill only includes for events whereby entry is by 'express permission' (e.g., ticketing) are in scope. However, the Home Affairs Select Committee report identifies that there is a protection gap here, considering the target attractiveness of such crowded, publicly accessible events and examples of target selection across Europe. The Select Committee report recommends the scope of the Bill is amended to include for open events such as Pride parades, so these could become part of the requirements if amended before parliamentary submission.

(Calum, Senior Risk Consultant – Pool Re)

Open sites

Q: What is meant by 'regulating who is coming in' in relation to express permission for events? Would for example, attendee registration count as express permission?

A: Express permission is envisaged to be an authorisation to attend (whether on payment or now) a premise or event. If there is a requirement to register attendance and without doing so access would not be granted, that would constitute express permission.

(Kevin – Home Office)

The progression of the Bill should be monitored, after the Home Affairs Select Committee recommended that open air events, in the Enhanced tier, should fall under scope regardless of access being by 'express permission'. There is a possibility therefore that the draft Bill is amended to reflect such recommendations, cognisant of the threat targeted against open air events across Europe.

(Calum, Senior Risk Consultant – Pool Re)

Competent Person Scheme

Q. Over 300,000 premises will be required to consider the terrorist threat. The number of Counter-Terrorism Security Advisors, and qualified security consultants, who can provide support to businesses is limited. What do we know about proposals for a competent person scheme, to ensure there are a sufficient number of qualified people to provide assessments under Martyn's Law?

A: The Competent Persons Scheme (CPS) – which a working title, and is likely to change – is work being led by the National Counter Terrorism Security Office (NaCTSO) which has two strands:

- a. the Competent Person in the Workplace qualification is a level 3 qualification which will provide security practitioners with the skills, knowledge and assurance that they can successfully mitigate the risks posed to them by terrorist threats.
- b. The Counter Terrorism Security Specialist Register, is aimed at the counter terrorism specialist market, the scheme will recognise existing skills and qualifications within the sector. The scheme will also provide additional reassurance to businesses that a counter terrorism specialist has the necessary skills and abilities to appropriately advise on risk and suitable mitigation measures.

The CPS will be voluntary, and remains under development; and is now entering a discovery phase which will explore the development and testing of syllabus content and course materials. The National Counter Terrorism Security Office will release further details in due course. There will be close working together between NaCTSO and the Home Office as to the relationship between the training provisions in Martyn's Law and the CPS.

(Kevin – Home Office)

Costs

Q: Previous Home Office presentations have talked about an implementation cost for an enhanced tier location of up to £80,000 over ten years. That would imply the possible need to install or upgrade physical and electronic security measures rather than enhancing and strengthening security culture. Is there any greater clarity on what is included in the £80,000 figure?

A: Further details can be found in the published impact assessment at Terrorism (Protection of premises) draft bill: overarching documents - GOV.UK (www.gov.uk).

(Kevin – Home Office)

Regulator

Q: What are the proposals for a regulator?

A: The Home Office are currently considering the various delivery options for the regulator, to understand which option will achieve the desired policy objects and which can be delivered in a timely manner. Ministers are considering our advice and we hope to be able to release further information ahead of Bill introduction.

(Kevin – Home Office)

Implementation

Q: How could a change in government affect the potential legislation approvals?

A: The Bill is still draft, and will need to be introduced into Parliament and gain sufficient approval to become law. It is expected that the Bill will be introduced into parliament during the autumn 2023 legislative period. Broadly, the Bill has cross-party support, being introduced by the Conservative party, but with other parties also outlining their support for the Bill. Whilst a change in government may disrupt a legislative timeline, the Bill is not a partisan issue.

(Calum, Senior Risk Consultant – Pool Re)

Insurance and liability

Q: Pool Re was set up to cater for catastrophic property damage and ensuing BI losses. What is the insurance relevance here - are the Pool Re / UK Government going to change the product offering?

A: Whilst Martyn's Law has a strong focus on protecting individuals, any mitigation of terrorist activity will also benefit any property that may have been involved. As Pool Re is responsible for reinsuring in excess of 80% of commercial property in Great Britain, we have a clear financial interest in effective counter-terrorist legislation. There is no plan at present for Pool Re to assume excluded terrorism from liability coverages.

(Jonathan – Chief Underwriting Officer, Pool Re)

Q&A

Insurance and liability

Q: In the longer term do you foresee markets adjusting their position on terrorism coverage available in the market to protect their own balance sheet (i.e. excluding cover for certain businesses)? Terrorism can be restricted in many liability policies.

A: This is certainly possible, and the reason for our interest in this legislation is to ensure that there is an effective conversation between the insurance industry and Government. Bringing clarity as to the impact on liability exposures and accumulations will help insurers maintain a position of offering cover, even if it is restricted, rather than simply withdraw it through uncertainty. We will continue to monitor market trends and insurer appetites regarding availability and affordability of cover.

(Jonathan – Chief Underwriting Officer, Pool Re)

Insurance and liability

Q: What should companies do when their clients start making greater demands on the amount of PL cover they are required to hold?

A: We would encourage all insurance carriers to actively review the products that they offer, working with brokers to assess the likely demands that clients/customers may have. Corporate discussions regarding risk appetite levels, capital requirements and the availability of reinsurance to service any additional demand should also be prioritised. Managing General Agents / Third Party Administrators should also consider the availability of additional capacity they may require.

(Jonathan – Chief Underwriting Officer, Pool Re)

Q: What insurance risks exist where liability for this is shared. The person R instructs person P to do something. If P feels that there is a need to adhere to the legislation and R does not, who becomes liable...or do both still share the risk? Do Pool Re provide liability cover?

A: This was raised on several occasions during the Home Affairs Select Committee scrutiny of the draft legislation. We will continue to use our influence to ask that the final legislation is clear and unambiguous. Pool Re does not currently provide liability reinsurance cover.

(Jonathan – Chief Underwriting Officer, Pool Re)

Training and resources

Q: Are there plans for the Home Office to provide advice on the delivery of Terrorism Protection Training (Section 14 of the Bill)? In order to standardise the process?

A: The provisions regarding what constitutes terrorism protection training will need to be elaborated upon in documents supporting the Bill, and if and when it is agreed, in more detail in accompanying guidance.

(Kevin – Home Office)

Q: How will the training of staff be quantified to satisfy insurance and what level of responsibility will be placed on the insured to keep the level of training at the correct level? Annual reports at policy renewal?

A: Insurers will likely wish for the training policies that businesses put in place to reflect the best practise guidance provided by the Home Office, as will be outlined in forthcoming guidance documents. Businesses should be prepared during renewal to provide evidence of compliance with the legislation.

(Calum, Senior Risk Consultant – Pool Re)

Training and resources

Q: What resources are available currently to support business navigate the Martyn's Law proposals?

A: Please follow the below links for useful best practice guidance to enhance your awareness.

ProtectUK

ACT | ACTION
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National Protective
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