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## **Protect Duty consultation**

### **Purpose of report**

For discussion.

### **Summary**

The Government has published a consultation document on a new Protect duty, aimed at helping to protect public venues and spaces from terrorist attacks. Home Office officials will attend the meeting to provide an overview of the proposals.

### **Recommendation:**

That the Board notes the update and discusses the outline proposals.

### **Action:**

Officers to take note feedback, to feed into the development of the LGA's consultation response.

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## **Protect Duty consultation**

### **Background**

1. 'Protect' is part of the UK's 2018 counter-terrorism strategy, CONTEST. CONTEST comprises four strands; Pursue (catching terrorists before they carry out an attack); Protect (making infrastructure and similar targets less vulnerable to attacks); Prepare (planning responses in the event of an attack) and Prevent (stopping people from becoming terrorists or support terrorism).
2. Under the CONTEST strategy, Protect's objectives are to:
  - 2.1. Detect and deal with suspected terrorists and harmful materials at the border;
  - 2.2. Reduce the risk to and improve the resilience of global aviation, other transport sectors and critical national infrastructure most at risk to terror attack;
  - 2.3. Reduce the vulnerability of crowded places, specific vulnerable groups, and high profile individuals; and
  - 2.4. Detect and prevent terrorist access to and use of materials of concern, knowledge and information that could be used to conduct attacks.
3. The nature of the threats from terrorism continue to evolve. Attacks in recent years have taken place in open public places, requiring a shift in emphasis from protecting a smaller number of iconic sites, to protecting a larger number of public sites.
4. Last year the Government announced they would look to improve the safety and security of public venues and spaces with the introduction of a new statutory 'Protect Duty', aiming to reflect lessons learned following the terrorist attacks in 2017 and more recently. The proposals also follow discussions with victims' groups such as the Martyn's Law campaign, established by Figen Murray whose son was killed in the Manchester Arena attack. The proposals suggest that while there is already good work being done by many organisations, in the absence of a legislative requirement there is no certainty that effective security considerations are being undertaken by those operating sites and places open to the public.
5. The proposed duty will have a number of implications for local authorities. A [consultation on the scope of the duty](#) was launched at the end of February and will run until 2 July. Debbie Bartlett, from the Home Office's Office of Security and Counter Terrorism, will attend the meeting to provide an overview of the proposals.

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### **Consultation proposals**

6. The consultation notes that, with some exceptions (for instance on transport security and for certain sports grounds), there is no legislative requirement to consider or implement security measures at publicly accessible locations. However, there are many reasonable and appropriate measures which can be (and often are) undertaken by organisations who operate at such locations, including:

- 6.1. Having security plans and procedures to react and respond to different threats which are understood by all staff and regularly exercised
- 6.2. Having simple and freely available training and awareness courses in place as part of new staff and refresher training programmes
- 6.3. Employing simple security measures for crime prevention and anti-social behaviour, which may also be used in response to other security threats.

7. The consultation proposals cover four broad themes, as set out below.

### **Who should the legislation apply to?**

8. The proposed duty could apply in three main areas (but may also apply to others exception):

- 8.1. Public venues (e.g entertainment and sports venues, tourist attractions, shopping centres)
- 8.2. Large organisations (e.g retail, or entertainment chains)
- 8.3. Public spaces (e.g public parks, beaches, thoroughfares, bridges, town / city squares and pedestrianised areas).

9. The consultation proposes that the duty:

- 9.1. should apply to owners and/or operators of publicly accessible venues with a capacity of 100 persons or more
- 9.2. should apply to large organisations (employing 250 staff or more) that operate at publicly accessible locations
- 9.3. should be used to improve security considerations and outcomes at public spaces.

### **What should the requirements be?**

10. For public venues and large organisations within scope the consultation proposes that owners/operators should be required to:

- 10.1. Use available information and guidance provided by the Government (including the police) to consider terrorist threats to the public and staff at locations they own or operate

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- 10.2. Assess the potential impact of these risks across their functions and estate, and through their systems and processes
  - 10.3. Consider and take forward 'reasonably practicable' protective security and organisational preparedness measures (for example staff training and planning for how to react in the event of an attack).
11. For publicly accessible locations, the consultation seeks feedback on what mechanisms are already being used to consider and mitigate terrorism threats, whether more could be achieved through them, or by establishing new requirements to discharge a Protect Duty at public spaces. It notes that many local, and other public authorities are already fulfilling a range of functions to consider aspects of crime prevention, public safety, and security, for instance CONTEST boards; Community Safety Partnerships; Local Resilience Forums and Licensing Committees; health and safety and fire safety.
12. The proposals suggest that a requirement for local authorities and other relevant partners for public spaces could include:
- 12.1. Developing local, strategic plans to mitigate the risks and impacts of terrorism
  - 12.2. Implementing proportionate measures through relevant systems, processes and functions to improve public safety and security
  - 12.3. Establishing clear roles and responsibilities for local partners
  - 12.4. Working with key partners (for instance the police) to consider how a security plan would operate in priority local areas.

### **How should compliance work?**

13. For public venues, the consultation proposes that risk assessments required by the duty should demonstrate:
- 13.1. The range of threats that have been considered
  - 13.2. The steps that have been subsequently taken to mitigate these threats
  - 13.3. The steps that have been taken to prepare for and/or respond in the event of an attack
  - 13.4. Where steps have not been taken, the reasons why.
14. It also suggests that risk assessments will need to be recorded and retained by venues and organisations in scope and will need to be reviewed by their owner, at least once a year, and as and when circumstances change.
15. For public spaces, the consultation states that compliance requirements will be dependent on the outcome of discussions to determine what would constitute appropriate legislative requirements in these areas.
16. The document sets out that an inspection regime is likely to be required to ensure that those within scope of a Protect duty are meeting their requirements. It states that further

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work is taking place to identify the most appropriate and cost-effective delivery authority and mechanisms for carrying out inspections, and what their powers should be; it is possible that this role could fall to local authorities.

### **How should government best support and work with partners?**

17. The consultation notes the support and guidance offered by The Centre for the Protection of National Infrastructure, National Counter Terrorism Security Office (NaCTSO) and Counter Terrorism Security Advisors (CTSAs) all currently provide advice to support local efforts. If a Protect Duty is developed, further advice and guidance could include:

- 17.1. Information regarding threat and attack methodologies
- 17.2. Advice on understanding risk assessment and managing risks
- 17.3. Outlining the considerations and tools which allow for mitigating threats through systems and processes
- 17.4. Detailed guidance on protective security and preparedness mitigations
- 17.5. Further bespoke support.

### **Discussion**

18. The consultation document invites feedback on a range of issues. Members may wish to explore the following themes as part of the discussion:

- 18.1. Proportionality and practicality of the approach proposed
- 18.2. How risk assessments might be undertaken and by whom; and whether the insurance implications for these personnel have been explored. The reform of building safety post-Grenfell has run into repeated difficulties stemming from a lack of competent risk assessors and the difficulty in obtaining insurance for roles involving responsibility for the safety certification of cladding systems. We anticipate similar challenges here.
- 18.3. How mitigation measures might be funded where this is deemed necessary (we do not believe the New Burden's doctrine would apply for introducing new mitigating measures since this element of the duty would also apply to private sector bodies, although any regulatory role should attract new burdens funding)
- 18.4. How responsibility for some public spaces/outdoor areas may be difficult to determine, and therefore will this put local authorities at additional risk/under further demand on resources
- 18.5. Whether/to what extent LAs will be responsible for all areas beyond defined boundaries associated with specific venues/events etc (this might also include roads around venues); is there a risk that risk is displaced to other areas as a result of some measures

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- 18.6. Who will hold risk/responsibility for the threat
- 18.7. Local authorities' potential role in enforcement and regulation, and the resource implications of this.

### **Implications for Wales**

- 19. The new duty will apply to the whole of the UK, however its delivery will impact on devolved issues. We understand that the Home Office is working with devolved governments to consider these implications in full.

### **Financial Implications**

- 20. There are likely to be some financial and other resource implications for local authorities if the duty is introduced, for instance in assessing risk, introducing mitigation measures and potentially in enforcement.

### **Next steps**

- 21. LGA officers will begin to develop the LGA's consultation response, drawing in policy expertise across a range of areas. Officers will also look to run a number of focus groups over the coming weeks to collate practitioner views.