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Briefing Note - July 2023

# MARTYN'S LAW



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Consultancy



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## Foreword

'The Protect Duty', also known as Martyn's Law, is draft legislation which has been championed by Figen Murray, the mother of Martyn Hett who was killed alongside 21 others in the Manchester Arena terrorist attack in 2017.

After attending a subsequent theatre show in 2018, Figen realised that there had been no increase in security following the tragic events of 2017, and with the UK's current terror threat level being 'substantial' (level 3 of 5 or higher since 2019), more needed to be done - as a result, Figen Murray drew up Martyn's Law.

The legislation will introduce a legal obligation for the owners and operators of publicly accessible locations to take suitable and proportionate measures to protect the public from terrorist attacks and increase public safety.

The terrorist threat we currently face is multifaceted, diverse and continually evolving. In MI5's most recent annual threat update (November 2022), MI5 Director General, Ken McCallum, noted that "in a free country, detecting self-initiated terrorists – who often don't reveal their plans to anyone, and can move quickly and sometimes spontaneously from intent to violence – is an inherently hard challenge."

In June 2021, the Manchester Arena Inquiry Chair (Sir John Saunders) published Volume One of his report which strongly criticised 'the lack of a duty to identify and mitigate the risk of terrorism... to provide adequate protection to the public,' and issued a clear recommendation to introduce legislation to improve the safety and security of public venues.

## Part 1 – The Draft Bill

### 1.1 Background to the Terrorism (Protection of Premises) Bill: Martyn's Law

This legislation will impose a duty on the owners and operators of certain locations to increase their preparedness for and protection from a terrorist attack by requiring them to take proportionate steps, depending on the size and nature of the activities that take place there. The Bill has been published as the Terrorism (Protection of Premises) Bill and sets out the requirements that venues and other organisations will have to meet to plan events to ensure public safety, and will apply across England, Wales, Scotland and Northern Ireland.

The legislation will place a requirement on those responsible for certain locations to consider the threat from terrorism and implement appropriate and proportionate mitigation measures, which will be dependent on the size of the venue and the activity taking place.

The legislation will aim to ensure relevant parties are prepared and know what to do in the event of an attack. In general, better protection will be delivered through enhanced security systems, staff training and clearer processes.

### 1.2 The intended scope

Premises will fall within the scope of the legislation where 'Qualifying Activities' take place and are included by reference to their use and both events and premises must have minimum capacities specified.

Premises will include locations for purposes such as:

- entertainment and leisure
- retail, food and drink
- museums and galleries
- sports grounds
- public areas of local and central Government buildings (e.g., town halls)
- visitor attractions
- temporary events
- places of worship
- health
- education.

It is proposed that the duty will apply to Qualifying Premises which are either:

- a building (including collections of buildings used for the same purposes, e.g., a campus);  
or
- a location/event (including a temporary event) that has a defined boundary, allowing capacity to be known.

Therefore, premises will be drawn into the scope of the duty if they meet the following three tests:

- that the premises is a Qualifying Premises – i.e., building or event with a defined boundary
- that a Qualifying Activity takes place at the location
- that there is a public capacity of 100 or more individuals.

An example of Qualifying Activity / Premises would be the sale of food or drink (the activity) within a Bar (Premises) or the provision of entertainment at a Theatre.

Qualifying Premises whose maximum occupancy meets specified thresholds will then be drawn into a relevant tier:

**Standard Tier** - those with a capacity of 100 to 799 individuals. Duty holders will be required to undertake simple yet effective activities to improve protective security and preparedness. This will apply to qualifying locations with a maximum capacity of over 100. This could also include larger retail stores, bars or restaurants.

**Enhanced Tier** - will see additional requirements placed on high-capacity locations in recognition of the potential catastrophic consequences of a successful attack. This will apply to locations with a capacity of over 800 people at any time. This could include live music venues, theatres, and department stores.

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).

To be a “qualifying public event”, the event must satisfy the following conditions:

- it is to be held at premises which are not qualifying public premises
- those premises (or parts thereof) are accessible to the public, or a section of the public, for the purpose of attending the event
- the public capacity of the premises is 800 or more individuals.

The public capacity of premises and events will be determined in accordance with regulations made by the Secretary of State in due course. Such regulations might require some types of premises to determine their capacity differently from others.

### **1.3 Duties**

#### **Standard Tier**

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. This will include training, information sharing and completion of a preparedness plan to embed practices, such as locking doors to delay attackers progress or knowledge on lifesaving treatments that can be administered by staff whilst awaiting emergency services. They will be required to ensure that relevant workers are given appropriate terrorism protection training.

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. 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.

#### **Enhanced Tier**

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. In completing this risk assessment, they will consider the types of terrorist act most likely to occur in 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.

Measures must include, e.g., those relating to monitoring the premises and those in the immediate vicinity and procedures to be followed in the event of an attack.

Persons responsible for enhanced duty premises or a qualifying public event must also keep and maintain a security plan, which must also be provided to the regulator (to be confirmed).

### **1.4 Enforcement**

The government will establish an inspection and enforcement regime, promoting the requirements for each tier, and issuing sanctions and penalties for non-compliance. Penalties for standard duty premises include up to a £10,000 fine, whilst the maximum fixed penalty for enhanced premises or qualifying events is £18 million or 5% of the person’s qualifying worldwide revenue, whichever is the greater.

### 1.5 Standard v Enhanced – Requirements

The graphic below provides an overview of the key requirements that will be required from standard and enhanced duty holders.

<b>Standard</b>	<b>Enhanced</b>
<ul style="list-style-type: none"> <li>• Counter terrorism protection training</li> <li>• Emergency preparedness plans</li> </ul>	<div style="margin-bottom: 10px;">  </div> <ul style="list-style-type: none"> <li>• Appoint Designated Senior Officer</li> <li>• Complete and maintain terrorism risk assessment</li> <li>• Implement and maintain security plan</li> <li>• Security plan to be submitted to regulator</li> </ul>

Persons responsible for both standard and enhanced premises must register the premises with the regulator (to be confirmed).

### 1.6 Further reading

- Terrorism (Protection of Premises) Draft Bill ([publishing.service.gov.uk](https://publishing.service.gov.uk))
- Terrorism (Protection of Premises) Bill: Explanatory notes ([publishing.service.gov.uk](https://publishing.service.gov.uk))
- Protect UK – Martyn’s Law Guide - “Martyn’s Law” - What you need to know | ProtectUK
- ACT Awareness e-Learning <https://www.protectuk.police.uk/group/2>

## Part 2 - How to Prepare for Martyn’s Law

Although the legislation has not yet been passed and the final wording is not confirmed, organisations likely to be impacted should start to prepare and begin making the likely adjustments needed in order to comply.

**1. Understand the threat** - the key initial step should be considering and understanding the risks facing your organisation. When evaluating this, you should bear in mind that terrorist groups’ targets, motivations and attack methodologies tend to change over time. It is also worth considering factors that may cause your organisation to be targeted indirectly, e.g., due to your proximity to neighbouring organisations.

The Global Terrorism Database, media reporting of recent attacks and the National Threat Level are useful tools in understanding the threats facing your organisation.

**2. Ensure staff are trained** - before the Protect Duty comes into place it is essential that staff have a clear understanding of the measures and response plans in place.

Staff should also be trained to carry out pre-event checks which should include checking all security measures are working as expected, including CCTV, metal detectors and emergency exits.

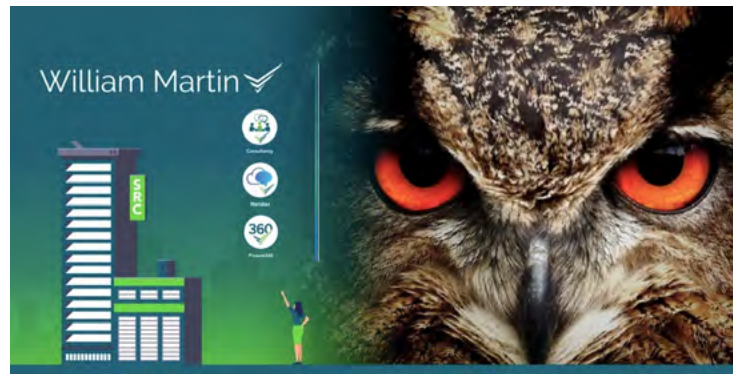
Specific counter-terrorism training has been developed by Action Counters Terrorism (ACT) Awareness e-Learning to provide standardised and consistent counter terrorism action across organisations. It is available to all organisations, their staff and the general public and can be used to provide evidence that protective measures have been taken in the event of an investigation.

When implementing new protective measures, such as technology solutions, it is vital staff are trained on how to properly use them. This training should be re-visited at least annually and available to all new starters when they join the organisation.

**3. Review current emergency preparedness** procedures and plans and ensure these are kept up to date and fully communicated.

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