

To: Communities, Housing & Planning Policy Board

On: 18 May 2021

Report by: Director of Communities and Housing Services

Heading: Proposed response to UK Government consultation on Protect Duty

1. Summary

- 1.1. The UK Government has published a consultation document on the development of a proposed Protect Duty. This is part of the UK Government's approach to improving protective security and preparedness at publicly accessible locations against the threat of terrorism.
 - 1.2. The full consultation paper can be found at –
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964808/Protect_Duty_Consultation_Document5.pdf
 - 1.3. All relevant Council services have been asked to provide comments, and the approved response from the Council will be submitted within the timescales set by the UK Government. The proposed response is attached as appendix 1.
 - 1.4. The final date for submissions to the consultation is 2 July 2021. Section 4 of this report summarises the key points being taken forward in the consultation response, however in overall terms the draft response indicates that the Council is broadly supportive of the development of a duty around the counter terrorism protect agenda which arises from consideration of some of the learning that has taken place following significant attacks that have taken place in Manchester and London as well as in other countries. There are some aspects of detail which it is suggested might require further consideration in advance of any statutory protect duty being developed.
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2. Recommendations

- 2.1 It is recommended that the Communities, Housing and Planning Policy Board
 - (i) approve the proposed response attached as appendix 1 for submission to the UK Government in line with the required timescales.
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3. Background

- 3.1. The proposed Protect Duty legislation would make it a legal requirement for those who “own or operate publicly accessible locations or others that a ‘Protect Duty’ would potentially affect” to consider the risk of a terrorist attack and take steps to protect the public.
- 3.2. A publicly accessible location is defined as “any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission”. Publicly accessible locations using this definition include a wide variety of everyday locations such as:
 - sports stadiums
 - festivals and music venues
 - hotels, pubs and clubs
 - high streets
 - retail stores
 - shopping centres and markets
 - schools and universities
 - government offices
 - job centres
 - transport hubs
 - parks
 - public squares and other open spaces
- 3.3. This list is by no means exhaustive, but it does demonstrate the diverse nature of publicly accessible locations that may fall within the scope of this proposed duty.
- 3.4. The proposals and discussion issues within the consultation are broken down into the following four sections.
- 3.5. Section 1 asks “*Who (or where) should legislation apply to?*” such as public venues (e.g. entertainment and sports venues, tourist attractions, shopping centres), public spaces (e.g. public parks, thoroughfares, bridges, town / city squares and pedestrianised areas) and large organisations (such as retail, or entertainment chains as well as local authorities).
- 3.6. The proposals focus on consideration of security being required at certain publicly accessible locations but not private venues, such as places of employment, or other locations where there is not public access.
- 3.7. Section 2 asks “*What should the requirements be?*”. This section relates to what parties within the scope of a Protect Duty should be required to do. With an emphasis on all organisations being required to consider the safety and security of their staff and the public who use their facilities. The aim of a Duty would be to ensure the consideration of threat, leading to considering and taking forward appropriate and proportionate mitigation measures.

- 3.8. Section 3 focuses on “*How should compliance work?*”. The consultation suggests that risk assessments required by the Duty should demonstrate the range of threats that have been considered, the steps that have been subsequently taken to mitigate these threats, the steps that have been taken to prepare for and/or respond in the event of an attack and where steps have not been taken, the reasons why.
- 3.9. The consultation also asks for comments regarding how a compliance regime (including inspection and enforcement) could operate.
- 3.10. Finally, section 4 of the consultation asks, “*How should government best support and work with partners?*”. If a Protect Duty is developed, efforts to support organisations within scope of the Duty will need to be enhanced.
- 3.11. It is suggested that dedicated advice and guidance could include:
- Easy to understand information regarding threat and attack methodologies;
 - Advice on understanding risk assessment and managing risks;
 - Outlining the considerations and tools which allow for mitigating threats through systems and processes; and
 - Detailed guidance on protective security and preparedness mitigations.
- 3.12. The full discussion paper is available at - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964808/Protect_Duty_Consultation_Document5.pdf and the proposed Council response is attached as Appendix 1 to this report for consideration and approval.

4. Overview of Proposed Response

- 4.1. Appendix 1 sets out the proposed Council response to the consultation exercise. The format includes a description from the Home Office on the main terms of the proposed duty and their proposed approach split over 4 sections – with a series of questions at the end of each section. Overall, the proposed response indicates that the Council is supportive of the proposal to introduce a duty in relation to “Protect” and in the main satisfied with the proposals being made by the Home Office.
- 4.2. In terms of venues that should be included it is agreed that the duty should be targeted at specific venues primarily on the basis of the capacity of the venue but also suggested that the nature and frequency of the types of event that may be held should be considered when determining which venues should be in the scope of the duty.
- 4.3. The proposed response highlights that when describing the duty, care should be taken to ensure that any legislative requirement is targeted around organisations being able to demonstrate proportionate and reasonably practicable plans and mitigations. These should relate to their current understanding of the nature of the threat and risk. The focus should also be specifically on the “duty to protect” rather than a general requirement to combat terrorism - which would be more difficult to define and may lead to an overlap with the current “Prevent” duty.

- 4.4. Comments are provided that suggest the Home Office should consider supporting the duty with a national strategy and approach - providing clarity of expectations and national provision of training and resources. It is suggested that increased funding for relevant Public Space CCTV infrastructure – both in terms of capital costs and ongoing revenue implications would be useful in terms of improving security in public spaces.
 - 4.5. Annex 3 to the consultation document sets out a number of anticipated costs and benefits identified by the Home Office that would follow the introduction of a “Protect” duty. The draft response highlights that achievement of the anticipated benefits would require significant costs to be incurred – and that in some cases this would include the cost of the anticipated benefit itself – for example the benefit of “increased revenue for security providers” which it is suggested is more of a cost than a benefit for the public sector and venue operators.
 - 4.6. The draft response also highlights that there are likely to be additional costs for local authorities and other relevant health and safety regulators in terms of oversight of inspection and accreditation and that the costs of additional posts, training and awareness raising should be provided to local authorities when introducing the duty.
 - 4.7. Finally, the proposed response confirms that the current governance and oversight arrangements in relation to Counter Terrorism and delivery of the “Prevent” duty work well and should be used and where required replicated when introducing a “Protect” duty.
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Implications of this report

1. **Financial** - None immediately arising – however should the consultation lead to the development of a Protect duty this would likely have significant implications for the Council in its management and operation of property and assets with ongoing financial implications.
2. **HR and Organisational Development** - none
3. **Community/Council Planning** - None immediately arising – however should the consultation lead to the development of a Protect duty this would likely have significant implications for the Council in its management and operation of property and assets, services and events – particularly in relation to bringing groups of people together with an ongoing implication for service delivery.
4. **Legal** – none at present - however the consultation could lead to additional statutory duties on the Council.
5. **Property/Assets** – None immediately arising – however should the consultation lead to the development of a Protect duty this would likely have significant implications for the Council in its management and operation of property and assets.
6. **Information Technology** - none

7. **Equality & Human Rights** - The recommendations contained within this report have been assessed in relation to their impact on equalities and human rights. No negative impacts on equality groups or potential for infringement of individuals' human rights have been identified arising from the recommendations contained in the report because it is for noting only.
8. **Health and Safety** - None immediately arising – however should the consultation lead to the development of a Protect duty this would likely have significant implications for how health and safety is managed and supported.
9. **Procurement** - none
10. **Risk** - None immediately arising – however should the consultation lead to the development of a Protect duty this would have significant implications for the Council in its management of risk.
11. **Privacy Impact** - none
12. **COSLA Policy Position** - none
13. **Climate Risk** - none

List of Background Papers

None

Renfrewshire Council's response to UK Government Protect Duty consultation

PROTECT CONSULTATION

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

The proposed Protect Duty could apply in three main areas (but may also apply to other locations, parties and processes by exception):

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

Our proposals focus on legislative considerations of security being undertaken at certain publicly accessible locations (any place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission), but not private venues, such as places of employment, or other locations where there is not public access.

Proposal 1: The Duty should apply to owners and/or operators of publicly accessible venues with a capacity of 100 persons or more

We consider that the capacity of a venue is a clear and simple basis to define venues that should fall within scope of a potential Duty. Capacity is a criterion already commonly used in fire safety risk assessments. We consider that it is reasonable for publicly accessible venues able to hold gatherings of 100 persons or more to carry out an assessment of threats and implement appropriate mitigating measures at their premises.

Responses will be carefully considered in determining if a capacity threshold is an appropriate criterion, and, if so, at what level it is set.

A Protect Duty requirement would apply to the parties responsible for the venue, which would usually be the owners or operators, who have control and ownership of systems and processes. Where there is a shared organisational responsibility for a venue within scope, the parties would be required to work together to ensure the Duty requirements were met.

Proposal 2: The Duty should apply to large organisations (employing 250 staff or more) that operate at publicly accessible locations

In addition to public venues, there are many large organisations (employing 250 staff or more) which operate at publicly accessible locations, with staff who are responsible for taking forward a range of legislative and other requirements to be implemented across the organisation, through its systems and processes. There will usually be standardised training and ongoing continuous professional development for these specialist roles, as well as wider staff training and awareness programmes. Organisational structures will usually be in place to enable delivery of policy, operational processes, planning, and business and legislative requirements, usually commissioned on a top down basis, from a company headquarters or otherwise.

We consider that it is reasonable that a Protect Duty should apply to large organisations employing 250 people or more, operating at publicly accessible locations.

Proposal 3: A Protect Duty should be used to improve security considerations and outcomes at public spaces

The diverse nature of threats and targeting means we cannot predict where or when an attack will take place. Many of the attacks that have been seen recently, in the UK and elsewhere, have occurred at public spaces. These are open public locations which usually have no clear boundaries or well-defined entrance / exit points (e.g. city centre squares, bridges or busy thoroughfares, parks, and beaches).

These locations are often vulnerable to low sophistication methodologies such as knife attacks or the use of a vehicle as a weapon. However, it is usually innocent members of the public who are the target, rather than the location itself. Whilst these types of attacks are difficult to combat, the Government wants to consider how it can do more to work with the parties responsible for such locations to consider and achieve appropriate security measures. This is an issue which was raised in both the Westminster and London Bridge Inquests, and the Manchester Inquiry. We want to consider further the questions of how responsibilities for public spaces could be established, what would be reasonable and appropriate to expect those responsible for public spaces to do to improve security at such locations, and the potential role played by legislation in these issues. We recognise that these are complex issues to resolve, and we are keen to hear the views of the range of organisations having ownership or responsibility for such locations. We would like them to consider whether, and if so how, legislation could be helpful to provide greater clarity and certainty of the responsibilities and requirements of parties owning and/or operating at these types of locations, and what security considerations and mitigations could be undertaken by them to achieve greater public protection. In particular, we would like to seek the views of landowners, local and public authorities, and others who might coordinate or lead work to help improve protective security and preparedness at public spaces.

Other aspects of a Protect Duty We also want to consider whether other locations, parties or processes should be included within the scope of a Protect Duty to ensure better public protection and organisational preparedness.

Questions

To what extent do you agree or disagree with the following statement: 1. Venues and organisations owning, operating or responsible for publicly accessible locations should take appropriate and proportionate measures to protect the public from attacks in these locations -

Strongly Disagree (SD) – Disagree (D) – Neither Agree nor Disagree (NAND) – Agree (A) – **Strongly Agree (SA)** [scale]

To what extent do you agree or disagree with the following statement: 2. 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 to best protect themselves and any members of the public present -

Strongly Disagree (SD) – Disagree (D) – Neither Agree nor Disagree (NAND) – Agree (A) – **Strongly Agree (SA)** [scale]

3. We propose that a targeted Protect Duty applies only to certain public venues. What criteria would best determine which venues a Duty should apply to ?

a. Capacity (as currently used in Fire Safety Regulations)

b. Annual revenue

c. Staffing levels

d. Other:

(Free text, 100 words max)

[Where 3 is a]

4. We have proposed a venue capacity of 100 persons or more as a threshold. What capacity level do you think would be appropriate to determine venues in scope of the Duty? _____ (Free text, 100 words max)

In addition to the capacity of public venues there should be consideration to the purpose, frequency and nature of event that is likely to bring people together, in terms of audience draw and profile and the likelihood of these aspects affecting the risk profile of the venue.

(Free text, 100 words max)

[Where 3 is b-d]

5. What threshold would you propose for inclusion in the scope of the Protect Duty for this criterion? _____ (Free text, 100 words max)

6. We propose that a requirement to consider security and implement appropriate mitigations at a venue should fall to the owner and/or operator of the venue. Do you consider this appropriate?

Yes

[If 6 = N]

7. If no, why not: _____ (Free text, 100 words max)

8. We propose that where there is a shared organisational responsibility for a venue, or multiple organisations operating at a venue within scope, the parties would have to work together to meet the requirements. Do you consider this is appropriate?

Yes

[If 8 = N]

9. If no, why not: _____(Free text, 100 words max)

10. We propose that a Protect Duty would also apply to certain organisations operating at publicly accessible locations. If an organisation's size were a criterion for its inclusion in the scope of the Duty, what would be an appropriate threshold? [select all that apply]

- a. All organisations
- b. Micro (1-9 employees)
- c. Small (10-49 employees)
- d. Medium (50-249 employees)

e. Large (250+ employees)

f. Other _____(Free text, 100 words max)

[Linked to Question 10]

11. What is your reasoning for this answer?

Scale and organisational ability to prepare for and respond to the Duty (Free text, 100 words max)

12. We have proposed a Protect Duty would apply to organisations with 250 or more employees. Is it clear as to whether your organisation falls within this criteria?

Yes

[If 12 = N]

13. If no, why not? _____(Free text, 100 words max)

14. Are you clear about whether your organisation falls within the scope of the definition of a 'publicly accessible location' (a place to which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission)?

Yes

[If 14 is N]

15. If no, why not? _____(Free text, 100 words max)

16. Referring to Annex 1, do you consider that there should be other exemptions from a Protect Duty?

No

[if 16 is Y]

17. If so what or who and why? _____(Free text, 200 words max)

18. Are there any other issues regarding who legislation should apply to that you would like to offer views on? _____(Free text, 200 words max)

Section 2: What should the requirements be?

This section is about what parties within the scope of a Protect Duty (see Section 1) should be required to do. Again, we would emphasise that we would encourage all organisations to consider the safety and security of their staff and the public who use their facilities.

In considering what should be required by a Protect Duty, we recognise that:

- The nature of venues and organisations varies greatly, for example in respect of the type of business or undertaking, organisational size, and staffing profile.
- Different venues and organisations have different security skills and resources at their disposal - from those with dedicated security staff, budgets, training and procedures, to those with little or none.
- Risk assessments and mitigation measures should be proportionate to the specific circumstances of the venue/organisation and its environment, as well as the nature of the terrorist threat at any given point in time.

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The aim of a Duty would be to ensure the consideration of threat, leading to considering and taking forward appropriate and proportionate mitigation measures. It is envisaged that for many organisations and venues, these requirements would be simple changes to existing systems and processes, entailing nil or low new costs. For many, these will reflect work which has already been undertaken, including recent considerations of COVID-19 health measures and ensuring appropriate security requirements through these.

Venues and large organisations

For public venues and large organisations with the scope of a Protect Duty, we consider that the owners/operators should be required to:

- 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;
- Assess the potential impact of these risks across their functions and estate, and through their systems and processes; and
- 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).

The term 'reasonably practicable' is already a well-established and understood concept for organisations through health and safety legislation and fire safety regulations, which requires owners/operators to weigh a risk against the effort, time and money needed to mitigate it.

The Government wants to ensure that requirements undertaken to comply with the proposed Duty, are reasonable and appropriate for organisations within scope - and proportionate to the nature of the threat. Supporting Government guidance would provide details of the range of appropriate measures for organisations within scope.

For most organisations in scope of a Protect Duty, we propose that compliance would be demonstrated by providing assurance that the threat and risk impacts had been considered, and appropriate mitigations had been considered and taken forward (implemented or plans in place for their progression).

To help those who may be within scope of the proposed Duty to understand what 'reasonably practicable' and 'appropriate' security measures will mean for them - including in terms of cost and resource implications - we have developed a number of indicative good practice examples for different types and sizes of organisations to demonstrate compliance (Annex 2). We will use the responses to this consultation and evidence gathered directly from stakeholders to develop and publish a Regulatory Impact Assessment.

Government would ensure that a range of resources are available to support organisations to comply with the Duty, including providing guidance on understanding threat methodologies, how to carry out risk assessments, and information and advice on the range of security measures available to mitigate risks identified. What is required to support organisations to discharge the Protect Duty is considered further at Section 4.

Public spaces

This section considers the potential for specific requirements under a Protect Duty to improve security at open public spaces. Section 1 raised the issue of parties with an interest in the mitigation of attacks at public spaces, including landowners, local and some public authorities, and other organisations who are responsible for or who operate at such locations. There are already a range of ongoing efforts to provide security advice and guidance to these parties. This includes awareness raising and training courses, such as the Action Counters Terrorism (ACT) and See Check and Notify (SCaN) modules delivered by Counter Terrorism Policing, which aim to improve organisational and individual awareness, planning and processes for what to do in the event of an attack.

We would like to understand what mechanisms are already being used to consider and mitigate terrorism threats, whether more could be achieved through them, and the potential for utilising them, or by establishing new requirements to discharge a Protect Duty at public spaces.

Many local, and other public authorities (such as Highways Agencies) are already fulfilling a range of functions within their jurisdictions to consider aspects of crime prevention, public safety, and security. These mechanisms include:

- CONTEST and Protect Boards;
- Community Safety Partnerships;
- Licensing for sports grounds safety;
- Planning processes;
- Local Resilience Forums;
- Safety Advisory Groups (for events);
- Business Improvement Districts
- Licensing Committees (for the sale and supply of alcohol, the provision of late night entertainment and refreshment); and
- Health and Safety, fire safety and building control processes.

We are aware of the limitations of these mechanisms in the context of the proposed Duty: most are not designed to achieve security outcomes; and some are not a legislative requirement, which means that they are able to mitigate threats to varying degrees, and it is hard to have assurance of the level of public protection which is achieved. This is not a criticism of authorities, merely a reflection of the current lack of a dedicated legislative security requirement.

In these and other areas, local and public authorities already play a vital role in convening interested parties from across their areas, to discuss issues of shared concern, and to work together to help resolve and mitigate risks, including criminal acts. From previous discussions with local authorities, we are aware that different authorities are using different mechanisms in different ways to consider security risks and implement appropriate mitigating measures. We would like to seek views on whether existing mechanisms (for example those listed above) could be used, or adapted, to bring about more effective security outcomes.

In addition, security outcomes could potentially be improved by organisations responsible for, or operating at public spaces, working with partners (e.g. police) to ensure there is a better understanding of:

- Threat;
- Attack methodologies;
- Processes by which organisations can assess and manage risk; and
- Simple security measures and processes, such as those identified on pages 9-11, “an introduction to protective security for owners and operators of publicly accessible locations.”

Security outcomes could also be more fundamentally improved through a requirement for local/authorities and other relevant local partners to consider security risks and implement appropriate mitigations for public spaces. Requirements could include:

- Developing local, strategic plans to mitigate the risks and impacts of terrorism;
- Implementing proportionate measures through relevant systems, processes and functions to improve public safety and security;
- Establishing clear roles and responsibilities for local partners; and
- Working with key partners (e.g. police) to consider how a security plan would operate in priority local areas.

It is recognised that achieving effective security outcomes at public spaces will usually be achieved through partnership working by multiple organisations who own or operate at such locations. Achieving protective security and preparedness outcomes will usually not be the responsibility of one organisation. There would also need to be coherence between public space requirements and those for venues and organisations within Protect Duty thresholds. These are difficult issues which will require further consideration through the consultation process.

As for the proposed requirements for venues and organisations, Government would need to support local partners in considerations of mitigations for public spaces, for example by providing guidance to enable them to better understand threat methodologies, assess risks, and understand the range of security measures available to mitigate these. Given the complexity of public spaces, there may be a need to consider how bespoke support and expertise could be provided. What is required to support organisations to discharge the Protect Duty is considered further at Section 4.

Other aspects of a Protect Duty

Where security legislation already exists, we could potentially seek to achieve more effective security outcomes through a requirement for partnership working. For example, under the Sports Grounds Safety Authority guidance, ‘Guide to Safety at Sports Grounds (Green Guide) and Safety Management’, partners are required to work together to consider spectator safety, including for terrorist threats, for the journey to sports grounds (referred to as ‘Zone Ex’ or the ‘Last Mile’), for example from public car parks, local train stations, bus stops and so on.

Similar partnership approaches could be adopted where other legislative requirements already apply (e.g. locations subject to transport security regulation); or where other venues and/or organisations within the scope of a Protect Duty are responsible for events or activities that could impact on areas outside the boundaries of their own site (for example where large numbers of people are expected to attend an event).

Guidance (potentially legislative) could be used to establish how partners would be required to work together to achieve security outcomes, for example, to help manage queues in the public spaces outside a venue where multiple partners have an interest, or to develop communication mechanisms and ways of working between organisations in response to incidents.

We are aware of examples of organisations already working together on a voluntary basis to improve the security of the shared public spaces in which they operate, for example through joint vigilance and patrolling initiatives, information sharing, or communication networks. We are keen to explore how existing mechanisms, networks and good practice could be spread to realise improved security outcomes, and whether a Protect Duty could be used to support improved co-ordination and delivery of security outcomes amongst organisations operating across shared public spaces and localities.

Questions

19. Does your organisation currently undertake a risk assessment for terrorism?

Yes – For major public events based on Police advice

[Linked to Question 19]

20. Is this process undertaken by an in-house or an externally appointed individual?

In house/External – with support from Police

[Where 19 = Y]

21. When you do undertake a terrorism risk assessment, how many working days a year do you estimate your organisation typically spend on this task? (Where this is undertaken by multiple staff, please include total days spent by all staff)? _____ (Free text, 100 words max)

Venues based risk assessments take around 5 days per year subject to context and threats at the time – undertaken by Health & Safety Team of 2. In addition, events based assessments are carried as part of event preparations and risk assessments. This is supported by Police, multi-agency partners, Civil Contingencies Service and inhouse Health & Safety teams

22. How frequently does your organisation typically review this risk assessment?

a. Multiple times per year as required for significant events

b. Around once per year for venues

c. Around once every 2 years

d. Around once every 3 or more years

e. Other (please specify)

23. What mitigations against terrorism risks does your organisation currently undertake (select all that apply)?

- a. Well defined organisational security protocols and procedures, including for response to terrorist attack
- b. Measures are in place to spot and disrupt hostile reconnaissance
- c. Work to ensure security behaviours are adopted by the workforce
- d. Personnel security policies and procedures consider security risks
- e. Site/location vulnerabilities (to terrorist threats) and appropriate physical mitigations are considered
- f. Evacuation, invacuation, lockdown procedures are in place and are understood and exercised by staff
- g. Staff training is undertaken to raise awareness of the threat and what to do
- h. Business continuity procedures or app (e.g. Action Counters Terrorism app) include information on how to respond to attacks
- i. Liaison with police or other resource (e.g. security consultant) on threats and appropriate security measures
- j. Involved in local security initiatives
- k. Other **All of the above measures are undertaken to some extent with the support of local Police – particularly in relation to mitigations a and b** (Free text, 100 words max)

24. How much money does your organisation typically spend on new or revised security measures or processes that would mitigate against terrorist risks in one financial year?

There is no typical spend per year. Security is considered in relation to business continuity and health and safety requirements typical spend will vary in response to the nature and focus of events being programmed and capital investment in buildings and public spaces.
(Free text, 100 words max)

25. What are the existing activities and mechanisms which you consider result in the best protective security and organisational preparedness outcomes at public spaces (select all that apply)?

- a. Communications campaigns e.g. Action Counters Terrorism and See It, Say It, Sorted
- b. Staff awareness raising and training courses
- c. Advice and guidance products and tools
- d. Local authority mechanisms and processes (as outlined at page 19)
- e. Other **All of the above apply** (Free text, 100 words max)

26. What are the existing local authority functions which currently result in the best protective security and organisational preparedness outcomes at public spaces (select all that apply)?

a. CONTEST and Protect Boards

b. Community Safety Partnerships

c. Licensing for sports grounds safety

d. Planning processes

e. Local Resilience Partnerships

f. Safety Advisory Groups (for events)

g. Business Improvement Districts (which can be set up by Local Authorities, businesses or individuals to benefit local businesses)

h. Licensing Committees (for the sale and supply of alcohol, the provision of late-night entertainment and refreshment)

i. Health and Safety, fire safety and building control processes.

j. Other _____ (Free text, 100 words max)

27. What are the existing local authority functions which have the potential to result in the best protective security and organisational preparedness outcomes at public spaces (select all that apply)?

a. CONTEST and Protect Boards

b. Community Safety Partnerships

c. Licensing for sports grounds safety

d. Planning processes

e. Local Resilience Partnerships

f. Safety Advisory Groups (for events)

g. Business Improvement Districts (which can be set up by Local Authorities, businesses or individuals to benefit local businesses)

h. Licensing Committees (for the sale and supply of alcohol, the provision of late-night entertainment and refreshment)

i. Health and Safety, fire safety and building control processes.

j. Other _____ (Free text, 100 words max)

[Linked to Question 27]

28. For your preferred option/s what would be required to improve or support this/these to realise more effective security outcomes?

Increased resource availability to support practical and physical mitigations that may be identified and encourage a focus on identifying opportunities to harden venues and public spaces against attack (Free text, 100 words max)

29. How could organisations who work at public spaces be encouraged or required to engage with partner organisations (e.g. police) to ensure there is a better understanding of terrorist threat, the management of risk and mitigating measures? _____(Free text, 100 words max)

Improved communication and knowledge sharing- particularly of the ongoing and changing nature of the threat being faced

30. What are your views on a potential legislative requirement for local authorities (and relevant public authorities such as Highways Agencies) and other relevant local partners to develop a strategic plan to combat terrorism, to ensure public security, through partnership working? _____(Free text, 100 words max)

Care should be taken to ensure that any legislative requirement is targeted around organisations being able to demonstrate proportionate and reasonably practicable plans, strategies and mitigations in response to their current understanding of the nature of threat and risk. There should be a clear legislative focus on the duty to protect – rather than to “combat terrorism” to ensure clarity between this duty and the “prevent” duty.

In particular terms and requirements such as “to ensure public security” should be avoided as unachievable.

The requirement for agencies to work together in partnership to consider and address these issues would be welcomed as ultimately the approach and mitigations should be led and funded by UK/devolved Govts.

[Linked to Question 30]

31. What in your view would be the key components of such a legislative provision and associated guidance? _____(Free text, 100 words max)

To ensure the regular consideration of terrorist threat, leading to considering and taking forward relevant and appropriate “reasonably practicable” protective security and organisational preparedness measures (for example considering operational management arrangements, access and egress, staff training and planning for how to react in the event of an attack) - with a focus on promoting reassurance and clarity for employees and the public and reducing fear.

[Linked to Question 30]

32. What organisation/s could play a leading role in bringing together and convening such partnerships? _____(Free text, 100 words max)

Similar to the Prevent Duty, a national strategy and approach – involving both UK and devolved governments providing clarity of expectations, training and resources and supporting work at Police Divisional and Local Authority levels would work best. The organisations involved and leading at each relevant level should build on the established partnership arrangements in place and the governance structures that relate to the wider CONTEST agenda and are successfully delivering the Prevent Duty.

[Linked to Question 30]

33. What requirements to improve protective security and preparedness could be realistically achieved by such partnerships? _____(Free text, 100 words max)

At a local level, the current support provided through community safety and resilience partnerships, health and safety legislation and licensing arrangements to promote business continuity and risk management can be delivered for this area of activity – including support for training and awareness raising.

To go further and provide support to make practical/physical security improvements to respond to potential or specific threats - at venues or in public spaces will require additional resources and funding which would - depending on scale and timing of expectations require to be provided through national programmes

34. Do you have any additional proposals to put forward which could improve security at public spaces? _____ (Free text, 100 words max)

Increased funding for relevant Public Space CCTV infrastructure including the ongoing revenue cost for operators and specific training and awareness raising for these officers in relation to identification of potential hostile reconnaissance activities

35. Where there is an existing legislative requirement for security (e.g. at certain sports grounds and transport sites, or in future those organisations and venues subject to a Protect Duty), is it reasonable to require relevant organisations (for example those surrounding the site) to work in partnership to achieve security outcomes? _____ (Free text, 100 words max)

Yes

36. Where there is currently Government security guidance (e.g. bus and coach operators and commercial ports and UK flagged ships) would it be appropriate for this guidance to be become legislative guidance under the Protect Duty to achieve greater certainty on security considerations and outcomes? _____ (Free text, 100 words max)

Yes

37. Where Government has published security guidance (e.g. bus and coach operators and commercial ports and UK flagged ships) or put in place voluntary schemes for products that could be used as weapons, would it be reasonable for businesses and other operators responsible to be mandated to follow that guidance under a Protect Duty? _____ (Free text, 100 words max)

Yes

To what extent do you agree with the following statement: 38. Compliance with a Protect Duty would require greater effort (e.g. time, staff resource) than compliance for comparable legal and other obligations (e.g. fire safety, health and safety, Licensing Act 2003 guidance, licensing for sports grounds, Safety Advisory Groups)?

Strongly Disagree (SD) – Disagree (D) – Neither Agree nor Disagree (NAND) – **Agree (A)** – Strongly Agree (SA) [scale]

39. How do you think these new requirements/mitigations will affect:

- a. Number of customers/visitors visiting venues in scope of the duty? (**not at all**, increase, decrease)
- b. The public's perception of the terrorist threat? (**not at all**, increase, decrease)
- c. Vigilance of the workforce/use of good security behaviours by staff? (not at all, **increase**, decrease)

40. Annex 3 sets out the anticipated costs and benefits of intervention in the form of a Protect Duty. Please provide any comments you have on this Annex. _____(Free text, 100 words max)

The potential costs and benefits set out are appropriate – however the costs are likely to be very significant if the benefits outlined are to be achieved.

Overall the benefits indicated are presented optimistically. In particular the potential for increased revenue for security providers is a cost that will require to be paid rather than a benefit and the potential for reduced insurance premiums is unlikely to be achievable and more likely to manifest as increased premiums in areas where there is a perceived risk not mitigated rather than reductions in premiums – many of the others are related to perception.

Physical intervention measures (e.g. to prevent car/lorry attacks on public buildings, pavements etc) can have a detrimental effect in DDA access provision – particularly for wheelchair users. This needs a lot of planning and normally increases mitigation costs.

Ditto - blue light services access.

Cost – capital and revenue will be very high if the benefits are to be achieved as outlined and will require national funding

41. Are there any other issues regarding what parties within the scope of a Protect Duty should be required to do that you would like to offer views on? _____(Free text, 200 words max)

Section 3: How should compliance work?

We are committed to using the proposed Protect Duty to help a wide range of businesses and other organisations improve their preparedness for, and protection from, terrorist attack. However, in line with the 'Better Regulation Framework', we also want to ensure that the Duty does not create unnecessary costs or burdens on staff resource or time. For many organisations falling under the Duty, we anticipate that financial costs incurred will be minimal, and proportionate compliance can be achieved by undertaking simple measures such as regular risk assessment and preparedness activities, for example regular staff training.

An impact note has been provided at Annex 3 to indicate expected types of cost and benefits. Further to this, a Regulatory Impact Assessment will be developed and published, informed by the responses to these consultation questions and additional research and analysis.

A key objective of the proposed Protect Duty is to drive forward an improved culture of security, where owners/operators can undertake informed security considerations, and implement reasonable and proportionate security measures, which together will result in much broader improved security outcomes.

In this section, we consider further how those within scope of a Protect Duty, could demonstrate compliance in the most efficient way. We also consider the basis on which Government would oversee and seek assurance on the delivery of a Protect Duty.

Venues and large organisations

For public venues, and large organisations, section 2 proposed that responsible owners/operators should be required to:

- Consider terrorist threats to the public and staff at locations they own or operate;
- Assess those risks across their functions and estate; and
- Consider and take forward 'reasonably practicable' protective security and organisational preparedness measures.

We propose that risk assessments required by the Duty should demonstrate:

- The range of threats that have been considered;
- The steps that have been subsequently taken to mitigate these threats;
- The steps that have been taken to prepare for and/or respond in the event of an attack; and
- Where steps have not been taken, the reasons why.

These risk assessments will need to be recorded and retained by venues and organisations in scope, as part of evidence to demonstrate part of the process of compliance with the Duty if required to do so. They will need to be reviewed by their owner, at least once a year, and as and when circumstances change, for example following changes to the:

- **External** risk context - for example a significant terrorist attack in the UK, a change in the Government national terrorism threat level assessment, or a change to the likelihood of threat methodologies); and
- **Internal** risk context - for example following an expansion of an organisation's premises and/or staff numbers, or a change in the business model, such as a restaurant starting to serve customers outside.

For most organisations, carrying out and implementing appropriate mitigating measures would be straightforward, quick and incur minimal cost. Detailed guidance would be made available to explain the nature of threats and terrorist methodologies, advice on how to assess the potential impacts of an attack at a specific site or public space, and the range of mitigating measures which may be appropriate and proportionate for the range of organisations within scope.

Such measures cannot stop every malicious attack, but should go a long way to reducing the impact on staff and members of the public, without resulting in unreasonable burdens in terms of cost or staff resource. Larger organisations and venues carrying greater or more complex risks, may be required to ensure additional or more sophisticated mitigating measures are put in place, but this would be proportionate to the risk.

Developing an evidence base to support these risk assessments will also assist an inspection regime. Appropriate supporting evidence might include: a brief summary of risks and actions considered and subsequently taken; completion certificates from appropriate staff training courses; evidence of physical security measures implemented, such as door locks, roller shutters and gates; or evidence of attack response plans and their testing with staff.

Others subject to a Duty

In Section 2 we also considered other locations and parties that could potentially be covered by a Duty, particularly for improving security at public spaces and requirements for partnership working. Compliance requirements for these parties will be dependent on the outcome of discussions to determine what would constitute appropriate legislative requirements in these areas.

Inspection and enforcement

We consider that an inspection regime would be required to provide the necessary assurance that those within scope of a Protect Duty are meeting its requirements.

We are keen to develop a light touch inspection regime, and will consider whether, and how far compliance could be assessed remotely and or through appropriate third-party agencies. We envisage that an inspection regime would use evidence-based risk assessments and other proportionate means to determine how and where inspections take place. This would take in to account the specific nature of the threat, as well as information regarding levels of compliance and concern. Wherever possible, we would want to encourage compliance with the Duty through incentives and a range of available support.

Further work is taking place to identify the most appropriate and cost-effective delivery authority and mechanisms for carrying out inspections. Consideration is also ongoing as to what powers should be given to inspectors to enable them to effectively assess compliance where necessary. As detailed above, a key objective of the Duty is to encourage the development of an improved security culture, but to ensure that improvements are made, the Duty must be robust enough to hold those within its scope to account if required. We therefore propose that a proportionate enforcement model is developed where there are issues of noncompliance.

We envisage the development of an enforcement model which gives inspectors the capacity to provide advice and guidance on risk assessment and appropriate mitigations for organisations within scope of the duty; where these were considered insufficient, inspectors could request necessary improvements were made. If these were not taken forward, further steps could include notices of deficiency and enforcement action.

Given the severe impacts that could occur as a result of a breach of the proposed Duty, we propose that a new offence is created for non-compliant organisations who persistently fail to take reasonable steps to reduce the potential impact of attacks. We propose that an enforcement regime is developed, with penalties primarily based on civil sanctions (such as fines) for organisations in breach of the Duty. We consider this is an appropriate framework for a regime that is seeking to encourage more effective organisational security cultures, than a system of criminal sanctions which could result in persons responsible for security at venues and organisations being imprisoned.

Further work will take place to develop detailed options for an enforcement model, relevant offences, and an associated penalties framework.

Questions

42. How can an inspection regime best be used to support improvements to security culture and practices? _____ (Free text, 100 words max)

Monitoring should be formal with outcomes being the responsibility of duty holders

43. What are your views on the use of civil penalties (fines) for organisations who persistently fail to take reasonable steps to reduce the potential impact of attacks associated with ensuring compliance with a Protect Duty? _____ (Free text, 100 words max)

This may be difficult to assess and legislate for. If there is an expectation created that an organisation will undertake certain steps that they have considered not to be practicable and reasonable, consideration will also require to be given to the cost and resource implications of this including provision of grants or other sources of financing.

Quantifying the potential impact of attacks and the reasonable steps in a way that does not already replicate current legislation that covers health and safety, duty of care or building regulations might be difficult. Ensuring consistency of expectations around compliance would also be difficult as the nature of risk will vary from time to time and depending on location and the impact of local communities or tensions that may need to be considered.

Ongoing non-compliance that can be evidenced and is considered to increase the likelihood or impact of a potential attack might better be controlled through enforcement that removes the opportunity to trade or use the space in that manner – eg licensing controls

44. Do you have any other comments regarding how a compliance regime (inspection and enforcement) could operate? _____ (Free text, 200 words max)

Compliance should be responsibility of relevant Inspection and accreditation bodies and regulators.

The resource implications for this for LAs and the HSE that are most likely to be tasked with a regulatory role will require to be considered when introducing a duty with appropriate funding being provided to Local Authorities to cover the required additional posts, training and awareness raising.

Any proposed accreditation scheme would need careful oversight to avoid abuse (particularly in private sector).

Section 4: How should government best support and work with partners?

Government currently undertakes significant efforts to ensure parties responsible for publicly accessible locations can be appropriately advised on:

- Understanding the terrorist threat and attack methodologies;
- What constitutes appropriate and proportionate protective security and preparedness measures;
- Understanding the importance of vigilance, the reporting of suspicious behaviour or activity, and what constitutes appropriate action to be taken following a terrorist attack; and
- How to plan and prepare for possible terrorist attacks, for example through staff training and awareness raising and the testing and exercising of emergency procedures.

There are a variety of mechanisms to provide this advice and guidance. These include:

- Engagement by Counter Terrorism Security Advisers ('CTSAs') who provide bespoke advice to site owners and operators, local authorities and others;
- Targeted awareness-raising sessions and training courses delivered by NaCTSO, CTSAs and Counter Terrorism Awareness Advisers to managers, front of house and other staff at publicly accessible locations;
- Engagement with representatives of leading sectors (e.g. sports grounds, shopping centres, entertainment centres), member associations and organisations who own or are responsible or operate at publicly accessible locations;
- Advice provided to local authorities, planners, developers and architects by CTSAs, the Centre for the Protection of National Infrastructure (CPNI), and by the Ministry of Housing, Communities and Local Government through the National Planning Policy Framework and associated Guidance, designed to ensure that proportionate security measures are considered for appropriate new builds and refurbishments;
- Online advice and guidance regularly reviewed and updated, for responsible parties from Counter Terrorism Policing and CPNI; and
- Targeted communications to stakeholders and the public from Counter Terrorism Policing.

We have also been developing new mechanisms to increase the range of our engagement and to develop tools and products tailored to the needs of users, including:

- A new, freely available digital service where security content, advice and training can be accessed through one platform (due to launch in 2021);
- Sectoral and regional engagement days (Action Counters Terrorism Corporate) initiated by Counter Terrorism Policing to provide advice and guidance to sectoral and regional groupings of responsible stakeholders;
- New and revised training and awareness products for managers, front of house and other staff at publicly accessible locations;
- An e-learning awareness training programme (covering spotting the signs of suspicious behaviour and what to do if an attack should take place) freely available to all;
- An Action Counters Terrorism (ACT) app (launched in March 2020) providing easy access to a range of stakeholder advice and guidance, tools and products;
- A range of regularly revised and new advice and guidance provided by Counter Terrorism Policing and CPNI; and
- More extensive communications regarding threat, methodologies and mitigating measures by Counter Terrorism Policing to businesses and the public.

However, we are conscious that take up is voluntary, and research has shown that those responsible for publicly accessible locations are not always aware of these tools. As such, if a Protect Duty is developed, efforts to support organisations within scope of the Duty will need to be enhanced.

Dedicated advice and guidance could include:

- Easy to understand information regarding threat and attack methodologies;
- Advice on understanding risk assessment and managing risks;
- Outlining the considerations and tools which allow for mitigating threats through systems and processes; and
- Detailed guidance on protective security and preparedness mitigations.

Supporting guidance will need to reflect clear and simple advice for a wide range of users (in terms of organisation size, type / business, and security expertise). In some cases, as was noted in section 2 regarding a potential legislative requirement for public spaces, Government will need to work with partners to consider bespoke support for taking forward aspects of a Protect Duty, to ensure that effective security outcomes are realised.

In addition, there is a role for wider partners in supporting the Duty. Member and representative associations (e.g. for business sectors, and local areas) will be important in raising awareness of new requirements, to support understanding and delivery efforts, as well as considering new delivery and communications channels.

We also want to consider how and where a Duty could be used to incentivise, rather than enforce, compliance. Incentives are already used to encourage security behaviours and activities. For example, PoolRe, the Government-backed terrorism reinsurer, encourages businesses to consider the risks from terrorism and to implement protective security and preparedness measures. In return, organisations can qualify for a discount on their insurance premium, usually set at 5%. To encourage widespread compliance with a Protect Duty, we are keen to ensure that a broad range of incentives are considered and developed, both within the insurance industry and beyond. This could include the development and use of product certifications or standards where relevant to aspects of the Duty.

In all these efforts, we are also mindful to ensure that the Duty does not inadvertently create any unintended consequences or costs.

Questions

45. Do you currently access Government advice (primarily from Counter Terrorism Policing and the Centre for the Protection of National Infrastructure) regarding threat, protective security and preparedness?

Yes through local contacts

[If 45 = Y]

46. What, if anything, do you find most valuable in current advice and guidance? _____ (Free text, 100 words max)

The Annual Overview Product and process is a useful step forward in creating a clear understanding of current threat levels and implications.

Clear line of sight in relation to CONTEST strategy and expectations at a national level being considered locally at Divisional level with support from Police Scotland at national and divisional level is of great assistance – particularly in relation to requirements of Prevent duty and response – this type of governance structure and support should be replicated for the introduction of a Protect duty.

[If 45 = N]

47. Why do you not currently access this advice and guidance? a. I did not know it existed b. I do not think I need to address the threat c. I do not have the time to access this d. It is too confusing to find what I want e. Other _____(Free text, 100 words max)

48. What would you find most useful to help you to comply with a Protect Duty (select all that apply)?

a. A single, digital service where you could access relevant material, advice and training in one place

b. Easy to digest information regarding threat and attack methodologies

c. A risk assessment template RL Also

d. Information on undertaking a risk assessment for terrorism threats RL Also

e. Advice relating to protective security mitigations RL Also

f. Advice relating to personnel and people security RL Also

g. Advice relating to how an organisation can prepare for terrorism attack

h. Advice on what constitutes reasonably practicable and appropriate mitigations appropriate for my circumstances

i. Development of product certifications or standards for aspects of the approach

j. Staff training and awareness courses

k. E-learning products

l. An App

m. A sector meeting where I can talk about the Duty with experts and other similar organisations

n. A local meeting where I can talk about the Duty with experts and other similar organisations

o. Other: _____(Free text, 100 words max)

All of the above would help – however, clear line of sight in relation to CONTEST strategy and expectations at a national level being considered locally at Divisional level with support from Police Scotland at national and divisional level is of great assistance – particularly in relation to requirements of Prevent duty and response – this type of governance structure and support should be resourced and replicated for the introduction of a Protect duty.

Additional funding for mitigation measures to increase capacity to take forward actions that are desirable in terms of improving safety and security but would be deemed less reasonable due to cost – in particular capital improvements to security and lay out of buildings, venues and public spaces.

49. Counter-Terrorism Policing are working with Government and the Private Sector to design a digital service to provide access to relevant counter-terrorism material, advice and training in one place for organisations operating in publicly accessible locations. Do you anticipate that you would access counter terrorism information through this service if it were available to you?

Yes

[If 49= N]

50. Why not? _____(Free text, 100 words max)

[If 49 = Y]

51. What would you most likely use this kind of service for (tick all that apply)?

a. To get general updates on how the terrorism risk is changing

b. To support business planning activities

c. To understand what risk management activities you need to do

d. To access CT training

e. To connect with other organisations to discuss counter terrorism

f. To understand what to do after an incident eg. Reporting of suspected terrorist activity/concerns

52. Do you have any further comments or suggestions for how you might like to access counter-terrorism information and work with local partners on counter-terrorism issues in the future?

_____ (Free text, 100 words max)

Regular attendance of national organisations, Scottish Government and Police Scotland at Divisional CONTEST meetings with updates on current position and priorities.

Supported by meetings of single points of contact for a Protect Duty operating within Local Authorities and wider public sector perhaps on a national or regional basis – similar to Prevent approach.

53. What role should local business partnerships (such as Business Improvement Districts, Local Enterprise partnerships, etc.) have in supporting organisations and venues to deliver improved security? _____ (Free text, 100 words max)

These provide an important communications channel and should be part of a network for learning and sharing information and to coordinate training resources and opportunities

54. Working with others, what could the Government best do to incentivise improved security practices? _____ (Free text, 100 words max)

Provide funding and resources, develop the national strategy and approach and develop and provide access to expert advice and best practice

55. To support the provision of high-quality advice and guidance from private sector security professionals providing counter terrorism security advice, Government should consider (tick all that apply)

a. Government supported standards for Counter Terrorism (CT) risk assessments and advice

b. Qualifications / Accredited training for individual professionals

c. Government supported 'approved contractors scheme'

d. Regulation of CT consultants

e. None

f. Other _____ (Free text, 100 words max)

g. I don't know

56. What advice and support would be required for organisations and venues within the scope of Protect Duty? _____ (Free text, 100 words max)

a. get general updates on how the terrorism risk is changing

b. support for business planning activities in a protect context

c. training to understand what risk management activities are required in a protect context

d. access to general CT training

e. connections with other organisations to discuss counter terrorism issues and response

f. clear national strategy, governance structure and guidance that supports local action and response

57. Given the complexity of public spaces, and the potential need for partnership working to achieve effective ways of working leading to improvements in protective security and preparedness, what additional bespoke support and expertise could be provided? _____ (Free text, 100 words max)

**Increased access to dedicated advice & training from specialist contractors and Police
Scotland supported by funding to make enhancements on the basis of the advice given.**

58. Do you have any other proposals on what Government could do to support partners in the delivery of a Protect Duty? _____ (Free text, 200 words max)

No