



Terrorism (Protection of Premises) Bill Consultation
Protect and Prepare
4th Floor Peel Building,
Homeland Security Group Home Office
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16 March 2024

Dear Sir/Madam

Terrorism (Protection of Premises) Bill
Martyn's Law: standard tier consultation

Introduction

I write to you with the response of the Federation of British Historic Vehicle Clubs (the FBHVC) to the **Terrorism (Protection of Premises) Bill - Standard Tier - Government Consultation** (the Consultation).

The FBHVC is the umbrella body for the historic vehicle movement in Britain and represents over 500 member clubs in the UK. These organisations together represent in total over a quarter of a million owners of and enthusiasts for historic vehicles of all types. Interest in historic vehicles sustains economic activity worth £7.2 billion pounds annually to the UK economy and supports the employment of nearly 35,000 people.

Vehicles owned by members of the Federation include historic vehicles of many kinds, including cars, motorcycles, buses, coaches, lorries, vans, tractors and steam engines. Federation members acquire, restore and cherish these vehicles for their historic interest and exhibit them at events such as shows and community fetes, often in connection with local or national fundraising. The Federation lends its name to national events such as 'Drive it Day' each year which encourages historic vehicle owners to use their vehicles that day to raise charitable funds. In 2024 'Drive It Day' will be in support of the charity Childline®.

While the Federation itself does not organise events, our member clubs hold many events throughout the year. These range in size and type from committee meetings and AGMs to local, regional or even national shows. These events are held at a number of different types of venues, including those of the type listed in Schedule 1 of the Bill.

While the Federation understands and appreciates the rationale behind the Bill, it has an interest on behalf of its members in ensuring that the duties and responsibilities imposed by the Bill are proportionate and do not adversely affect club activities. At a time when clubs and their members are under cost of living pressures, and with most clubs run by volunteers, the Federation is

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concerned at further challenges for them clubs, whether in terms of additional hard to sustain costs or through the imposition of disproportionate or confusing responsibilities or liabilities.

Publication of Consultation

The Consultation states that over 278,880 premises fall within the criteria of the Standard Tier. Noting that it received only 2755 responses to a previous consultation, the FBHVC questions what additional measures were taken to engage those owners and operators likely to be affected beyond publication on the Home Office website. Anecdotal inquiries by the FBHVC suggest a high level of lack of knowledge of this proposed legislation amongst village hall type venues.

FBHVC Response

The Federation submits two main observations below in response to the above consultation incorporating representations received. Not being an owner or operator of premises which may come within the scope of the legislation, whilst taking account of the questions in the survey included in the consultation document, the FBHVC has not provided a response to each individual question. In addition, while this consultation is concerned with proposed changes to mitigate the burden on Standard Tier venues, our submission contains some questions about how the two tiered approach would work in practice in relation to those using or hiring venues.

Observation One: Cost and Complexity

The Federation notes and welcomes the intent to implement simple measures and procedures and to limit the burdens on owners and operators of small venues in the manner described in paragraphs 40 and 41 of the Consultation. It is appreciated that the hope of the Government is that costs for venue operators may be lessened. In those circumstances costs for clubs in terms of hire and insurance may also be mitigated. However, there would still seem to remain the cost and complexity of smaller venues having to deal with a Regulator as defined in clause 1 of the Bill.

With the removal of the requirement for specific terrorism protection training and the statutory requirement to complete the Standard Terrorism Evaluation and only a requirement that reasonably practicable procedures to follow in the event of an attack, the Federation questions why such "simple" requirements similar to those for Fire Safety (see para. 20 of the Consultation), need to be overseen by *a Regulator*. It notes that the burden of registering with a Regulator remains in the legislation and the administrative requirements of satisfying the Regulator of compliance. While the Consultation anticipates and advocates a light touch by the Regulator, there are no details in the Bill or the Consultation of the Regulator.

The funding of the Regulator, whether an existing one or a new one, is unclear and remains to be decided by secondary legislation. Past experience of such bodies suggests that they generally are required to be self-financing and that unless carefully constrained and directed, they can become increasingly burdensome. In particular, the extensive *investigatory powers and functions* set out in

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Schedule 2 of the Bill, appear disproportionate for the limited duties being proposed and potentially requiring the deployment of extensive and expensive resources which will come at a cost to be borne by those being regulated.

The Federation is therefore concerned that in addition to the costs for individual venues estimated in para. 45 of the Consultation, charges will be imposed by the Regulator for registration, compliance certificates and, if instigated, investigation costs. If so, this would be reflected in the hire costs of such venues.

In addition, in relation to smaller venues largely controlled and administered by volunteers, the prospect of additional bureaucratic burdens imposed and overseen by a new and proactive Regulator may deter individuals from taking on responsibilities for venues to the detriment of the public and in particular our clubs. In other words, Regulation of smaller Standard Tier venues is disproportionate and unnecessary in view of the limited duty.

REQUEST That consideration be given to **exempting** Standard Tier venues (perhaps those less than 200 capacity) from Regulation. It is suggested that Fire Safety Guidance for smaller venues could simply be updated to mandate additional requirements in the current risk assessments, i.e. that evacuation and public safety procedures should take account of terrorist events.

Observation Two: Standard and Enhanced Tier Boundaries at Open Air Venues

The Bill introduces two new responsibilities:

- (a) for “qualifying public premises”, and
- (b) for “qualifying public events”.

Prompted by a representation by a major club, the Federation has a concern as to how these might affect car clubs, which are typically run by (or very largely by) volunteers, in relation to car shows/meets organised at **open air** venues.

(A) Relevant Bill provisions

Qualifying public premises

Qualifying public premises include:

- sports grounds, which are defined as places where sports or other competitive activities take place in the open air and where accommodation has been provided for spectators, consisting of artificial structures or of natural structures artificially modified for the purpose (para. 5 of Schedule 1)
- places used for recreation, exercise or leisure by visiting members of the public, e.g. a seaside promenade (para. 6 of Schedule 1)
- visitor attractions, e.g. grounds of a stately home (para. 9 of Schedule 1)

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provided that in each case the premises have a public capacity of 100+ individuals and, where those venues are in the open air, access is by express permission only whether or not on payment. Where the premises concerned have a capacity of 800+ individuals or more, the premises become “enhanced duty premises” to which much more onerous responsibilities will apply along the lines of those applicable to qualifying public events (see further below). Qualifying public premises will have to be notified to the regulator.

Qualifying public events

Qualifying public events are events which are held at premises that are not qualifying public premises, where the premises have a capacity of 800+ individuals and access to the public/section of the public attending the event is by express permission only.

A person who puts on a qualifying public event has extensive responsibilities, which include providing prescribed details of the event to the regulator before it takes place (clause 10), carrying out an enhanced terrorism risk assessment (clause 12), providing terrorism protection training to individuals who work in connection with the event and have responsibilities which make it appropriate for them to receive terrorism protection training (clauses 13-14), having security measures at and in the vicinity of the event, including monitoring the movement of individuals into, out of and within the event (clause 15), appointing a designated senior officer at director level (clause 16), preparing security plans (clause 17).

Allocation of responsibilities

Clause 5(1) states that the person responsible for qualifying public premises is “the person who has control of the premises in connection with their Schedule 1 use” and that the person responsible for a qualifying public event is “the person who has control of the premises at which the event is to be held in connection with their use for the event”.

The legislation also makes provision for the issue of co-operation notices (clauses 18-19).

Capacity of premises

The Bill states that the capacity of premises is to be determined in accordance with regulations made by the Secretary of State, which have yet to be published.

Enforcement

Contravention is subject to fixed penalties of up to £18m or 5% of a person’s qualifying worldwide revenue and daily penalties in the case of a qualifying public event of up to 1% of the fixed penalty.

(B) Case studies and commentary:

1. The club organises its annual national event for cars of a particular series at a farmer’s field which, given the involvement of vehicles that need space to manoeuvre safely, has a capacity of

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800+ individuals. The event is open only to members of the club and their guests and numbers registering to attend are 65.

Despite the fact that the number of registered attendees is only 65, the event appears to be a qualifying public event because of the size of the field.

2. Some variants to the above:

(a) As in 1 except that in a bid to boost membership numbers which are dwindling, the club has issued an open invitation to the public via social media to attend the event without charge as a 'taster'.

The event is a qualifying public event even though there is no realistic expectation that huge numbers of people will take up the invitation

(b) As in 1 above except the event is at a school's sports field, which is a discrete space away from the school that can accommodate 800+ individuals. There is no accommodation for spectators at the sports field.

The event is a qualifying public event.

(c) As in (b) above except the school has had a bank of seats put up because Sports Day is the following day – these will be removed at the end of Sports Day.

The sports field now seems to have become enhanced tier premises albeit for a matter of 2-3 days.

3. The club organises a car show consisting of a static display on a public promenade – the promenade is normally open only to pedestrians but the local council gives permission for the club to create an event at which members may drive their cars onto the promenade and then remain parked there for a specified period. The promenade will continue to be open to the public at large if they are pedestrians so they can enjoy looking at the cars. There is a charge to club members for attending the event, the proceeds of which will be paid to a charity of the Council's choice. 56 members register to attend the event.

The analysis is not very clear. What constitutes "express permission" for the purposes of determining the basis on which members of the public have access to the promenade for the purposes of determining whether it meets the test for qualifying public premises? The cars and their occupants are there at the invitation of the club by express permission of the Council. Does this make the event a qualifying public event and, if so, who is responsible for it, the Council or the club?

(C) Conclusions

The use of capacity as the means of determining whether premises are standard tier (capacity of 100-799), enhanced tier (capacity of 800+) or outside the scope of the legislation (<100) or whether events are qualifying public events does not deal adequately with open air venues such as fields where the theoretical capacity may well be 800+ but the number of attendees is <100. In other words, there is not necessarily a correlation between the capacity of a venue and the size and nature of the activities that take place at it (and so the risk) as the legislation assumes.

The legislation is not very clear over who has control in a number of circumstances – is it the club as regards the event it is putting on or the owner/occupier of the premises who gives permission for it to be put on? The protection afforded by the caveat in clause 15(6) for steps that are

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disproportionate in relation to security measures having regard to a person's resources and the event to which the step relates is unclear.

If the legislation goes ahead in its current form, open air venues may become unobtainable to the detriment of clubs and their members or obtainable only at increased cost. Certain types of event may also become impossible from a practical perspective.

If small events in large spaces are treated as qualifying public events, the notification, risk assessment, training, security and other consequences will be totally unworkable for clubs run by volunteers and wholly disproportionate to the risks involved. In those circumstances Public liability and Directors and Officers Liability insurance is likely to become more expensive.

Thank you for your attention in this matter.

Yours faithfully

Lindsay J Irvine

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