

## Terrorism (Protection of Premises) Bill - Martyn's Law

<b>Lead department</b>	Home Office
<b>Summary of proposal</b>	Provide a framework, and legal basis, for clarifying the responsibility of publicly accessible locations, to protect members of the public from terrorism, while they are visiting the premises.
<b>Submission type</b>	Impact assessment (IA) – 30 July 2024
<b>Legislation type</b>	Primary legislation
<b>Implementation date</b>	2025
<b>Policy stage</b>	Final
<b>RPC reference</b>	RPC-HO-5254(2)
<b>Opinion type</b>	Formal
<b>Date of issue</b>	22 August 2024

### RPC opinion

<b>Rating<sup>1</sup></b>	<b>RPC opinion</b>
<b>Fit for purpose</b>	The IA includes a significant shift in liability for terrorism from the State to businesses that manage event venues. The department has improved sufficiently the assessment of impacts on small & micro businesses, since the IA on the draft Bill for pre-legislative scrutiny. The RPC is also able to validate a revised EANDCB figure, reflecting revisions to the Bill and improved evidence on impacts. While there is a significant amount of detail provided, the IA does not provide evidence that the proposals would reduce terrorism for small venues or that a new regulator with national inspectors would be efficient compared with local authority compliance.

### Business impact target assessment

	<b>Department assessment</b>	<b>RPC validated</b>
<b>Classification</b>	Qualifying regulatory provision (IN)	Qualifying regulatory provision (IN)
<b>Equivalent annual net direct cost to business (EANDCB)</b>	£199.6 million (initial draft Bill IA estimate, Jan 2023)	£145.5 million (2019 prices, 2020 pv)

<sup>1</sup> The RPC opinion rating is based only on the robustness of the EANDCB and quality of the SaMBA, as set out in the [Better Regulation Framework](#). RPC ratings are fit for purpose or not fit for purpose.

£242.0 million (revised draft Bill IA estimate, Feb 2023)

£145.5 million (final IA estimate, July 2024)  
(all figures 2019 prices, 2020 pv)

<b>Business impact target (BIT) score</b>	£727.7 million	£727.5 million
<b>Business net present value</b>	-£1,244 million	
<b>Overall net present value</b>	-£1,273 million	

## RPC summary

Category	Quality <sup>2</sup>	RPC comments
EANDCB	<b>Green</b>	The RPC previously validated an EANDCB figure in the IA on the draft Bill and can validate the revised figure in the present IA. The revisions reflect policy changes to the Bill and improved evidence on impacts.
Small and micro business assessment (SaMBA)	<b>Green</b>	The IA addresses satisfactorily the RPC's concerns in its opinion on the draft Bill IA. The department has greatly expanded its discussion on exemption, disproportionality of impact and mitigation. The IA would benefit from discussing further the impact of the regulator's application of 'reasonably practicable' for counter-terrorism (CT) interventions.
Rationale and options	<b>Weak</b>	The IA discusses market failures, including negative externalities and information asymmetry. The IA now includes greater discussion of alternative options, such as self-regulation and centralised funding. The IA would benefit from providing evidence that it would reduce terrorism – particularly, the low-level activity required from venues in the standard tier. The IA could also explain fully why local authority inspectors could not ensure compliance, as they fulfil requirements of other regulation on such venues.
Cost-benefit analysis	<b>Weak</b>	The IA provides monetised benefits from a reduction in the level of non-terrorist crime but does not provide evidence that the measures would prevent terrorism and hence achieve benefits. While the measure transfers liability for terrorism from the State to businesses that manage event venues, the Department has not internalised monetised evidence from the

<sup>2</sup> The RPC quality ratings are used to indicate the quality and robustness of the evidence used to support different analytical areas. Please find the definitions of the RPC quality ratings [here](#).

insurance industry. The IA's non-monetised assessment of benefits has been strengthened but could be developed further, for example to discuss avoided indirect costs and non-fatal injuries in more detail. The estimates of cost of the proposal are also subject to considerable uncertainty and the IA would benefit from further discussion of risk, uncertainty and sensitivity of the figures to assumptions.

Wider impacts	<b>Weak</b>	The IA covers impacts on the regulator and on trade. It would benefit from an assessment of impacts on competition, including a stronger assessment of potential market exit.
Monitoring and evaluation plan	<b>Good</b>	The M&E plan usefully includes details of project governance, evaluation questions that will be addressed and the types of research methods that will be used, mapped to policy objectives.

## Background

The department submitted an IA for RPC scrutiny on the draft Bill for pre-legislative scrutiny (PLS) in January 2023. The IA received an initial review notice from the RPC, indicating that the IA was not fit for purpose in its assessment of direct impacts on business and its assessment of impacts on small and micro-businesses. The department submitted a revised IA in February 2023, which addressed the RPC's concerns on the assessment of direct impacts on business (reflected in the 'revised' EANDCB estimate reported on page one of this opinion). However, the assessment of impacts on small and micro businesses was not improved sufficiently and the RPC, therefore, issued a red-rated opinion on 15 March 2023.<sup>3</sup> Following PLS of the Bill, the Government ran a further public consultation on an updated approach to the standard tier (defined below) in February and March 2024.

The IA covered by this opinion is on the Bill expected to be introduced to Parliament in September 2024. This IA takes account of revisions to the Bill since PLS and seeks to address the comments in the March 2023 RPC opinion, particularly on the assessment of impacts on small and microbusinesses.

## Summary of proposal

The proposal would provide a framework and legal basis for clarifying the responsibility of 'Publicly Accessible Locations' (PALs) to protect members of the public from terrorism while they are visiting the premises. It would establish a tiered requirements framework:

- Standard Tier – would primarily seek to drive good preparedness outcomes. Responsible persons will be required to undertake simple low-cost, yet

<sup>3</sup> <https://www.gov.uk/government/publications/martyns-law-rpc-opinion-red-rated>

effective, activities to improve understanding of the terrorist threat and response arrangements. The standard tier is aimed at raising the foundation of security across the UK in order to provide a force multiplier for the outcomes which are being sought within the enhanced tier.

- Enhanced Tier - would see the highest level of requirement placed upon high-capacity premises in recognition of the potential consequences of a successful attack, such as that seen at the Manchester Arena in 2017. It would require premises to take forward a risk assessment and subsequently develop and implement a security plan. In doing so, these premises would need to consider a range of mitigations and decide which are proportionate and necessary to implement to protect visitors and staff from a terrorist attack.

The proposal applies to certain PALs, which can include venues such as sports stadia, festivals, music premises, hotels, pubs, clubs, bars, retail stores, shopping centres, markets, places of worship, and transport hubs. The proposal would directly affect the persons in control of premises with a capacity of 200 persons or more (200-799 persons for the standard tier, and 800 persons or more for the enhanced tier). In addition, there is the potential for other premises to be within scope including charitable premises, government and local authority buildings, hospitals, police stations, and courts. The IA estimates that around 154,600 and 24,300 premises will be in the standard and enhanced tiers, respectively. The large majority of these premises are in the retail and hospitality sectors.

The IA estimates a net present value of -£1.8 billion in 2024 prices and 2025 present value base year (-£1.3 billion in 2019 prices; 2020 present value base year). This consists of £0.4 billion million set-up/year 1 costs and £1.4 billion ongoing costs. The most significant costs relate to CT interventions (£268 million in year 1 and £838 million over the rest of the appraisal period) and on-going costs in relation to training (£259.8 million), CT procedure planning (£199.8 million) and risk assessments (£58.9 million). The NPV figure nets off £20 million in monetised benefits from reduced crime. Nearly all of the costs are borne by business, with the business NPV also rounding to -£1.8 billion (but rounding down to -£1.2 billion in 2019 prices; 2020 present value base year). The EANDCB is estimated at £207.5 million, equivalent to £145.5 million in 2019 prices, 2020 present value base year.

## EANDCB

The EANDCB has decreased since PLS stage, from £242.0 million to £145.5 million. This is explained by the following changes.

### *Policy changes*

The change with the greatest impact on costs is the increase in the lower bound threshold of the standard tier, from 100 persons to 200 persons. This has reduced the estimated number of premises in the standard tier by around 45 per cent. This is partly offset by the costing of an additional requirement to make sure that staff are aware and continue to be aware of the correct CT procedures. Overall, while estimated costs to businesses in the scope of the standard tier has increased by

around 50 per cent, the overall cost of the standard tier has reduced by around 15 per cent.

### *Changes to assumptions*

Costs in respect of the enhanced tier have changed significantly as result of re-examination of the reliability of existing assumptions and new evidence. Training costs have increased as it is now assumed that some staff must spend three rather than one hour on training. However, this impact is far outweighed by a sharp reduction in the estimated cost of risk assessments. The IA continues to use information provided through research with business on the proportion of businesses already undertaking CT-specific risk assessments and the number of staff needing to be involved. However, the assessment of time taken to complete them is now much lower, at four hours per person. This is based upon research on the burden which health and safety risk assessments place on firms and the average time taken to complete these documents. The department explains that the original assumption was a gross overestimate because responses from the original survey were misinterpreted as working days rather than hours. Overall, these changes have reduced estimated costs in respect of the enhanced tier by over a third.

The RPC is content to validate the revised EANDCB figure of £145.5 million (2019 prices; 2020 present value base year). The IA would benefit from discussing the basis for the 15-minute per employee assumption to make staff in the standard tier aware of the CT procedures plan.

## **SaMBA**

The department has greatly expanded its assessment of impacts on small and micro businesses. The IA now addresses satisfactorily the three broad areas of concern set out in the RPC opinion on the draft Bill IA.

### *Exemptions*

The SaMBA now provides more discussion on why an exemption is not being proposed. It also usefully includes more information on the lack of information (for example, on the Global Terrorism Database) on business size in this area and explains why it is unable to estimate how much of the benefit of the policy might be lost if SMBs were exempt.

### *Disproportionality*

The IA now provides much more detail on the proportionality of costs across business size. This includes unit and aggregate costs by business size and comparisons of costs against average turnover. The SaMBA is much clearer on the proportionately higher burden for small and micro businesses, especially in the enhanced tier. The SaMBA discusses further the impact of these costs on the viability of smaller businesses and their ability to pass costs through to consumers. The IA explains the difficulties in arriving at a business size breakdown, when the

requirements are defined in terms of the capacity of a venue. The assessment would benefit from providing greater clarity around how it arrived at its business size estimates and, by extension, the estimated cost to businesses of different size at table 17.

### *Mitigation*

The SaMBA provides a more thorough consideration of mitigation for SMBs. In addition to noting the free provision of training and the exclusions from the enhanced tier for high-capacity sites that may have low levels of attendance (such as places of worship), this area of the SaMBA now considers the cost of risk assessments and subsequent CT interventions. The IA explains that the regulator will apply the 'reasonably practicable' test to CT interventions, which is anticipated to limit costs to SMBs. The RPC notes that the mitigation of impacts on SMBs in the enhanced tier will depend significantly on how the regulator applies this test. As noted under 'risk and uncertainty', the IA would benefit from providing further discussion on the factors the regulator is likely to consider in judging what is 'reasonably practicable'.

### *Medium-sized business considerations*

The SaMBA provides analysis for medium-sized businesses, in line with the Government's widening, to businesses with fewer than 500 employees, presumed exemptions on regulation. The assessment rules out exemptions for small, micro and medium-sized businesses on the basis that it would significantly undermine the effectiveness of the policy.

## **Rationale and options**

The IA provides evidence of the scale of costs imposed by terrorism in the UK and discusses its proposed intervention in the context of market failures, including negative externalities and information asymmetry. The IA would be improved by providing evidence that the measures would reduce terrorism – particularly, the low-level activity required from the 154,600 premises in the standard tier.

The IA includes discussion of alternative options, such as self-regulation and centralised funding, and alternatives to the maximum capacity of a premise as the criterion for defining who is subject to the regulatory requirements.

The IA would benefit from explaining more fully why local authority inspectors could not ensure compliance, as they fulfil requirements of other regulation on such venues, as opposed to creating a new 'in-house' regulator within the Home Office, presumably with compliance staff across the country.

The IA includes discussion of international comparisons and has provided additional reference to the approach in France (page 10). However, the IA could discuss further why such regulation has not so far been chosen in other countries with recent significant history of terrorist activity.

## **Cost-benefit analysis**

### *Assessment of societal benefits*

The IA explains why it is not possible to monetise the benefits of the proposal and discusses this area qualitatively. However, the IA includes information on the scale of the cost of terrorism in the UK. This section uses updated data on deaths in the UK from terrorism and HO estimates of the minimum economic cost of a death from terrorism. The overall minimum cost estimate from terrorism is much lower than the estimated cost of the proposal, but does not include, for example, the cost of non-fatal injuries or indirect impacts. The discussion has been strengthened by inclusion of HO estimates of the direct economic cost of the five attacks which occurred in the UK in 2017, of which Martyn's Law would apply to the two with the highest fatalities (Manchester Arena and London Bridge/Borough Market). The IA also now refers to much higher estimates by RAND Europe of wider, negative impacts on GDP of the attacks in 2017. The IA would benefit from discussing further the risk that terrorism might be displaced rather than necessarily reduced overall, with more incidents in less defended locations, such as public streets.

The IA includes some discussion of the likely cost effectiveness of the standard tier but would benefit from discussing further the relationship between the limited actions required and a proportionate reduction in risk of terrorist incidents or harm.

The IA states that the proposal would provide re-assurance to the public, leading to a less fearful population and a positive mental health benefit to society. The IA would benefit from considering the possibility that placing obligations on many small venues, to raise awareness of terrorism, could also increase public anxiety.

### *Risk and uncertainty*

The RPC's initial review noted the considerable uncertainty around the estimates in the IA, in particular the number of businesses already taking actions that would go some way to compliance with the proposal, the nature of required additional actions and their individual cost. The RPC noted that there would appear, therefore, to be scope for costs to be potentially much higher than those estimated. The RPC suggested providing greater clarity around whether individual assumptions for key costs have been tested with industry. In response, the IA usefully notes that key research figures in the IA have been checked and tested with industry, using the Counter Terrorism Business Information Exchange. The IA would benefit from further discussion of risk, uncertainty, the evidence base for assumptions and sensitivity of estimates to assumptions.

The IA estimate of the cost of CT interventions is unchanged from before and appears to use judgment about what are likely to be deemed 'reasonably practicable' security measures. The IA would benefit from discussing the uncertainty around how the regulator will interpret what is 'reasonably practicable' and the risk this presents in terms of costs potentially being much higher than those presented. The IA could discuss further how the concept of 'reasonable practicability' has been applied by regulators previously, whether this would inform the approach of the regulator in this area and potential issues around consistency of enforcement.

The regulator costs are now much lower than previously (see below) and the IA would benefit from discussing how far this reflects expected regulator activity (ongoing regulator costs are also much lower) and any impact this could have on the achievement of the policy objectives.

### *Presentation*

The IA sets out clearly how set-up/year one costs have been calculated. The IA would benefit from presenting the same amount of detail for the calculations of the more significant ongoing costs.

## **Wider impacts**

The IA monetises impacts on the regulator, provides an assessment of trade impacts and assesses equality issues. As noted above, the IA regulator costs are much lower than previously. This appears to reflect a change in assumption to the regulator being an 'in house' body of the Home Office, rather than potentially being a new 'arm's length' body. The IA would benefit from explaining the impact of this on the estimation of regulator costs.

The department usefully includes assessments of market exit and insurance impacts (pages 61-63). The department's assessment is that businesses will be able to pass costs on to consumers, suggesting that the risk of market exit is low. The IA would benefit from assessing further the potential impact of significant costs on businesses in the enhanced tier, which may be operating on low margins and be subject to other cost pressures. The assessment would also benefit from being broadened into an assessment of impacts of the proposal on market competition, employment and consumers. The IA would also benefit from a brief assessment of impacts on innovation.

The IA monetises impacts in respect of volunteers, for example having to attend training courses. The IA refers to consultation concerns around potential negative impacts on people's willingness to volunteer. The IA would benefit from discussing this risk, i.e. that volunteers may be reluctant to take on the time and responsibility burdens associated with the proposal, negatively affecting voluntary and community bodies.

## **Monitoring and evaluation plan**

The IA states that a post-implementation review will likely be conducted within four years of the commencement of Martyn's Law. The IA includes a good monitoring and evaluation plan for primary legislation. This usefully includes details of project governance, description of the different phases of the evaluation, evaluation questions that will be addressed and the types of research methods that will be used, mapped to policy objectives.

## **Other comments**

The IA notes a risk of increased costs due to continued policy development, in particular for the enhanced tier where guidance on the amount of training



requirements may increase over time (paragraph 237, page 47). The department should set out how any such policy developments would be assessed, for example through any secondary legislation and/or regulator assessments. If any policy developments proposed have a significant impact on the EANDCB figure, the RPC would expect to see further assessment(s), subject to framework requirements.

## **Regulatory Policy Committee**

For further information, please contact [regulatoryenquiries@rpc.gov.uk](mailto:regulatoryenquiries@rpc.gov.uk). Follow us on Twitter [@RPC\\_Gov\\_UK](https://twitter.com/RPC_Gov_UK), [LinkedIn](#) or consult our website [www.gov.uk/rpc](http://www.gov.uk/rpc). To keep informed and hear our views on live regulatory issues, subscribe to our [blog](#).