SUBMISSION TO THE PUBLIC BILLS COMMITTEE CONSIDERING THE TERRORISM (PROTECTION OF PREMISES) BILL – MARTYN'S LAW

This document is the personal submission of evidence to the public bill committee considering the Terrorism (Protection of Premises) Bill.

My name is Nicholas Aldworth, until recently, I was the policy lead within the Martyn's Law campaign and am the author of the original white paper upon which the current bill is based. I gave in-person evidence to the Home Affairs Select Committee alongside my friend Figen Murray, during the pre-legislative scrutiny of this bill.

I am currently not working with the campaign team due to potential for a conflict of interest to exist in responding to an invitation to tender for preparatory work associated with the bill.

Therefore, this evidence represents my personal view.

I have worked in protective security for 42 years including service as a commissioned officer in the RAF Security Branch, 29 years in policing, and counter-terrorism policing, and 5 years in the private security industry.

During this career, I have taught counter-terrorism, been a VIP protection officer, an explosive search officer, and an armed response officer in London. During 2017, I was the Operational Command Unit (OCU) Commander of the Met police's Counter Terrorism Protective Security Operations Command; a long title but one that meant I had the privilege to lead 300 counter-terrorism officers in London's response to 4 terrorist attacks in the city, 1 in Manchester, and several overseas.

I finally served as the UK's National Counter-Terrorism Coordinator, which included representing UK policing on the National Security Council (Threats and Risk Committee). I was responsible for the National Chemical, Biological, Radiological, and Nuclear Centre and coordinated that team's response to the Novichok poisonings in 2018. I led the UK's delivery of CT protective security advice to 10 high-risk countries visited by UK citizens, and containing UK interests, and oversaw the training and resourcing of the UK's CT Specialist Firearms Officer capability.

I currently work as Director of Counter-Terrorism, Intelligence, and Risk for a private company that employs 5,500 people working across many sectors and premises likely to be impacted by this legislation.

I hold a master's degree in public administration (Policing), an Ofqual level 5 qualification in Terrorism Risk Management, and am one of only 450 chartered security professionals in the world. I am a visiting fellow of terrorism risk management at Cranfield University.

I have worked on this campaign for 5 ½ years. During this time, I have spoken to millions of people through mainstream-media broadcasts, and about one hundred thousand people through conference and event appearances, often alongside Figen, and I have a

network of 4200 followers through social media, from whom I get regular feedback about how Martyn's Law has progressed.

By any measure, I present myself to the committee as an expert in counter-terrorism protective security, and one who knows as much about Martyn's Law as any other, especially its intentions, its likelihood of success, and how people feel about it.

Scope of the bill

I will not speak to the threats that the UK faces, others will I'm sure give that evidence, but they are many, they are enduring, and they change according to world affairs.

I do want to speak briefly about one of the drivers for Martyn's Law though, because that directly affects the work of this committee. In 2014, a spokesperson for the Daesh terrorist group called their followers to arms but incited them to stay at home and commit atrocities, using anything as a weapon, against any target, at any time. In that single speech, terrorism was franchised to the lowest common denominator. That speech created a society of terrorists, inside our wider civilised society and all terrorist attacks in the UK since 2014 have evolved from that.

The only response to such a situation must be to mobilise society, something that CT Policing attempted to do through education and awareness. The Manchester Arena Inquiry showed that we had failed. **As much as anything, this need to mobilise society sits at the heart of why this bill is required**.

The scope of premises affected by this bill is a fair representation of those that may be affected by terrorism. The entry point of 200 people at the same time, from time to time, causes me concern. The campaign's starting point in 2019 was that there would be no limits. The bill should embrace the whole of society. To support the demands for proportionality, the entry point for being in scope of the bill was raised to 100. This meant that approximately 280,000 standard-duty premises across the UK would be in scope. The raising of that threshold to 200 has brought that down to about 154,000 premises.

The table below shows the comparative impact of changing the threshold from 100 to 200, and just how few premises are in scope compared to the total number of publicly accessible locations in the UK. If this table says nothing else, it must be that any further erosion of this bill by raising the threshold higher than 200 would have an adverse consequence on its ability to protect the public.

Sectors	Total Sites	Standard Duty 200	Standard Duty 100	Out of Scope at 200
Education	32,523	24,689	29,562	7,834
Courts	346	40	135	305
Hotels	8,934	1,093	2626	7,783
Places of Worship	48,362	33,323	44,476	15,039
Racecourses	61	0	0	0
Retail and Hospitality	776,405	84,617	181,072	675,791
Sports Facilities	29,979	8,124	13,847	18,996
Stadiums and Arenas	268	0	0	0
Visitor Attractions	13,538	1,871	3,360	10,107
Zoos and Theme Parks	386	0	0	0
GPs	8,170	14	137	8,156
Hospitals	1,921	0	0	0
Universities	271	43	65	48
Village Halls	6,414	809	3,592	5,604
Festivals	975	0	0	0
Total	**928,554**	**154,623**	**278,873**	**749,662**

I would argue that in order to mobilise society to the scale that is needed, the bill must have as many premises in scope as is possible. **If the politics of the day demand that the threshold remains at the 200 level, then I would simply ask the committee to consider how that threshold could ebb and flow within the legislation as the threat from terrorism changes.** As a nation, our memories are poor regarding the impact of terrorism and what might seem disproportionate today, would have been seen as not enough in 2017, or in the premises of Belfast in the 70's and 80's.

I would ask the committee to consider the implications of leaving premises out of scope. As this is novel legislation its impact is difficult to quantify. There aren't really any comparators. While the current threshold proposal may be politically pragmatic, any further erosion of impact will make it lack real-world application.

I recently walked around Borough Market, scene of a heinous attack in 2017, and estimate that the current threshold would put all but a handful of premises, out of scope. This doesn't make sense, against a demonstrable real-world example of terrorism in action. Having a statutory mechanism whereby the number of premises in scope could be raised at times of increased threat, would be incredibly useful.

While I support this bill, whole-heartedly, we must be alive to its weaknesses, and the entry point to being in scope, is potentially one of them, without the qualification that I suggest above.

Calculating who Is on premises

The limitations of scope are further amplified by the new route to calculating the numbers of persons on premises at the same time. I have spoken to several companies in the last few weeks, each of whom are troubled by this. The conversations fell into 2 camps. Those who felt the bureaucracy of using anything other than a fire regulations capacity calculation would create further, significant, red-tape, and those who felt that it was completely uncalculatable and would not be likely to register. Those I spoke to already held fire regulations certificates and questioned why an alternative method would be used.

The answer to that question is that it is a disproportionate attempt to be proportionate. **The argument against a simple capacity calculation is that some premises that have large floor space, but low customer numbers will be disproportionately affected.** I would argue that such premises are outliers in this debate and don't exist in sufficient numbers to justify such a skewing effect to this legislation.

Most commercial premises in the UK are leased, not owned. **As property is generally rented based on floor space, operators of premises don't often lease more than they need.**

Even if there was truth to the suggestion that great numbers of companies have superfluous floor space that will bring them unfairly into the scope of this bill, the requirements of procedures and measures within the bill are where proportionality really exists. Standard duty premises simply need a plan, and I will talk to this later in my submission.

There is a simple truth about the current proposal, it is unwieldy, and will be open to abuse, especially where the regulator doesn't have sufficient powers to proactively investigate the numbers likely to be on premises, and I will again reference this later.

While it is accepted that floor space calculations vary across the fire-regulators, the model is fundamentally simple and workable and has been in place for years without significant problems. Accepting that fire authorities use different methods, it is not beyond this bill's ability to define its own statutory method for calculation, modelled on the best of fire regulation capacity calculations.

The irony is that an argument for not using a fire regulations capacity calculation is that there are too many approaches up and down the country, and yet this bill proposes an even greater number of approaches and suggests that might work. It is counter intuitive.

If there is not an inviolable method for calculating the capacity of premises, those on the boundaries of being in-scope will simply not bother and the reduced number of premises created by the raising of the threshold to 200, will diminish further.

I do not wish to see this bill slowed down by multiple amendments, it has been far too long in the making, but if there was one area that I believe does need amendment, it is this and I would be prepared to wait a little longer to see this got right.

Standard and enhanced duty requirements

I commend these concepts to the committee as being excellent work that are at the heart of proportionality. As the author of the Martyn's Law white paper, I never envisaged a graduated approach, but once these concepts started to evolve I realised that this was the right way to address proportionality.

The standard duty has a pragmatism that will save lives, not just during terrorist incidents but across the many acts of violence that sadly take place in our society from time to time. I can give real world examples of where these simple procedures have saved lives, one being a restaurant in Borough Market, that employed former soldiers that quickly locked down during that attack. The attackers were on the other side of the glass door trying to get in but could not. Conversely, the dreadful loss of life at the Parkland School in Florida during a mass shooting, did not happen because the police were slow to neutralise the attacker, it happened because the lockdown plan was not implemented.

Plans save lives. The wide application of the standard duty will save lives.

The standard duty is not burdensome, and those lobby groups that have called for exemption because of fear of bureaucratic consequence have not explored what the standard duty really means.

Over the last 12 months, I conducted field-tests of an online tool aimed at supporting premises to implement the standard duty. Thirty participants took part in testing, across the hospitality and retail sectors, as well as a GP surgery. The average time for the formulation of a plan, that would create compliance to the standard duty, was 54 minutes.

Unguided, I suspect that would have taken longer, but the message here is that with the right support from government, the standard duty is easy to comply with.

The enhanced duty rightly requires those premises that bring in greater numbers of people to one place, to do more. But even within this duty, there is a great range of

solutions which of itself creates proportionality. The National Protective Security Authority are global experts in providing information on how to implement measures proportionately.

There has been a myth about this campaign, from its first days, that we wanted everywhere to have airport-style security. That was never our intention, and that is also not good security. A one size fits all approach is in fact incredibly poor security as it gives would-be aggressors greater scope to find vulnerabilities. That is exactly how the attacks of 9/11 were conducted. They exploited single points of failure across multiple security-practicing locations.

The approach to each of these duties has been to set a minimum level of activity within them. That is the right approach, and I commend the construct of these duties to the committee as being sensible, proportionate, and likely to achieve success.

The regulator

I work within the security industry and have regular contact with the regulator. It is fair to say that views about the SIA are not always positive, as they weren't during this bill's second hearing. However, when you look at the root cause of such views they almost always originate from restrictions placed on the SIA by the Private Security Industry Act 2001, and/or the strategic direction set by whichever minister holds the security industry portfolio.

In recent years, the SIA has struggled to get ministerial buy-in for industry improvement. The security industry is no longer the wild-west it once was, but it still has a long way to go, as demonstrated by recent HMRC investigations into the consequences of sub-contracting.

Of all the potential options for Martyn's Law, I believe that the SIA will be a pragmatic and potentially successful holder of the regulatory function. However, this will only work if the following can be achieved:

1. The Martyn's Law regulator needs to be able to integrate seamlessly with CT Policing and National Protective Security Authority who are the current providers of protective security education and guidance. There will need to be a clear agreement about who is responsible for what and a clear strategy for what 'education' looks like as the golden thread throughout Martyn's Law.

   As this bill will make many individuals with no security experience, responsible for security, the provision of information from these bodies needs to better than it currently is, and in a form that the non-professional can understand.

2. The regulator must have powers to be proactive in investigating compliance. This is especially true if the concept of '*people on premises at the same time, from time to time'* remains in the bill.

At the moment, the SIA does not have powers under the Regulations of Investigatory Powers Act (RIPA) and cannot investigate non-compliance through simple intelligence gathering methods such as trawling the internet and looking at premises web-pages. To do that is directed surveillance and requires a RIPA authority. **Without RIPA powers, I can see no means whatsoever by which the SIA can proactively look for premises that haven't registered under Martyn's Law**. They will be entirely reliant on being provided with that information by other parties. Reliance on others is no way for a regulator to be established.

3. It is not for me to suggest where the SIA sits within ministerial oversight, the government will have its own plans and priorities for its ministerial portfolios. My view is simply that lack of ministerial interest over several years has led to the SIA not reaching maturity. The security industry has 3.1 officers for every UK police officer, and that potential is not being released across a range of themes. I would encourage the government to use the opportunity of Martyn's Law as the catalyst to reset the private security agenda.

Implementation

I recognise and support the government's need to get this right and that some of the novel capabilities, such as the regulator, will take time to design and build. We must guard against the period being left open ended so that slippage can creep in.

I believe that because there are existing capabilities within the UK, that we could implement the education role of the regulator faster than the enforcement role, and that is something we should aim for. My sense from knowing the structures within which the implementation of this bill will sit is that education is achievable inside a year with enforcement achievable within two.

What I do not agree to be a good idea is that which I heard during the 2nd hearing debate and is the proposal to implement the enhanced duty first, with the standard duty following only once lessons of phase one have been learned. The reason for this are twofold:

1. A signpost is created to terrorists that larger venues are ready to resist you, but smaller ones are not.
2. A two-year implementation period will take us to the 10th anniversary of the Manchester Arena attack. I ask you to consider what this says about the UK's willingness to learn and our willingness to act.

Conclusion

If this legislation were to be passed tomorrow with no amendment, it would be good legislation and will play a major part in protecting the people of the UK from terrorism. I commend this government, and all those parties who have been involved in getting it this far, for their hard work and determination, especially my friends Figen Murray and Brendan Cox.

The weaknesses in this legislation are resolvable and I summarise them thus:

If it is not the will of parliament to apply this bill to a greater scope of premises then there must exist the ability to revisit that decision at pace if the need arises. A statutory mechanism for doing this would be preferable to secondary legislation.

The calculation of the threshold for becoming in scope would benefit from being simplified. In its current form, it is open to abuse and argument. A single statutory method would be proportionate and effective.

The regulator is not currently properly equipped with the powers it needs to be effective in its function pertaining to Martyn's Law. Those powers need to be enshrined within this bill, or through parallel amendment to the Regulation of Investigatory Powers Act.