

Institute of Licensing
2021
25th National Training Conference

The 'Protect Duty'
Jeremy Phillips QC

ftb
Francis Taylor Building

Promoting Excellence in Licensing for 25 Years

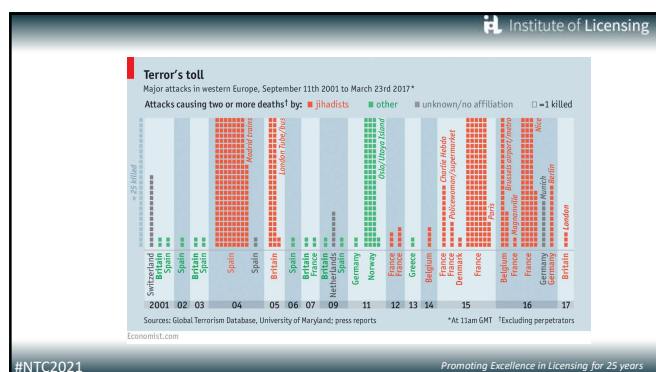
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*Trust not overmuch to the blessed Magdalen;
learn to protect yourself.*

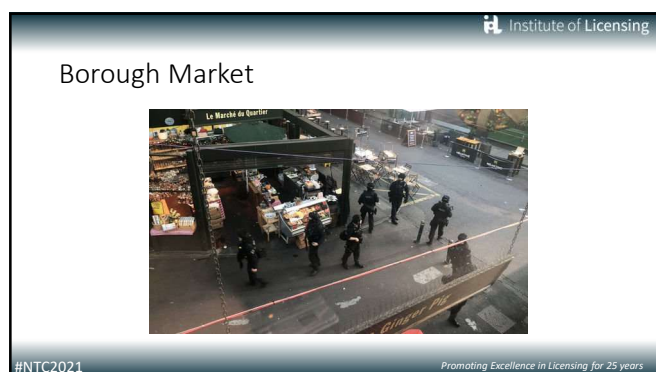
Benjamin Disraeli
Contarini Fleming (1845)

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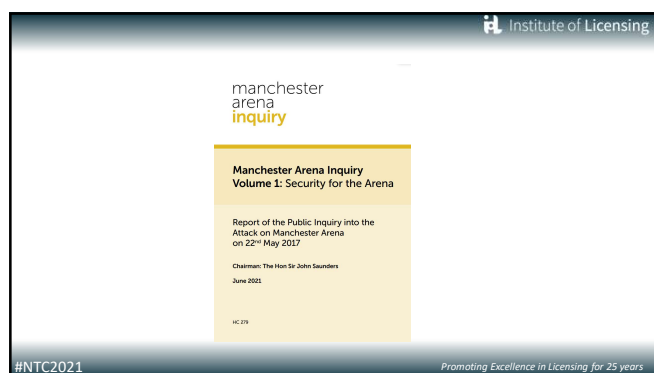


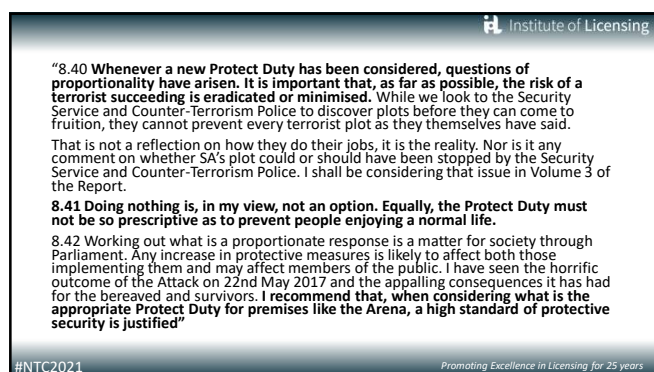














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The proposed 'Protect Duty' could apply to:

- Venues
- Organisations
- Businesses
- Local and public authorities, and/or
- Individuals

who own or operate at publicly accessible locations or others that a 'Protect Duty' would potentially affect.

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A publicly accessible location proposed to be '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'.

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Publicly accessible locations might include: (1)

a wide variety of everyday locations such as:

- Sports stadiums;
- Festivals and music venues;
- Hotels ; pubs; clubs; bars and casinos;
- High streets;
- Retail stores, shopping centres and markets;


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Publicly accessible locations might include: (2)

- Schools and universities;
- Medical centres and hospitals; places of worship;
- Government offices & job centres;
- Transport hubs.


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Proposals focus on considerations of security being undertaken at certain publicly accessible locations

but not private venues, such as places of employment, or other locations where there is not public access.


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Protect Duty requirement could apply to:

- Parties responsible for the venue (usually the owners or operators, who have control and ownership of systems and processes)
- Where there is a shared organisational responsibility for a venue, the parties would be required to work together to ensure the Duty requirements were met.


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Large organisations (250 staff or more)
operating at publicly accessible locations,
able to deliver:

- policy,
- operational processes,
- planning,
- business and legislative requirements

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Could also include: (1)

- organisations with a number of outlets,
below a 100 persons capacity
- across a wide geographical (often national or
UK wide) footprint
- significant and/or regular public footfall
and public engagement, on a routine basis

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Could also include: (2)

For example:

- High street retailers,
- Supermarkets,
- Betting shops,
- Newsagents,
- Chemists, and
- Petrol stations.

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Could also include: (3)

- Public spaces - e.g.:
 - Parks & beaches;
 - Public squares and other open spaces.

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Extent of the Duty

The duty is likely to be to take such steps as are 'reasonably practicable' to ensure the security of members of the public..

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Drivers for Change

A shifting threat...

- Publicly Accessible Locations remain a likely target.
- Targeting is threat actor dependant. It remains an individual choice which cannot be predicted.

...new research insights...

- 676,000 different organisations which may own or operate at least one publicly accessible location in the UK.
- 99% of these are SMEs (16%) and Micro enterprises (83%).
- Organisations are more receptive to engagement and advice at local level and prefer to embed CT in existing schemes/practices
- Without legislation, CT engagement from organisations will be limited

...external commitments...


- The Conservative manifesto commits to improving the safety and security of public venues.
- 'Martyr's Law' campaigns for increased safety measures at public venues.

...and Inquest recommendations...

- Review the crowded places definition and criteria for identifying crowded places in the UK - ensuring it is less 'excessively rigid'
- Consider introduction of legislation to govern the duties of public authorities or produce guidance to outline the legislation currently in place so everyone understands roles and responsibilities
- Ensure that police and Local Authorities are aware of measures that can be implemented for new threats.
- The Manchester Public Inquiry has also focused on these challenges

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Key responses of the IoL to H.O. consultation: (1)

- **78%** agreed or strongly agreed that venues and organisations owning, operating or responsible for publicly accessible locations should take appropriate and proportionate measures
- **67%** considered Capacity would best determine applicable venues
- **94%** considered requirement to consider security etc. should fall to the owner and/or operator of the venue and that parties should work together where shared organisational responsibility

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Key responses of the IoL to H.O. consultation: (2)

In answer to a question as to the size of the applicable organisation:

- **56%** said all organisations
- **11%** said 10 – 249 employees
- **22%** said 250+ employees
- **11%** said 'other', which included:
 - "Would prefer >5 employees as this is consistent with Health and Safety at Work Act duty to record risk assessments"
 - "None - I agree with staff training and venue mitigation to prevent attack however we already pay vast sums of money for the Police to sit in offices when they should be visible and protecting the public."

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What mitigations against terrorism risks does your organisation currently undertake?

- **78%** - Liaison with police or other resource (e.g. security consultant) on threats and appropriate security measures
- **56%** - Evacuation, invacuation, lockdown procedures are in place and are understood and exercised by staff
- **33%** - Business continuity procedures or app (e.g. ACT app) include information on how to respond to attacks
- **11%** - 'Other'


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Local authority functions resulting in best protective security and preparedness outcomes

- 89% - Local Resilience Forums
- 78% - Safety Advisory Groups (for events)
- 67% - Health and Safety, fire safety and building control processes / Community Safety Partnerships
- 56% - Licensing for sports grounds safety / Business Improvement Districts
- 33% - Licensing Committees / Planning processes
- 22% - CONTEST and Protect Boards


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Other opinions expressed by IoL respondents: (1)

- "I believe that acts of terror are not limited to any particular venue or the size of the premises .."
- "All public venues should have the Duty. To leave some out would increase the risk for the public. Cover everything and then there will not be gaps and confusion. All or nothing"
- "Money and it is the role and responsibility of the Police and if I am wrong then why have a Police Force?"
- "There should not be a Protect Duty it's scandalous!"
- "I cannot believe that we are asking organisations and businesses to pay yet more money on top of the bills that they are already struggling to cope with."

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How could organisations be encouraged to engage with partner organisations?

- "Often it is the case that the Police officers involved have very little or no knowledge of the subject matter. There should be specifically trained officers and an appointed person at each premises to develop this"
- "Through the BID, or through mandating via licenses liaising with police counter-terrorism advisors if a venue / business is of a particular size etc.
- Make it a mandatory condition of their licence, planning approval, contract or permission (as applicable)"


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Additional proposals to put forward which could improve security in public spaces?

- "I am an ex-Police Officer with many skills in this area. People such as myself should be allowed to engage with such a project to develop it to an acceptable standard"
- "Appropriate training and run mock exercises of plan to determine what does/does not work. Proactive staff - challenge suspicious behaviour. Designing Out Crime Officers can help with plans when developing outside spaces to recommend and incorporate measures."


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How will these new requirements / mitigations affect:

	Not at all	Increase	Decrease
a. Number of customers/visitors visiting venues in scope of the duty?	62.5% (5)	12.5% (1)	25.0% (2)
b. The public's perception of the terrorist threat?	37.5% (3)	62.5% (5)	0.0% (0)
c. Vigilance of the workforce/use of good security behaviours by staff?	12.5% (1)	87.5% (7)	0.0% (0)

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What would you most likely access on a new service with relevant counter-terrorism material, advice and training:


- 100% - general updates on terrorism risk
- 75% -
 - To support business planning activities
 - understand what risk management activities needed [1] before & [2] after an incident
 - Reporting of suspected terrorist activity/concerns
- 50% - To connect with other organisations to discuss counter-terrorism
- 25% - To access CT training


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- The consultation ran from 26 February to 2 July 2021.
- Further developments awaited!

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