

Written evidence submitted by the National Association of Local Councils

1. About the National Association of Local Councils

1.1 The National Association of Local Councils (NALC) is the recognised membership organisation which works with our network of 43 county associations to represent, promote and improve England's 10,000 local (parish and town) councils which are the first tier of local government.

2. Key messages/summary

2.1 We welcome the opportunity to submit written evidence to the Home Affairs Committee on the Terrorism (Protection of Premises) Draft Bill known as Martyn's Law.

2.2 This is because the legislation will have implications for the majority of England's 10,000 local councils as owners of premises covered by the duty, as organisers of events covered by the duty, and as local leaders for their areas.

2.3 We support the Government's aim of making the public safer at publicly accessible locations and that security measures and interventions should be reasonable, affordable, and proportionate.

2.4 Given the extent of the impact of the draft legislation on the majority of local councils, we are disappointed at the lack of effective engagement with the sector from the Government.

2.5 We are concerned that the draft bill's impact assessment overlooks local councils, for example the Government's estimates of familiarisation costs for local authorities only include the 355 principal councils and exclude the 10,000 local councils which are also a type of local authority. Using the Government's own methodology, familiarisation costs for all local councils would be at least £3million.

2.6 The two premises capacity thresholds are included on the face of the bill, and we would suggest the lower threshold level be considered further and included in regulations rather primary legislation.

2.7 We are also concerned about the detrimental impact of the legislation on community and village halls which are vital community spaces in rural areas.

2.8 To help local councils prepare for the successful and effective implementation of the new legislation, the Government must provide new resources for local councils including funding, undertake a significant communications campaign to raise awareness of the new duty, provide a dedicated programme of support and guidance, and ensure there is an extensive lead in time to prepare.

2.9 We remain keen and committed to working positively and constructively with the Government on the further development of these proposals.

3. Local councils and Martyn's Law

3.1 We support the Government's aim of making the public safer at publicly accessible locations and that security measures and interventions should be reasonable, affordable, and proportionate.

3.2 Local councils already work with a range of partners such as other tiers of local government and the Police to ensure community safety including assessing and mitigating risks at their premises and community events.

3.3 The new duty would apply to most of England's 10,000 local councils who will own, manage, or operate as a minimum at least one of a range of premises such as parks and open spaces, indoor and outdoor markets, theatres, cinemas, libraries, leisure centres, museums, sports facilities, beaches, and community/town/village halls. Local councils are also responsible for a range of outdoor community events including markets, Christmas lights switch ons, fairs, festivals, fetes, and firework displays.

3.4 However, all local councils will be impacted by the legislation as they will need to ensure they are familiar with its requirements and undertake an assessment to determine if any of their premises or events fall within scope.

3.5 While policy proposals on the new duty were published by the Government in December 2022 followed by the draft bill in May 2023, awareness and understanding of the new legislation by local councils – both councillors and clerks – is very low.

3.6 Given the extent of the impact of the draft legislation on local councils, we are extremely disappointed that the Government, either through the Home Office or the Department for Levelling Up, Housing and Communities has not in our view engaged effectively with the sector. This is despite NALC's repeated offer to work positively and constructively with the Government on the further development of these proposals and requests for meetings to discuss the draft bill in more detail.

4. A proportional approach

4.1 Local councils represent communities in rural and urban areas ranging from hamlets and small villages with just tens or hundreds of residents, to small cities and large towns with populations over a hundred thousand.

4.2 Most local councils have little or no experience of considering and mitigating terrorist threats. However, they would agree that threats from terrorism need to be treated very seriously and will want to play their part, working alongside wider partners, to keep their communities safe.

4.3 It is therefore vital that the new duty must be proportional and not burdensome for those within scope such as local council premises and events.

4.4 While it is unlikely all threats and risks can be completely removed, a balance must be struck to enable local council premises and events to be both financially viable and able to operate. And without having an adverse effect on access and enjoyment of public spaces and the volunteers who freely give up their time to help run premises such as community/town/village halls, museums and theatres and community events such as fairs, festivals and firework displays.

4.5 We welcome the increase in the capacity thresholds from those proposed in the Government's consultation on the Protect Duty. However, the Government has a limited understanding of the local council sector in particular the number of premises and events likely to be in scope of the proposals, or the likely cost burden and resource implications of compliance by local councils.

4.6 We remain concerned that the capacity-based approach will impose a disproportionate burden on many smaller premises and events which could lead to causing them to cease and thereby handing a win to terrorists who wish to disrupt our way of life. An appropriate balance must be achieved between protecting our communities and the places they use as part of their everyday business and ensuring that the access and enjoyment of those places is not unduly restricted.

4.7 Given the majority of community/village/town halls have a capacity between 100 and 200, the threshold requirement of 100 as set out in the draft Bill can be argued as being too low for the level of risk involved. We would therefore strongly urge the Government to give further consideration of thresholds or to resolve this issue in another way.

5. Village halls

5.1 There are around 10,000 village halls and similar rural community buildings in England. Around 88% are registered charities, of the rest the majority are owned and managed by the local council.

5.2 Most village halls have a capacity of more than 100 people and will fall within scope of the legislation. We would therefore like to reiterate and echo many of the views and concerns expressed to the Committee in the written evidence submitted by Action with Communities in Rural England (ACRE).

5.3 Village halls and other community buildings are managed by voluntary trustees but who are not responsible for the detailed organisation of events and activities within the building as these are organised by community groups, individuals, councils, or self-employed/small businesses.

5.4 Additionally, trustees will seldom be present at events taking place in the building and the bill does not take account of this form of operation and there is ambiguity about where responsibility will lie. This is a weakness in the Bill for

these kind of community buildings, irrespective of the lower size threshold. Both managing trustees and activity organisers have personal, joint and several liability, due to their unincorporated status. The likely unintended consequence will be a reluctance for people to come forward to fulfil these responsibilities within their community. This will undermine efforts and initiatives to encourage more people to get involved in their community such the Big Help Out.

5.5 The bill is disproportionate for village halls as both the managing trustees and activity organisers are often volunteers and the former are not always 'on-site'. This includes the requirement for individuals to be trained, notification to the regulator of activities and the co-ordination between organisers of multiple, simultaneous, activities across a multi-room village hall. These provisions should be considered further and whether a requirement was instead placed on either the Home Office or the Regulator to provide, or fund, support, advice, and information.

5.6 Rural community buildings often have adjoining open spaces which may come under the governance of the managing trustees and be subject to a variety of rights of way or access. Even if these spaces are used for events jointly with the village hall it is difficult to restrict or monitor access.

5.7 Legislation which is based on an understanding of what may be possible in 'controllable' urban open space could in rural areas fall into disrepute or disrespect.

5.8 Most village halls have a capacity between 100 and 200 and were built over the last century to provide for the multiple civic, recreational and community purposes villages require. And the addition of a second meeting room, an extension for a pre-school group, and committee room for the local council or other community groups means almost all will have capacity over 100.

5.9 Given the level of risk of these types of venues and their community uses in rural areas, the capacity threshold should be considered further, and the Government should develop a much more detailed and extensive understanding of this setting by engaging more closely with organisations such as NALC and ACRE.

5.10 Additional costs to meet the requirements of the legislation will compete for limited charitable resources with other risks and requirements. Trustees will want to consider whether preparedness for an act of terrorism is responding to a greater risk to their users than many of these other risks and requirements.

5.11 The Government should therefore provide financial and other support to help village halls meet this new legislative requirement.

6. Specific issues requiring further clarity or consideration

6.1 The draft bill does not at present include in its scope those places and activities held outside at locations without a definable boundary. Examples of such events which local councils will be responsible for organising, held on their land or in some way involved in would include ceremonial processions or parades, fireworks displays and/or bonfires, markets and Christmas lights switch on.

6.2 That a small building with a capacity of just over 100 people would be in scope of the standard tier, and yet a Christmas lights switch in a town centre attracting crowds of thousands of people would be excluded from the enhanced tier, appears in our view not to be proportionate to the level of risk for either.

6.3 However, we do recognise that the type of events not covered by the legislation are already subject to a range of statutory obligations.

6.4 We would be keen to explore this issue further with the government and provide examples of large outdoor events which are run by local councils or held on their land.

6.5 Further clarification is needed on 'relevant workers' who will be required to undertake ongoing training and whether this definition will include volunteers and/or councillors.

6.6 We would like to see further clarification on 'persons responsible' for qualifying premises or events who will be required to take measures under the new duty, such as who would fulfil this role, how to ensure their competence and how to ensure a consistent approach.

6.7 We are also keen to understand whether those undertaking risk assessments will be personally liable for their advice. And where this responsibility rests when the premises owner and those operating from it are different and how co-operation notices will apply and work in practice.

6.8 The Government should draw on the experience of, and seek to learn any lessons from, the introduction of the General Data Protection Regulation on local councils. We would be keen to work with the Government on this and how overall we can develop a security culture within local councils by raising awareness and minimising risks which would underpin and complement the new duty.

7. Regulation and compliance

7.1 We recognise that to ensure an effective and successful implementation of the legislation, there will need to be some kind of regulatory and enforcement function.

7.2 The role of any regulator will be important in the provision of advice and guidance. It will be vital that any regulator works closely with the local council sector on how this can be effectively delivered and to properly understand the challenges local councils face and the support it needs.

7.3 However, beyond any support provided by a regulator, as this will undoubtedly require further interpretation and explanation, there will be a need for additional sector specific support, and this should be provided through the government funding a dedicated support programme which is delivered by the sector's representative bodies such as NALC.

7.4 The regulator must also work closely with the sector's representative bodies and establish a way of working with local councils which is underpinned by principles of providing a helping, not heavy hand, and by acting as a critical friend, not criticising parent.

7.5 If local authorities such as district or unitary councils are to be given any regulatory or enforcement role including inspections, it will be important that this is sufficiently funded so as not to be detrimental to the delivery of other services and responsibilities in their areas.

8. Resource implications

8.1 We are concerned about the additional pressure this new legislation will place on local council resources and their budgets.

8.2 Local councils are primarily funded by local taxpayers through their small share of council tax and who unlike other tiers of local government, receive no ongoing government funding or a share of business rates.

8.3 Local councils are extremely diverse in terms of the areas they cover, from small villages to large towns, as well as in their skills, resources, and capacity.

8.4 There are around 100,000 local councillors in England – over four times as many councillors than in principal councils – all volunteering their time (over 14 million hours a year) and taking up civic office to make decisions about improving their area.

8.5 Around two thirds of local councils have a single employee, the clerk who is the professional officer, and a third of these are part-time. And councillors spend an average of 12 hours per month on council business. This presents a significant capacity challenge to both the familiarisation by local councils of the new legislation and then ensuring compliance with the standard or enhanced tier requirements.

8.6 We are particularly concerned that the draft bill's impact assessment overlooks local councils and only includes principal councils.

8.7 The Government's estimates of familiarisation costs for local authorities only include the 355 principal councils and exclude the 10,000 local councils which are also a type of local authority. Using the Government's own methodology in the impact assessment, familiarisation costs for all local councils would be at least £3million.

8.8 It is possible that the additional cost burden on local councils overall, beyond familiarisation costs mentioned above, could run into many millions of pounds.

8.9 Under the Government's new burdens doctrine we would expect funding to be provided to support the sector to meet any new obligations. This would include ensuring local councils have the capacity and capability to undertake risk assessments, source and provide appropriate training for staff, councillors and volunteers, access to tailored advice, guidance, and model documents, and can invest in reasonable prevention and mitigation measures that are deemed necessary.

8.10 This should be delivered by the government funding a dedicated support programme which is delivered by the sector's representative bodies such as NALC who already have a successful track record of working with the government to support sector led support and improvement. Examples would include the establishment of the Smaller Authorities Audit Appointments Limited and the delivery of the Transparency Fund for Smaller Authorities.

8.11 We are also concerned about the implications for insurance premiums and the knock-on effect this may have on ensuring appropriate cover. This will add to the growing pressures on local council budgets which are already facing challenges including the cost-of-living crisis.

8.12 Given the extent of the impact of the new duty on local councils including the significant resource and financial implications, we are extremely disappointed that the Government, either through the Home Office or the Ministry of Housing, Communities and Local Government, has not effectively engaged with the sector to discuss these issues further. We have requested and are yet to receive any impact assessment of this policy and legislation on local councils including the financial implications.

8.13 However, we remain keen and committed to working positively and constructively with the Government on the further development of these proposals. We would like to reiterate our previous offer to help the Government develop a more detailed understanding of the impact of this legislation and its regulatory regime on local councils and to work together to put in place a tailored support programme.

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