

## Submission to the Protect Duty Consultation

### By: Making Music (the National Federation of Music Societies)

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### Introduction

Making Music is the UK association for leisure-time music groups, with over 3,600 music groups in membership, comprising around 200,000 hobby musicians. We represent approx. 27% of such groups, making the total number of groups in the UK around 13,500, with over 750,000 participants in such groups.

These groups are generally small charities or unincorporated associations run by a committee of volunteers. They tend to use local community spaces for weekly practices and rehearsals and a range of local venues for performances and events, including dedicated or ad hoc indoor (e.g. concert halls, churches, village halls etc.) or outdoor (bandstands, parks etc.) spaces.

***As prolific hirers of spaces falling within the definition of 'publicly accessible locations' in the Protect Duty, they would be affected by the proposed legislation.***

### Response to the proposals

Action to make the public safer, and feel safer, and to prevent another event such as the Manchester Arena attack is of course to be applauded.

However, we have grave reservations about the Protect Duty as currently proposed:

- Is it necessary at all? Do venues and organisations not already have duties under Health & Safety and the licensing regime to ensure the safety of the public? The interim findings from the Manchester Arena attack indicate it was not lack of legislation that failed to protect the public, but lack of implementation of existing requirements by some duty holders, including the police
- There are serious, if undoubtedly unintended, consequences for millions of citizens participating in community groups using community spaces such as churches, church halls, village halls, community halls, tenants & residents' halls, bandstands, parks, school halls etc. which will arise from the Protect Duty if implemented as proposed

The online consultation is also very limiting in how it asks questions and allows free text answers. Many questions are not relevant to our members, yet they will be obliged to answer them, giving the Home Office a distorted view of the effect of the proposed legislation on the community.

### **Impact of proposals on voluntary community activity and the spaces it uses**

**We believe that introducing the Protect Duty as currently proposed would close many buildings used by communities for beneficial activities and would reduce local activity and groups, including amateur music, available to the public.**

## Section 1 – who should Protect Duty apply to?

1. **Capacity of 100+ or organisations of 250+ employees: neither captures RISK.** You can have a hall which theoretically accommodates 150 but is actually used by much smaller groups all through the week, e.g. amateur orchestra rehearsals, choir rehearsals, Scouts, mental health groups, AA meetings etc. and only occasionally at maximum capacity for an event, e.g. a concert or end of term fête. Capacity is also difficult to state absolutely for a park, bandstand, city centre square etc.
2. **Most of the activity in such community spaces is probably by ‘closed’ groups,** i.e. a choir with known participants, the ballet class with registered pupils, etc.. They are not really ‘publicly accessible.’ So whilst the location may be, again purely theoretically, publicly accessible, it isn’t really for these kinds of activities.
3. **A lot of spaces used by the community for activities are run by volunteers,** perhaps with one caretaker. They are essentially hiring the space out. Neither the hirer nor **the group hiring the space which is also likely to be a small charity or unincorporated organisation run by volunteers** would have the ability or capacity to take on responsibility for the Protect Duty as currently envisaged.
4. It is **ambiguous in the consultation where responsibility would ultimately lie** and lack of clarity will help neither the hiring venue or the organisation planning an activity or event. It also makes it likely that the **venue simply devolve the responsibility in the contract to the hirer – but the hirer will only have limited control over aspects of the building,** making it difficult to implement effective measures. (The hirer can’t instal CCTV, e.g.)
5. As the risk does not lie with the notional capacity (an empty Wembley Stadium is no risk) but with crowded places, especially when there are large numbers of people expected and especially in urban centres, **we suggest that the Protect Duty should apply to events in spaces with a planned or anticipated attendance of, e.g., 250+ .** This would capture both Oxford Street in London on a Saturday and the concert in the cathedral which once a month for 300 audience members. Event organisers and those managing public spaces and retail outlets are usually able to state expected numbers from their experience.
6. The **nature of events should also be considered** – e.g. whether a wedding or a football match with likely trouble between rival fans etc., so risk assessments should focus on that and involve the police as appropriate for advice and support
7. As there are already quite a lot of requirements and duties around events and public spaces, it would be easier and less onerous both for enforcement and fulfilment of the Protect Duty to align anti-terrorist measures and training with, e.g., licensing etc.. **It is likely that the currently required risk assessments for events and public spaces mostly already include assessing terrorism risk – and if they don’t, they surely should.**
8. None of the examples in the consultation and not a single line in the consultation document refer to community activity in community spaces although this affects millions of UK residents in every single community in all four nations – there is no village, no town, no city without a legion of voluntary groups, small charities, activities which are organised by and for the community in spaces which in theory could accommodate 100+ but in reality mostly don’t, or not very often during the course of a year. **We suggest that an impact assessment needs to be done of the effect of the proposed legislation on the civic life of the UK.**

## Section 2: What should the requirements be?

The consultation specifically states requirements should be neither costly nor onerous, but in reality they will be. Small volunteer-run organisations, such as brass bands or community choirs, will struggle to train 25% of their volunteers in anti-terrorism awareness, assess their local terrorism threat etc.. The barriers will be:

1. **Cost**; accredited training will cost; these organisations are run on a shoestring, so they will not be able to afford such training
2. **Volunteers** constantly change and are difficult to recruit and retain, so that will increase the cost to these small charities even more and will make the training difficult to organise; many volunteers would find it hard to access online training (lack of skills, hardware, software, broadband access in rural areas)
3. The kind of spaces used by community music organisations will not as standard have or be able to afford **equipment** such as CCTV or metal detectors and most likely not even have any **staff**, let alone present at each event; nor will the groups be able to provide such staff or volunteers on duty every time they meet
4. ***As an example, a choir might organise 3 concerts a year in their local church and meet weekly the rest of the year for rehearsals; the caretaker of the church unlocks before and locks after the rehearsal and the concerts; there is no other staff employed by the church; the choir has volunteer stewards for its public concerts; these stewards may only be determined a few days before the event or pulled in at the last minute, making training difficult; for rehearsals, there are probably a couple of volunteers setting up beforehand and tidying up afterwards, but mostly people just arrive and leave independently, helping ad hoc with arrangements as needed, e.g. making tea***
5. The consultation implies that even volunteers would have to find out the local terrorist threat level; interpret this information; and act on it appropriately. This will lead to:
  - a. The local police being swamped by endless phonecalls from volunteers asking for information which, once given (if given – it may not be appropriate to share) they will struggle to interpret correctly or know what to do about
  - b. Volunteers running a group, e.g. amateur orchestra, will be too scared to get this wrong and to take any risks, despite them being probably negligible in their area, and therefore will be more likely to cease their activity completely
  - c. Groups and spaces will find it increasingly hard to recruit and retain volunteers, e.g. as trustees or to help with tasks
  - d. But more volunteers will be needed in order to fulfil the Protect Duty, so activities may have to cease due to lack of people willing to come forward
6. It is, however, our view that it is reasonable that ***organisers of public events, e.g. amateur music concerts, of anticipated 250+ attendance should include the risk of terrorism in their event risk assessments.***
7. We believe ***there is already good basic information and training (e.g. via ACT) out there*** and that community groups, spaces and volunteers should be encouraged to read this information and access it, and that ***it should be the local authority or government's role to ensure that a wider range of the community is aware that this information is available to them.***
8. We believe that over and above such basic information and measures it would be ***more constructive to strengthen local police forces*** so that, if there are increased local terrorist threats, they have the capacity to reach out to the whole community to

make them aware and to communicate in simple terms how everyone can contribute to the safety of the local area (e.g. See it. Say it. Sorted.)

9. Although the consultation acknowledges that a plan should be appropriate to the risk, we fear that not government but ***insurers will gradually expect maximum readiness even for low risk activity and/or reflect the risk in rising insurance premiums*** which would most affect small organisations and spaces.
10. **The proposed requirements would shift the responsibility for terrorist acts from the terrorists to innocent members of the public who are volunteering their time in their community. That does not seem right.**
11. **We do not believe that the requirements outlined in the consultation are proportionate to the risks and that the greater risk is to the fabric of civil society if spaces now accessible to the community are forced to shut their doors and less community-run activity is available to the public in their area.**

### **Section 3: How should compliance work?**

The current proposals sound alarmingly onerous and threatening.

Small charities will worry about ***paying fines***; their ***insurance policies may not cover them*** (terrorist threat is not usually included); if they do cover them, ***premiums are likely to increase and/or costly and resource-intensive measures demanded by insurers which small groups will struggle to fulfil and which are disproportionate to the risk at their activity.***

***Trustees carry personal liability at unincorporated organisations which is likely to cause high anxiety in relation to the Protect Duty, especially the threat of prosecution.*** It will prompt charities and volunteer-run buildings to shut down and activities to cease.

Volunteers are very hard to recruit and retain; they do a fantastic job already managing safeguarding, Health & Safety, fire regulations and many other aspects of running a building or a small community group, but this is in another league and ***the Protect Duty will undoubtedly put off many potential volunteers and send existing ones fleeing for the hills.***

Clearly, large events and public buildings attended by large numbers of people should be responsible for assessing terrorist risk alongside other risks in their assessments and mitigations and held to account if they fail to comply with their own stated plans and measures and/or police instruction or guidance.

**But this legislation is simply inappropriate to apply to small community-based venues and organisations which populate community buildings week in week out with gatherings of small numbers of people intent on facilitating engagement by and with the community for all, usually fuelled by a lot of volunteer time and almost no money at all.**

They simply will not be able to cope with this. As one of our members put it: ***It will lead not so much to an improvement in security as in a reduction of community activity.***

## Some further comments from some of our members:

“If the unintended consequences of these proposals are that churches, village halls, community centres and schools no longer host events..., the terrorists have won - they have gravely damaged our society and our freedom without even resorting to actual violence, only a threat of violence.”

*“The proponents of this measure envisage that 25% of the staff on duty at a public venue should have specific training to identify threats and take appropriate actions, that there should be a manager on duty who has received full ACT training, and that the organisation should have regular drills in responding to potential terrorist attacks; but how does that work for a choral society which relies on a pool of volunteer stewards to run three concerts a year?”*

“[The Protect Duty] seems to be placing responsibility to protect the public from terrorist attacks on organisations, where this responsibility has previously been assigned to the police.

Large events (which sadly are more likely to attract murderous attacks) are usually attended by police – and responsibility should remain with police. In the case of the Manchester Arena it seems it was failures of the police which need to be rectified in future.

If responsibilities are to be placed on organisers of community events attended by perhaps 200 people or fewer – then these requirements need to be very simple and clear. E.g. Staff/ volunteers to be clear that suspicious activity can and should be reported to the police. An alternative exit strategy if suspicious activity occurs at one entrance.

It is pointless asking organisers of events to rehearse responses to terrorist attack unless government/ security forces can spell out EXACTLY what those responses would involve. It is a very challenging subject – which is why response to terrorist attack needs to be in the hands of specialists, i.e. the police.”

*“ I do a lot of risk management for a living, and there are two factors to consider:*

- *Potential impact, which is horrendous*
- *Likelihood; the actual risk of a terrorist attack to a provincial amateur concert in a church hall is negligible.*
- *In simple terms, the significance of the risk is the product of these two factors.*
- *Any proposed legislation needs to look at both aspects before mandating expensive mitigations.*
- *There is no point spending a fortune mitigating against risks that have no significance because the chance of happening is so small – spend the money where it has better return. i.e. on the police. I would far rather be reassured and advised by really well trained local police who have access to up-to-date intelligence. If the local police came to me as an event organiser and advised us not to hold an event because of some specific evidence, we'd be delighted to listen.”*