



Weightmans

Preventing and Responding to Terrorism: Key Recommendations of the Manchester Arena Inquiry to Date

Andrew Warnock KC
Laura Johnson KC
Paul Tarne
Rosanne McNeil

30 November 2022

STRUCTURE

- The Arena emergency response: what went wrong?
- Recommendations arising out of the emergency response
- Practical tips to drive good practice
- The care gap: what is it and what should be done about it?
- The Protect Duty: what is it and where we are now?
- The potential regulatory and claims implications of Protect

EMERGENCY RESPONSE

«far below the standard it should have been»

- Inadequate leadership by the police
- Lack of communication between responders
- Failures to share critical information
- Failure to co-locate
- Delays in deploying ambulances and ambulance personnel
- Failure by fire service to arrive at scene for over 2 hours

EMERGENCY RESPONSE

- Failures to adequately prepare
- Failures to keep plans up to date
- Failures to embed JESIP training
- Failures to involve control rooms in training exercises
- Failures to adequately debrief training exercises
- Failures to learn lessons from exercises
- Failure to take action on known problems: in particular likelihood of Police Force Duty Officer being overwhelmed
- Failure to have an established multi-agency control room talkgroup

Event medical provision:

- Licencing requirement: adequate healthcare services
- Inadequate risk assessment of requirements for the Ariane Grande concert
- Inadequately trained leadership and staff in the healthcare service provider
- Inadequate provision of equipment at the venue
- “Neither the Arena operator nor health care provider took an adequate approach to considering how the healthcare service would respond to a mass casualty incident”

RECOMMENDATIONS

- Many changes already implemented by the local blue light agencies
- Additional recommendations have been made directed towards the local agencies
- All are important.

- Inquiry identified that even with a textbook blue-light response, delays in getting treatment to the seriously injured are likely to occur.
- It has made recommendations to address this “Care Gap”

PRACTICAL TIPS

Systems should not fail because of individual errors

- Oversight
- Planning and preparation
- Training
- Exercising, learning and embedding
- Command
- Who, what, where and how?
- Communication
- Identifying and sharing information
- Record keeping

CARE GAP

“in a mass casualty incident, it is inevitable that there will be a delay in paramedics and/or other healthcare staff arriving at the scene and commencing treatment”

Cause of the Care Gap

- Reality of ambulance resourcing
- Time required to establish command and control
- Need for triage where demand exceeds capacity
- Impact of zoning for danger

Narrowing the Care Gap: Ambulance Resources

- Resources: ambulance trusts to review
- Hazard Area Response Teams: numbers and availability

Narrowing the Care Gap: Working together

- Presumption of leadership by the most appropriate emergency service
- Presumption of forward deployment
- Development of common risk appetite
- “High-fidelity” training

Narrowing the Care Gap: Embedded Medics

Should doctors be embedded in police firearms teams?

French “RAID” model- deploys to hot zone

Identified difficulties in translating to the UK:

- Impracticalities of embedding in ARV model
- Timing of secondary response provided by CTSFOs
- Availability of medical personnel

Recommendation for CTPHQ to review

Narrowing the Care Gap: Air Ambulances

Air ambulances:

- largely charities in England
 - consultant led
 - able to provide first responder, bridging and enhanced care interventions
- Health care bodies to consider how they might be integrated into the emergency response to a terrorist attack.

Narrowing Care Gap: Triage

Review system of primary and secondary triage and its impact on speed of casualty evacuation

“Ten Second Triage Tool” for mass casualty incidents – to be considered and reviewed by representative bodies of all the emergency services

Narrowing the care cap: Treatments

Recommended Reviews of treatments

1. Analgesia (use of fentanyl lozenges)
2. Freeze-dried plasma
3. Tranexamic acid (TXA).

Filling the Care Gap: The voluntary sector

- Citizen Aid:
www.citizenaid.org
- Empowers members of the public to save lives in the critical minutes before the emergency services are able to attend

Filling the Care Gap

ROLE OF THE PUBLIC

- Extend the national curriculum first aid training to cover catastrophic bleeds and airway impairment
- Public Education Programme
- New duty on employers to train employees
- Public Access Trauma Kits

Filling the Care Cap

Recommendations for events:

- First responder training for all event staff licenced by the Security Industry Authority
- Regulation of healthcare services at events, capable of enforcement by a regulator
- Potential criminal consequences for breaches by the providers
- Interim review of licencing conditions
- Appointment of an Ambulance Liaison Officer (from the ambulance service) for certain events

Be Aware ..

The Health and Safety (First Aid) Regulations 1981

- These already require employers to provide “adequate and appropriate” facilities and personnel to ensure their employees receive immediate attention if they are injured or taken ill at work
- Although the regulations do not place a statutory duty on employers to make first aid provision for non-employees, the HSE “**strongly recommends**” that non-employees are included in an assessment of first-aid needs.
- Where a common law duty exists to take reasonable protect members of the public (in tort or contract), guidance may inform the content of that duty.

Filling the Care Gap

Recommendations for the Emergency Services:

- Training of control room operators to advise members of the public on first responder interventions
- Training of all unarmed police officers and PCSOs
- Training of all firefighters in first responder interventions
- “Care under Fire” by armed response officers

The Protect Duty

- Otherwise known as ‘Martyn’s Law’
- It will require the **owners and occupiers** of **publicly accessible locations** to positively **assess the risk** of terror attacks and **take reasonable steps** to reduce the threat and impact of such attacks.

The Current Position

- Government Consultation concluded last year.
- Recommended by the Chairman of the Manchester Arena Inquiry in the Volume 1 report.
- Volume 2 report announcement – consider imposing a duty on large organisations catering to large audiences as soon as possible.
- What next?

Vol. 1 Report Findings: Security Arrangements at the Arena

- Risk Assessments: a missed opportunity to identify deficiencies in security arrangements
- Responsibility for security in “grey spaces”
- Hostile reconnaissance
- Inadequate counter-terrorism training
- Voluntary counter-terror regimes were not successful

Protect Duty: the basics

Protect will require duty holders to:

- Assess the risk of terror attacks
- Consider **reasonably practicable** measures to mitigate that risk
- Prepare a plan to implement those measures

Protect Duty: the basics

Who are the duty holders?

- Owners and occupiers of publicly accessible locations
- Potentially, those with no legal interest in the property but who have a responsibility for security
- Grey spaces – multiple duty holders

Protect Duty: the basics

Where will the duty apply?

- Public venues with a capacity in excess of 100
- Large organisations with 250 or more employees
- Public spaces
- Further categories to come?

Compliance

The case for an inspection and enforcement regime:

- Voluntary schemes have been unsuccessful
- Guards against complacency
- Identifying areas for improvement or vulnerabilities
- Sharing advice and best practice
- Furthers the aim of protecting the public

Compliance

What form with the regime take?

- **Government Consultation:** “light touch” regime and civil penalties
- **The Chairman:** a more robust regime comparative to health and safety / food safety

Compliance

*“In my view, there is no good reason to put in place an enforcement regime that is **any less rigorous or robust** in terms of **inspection, enforcement and penalty** than that which exists in the parallel health and safety legislation.*

Given what is at stake, namely the lives of people going about their everyday business, there is every reason to make the Protect Duty equally rigorous and robust.”

Enforcement

*“It is important that there is **proper enforcement** of the Protect Duty, the possible consequences of breaches are **so serious** that proper steps need to be taken to avoid them happening.”*

*“I recommend that enforcement of the Protect Duty is **at least as robust and rigorous** as comparable regulatory regimes.”*

Enforcement: the Chairman's recommendations

Enforcement Notices

- Setting out remedial actions with a timescale for compliance.
- Preventing businesses from operating until remedial action is taken.
- An appeal process.
- A criminal offence to fail to comply with a valid notice.

Enforcement: the Chairman's recommendations

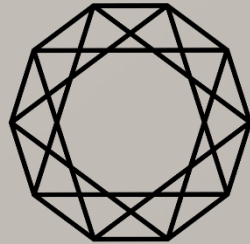
Criminal Prosecutions

- Supports criminal prosecutions and “more severe penalties for the most serious cases”
- Potentially very significant consequences for non-compliance – large fines and custodial sentences?
- A similar sentencing guideline to health and safety offences?

Civil Law

- Legislation may create a direct cause of action for victims of terror attacks to pursue claims for compensation for breach of statutory duty
- At the very least it will help establish a case in common law negligence

Thank you for your attention
Questions?



DEKA
CHAMBERS



www.dekachambers.com
www.weightmans.com