



Home Office

**SECURITY GUARDS AT SPORTS AND OTHER EVENTS AND THE
PRIVATE SECURITY INDUSTRY ACT 2001**

ANALYSIS OF RESPONSES TO THE CONSULTATION EXERCISE

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Introduction

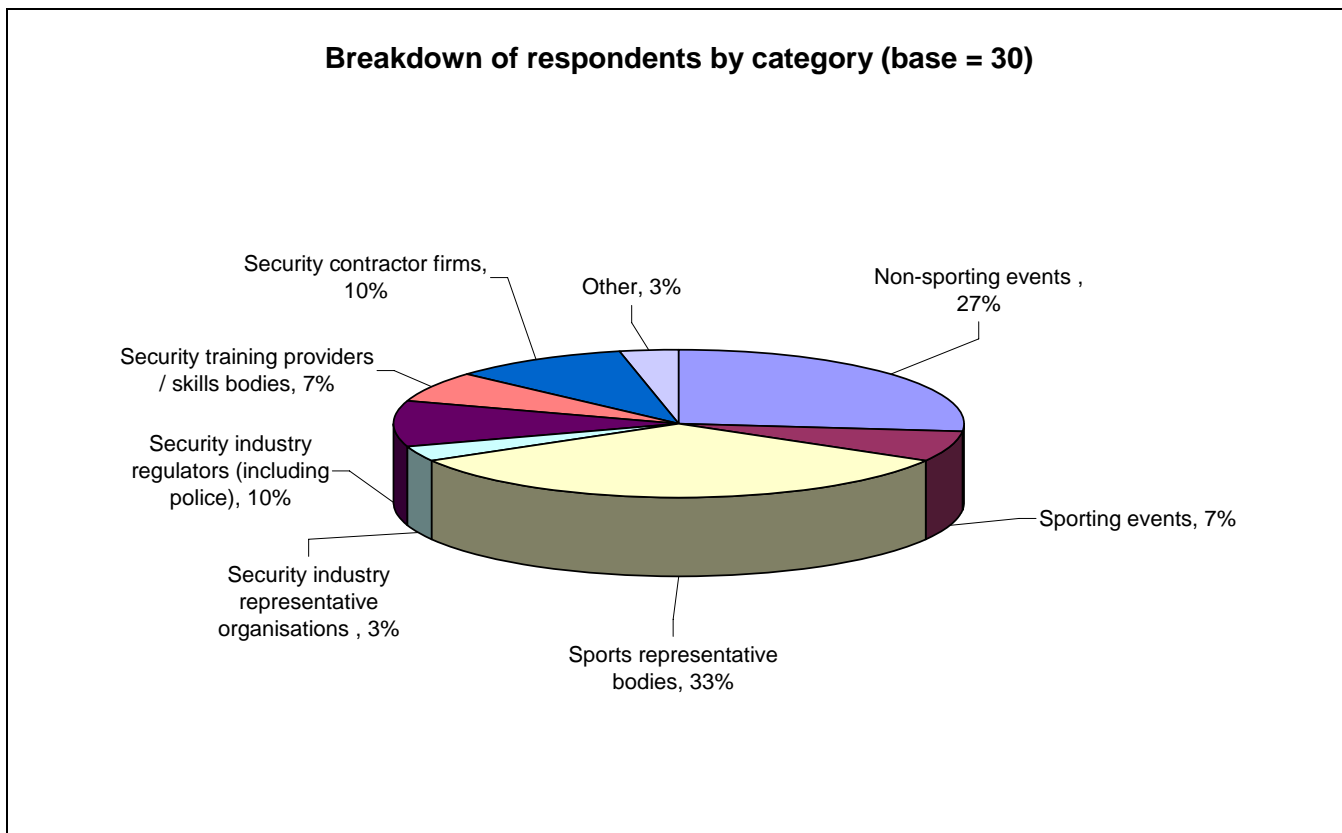
1. On the 29th March 2006, the Home Office issued a partial Regulatory Impact Assessment (RIA) consultation document entitled 'Security guards at sports and other events and the Private Security Industry Act 2001' (PSIA). This partial RIA considered the options available for applying the PSIA to security staff and sports and other events, setting out potential options for moving forward. The consultation document asked sixteen specific questions in respect of key elements of the partial RIA, as well as inviting general comments about issues or proposals raised within.
2. The document was sent directly to key stakeholders, including representatives from sports, events and training, with encouragement to circulate more widely via their networks. It was also available on the Home Office and SIA websites.
3. The consultation period ran for 12 weeks. By the closing date of June 16th, there had been 30 responses to the consultation exercise from across a range of sports and events, police, security industry representatives and regulators, contractor firms and training providers (table 1 and figure 1 below). The majority of sports were represented by two responses: one comprising the views of cricket, football, rugby league and tennis (and their governing bodies), and one from the Central Council for Physical Recreation (the representative body of 270 national sporting organisations).
4. This document provides an overview of these responses, some detail of these responses (broken down by question), some of the specific comments made by consultees, and our responses to the key issues. The full RIA will set out recommendations for the way forward.

Table 1: Breakdown of respondents

Category	Number of responses
Non-sporting events	8
Sporting events	2
Sports representative bodies	10
Security industry representative organisations	1
Security industry regulators (including police)	3
Security training providers / skills bodies	2

Security contractor firms	3
Other	1
Total	30

Figure 1: Breakdown of respondents by category



Executive summary

5. Generally speaking, the consultation responses fell into two main groups – those from the security industry (e.g. regulators, providers and trainers), and those from the sports and events sector (e.g. specific premises, events organisers, representative bodies). The former group were, in the main, in favour of the law as it stands and cautious of any move to modify or reduce the coverage of the licensing regime as dictated by law. The latter group were more diverse, ranging from those who completely opposed the licensing regime (as they interpreted it as applying to them), through those who were still unsure about the application and implications of the PSIA, to those who were broadly supportive.

6. For example, some events organisers or representative bodies reported working successfully with the SIA to ensure appropriate implementation of the Act and, subject to no further inclusions to the scope of the Act, were confident that they could continue to do so. However, others had very real concerns that the legal requirements of the PSIA – as they understood them – would prove very burdensome, perhaps even prohibitively so, in terms of maintaining necessary levels of security or even continuing with events altogether.

7. One of the most common themes running through the consultation was that of clarity of definition. Some of the issues raised suggested that, with a better understanding of the Act and greater individual confidence in interpreting and applying it, many of the more significant concerns could be allayed. For example, a number of respondents were unsure whether they would have to ensure that ‘stewards’ who they saw operating in a safety, not security, capacity were licensed, when in fact such activity **may not** fall within the remit of the PSIA.

8. It is clear therefore that, moving forward, it is necessary to focus away from job titles and towards specific activities. As was pointed out, the Act is very clear about the definition of licensable manned guarding activity (as per Schedule 2, part 2, paragraph 2(1)). For example, organisers should avoid thinking about whether ‘safety officers’ or ‘bag searchers’ should be, per se, licensable jobs, and instead look at ensuring a robust job description for each individual that will enable an assessment of licensing requirement to be made.

9. Views on the options put forward in the partial RIA were also mixed. Understandably, some found the difference between exemption for licensable activities and exclusion for premises a subtle one, and the terms ‘exemption’ and ‘exclusion’ were often used interchangeably. Those that looked specifically at the exemption framework had issues with the potential bureaucracy created by the introduction of a new regime for granting exemption. Some events or premises thought that they should be ‘exempt’ for reasons outside the test of equivalence required by the exemption framework.

10. Most responses from the sporting sector favoured blanket exclusion for sports grounds covered by safety certificates. Concerns from the events sector tended to focus on whether exclusion was appropriate for premises

which could potentially host a whole range of different events, a view that was echoed by some from the security industry and regulatory side. There was also a view that either exemption or exclusion could create a 'two-tier' system (both across the sector and between in-house and contract staff).

11. Only three responses gave strong support for a specific sports and events licence, with most considering that it would not address the current concerns, would add to the complexity and burden of the current licensing regime, and could potentially constrain security operatives in their work opportunities. It was felt more important that SIA-required training and qualifications are appropriately tailored and standardised for the sector, with event or premises-specific elements where appropriate. Those within the sports and events sector generally considered that they already offered their staff the necessary training and that this training should be built upon.

12. There was no specific challenge to the manned guarding activities as defined in the Act and their applicability to the sector; again, it was the interpretation of this definition that was questioned (and, in some cases, the appropriateness of titles such as 'manned guard' and 'door supervisor' to the types of roles undertaken in sports and events). However, a number of responses from within the sports and events sector highlighted a persisting view that the sector should never have been included within the scope of the Act.

Responses to the questions

13. This section summarises the key responses to the questions set out in the consultation RIA. It should be noted that not all respondents provided an answer to all questions, that some answers overlapped questions, and that some did not actually address the point raised in the question.

Question 1: Are there any activities within the licensing regime commonly undertaken in the sector which are not covered in the document?

14. Most consultees had nothing to add to the list of activities covered in the partial RIA. The only examples provided which were not explicitly covered in the document were:

- Escorting of players / performers etc on premises;
- People or bag searching **using x-ray or other equipment**; and
- Obtaining information about / vetting demeanour of event attendees.

15. However, it was also obvious from answers to this question that many required additional clarity about roles that were covered in the document (see question 3).

Question 2: Is there any difficulty in applying the guidance issued by HM Revenue and Customs on payments in kind or reward in the appropriate use of volunteers at sports and events?

16. The majority of respondents had not experienced any difficulties in applying the guidance, although absolute clarity about the definition of 'volunteers' was sought by some. Specifically, there were queries as to whether donations to charities or 'perks' such as free tickets or meal allowances could compromise volunteer status. Generally, it was accepted and agreed that volunteers should be outside the licensing regime, albeit that appropriate training is still required for the roles they undertake. However, there were a few concerns that this might lead to abuse of volunteer usage (e.g. using volunteers inappropriately for security duties) or lower standards at events using more volunteers (to circumvent the requirement for more licensed staff).

Question 3: Is the definition of licensable activities used in the consultation document workable to the sector and applicable to both in-house and contract security personnel?

17. Most respondents from the security industry (e.g. providers, trainers) were content that the definition as set out in the partial RIA was both workable to the sector and applicable to both types of personnel. The SIA viewed the definition as providing an alternative view to the definition of licensable activity (as per Schedule 2 of the Act) and not having any legal basis. It considered

that this could actually add to confusion about what constitutes licensable activity.

18. Concerns from others (primarily events organisers and sports representative bodies) included that the definition blurred safety and security roles; and that some definitions (e.g. 'safety officer', 'physically searching', 'front-line') needed further clarification. It was clear from the responses that there is not necessarily a common lexicon of 'security' and 'stewarding' activity across sporting and other events, and therefore the use of such terms in a generic way risks opening the Act up to further misinterpretation.

Question 4: Are there any roles normally undertaken within the sector where there is uncertainty about whether they should be licensable?

19. As with question 3, greater clarity of definition was sought by most consultees. The examples listed in question 1 were again mentioned, along with:

- Staff operating tanyo / PA systems to assist in crowd control;
- Staff operating CCTV systems to monitor spectators;
- Pit crews;
- Staff working in designated non-drinking areas within licensed premises;
- Stewards preventing access to 'out of bounds' areas (e.g. private boxes, disabled-designated areas, VIP areas, dressing rooms, tunnel areas etc), enforcing non-drinking areas and dress codes;
- Stewards providing support to welfare / information services (e.g. liaising on lost children, protecting lost property, escorting vulnerable people); and
- Military personnel undertaking security functions while not in uniform.

Question 5: How should bag searching be dealt with within the licensing regime?

20. The issue of bag searching generated very divided views. Fundamentally, respondents were split between those of the opinion that people undertake bag searches primarily for preventative safety reasons, and should therefore not be required to be licensed (11/30 respondents), and those (predominantly from within the industry) taking the view that bag searching is primarily a security duty, aimed at preventing dangerous or prohibited items from being allowed in (8/30 respondents). The remainder either did not comment or did not undertake bag searching.

21. Some from the former group considered that a requirement to license bag searching could risk events employing fewer staff to conduct searches (resulting in a drop in searching standards). However, consultees in the latter group highlighted the increased risk in the current climate of terrorist threats,

gun and knife crime, and the importance of knowing exactly what to look for and how to deal with it if found. On this note, a police response raised the importance of police commanders needing faith in the expertise of staff conducting searches. Queries were raised specifically in relation to the searching of people or bags using x-ray or hand-held equipment.

22. The SIA is clear that there is a requirement to license bag searching if it is in pursuit of any activity listed in Schedule 2, with the onus on the employer to decide whether this is the purpose of specific bag searching activity. Some respondents reported taking this pragmatic approach – searching on a risk-assessed basis, and fixing a ratio of licensed supervisors to unlicensed searchers accordingly – but there is clearly still a lack of confidence surrounding this on the part of those managing security and safety operations.

Question 6: How should crowd monitors be dealt with within the licensing regime?

23. As with bag searching, there was a split view as to whether those monitoring crowds are doing so primarily for safety or for security reasons. Some respondents were clearly delineating between those who monitor crowds but personally take no action and those reacting to such observations. Others were very definitely in either ‘all in monitoring roles are licensable’ or ‘all in monitoring roles are non-licensable’ camps. And as with bag searching, some voiced concerns that a requirement to license such roles could result in fewer monitors being employed.

24. The SIA’s advice on this is similar to question 5 above – if monitoring is in pursuit of performing schedule 2 activities, then it is licensable.

Question 7: How might paragraph 2(6) of Schedule 2 of the Act¹ apply to roles at sports and events?

25. There was a mixed response to this question. Some consultees were of the opinion that it is quite simple to define those duties that are ‘incidental’, ‘not wholly or mainly the activities of a security operative’ and those that are responsive to ‘sudden or unexpected occurrences’, but others were concerned that this was fraught with uncertainty and subjectivity.

26. One respondent made the point that almost any security circumstance *could* be regarded as a ‘sudden or unexpected occurrence’. The SIA seeks to clarify that sub-paragraph 6 is only relevant when the activity performed is both incidental and responds to a sudden or unexpected outcome.

Question 8: Do sports and events organisers experience any difficulties in deploying staff or reviewing arrangements for supervision?

¹ excluding from licensing regime the activities of a person who, incidentally to the carrying out of activities which are not wholly or mainly the activities of a security operative, responds to a sudden or unexpected occurrence.

27. Few consultees reported any current difficulties in respect of deployment, although one made the point that redeployment can be complicated when not all stewards have frontline licences. One events organisation had concerns that deploying staff at seasonal events (which rely heavily on casual staff) could become more difficult under the licensing regime, as there would be less scope for multi-skilling – with a possible consequence of increased head count and licensing costs for such events.

28. Another events organiser reported a suspicion that some contractors have not been entirely honest about licensing requirements, charging premium rates for licensed personnel that were not strictly necessary. Whether such action is deliberate or otherwise, this reinforces the need for organisers to have sufficient understanding of the PSIA to be able to challenge contractors' interpretation of licensing needs.

Question 9: What would be the impact on the number of stewards who would need to be licensed if the roles in paragraphs 38 – 47 were to fall within the licensing provisions?

29. Most respondents from within the sector considered that including all the roles in these paragraphs within the licensing regime would require a significant increase in the number of licensed staff they had to employ (and a consequent increase in wage costs). Some also questioned whether there would in fact be enough licensed staff across the industry to meet the demand.

30. Some example costs were as follows:

- 'Assuming all crowd monitors had to be licensed, a medium-sized music festival (c. 60,000 attendance) would have to employ around 700 extra licensed staff, increasing wage costs by £126,000';
- 'Numbers of licences required could increase by 200%'; and
- 'Should roles such as bag searchers and monitors require licensing, the largest race meetings could require approximately 850 additional licensed staff'.

31. One respondent also had concerns that there would be a blanket requirement for a ratio of licensed to non-licensed staff, and that this could increase costs significantly.

Question 10: What are the views on the applicability of the exemption process?

32. The responses to this question suggested a lack of understanding about exactly how exemption would work, and how it would differentiate from exclusion (see question 11). Some expressed support for exemption as long as 'equivalence' could be demonstrated, but others were critical of the notion of blanket exemption, or the creation of a 'two-tier' system. Some specific premises / events considered that they *should* be exempt, but not through demonstration of equivalence. A small number of respondents raised the

issue of exempting in-house security staff but not contracted staff when both are required to perform the same duties. Two considered the proposed exemption framework to be creating another layer of bureaucracy which could be avoided by better definition of roles.

Question 11: What are the views on the applicability of an exclusion provision for premises and what does a framework need to take into account?

33. There were mixed responses to this question. A number found it difficult to see how particular premises, as opposed to events, could be excluded from the requirements of the additional controls. One questioned whether this was fair when other sectors subject to the same legislation had not been offered a comparable exclusion route. Two were strongly opposed to any kind of exclusion.

34. On the other hand, four respondents (from within the sports and events sector) argued for exclusion of premises subject to demonstration of certain regulatory and quality assurance measures (e.g. Safety Certificates). One considered that exclusions should be made '*in the amelioration of the unintended consequences of the legislation*'. Four of the responses, covering most of the major spectator sports, wrote in application (or implied such an application) for, or in support of an application for, exclusion for sports grounds.

Question 12: Do any guarding activities defined in the 2001 Act not apply to the sector?

35. No respondents disputed the 'manned guarding' definition as set out in schedule 2 of the Act, although the appropriateness of some 'titles' to the sector was questioned (e.g. '*why not change the title of the Door Supervisory licence to, for example, a Venue Security licence?*').

Question 13: What are the views on the advisability of developing a specific sports and events licence?

36. There was little support for this idea – of the 30 respondents, 17 (57%) were against the introduction of a specific sports and events licence, six (20%) were strongly or cautiously in favour of such a licence, and seven (23%) did not comment.

37. Most consultees could see little or no benefit, with some perceptions that a separate licensing regime would be contrary to the Better Regulation agenda and create another layer of bureaucracy. Some viewed the sector as too diverse for a specific licence to be useful; while others made the opposite point – that security guarding activities are fundamentally the same whatever the sector, and that the basic principles of good security remain true wherever they are applied. Additionally, there were concerns that it would make it more difficult for security personnel to work across the industry without the requirement for multi-licensing.

38. Five respondents *did* favour a specific sports and events licence (three strongly), for reasons including the ability to tailor the licensing regime to the sector, and the development of specific training and qualifications that could in turn drive up standards.

Question 14: What training / qualifications would be appropriate for entry level licensing purposes?

39. A training provider considered that tiered training was appropriate with, for example, the Door Supervisory National Level II course for all security personnel, and Level III (with physical intervention and first aid training) for those taking on greater responsibility. Those from specific sporting sectors considered that the training packages developed for their stewards (e.g. that for the football industry) provided sufficient (and targeted) training. Responses indicated that there was significant good practice that could be built upon.

Question 15: What are the views on how these proposals may disadvantage black and minority groups?

40. The vast majority of respondents could not identify any disadvantages. A very small number queried whether the licensing requirements could impact disproportionately on people from BME groups as there is a perception that they are over-represented in the security industry compared to the general population. If individual contractors are required to fund their own training and licensing, then this could have financial implications. However, with the exception of the sector-specific licence, the proposals contained within the RIA are looking at simplifying or clarifying the existing licensing requirements, not adding to them. It is therefore difficult to see how they could adversely affect black and minority groups.

Question 16: What are the views on whether market share or entry to the market may be affected by the proposals?

41. One respondent made the point that if more licensed staff are required, costs will be driven up and entry to the market will be made more expensive. Another queried whether it could actually lead to a lowering of standards, as more volunteers are used and smaller contractor firms are priced out. He also thought that the Act could be a barrier to employees from other EU states.

42. The biggest concern was that exemption or exclusion of in-house security staff would lead to more security functions being taken in-house, putting contract security at a competitive disadvantage. However, others reported that experience from the wider application of the PSIA does not suggest that security duties have been taken in-house as a result of licensing and, indeed, that the better contract suppliers are enjoying substantial growth. Furthermore, as some consultees from the events sector report, their in-house to contract ratio is driven more by the frequency of event and cost effectiveness of maintaining an in-house workforce than by the licensing requirement.

General views and comments

43. As might be expected, the views of respondents tended to align broadly depending on the particular interest(s) represented. This section therefore provides a summary of the comments from some of the key consultation respondents, grouped by category of respondents. We respond to the main themes generated in section 5 below.

Sports

44. The consultation response on behalf of the major spectator sports makes much of the debate over whether it was ever intended that sport should be subject to the legislative requirements of the PSIA. It also reflects the concern of sports' bodies that some functions undertaken by sports stewards have led to them being defined as 'security personnel' and that there has been (in the words of the Better Regulation Task Force²) 'regulatory creep'.

45. The response makes an application for exclusion from the licensing requirements of in-house door supervisors on the following grounds:

- Sports events share a number of key characteristics with other premises that have already been excluded from the Act (e.g. cinemas, casinos);
- Sporting events are inherently low risk in terms of breaching the main objectives of the PSIA – specifically removing criminality from the industry, improving standards and professionalism, and increasing public confidence in the industry;
- The sale of alcohol is incidental to the premises' main purpose;
- The premises and activity are already defined and regulated under the Safety of Sports Ground Act 1975 and the Fire Safety and Safety of Places of Sport Act 1987.

46. The separate response from the main **football authorities** (Football Association, FA Premier League and Football League) supports this submission and submits its own application for exclusion, believing that the existing safety certification process for sports grounds provides a compelling case. It seeks recognition for the development and delivery of steward training and qualifications, and of the oversight role of the Football Licensing Authority in maintaining these standards.

47. The response from the **CCPR** (which included liaison with other sporting bodies such as UK Sport) is based on the premise that the CCPR believes that sport should be excluded from the Act. The CCPR's reasons for this are that:

- Sport was not the original target of the Act;

² Now the Better Regulation Commission

- Sport is low risk in terms of the Act's objectives and is already regulated.

48. It has not provided a detailed response to the consultation document but affirms its support for an exclusion framework. No detailed evidence has been supplied to substantiate an application.

49. Some responses were also received from individual sports representative bodies. These are all of the opinion that security staffing activity, when undertaken at a sports ground covered by the 1975 and 1987 sports safety legislation, should not be subject to the licensing controls of the PSIA.

Sporting and other events

50. Responses from the events sector suggest that there is quite wide disparity between how different events' organisers have engaged and are engaging with the requirements of the Act as it currently stands. Some are content that they are interpreting the legislation correctly, using robust risk assessments and striking the right balance between licensed, non-licensed and (where appropriate) volunteer events staff. Others clearly have their own views about what should and should not be licensed, but lack the reassurance about whether these views are right and are potentially in breach of the Act. However, nearly all have areas of the legislation where they seek further clarification and guidance.

51. Foremost among these is confusion about the distinction between 'security' and 'safety' duties. For example, is crowd monitoring primarily about keeping the crowd safe (e.g. protecting from crushes, sunstroke), or preventing crime (e.g. theft, drug taking, pitch invasion, racist behaviour)? If someone is employed to manage crowd safety, should they be expected to avoid all security issues? Why is this different from cinema / theatre ushers who may still have to deal with security breaches but do not have to be licensed?

52. Fundamental to this distinction is the issue of paragraph 2(6), which applies when the activity performed is both (a) incidental to the carrying out of activities which are not wholly or mainly the activities of a security operative; and (b) in response to a sudden or unexpected occurrence. A number of consultation responses from events organisers suggest that they are looking for absolute definitions in respect of this.

53. For small, local events, there are concerns that funding the training and licensing costs could mean that such events are discontinued.

The regulator

54. The **SIA** is of the opinion that the Act is very clear about what is and is not licensable activity (under Schedule 2), and that the Act "does not regulate sports, stewards or marshals, only security". The focus is on the nature of activities undertaken by an individual, not on job titles, frequency or location of activities, and on activities connected primarily with security, not safety. The SIA considers that the current legal framework and definitions are sufficiently

clear and flexible to regulate security operatives effectively across the sector; however, it is happy to discuss exemption requests with any body so seeking such an exemption. It does not, at this stage, provide an opinion on the exclusions framework as this is currently under development by the Home Office.

The security industry

55. The **British Security Industry Association (BSIA)** echoes many of the SIA comments, strongly asserting its belief that it is “security, and the duties attending the provision of security which are licensable, not organisations, different venues, or types of events”. As such, it does not support the concept of blanket exclusion for premises as “the risk assessment applying to any premises or event must be on a one-by-one basis”. Unlike the majority of other respondents, the BSIA supports the development of a licence for security personnel specific to the sports and events sector as a means of facilitating specific training and qualifications for sports and events security. However, it also notes that “the basic principles of good security remain true whether it is provided in a shop, office or any type of event”.

56. Two of the three **security service providers** who responded to the consultation document were in broad agreement that nearly all activities performed by ‘stewards’ at sports and events should be licensable. The third takes the view that stewards “perform a wide variety of activities, most of which are not covered by the definition. Most stewards employed at events would only be called upon to perform security activities incidentally to their main role...because of a potential crowd control or event safety issue”. The experience of this firm is that around two-thirds of events staff carry out ‘stewarding’ as opposed to ‘guarding’ duties. It believes, as does one of the other firms, that the development of a specific licence would be inadvisable due to the diverse nature of the sector, and the fact that it could lead to security operatives requiring more than one licence to work across the industry.

57. **Skills and training bodies** take the broadest view of the security guard definition, bringing together most security and safety roles. “It should be noted that the UK is one of the few countries that separates security and safety, and indeed has two words to describe the difference, which is, in our opinion, minimal and unnecessary”. The argument is made by one that all frontline personnel involved with the public at events are in situations where conflict management may be required, and unless all are licensed, response to such situations will lack professionalism and uniformity.

58. They do not support either exemptions or exclusions that may allow for a “two-tier system [that may provide] a bolt-hole for those undesirable individuals who have failed the licensing process elsewhere”.

Police

59. The main response from **ACPO** response is broadly supportive of the key options as set out in the partial RIA, namely exemption for specific sporting events and (with further development) exclusion of premises. Its main concern

is that any development might undermine the credibility of the SIA as regulators or open up the industry to regulation evasion. It therefore sees clear and unequivocal guidance as being essential moving forward. Providing it at least maintains current levels of safety at events and provides clarity, the police service will be 'happy to work with any chosen solution'.

60. A second response from the ACPO Terrorism and Allied Matters Sub-Committee addresses concerns about the division of responsibility between police, private security companies, venue stewards and party stewards at party political conferences. Concerns about the unique nature of such conferences and the security risks they attract (particularly given the heightened terrorist threat) mean that they rely on extensive police and private security provision, but security roles may also be undertaken by venue staff (and, on occasion, party volunteers). This ACPO response therefore supported licensing in certain circumstances.

Other

61. The response from the Better Regulation Commission concurs with the need to ensure properly trained people are available at sporting and other events where there is a 'clear and identifiable risk to the public safety and to maintain order where appropriate'. However, it also stresses the need for licensing arrangements to be 'risk-based and proportionate', and is concerned that the RIA does not sufficiently describe the risk that the licensing arrangements are seeking to prevent. It also considers that there is a lack of clarity in definition – for example, differentiating between safety and security. It welcomes proposals for exemption of specific sports and events, and exclusion where existing regulatory systems could duplicate those of the SIA licensing regime.

Home Office responses to key issues raised

62. The key issues raised by consultees are summarised below, with the Home Office response to these issues.

Definitions and clarification

63. Some of the greatest confusion around and misinterpretation of the Act is due to the definitions of 'licensable activity'. The Act clearly sets out licensable activity; namely the activities of 'manned guarding', as defined under Schedule 2, Paragraph 2 of the PSIA. Under this definition, a security licence is needed for anyone providing or carrying out activities **under contract** as follows:

- guarding **premises** against unauthorised access or occupation, against outbreaks of disorder or against damage;
- guarding **property** against destruction or damage, against being stolen or against being otherwise dishonestly taken or obtained;
- guarding one or more **individuals** against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.

64. Section 3(2)(g)(h) and (i) imposes 'additional controls' on manned guarding activity in relation to licensed premises³ ('door supervision'), requiring **in-house** staff undertaking the above activities in relation to licensed premises to be licensed.

65. The Act does not require particular jobs or roles to be licensed – it is the individual who must be licensed, depending on the particular activities he/she undertakes, the location of this work, and the nature of his/her employment.

66. Much of the confusion has arisen since the implementation of the Act because of mixed messages from government, from the industry, and from within the sector. It is our view that many of the concerns that events organisers have about the licensing requirements and the potential implications for their events are unwarranted as they are often talking about duties that are actually non-licensable. The section below on good practice demonstrates where events organisers have taken a pragmatic – and seemingly accurate – approach to interpreting and implementing the legislation.

67. The 2006 SIA guidance document *Security at Events* provides clear advice to event organisers and security managers to ensure all security personnel covered by the legislation are correctly licensed, along with a flowchart to help assess licensing requirements. Inevitably, there is still a degree of subjectivity involved, namely in mapping an individual's role to the designated tasks to see if they meet the definition of security guarding.

³ As defined in Schedule 2, Part 2, para 8(2)

68. Key to doing this successfully is to ensure that each individual employed – whether in-house, under contract, or as a volunteer – has a clear job description setting out their roles and responsibilities. Combined with a risk assessment of the event and premises, this should enable events organisers, security providers and contract staff to assess licensing requirements accurately, and with confidence.

Bag searching and crowd monitoring

69. The partial RIA sought views on two kinds of activity in particular: bag searching and crowd monitoring.

70. Our position on these activities is that the licensing requirements will depend on the nature of the event and the exact duties being undertaken – and therefore whether the activities are in pursuit of a Schedule 2 activity. **We cannot identify any reason for bag searching other than to check for illegal or prohibited articles and, as such, bag searching is a licensable activity.** If sports and events organisers consider their events to be so low risk that such articles are unlikely to be found, they should question the value of bag searching. Random – but minimally resourced – searching could help to justify this decision.

71. With crowd monitoring, where such monitoring is primarily for reasons of crowd safety (e.g. spotting people in distress or the potential for overcrowding, handing out water or suncream), this would not be in pursuit of Schedule 2 activity. However, if such monitors are expected – and likely – to have to provide a physical presence or carry out any form of patrol or surveillance to deter or otherwise discourage it from happening, or ‘to provide information about what has happened’ (as per Schedule 2, paragraph 2(3)), then they will be required to be licensed. It should be noted, however, that this requirement is qualified by the provisions of paragraph 6 of Schedule 2 which states that this ***‘does not apply to the activities of a person who, incidentally to the carrying out of activities which are not wholly or mainly the activities of a security operative, responds to a sudden or unexpected occurrence’***.

72. Ultimately, it is expected that events organisers would define security and non-security roles and their expectations of those undertaking them in line with a risk assessment of the particular event. They would then need to take a rational decision about whether these roles are in pursuit of Schedule 2 activity and therefore require licensing. If in doubt, the SIA can work with organisers to give advice on this decision-making.

Volunteers

73. The term ‘volunteer’ has no legal definition; however, the Home Office and the SIA are quite clear how the PSIA affects volunteers.

74. Generally, volunteers are neither employed nor operating under contract, as consideration is required for the formation of a contract. They therefore do not fall within section 3(2) of the Act and are **not** licensable. The SIA uses the guidance issued by HM Revenue and Customs (HMRC) on payments in kind

or rewards⁴ to determine whether an individual receives a reward for a service provided, thus constituting a contract.

75. The list provided by HMRC is comprehensive but not prescriptive, and if in doubt, individuals or organisations should seek independent legal advice. The following examples provide an indication as to how some common occurrences are likely to be treated:

- The payment of out of pocket expenses (e.g. travelling to and from the event) would not be considered a payment in kind;
- The payment of a donation made direct to a charitable organisation would not be considered as a payment in kind as long as no part of this payment is then passed on to the individual;
- The provision of a meal or meal vouchers during the working day is acceptable. However, provision of vouchers to be exchanged (for example) for 'lunch at the Ritz' could be considered a reward;
- The ability to view the event while working (directly before, during or after a shift) would not be considered a reward, however preferential treatment or discounted rates for premium tickets (e.g. Men's Final on the Centre Court at Wimbledon, or a Cup Final match) could be;
- Tickets provided to an individual for use by themselves (whilst not working), their family or any associate could be viewed as a reward; and
- The provision of uniform or appropriate equipment for the job would not be considered payment in kind or a reward, nor would certain other items of clothing (such as a motif tie). However, the provision of official merchandise (e.g. CDs or DVDs) could be.

76. Although volunteers are outside the licensing regime, **it is clear that it would be entirely inappropriate for them to be used in security roles in which they have not been trained and licensed to the same standards** as paid staff. They should therefore be deployed to activities that would not otherwise fall within the licensing regime, such as ticket checking, directing crowds and traffic, and providing safety advice.

Other areas of clarification

77. Specifically in relation to other roles highlighted by respondents, our advice (which is supported by the SIA) is:

- Escorting of players / performers etc on premises;
 - *The role of a close protection operative ('bodyguard') – for example, providing security for celebrities or sports stars – is licensable, even if*

⁴ <http://www.hmrc.gov.uk/employers/ebik/ebik2/table-of-contents.htm>

such operatives are under contract to another individual. However, a purely escort role – for example, showing players to dressing rooms – is non-licensable.

- Obtaining information about / vetting demeanour of event attendees;
 - *If such activity is in pursuit of a Schedule 2 activity (e.g. assessing suitability to permit access) then it is licensable. If, for example, it is merely collating information on names / numbers of parties etc, then this would not be licensable.*
- Staff operating CCTV systems to monitor spectators;
 - *For contract staff only: to operate CCTV equipment in order to pro-actively monitor the activities of members of the public (in public areas or on private property) requires a Public Space Surveillance CCTV licence.*
- Staff working in designated non-drinking areas within licensed premises;
 - *The fact that an area is designated ‘non-drinking’ is irrelevant if it is on a licensed premise. Therefore the same rules apply: if the individual is performing a guarding activity as outlined in Schedule 2, they are licensable.*
- Stewards preventing access to ‘out of bounds’ areas (e.g. private boxes, disabled-designated areas, VIP areas, dressing rooms, tunnel areas etc), enforcing non-drinking areas and dress codes;
 - *If this is guarding activity (e.g. actively prohibiting entry), then such staff are licensable. If they are merely directing people to the right areas, then such activity is not licensable.*
- Stewards providing support to welfare / information services (e.g. liaising on lost children, protecting lost property, escorting vulnerable people);
 - *This would depend on the full extent of such stewards’ role. For example, liaising with other events personnel about lost children or property would not constitute guarding activity as defined in Schedule 2. However, protecting property is a form of guarding and would therefore be licensable.*
- Military personnel undertaking security activities when not in uniform;
 - *Military personnel are **outside** the remit of the licensing regime, regardless of whether they are operating in uniform or not, as long as they are working in an official capacity (i.e. not as a second job) and under the control of a senior officer.*

The partial RIA options

78. The partial RIA options are addressed in the full RIA.

Training

79. The variety of answers in respect of this question suggests that there is by no means a common view of – or approach to – appropriate training, and that further work may be necessary in this area.

80. Under the SIA licensing regime, those applying for front-line door supervisor or security licences must achieve an SIA-endorsed qualification, or be able to demonstrate a comparable level of training (as set out in the SIA guide ‘Get Licensed’). Many premises also provide their own in-house training for both security and safety operatives, which may address specific risks or needs of the premises or kind of event(s). It was pointed out by some consultees that in-house stewarding training programmes are more appropriate than SIA-approved qualifications for those working at sporting events. It may need to be explored what additional elements of such sector-specific programmes could be incorporated into the national programmes of door supervisor and security training.

81. The development of National Occupational Standards that are tailored to the sector, as suggested by one respondent, could help to develop skills particularly related to sports and events without the requirement for a separate licence. We will ask the SIA to explore this possibility further with the relevant skills bodies for the security business and sports sectors.

Equality and market share

82. Some respondents raised concerns about the potential for an ‘edging out’ of the market of contractor firms if in-house staff are excluded as events take security functions more in-house. We are of the view that this is unlikely for two key reasons: (1) many events do not happen frequently enough to support the employment of many in-house staff, so will always require contract staff to supplement the security function; and (2) experience has shown (with the Approved Contractor Scheme) that a similar prediction did not materialise and that the better suppliers are actually enjoying substantial growth.

Other issues

83. Responses to specific questions:

- A query was made about the requirement for non-frontline licences for supervisors and managers.

We can confirm that these are only necessary where such individuals (including executive and non-executive directors) supervise or manage licensed staff.

- A request for clarification in respect of the requirement for a Key Holding licence was made – specifically, does any contract staff with custody of, or control access to any key or similar device require such a licence?

You need a Key Holding licence if you have custody of, or control access to, any key or a similar device for operating a lock. This does not

*include providing a first response to incidents at premises for which the keys are held, or any other activity of a security operative. If you are a key holder who carries out such activities you will need a Security licence. Paragraph 6 of Schedule 2 sets out the licensing requirement for keyholding. If you have an SIA licence (front line or non front-line) for another area of licensable activity, you are **automatically licensed** to carry out key holding activity.*

Good practice

84. The consultation exercise revealed some promising examples of sports and events organisers interpreting the legislation and guidance, risk assessing roles and activities, and working with the SIA to deploy staff effectively. This section outlines some of these examples.

Farnborough International Airshow

In implementing security and safety contracts for the 2006 airshow, organisers have worked with the SIA to ensure correct understanding of the PSIA's requirements. They have found that the contractors hired have been conversant with the Act and have assisted the organisers with identifying appropriately qualified and licensed staff to deploy to specific roles. As yet, Farnborough International Limited has encountered no significant problems in meeting the requirements of the PSIA.

Royal International Air Tattoo (RIAT)

Organised by the Royal Air Force Charitable Trust Enterprises, the RIAT is a military airshow held at an RAF base. The RIAT has a security plan prepared by a Security Co-ordinator, who is a senior military police officer. Most security duties are performed by military personnel or civilian or MoD police. However, security companies are contracted for some tasks, and the RIAT has identified whether these tasks should be undertaken by licensed door supervisors (e.g. door supervision), licensed security guards (e.g. screening public using hand-held wands; late night stewarding to prevent disturbance or damage), or non-licensed stewards (e.g. traffic stewarding, queue management). The RIAT believes it is the responsibility of the event to ensure commercial security companies used are properly licensed, and that the companies are in turn responsible for providing appropriate staff to undertake the roles specified.

Henley Royal Regatta

The Henley Royal Regatta has taken a pragmatic approach to the application of the PSIA. It has clearly segregated licensable from non-licensable activities in light of the Regatta's particular circumstances and visitor profile, and according to current guidance. It engages licensed guards to undertake licensable roles (e.g. entrance security) and non-licensed staff for other roles.

Racecourse Association Ltd (RCA)

The RCA has consulted with the SIA on the application of the PSIA for racecourses and on its approach to implementation. The RCA has advised racecourses that they should determine the requirement for licensed staff based on risk assessments and job descriptions.

The National Eisteddford of Wales

As a community event, the Eisteddford uses primarily local volunteers to act as 'stewards' over the nine days. Stewards are offered a one day training session, resulting in a three-year certificate. Since the introduction of the PSIA,

the event has worked with its security company to ensure that all staff contracted to undertake security duties (as static guards or door supervisors) are SIA licensed. Voluntary stewards are instructed that they have no legal right to undertake these duties, and are advised on the situations in which they should call on professional security personnel or the police.

Annex A: Comments from respondents

The following table provides some examples of comments made by respondents in respect of the key areas set out in section 6 above.

Definitions and clarification
<i>'In general, some clarification of terms would be very useful, in particular "security guards", "safety officer", "security function" and "security consultant", "front-line", "hands-on". We fully support the aims of the PSIA [but believe] that some areas and definitions do still require clarification.'</i> (Non-sporting events organiser)
<i>'If each role is properly defined, not only does this mean that it will be clear to both the organiser and the SIA which roles should be licensed, but it will also be a useful exercise for the organiser in terms of forcing a close examination of roles deployed.'</i> (Non-sporting events organiser)
<i>'If it is an expected part of the job to perform a security duty, then it is licensable however small that part of the job is. (SIA)</i>
<i>'There has been 100% bag searching for a number of years... requiring a very large number of bag searchers for a relatively short period of each day in order to enable people to entry the grounds rapidly but safely. Bag searching is carried out with the consent of the Club's visitors and is a condition of entry. It is normally non-confrontational – if confrontation arises, a supervisor is called for advice and assistance.'</i> (Sporting event organiser)
<i>'Searching of spectators at our grounds is only ever done randomly and to ensure the safety of our grounds or spectators (compliance with ground regulation requirements)... If risk assessments show that security searches should be undertake then licensed operators would be employed.'</i> (Sports representative body)
<i>'Persons who monitor crowds are not undertaking licensable roles. In fact almost all staff monitor crowds all the time [but] the are simply the 'eyes and ears' to report back on any difficulties to enable the response team / eviction team or supervisors to respond... If they were required to be licensed it is likely we would reduce the number of monitors that we have on site which will clearly lead to a reduction in public safety, contrary to the aims of the PSIA.'</i> (Sporting event organiser)
Volunteers
<i>'There is a lot of confusion about the PSIA within sport. Need clear guidance and assurance that amateur clubs using volunteers are not impacted by the legislation.'</i> (Sports representative body)
<i>'It can possibly be suggested that [if a] club or group is receiving a benefit in return for which they provide volunteers, the provision is under contract and</i>

<i>hence the persons are not volunteers for the purposes of the Act.’ (Sporting event organiser)</i>
<i>‘By implication, volunteers are not licensable under the PSIA as they are neither employed nor operating under contract and therefore do not fall within section 3(2).’ (SIA)</i>
<i>‘I am not sure I understand why a volunteer doing the same role as a paid person would not have to meet the same standards, [however] while licensing volunteers for the same roles may be desirable, I am not sure how practical it would be.’ (Events consultant)</i>
Partial RIA options
<i>‘Stewards working in-house are identifiable and accountable. Comprehensive records relate to their appointment, training, match attendance, duties and location. Under existing basic health and safety responsibilities, in-house staff who carry out such roles as ejections, intervention and searching receive training appropriate to these tasks.’ (Sports representative body)</i>
<i>We cannot think of any reason why one event or premise should be exempt and excluded from the provision other than because such a vast number of staff are required that the licensing of them becomes an issue in terms of availability and cost.’ (Non-sporting events organiser)</i>
<i>‘It seems that the Exemption Framework is simply creating another layer of bureaucracy and that the same outcome could be achieved by focusing on the definition of roles.’ (Non-sporting events organiser)</i>
<i>‘Designated sports grounds should be excluded from the Act as they are already regulated via the Safety Certificate. Monitoring for compliance with the Certificate is undertaken by Safety Advisory Groups whose members include the police.’ (Sports representative body)</i>
<i>‘It would not be practical for racecourses to fulfil [the] requirements of the [exemption] criteria... the bureaucracy associated would be too onerous and inflexible... exemption would also only apply to in-house staff working at racing events, and individual racecourses do not stage sufficient race meetings to support the employment of enough in-house staff to cover the whole event. Additionally, racecourses stage a number of events other than horse racing [which] would not be included within an exemption.’ (Sports representative body)</i>
<i>‘The introduction of a specialist sports/events licence would limit the number of licensed staff available, which could lead to a shortage of available staff... It is inevitable that many personnel would hold both the sports/events licence and the SIA licence in order to allow for maximum employment, which would not be in line with the Better Regulation Agenda.’ (Sports representative body)</i>
<i>‘We would not seek an exemption as we have sought to comply with the legislation by defining and segregating licensable from non-licensable</i>

<i>activities in view of our particular circumstances and profile.’ (Sporting event organiser)</i>
Training
<i>‘There already exists a very comprehensive training programme for stewarding, which has been developed over many years by the football industry [and] adopted by other sports in the UK and overseas.’ (Sports representative body)</i>
<i>‘Where SIA personnel are employed as safety stewards, they would have to receive additional training as that provided to meet SIA requirements is inadequate for stewards employed at sports venues.’ (Sports representative body)</i>
<i>‘The training of event stewards is closely related to the requirements of the venue or event. A generic qualification would only provide basic training skills.’ (Security provider)</i>
<i>‘We are of the view that any basic training requirements should be available nationally, with additional training being given by the venue, as appropriate, in line with the terms of the safety certificate.’ (Sports representative body)</i>
Equality and market share
<i>‘If in-house activity is excluded then the cost and administrative burden associated with licensing will see a move towards greater in-house provision.’ (Sporting event organiser)</i>
<i>‘Any requirement to engage many more licensed guards at events would have an impact on the security market. Costs would be driven up, entry to the market would become significantly more expensive, and events could be given cause to re-assess downwards the numbers of licensed staff engaged.’ (Sporting event organiser)</i>
<i>‘Implementing the proposals of the RIA would prejudice BME groups on the understanding that many individuals from these groups are in the lower income bracket and may struggle to meet training and licensing costs.’ (Sports representative body)</i>
<i>‘Do not believe proposals will have a negative impact on minority groups. Qualification results issued to date do not show a variance in achievement against any specific ethnic groupings.’ (Skills body)</i>

Annex B: List of respondents

Non-sporting events
Mean Fiddler
Royal International Air Tattoo
Consultant – health, safety and welfare at events
Haverhill Town Council
National Eisteddford of Wales
National Exhibition Centre (NEC)
Royal Horticultural Society
Association of Show and Agricultural Organisations
Sporting events
London Marathon
Henley Royal Regatta
Sporting representative bodies
Major spectator sports representative lobby
Central Council of Physical Recreation (CCPR)
Football Association / League / Premier League
UK Sport
Football Safety Officers' Association
Rugby League Ground Safety Officers' Association
Motor Sports Association
Rugby Union Safety Association
Racecourse Association Ltd (RCA)
All England Lawn Tennis and Croquet Club (AELTC)

Security industry / regulators
British Security Industry Association (BSIA)
Security Industry Authority (SIA)
Security training providers / skills bodies
Skills for Security
Security Training Adviser
Security contractor firms
Reliance Security
Group 4 Securicor
Constant Security Services
Police
Association of Chief Police Officers (ACPO)
ACPO Terrorism and Allied Matter Sub-Committee
Other
Better Regulation Commission