



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Regulation of the Private Security Industry
(DOJ Officials)

26 September 2013

NORTHERN IRELAND ASSEMBLY

Committee for Justice

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Stewart Dickson
Mr Tom Elliott
Mr William Humphrey
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone
Mr Jim Wells

Witnesses:

Ms Clare Brady	Department of Justice
Ms Judith Logan	Department of Justice
Mr Steven McCourt	Department of Justice

The Chairperson: I welcome to the meeting Steven McCourt, head of operations branch, and Clare Brady and Judith Logan, operations branch, policing and organised crime division in the Department of Justice (DOJ). Steven, I am going to hand over to you, I think, and you are going to outline the findings for us. Members may then have some questions.

Mr Steven McCourt (Department of Justice): Thank you very much for the opportunity to update the Committee on our work to develop proposals for a new regulatory regime for the private security industry in Northern Ireland. We have previously engaged with the Committee on the issue. In January 2012, we provided a draft of the consultation paper; in November 2012, we shared a summary of the consultation responses; and in May 2013, we gave a written overview of the Northern Ireland responses to a UK-wide consultation of the future regulatory regime for the private security industry.

Today provides us with an opportunity to outline the Minister's preferred approach, which is based on the outcome of the consultations. We are conscious that we will have to come back to the Committee, however, as important aspects of the proposals have yet to be finalised. Those aspects are most significantly concern costs and how to eliminate the impact on small and microbusinesses.

It might be useful at this point to provide a very brief overview of how we got to this point. By way of background, in 2009, the remit of the Security Industry Authority — or the SIA, as it is commonly known — was extended to Northern Ireland, making it compulsory for individuals performing certain

designated activities in the private security industry to be licensed. That replaced a more limited scheme at the time, taking account of lessons learned following the introduction of licensing in England and Wales and in Scotland in 2004 and 2007 respectively. Today there are over 11,000 active licences in Northern Ireland, and 87 companies operating here are members of the approved contractor scheme.

In 2010, the Cabinet Office's public bodies review concluded that the SIA's functions should be reformed to reduce the current regulatory burden and cost on the industry and to reflect the industry's growing maturity. The SIA has therefore been working with the industry, the Home Office, the Scottish Government and DOJ to develop proposals for a new regulatory regime for the private security industry. Although neither Northern Ireland nor Scotland has formally opted in to the proposals yet, both jurisdictions wanted to be part of the development to ensure that the proposals were capable of being implemented in the devolved regions if that met our needs. The Scottish Cabinet Secretary for Justice has indicated that he is broadly content with the direction of travel and that he prefers a system of regulation that can operate on a UK-wide basis.

In parallel to the SIA work, the Justice Minister issued a consultation in May 2012 to seek initial views on the experience of regulation since its introduction in 2009 and on how the consultees would like to see the industry regulated here in the future. That was followed in November 2012 with a further UK-wide consultation to give stakeholders in Northern Ireland the opportunity to comment on the proposals for a new regulatory regime. That consultation sought views on the introduction of business licensing, which I will come back to in a moment. Everyone who responded to the NI consultation agreed that it would be important to maintain some form of regulation, as the abolition of all regulation would leave the industry open to exploitation by criminal gangs, reduce public confidence and have an adverse impact on public safety. Three quarters of those who responded to the question about options for the future indicated a strong preference for a regulatory regime in line with the rest of the UK. The 13 respondents from Northern Ireland who participated in the second consultation agreed that there should be UK-wide regulation. Given the strong views expressed in the responses to the consultations, the Minister is minded to join Scotland in opting in to the proposals for a new UK-wide regime involving business licensing.

It was acknowledged in the UK-wide review of licensing that individual licensing had resulted in significant improvement in the industry, ensuring that those who were clearly unsuitable for working in the industry were prevented from doing such work. However, individual licensing did not provide a framework to tackle abuse or malpractice at a corporate level, such as links to organised crime, tax evasion, non-compliance with minimum age requirements, inadequate insurance, inappropriate assessment of security risks, poor supervision of operatives, and a lack of job-specification training. It was therefore proposed that a new regulatory regime be introduced to require businesses providing security industry services under contract to be licensed by the SIA. Therefore, it is proposed that, aside from the continuation of individual licensing, there will be a business licence. That will require an application fee and an annual subscription fee to maintain the licence over the five-year lifetime.

The fees charged to businesses and individuals will cover administration charges, enforcement, criminality checks etc. It is likely that the business application fee will be stepped depending on the number of licensable employees. That will not be prohibitive but will be pitched at a level that provides a reasonable hurdle in order to deter organised criminals entering the industry. The annual subscription fee will cover the fixed annual cost of regulation and may be up to £1,000 per annum for large businesses. The idea is to have a reduced fee for small businesses and micro-businesses. In addition, it is envisaged that there will be a significant reduction in the cost of an individual licence. There will also be indirect costs, including the need for businesses to have public liability insurance and to demonstrate compliance with the business approval conditions such as meeting British standards.

The Minister acknowledges that the cost of business regulation will place some additional burden on businesses. However, measured against those costs, there will be benefits to businesses from being licensed. The existing regime is ineffective in tackling poor or potentially criminal practice at a company level, and it could therefore reward those businesses that keep costs low through poor or criminal practices. Business regulation should remove such businesses from the industry and create a level playing field for legitimate businesses. The availability of clearer information for enforcement partners and the removal of non-compliant businesses from the industry would allow for the realisation of greater public protection benefits.

Indeed, evidence from the Republic of Ireland, where they have business licensing, noted that 15% of businesses left the industry when such licensing was introduced. Those businesses held 5% of the

market share. Therefore licensed companies may benefit from increased business. Indeed, 25 EU member states have business regulation. Business regulation in NI may therefore allow for growth in the European market.

In maintaining a UK-wide regime, we consider that NI will benefit from economies of scale, as the cost of establishing a specific regime here would be considerable. At present, an individual licence costs £220 for three years. The new proposals should see that reduced significantly. If a Northern Ireland regulator were to be established, we estimate that it could cost in the region of £500 for a licence. There is also the risk that an NI regime would have a reduced level of enforcement activity, which would lead to a potential increase in criminality and present a greater risk to public safety. That could place additional stress on the PSNI's resource and on that of local authorities and result in a decrease in public confidence in the industry. The timescales required to establish such a regulator may mean that the industry in Northern Ireland is left without any form of regulation for a while, which would present a risk to public safety and threaten the reputation of those with legitimate businesses and individuals here.

Maintaining a UK-wide regime is also important for NI companies as they can compete for business across the UK without incurring additional licence costs. A significant number of businesses told the consultation that they would like to see interoperability between licences in NI and those in the Republic of Ireland. Individuals who hold a licence and wish to work as a door supervisor or security guard in the Republic of Ireland have to undergo separate training and pay another licence application fee. The Minister believes that there is scope to reduce that regulatory burden. Supported by Alan Shatter, the Minister for Justice, Equality and Defence, they asked the SIA and the regulator in the Republic of Ireland to consider that issue. That process has commenced and we will report to the Committee in due course on progress.

Today's briefing provides an opportunity to update the Committee on this issue. We recognise that further engagement will be necessary as soon as the impact assessment, and particularly costs, has been finalised. We are happy to take any questions that members may have.

The Chairperson: Thank you very much, Steven. The cost to businesses will depend on the size of the business, which makes sense. Did you establish what the different costs of a licence will be and how those will apply to the size of a business?

Mr McCourt: The Department for Business, Innovation and Skills, and the regulator, have been looking at business size. They have a sliding scale between micro-businesses, small, medium and large businesses. The SIA has an indication of the cost for implementing a new business licensing regime. The Home Office wants to work with the Department for Business, Innovation and Skills on policy proposals and to identify the impact, particularly the indirect cost on business — particularly small and micro-businesses.

We are looking at an application fee that, potentially, will be significantly greater for large businesses, which are those with more than 250 employees. However, the one-off application fee for small and micro-businesses will be significantly reduced. A range of fixed annual fees is being discussed and developed in relation to where the regulator would like to see those fees. That is where the hold-up is in relation to how they can drive down those costs. We would have liked to be able to come to the Committee today with that information, but we are not in that position.

They are also looking at putting an additional burden on medium and large businesses not only for fixed fees but a price per head that will equate roughly to the additional administration costs of licensing those sectors. That will equate roughly to the approved contractor scheme fee.

The Chairperson: The individual fee then disappears if it is a business licence.

Mr McCourt: No; there will still be individual licensing. At the moment, it is £220 per employee. However, in bringing forward business licensing and the emphasis on placing more burdens on businesses for carrying out some industry regulation practices, the regulator perceives that that fee will be significantly reduced. It was reduced from £245 to £220 in recent times. With the introduction of the new regime, it is looking at a much more substantial reduction.

Mr McCartney: Is the cost of a licence on the basis of full cost recovery?

Ms Clare Brady (Department of Justice): Yes.

Mr McCartney: The paper states that pay scales for workers are not a matter for the Department of Justice or the regulator. Could you make pay scales a provision of having a licence? For example, if someone was fined £5,000 for breaching pay scales, could that be a condition of having a licence in future?

Ms C Brady: One of the conditions of business licensing is that they have appropriate pay structures in place for the staff and appropriate terms and conditions to ensure that staff are being properly taken care of. They will have to demonstrate that to the SIA before they get their business licence.

Mr McCartney: Excellent.

The Chairperson: If they get their licence and breach the conditions of it, what will the penalties be?

Mr McCourt: There are various financial penalties in place for breaches of licence at the moment, and those lead to fines of £5,000 and certainly imprisonment. That will be built upon with business licensing. There is a two-stage process that will lead to the introduction of business licensing. The first stage is bringing forward regulations that will allow certain aspects of business licensing to be turned on, and we will come back to the Committee about that when it happens. The second aspect is that the primary legislation will bring forward proposals for the SIA to have sanctions, particularly stronger sanctions, in relation to business licensing. That will also come before the Committee.

Ms C Brady: At the minute, there are criminal sanctions, and the SIA is looking to move more towards imposing fines and suspension notices and so on to give the regulator more power to enforce the regime in a fair way.

The Chairperson: Thank you very much for coming to the Committee.

Mr McCourt: Thank you.