



National Audit Office

## Regulating the security industry

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL | HC 1036 Session 2007-2008 | 17 October 2008

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**15 September 2008**

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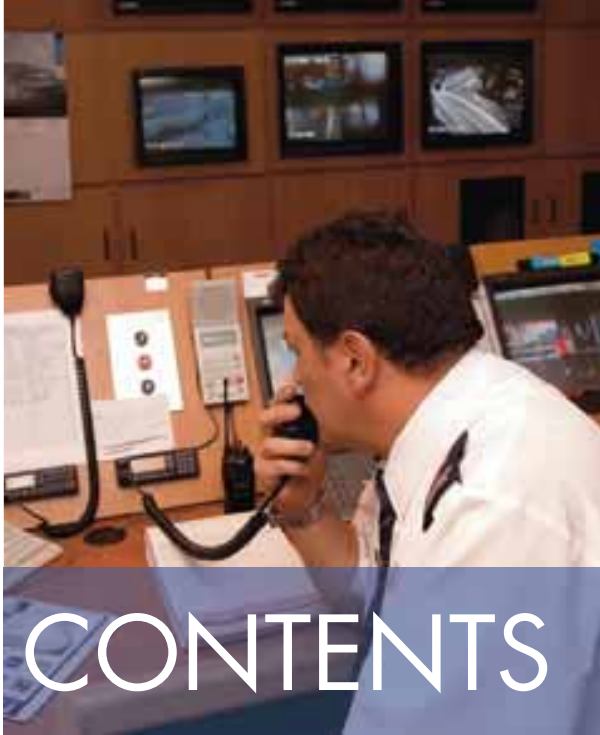
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## SUMMARY

**1** The Security Industry Authority (the Authority) was established in April 2003, under the Private Security Industry Act 2001 (The Act). The Authority's two key roles are to reduce criminality in the security industry and to improve security standards. It has carried out these roles primarily by licensing individuals who work as security guards, and all types of door supervisors and vehicle immobilisers. The Authority has identified that compliance with the licensing regime is currently over 90 per cent. Since 2001, the Authority has licensed over 248,000 individuals and the current cost of a licence is £245.

**2** The Authority has also established a voluntary Approved Contractor Scheme under the Act. This enables companies that meet certain quality criteria to be able, among other benefits, to deploy applicants for a licence while their applications are being processed.

**3** The Authority's roll out of licensing has been hindered by a number of problems. While the number of applicants produced in 1999 by the Home Office was accurate, the time profile of applications was not, and the cost of running the Authority was significantly underestimated. In 2003, the Home Office produced an estimate of the likely licence fee at between £150 and £190 and it was set at the higher figure for the period from 2003-04 to 2006-07. This fee was set too low to enable the Authority to meet its objective to break even. The Authority has required additional funding of £17.4 million in the four years to 2007-08 to meet the funding gap.

**4** The two computerised systems procured by the Authority to process applications and produce licences have both at different times been unable to cope with increases in demand for licences. In the winter of

2005-06 the Authority's system was unable to cope with the large number of later than planned applications arising from the roll out of licensing to a large part of the regulated industry. This caused delays in issuing licences and resulted in the Authority incurring additional costs. In autumn 2007, the Authority's replacement system was not ready on time and as a result for a period of six weeks few applications were processed and a backlog of applications built up. In total these two problems with issuing licences resulted in the Authority incurring additional costs of over £1 million.

**5** The Authority was set up to regulate individuals but a number of other countries also regulate businesses. There are in excess of 2,000 businesses in the security industry in the United Kingdom ranging from large national companies with thousands of employees to small unincorporated businesses with less than 10 employees. Despite the Authority's use of a bulk application process by which companies can make applications on behalf of their employees, and the introduction of an on-line register of licence holders, the Authority does not always know which businesses employ which licensed individuals; nor does it know how many private security companies there are. The Authority's voluntary Approved Contractor Scheme has proved popular and is generally a sound tool to deliver the Authority's statutory duty to improve standards in the private security industry, but it is not a way of regulating businesses. The Authority is currently undertaking a study to assess the possible compulsory registration of companies in the sector. One approach would be to coordinate such registration with the annual returns companies make to Companies House.

**6** The Authority also has a responsibility to ensure compliance with the legislation and to undertake enforcement, for which it has 54 staff. The Authority uses the Police's National Intelligence Model as the basis for its compliance and enforcement work, usually in partnership with the police and local authority licensing teams. Using the National Intelligence model means that the Authority's compliance and enforcement work is intelligence-led and conducted in a way that its partners understand, since they too use the model. As well as participating in multi agency enforcement operations, in May 2008 the Authority carried out the first in a series of random checks on security sites to test for compliance.

**7** We found that the police were generally content with their operational relationship with the Authority. Most police forces we spoke to told us that the existence of the Authority and compulsory licensing of door staff had increased professionalism in the industry, and they

considered that there was large-scale compliance with the scheme in their areas. The local authorities we spoke to were more critical. Some said they did not know their contacts in the Authority, were critical of the lack of sanctions and concerned about staff turnover in the Authority's enforcement teams.

**8** In 2005, the Hampton Report "Reducing Administrative Burdens" was issued. This report laid down a number of principles for how Government regulators should operate. These included that all regulations should be easily understood, implemented and enforced, that regulators should provide authoritative and easily accessible advice, that no inspection should take place without a reason and that sanctions should be proportionate and meaningful. We made an initial assessment of how the Authority is performing against the main principles of the Hampton report. We found that the regulations for the security industry are proportionate and that the Authority provides generally good advice for stakeholders. The Authority's reputation has, however, been undermined by problems in processing applications. Its compliance and enforcement activities are also generally proportionate but we found that there are gaps in the sanctions it can apply, particularly on companies. The Authority has demonstrated a sense of purpose but needs to quantify and articulate its outcomes and achievements better to address the concerns of stakeholders.

## Value for Money

**9** Since it was set up, the Authority has introduced regulation into a previously unregulated sector effectively. Evidence indicates a high level of compliance which has delivered benefits in reducing the number of criminals engaged in security activities. The Approved Contractor Scheme is a success. Licensing could, however, have been implemented more efficiently. Responsibility for the inefficiency lies in part with:

- the Home Office because their initial assessment understated the cost of running the Authority and their profile of the industry was inaccurate;
- the Authority because the systems that they procured to process applications for licences have failed to cope in 2005 and 2007 with the number of applications for licences; and
- the security industry which attempted to manage demand from their employees but did not do so.

These factors have cost the taxpayer an additional £17 million to April 2008, which has compromised the value for money achieved.

## Recommendations

**10** The Authority needs to improve its strategic and operational planning to deal with future challenges successfully. These include: the large number of licences to be renewed in 2008-09; new sectors and regions to be regulated; the management and re-tendering of its managed service contract; maintaining the quality of its Approved Contractor Scheme; and the successful regulation of security at the 2012 Olympic Games.

**11** We recommend as follows:

### To the Home Office

- The introduction of statutory licensing was compromised by an inaccurate initial Regulatory Impact Appraisal which meant that the costs of licensing were underestimated. When producing Regulatory Impact Assessments for new legislation the Home Office needs to consider the performance data held by other public bodies undertaking similar roles or providing similar services.
- A key part of better regulation is that citizens should only be required to submit information to Government agencies once, since sending original identity documentation by post is a potential security risk, is costly and should be minimised. Working with the Home Office the Authority has made progress, as it is now able to check the data held by the Identity and Passport Service in real time; but the Authority also needs direct access to similar data held by other Government agencies.

### To the Security Industry Authority

- Many of the performance issues affecting the Authority have arisen from inaccurate or inadequate forecasting. The Authority needs to improve the quality of its forecasting by including a range of likely scenarios into its models and forecasts. To improve the management of its work flow the Authority should create and maintain a short, medium and long term forecast of future demand for licences.
- When compulsory licensing is extended to new sectors, it is likely that most applications will arrive just before or just after the deadline. The Authority should improve its contingency planning and be more flexible in its deployment of resources so that its systems are not overwhelmed by peaks of demand.

- The Authority has a statutory duty to raise standards in the industry. The Authority's main lever for raising standards in the industry is the voluntary Approved Contractor Scheme. In consultation with stakeholders, the Authority should over time raise the required standards for the training to be provided by scheme members to employees.
- The Authority licences individuals, but in practice the regulation of the industry is enforced through the businesses in the security industry. This de facto regulation should be made formal with the introduction of a low cost registration of private security businesses which is separate from the voluntary Approved Contractor Scheme. To reduce the administrative burden on companies the Authority should coordinate, with Companies House, to allow registered companies to comply with this requirement by providing information on their status in their annual Companies Act returns.
- The Authority currently has no sanction between an Improvement Notice and a criminal prosecution that it can impose on companies that engage in persistent but minor transgressions of the Act. We consider that the Authority's regulatory powers should include a further sanction for those companies that engage in such persistent minor transgressions of the regulations. The new Regulatory Enforcement Sanctions Act 2008, which has created a mechanism for the Authority to acquire some further powers, could be a suitable vehicle for this change. Separately, whistle blowing provisions, like those used successfully by the competition authorities under the Enterprise Act 2002, should also be introduced.
- The Authority only has limited resources to enforce the provisions of the Act and is reliant on working with the police, local authorities and other enforcement partners to fulfil its obligations. It should improve its relations with local authorities and other enforcement partners via the Local Authority Coordinators of Regulatory Services (LACORS) and Home Office Regional Deputy Directors, so that it can evidence how the Act is being enforced.



# PART ONE

## Setting up the Security Industry Authority

### Background

**1.1** The Security Industry Authority (the Authority) was established in April 2003, under the Private Security Industry Act, 2001<sup>1</sup> (the Act), to regulate individuals providing contract security services.<sup>2</sup> The Authority is a Non-Departmental Public Body sponsored by the Home Office (the Department) and delivers services through partner organisations (Figure 1 overleaf). Its main functions are:

- for the purpose of protecting the public, to monitor the activities and effectiveness of those providing services involving security staff;
- to set and approve standards of conduct, training and supervision of those supplying or delivering security services; and
- to licence individuals and approve security companies.

The Authority has approximately 113 permanent staff. About half of these staff are based at the Authority's office in London. In addition to running the Authority itself these staff are responsible for overseeing the licensing process, for operating the Approved Contractor Scheme, and for overseeing the provision of training for individuals in the industry. The Authority has approximately 54 of its staff deployed on compliance and enforcement work, about 40 of whom are based in regional teams who are located in clusters in parts of Great Britain. Work is currently in progress to extend licensing to Northern Ireland.

**1.2** Since the Authority was established, the Government developed its better regulation agenda (Figure 2 on page 9), requiring regulators to pursue principles of 'good regulation': being proportionate, accountable, consistent, transparent and targeting

compliance activity on risks arising from specific non compliance. Thus the Authority focuses planning and delivery on public protection and on better regulation. The Authority is unusual in that, unlike many other regulators, it licences individuals but it does not directly regulate the businesses in the industry it supervises as, for example, the Financial Services Authority does. Its Approved Contractor Scheme which is aimed at security firms is voluntary.

**1.3** The private security industry provides services which include security guarding, door supervision and wheel clamping (Figure 3 on page 10), employing some 500,000 individuals across the United Kingdom. Approximately half of this total are employed on a contract basis, rather than directly employed, and it is these people who are subject to regulation as are in house operatives in the door supervision and vehicle immobiliser sectors. The reasons for introducing regulation were: that the security industry was widely seen as an underperforming sector with poor competitiveness and performance; it had difficulty responding to market needs; staff turnover of about 30 per cent per annum<sup>3</sup>; poor employment practices; generally poor supplier and buyer relationships; and a significant level of criminal activity.

**1.4** The private security industry is fragmented, and it is a difficult industry in which to identify and communicate with stakeholders. The 100 largest guarding companies account for 75 per cent of turnover in the sector, but there are at least 2,000 companies many of which employ ten people or fewer. Early efforts by the Authority to set up stakeholder advisory committees lapsed. The Authority implemented a new stakeholder engagement strategy in April 2007<sup>4</sup>, but lack of information about the industry hinders the Authority's ability to engage with its key participants.

1 Private Security Industry Act 2001 Chapter 12, 11 May 2001 (As amended).

2 In addition all types of vehicle immobilisers and door supervisors are regulated.

3 British Security Industry Association.

4 Stakeholder Engagement Strategy – The Security Industry Authority April 2007.

## The Authority's strategic direction

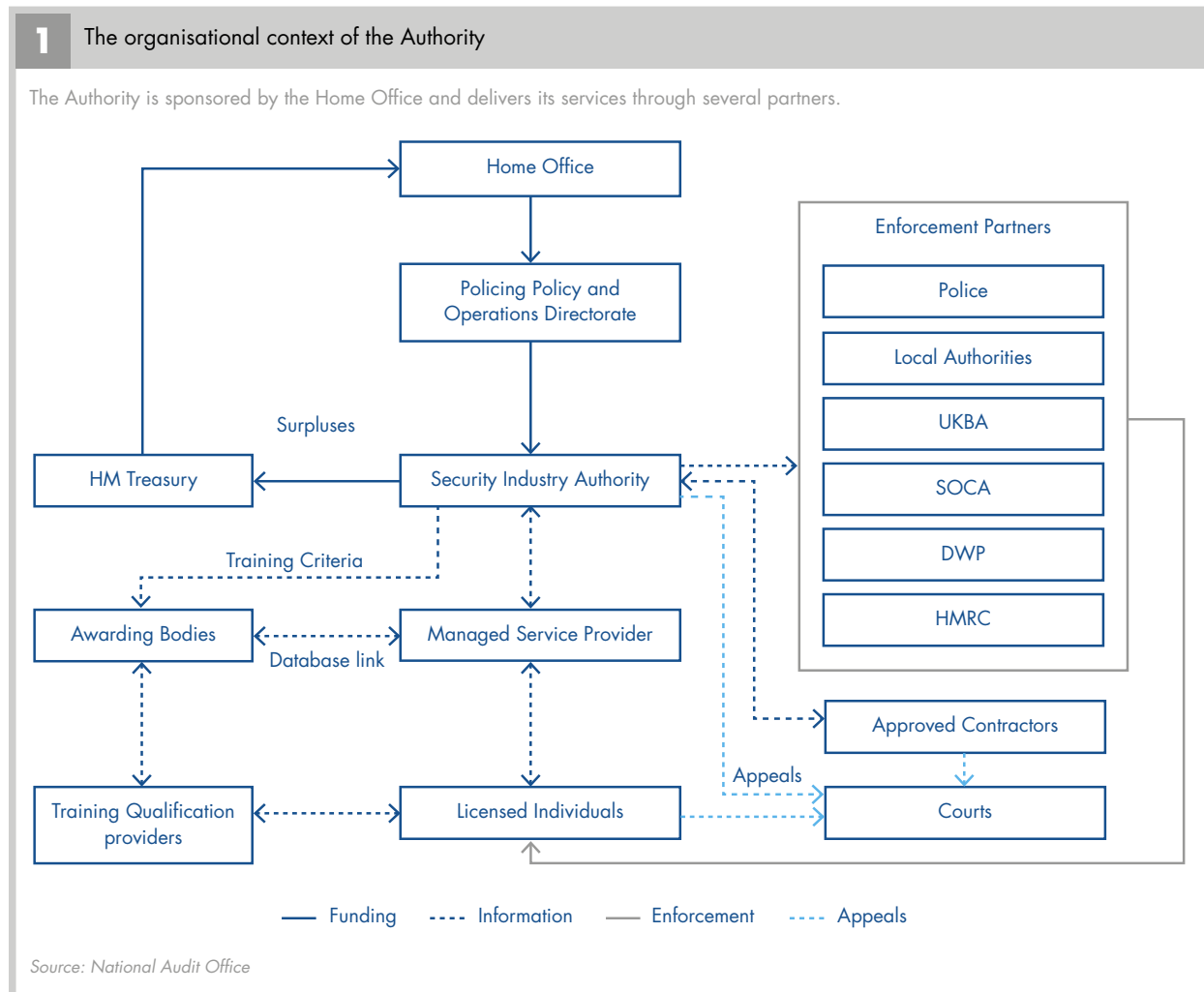
**1.5** At its launch in 2003 the Authority and the Home Office were in full agreement on how licensing should be introduced but between mid-2005 and early 2007 there was disagreement between them over how the Authority should proceed. During 2006, the Authority's risk register identified its working relations with the Home Office and the lack of agreed strategic direction as a top risk at a time when it was experiencing serious problems with its performance.

**1.6** Since the autumn of 2006, working arrangements between the Authority and the Home Office have improved and have continued to do so under the new chief executive who was appointed in September 2007. He has instigated a number of strategy reviews to take the Authority forward. The Home Office has recently seconded a senior official to be the new Director of Customer Delivery.

## The Authority's aims and objectives

**1.7** The Authority's aims and objectives are clear from the Act. Its primary objectives are to exclude criminal elements, who present a risk to the public, to raise standards in the sector, and to ensure greater consistency of performance. Companies that provide a satisfactory service measured against agreed standards receive recognition through a voluntary inspection scheme. The Approved Contractor Scheme is intended to provide purchasers of private security services with independent proof of a contractor's commitment to quality.

**1.8** While the Authority's high level objectives are clearly identified, they have not been consistently broken down into detailed key performance indicators against which performance can be measured (**Figure 4 on page 10**). This has made it difficult to assess whether the Authority has been achieving its objectives.



The 2008-09 business plan contains more specific objectives broken down into sub objectives and supported by some specific performance measures.

**1.9** The Authority licenses individuals but statutory regulation of the security industry has not been extended directly to businesses. This decision not to regulate companies was settled before the Authority was established, but is out of line with other European countries (**Figure 5 on page 11**) and may be creating a barrier to effective regulation. The Authority has a bulk application process by which companies can make applications on behalf of their employees, and has introduced an on-line register of licence holders. There is, however, no obligation upon licensed individuals to inform the Authority where they are working, or if they have left the industry or the country, so details held by the Authority can be up to three years out of date, which creates difficulty in tracking individuals. In practice therefore the Authority plans and conducts its enforcement activities around the businesses operating in the industry, although it does not regulate businesses as such. The Authority is currently undertaking a study to assess the possible compulsory registration of companies

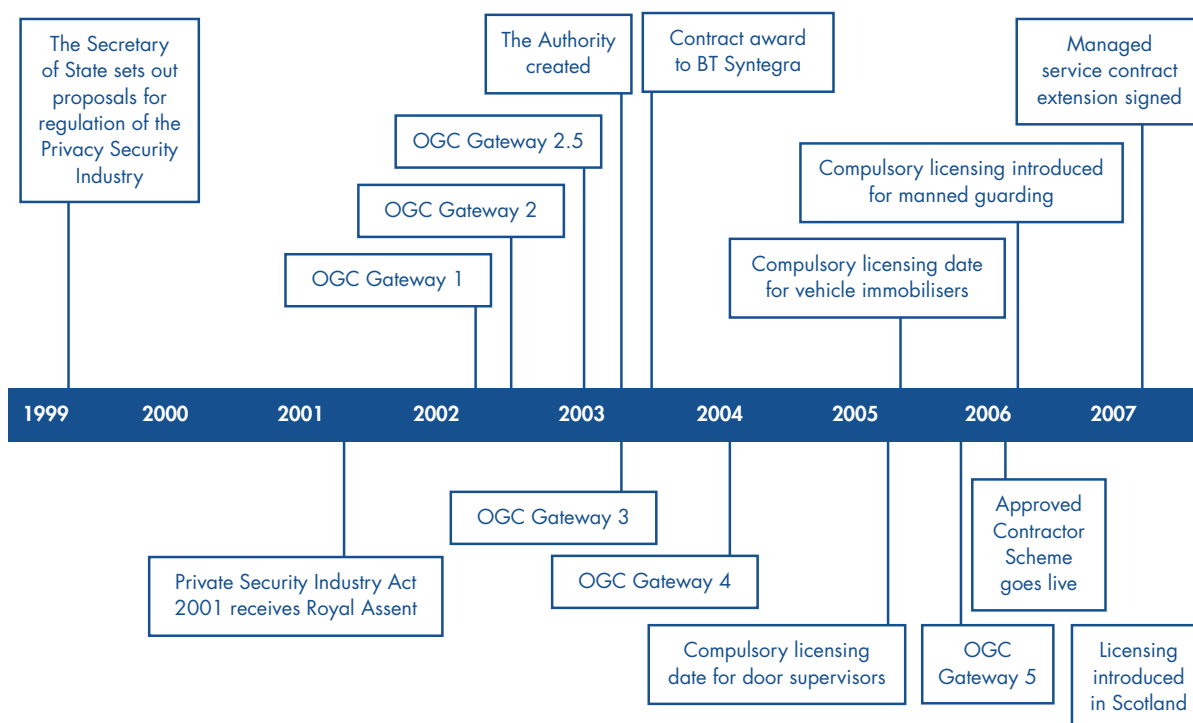
in the sector. One approach would be to coordinate such registration with the annual returns companies make to Companies House.

**1.10** The Authority decided to contract key components of its service to third parties. Apart from the decision to issue a licence, processing of applications is handled by service providers. Criminal records checks are conducted by the Criminal Records Bureau and the remainder of the process by a private sector service provider, including processing of applications, initiating checks of criminality, managing enquiries through the contact centre and providing the system and infrastructure to support these processes. As a result of these decisions, the Authority is small in comparison with other organisations that also regulate individuals.

**1.11** The Authority sets or approves standards of conduct, training and levels of supervision for businesses and individuals in the industry which it views as a floor below which it would be impossible to operate in the industry. It was consistently put to us by stakeholders (including local authorities, industry bodies and the police) that the

## 2 The history of the Authority

The Authority was established at the same time as the Government developed its better regulation agenda. Its setup was subject to a series of gateway reviews by the Office of Government Commerce.



Source: National Audit Office

### 3 Several private security industry sectors are regulated

Whether an activity is licensable is determined by the role performed and activity undertaken.

Sector	Number of valid Licences <sup>1</sup>	Brief description <sup>2</sup>	Date regulated from
Vehicle immobiliser (includes non contract)	1,221	Immobilisation of a motor vehicle by the attachment of an immobilising device.	3 May 2005
Manned guarding:			
■ Door supervisor (includes non contract)	95,430	Activities of a security operative carried out in relation to licensed premises, when those premises are open to the public.	4 June 2004 – 11 April 2005 (depending on region)
■ Cash and valuables in transit	10,933	Guarding property against destruction, damage or theft, involving secure transportation of property in vehicles with secure transportation as their primary function.	20 March 2006
■ Close protection	3,631	Guarding one or more individuals against assault or injuries that might be suffered in consequence of the unlawful conduct of others.	20 March 2006
■ Public space surveillance (CCTV)	13,125	Activities undertaken involving the use of CCTV to monitor the activities of a member of the public in a public or private place.	20 March 2006
■ Security guard	123,953	Guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage.	20 March 2006
Key holder	107	Keeping custody of, or controlling access to, keys.	20 March 2006

Source: Security Industry Authority

#### NOTES

1 Number of licences as at 28 May 2008.

2 This is a summary of the full definitions published in the Act and by the Authority in its booklet *Get licensed – SIA licensing criteria*. See Section 3 and Schedule 2 of the Private Security Industry Act 2001.

### 4 The Authority's objectives for 2007-08

The Authority's objectives were not always broken down into measurable performance targets.

The Authority's Objectives	If Broken Down into clear measurable targets
Objective 1 Provide services and standards to our customers that meet their needs	Yes
Objective 2 Deliver our regulatory activities effectively and efficiently	Yes
Objective 3 Deliver a development programme that continues effective regulation of the private security industry	Yes
Objective 4 Strategic stakeholders understand and support our strategic direction and the benefits of our work	No
Objective 5 To be recognised internally and externally as a model of good practice	No
Objective 6 Meet objectives whilst achieving revenue projections and operating within budget	Yes

Source: Security Industry Authority Annual Report 2006-07

Authority's training requirements are too low. With two exceptions, however, we consider that the Authority has struck an appropriate balance between pursuing its statutory duty and meeting the Better Regulation agenda. The first exception is that it has not obtained agreement to its current approach from its stakeholders. The second is that for employees of Approved Contractor Scheme companies the Authority does not use the nine scheme criteria relating to training standards<sup>5</sup> to fulfil its statutory duty to raise the standards of training in the industry.

## Operational issues facing the Authority

**1.12** We examined how the Authority has planned for the expansion of its operations into new areas. We undertook a review of the business case and the associated financial model for the introduction of compulsory licensing in Scotland. We found that the model only included a base case. It did not include any 'what if' scenarios to identify the potential financial impact of events not occurring as planned.

**1.13** This lack of modelling could prove critical over the next two years when licensing is to be extended to further sectors; to the security industry in Northern Ireland with effect from March 2010; and to Private Investigators from mid-2010. Equally under the Tribunals, Courts and Enforcement Act, 2007, it is likely that the Authority will take over responsibility for licensing enforcement agents. These extensions will presage an increase in applications just as the Authority has to deal with renewals of the first sectors to be licensed.

**1.14** One longer term challenge facing the Authority is the London 2012 Olympic Games. The size, profile and potential threat to the Games pose challenges to the Authority which they have begun to address. The Authority has engaged with the London Organising Committee

of the Olympic Games and Paralympic Games and the Olympics Delivery Authority and is working with the Olympic Security Directorate to influence the Game's security procurement strategies. The various parties involved have started a process of consultation to ensure that effective security measures are in place for the Olympic and Paralympic Games. The Authority has set out the minimum standards required for licensing.

**1.15** The Authority also has a significant level of staff turnover and a number of vacant posts, particularly in its enforcement work, where capable staff are attractive to other organisations. These posts are the people who liaise with the Authority's partners on its compliance and enforcement activity, monitor the actions of individual companies which the Authority has concerns about and sometimes take part in operations on premises. Turnover in 2007-08 was 10 per cent. Staff have been leaving for positions in organisations such as the Healthcare Commission.

## The scope of the study

**1.16** From its inception the Authority's licensing originally covered England and Wales. The Authority took on responsibility for licensing in Scotland from 1 November 2007 and, in April 2007, it extended its voluntary Approved Contractor Scheme to Scotland. Work is in progress to extend licensing to Northern Ireland. This report examines how effectively and efficiently the Authority is operating in England. It examines:

- how effectively the Authority has introduced licensing and the Approved Contractor Scheme; and
- whether the Authority is carrying out its regulatory remit cost effectively.

Our principal methods are shown in Appendix 1.

### 5 Most European Countries regulate both companies and individuals

	Ireland	Belgium	Denmark	Finland	France	Greece	Italy	Germany	UK
<b>Individuals regulated</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes
<b>Companies regulated</b>	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	No

Source: A comparative overview of legislation governing the private security industry in the European Union, CoESS/UNI Europa funded by the European Commission – Version 11/04/2002

#### NOTE

Individuals includes owners/managers of a company as well as operational staff.

<sup>5</sup> In total there are 89 criteria under which a company is assessed in the Approved Contractor Scheme.



# PART TWO

## The introduction of licensing and the Approved Contractor Scheme

**2.1** The Authority has faced two problems in establishing the licensing regime. First, while the forecast number of licence applicants was broadly accurate, the time profile of applications was not. Secondly, the Authority's two different computer systems for processing applications and producing licences have both faced major problems. Both systems have sometimes taken longer to process applications than anticipated causing delay to applicants and increasing costs to the Authority.

### Forecasting the level and cost of licensing

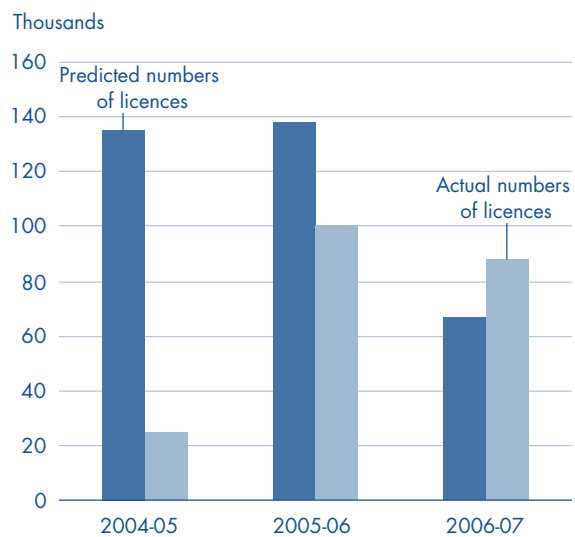
**2.2** The forecast of the licensable population of door supervisors prepared by the Authority before licensing began, based primarily on data from local authorities, proved to be significantly inaccurate (**Figure 6**).

**2.3** The initial estimates of the cost of running the Authority produced by the Home Office were significantly understated. In a Regulatory Impact Appraisal published in 1999<sup>6</sup> as part of the White Paper, both the Authority's staff costs and the costs of licensing were considerably underestimated. The total cost of operating the licensing system including staff salaries was forecast to be £1.7 million. Based on the estimates for the profile of licences to be issued and this estimate of the cost of running the Authority, the Home Office forecast, four years before the Authority was established, that a licence would cost £23.

**2.4** In July 2003, the Home Office produced a partial Regulatory Impact Assessment<sup>7</sup> on the regulations to implement the Act in respect of door supervisors and vehicle immobilisers. The licence fee, which was to be set at a level that would enable the Authority to break even, was expected to be £150 to £190.

**2.5** In practice the first licence fee was set at £190 for the period from 2003-04 to 2006-07. Because the numbers licensed were lower than forecast and the cost of running the Authority was higher than expected, the Authority has not been able to recover its costs in its first four years of operation, most notably in 2004-05 when the bulk of door supervisors, the first sector to be regulated, applied for their licences. Between 2004-05, the first year that full cost recovery was expected, and 2007-08, the

**6** Estimated and actual number of licences issued between 2004 and 2006



Source: Home Office Regulatory Impact Assessment

NOTE  
Figures taken from updated RIA.

<sup>6</sup> The Government's Proposals for Regulation of the Private Security Industry in England and Wales. Cmd 4254, 23 March 1999.

<sup>7</sup> Private Security Industry: Further consultation on proposals to regulate the industry; Annex A Partial Regulatory Impact Assessment. Regulations to implement the Private Security Industry Act 2001 in respect of door supervisors and vehicle immobilisers 21 July 2003.

Authority required an additional £17.4 million of public funding (Figure 7). During 2006-07, licence applications were at a higher rate than expected as additional sectors joined, but the full cost of operating the licensing scheme was still the equivalent of £215 per application, £25 higher than the £190 fee.

**2.6** In 2006-07, the Authority recalculated the required licence fee based on future costs and anticipated application numbers. A new fee of £245 based upon a more robust estimate of the likely number of applications was implemented on 6 April 2007 based on anticipated costs until 2009, but with no allowance for increases. The fee is set by regulation and any change requires consultation and a Regulatory Impact Assessment. Although the Authority's deficit is reducing there is a risk that it will grow if there are problems dealing with the upsurge in applications as new sectors and regions are regulated at the same time as renewals.

## The Authority's roll out of licensing

**2.7** Research by the Home Office<sup>8</sup> showed that door supervision and vehicle immobilisation were particularly prone to criminal activity. The Authority therefore introduced licensing to these sectors first, following the Office of Government Commerce's gateway procedures. Following a successful pilot in Hampshire, in March 2004, the Authority designed a programme to licence door supervisors throughout England and Wales through eight regional roll-outs and this was successfully implemented between June 2004 and April 2005. Vehicle immobilisers followed in May 2005.

## The extension of licensing to security guarding

**2.8** The Authority changed its approach for the remaining manned guarding sectors, collectively referred to as security guarding<sup>9</sup>, by adopting a 'big-bang' approach. The Authority considered a number of options but believed that a regional roll out would be problematic for national companies as they would be providing staff in some areas where they were regulated and in other areas not. The Authority also considered and rejected a company by company roll out. In consequence, after extensive consultation with the industry, the Authority chose 20 March 2006 to implement the national regulation of security guarding.

**2.9** The Authority began accepting licence applications from January 2005 and to ensure an orderly flow of applications, it engaged with industry and the main trade body, the British Security Industry Association, to agree formally to monthly profiles of applications for each company. The Authority paid the British Security Industry Association £30,000 to administer this agreement for its members but terminated it in April 2005 as the information being provided was neither timely nor accurate. The Authority obtained a reduction in the payment made to the British Security Industry Association to £10,000 to reflect this outcome.

### 7 The Authority exceeded its budget between 2003-04 and 2006-07

Year	2003-04 £	2004-05 £	2005-06 £	2006-07 £	2007-08 £
<b>Total self-generated income</b>	1,102	4,642,743	19,551,276	22,617,235 <sup>1</sup>	21,555,978
<b>Total expenditure</b>	7,208,939	16,489,227	22,674,315	24,441,546	22,165,965
<b>Surplus/(Deficit)</b>	(7,207,837)	(11,846,484)	(3,123,039)	(1,824,311)	(609,987)

Source: Security Industry Authority Annual Accounts 2003-2007

#### NOTES

- 1 £19.5 million from licensing, £2.1 million from the Approved Contractor Scheme and £1 million from other sources including Scotland.
- 2 The Home Office funded the set up and development of the Authority in 2003-04 through grant in aid of £7 million.

<sup>8</sup> See Home Office Police Research Group Briefing Note, *Clubs, Drugs and Doormen*, March 1999 and *The Private Security Industry Home Affairs Committee First Report Session 1994-95*, HC 17 10 May 1995.

<sup>9</sup> Security guarding: All manned guarding sectors except door supervision, i.e.: cash & valuables in transit, close protection, public space surveillance, security guard and key holding.

**2.10** From April 2005, the Authority sought to manage the profile of applications through individual companies. It achieved some success in managing the flow of applications from many of the largest companies in the sector. Fifty six per cent of the 137,427 processable applications the Authority received between August 2005 and August 2006 were made through the Authority's bulk application process but the overall flow did not meet the profiles the Authority needed (**Figure 8**). Despite the efforts of the Authority and many of the largest companies, there was an incentive for individuals to delay their application until the last possible moment. Licences last for three years from the date of issue, so those who applied early were financially disadvantaging themselves by paying the full fee for a licence of less than full duration. The Authority recognised that individuals had no incentive to apply early, but it was bound by section 8(8)a of the Act whereby a licence commences from the date on which it is granted by the Authority.

## Criteria for obtaining a licence

**2.11** The licensing process assesses the suitability of individuals for positions of trust involving the security of people and property. Key elements of the checks include:

- an identity check, using personal documents such as a passport or driving licence;
- a check of the applicant's competency for the role against a national register of approved qualifications populated by awarding bodies;
- a criminality check by the Criminal Records Bureau (and overseas administrations where appropriate);

- a check on the applicant's mental health; and
- since July 2007, the right to work and remain in the United Kingdom.

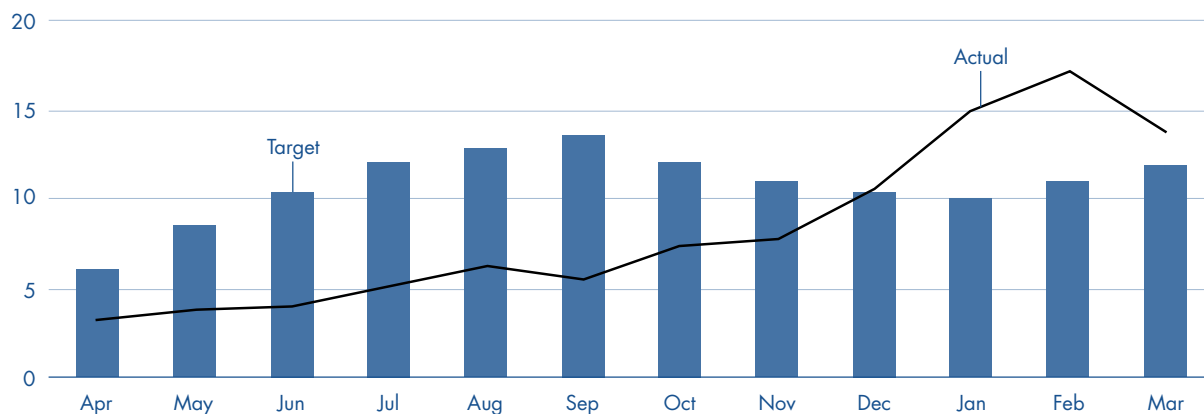
**2.12** In checking applications, the Authority interacts with other government agencies to verify that documentation is genuine. The Authority has only recently reached agreement with the Identity and Passport Service to incorporate real time checking of passports. For a similar reason in 2006, the Authority also approached the Driver and Vehicle Licensing Agency (the Agency) to gain access to the Agency's electronic records. The Agency was unable to meet the request on the grounds that the Authority needs to establish a clear legislative basis which gives the Agency the power to release this information for a specific purpose, and identify an exemption in the Data Protection Act which would allow the use of this data for a purpose other than driving entitlement and road safety for which it was collected. When it has identified the necessary legislative justification the Authority plans to approach the Agency again to establish access. If this access could be arranged applicants would not have to send their driving licences through the post to the Authority and the validation of application forms would be expedited.

**2.13** If during its checks the Authority discovers any false documents it will not grant a licence and the Authority will pass the details to the originator of the documents. These bodies informed us that they did not always prosecute in such cases. By contrast the Financial Services Authority takes the view that submitting false documentation is a breach of their statutory rules and they prosecute under the Financial Services and Markets Act.<sup>10</sup>

### 8 Mismatch between planned and actual applications in 2005-06

The security industry did not meet their planned monthly profile of applications.

Thousands of applications processed



Source: The Security Industry Authority

<sup>10</sup> The Financial Services and Markets Act 2000.

## The original licence processing system 2005 to 2007

**2.14** The Department required the Authority to have a working licensing process in place by April 2004. The Authority therefore sought advice from the Office of Government Commerce about procurement. The Office advised that to hold a full Official Journal of the European Union procurement process that quickly would be costly with no benefit, as it was a new service with uncertainty over the precise specification. Furthermore, the Department's timetable was not achievable under the standard public procurement route. With the help of OGC Buying Solutions, a limited tender exercise was carried out under a Government Telecommunications Contract Order. Of those companies expressing interest, three were asked to submit proposals and two did.

**2.15** After a ten month procurement process, a contract was awarded to BT/Syntegra covering initial system development and processing for four years with an optional one year extension to inform a subsequent re-tender. The system procured by BT/Syntegra was based on the modification of an existing commercial system. The original system development costs were £8.9 million. The total running costs, fixed and variable (including Criminal Records Bureau fees) were £13.2million in 2006-07, or 55 per cent of the Authority's expenditure.

**2.16** The platform was designed to deliver integrated business process management capabilities. The system delivered a serial business process (**Figure 11 in Appendix 4**) whereby each step had to be completed before the next could begin. If any were held up, processing stopped. The contract was priced by the bidders based on assumptions they had made during the tender process. A key estimate was that an application would be processed within 7-10 minutes, assuming that all application forms, completed manually, would be legible and scan-able. In practice, it took 21 minutes per application, as many illegible forms had to be typed in. The cost to the contractor of processing an application this way was £50.16 instead of £21.15.

**2.17** Equally, if an application was not registered on the system the call centre could not link calls to applications, when the applicant called about progress, leading to large numbers of independent records for each case. This caused delay in all parts of the operation. This issue was exacerbated because BT had created a system with each main function performed by a different subcontractor in a different location. A fixed price contract protected the Authority from the direct cost of these problems but did not prevent delays.

**2.18** The system was designed to cope with variable demand of up to around 16,000 applications per month at peak, falling to a long-term average of 6,000 to 8,000 per month. For around 18 months, the service performed largely as expected, because in that time only around 2,000 applications per month were processed. This slow build-up in demand from applicants meant that the system was not put under strain until September 2005, when demand rose to around 12,000 per month. By late 2005, the stress on the system exposed the bottlenecks in the process.

**2.19** The Authority has a target of processing 80 per cent of applications within six weeks of receipt of a correctly completed application. By September 2005, the accumulation of applications meant that it took up to four weeks for applications even to be entered onto the system. For that time, letters containing applications, important personal documents and payments stayed unopened at the processing centre. From November 2005, when most applications started to arrive, the Authority could not calculate processing times accurately.

**2.20** BT initially had part of their monthly fee deducted based on performance measured through the Service Level Agreement. Thus in late 2005, the Authority had a strong contractual position against its contractor, for the contractor's inability to deliver the specified services. The impact was felt by the Authority, however, as a large backlog built up with mounting criticism from customers and stakeholders. The choice was either insisting on its contractual rights, with a possibly lengthy argument over responsibility, or reaching a compromise. The Authority decided that to miss its licensing deadline would do more serious long term damage to its credibility.

**2.21** The Authority chose to work in partnership with BT and contribute to the extra cost of additional processing facilities to meet its original deadlines. The Authority paid for one of two additional processing facilities over and above the contractual arrangements, using funds from the Department. These additional facilities helped to process 73,400 applications during the four months from December 2005 to March 2006, an average of 18,350 applications per month. The Authority met its target dates, but only at increased cost and through use of the derogations<sup>11</sup> allowed by the Approved Contractor Scheme.

**2.22** In light of its experience, in 2006, the Authority began to redesign processes to handle licensing steps in parallel rather than sequentially (**Figure 12 in Appendix 4**). Planned enhancements included online applications, electronic payments and direct connections to the Identity and Passport Service database. The new system was to be delivered by a

<sup>11</sup> An Approved Contractor may issue a Licence Dispensation Notice which allows the deployment of security staff while their licence applications are being processed.

single sub-contractor, to reduce the actual cost of licensing by up to 50 per cent, and to speed up the process which had been highlighted by the industry as a key priority.

**2.23** To manage the change, in September 2006, the Authority agreed the provision of an updated system which was to be designed and operated by BT/Liverpool Direct Limited at a cost of £3.9 million. The new contract is in effect a contract extension although providing for a new system and delivery sub-contractor. Initially the Authority planned for an eight month development between October 2006 and June 2007. In the event, approval of the single tender and the contract negotiations were not completed until April 2007, when a seven month development period was set. This delivery timescale was too compressed.

**2.24** By August 2007, it was clear that the development would not be completed on time. Initial delivery was delayed from 1 October 2007 to 19 November 2007 but as the existing contract with BT/Syntegra was already being run down, there was a six week period between the middle of November 2007 and the end of December 2007 when licences were produced but virtually no new applications were processed. As a result, many applications were taking more than 12 weeks to process; more than double the target. To deliver a basic service, the Authority chose to delay the introduction of new functions the system had promised, including the provision of e-services and to delay aspects not yet delivered which were not essential for licensing, such as the provision of management reporting. The Authority was receiving some day to day information but did not have overall strategic information about the number of licences being processed, the time taken to process applications or the stage at which applications had reached. Therefore until April 2008, the Authority had little or no coherent management information. The delay in processing applications also increased the frustration of applicants which led to a large increase in the number of calls being made to the system's contact centre based in Liverpool. Call numbers reached 3,000 a day of which only 1,000 could be answered by operators and 500 by automatic facilities.

**2.25** The fixed price contract shielded the Authority from paying for the service until the delivery milestones were met. It has paid £1 million for those parts of the system which have been delivered; incurred £30,000 in additional project management costs; and has made compensation payments to applicants totalling £47,000 to April 2008. The Authority has been able to impose the maximum sanction allowed against the contractor of £26,000 a month from the middle of February 2008. The total additional cost to the Authority of the problems arising from both of its licence processing systems was just over £1 million.

**2.26** By the end of May 2008, the Authority working with BT/Liverpool Direct Limited had overcome the worst of the delays. As at 29 June 2008, the Authority had a backlog of some 2,000 applications in addition to its normal stock of 20,000 applications in the system and it was processing over 5,000 applications a week indicating that it was on the way to meeting its target of processing 80 per cent of applications within six weeks. Staff at BT/Liverpool Direct Limited have worked hard to reduce the backlog of applications.

## The Approved Contractor Scheme

**2.27** It is a statutory duty of the Authority to provide an Approved Contractor Scheme (currently voluntary). Contractors self-assess using an assessment workbook and a guide, which clarifies requirements and offers good practice tips. In developing it, the Authority successfully worked in consultation with the private security industry.

**2.28** The scheme has proved popular, except in door supervision. As at 30 June 2008 there were 505 approved contractors. After the self-assessment has been completed, the company is formally audited by external inspection bodies approved by the Authority.<sup>12</sup> The benefits for a contractor are:

- A **licence dispensation**, allowing the employment of a fixed percentage of unlicensed staff between submission of an application and approval;
- use of **marketing material**, denoting approval by the Authority and entry on to the central register of approved contractors; and
- improvements in **efficiency** generated by meeting the scheme criteria.

**2.29** The Approved Contractor Scheme is managed and run separately from the Authority's licensing, using a modified commercial application in house. It was delivered on time and has operated at a surplus each year since inception.

**2.30** The popularity of the scheme has been greater than anticipated: 19 per cent more companies have joined the scheme than the original projections, and it covers 30 per cent more licensable employees. This popularity has led to an over recovery of costs producing a surplus of £661,000 in 2006-07. As the Scheme's revenue in the first year significantly exceeded its costs, in accordance with the Treasury guidance on fees and charges the annual fees were reviewed. The fees for the scheme were reduced from £20 to £17 for each licensable employee from October 2007, producing a reduced surplus of £177,000 in 2007-08. This scheme should achieve break-even in 2008-09.

<sup>12</sup> The approved inspection bodies are: BSI-Global, CCAS, ISOQAR, LRQA, NGA, NSI Insight and SSAIB.

**2.31** While the scheme has proved popular, some industry stakeholders have voiced concern about the quality of some approved contractors. As part of the statutory requirements the Scheme has been assessed by the Office of Government Commerce<sup>13</sup> who consulted widely and concluded that the Authority should increase the visibility of the Scheme's enforcement and results to the security industry, purchasers and the public. The Authority has published benchmark data on its web site since June 2007 (**Figure 9**).

## The Authority's monitoring of training provided by the security industry

**2.32** Training standards for employees in the security industry were developed by the Authority through the creation of core competencies for each licensable sector, in consultation with the security industry, Skills for Security, the skills setting body for the security industry, the Qualifications Curriculum Authority and awarding bodies. There are 34 individually accredited qualifications given by seven awarding bodies<sup>14</sup> overseeing the centres delivering the training. The Authority is not directly responsible for regulating the standards of the qualifications which they licence.

**2.33** In early 2008, media reports<sup>15</sup> alleged that training provided as part of an Authority-endorsed qualification was below the standards required, raising concerns over quality. Investigating training malpractice is the responsibility of the awarding body and its regulator<sup>16</sup> but the Authority has included a section on their website to capture this information. There have been 47 alleged instances of training malpractice in the year beginning 1 October 2007, and two centres had their approval status withdrawn. The remainder of the allegations proved unfounded.

## The Right to Work in the United Kingdom

**2.34** In April 2007, a Border and Immigration Agency<sup>17</sup> enforcement operation identified 44 people employed by a security company who did not have the right to work in the United Kingdom. This situation was brought to the Authority's attention. Responsibility for checking employment status rests with employers, but the Authority arranged with the Border and Immigration Agency to check 10 per cent of non European Union applicants. This check exposed a wider prevalence of illegal immigrants amongst licence applicants, so the Authority

and the Border and Immigration Agency instituted a check to validate all licences, which was accelerated after disclosure of the problem to Parliament.

**2.35** In December 2007, the Authority wrote to over 11,000 licence holders who appeared to be working illegally. In response, over 3,000 wrote back evidencing valid reasons for their status, for example, dual British National; married to a European Union national; or long standing residence in the UK. The Authority has written to 7,729 licence holders, representing 3 per cent of licences, revoking their licences and reminded all companies of their duty to check an employee's right to work. The Authority is also supporting the United Kingdom Borders Agency in mounting prosecutions of employers and from 2 July 2007, has instigated a check of every non-European Union applicant's immigration status as part of the licence application process.

### 9 The Authority's quality assurance activity on the Approved Contractor Scheme

Activity/Sanction	Total to March 2008	In 2007-08
1 Independent assessment	355	219
2 Improvement need(s) identified	73	52
3 Licence dispensation restricted or withdrawn	24	16
4 Complaints or allegations investigated	297	24
5 Served notice of withdrawal of approval	52	46
6 Approval withdrawn	9	5

Source: Security Industry Authority

#### NOTES

- 1 Independent assessment** – All approved contractors must undergo this yearly.
- 2 Improvement need(s)** – arises when an independent assessment finds that the required achievement level has not been met on one of the 89 Approved Contractor Scheme indicators and must be addressed within a defined period.
- 3 Licence dispensation** – Authorisation to deploy security staff while their licence applications are being processed.
- 4 Complaints or allegations investigated** – all allegations are investigated. Numbers shown relate to cases closed following action.
- 5 Notice of withdrawal** – issued when a contractor no longer meets the requirements of the Scheme.
- 6 Approval withdrawn** – withdrawal is the final response applied.

<sup>13</sup> The Approved Contractor Scheme conditions for approval are subject to annual, independent review. Direction from the Secretary of State specifies that: "There shall be an independent annual review of the conditions being applied under section 15(3) (c) of the 2001 Act. Any proposed changes to these conditions will be submitted to the Secretary of State for consideration." The last review was in February 2007.

<sup>14</sup> The seven are ASET, British Institute of Innkeeping Awarding Body (BIAB), Buckingham New University, City & Guilds, Edexcel, National Open College Network (NOCN), and the Scottish Qualifications Authority (SQA).

<sup>15</sup> BBC – Panorama: *Britain's Protection Racket*. Broadcast Date: Monday 21 January 2008.

<sup>16</sup> In England the Qualifications and Curriculum Authority.

<sup>17</sup> Now the United Kingdom Borders Agency.



# PART THREE

## Effectiveness of the Authority's regulation

**3.1** This part of the report assesses how well the Authority is performing against the principles of effective regulation derived from the Hampton Report.<sup>18</sup>

### The Authority's performance against the Hampton Principles of effective regulation

**3.2** The Hampton report is a cornerstone of the Government's better regulation agenda and all regulators are expected to apply its principles (Figure 10). We have made an initial assessment of how the Authority is performing against those main principles. This assessment

includes considering the Macrory principles.

In November 2006, Professor Richard Macrory stated in a follow up<sup>19</sup> to the Hampton report that reliance upon criminal prosecutions failed to give regulators adequate means to effectively deal with many cases in a proportionate and risk-based way and that penalties handed down by the courts often failed to act as a sufficient deterrent or reflect the economic benefits gained. The Macrory report proposed a broad toolkit of administrative penalties for regulators with characteristics that would promote and enforce regulatory compliance. The report also recommended the extension of flexible and administrative monetary sanctions and the strengthening of statutory notices to work alongside the criminal law in combating non-compliance.

## 10 The Hampton Principles

The Hampton Principles form the basis of better regulation.<sup>1</sup>

Area	Principles
Design of regulations	<ul style="list-style-type: none"> <li>■ All regulations should be easily understood, implemented, and enforced, and all interested parties should be consulted at drafting</li> <li>■ When new policies are developed, explicit consideration should be given to using existing systems and data to minimise administrative burdens</li> </ul>
Advice and guidance	<ul style="list-style-type: none"> <li>■ Regulators should provide authoritative, accessible advice easily and cheaply</li> </ul>
Data requests	<ul style="list-style-type: none"> <li>■ Businesses should not have to give unnecessary information, nor give it twice</li> </ul>
Inspections	<ul style="list-style-type: none"> <li>■ No inspection should take place without a reason</li> </ul>
Sanctions	<ul style="list-style-type: none"> <li>■ The few that persistently break regulations should be identified quickly, and face proportionate, meaningful sanctions</li> <li>■ Regulators should be transparent in applying and determining administrative penalties</li> <li>■ Regulators should avoid perverse incentives</li> <li>■ Regulators should follow up enforcement actions</li> </ul>
Focus on outcomes	<ul style="list-style-type: none"> <li>■ Regulators should measure outcomes not just outputs</li> <li>■ Regulators should be accountable for the efficiency and effectiveness of their activities, while remaining independent in the decisions they take</li> </ul>

Source: Hampton Implementation Reviews: Guidance for Review Teams, National Audit Office and Better Regulation Executive, May 2007

#### NOTE

<sup>1</sup> Includes Macrory characteristics of effective sanctions.

<sup>18</sup> *Reducing Administrative Burdens: Effective Inspection and Enforcement*, Philip Hampton, March 2005.

<sup>19</sup> *Regulatory Justice: Making Sanctions Effective*, Professor Richard Macrory, November 2006.

## Design of regulations

**3.3** The public, police and the private security industry itself have long been concerned about criminals working within the industry. Potentially the threat to public safety posed by unscrupulous employers and employees in positions of trust is high. In response the Department prepared a Regulatory Impact Appraisal to accompany the consultation on the white paper in March 1999, before drafting the legislation and took account of the consultation responses in a transparent design process. The licensing regulations are in principle easy to implement but the number and transience of the licensable population creates practical difficulties. The Authority has a statutory duty to keep the Act under review and a review is planned for 2008-09.

## Advice and guidance

**3.4** The Authority has a range of support tools to provide stakeholders with advice and information, supplied principally through the contact centre (paragraph 2.23) which has been adversely affected by the high volume of calls it has received at certain times. The Authority also issues a number of free publications including 'Get Licensed – SIA licensing criteria' which guides the reader through the statutory licensing process. The Authority's website is comprehensive but could be simplified by the inclusion of a full index.

## Data requests

**3.5** The Authority's licensing requires a range of information to be entered by hand onto a form which is then scanned into the system. This is one of a number of factors, along with a failure by applicants to supply the correct documentation, which has led to very high rates of rejection of application forms. The Authority has begun to make links with other Government agencies to share data and to date has reached agreement with the Identity and Passport Service.

## Inspections

**3.6** The Authority's compliance and enforcement activities are guided by The Regulators' Compliance Code<sup>20</sup> of April 2008. This promotes the principles of good regulation<sup>21</sup>: transparency, accountability, proportion and consistency. Estimating the level of compliance with the requirement to be licensed is difficult but the

Authority has evidence that indicates that the level is over 90 per cent. The number of licences issued is broadly in line with estimates of the size of the licensable population while qualitative research commissioned by the Authority in 2008<sup>22</sup> showed that managers and operatives in door supervision and security believe that levels of compliance are more than 90 per cent. In May 2008, the Authority carried out, in Birmingham, the first of a series of random checks on security sites at 89 premises to test for compliance and found a compliance level of 92 per cent. Other operations undertaken by the police and joint operations with the Authority have also generally found compliance rates of over 90 per cent.

**3.7** The Authority has approximately 54 compliance and enforcement staff.<sup>23</sup> There are about 200,000 licensable positions in the United Kingdom at an unknown number of sites which include pubs, clubs, offices, factories, building sites, industrial estates and shopping centres. The Authority has therefore instituted an intelligence-led approach to allocating its limited resources by adopting the National Intelligence Model developed by the National Centre for Policing Excellence. The Model is designed to promote effective intelligence-led policing and to standardise intelligence-related structures, processes and practices across all police services in England and Wales. The Government required all police forces to implement the Model to national minimum standards from April 2004. The Serious and Organised Crime Agency, the Driver and Vehicle Licensing Agency, crime and disorder reduction partnerships and immigration agencies also use the Model.

**3.8** The Authority primarily enforces the licensing regime by directly engaging with the suppliers of security operatives and their customers to prevent the deployment of unlicensed individuals. It does this through eight small compliance and investigation teams. Five of these are expected to maintain liaison at local level and one at national level. The other two team's duties do not include this liaison role. The amount of inspection activity the Authority undertakes is limited and is usually undertaken in partnership with the police and more occasionally with other agencies such as local authorities and the United Kingdom Borders Agency. The Authority has delegated specific inspection powers, when requested, to local officers in the police and local authorities to assist them in enforcing the licensing regime when it is useful in relation to their own operational priorities.

20 *Regulators' compliance code: statutory code for regulators*. Better Regulation executive, Department for Business, Enterprise and Regulatory Reform, 17 December 2007.

21 As specified in section 21(2) of the Legislative and Regulatory Reform Act 2006 and also known as the Hampton principles. *Reducing administrative burdens: effective inspection and enforcement*, Philip Hampton, March 2005.

22 *Perceptions of compliance in the security industry*; The Security Industry Authority, March 2008.

23 Enforcement includes criminal investigation, court proceedings and judicial reviews.

**3.9** In 2007-08 the Authority provided 450 witness statements to the police and others to support their investigations into licensing offences, and the Authority is aware that local partners issued over 100 warnings to individuals as a result. However, the Authority does not routinely receive feedback on any inspections undertaken by these other agencies and the Authority has no established method for gathering data from them. The Authority is therefore unable to quantify accurately the level and quality of inspections being carried out.

## Managing Compliance and Enforcement with partners

**3.10** Breaches of the licensing regime take several forms: opportunistic non compliance; speculative non compliance; deliberate and persistent non compliance; and offending linked to organised crime. The Authority's limited resources are targeted at the two most serious categories. Ensuring compliance by less serious offenders is often left to the Authority's partners, primarily the police and local authorities. The weakness of this approach is that enforcement may not fit with partners' priorities and they may not then undertake any compliance and enforcement activity.

**3.11** A survey of the Authority and its activities in 2006 undertaken by the Better Regulation Executive found that industry stakeholders considered that insufficient enforcement was being undertaken. In response, the Authority increased publicity for its activities<sup>24</sup> and highlighted the actions taken and the results. Most stakeholders we consulted commented that the Authority's website was a valuable resource which assisted with local enforcement. Until changes to the website, employers had to rely on individual employees to tell them if their licence had expired or been revoked. Despite these changes, there is no link between an employer and an individual licence holder, so in many cases the Authority cannot readily check whether individuals are operating without a licence or that companies are not employing unlicensed individuals.

**3.12** We spoke to ten police forces in England. In general, the police had a positive view of the Authority's Compliance and Enforcement work. All the forces interviewed knew their local enforcement contact at the Authority, although many believed the role to be

under-resourced given the territory they had to manage. Some forces noted that the Authority's contacts took an active role locally, for example, by taking part in local pub-watch schemes<sup>25</sup> and enforcement operations. Other police units expressed disappointment that local enforcement contacts did not take part in operations and relied exclusively upon the police to undertake enforcement. All the forces we interviewed said that the Authority's website was useful in helping police to conduct enforcement operations effectively.

**3.13** Many forces experienced delays in receiving responses to telephone and e-mail requests and a few raised concerns that intelligence provided to the Authority took too long to be processed, potentially resulting in risks to public safety; and there was frustration at the limited acknowledgement of the intelligence provided. The Authority's processing of intelligence has been hindered by difficulties it has faced with the initial system it devised for recording intelligence received. It is introducing a new system in June 2008.

**3.14** All the police forces we spoke to raised concerns about the Authority's problems in processing licence applications, with most believing that these had damaged the Authority's credibility. The perceptions of the Authority as a regulator were mixed; some felt the Authority faced difficult challenges and was severely under-resourced, while others felt that sufficient funds were available, citing the increase in the licence fee, but that the organisation was not well run and lacked street presence.

**3.15** We also discussed the Authority's relationships with a sample of 10 local authority licensing and enforcement divisions. Where relationships were characterised as productive, these involved frequent contact between the local authorities and the Authority, either through e-mail, or regionally organised licensing forums usually chaired by the local police. Other authorities experienced frustrations with their appointed area representative, however, while some said they had no contact with the Authority aside from going directly to the head office. The area-based teams operated by the Authority were described by some as powerless and criticised for not responding to queries quickly or at all. There was a consensus that these posts were under-resourced. The high turnover of area-based staff makes it difficult for local authorities to build good relationships.

<sup>24</sup> SIA Action Plan: *Enhancing our Regulatory Services* November 2006.

<sup>25</sup> Pubwatch is a scheme set up and run by licensees to reduce crime and disorder in public houses and clubs. Supported by the police, it is a national initiative, which works by creating links between public house licensees, allowing information – such as the identity of known troublemakers – to be passed quickly between each other and police. It also provides a forum where licensees can share problems and solutions.

**3.16** Some local authorities also made a comparison between the Authority and the Gambling Commission, with the latter giving a better response time to queries and having broader channels of communication. There is a perception of the Authority as being out of touch with the industry because it operates so remotely from door supervisors. Many local authority respondents said that they would only be checking door supervisors if there were a specific licensing requirement for them to be present (usually only for larger clubs), and therefore they did not include checks for door supervisor passes as part of their regular enforcement activities.

## Sanctions

**3.17** Once the Authority has decided that there has been non-compliance, it has a limited range of actions it can take. For minor non-compliance the Authority has introduced an informal procedure of written warnings to individuals. In more serious cases the Authority may revoke or suspend a licence in response to an individual no longer meeting the criteria for holding licence. As at 28 May 2008, the Authority had issued over 248,400 valid licences and had revoked or suspended 9,033 including the 7,729 licences the Authority has revoked where the licensee was found not to have the right to work in the United Kingdom. Non-compliance can also lead to individuals facing up to six months' imprisonment and/or a £5,000 fine. While the Authority prefers to avoid undertaking prosecutions, it has to date pursued four cases against individuals resulting in three cases in fines and in one case, a fine and a conditional discharge. It has other prosecutions pending. The police also pursue prosecutions under the Act.

**3.18** For companies that may, for example, supply or use unlicensed operatives, the Authority has introduced an initial informal process of issuing Improvement Notices. As at 31 May 2008, the Authority had issued 68. If the Improvement Notice does not work, the Authority may instigate a formal investigation. It currently has eight formal investigations under way. For more serious offences, sentences of up to five years imprisonment and unlimited fines are available. The Authority prosecutes in its own name. It successfully concluded two criminal prosecutions in 2006 and currently has a further five criminal prosecutions under way. Each case involves allegations of multiple offences and several defendants.

## Focus on outcomes

**3.19** Since its inception the Authority has demonstrated a sense of purpose although it needs to improve the efficiency of its system for issuing licences and to better articulate its achievements. The delays that were caused by the inadequacy of the first processing system and then the late delivery of the second managed service have affected the Authority's performance. These combined with the long term absence of management information on issuing licences, and the limited information it holds on its compliance and enforcement activities have hampered the Authority's ability to help the sector provide a better service to the public and comply with the regulations.

# APPENDIX ONE

## Study Methodology

**1** This report examines how effectively and efficiently the Authority is operating in England. In particular:

- how effectively the Authority has introduced licensing and the Approved Contractor Scheme;
- whether the Authority is carrying out its regulatory remit cost effectively.

**2** This section outlines the research methods in the course of our examination. The main techniques we used to evidence the report were:

### Semi-structured interviews

#### Interviews with the Security Industry Authority

**3** We interviewed all the members of the Authority's Senior Management Team namely:

- the Chief Executive (22 April 2008) to discuss the Authority's performance, its relations with the Home Office, compliance and the right to work issue;
- the Deputy Chief Executive/Director of Operations (29 April 2008) to discuss compliance, enforcement and the right to work issue;
- the Director of Corporate Service (24 April 2008) to discuss the procurement and performance of the current licensing system and (22 May 2008) to discuss the Authority's projections of licensing and the Authority's financial performance;
- the Director of Customer Services (29 May 2008) to discuss the Authority's current performance in licensing and the Authority's proposals to improve its modelling and forecasting; and
- the Director of Strategic Development (29 September 2007 as part of our preliminary work) to discuss the Authority's strategic planning, risk management and corporate structure.

We interviewed three of the Authority's Non-Executive Directors (1 May 2008) to discuss:

- relations between the Authority and the Home Office;
- the Authority's current operating performance;
- the amount and quality of management information they receive as Board members; and
- the difficulties the Authority has faced in processing applications for licences.

We interviewed other staff at the Authority as follows (February – May 2008):

- the Assistant Director of Intelligence;
- the Assistant Director for Compliance and Investigation;
- the Assistant Director of Information Technology;
- the Assistant Director responsible for the Approved Contractor Scheme;
- the Project Manager for the MSP II system; and
- the Assistant Director for Customer Services.

#### Interviews with the Home Office

**4** We interviewed the Home Office Director responsible for sponsorship of the Authority (19 June 2008). We held meetings with Head of the Security Industry Section and reviewed Departmental and Authority correspondence and ministerial submissions since 2005.

**5** We interviewed staff in the sponsoring team and staff in the Home Office's commercial directorate with responsibility for overseeing the Authority's contract with the managed service provider (October 2007 as part of our preliminary work). We interviewed the Home Office lead on value for money (Processes Improvement Projects) and the Procurement (Commercial and Procurement Unit).

## Interviews with other Stakeholders

**6** We interviewed the Head of Enforcement and Compliance Policy Development (18 April 2008) from the UK Borders Agency about their ongoing work with the Authority to identify and remove illegal workers from the industry.

**7** We held interviews with the following staff from Liverpool Direct Limited, the provider of the current licensing system used by the Authority:

- the Project Leader for the MSP 11 project (25 April 2008);
- the Manager of the system's Contact Centre (24 April 2008); and
- the Manager of the Data Handling Centre (25 April 2008).

**8** We interviewed the chief executive of the British Security Industry Association (11 October 2007 as part of our preliminary work).

**9** We interviewed the Home, Legal & Communities Team at HM Treasury responsible for Treasury policy relating to the Authority (18 April 2008).

**10** We interviewed the LACORS team leader responsible for coordination of local authority licensing (12 October 2007 as part of our preliminary work).

**11** We interviewed the ACPO lead responsible for the security industry and for police relations with the Authority (2 April 2008).

**12** We did not canvas the views of individual security personnel.

## Examination of key documents and reports

**13** We examined the following documents:

- Strategy and planning documents produced by the Authority for its management and board, including stated aims and objectives and Regulatory Impact Assessments between 1999 and 2007, to assess whether the Authority's activities address the remit and role set for it.
- Documents held by the Authority, the Home Office and the Office of Government Commerce, including correspondence between the parties, the Gateway reviews produced by the Authority and its responses to OGC. We examined these papers to review the creation of the regulatory system to ensure that the scheme was appropriately designed.

- The terms of the Authority's Managed Service Contract to identify the key contractual obligations on each party and the mechanisms for measuring and rewarding/penalising performance. We evaluated the performance of the Managed Service Provider against their obligations in both of the managed service contracts.

- We undertook a detailed examination of the Authority's management reports, including minutes and supporting papers of the project boards which were overseeing the licensing scheme covering the period 2005-07.

- Risk management documents not included above on the Authority's future operations.

## Telephone Surveys

**14** We conducted a telephone survey of representatives of police forces and local authority licensing departments in England to identify:

- the level and quality of the contact the organisations have with the Authority;
- whether they consider that the Authority has made good use of the body concerned as an enforcement organisation;
- the extent to which good practice is disseminated by the Authority;
- whether enforcement action is decreasing as a result of the creation of the Authority and the Security Industry Act; and
- the extent to which unlicensed activity is still taking place.

We contacted ten police forces and ten local authorities who were selected at random to include both urban and rural areas in all the regions of England.

## Benchmarking

**15** The Authority has responsibilities which are similar to a number of other United Kingdom bodies that licence individuals and we held interviews and obtained documentary evidence from the following organisations:

- the Gangmasters Licensing Authority (Interviewed 3 April 2008);
- the Gambling Commission (including its predecessor the Gaming Board of Great Britain) (Documentation review only);
- the Driver & Vehicle Licensing Agency (Interviewed 21 May 2008);

- the Identity & Passport Service (Interviewed 24 April 2008); and
  - the Financial Services Authority (Interviewed 8 May 2008).
- 16** We established the following information from these organisations to enable us to compare and contrast the approach to licensing adopted by the Authority.
- An overview of the body's approach to licensing.
  - The organisation's size, structure and staffing.
  - The organisation's use of outsourcing of licensing.
  - The Director of Strategic Development (29 September 2007) to discuss the Authority's strategic planning, risk management and corporate structure.
  - Use made of on-line applications.
  - The cost of a licence, and how the cost was set.
  - The approach adopted by the organisation to verifying the information included on applications for a licence to include any agreements they may have with other Governmental organisations.
  - The organisation's approach to compliance and the enforcement of licensing conditions and its response to any false documentation received.
  - The organisation's approach to working with key stakeholders and third parties including the police and local authorities.
- 17** Overseas comparisons – Other countries in Europe also regulate their private security industries. We analysed existing research to compare the approach of the Authority to the regulation of the private security industry with its European counterparts. We also consulted with the Private Security Authority of the Republic of Ireland.

## Quantitative analysis

- 18** We undertook the following quantitative analysis:
- We analysed the Authority's financial data (balance sheets, profit and loss and cash-flow statements) for the years 2003-04 to 2007-08, to identify trends in the financial performance of the Authority.
  - We analysed the Authority's key performance data for the same period taken from the records of the Authority and its managed service providers on:
    - the issuing of licences;
    - the approval of contractors for the Approved Contractor Scheme; and
    - the Authority's compliance and enforcement activity.
  - The Regulatory Impact Assessments (RIA's) produced between 1999 and 2007 concerned with the setting up of the Authority and on the increase in the licence fee in 2007. We checked each RIA against the source documentation and any relevant contemporary evidence. We compared the costs calculations in the RIA's against the actual outturns.
  - We analysed the Authority's data on the following:
    - the number of complaints made against the Authority;
    - the number of licence applications refused; and
    - the numbers of licences revoked and revocations challenged.
  - We examined and evaluated the Authority's business projections to determine if they included well-evidenced assumptions and provided a sound basis for the Authority's resource planning. In particular we examined the processes the Authority used to produce the costs documentation for the expansion of licensing into Scotland against our view of good practice.

# APPENDIX TWO

## Glossary

The following terms are used in this report.

Term	Meaning
Act	The Private Security Industry Act 2001.
Approved Contractor Scheme	A voluntary scheme operated by the Authority under the provisions of sections 14–18 of the Act.
Authority	The Security Industry Authority.
Board	See Gaming Board of Great Britain.
British Security Industry Association	The British Security Industry Association is the trade association for the contract security industry in the United Kingdom. Its members provide over 70 per cent of contract security personnel.
Cash and Valuables in Transit	Guarding property against: destruction, damage or being stolen, involving the secure transportation of property in vehicles with secure transportation as their primary function.
Close Protection	Guarding one or more individuals against assault or against injuries that might be suffered in consequence of the unlawful conduct of others.
Contract Security	The provision of security services conducted under contract rather than by directly engaged employees.
Criminal Records Bureau	The Criminal Records Bureau is an Executive Agency of the Home Office in the United Kingdom, which conducts criminal record checks on potential employees on behalf of organizations and recruiters throughout England and Wales.
Department	The Home Office.
Door Supervision	Activities of a security operative carried out in relation to licensed premises; when those premises are open to the public.
Financial Services Authority	Statutory regulator of the financial services market in the United Kingdom.
Gambling Commission	The Gambling Commission was set up under the Gambling Act 2005 to take over the role previously played by the Gaming Board for Great Britain in regulating casinos, bingo, gaming machines and lotteries.

Gaming Board of Great Britain	The regulator of casinos, bingo, gaming machines and lotteries in the United Kingdom between 1968 and 2005.
Gangmasters Licensing Authority	The Gangmasters Licensing Authority is the United Kingdom agency regulating the supply of workers to the agricultural, horticultural and shellfish industries.
Gateway Review	The OGC Gateway Process examines programmes and projects at key decision points in their lifecycle. It looks ahead to provide assurance that they can progress successfully to the next stage. The process is mandatory in central civil government for procurement, IT-enabled and construction programmes and projects.
In House Security	Security provided by an organisation's employees.
Key Holder	Keeping custody of, or controlling access to, keys.
Managed Service	The practice of transferring day-to-day delivery of business support functions to an outside party.
Managed Service Provider	The provider of managed services. In the Authority's case BT and its sub contractors.
Manned Guarding	Door supervision, Security Guard, Cash and Valuables in Transit, Close Protection and Public Space Surveillance.
Ofcom	The Office of Communications is the independent regulator and competition authority for the communication industries in the United Kingdom.
Office of Government Commerce (OGC)	The Office of Government Commerce is an office of HM Treasury, responsible for improving value for money by driving up standards and capability in procurement, from commodities buying to the delivery of major capital projects.
Ofgem	The Office of Gas and Electricity Markets – Statutory regulator of the energy markets in the United Kingdom.
Public Space Surveillance	Activities involving the use of closed circuit television equipment to monitor the activities of a member of the public in a public or private place.
Security Guard	Guarding premises against unauthorised access or occupation, against outbreaks of disorder or against damage.
Security Guarding	Manned Guarding except Door Supervision.
Vehicle Immobilisation	The immobilisation of a motor vehicle by the attachment of an immobilising device.

## APPENDIX THREE

# The Private Security Industry Act

The Private Security Industry Act 2001 outlines a system for the statutory regulation of the private security industry.

The full amended text of the Act is available at: <http://www.statutelaw.gov.uk/>.

The main sections of the Act are:

Establishing the SIA	Sections	1–2
Licence Requirements (includes Exemption for Approved Contractors)	Sections	3–6
Licensing Functions of the SIA	Sections	7–12
Local Authorities	Section	13
Approved Contractor Scheme	Sections	14–18
Entry, Inspection and Demands for Information	Sections	19–22
Supplemental Matters	Sections	23–26
Constitution of the SIA	Schedule	1
Licensable Activities	Schedule	2

The Act has been subject to three significant legal challenges:

*R (on the application of Nichols) v Security Industry Authority* [2006] EWHC 1792 (Admin)

This case decided that it was not unlawful to impose an automatic bar on obtaining a licence as a door supervisor where the individual has conviction for offence of serious violence when the object of the legislation is to eliminate criminality amongst door supervisors.

*Security Industry Authority v Stewart & Sansara & Ors* [2007] EWHC 2338 (Admin)

This case decided that under provisions of the Act, the Authority and any appellate courts are obliged to apply the Authority's criteria and strictly decide the applicants' licence applications, and the appeals, accordingly. As for the construction of the criteria themselves, they are rules and not guidelines. They are sharp-edged. They contain no "give", which might allow for merits, judgments or discretionary decisions. Further the measures contained in the 2001 Act and the published criteria constitute a proportionate response to the need to regulate the private security industry in the public interest, and thus comply with the European Convention on Human Rights.

*R (on the application of Securiplan Plc & Ors) v Security Industry Authority & Anor* [2008] EWHC 1762 (Admin)

This case decided that the Authority has the power to prosecute offences under the Private Security Industry Act 2001.

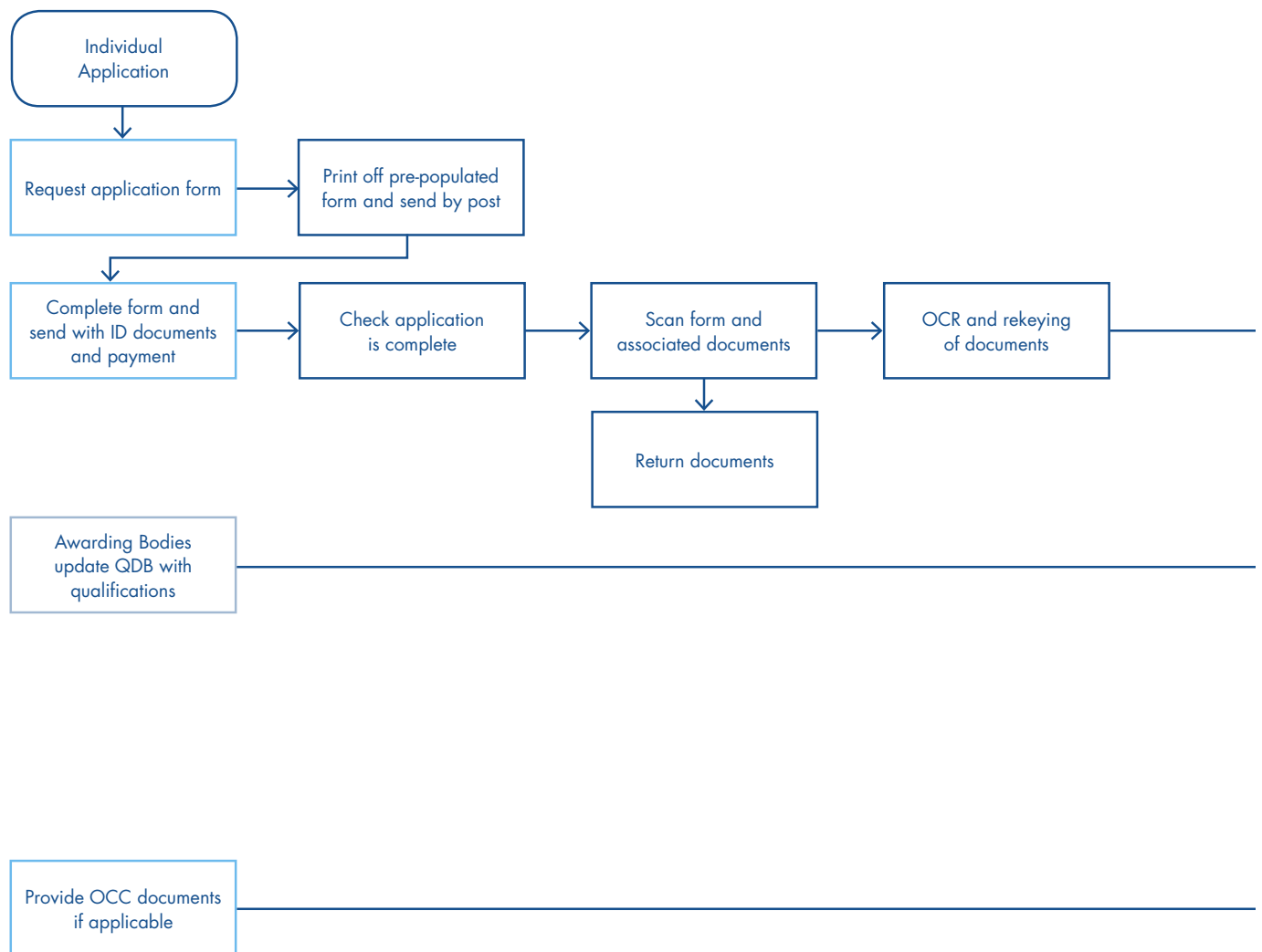
# APPENDIX FOUR

## The Managed Service Processes

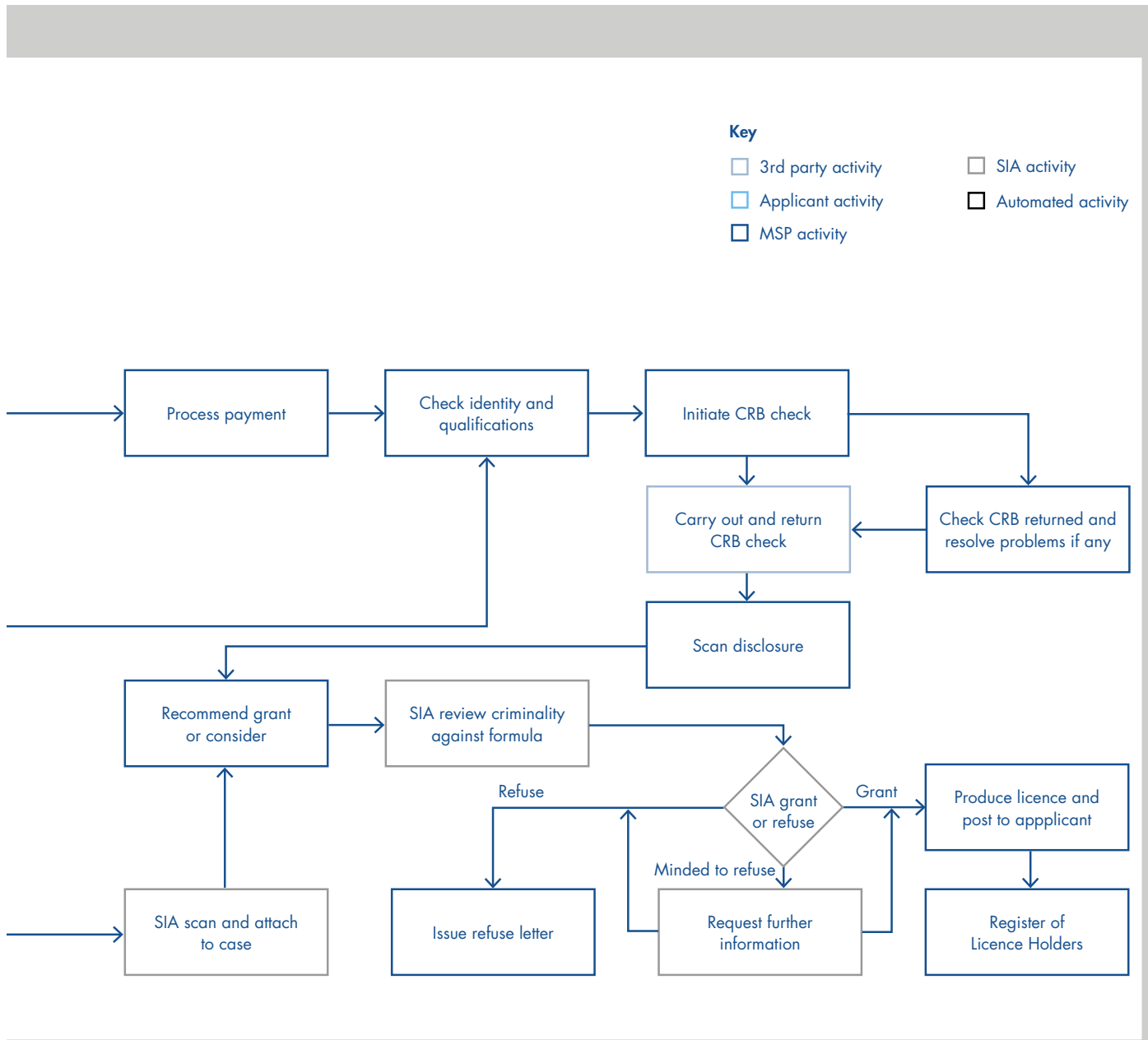
The Authority has changed the process underlying the system it uses to issue licences.

### 11 The original application process

The original application process used a serial model where each step had to be completed before the next started.

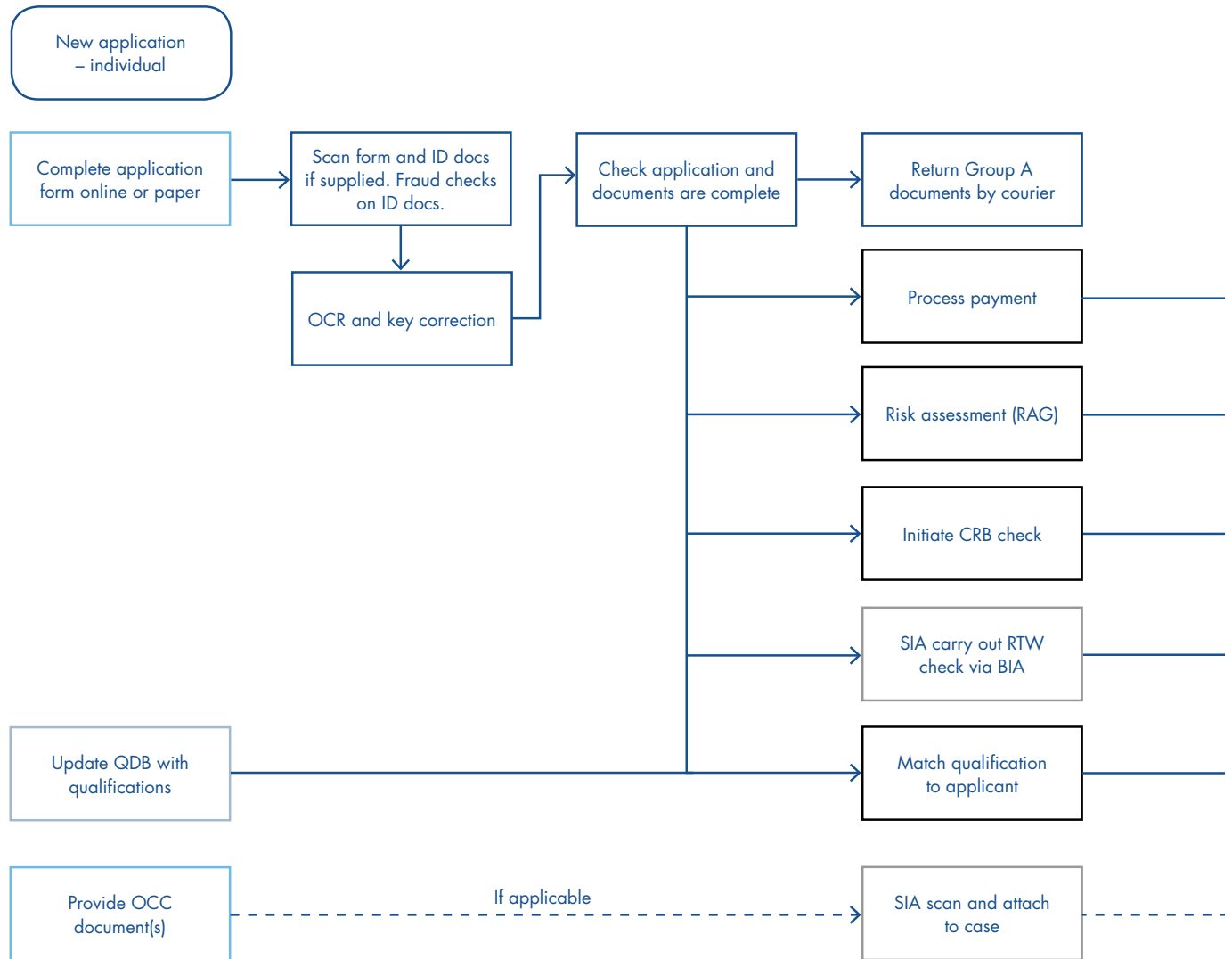


Source: The Security Industry Authority



## 12 The redesigned application process

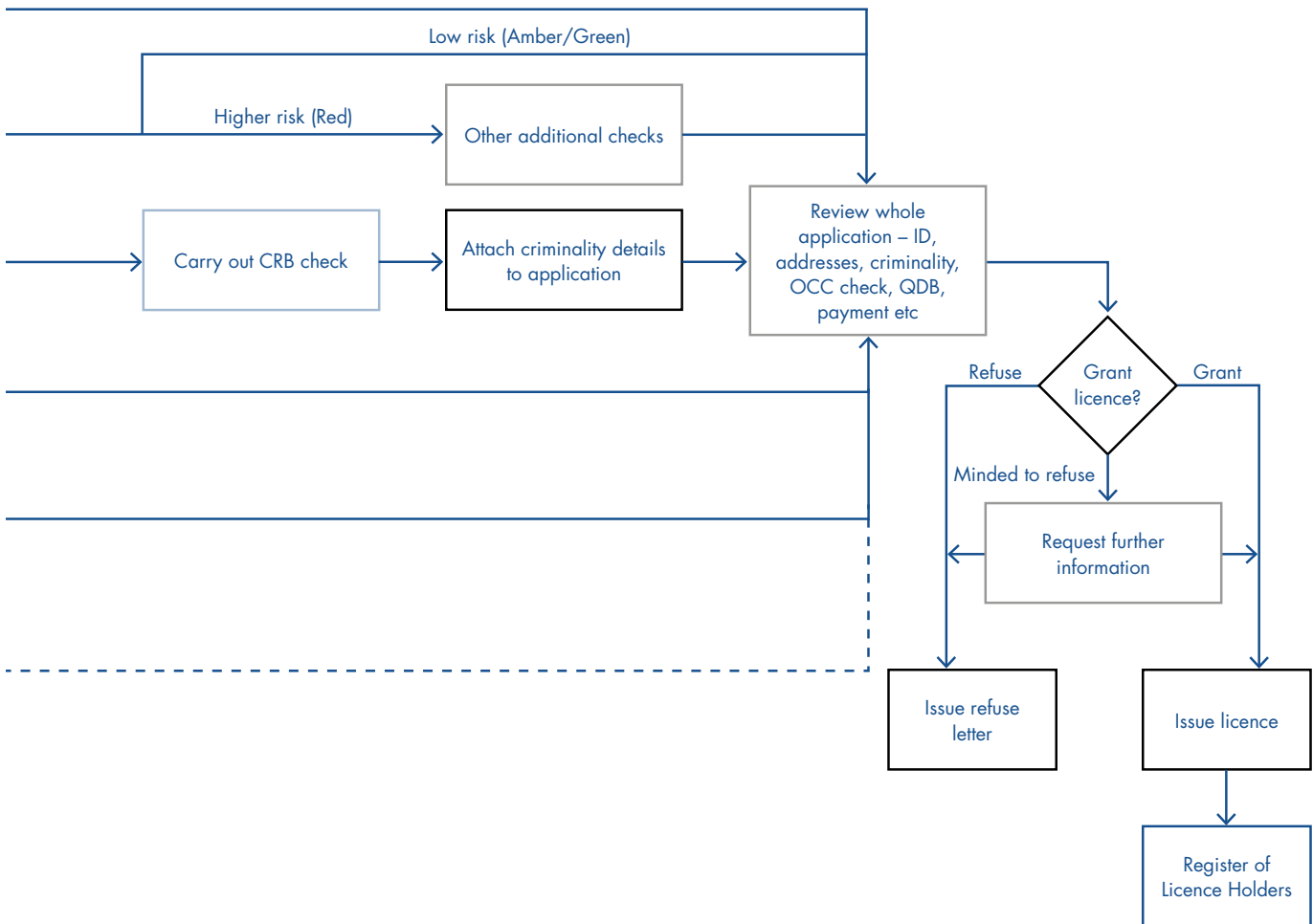
The redesigned application process deals with applications in parallel.



Source: The Security Industry Authority

**Key**

- 3rd party activity
- Applicant activity
- MSP activity
- SIA activity
- Automated activity





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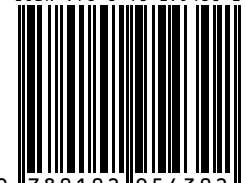
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