

**The Post-Crisis Regulation of  
the UK Private Security Industry**

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## Abstract

This thesis examines the post-crisis regulation of the UK private security industry. It seeks to explain the puzzling shift from hierarchical command-and-control to more hybrid patterns of private security regulation in the post-crisis era (2008-2018). What is puzzling about this shift is that these more complex, networked patterns of private security regulation have emerged in the absence of any formal regulatory reform. To analyse and explain these ‘hidden’ changes in private security regulation – and departing from existing approaches – this thesis constructs a novel theoretical framework from the literature on private security regulation, political institutionalism and bureaucratic politics. Through this lens – and drawing on original interview and documentary analysis - this thesis explains the ‘hybridisation’ of private security regulation with reference to the Security Industry Authority negotiating external pressures stemming from the shifting post-crisis environment in order to achieve its objectives and maintain its autonomy. It argues that in the context of a fixed legal mandate and increasing legal, resource and regulatory constraints, the SIA has sought to enhance its capacity to achieve its regulatory objectives by supplementing its (limited) formal authority with the informal authority of non-state actors and networks. The implication is that in the post-crisis era, private security regulation has been gradually redirected from its original purpose of protecting the public *from* private security towards the goal of protecting the public *with* private security. Through its examination of the ‘hybridisation’ of private security regulation in the post-crisis era, this thesis contributes not only to a deeper understanding of the political and dynamic nature of private security regulation but also to key contemporary academic debates on the state, policing and regulation

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## **Author's Declaration**

I declare that this thesis is a presentation of original work and that I am the sole author. This work has not previously been present for an award at this, or any other University. All sources are acknowledged as references.

# 1. Introduction

## 1.1 Research Puzzle, Question and Debates

Private security has undergone a remarkable transformation. In the past fifty years, it has migrated from the peripheries of the policing landscape – where it has traditionally been confined to factories, industrial estates and business premises – to outnumbering public police forces in many countries and undertaking increasingly important functions such as the protection of critical national infrastructure, the policing of large-scale events and even the patrolling of public spaces (Crawford *et al.* 2004). Such is the scale of this expansion that the global private security industry – which provides a range of services, technologies, and other goods designed to protect persons, property and information – was valued at £410 billion in 2012 (UKTI/Home Office 2014, p.4; Loader and White 2017). Although the private security industry has catered to a rising demand for protection which has outstripped the capacities of traditional providers such as the public police, this transformation has heightened the public’s vulnerability to misconduct and abuse (Prenzler and Sarre 2008). The increasing prominence of market failures coupled with a growing public concern has therefore prompted many governments to introduce policies designed to govern the provision of this good (de Waard 1999; Button 2007). Generally speaking, the dominant response by governments has been to protect the public from private security by introducing command-and-control regulation targeted at the activities of the private security industry (Prenzler and Sarre 2008). Accordingly, in many countries, the private security industry is subject to governmental licensing schemes, monitored and enforced by public agencies and underpinned by (often criminal) sanctions (de Waard 1999; Button 2007; van Steden and Sarre 2007; Prenzler and Sarre 2008; Berg and Howell 2017; Button and Stiernstedt 2017).

The United Kingdom is no exception. Over the past two decades, the Private Security Industry Act (PSIA) 2001 has facilitated the development of a hierarchical command-and-control regime designed to protect the public from malpractice within the private security industry (Home Office 1999; House of Commons Library 2001; see White and Smith 2009). The PSIA 2001 establishes the Security Industry Authority (SIA), a non-departmental public body accountable to the Home Secretary and tasked with regulating the private security industry in the UK. Since 2004, the SIA has been responsible for administering, monitoring and enforcing a licensing system in which private security officers undertaking licensable activities must demonstrate that they are ‘fit and proper’ by undergoing criminal and identity checks and meeting minimum training requirements. The SIA is also responsible for managing a voluntary accreditation scheme (the ‘Approved Contractors Scheme’) for private security companies that meet specified service delivery standards. Working in a licensable role without



a valid licence, supplying unlicensed officers, and falsely claiming accredited status are amongst the criminal offences under the PSIA 2001 that carry penalties of imprisonment and/or fines. Accordingly, the SIA is authorised to prosecute cases of non-compliance but also has a series of other statutory powers such as the ability to refuse, suspend and revoke licences.

Recent years have witnessed a puzzling shift away from this hierarchical command-and-control regime to more complex and hybrid patterns of private security in the United Kingdom. In the post-crisis era, private security regulation has become increasingly plural and fragmented as the SIA's responsibilities have been increasingly delegated, contracted-out and shared with third parties such as private security companies and buyers of private security services (SIA 2018a). Accordingly, the SIA's regulatory strategies have become more hybrid and multifaceted in the sense that they increasingly interact with self- and third-party regulation and utilise a range of instruments beyond legal sanctions, such as persuasion, education and guidance (SIA 2018b). The SIA has further broadened its activities beyond the direct administration, monitoring and enforcement of the licensing system to include more indirect roles including the facilitation, steering and coordination of networks relating to public protection, safeguarding, and national security (Bateman 2017; Home Office 2018, p.13). Furthermore, in the context of austerity-related police budget cuts, the SIA's regulatory approach has become increasingly oriented towards empowering and enabling the private security industry to better contribute to public policing initiatives, primarily brokering public-private partnerships and sponsoring specialised training and awareness events for private security officers (HC 744[2016-17], p.14; SIA 2018c; SIA 2018d, pp.22-23). The implication of these developments is that in the post-crisis era, UK private security regulation has been progressively redirected from its original intention of protecting the public *from* private security to protecting the public *with* private security (see White 2018, p.1001). For the purposes of this thesis, this shift from hierarchical command-and-control to more collaborative and networked patterns of private security regulation is termed the 'hybridisation of private security regulation'. This notion captures the fact that in the post-crisis era, private security regulation is increasingly constituted by a complex mix of different institutions, actors, strategies and instruments (Levi-Faur 2011).

What is puzzling about this 'hybridisation' of UK private security regulation is that the shift from command-and-control to more decentred and network-oriented modes of private security regulation have occurred in the absence of any formal regulatory reform. These changes in the post-crisis regulatory relationship between the British state, regulation and private security have therefore remained relatively 'hidden' in the sense that they have been disguised or masked by continuity in formal-institutional rules – in this case the PSIA 2001 (Hacker *et al.* 2015). Yet, it is also for this reason that these shifts have remained hidden to scholars of private security regulation. To date, the literature on private security regulation has

predominantly concerned itself with classifying and comparing states in terms of their statutory frameworks, with the aim of developing model regulatory systems and disseminating best practices (e.g. Button and George 1998; de Waard 1999; Button 2007; Prenzler and Sarre 2008; Button 2012; UNODC 2014; Button and Stiernstedt 2017). As O'Connor *et al.* (2008, p.205) observe: 'rigorous empirical research on the relationship between state regulation and security management protocols is largely non-existent'. In fact, where empirical research does exist, such studies have predominantly drawn analysed the relationship between the state, regulation and private security by drawing inferences from prevailing statutory frameworks and legal provisions – an approach which does not adequately capture these hidden changes (e.g. Button 2007; 2009; 2012). Indeed, only a few cursory notes have been made to UK private security regulation in the post-crisis era, and even then, only to the plans to formally restructure the PSIA 2001 between 2010 and 2015 (e.g. Button 2012, pp.215; Mawby and Gill 2017, p.261). By investigating this puzzling shift from command-and-control to more hybrid patterns of private security regulation in the post-crisis era, this thesis therefore contributes to filling a significant gap within the literature on private security regulation. Against this empirical and theoretical backdrop, then, this thesis investigates the following research question: **how can we explain the hybridisation of UK private security regulation in the post-crisis era?**

In short, this thesis argues that the 'hybridisation' of private security regulation can be explained with reference to the Security Industry Authority negotiating external pressures stemming from the shifting post-crisis regulatory environment in order to undertake its core mission successfully, achieve its objectives and therefore maintain its autonomy. It contends that shifts in the broader post-crisis regulatory environment have served to exacerbate competing tensions within the SIA's regulatory regime between increasing fragmentation on the one hand and increasing centralisation by the core executive on the other. Accordingly, not only has the SIA's legal mandate remained fixed, but it has faced increasing legal, regulatory and resource constraints on its regulatory activities. It argues that between 2008 and 2014, the SIA sought to negotiate these constraints by pursuing the extension of its legal mandate to include private security companies. The SIA perceived that business licensing would enable it to more effectively and efficiently target its regulatory objectives, thereby achieving its regulatory objectives of reducing criminality and raising standards within this more restrictive regulatory context. However, with reform proposals shelved by the Home Office in 2014, the SIA sought to negotiate these constraints by adopting more networked and collaborative regulatory strategies. Essentially, the SIA has sought to sustain its foothold within changing regulatory arrangements by supplementing its (limited and increasingly restricted) formal authority with the informal authority of non-state actors and networks. This thesis will therefore examine how the SIA has interacted with its institutional environment in

order to pursue its core mission, achieve its objectives and ultimately, maintain its bureaucratic autonomy. For this thesis posits that it is this dynamic that serves to explain the hybridisation of UK private security regulation in the post-crisis era.

This research is significant because it cuts into three contemporary academic debates relating to the changing relationship between the British state, regulation and policing. The first debate concerns the nature and implications of the growth of the private security industry. The 're-birth' of private security has been one of the most prominent and widely scrutinised developments in the plural policing landscape (Shearing and Stenning 1979; Shearing and Stenning 1981; 1983; 1987; Johnston 1992; Jones and Newburn 1995; 1998; 2002; Bayley and Shearing 1996; 2001). It therefore seems important at this point to perform some definitional and conceptual 'throat-clearing'. Since the 1980s, extensive scholarly effort has been put in to defining private security and exploring its similarities, differences and relationships with the public police, especially in terms of their legal status, powers and functions (Stenning 2000; Rigakos; Wakefield 2003; Button 2007). There have been numerous suggestions that private security can be defined by its distinctive goals, resources and strategies as well as its distinctive lack of statutory powers (Stenning 2000; Button 2006; van Steden and Sarre 2010). Indeed, Shearing and Stenning (1981, p.195) were first to define private security in terms of its core focus on the 'protection of information, persons and property'.

However, such definitions have been questioned as the distinction between public and private policing has become increasingly blurred. South (1988, p.4) contends that protection is not a defining feature of private security due to it being a key dimension of police work and increasingly coming under the purview of facilities management companies that provide security alongside cleaning, catering and maintenance services. Furthermore, although private security has traditionally – and still continues to be – employed in the protection of private information, persons and property, it has increasingly undertaken functions traditionally reserved for the police, such as the maintenance of public order and the prevention and detection of crime (Jones and Newburn 1998). In fact, Stenning (2000, p.328) has remarked that it is now impossible to identify any function or responsibility of the public police which is not somewhere and under some circumstance, assumed and performed by private police in democratic societies.' Similarly, George and Button's (2000, p.15) condition that 'the interest served is private', a distinction which is becoming increasingly problematic as private security officers are increasingly contracted by governments, local councils and police forces in the achievement of public safety, safeguarding and national security (see van Steden 2007, p.17).

Definitions of private security have also typically referred to the particular activities performed by commercial organisations and individuals (Shearing and Stenning 1981, p.195). Jones and Newburn (2006, p.37) define 'commercial security' as 'organisations and

individuals selling products and services in guarding, cash and transit, security consultancy and investigation, as well as staff employed 'in-house' in security and investigative functions by private companies and organisations in other sectors of the economy'. De Waard (1999, p.144-5) defines private security according to four sectors: contract security, in-house security, alarm monitoring, and transporting cash and valuables in transit, and chooses to omit alarm installers, locksmiths, mechanical security equipment and private investigations. Moreover, George and Button distinguish between: manned security services, private sector detention services, security storage and detection services, professional security services and the security products sector (see Button 2002, p.97). It is also common to distinguish between 'contract' and 'corporate' (or 'in-house') security due to their differences in being subject to government regulation and licensing in the United Kingdom (Stenning 2000, p.339; see White 2014). In this respect, whereas contract security is purchased by a private organisation from a private security company, corporate security is employed directly by a private organisation (Walby and Lippert 2013). With these considerations in mind, this thesis adopts Sarre and Prenzler's (2009, p.4) expansive definition of private security as 'those persons who are employed or sponsored by a commercial enterprise on a contract or 'in-house' basis, using public or private funds, to engage in tasks (other than vigilante action) where the principal component is a security or regulatory function'. This definition adequately captures the essence of private security as the provision of security functions by commercial organisations (as distinct from state institutions) whilst accounting for diversity in these security functions and the ends to which they are employed.

Estimates of the size and scope of the private security industry vary considerably due to definitional inconsistencies and lack of reliable data. Existing statistics relating to the number of private security officers, private security companies and annual turnover therefore are not definitive but provide a rough illustration of the size, shape and prominence of the private security industry (Jones and Newburn 1995). It is currently estimated that at least half the world's population live in countries where there are more private security officers than public police (Provost 2017). Again, the United Kingdom is no exception: private security officers have been estimated to outnumber their public counterparts by a ratio of 2:1 (Bayley and Shearing 1996, p.587; Jones and Newburn 2002, p.130; Johnston 2006, p.33; Button 2007, p.111). Two decades ago, George and Button (2000) estimated that the UK private security industry employed 317,500 staff and had an annual turnover of £5.5 billion. More recent industry statistics suggest that the regulated industry alone employs over 4,000 business and 320,000 individuals and has a turnover of over £6 billion (BSIA 2015). Private security contractors are also performing more prominent roles: there is significant evidence that not only individuals and businesses, but also local communities, councils and police forces are turning to private security companies to patrol residential areas and town centres, deter crime

and tackle anti-social behaviour (Crawford and Lister 2004; UNODC 2014; White 2014; BBC News 2018; Robson 2018). Such is the prominence of the private security industry that commentators have even described these developments as a ‘quiet revolution’ in policing in modern democratic societies (Stenning and Shearing 1980).

The proliferation of private security has been attributed to several factors. First, the expansion of private security services and technologies has been driven by a consumer demand which has ostensibly outstripped the capacities of traditional outlets such as the public police (Loader 1997). States have also been active in promoting the growth of plural policing through privatisation and outsourcing – in part a consequence of the influence of the new public management and that service provision should be delegated to market and third-party providers (Reiner 1992; Crawford 1999; Button 2002; Johnston 2006). Police forces have not only directly privatised and contracted-out functions but fuelled demand through responsabilisation and community policing projects (Garland 2001; Crawford and Lister 2004 p.414). The growth of private security has also been linked to the shifting property relations and the expansion of ‘mass private property’ such as shopping centres and sports stadia (Bayley and Shearing 1996; Kempa *et al.* 2004). In this respect, more aspects of social and economic life – such as shopping and entertainment – are taking place within the private and quasi-public jurisdictions that are policed by private security. This is not to say that the private security industry has been passive in this growth. In fact, throughout the post-war era, private security companies and industry associations have actively sought to capture a larger portion of the market in policing through lobbying for statutory regulation (White 2010).

But why does this growth matter? Undoubtedly, distilling security into discrete goods provides individuals and businesses with the opportunity to address their insecurities in a flexible, efficient and cost-effective manner. Moreover, and although private security services have traditionally been employed in the protection of private persons and property, they have been increasingly contracted into public policing, crime reduction and community safety programmes and therefore contribute to public protection to some degree (Crawford and Lister 2004; UNODC 2014; White 2014). Yet, it matters because although private security may address insecurity, it also has the potential to augment insecurity and undermine conditions of freedom, equality, justice and democracy. Despite holding no special authority, private security officers can exercise considerable powers similar to those held by the police including the power to curtail individual freedom and privacy (Jones and Newburn 1998; Stenning 2000; Button 2002; Wakefield 2003; Crawford and Lister 2004). Contractual agreements with private landowners bestow upon private security officers the right to perform intrusive checks when considering access to, and exercise force when removing persons from, private property (Stenning 2000; Mopas and Stenning 2001; Button 2007). The nature of security work affords unscrupulous providers opportunities such as corruption, violence, trafficking and extortion

(Zedner 2003, pp.112-3). Moreover, cut-throat competition within the private security industry nurtures and entrenches criminal and low-quality services and technologies which threaten the safety and wellbeing not only of those who purchase security but also those who come into contact with it (Button 2008, p.186; Prenzler and Sarre 2008, pp.266-8). The private security industry has been traditionally characterised by ‘rapid staff turnover, high customer churn and low profit’ which further adds disincentives to pursuing higher standards and training (Zedner 2003, p.112). The increased public dependence upon private security only serves to enhance the public’s vulnerability to these risks (Prenzler and Sarre 2008). Certainly, a growing public concern with criminality, professional standards, poor training and high turnover has driven calls for statutory regulation in the UK (Lister 2001; e.g. HL Deb 18 Dec 2000 cc576-7; HL Deb 28 Feb 2011 c.903; Livingstone & Hart 2003).

There is also the broader question of whether security should be treated as a commodity (Loader 1997; 1999; 2000; Loader *et al.* 2015). The buying and selling of security transposes existing social and economic inequalities into the sphere of security as those who cannot afford private security or access to the spaces it protects face exclusion and further insecurity (Shearing and Stenning 1981; 1983; Bayley and Shearing 1996; Crawford *et al.* 2005). These issues are not only confined to purely private spaces such as gated communities, but increasingly to quasi-private and public spaces such as shopping centres, sports and entertainment venues and city centres (Crawford 2006a). Certainly, the proliferation of private security services has raised concerns surrounding the equitable access to security services and participation within markets for policing (Wood and Shearing 2007). Moreover, these private and ‘clubbed’ security arrangements have negative implications for the realisation of security as a public good. For these exclusionary arrangements may further serve to undermine the interpersonal trust and feelings of solidarity necessary to sustain truly equal and democratic security arrangements (Loader and Walker 2007; Krahnemann 2008). Private security – as an excludable good – therefore conflicts with the ‘democratic promise of security’: ‘the idea that all members of a political community have a stake in, and merit equal consideration when determining, the protective arrangements of that community’ (Loader and White 2017). The implication is that the rise of the private security industry poses challenging questions relating to the democratic governance of security – or how to align private security with the public interest (see Loader and White 2017). Certainly, statutory regulation has been one of the main mechanisms by which governments have sought to hold the private security to account (Lister and Jones 2016). By exploring the ‘hybridisation’ of private security regulation, this thesis therefore contributes to the ongoing dialogue of how the private security industry is – and should be - rendered accountable, to what ends, and how might this be improved.

Moreover, the growth of the private security industry raises questions about the changing nature of state sovereignty. As Zedner (2003, p.113) illustrates: ‘private security fulfils, even

usurps, functions historically assumed to be the subject of state monopoly'. The expansion of private security therefore constitutes part of a broader shift from monopolistic to more plural security governance (Johnston and Shearing 2003; Wood and Shearing 2007; see Lister and Jones 2015). Indeed, policing functions are no longer monopolised by the public police but carried out by diverse networks of governmental, market and societal actors (Crawford *et al.* 2005). That domestic policing is now provided by a 'mixed economy' of state agencies, private companies, community groups and individuals, all with variegated resources, capacities and interests has since become a truism within the criminology literature (see Lister and Jones 2016, pp.194-6). Accordingly, a rich academic vocabulary has emerged to describe these more complex and hybrid policing arrangements, such as 'webs' (Brodeur 2010), 'assemblages' (Abrahamsen and Williams 2011) and 'regimes' (Dupont 2014). More broadly, the term 'governance of security' has been coined to refer to the 'constellation of institutions, whether formal or informal, governmental or private, commercial or voluntary, that provide for social control and conflict resolution and that attempt to promote peace in the face of threats (either realized or anticipated) that arise from collective life' (Dupont *et al.* 2003, p.332 see also Johnston and Shearing 2003; Wood and Shearing 2007). These trends have prompted a broad academic debate concerning state sovereignty and the extent to which these more networked arrangements mark a 'transformation' in policing or the gradual extension of state-centred arrangements (Wood and Dupont 2006; Wood and Shearing 2007; Loader and Walker 2007). Accordingly, much of the security governance debate has turned to the issue of regulation and questions of whether the state now focuses on the 'steering' rather than the 'rowing' of policing and security (Osborne and Gaebler 1992; Crawford 2006; Loader and Walker 2006; 2007). By exploring the 'hybridisation of private security regulation', this thesis therefore intersects with – and contributes to - contemporary academic debates on the changing nature of policing and security such as: 'is the state function transforming from one of rowing to steering?' and 'What role is regulation playing in this 'transformation'?'

Second, this research also cuts into debates concerning the extent to which we have witnessed changes in regulation both within and beyond the state (see Crawford 2006). Although regulation is a 'contested concept', there has been some agreement over three broad definitions of regulation (Jordana and Levi-Faur 2004; Levi-Faur 2011; Koop and Lodge 2017). These three conceptions of regulation refer to (i) 'the promulgation of an authoritative set of rules, accompanied by some mechanism [...] for monitoring and promoting compliance with these rules', (ii) 'all efforts of state agencies to steer the economy' and (iii) 'all mechanisms for social control – including unintentional and non-state processes' (Baldwin *et al.* 1998, pp.3-4). This considerable variation in definitions is due to differing conceptual and theoretical assumptions about 'who are the regulators', 'what is being regulated' and 'how is regulation carried out', themes which will be touched upon in the next chapter (see Levi-Faur

2010, p.9). For our current purposes, regulation can be understood as a broad subset of governance, which is about steering the behaviour of others, as opposed to providing and distributing (Braithwaite *et al* 2008). As Chapter Two demonstrates, this thesis adopts the regulatory ‘space’/ ‘regime’ metaphor in order to tease out the relationships between the wide range of norms, institutions and actors that contribute to the steering of private security (see Hancher and Moran 1989; Eisner 2000; Scott 2000). Broadly conceived, regulatory regimes have mechanisms for rule-making, rule-monitoring and rule-enforcement (see Black 2002, p.26). As will be demonstrated throughout the empirical narrative, conceptualising regulation in this way provides a link between the regulation literature’s focus on public agencies and laws and the governance narrative which focuses on the state’s relationship with other actors and the potential fragmentation of power (Levi-Faur 2010).

This thesis therefore intersects with contemporary academic debates concerning the changing relationship between the state and regulation. Within the regulation literature, the notion of the ‘regulatory state’ has been used to characterise the proliferation of formal rules and public agencies designed to monitor and enforce these rules (Loughlin and Scott 1997). Importantly, the regulatory state has been defined by its ‘claim to a legitimate monopoly on rule making, rule monitoring and rule enforcement’ (Levi-Faur 2013, p.30). However, this notion of the regulatory state has been challenged by the increasing prevalence of non-state actors within regulation. Accordingly, there has been a growing debate on whether state-centred regulation has been eclipsed by more networked modes of regulation (Graboksy 1995) On the one hand, some scholars have used the notion of the ‘post-regulatory state’ to emphasise the importance of non-state regulators, non-legal regulatory tools and non-hierarchical regulatory relations and indicate a decoupling of the state and regulation (Scott 2004). By contrast, others have used the notion of the ‘new regulatory state’ to emphasise how states have shifted from hierarchical command-and-control to more collaborative modes of regulation in which the state co-opts and form alliances with non-state actors (Braithwaite 2000; Crawford 2006). By investigating the ‘hybridisation’ of private security regulation, this thesis intersects with and contributes to contemporary academic debates concerning the nature of regulation such as ‘to what extent has state-centred private security regulation been supplemented or supplanted by more decentred and network-oriented modes of regulation?’ or, more simply: ‘to what extent have we witnessed a shift from the regulatory to the post-regulatory state?’

Finally, this thesis examines the ‘hybridisation’ of private security regulation *in the post-crisis era*. The financial crisis – the chain of events spanning from the credit crunch in the summer of 2007, the bursting of the housing bubble in September 2007, the financial crash of 2008 and subsequent transformation into a broader economic and sovereign debt crisis - has been a major turning point in institutionalist trajectories across the British political landscape.



In their survey of how the financial crisis has impacted upon various institutions in Britain, Richards and Smith (2014, p.4) argue that the financial crisis is:

raising a series of fundamental questions, not only over the formal and informal rules and current working practices surrounding key institutions within the UK state, but more particularly over their claims to legitimacy and perhaps more pertinently, the ability of institutions to adapt to new forms of governance.

Lodge and Wegrich (2012) also extend these concerns to the regulatory state more generally:

It is difficult to disagree with the statement that the regulatory state is in crisis. The near universal policy trend – a combination of a reliance on quasi-autonomous regulatory agencies, private providers of public services and contractual of at least formalised relationships between different parties involved in the provision of public services – has experienced a dramatic meltdown since 2008

Private security regulation is no exception. The Private Security Industry Act 2001 has been situated at the centre of four key developments in the post-crisis era. First, the policing landscape has become increasingly fluid as austerity-hit police forces have sought to make savings by contracting-out to the private sector (White 2014; Crawford 2014). This has raised debates about the purpose of regulation and whether regulation designed to protect the public from private security regulation is relevant in a more plural policing landscape in which private security is increasingly responsible for protecting the public. Second, the increasing significance of market failures – such as G4S's failure to fulfil the terms of its £184 million London 2012 Olympic security contract - has questioned the robustness and coverage of regulation and vindicated calls for tougher checks, enforcement actions and stricter rules (White 2016). Thirdly, in response to economic downturn, the Coalition government (2010-15) embarked upon a programme of public sector and regulatory reform designed to reduce public sector debt and stimulate private sector growth. Certainly, guiding these reform initiatives is the narrative that regulation imposes unnecessary administrative burdens upon private sector entrepreneurship and stifles growth. Alongside this rhetorical assault, the core executive has sought to centralise power by establishing new meta-regulatory institutions designed to steer arms-length bodies, embedding deregulation into regulatory policymaking processes and conducting a stream regulatory and agency reviews (see Tombs 2016). As part of these reform initiatives, the Security Industry Authority was subject to review in October 2010. The the Home Office review concluded that a new regulatory regime and new regulator should be established, reflecting the industry's willingness to take on further responsibility for its actions. Accordingly, the SIA was listed for abolition within the October 2010 Public Bodies Bill. Under the new regulatory regime, the focus of regulatory control would shift from the regulation of individuals to businesses. Businesses would take on responsibility for individuals, although the regulator would retain responsibility for criminal checks. In this

respect, the post-crisis era has been a period of significant regulatory flux. What arises from this is an interesting paradox. To paraphrase Fitzpatrick (2016, p.17): despite the increasing contestation of the principles and institutions underpinning private security regulation, its key institutions and practices continue to be firmly embedded in the post-crisis era. Therefore, by examining the ‘hybridisation’ of private security regulation we can make some progress to understanding and explaining the persistence of key regulatory institutions and practices.

## **1.2 Chapter Outline**

Chapter Two will develop a theoretical framework through which to explain the hybridisation of private security regulation. It commences by critiquing the conventional approach to conceptualising and analysing private security regulation, termed the ‘centred’ model. It will argue that the conceptualisation of private security regulation in terms of state-centred command-and-control regulation provides an overly narrow and static picture of private security regulation which obscures its increasingly dynamic nature. This chapter then goes on to juxtapose the centred model against two governance-inspired models – the ‘decentring’ and ‘recentering’ models. It argues that the contrast between the centred, decentring and recentering models together provide a lens for examining the extent to which hierarchical state-centred arrangements have been supplanted or supplemented by more hybrid and networked modes of regulation. Moreover, it contends that although the decentring and recentering perspectives illuminate the pressures on existing regulatory institutions, they do not adequately explain the fact that more hybrid and networked modes of regulations have developed within the context of existing hierarchical institutions, namely the PSIA 2001. This chapter therefore goes onto introducing two supplementary theoretical approaches. First it utilises a political institutionalist approach to explore and explain the shift from hierarchical command-and-control to more hybrid patterns of private security regulation in the post-crisis era. Second, it draws insights from the bureaucratic politics approach to further explain the puzzling hybridisation of private security regulation with reference to the SIA negotiating pressures stemming from the shifting post-crisis context (i.e. increasing fragmentation and centralisation) pursue its core mission, achieve its objectives and therefore maintain its autonomy.

Chapter Three (Context) draws on existing secondary material to establish the nature of private security regulation in the pre-crisis era (2001-2010). It makes four foundational points. First it shows that the PSIA 2001 provided for a hierarchical command-and control-style regulatory regime designed to protect the public from malpractice within the private security industry. Second, it will establish that the PSIA 2001 was a product of political compromise between competing demands for public protection, normative legitimation and regulatory

efficiency (see White 2010) and therefore contains significant gaps (such as the omission of private security companies) and embodies, preserves and imparts differential power resources to different groups (for instance, it grants the SIA the formal responsibility for regulating the private security industry). Third, it argues that the evolution of private security regulation between 2007 and 2010 can be explained with reference to the SIA's attempts to manage the gap between internal and external perceptions of its mission in the context of increasing centralisation (evidenced by increasing legal and regulatory constraints on the SIA's activities) and fragmentation (evidenced by early decisions to contract-out key regulatory responsibilities to third-party providers). This section concludes with the argument that the SIA's business regulation strategy was driven by the perception that such amendments to its statutory mandate would enable it to reduce the gap between internal and external perceptions of its mission

Chapter Four (Crisis) traces the political negotiations surrounding the restructuring of the regulatory regime for the UK private security industry between from the June 2010 Cabinet Office Structural Reform Plan to the November 2010 Home Office consultation on a new regulatory regime for the private security industry. It argues that despite the constraints imposed upon it by its constitutional position, the SIA managed to evade termination and cultivate support for its business regulation proposals by mobilizing, institutionalizing and leveraging the political resources of a supportive coalition. This political support raised the (albeit low) costs of termination and enhanced the SIA's bargaining power vis-à-vis the Home Office. It is further argued that exogenous shocks (originating from a change in government and its response to the economic downturn) accelerated the SIA's internal reform processes.

Chapter Five (Veto) traces negotiations between November 2012 Consultation and the postponement of Business Licensing by the Home Office in February 2014. It explores the dynamics underpinning the lack of reform. First, it highlights how key actors within the core executive, namely the Cabinet Office and the Department for Business Innovation and Skills, have sought to centralise control over the regulatory policymaking process in the post-crisis era. Second, it argues that through the gatekeeping of the legislative policymaking process, the core executive was able to effectively *veto* the formal restructuring of private security regulation. Moreover, it examines the issue of licensing private investigators which gained political saliency in 2011/12. It argues that the outcome of political discussions over licensing serve to illustrate not only the potency of the deregulatory context, but also the contradictory tensions within the state between pressures to transfer more responsibility to the market for security, while at the same time attempting to assume more responsibility for the regulation of the market. The purpose of this chapter is therefore to explore the vetoing of regulatory reform which provides the context for the redirection of private security regulation covered in the following chapter

Chapter Six (Conversion) traces the evolution of UK private security regulation between 2014 and 2018. It examines the puzzling redirection of the Private Security Industry Act 2001 from its original intention of protecting the public *from* private security to protecting the public *with* private security. This redirection has been characterised by the increasing orientation of private security regulation towards enabling and empowering the private security industry to contribute to public policing objectives as well as the role that the SIA is playing in facilitating the penetration of the private sector into public policing. This chapter argues that these dynamics can be explained with reference to the SIA seeking to effectively perform its regulatory mission in the context of increasing legal, regulatory and resource constraints *in the absence of formal regulatory reform*. This chapter further argues that these changes in strategy need to be understood within reference to the unintended consequences of the PSIA, changing environmental factors, and changing coalitional dynamics.

Chapter Seven (Collaboration) uses quantitative and qualitative data to map the ‘hybridisation’ of private security regulation between 2014 and 2018. It highlights three key developments: the harnessing of the self-regulatory capacities of the private security industry; the shift in the emphasis of the SIA’s regulatory activity from individuals to businesses and; a greater reliance on third-parties such as buyers and law enforcement agencies. It argues that the SIA has been pivotal within the emergence of more collaborative and networked arrangements, the purpose of which have been to enhance the SIA’s capacity to achieve its mission in the context of a fixed legal mandate and increasing legal, regulatory resource constraints. Essentially, the SIA has supplemented its (limited) formal authority with the informal authority of non-state actors and networks. By exploring these new regulatory arrangements, this chapter completes the hybridisation narrative.

In sum, this thesis provides an insight into the political nature of private security regulation and the role of bureaucratic autonomy within regulatory governance processes. Accordingly, Chapter Eight (Conclusion) provides three summative arguments relating to the hybridisation of UK private security regulation in the post-crisis era. It then goes on to discuss the wider relevance of these arguments and areas for future research.

It is also important to note that the Appendix discusses the methodology used during this investigation. It performs four functions: it outlines the meta-physical assumptions underpinning the investigation; specifies and justifies the research design adopted and the techniques used to generate data to answer the research question; addressed methodological concerns relating to the validity and reliability of data; and identifies some of the limitations of the study. This discussion has no definitive position within the above structure and therefore can be visited at any point.

## 2. Theory

‘Public agencies can and do shape the very statutes that give them power...’ (Carpenter and Krause 2015, p.7)

The purpose of this chapter is to construct a theoretical framework through which to articulate and explain the ‘hybridisation’ of private security regulation in the post-crisis era. To do so, this framework draws conceptual and theoretical insights from the literature on private security regulation, political institutionalism and bureaucratic politics. Individually, the theories and approaches derived from these literatures enable us to engage with a series of concepts, questions and debates relevant to the shifting regulatory relationship between the British state and private security industry. When combined they constitute a novel lens through which to organise, interpret and explain the empirical dynamics unveiled in the following chapters, thereby generating a theoretically-informed narrative of the trajectory of private security regulation in the post-crisis era. This theoretical framework is developed over four sections.

Section 2.2 critiques the conventional approach to private security regulation, here termed the ‘centred’ model. When analysing private security regulation, proponents of this approach predominantly draw inferences regarding the regulatory relationship between the state and private security industry from national statutory frameworks (e.g. de Waard 1999; George and Button 1999; Button 2007; Prenzler and Sarre 2008; Button and Stiernstedt 2017). The centred perspective therefore conceptualises private security regulation in terms of state-centred ‘command-and-control’ regulation – licensing systems in which governmental agencies directly exercise control over the private security industry through the use of legal rules backed by (often) criminal sanctions (Button 2008; 2012; Prenzler and Sarre 2008; 2014). This section will argue that the analytical utility of the centred model is that it adequately characterises the set of formal regulatory institutions constituted by the Private Security Industry Act 2001. However, it is also argued that this model provides an overly static picture of private security regulation which obscures its increasingly dynamic and complex nature. For crucially, this perspective provides no analytical space in which to articulate the more hybrid patterns of private security regulation that have emerged in the post-crisis era. Section 2.2 therefore concludes by arguing that while the centred model should be incorporated into the overarching theoretical framework, it does not itself provide a comprehensive lens through which to describe and explain changes in private security regulation in the post-crisis era.

Sections 2.3 and 2.4 introduce two governance-inspired approaches to private security regulation, here termed the ‘decentring’ and ‘recentering’ models. When conceptualising

private security regulation, these perspectives reject the centred model's overly simplified focus on formal rules and governmental agencies, instead giving recognition to the broader constellations of norms, institutions and actors present within the regulatory regime (Black 2001; Scott 2001; Wood and Shearing 2007; Loader and White 2017; see also Carrigan and Coglianese 2011; Levi-Faur 2011). Despite this conceptual consensus, the decentring and recentring models dissent on the descriptive, explanatory and normative implications of this shift in thinking about private security regulation. At the heart of this divergence is a debate concerning the changing relationship between the state, regulation and private security and the extent to which state-centred regulatory arrangements have been supplanted or supplemented by more hybrid modes of regulation (see Crawford 2006). This section argues that the decentring and recentring models provide two useful lenses for analysing the more dynamic and hybrid patterns of private security that have emerged in the post-crisis era. For while the decentring perspective illuminates increasing fragmentation, the recentring perspective illustrates the concurrent processes of centralisation and consolidation within the post-crisis regulatory regime. Section 2.4 concludes that the decentring and recentring models provide valuable counterpoints to the centred model, for they allow us to cut into a range of debates about the changing nature, coordination and orientation of UK private security regulation in the post-crisis era. However, it argues that there is a need to supplement these debates with some theoretical tools which explain how and why these changes have occurred against the backdrop of formal institutional stability.

Section 2.5 therefore adopts insights from the political institutionalist paradigm to examine and explain the evolution of private security regulation in the post-crisis era. The political institutionalist approach emphasises the importance of formal political institutions such as statutory frameworks in shaping political outcomes and therefore provides a lens for analysing how the PSIA 2001 has influenced the transition from hierarchical to more collaborative and networked regulatory processes in the post-crisis era (Lowndes and Roberts 2013; Olsson 2016; Hysing and Olsson 2018). The key contribution that this approach makes to this unfolding theoretical framework is that it enables us to illuminate processes of 'hidden' institutional change. The idea that institutional stability and change can occur simultaneously provides an insight into the 'hybridisation' of private security regulation in the post-crisis era. In particular, the notion of 'institutional conversion' – or the process by which institutions are redirected to new goals, functions or purposes – captures how the PSIA 2001 has been redirected from its original intention of 'protecting the public *from* private security' to 'protecting the public *with* private security industry'. This approach further enables us to explore the factors which have contributed to this shift including, the gaps in the PSIA 2001 due to it being a product of political compromise, and the impact of the shifting post-crisis regulatory environment on the implementation of the PSIA 2001. In this respect, the political

institutionalist approach also provides a way of structuring the empirical dynamics considered in later chapters. Finally, the political conception of agency illuminates how relative ‘weak’ actors such as the SIA may play pivotal roles in shaping institutions and institutional outcomes by virtue of their discretionary capacities.

Section 2.6 draws on the ‘bureaucratic politics’ literature to further explain this puzzling redirection of the PSIA 2001. In this respect, this theoretical framework emphasises the importance of ‘intra-institutional’ or ‘organisational’ factors in explaining institutional conversion (Dodds and Kodate 2012). At its core, the bureaucratic politics approach contends that ‘bureaucrats are politicians and bureaucracies are organizations of political actors’ (Carpenter 2001, p.352). In this respect, this theoretical framework departs from existing accounts of private security regulation which assume regulatory agencies such as the SIA to be passive actors within regulatory processes. It posits that agencies are animated by the desire to defend, maintain and even enhance their autonomy, understood as the ability to undertake their mission as they see fit (Wilson 1989; Maggetti 2007; Gilardi and Maggetti 2010; Maggetti and Verhoest 2014; Bach 2016; Bach and Wegrich 2016; Heims 2019). According to this perspective, the scope of an agency’s autonomy is not simply fixed by the terms of its founding legislation but is dynamic and shaped by its relationship with its external stakeholders (Carpenter 2001; 2010). This approach contends that public bodies regarded as legitimate and competent by relevant audiences are less likely to attract criticism and undue influence than those regarded as less competent. Accordingly, agencies will seek to minimise external influence by practising a ‘politics of legitimacy’ which involves strategies such as coalition building and reputation building – a dimension of which is performing its mission well (Carpenter 2001; Carpenter and Krause 2010; Maor 2014; Heims 2019). Section 2.6 concludes with the argument that the bureaucratic politics approach enables us to explain the puzzling hybridisation of private security regulation with reference to the SIA negotiating pressures stemming from the shifting post-crisis context (i.e. increasing fragmentation and centralisation) in order to achieve its objectives, sustain its legitimacy and maintain its autonomy. Section 2.7 concludes this chapter with the argument that this novel theoretical framework provides the most effective lens through which to describe and explain the changing contours of private security regulation in the post-crisis era.

## **2.2. The Centred Model**

The ‘centred’ model is the default position within the literature on private security regulation. It encompasses a series of studies designed to classify and compare national regulatory systems for the private security industry (e.g. de Waard 1999; Prenzler and Sarre 1999; Button and George 2006; Button 2007; Button and Stierstedt 2017). The broad intention behind

these classifications and comparisons is to identify best practices and develop models for the statutory regulation of the private security industry (e.g. UNODC 2014).<sup>1</sup> Although these models and typologies do not explicitly address questions concerning the changing relationship between the state and security, it is possible to obtain some analytical clues from their approach. For these studies draw logical inferences concerning the relationship between the state and market for security from national statutory frameworks. This section examines the centred model. First it outlines the key inferences about private security regulation made by proponents of the centred approach. Second, it draws parallels between this perspective and notions of the ‘regulatory state’ and argues that this provides a useful starting point for conceptualising private security regulation in the pre-crisis era. Third, this section concludes that although the centred perspective effectively characterises the initial set of institutions and assumptions constituted by the Private Security Industry Act 2001, its overly narrow (or ‘centred’) conception of private security regulation obscures the development of more complex and networked patterns of private security regulation in the post-crisis era.

First, the centred approach conceptualises regulation in terms of formal rules. Prenzler and Sarre (1999; 2012) define private security regulation in terms of ‘special government regulation’ and distinguish it from alternative systems based on general criminal and civil law, market forces and industry self-regulation. It is further evident from the criteria employed by Button (2007) and Button and Stiernstedt (2017) in their league tables of national regulatory systems that ‘regulatory systems’ equate to statutory licensing regimes i.e. state-centred command-and-control regulation. In fact, the various case studies and comparisons that punctuate the centred perspective focus on classifying and comparing statutory licensing regimes. For example, in their ‘Comprehensive Wide Model’, Button and George (2006) categorise regulatory systems according to their ‘width’, or the extent to which statutory regulation extends to all sectors of the private security industry, and ‘depth’, or the relative stringency of mandatory licence and training requirements. This resonates with more conventional definitions of regulation which focus on a ‘set of authoritative rules, often accompanied by some administrative agency for monitoring and promoting compliance with the rules’ (Jordana and Levi-Faur 2004, p.3).

Due to this focus on national statutory frameworks, these studies assume that regulation is a strictly governmental function (Selznick 1985, p.363; Levi-Faur 2013). This assumption is articulated by van Steden and Sarre (2007, p.2333): ‘Governments cannot shirk their responsibilities to coordinate security and policing whether it is publicly or privately funded’.

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<sup>1</sup> For example, see ‘Comprehensive Wide Model’ (Button and George 2006); ‘Optimal Regulation’ (Button 2012); the ‘Risk Profile Model’ (Prenzler and Sarre 2008); ‘Smart Regulation’ (Prenzler and Sarre 2014). For national league tables of regulatory regimes see Button (2007) and Button and Stiernstedt (2016).



Likewise, Button (2012, p.213) categorises regulatory systems into ‘monopoly’ and ‘divided’ systems, the sole difference being whether the private security industry is regulated by one or more governmental bodies. The distinction between ‘functional’ and ‘territorial’ divided systems concerns whether different governmental bodies have statutory responsibility for regulating different sectors of the private security industry or whether responsibility is split between central and local government. When stating a preference, Button (2008, p.193) argues that the model system ‘should be a monopoly regulator: either a governmental department or a quasi-autonomous public body at arms-length from the government’. Implicit in this view is that only the state possess the resources – primarily statutory authority - necessary for achieving regulatory goals.

These studies assume a hierarchy between the state and private security industry. The presence of non-hierarchical relationships, based on voluntary participation, negotiation and trust, and non-hierarchical modes of coordination, such as markets, partnerships and networks, are broadly overlooked within this approach (see Börzel and Risse 2010, p.114). For instance, both Button (2012, p.212) and Prenzler and Sarre (2014, p.177) propose that states can avoid the pitfalls of both underenforcement and overregulation by replacing command-and-control regulation with more responsive regulatory strategies. However, these discussions are marked by a tension between the potential benefits of more collaborative and cooperative relationships - namely that although incorporating regulated interests in regulatory policymaking states can enhance the legitimacy of regulation and minimise the potential of non-compliance it may also raise the risk of capture (see Reiss 2012). As Button (2008, p.100) states: ‘there is a fine line between responsive regulation and capture’. Regulatory capture is defined as ‘a process by which regulation in law or application is consistently or repeatedly directed away from the public interest and towards the interests of the regulated industry, by the intent and action of the industry itself’ (Carpenter and Moss 2014, p.13).<sup>2</sup> Insulating public regulators from private interests is of the utmost importance within this perspective. For instance, Prenzler and Sarre (2008, p.272) argue that ‘Government regulators must remain dominant as the interpreters of the public interest, and to do that they must remain independent of the industry’. Within this case, Zedner (2006, p.279) has previously branded the Security Industry Authority as a ‘pimp’

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<sup>2</sup> Whereas traditional economic theories of capture have focused on the manipulation of incentive structures, the existence of ‘revolving doors’, and the pursuit of statutory regulation to reduce competition by setting barriers to entry, revisionist approaches have highlighted the importance of interest-group dynamics and the importance of cultural and non-rational influences on public regulators (Stigler 1971 cf. Kwak 2014). Methods of regulatory capture therefore do not only include outright bribery and corruption, but also agenda setting and blocking regulatory reform process (Young 2013). Underpinning these various strands is the same sentiment: ‘that, as a rule, regulation is acquired by the industry and is designed and operated primarily for its benefit’ (Stigler 1971, p.3). The benefit is that licensing and regulation will provide costly barriers to entry for new and/or smaller firms preventing competition and thus securing the profits of established firms. For an overview of the regulatory capture literature see Dal Bó (2006).

for the private security industry, claiming that ‘in countless official documents and public speeches, the regulators appear less concerned about the poor quality of protection than the failings of the security industry as a commercial enterprise’. Button (2012, p.216) continues in this vein, asserting that: ‘the stay of execution secured for the SIA by the industry and likely future shape could risk the new regulator (if it occurs) moving from ‘pimp’ to a ‘fag’ [...] regulation is likely to increasingly be used to service the industry’s interests rather than the public’s.’ The centred approach therefore maintains a sharp distinction between the public and private, and the subordination of the latter to the former.

The simplicity of this dichotomy, however, does not capture the complexity of the relationship between public and private interests within the regulatory regime for private security in the United Kingdom. As the policing landscape has become increasingly fluid, the distinction between the public interest and the private interest of the private security industry have become increasingly blurred. For instance, private security contractors have sought state oversight in the form of licences, state inspections and more punitive enforcement practices to overcome cultural barriers to selling security services that exist in liberal democracies such as the UK (White 2010; Smith and White 2014). The intricate intertwining of public and private interests has also been identified by Meehan and Benson (2015) who have observed that the inclusion of private security contractors on regulatory boards and within regulatory policymaking process results in the creation of more stringent licensing conditions. The point here is not to diminish the reality and risk of capture, but to argue that the public-private distinction does not provide a satisfactory empirical account of the complexity of this relationship.

Regulation is further conceived as a ‘two-actor play’ between the state and the private security industry (Drahoš 2004, p.323). This is further illustrated by the narrow interpretation of ‘smart regulation’ adopted within these models. ‘Smart’ regulation suggests that regulatory goals can be better achieved by deploying a mix of regulatory tools and empowering third-parties to act as ‘surrogate regulators’ (Gunningham *et al.* 1998; Gunningham and Grabosky 1999; Gunningham and Sinclair 1999; 2002). Although the ‘Risk Profile’ and ‘Smart’ models suggest that their key principles ‘are consistent with the notion of smart regulation’, they focus predominantly on the mix of regulatory tools (Prenzler and Sarre 2008, p.174; Prenzler and Sarre 2014, p.189). For instance, the distinction between the ‘minimal’ and ‘stepped up’ systems within the Risk Profile model is that the ‘stepped’ up model suggests that states deploy a wider mix of monitoring and enforcement strategies, such as conducting random alcohol and drugs tests on licence holders (Prenzler and Sarre 2008, p.272). Their discussion of third parties is limited to the suggestions that a broader range of interests should be incorporated into consultative processes ‘to prevent industry and government regulators becoming too close’ and that ‘associations can retain a role in investigations and discipline in a form that is

at least partially “co-regulatory” (Prenzler and Sarre 2008, p.272). The most obvious omission from this approach is buyers of security services.

The centred perspective therefore conceptualises private security regulation in a manner that is congruent with minimal notions of the ‘regulatory state’. The notion of the regulatory state captures a shift in the mode of state governance and corresponding changes in key governing institutions and relationships (Loughlin and Scott 1997; Majone 1997; Hood *et al.* 1999; Moran 2003; Yeung 2010). First, the regulatory state is distinguished by a separation between ‘auspices’ and ‘providers’ of services, with the latter category incorporating both state and non-state actors. (Bayley and Shearing 2001, p.3). In the post-war era, policing and security was considered the sole preserve of the state, provided universally to all citizens by public institutions such as the Home Office and the Police (Reiner 2010). Yet subsequent fragmentation and diversification within the policing landscape, induced by concurrent processes of globalisation, marketization privatisation, and public-sector reform, have gradually eroded these monopolistic arrangements (Bayley and Shearing 1996; 2001). That domestic policing and security is now provided by a ‘mixed’ economy of state agencies, private companies, communities and individuals, all with variegated resources, capacities and interests has since become a truism within the governance of security literature (see Crawford 2006; Lister and Jones 2016, pp.194-6).

Second, the regulatory state places a greater emphasis on rule-making, rule-monitoring and rule-enforcement (Levi-Faur 2013). With policing and security increasingly delivered through complex assemblages – or networks – of state, market and voluntary actors, the state is said to have eschewed direct controls (such as taxing and spending, and direct service provision) in favour for more indirect controls such as regulation, audit and contract (Majone 1997; 1999; Power 1997).<sup>3</sup> To use the now ubiquitous metaphor, states are less concerned with ‘rowing’ and more concerned with ‘steering’ of security governance (Osborne and Gaebler 1992, p.25). Furthermore, the proliferation of explicit rules, and agencies designed to monitor and enforce these rules, marks a more formal style of governance than the ad-hoc arrangements that preceded it (Moran 2003; Levi-Faur 2013). As Moran (2003, p.69) asserts: ‘the dominant analytical paradigm for the modern regulatory state pictures an institution concerned with steering self-regulating networks, yet the changes [...] amount to the replacement precisely of such self-steering systems by more hierarchically controlled institutions.’ In fact, Moran (2003) asserts that the regulatory state is characterised by the colonization of new areas of social and economic life through the use of command-and-control regulation.

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<sup>3</sup> On security networks see Dupont (2004); Rhodes (2007); Wood and Shearing (2007) and; Abrahamsen and Williams (2011)

Third, the regulatory state is further distinguished by the proliferation of independent regulatory agencies designed to monitor and enforce rules (Thatcher and Stone Sweet 2002; Yeung 2010; on the ‘new public management’ see Hood 1991). Whereas in the Keynesian welfare state, policy-making and delivery functions were fused together within the same hierarchical bureaucracies, within the regulatory state the latter function is typically delegated to specialised agencies and third-parties operating at arms-length from politicians. These agencies are usually established by statute, exercise delegated public authority in the undertaking of regulatory functions, and although they operate with varying degrees of autonomy from ministerial departments, they are nonetheless subject to ministerial oversight (Thatcher and Stone Sweet 2002; Pollitt and Talbot 2004; Christensen and Laegreid 2006). This has further given rise to the idea that the state has been ‘hollowed out’ i.e. disaggregated into discrete and autonomous units (Rhodes 1994; cf. Marsh *et al.* 2003; Flinders 2006). The classic definition of regulation refers ‘to sustained and focused control exercised by a public agency over activities valued by a community’ (Selznick 1985, p.363). Therefore, the supervision of markets by independent regulatory agencies constitutes the ‘core case of regulatory state governance’ (Scott 2017, p.267). Politicians are argued to delegate authority to independent regulatory agencies because insulating regulatory delivery from majoritarian influence is believed to enhance the credibility of policy commitments (Gilardi 2005). Delegating responsibility to independent agencies provides further advantages in terms of greater flexibility, efficiency and expertise within increasingly complex policy environments (Majone 1997, pp.139-40). Furthermore, politicians may also use delegation as a strategy to depoliticise issues and avoid blame by framing them as a technocratic matter outside the sphere of governmental responsibility (Buller and Flinders 2006; Hood 2011). However, the consequence of this distinction between policy-making and delivery is the (mis)conception that regulatory agencies are apolitical bodies and that regulation is a technocratic process, void of political consequences (Bach *et al.* 2012).

Fourth, primary and secondary law constitute the key instruments of regulatory state governance. Classical or ‘command and control’ regulation involves the specification of legal rules and standards and their enforcement by criminal sanctions. Even a cursory glance across the globe reveals that state agencies have exerted influence over the private security industry predominantly through the design, implementation and enforcement of licensing systems which mandate fixed entry requirements and stipulate penalties for non-compliance (UNODC 2014). Moreover, formal codes of conduct have delineated the boundaries of acceptable conduct within the regulated private security industry by defining ethical standards and expectations. Command-and-control style regulation creates a hierarchical relationship between the state and market, where states set rules which private security contractors must comply with lest they face prosecution (Hawkins 2002, pp.13-14; Levi-Faur 2012, p.9).

Fifth, the shift from the welfare to the regulatory state is distinguished by an expansion in state responsibilities, especially concerning the protection of the public from the risks associated with plural service provision (Moran 2001, p.24; cf. King 2007). Pervading the centred perspective is the instrumental view that regulation is created to correct market failures and protect the public (Baldwin *et al.* 2012, pp.40-41; Majone 1994; 1997). Command-and-control regulation is attractive precisely because it signals that governments are being proactive in addressing societal risks (Lodge and Wegrich 2012, p.96). In fact, a primary concern within the centred perspective is the prevalence of ‘grudge spending’. Grudge spending is a phenomenon where buyers perceive security as a ‘tax on the bottom line which provides little benefit’ and therefore will buy from the cheapest provider (Button 2012, p.206). Grudge spending is not simply a product of savvy buyers but of a wider moral unease with having to buy security, the poor image of the private security industry, and the intangibility of risk and protection (Loader *et al.* 2014). Due to the nature of this demand, security companies will compete based on price rather than quality, perpetuating the pressure on profit margins which disincentivizes spending on costly training packages. The result is a low-skilled, low-paid workforce which increases the likelihood of malpractice and harm (Button 2008 p.166). Prenzler and Sarre (2008, pp.266-268) have highlighted the profile of risks that private security contractors pose to the public: fraud; incompetence and poor standards; under-award payments and exploitation of security staff; corrupt practices; information corruption; violence and associated malpractice; false arrest and detention; trespass and invasions of privacy; discrimination and harassment; insider crime; and misuse of weapons. The purpose of private security regulation is therefore to correct these market failures by removing or ‘cleansing’ the market of criminal and substandard providers (Prenzler and Sarre 2014, p.875). In this respect, this perspective presents a highly stylized view of regulation as a neutral intervention to correct market failures and achieve efficiencies.

The utility of centred approach, and of the strength of the regulatory state as an analytical construct, is that it effectively describes the key regulatory institutions, relationships, and assumptions established by the Private Security Industry Act (PSIA) 2001 (see Yeung 2010). Whilst many states have opted to keep regulatory functions within government departments and police forces, in the United Kingdom, the responsibility for regulating the private security industry has been delegated to the Security Industry Authority, a regulatory agency that operates at arms-length from the Home Office. The PSIA 2001 further establishes a compulsory system of licensing which mandates minimum legal requirements and stipulates (usually criminal) penalties for non-compliance (see De Waard 1999; White 2010; 2015). Moreover, the enactment of the PSIA 2001 embodies the shift from more ad-hoc interactions towards a more formal mode of state governance based on rules, licences and contractual

arrangements (White 2010).<sup>4</sup> However, the centred model does not provide an adequate account for the hybridisation of private security regulation in the post-crisis era. For its narrow and static focus on statutory frameworks broadly obscures the existence of non-state actors, non-hierarchical relationships and non-legal regulatory tools from its outlook.

### 2.3. The ‘Decentring’ Model

The ‘decentring’ model incorporates several parallel ‘new governance’-inspired theories united in challenging state-centred conceptions of governance and regulation: ‘nodal governance’ (Johnston and Shearing 2003; Shearing and Wood 2003; Burriss *et al.* 2005; Shearing 2006; Wood and Dupont 2006; Wood and Shearing 2007); ‘decentred regulation’ (Black 2001; 2002); and ‘the post-regulatory state’ (Scott 2004). In fact, given that these approaches seek to decouple security, governance and regulation from the state, there has been a significant degree of cross-fertilization between these literatures (Lobel 2004; Crawford 2006; Levi-Faur 2013; Berg *et al.* 2014; Holley and Shearing 2017). First, it argues that the state should be given no priority when analysing private security regulation. Rather the question of ‘who regulates’ should be regarded as ‘empirically open’ (Shearing and Wood 2003, p.404). Accordingly, the idea of ‘regulatory space’ or ‘regime’ provides an alternative framework for analysing private security regulation which incorporates a broader set of institutions, norms and processes than those included by more state-centred perspectives. In this respect, the decentring perspective suggests that we have witnessed a transformation in private security regulation, captured in the notion of the ‘post-regulatory state’ (Scott 2004). This section argues that whilst this approach elucidates increasing fragmentation within private security regulation (the ‘decentring of private security regulation’), it overlooks how the state has sought to consolidate its position within more plural settings, and therefore overstates the extent to which there has been a shift from the regulatory to the post-regulatory state in the post-crisis era.

Proponents of the decentring perspective contend that state-centric approaches do not provide satisfactory empirical accounts of the complexities and realities of governance and regulation (Scott 2008, pp.652-3; Holley and Shearing 2017). The narrow focus on the activities of public regulators obscures the existence of ‘private governments’ – or ‘non-state entities that operate not simply as providers of governance on behalf of state agencies but as auspices of governance in their own right’ (Shearing 2006, p.11). It is widely accepted that the proliferation of state regulation over recent decades has been matched, if not exceeded by

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<sup>4</sup> However, it is important to note that before this private security contractors were subject to various statutory and mandatory minimum standards embodied in general criminal and civil law (Button and George 2001).

the expansion of civil and business regulation (Levi-Faur 2005; Braithwaite 2008). Examples of non-state regulators include buyers, security industry associations, insurance firms, non-governmental organisations such as national and international standard setting bodies, trade unions, and private security contractors themselves (Shearing 2005; 2006). These perspectives further contend that state-centred accounts do not capture the increasing prevalence of non-legal mechanisms and non-hierarchical relationships within regulatory space (Scott 2004). The decentring approach therefore marks a change in conceptualising regulation, one which seeks to ‘admit a wider range of institutions, processes and norms’ (Scott 2004, p.146; see Black 2001, p.112).

The decentring perspective contends that when analysing private security regulation, that no priority be afforded the state (Wood and Shearing 2003, p.404). The task of identifying the relevant institutions and actors (and the relationships between them) should instead be an empirical one (Bayley and Shearing 1996, 2001; Johnston and Shearing 2003; Shearing and Wood 2003; Shearing 2006; Wood and Shearing 2007; Abrahamsen and Williams 2011). Accordingly, the concepts of ‘regulatory regime’ and ‘regulatory space’ have been used to ‘link regulation, with its traditional narrow conception of state institutions and laws, and contemporary analysis of governance’ (Hancher and Moran 1989; Scott 2001; 2008; Eisner 2000). In this respect, the task of analysing the evolution of private security regulation becomes one of mapping and tracing the changing relationships between the set of institutions and actors that constitute the regulatory regime (Hancher and Moran 1989, p.277; Black 2008, p.193).

Alongside this changed thinking about regulation, the decentring perspective provides an alternative description of private security regulation. The crux of the regulatory space/regime metaphors is that the resources relevant to regulation are not possessed by a single actor – a situation dismissed as ‘implausible’ – but are fragmented and dispersed throughout a plurality of actors (Scott 2008). Within the centred perspective, regulatory authority is dependent upon the possession of legal authority and monopolised by the state. Within the decentring perspective, legal authority may be shared between different governmental bodies: for instance, whilst regulatory agencies have the power to set rules, monitor behaviour and promote compliance with rules, in most instances key sanctioning powers are held by the courts (Scott 2004). This contrasts with some private regulators, such as trade associations, where standard setting, monitoring and enforcement functions are fused within the same organisation (Scott 2002, p.59). Moreover, professional bodies and third-parties may be legally authorized to monitor and enforce rules, as is the case with the inspection of businesses who sign up to the SIA’s voluntary ‘approved contractor scheme’ (Scott 2001).

Advocates of this perspective argue that non-state actors may mobilize resources which are not reliant on and may even diminish the importance of legal authority within the

regulatory process (Dupont 2004).<sup>5</sup> As Scott (2002, p.59) argues: ‘the capacity to exercise regulatory power is not necessarily linked to the holding of a legal mandate’. These resources may include: wealth, information, organisation and expertise (Scott 2008; Abrahamsen and Williams 2009). Possession of these resources may also grant actors significant informal authority, for instance, due to their possession of economic resources, buyers may stipulate requirements that may even surpass legal minimum standards (see Crawford 2003). The existence of information asymmetries between public regulators and regulated firms has enabled the latter to exercise some power over regulatory processes, as has long been recognised within the literature on regulatory compliance and capture (Veljanovski 2010, p.94). Likewise, theories of ‘responsive’ and ‘smart’ regulation have drawn attention to the capacity of non-state actors to act as surrogate or quasi-regulator due to their unique resources and capacities (Ayres and Braithwaite 1992; Gunningham *et al.* 1998). The key point is that no one actor possesses all the resources necessary to solve complex regulatory problems (Black 2002).

As the resources necessary to achieve regulatory outcomes are dispersed throughout a plurality of actors, regulatory relations are characterised by interdependence (Black 2001, p.107). State and non-state actors therefore regulate indirectly through mobilizing the knowledge, capacities and resources of others (Wood and Shearing 2007, p.14). Regulation in this sense is therefore not conceived as the exercise of statutory authority, but as a product of interactions (Black 2001, p.110). As Offe (1984, p.10) succinctly puts it: ‘regulation is co-produced’. Not only does the threat of withdrawing key resources and capacities grants weaker actors significant influence over the actions of more powerful institutions who rely on them to achieve their regulatory goals, it enables weaker actors to enrol stronger nodes (Scott 2000, p.51). Interactions between various state and non-state actors that constitute regulatory space are therefore dynamic and characterised by conflict, competition, bargaining, persuasion, negotiation and cooperation as actors attempt to enrol the resources and capacities of others in achieving regulatory objectives – ‘in other words, the play of power is at the centre of this process’ (Hancher and Moran 1989, p.154).

Regulation, therefore, does not flow in one direction or from a single centre (Black 2001). As the enrolment of other organisations’ resources is essential to achieving one’s goals, organisations must remain accountable to a wider audience as deviancy or unexpected actions may cause the withdrawal of a key resource, such as legitimacy or personnel, from other

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<sup>5</sup> These resources have also been conceptualised in terms of ‘capitals’. On one hand, the uneven access to particular ‘capitals’ allow private security companies to appeal to different sources of legitimacy based on financial resources and specialist security knowledge (Dupont 2004, Abrahamsen and Williams 2009, p. 5). Yet the primacy of ‘symbolic capital’ – which roughly translates to legitimacy – is typically monopolised by public police and regulators which can utilize this to achieve its ends (Dupont 2004, p. 86).



organisations in the network (Scott 2000, p.51). Regulatory agencies themselves have been subjected to increased auditing, financial controls and oversight mechanisms that constitute a broader trend of regulation *inside* government (Hood *et al.* 1999). Despite being structurally separate from political principals and regulatees, independent regulatory agencies do not operate in isolation from the market and society. They are embedded within multi-level, multi-actor institutional contexts that shape their behaviour and capacities (Scott 2002, p.56; Lodge 2014). The decentring approach also suggests that the dispersal of regulatory authority makes capture difficult, not just because it is difficult to identify distinct interests within complex and hybrid regulatory systems, but also because it is difficult for a single interest to dominate (Scott 2001).

Due to resource dependencies, regulatory space is characterised by more horizontal and networked relationships as opposed to more traditional hierarchical relationships. Work on nodal governance has produced the twin concepts of ‘nodes’ and ‘networks’ to analyse the nature of these relationships (Burriss *et al.* 2005). Nodes are any actor, organisation, institution or group involved in some capacity within setting, monitoring and enforcing rules for the private security industry (Burriss 2008).<sup>6</sup> In this instance, rather than the preeminent provider, the state is to be considered one of many centres or ‘nodes’ in a network (Burriss *et al.* 2005). In fact, states can be considered as assemblages of smaller nodes, therefore capturing fragmentation within the state. Networks are the main means through which nodes exert influence (Burriss *et al.* 2005, p.33). Whether different actors come together to form security networks, and the relative strength, density and effectiveness of these networks is an open question (Wood and Shearing 2007, p.26). Nodes can steer one another through any technique at their disposal, but it is important to note that such power relationships are usually in constant flux (Burriss *et al.* 2005, p. 39, Button 2008, p. 16). Discovering who has power in regulation involves paying close attention to the relations between organizations which at any one time occupy regulatory space’ (Hancher and Moran 1989, p.277).

Within such dispersed and fragmented conditions, regulatory strategies and instruments are hybrid and multi-faceted insofar that they combine the capacities of various state and non-state actors and use a mix of regulatory tools to achieve regulatory outcomes (Black 2008). Such hybrid strategies include enforced self-regulation, co-regulation, meta-regulation and

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<sup>6</sup> Within the nodal governance literature, the ‘node’ concept is slippery and multifaceted. Nodes are defined as ‘locations of knowledge, capacity and resources that can be deployed to both authorize and provide governance’ (Shearing 2004, p.6). In some instances, this has been interpreted to mean certain physical spaces in which security regimes are created, such as shopping malls or gated communities (e.g. Crawford 2003; Wakefield 2012). However, it has also been used to refer to individual actors, organisations, institutions or formal or informal groupings (or parts thereof) that provide or authorize security (e.g. Wood and Shearing 2007, p.97; Button 2008, p.15; Boutellier and van Steden 2011). For instance, Burriss *et al.* (2005, p.25) define nodes as: ‘any formal or informal institution that is able to secure at least a toe-hold in a governance network’. This chapter utilizes this second actor-focused, rather than the space-focused, definition.

networked regulation (Scott 2004, p.157; see Levi-Faur 2011). An important factor is that these regulatory strategies blur the distinction between public and private. The decentring model further emphasises the broader range of regulatory instruments beyond primary and secondary legislation (Black 2002, p.8; Burris *et al.* 2005, p.38). Alternatives to command and control regulation include contracts and instruments of ‘soft law’ i.e. non-binding rules, guidelines, recommendations, agreements, codes of conduct and standards. The use of these alternative norms is not restricted to non-state nodes but are also exploited by state agencies ‘to avoid the more elaborate procedural requirements of formal law and/or to address issues outside their formal mandates’ (Scott 2004). More broadly, social norms may exercise a regulatory effect on both the buying, selling and regulation of security (Loader *et al.* 2014; Smith and White 2014). Public, private and hybrid actors may also deploy a mix of regulatory instruments, such as education, persuasion and incentives, to promote desired behaviours. ‘Hybrid’ mechanisms include co-sponsored awards which seek to promote good practice; the other side of the coin being adverse publicity and reputational sanctions (Grabosky 2010).

Normatively, proponents of the nodal governance strain have considered markets, communities and networks as more responsive mechanisms than hierarchy and law for both regulating security (Johnston and Shearing 2003, p.148; Burris *et al.* 2005, p.32). In fact, the nodal governance literature has been derived from empirical contexts in which state institutions are not the primary auspice or provider of security, where state institutions are absent from security governance, and where state activities have been detrimental to public security (Shearing 2001; Dupont *et al.* 2003; Wood and Shearing 2007; Marks *et al.* 2011). Whereas states lack the information and governing capacity, the market allows individuals and communities to directly state their preferences, set targets and determine the accountability of security providers through contracts (Shearing and Wood 2003). Though markets allow individuals and communities to address local security needs and preferences, they also have the potential to translate existing distributional inequalities into the sphere of security governance as wealthier customers have greater influence than poorer – or ‘flawed’ – customers (Shearing and Wood 2003, p.412).<sup>7</sup> The result is that these prevailing inequalities make it extremely difficult for poorer customers to steer security arrangements towards ‘instrumentally and normatively desirable ends’ (Bayley and Shearing 1996, p.593). However, the decentring model frames this as an issue of levelling unequal access to security markets: ‘while markets – and the neo-liberal sensibility that supports them – appear to have hastened and deepened the governance deficit, it is not markets so much as inequality of access to purchasing power and budget ownerships that is the sources of problems’ (Shearing and Wood

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<sup>7</sup> Shearing and Froestad (2010, p.123) also refer to these marginalized communities as ‘missing or absent nodes’.

2003, p.414).The solution to market inequality lies in communalizing markets – empowering poor nodes to participate within security markets

Two strategies exist to empower communities to satisfy their security needs. Firstly, the model proposes that block grants are awarded to ‘weak actors’, enabling them to enter the security market on a level footing (Bayley and Shearing 1996, p. 603). Though who these communities buy from is another matter, as the model seems unaware of the possibility of substandard security companies and other market failures (Loader and White 2017). Secondly, any public policing activities should be conducted according to a programme of community policing focused on harnessing state and non-state capacities to realise community-defined security goals (Bayley and Shearing 1996, p. 604). The prime example of how the redistribution of taxpayer money to communities has enabled local governance and conflict resolution to flourish is in the South African settlement of ‘Zwelethemba’. Supported by financial contributions from the international community and the South African government, this poor township of 20,000 residents handles security governance issues through ‘Peace Committees’, in which disputes are managed in a localized, future-oriented manner (Shearing and Froestad 2010, p.108-115; Shearing 2000, p.195). The regulatory goal is local capacity building – enabling communities to promote their own objectives and address their unique security needs by participating within markets for security

In particular, the aim is to deepen democracy through proliferating appropriately regulated problem-solving deliberative forums that encourage citizens to participate in nodal governance networks. The Model thus seeks to give effect to a central value of democracy, namely the right of every citizen to contribute to effective governance (Shearing and Froestad 2010, p. 113).

In this sense, the effective and legitimate governance of security can be secured not by removing substandard private security companies but by empowering others to access the market to address their individual security needs. The market for security should not be ‘cleansed’ but ‘communalized’ (see Loader and White 2017).

This decentred reading of regulatory space has implications for the role of the state. Black’s (2001) notion of ‘decentred regulation’ emphasises the ungovernability of regulatory space. The fact that actors are autonomous and self-regulating is considered to make external control difficult, therefore preventing any one actor from dominating regulatory space (Black 2001, pp.6-7). Scott (2004, p.146) argues that the ‘assertion of control by state regulatory bodies is, in many cases, implausible’. Rather the role of the state within such settings is to use its authority, resources and capacities to mediate, facilitate, connect and empower others to realise their regulatory goals (Black 2000; Scott 2004; Wood and Shearing 2007). Similarly, Scott (2004) points to the rise of the ‘post-regulatory state’ which emphasises the meta-

regulatory capacities of both state and non-state actors. Others have suggested that although networked arrangements are self-organizing and self-governing, this does not necessarily preclude the possibility of coordination. In this vein, Johnston *et al.* (2008) suggest that coordination can be achieved either by public, private nodes or ‘superstructural nodes’, that is informal groupings of different organizations that act as the ‘command centres of networked governance’ and mobilize diffuse resources and capacities to collective regulatory goals (Shearing and Froestad 2010, p.118; see also Burris *et al.* 2005). For instance, Brewer (2014; 2017) demonstrates how private actors broker information flows and exchanges between different public and private organisations within the regulation and governance of security in the Port of Melbourne. In short, the essence of the ‘post-regulatory’ state is that the state should not be considered the prime regulator nor ‘meta-regulator’ or coordinator of dispersed and pluralised regulatory arrangements (Scott 2004).

Yet, whilst these decentred positions are built on a criticism of the state, its solution requires the state to perform a crucial role within these pluralised arrangements (Loader and Walker 2007, pp.177-8, Loader and White 2017). In the Zwelethemba Model, local capacity building requires the state to redistribute tax funds to poorer communities so that they could participate within the market for security (Bayley and Shearing 1996, p. 603). It is important to note that this criticism has been partially addressed in recent revisions, in which non-governmental and local resources have been used to reduce this dependence on the state (Loader and White 2017). However, decentred analyses have been criticised for overlooking the continued existence and importance of hierarchy, as well as the role that the state continues to play in steering decentred/polycentric regimes (see van Steden *et al.* 2011, p.447; Loader and Walker 2007, p.134; Crawford 2006; Scott 2004, p.167). Others have emphasised how ‘proliferating local governance regimes have not marked a roll back of the state but have catalysed it into re-articulating its modes of power’ (Lea and Stenson 2007, p.26). As Boutellier and van Steden (2011, p.467) argue: ‘redefined state ambitions in the regulation of society do not, therefore, mean a withdrawal of government institutions per se.’

In sum, the utility of the decentring model is that it enables us to conceptualise contestation and complexity within private security regulation in the post-crisis era. The regulatory space/regime metaphor provides a means for analysing private security regulation which incorporates a broader range of norms, institutions and actors. Moreover, the decentring approach illuminates increasing fragmentation within private security regulation in the post-crisis era – a process which will be referred to as the ‘decentring’ of private security regulation within this thesis. This decentring process is characterised by the increasing presence of non-state actors within the regulatory regime. However, this perspective does not provide an adequate account for the hybridisation of private security regulation in the post-crisis era. For

it overlooks the manner in which the state has responded to increasing fragmentation and sought to consolidate its position within more plural regulatory settings.

#### **2.4. The ‘Recentring’ Model**

This section examines the recentring perspective. This approach is composed by several parallel theories including ‘anchored pluralism’ (Loader and Walker 2006; 2007; Marks and Goldsmith 2006) and ‘the new political economy of private security’ (White 2010; 2012) whose insights have converged within the ‘Civilizing Model’ (Loader and White 2017), although this is buttressed by a broader range of studies on the ‘new regulatory state’ (see Braithwaite 2000; Crawford 2006). First, this section outlines the recentring model’s normative defence of the state as a necessary ‘democratic anchor’ within more plural regulatory settings. Second, it examines empirical research relating to the state’s distinct resource advantages, its continued use of hierarchy and law, and to the manner by which it has buttressed its regulatory capacities by adopting more responsive and smarter regulatory strategies which seek to harness, coordinate and steer self- and third-party regulation. In this respect, the recentring model displays some commonalities with the broader notion of the ‘new regulatory state’. This notion of the regulatory state emphasises how regulation operates through networks and hybrid alliances of state and non-state actors. This section argues that the recentring model elucidates processes of centralisation and consolidation within private security – termed the ‘recentring’ of private security regulation. However, this does not provide a full explanation for the hybridisation of private security regulation for it overlooks increasing fragmentation and autonomy within the state. For it does not account for the fact that although the core executive has sought to assume more regulatory responsibility and strengthen its steering capacities, it has also sought to delegate its powers, relinquish responsibilities and promote fragmentation within private security regulation. Nor does it consider the unintended consequences of delegating powers to semi-autonomous agencies – namely the fact that these agencies may seek to negotiate both recentring and decentring pressures in order to achieve their objectives and maintain their autonomy.

The ‘recentring’ perspective combines a decentred reading of regulatory space with a normative defence of the state. Loader and Walker’s ‘anchored pluralism’ model has formed the basis of this perspective (2001; 2006; 2007). Whereas these scholars recognise the plurality of actors and institutions that interact to provide and regulate (i.e. govern) security, they express some concern with the normative implications of the decentred approach. Loader and Walker (2007, p.24) start from the idea that security is a ‘thick public good [...] an indispensable constituent of any good society’. Empowering weak actors to participate within security markets may ensure a more equitable distribution of security, but it also has the

potential to accelerate the erosion of social ties necessary for the functioning of democracy (Loader and Walker 2006). Loader (2006, pp.2016-7) highlights two simultaneous processes: an ‘authoritarian spiral’, in which conditions of insecurity facilitate ever-increasing and even insatiable demands for tougher law enforcement, usually at the expense of democratic rights and freedoms, and a ‘fragmentation spiral’ in which the shift from public to private and ‘clubbed’ security arrangements serve to erode social bonds and interpersonal trust. The market for security is unique in the sense that it is a ‘form of private power whose scale, distribution and activities is necessarily implicated in, and may challenge and erode, the democratic social order (Loader and White 2017).<sup>8</sup> Far from empowering individuals, communities and businesses to define and address their own security risks and needs fragmentation and commodification pose unique dangers to the realisation of security as a public good. Therefore, whereas the nodal governance perspective is concerned with issues of equity, the anchored pluralism perspective is concerned with political legitimacy and accountability:

The task of civilizing security is faced not only (or even mainly) with the task of controlling the arbitrary, discriminatory exercise of sovereign force, or with the excesses of state power. It is confronted with a notable absence of political institutions with the capacity and legitimacy required to prevent those with the ‘loudest voices and largest pockets’ from organizing their own security in ways which impose unjustifiable burdens of insecurity upon others (Loader and Walker 2007, p. 24).

The state is distinct and should retain primacy within plural regulatory settings for it is the only institution with the cultural authority and symbolic power to articulate a common set of priorities for society and stimulate credible commitments among individuals and communities (Loader and Mulcahy 2003).<sup>9</sup> The role of the state should be to ‘anchor’ plural security arrangements in the public interest (Loader and Walker 2006; 2007). To this end, the state has two distinct responsibilities: to ensure that the widest possible collective is included within deliberations over and the benefits of security arrangements, and to prevent other forms of distribution from undermining such collective provision (Loader and Walker 2006 pp.193-194). More recently, these principles have been developed into the ‘civilizing model’ which contends that the goals of private security regulation should be social solidarity and inclusive deliberation, and the corresponding role of the state should be to act as a convenor to align public and private regulation (Loader and Walker 2017).

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<sup>8</sup> To illustrate, Zedner (2009, pp.161-2) asserts that one of the disastrous consequences of ceding responsibility for policing and security to communities is vigilantism.

<sup>9</sup> This is built on Loader’s earlier research on the cultural authority of the public police in Britain (Loader 1997a, 1997b, 2006).

Whilst the anchored pluralism model was initially conceived as a normative perspective, and is used as such by Loader and Walker, it does hold significant analytical power (see Crawford 2006; White 2012). This approach has been supported by empirical research which demonstrates how states continue to exercise significant influence over security governance and regulation, even within more plural settings (Boutellier and van Steden 2011, p.467). This strand of research emphasises the state's extensive resources, cultural authority and its symbolic power – all which enable it to interact within plural arrangements as a dominant actor (Crawford and Lister 2004; Crawford 2006; Loader and Walker 2007, p.219). Recentring accounts posit that regulatory interactions between state and non-state actors are structured by the political, cultural and institutional contexts within which they occur (Crawford 2006; White 2012). This is important because these structured contexts unevenly distribute resources between state and non-state actors. For instance, in the United Kingdom, regulatory space is structured by a 'deep rooted political norms which are centred around the idea that domestic security ought to be exclusively provided by the state, entirely free from the interference of commercial interests' (White 2012, p.88). Within this perspective, state-centred conceptions of how security ought to be delivered constitute an ideational structure which unevenly distributes legitimacy between state and non-state policing actors (White 2010; Percy 2007, p.371).<sup>10</sup> Certainly, plans to transfer greater degrees of regulatory responsibility to the private security industry have been tempered by moral unease over the status of the private security as evidenced within debates over its 'maturity'. The state is therefore able to participate within more plural and networked conditions as a dominant actor, by virtue of its distinct symbolic and cultural resources, a resource which non-state actors seek to obtain. (Loader and Walker 2007, p.216; White 2010; Smith and White 2014).<sup>11</sup> In fact, state-centric norms have sustained the state's relevance within security governance by unevenly structuring relationships between state and non-state actors, even within contexts in which states are instrumentally weak (Diphorn 2015, p.5). More broadly, research has pointed to the extensive legal, fiscal, administrative and informational resources at the state's disposal (Bell and Hindmoor 2009, p.71). As Braithwaite (2008, p.427) argues: 'while states

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<sup>10</sup> Scholars in this perspective do not take the state monopoly as an actuality, but rather as a 'myth' (Garland 1996, Newburn 2001 p.830, White 2010). Importantly, these myths serve to sustain the legitimacy of the state (Smith 2009, p.121)

<sup>11</sup> These points serve to demonstrate the uniqueness of the legitimacy claims that the state can make within the governance of security which serve to trump other sources of authority, such as expertise (see Abrahamsen and Williams 2009). Notwithstanding this, whether the Security Industry Authority – a relatively recent addition to the policing landscape - can draw on this same reservoir of symbolic capital as the police is a moot point (Majone 1997; White and Hyatt 2018). Symbolic capital refers to mechanisms that confer legitimacy to an organisation and the power it holds to speak with authority to other actors (Dupont 2004, p.86). The Security Industry Authority also operates in the shadow of the public police, who exert a massive regulatory influence over plural policing provision (Loader 2000, p.336; Crawford and Lister 2004, p.426).

are ‘decentred’ under regulatory capitalism, the wealth it generates means that states have more capacity both to provide and to regulate than ever before.’ Whether the Security Industry Authority – a relative new participant within such networks – can draw on the same repository of symbolic – as well as financial and legal - capital as more established state actors, such as the police, is a contested point (see White and Hayat 2018, p.96).

Whilst the parallel growth of private regulation by third-parties and citizens has made regulatory space more complex, their existence does not necessarily mark an abdication of the state, and in some cases, can even strengthen its capacities (Grabosky 2013). Certainly, some scholars have spoken of a ‘new regulatory state’ which locates the regulatory state within the broader range of state-societal relationships (Braithwaite 2000; Yeung 2010, p.67; Moran 2003, p.13). According to Parker and Braithwaite (2003, p.126): ‘in the new regulatory state, not only does the state do less rowing and more steering, it also steers in a way that is mindful of a lot of steering that is also being done by business organizations, NGOs and others.’ Plural regulatory arrangements have not diminished the state’s regulatory power but provided them with opportunities to extend their influence beyond their immediate capacities by co-opting non-state resources and capacities into standard-setting, monitoring and enforcement activities (Braithwaite 2000, pp.224-5; Shearing 2005, p.2; King 2007, p.19; Boutellier and van Steden 2011). Regulatory networks therefore provide an opportunity for states to enhance their infrastructural power (Migdal 2001; Smith 1993; 2009) As Pierre and Peters (2000, p.197) argue: ‘the best proof of the state’s leverage and political capabilities is not whether it can accomplish desired changes by itself but whether it is able to muster the resources and forge coalitions necessary to attain those goals at all’. In this sense, the recentring model suggests that states can supplement their formal authority with the informal authority of networks (Cherney *et al.* 2006).

This perspective therefore emphasises the interaction between state and non-state regulation. Levi-Faur (2011) highlights three modes of hybrid regulation: co-regulation (where responsibility for the design or enforcement of regulation is shared between state and non-state actors); enforced self-regulation (where the state compels the regulatee to develop a set of rules and which the state enforces); and meta-regulation. Meta-regulation may be defined narrowly as ‘the government regulation of plural regulation in the private sector and civil society’ (Parker and Braithwaite 2003, p.141) and more broadly as any form of regulation that regulates any other form of regulation (Parker 2007). Whereas the decentred perspective takes the broader definition, so as to include non-state meta-regulators, the recentring model focuses on the coordination of pluricentric regimes by the state (Gunningham 2010, p.135). Within such circumstances the role of the state in regulation turns from a direct to an indirect role (see Grabosky 1995, p.543). As part of the recentring approach, the Civilizing Model suggests that regulators should use principles within standard-setting strategies (Loader and



White 2017, p.179). Whereas rules prescribe specific behaviour or action, principles provide broad guidelines or desired outcomes and do not stipulate how they must be achieved (Lodge and Wegrich 2012, p.60). These principles are set by the state and responsibility for interpreting these principles is delegated to regulated parties: regulators will communicate goals and expectations and regulatees will develop processes and practices to meet these goals (Black 2008). Such standard-setting practices place greater responsibility for compliance and reporting on regulated firms therefore reducing information asymmetries, fostering corporate commitment to regulatory goals and enhancing self-regulatory capacities (Gilad 2010, p.486). Moreover, principles-based regulation reframes the regulatory relationship between the state and market from one based on suspicion and control to one based on trust and mutual responsibility (Black 2008). Within this model, regulated firms become responsible for devising the measures by which they achieve regulatory outcomes, though are usually subject to some form of state oversight. This marks a shift from more direct forms of command-and-control regulation.

Likewise, responsive regulation encourages regulators to induce regulatory compliance through softer instruments such as negotiation and persuasion, which rely on harnessing the self-regulatory capacities of regulated parties before escalating up an ‘enforcement pyramid’ to more punitive regulatory responses, such as prosecution and de-commodification (Ayres and Braithwaite 1992). Meta-regulatory strategies encompass a shift in the conception of regulatees from rational self-interested profit-maximizers, who game and capture statutory regulation to socially responsible organizations, who are committed to wider public interest objectives (Parker 2007, p.213; see Loader and White 2017). This marks a shift from the formalized ‘distrust’ based techniques of the regulatory state (Moran 2002; Christensen and Laegreid 2006). ‘Smart’ regulation seeks to expand on responsive regulation by incorporating private and third-party capacities within inspection and enforcement activity (Grabosky 2013; on ‘gatekeepers’ see Black 2012, p.1048). States can employ multiple strategies to enrol third-parties into its monitoring and enforcement strategies, stemming from legal requirements for independent certification through incentives and contracting to deference to pre-existing arrangements (such as mandating/accepting existing private or third-party standards) (Grabosky 2014, pp.85-89). States have diversified the range of mechanisms they use to ensure public safety to include financial incentives (Grabosky 1995), contracts (Crawford 2003), responsabilisation strategies (Garland 1996, O’Malley and Palmer 1996) and other forms of ‘soft law’ such as guidance and circulars (Scott 2001). For instance, Loader and White (2017) suggest that state should escalate or outsource enforcement activity to third parties such as the police or trade industry associations due to their closer proximity to the private security industry and their recourse to a wider range of regulatory tools and resources.

The recentring model provides an important counterpoint to the decentred perspective by emphasising how states have sought to centralise and consolidate their power – a process here defined as the ‘recentring’ of private security regulation. In the post-crisis era, the core executive has sought to extend its control over decentred regulatory arrangements through several reform initiatives including the Better Regulation agenda, Public Bodies bill and Red Tape Challenge. As Dommett and Skelcher (2014, p.541; see also Matthews 2012b) argue: ‘administrative reform provides a means through which governing elites can realize their policy goals; thus, proposals to abolish, reform, or create agencies are intended to terminate or restrict the policy commitments of previous governments and to enhance and embed those of the new regime’. The various dimensions of these reform agendas will form crucial components of Chapters 3, 4, 5, and 6.

However, it does not account for the fact that although the core executive has sought to assume more regulatory responsibility and strengthen its steering capacities, it has also sought to delegate its powers, relinquish responsibilities and promote fragmentation within private security regulation (Black 2007; Matthews 2012). Prevalent within these aforementioned reform agendas has been a ‘tension’ between increasing attempts by the core executive to steer and coordinate government agencies and a simultaneous demand for regulators to adopt ‘smarter’ regulatory techniques which pushes the responsibility for regulation beyond the boundaries of the state (Black 2007). Certainly, it has been the core executive itself (under the Conservative-led coalition government) that has led the assault on the key institutions and assumptions of the regulatory state in the post-crisis era (White and Fitzpatrick 2014; Dommett and Flinders 2015; Tombs 2016; Fitzpatrick 2016). This is exemplified by the core executive’s attempt to abolish the SIA and thereby deregulate the private security. Moreover, states have taken on increasing responsibility only to delegate to semi-autonomous agencies, as exemplified by the issue of private investigators covered in Chapter 5. In this sense, the core executive has not placed contradictory pressures on the regulatory state (Black 2007).

Moreover, the recentring model overlooks the unintended consequences of delegating powers to semi-autonomous agencies – namely the fact that these agencies may seek to negotiate both recentring and decentring pressures in order to achieve their objectives and maintain their autonomy (Dommett and Skelcher 2014). The regulatory state has been characterised by the delegation of regulatory responsibility to arms-length agencies (Rhodes 2008). These organisational units or agencies are distinguished by their independence from the core executive, the intention of which was to enhance the capacity of states to intervene within plural governance arrangements (Thatcher and Stone Sweet 2002). Matthews (2012b, p.289) argues that ‘whilst many of the changes implemented by the state have been intended to shore up and maximize its capacity to govern, they have resulted in a range of unintended consequences such as the emergence of new, multiple veto points and the creation of rubber

levers at the center of government’. In this respect, delegation creates issues of autonomy and control for the core executive:

The state consists of a highly heterogeneous network of organisations and controlling, steering and scrutinising this increasingly diverse flotilla of organisations and partnerships, many of which enjoy significant levels of autonomy from elected politicians and legislatures, remains the primary challenge of modern governance’ (Flinders 2006, p.223; see also Smith 2011, p.171; Bevir and Rhodes 2008, p.732).

Yet it cannot be assumed that regulatory agencies are simply passive objects of political control, or regulatory capture. As Wilks and Bartle (2002, p.149) argue: the consequence of delegating regulatory authority to arms-length agencies ‘has been to populate the policy area with actors (agents) who have their own priorities, interpretations and influence’. Agencies may actively seek to maintain and protect their autonomy (Carpenter 2001). Although regulatory agencies are characterised by their political independence from politicians and regulated interests, the actual exercise of this independence is a relational matter and is usually shaped by constraints on the actual use of these decision-making capacities, which stem from a wide range of stakeholders (Verhoest *et al.* 2004; Maggetti 2007). In this respect, we might expect that regulatory agencies will attempt to negotiate assaults on this independence and even seek to influence reform initiatives (Dommett and Skelcher 2014, p.54; van Thiel and Yesilkagit 2011; Carpenter 2001). Therefore, any analysis of the evolution of private security regulation must not only explore how the key institutions and goals of the regulatory state have been contested (by increasing fragmentation and centralisation) but also how these key institutions have negotiated and adapted to such pressures in order to maintain their foothold within changing governance arrangements.

In sum, the centred, decentred and recentring models therefore provide some important conceptual and analytical reference points for investigating the emergence of more complex patterns of private security regulation. For they enable us to explore the extent to which state-centred private security regulation has been supplanted or supplemented by more networked modes of regulation – or the extent to which there has been a shift from the regulatory to the post-regulatory state in the post-crisis era. Whereas the decentred perspective emphasises how increasing complexity and fragmentation has precipitated a dispersal (or ‘decentring’) of regulatory authority within the regulatory regime, the recentring model emphasises the consolidation (or ‘recentring’) of regulatory authority by the state through the co-optation and steering of other actors. Moreover, these perspectives further enable us to explore the extent to which the state has shifted from a direct to an indirect or meta-regulatory role within the regulatory regime and the extent to which the regulatory goal has shifted from one of ‘cleansing’ to one of ‘communalizing’ or ‘civilizing’ the market for security (see Loader and

White 2017). However, while these decentred and recentring models provide valuable counterpoints to the regulatory state, it is necessary to supplement this debate with an approach which can examine how the institutions of the regulatory state have adapted to, and shaped, the emergence of more complex and hybrid regulatory arrangements in the post-crisis era. To do so, this theoretical framework turns to the political institutionalist approach.

## **2.5. Political Institutionalism**

At their core, institutionalist perspectives seek to ‘elucidate the role that institutions play in the determination of social and political outcomes’ (Hall and Taylor, 1996). The political institutionalist approach is best understood as an ‘organising perspective’ that generates questions and techniques for solving puzzles (Lowndes 2017, p.73; Gamble 1990, p.405). The previous sections refined the central research question into such a theoretical puzzle. It was argued that the centred, decentring and recentred models provided a set of reference points for conceptualising and analysing the relations between the institutions and actors that constitute private security regulation in the post-crisis era. However, although these perspectives illuminate processes of fragmentation (decentring) and consolidation (recentring), they individually do not provide an adequate explanation for the hybridisation of private security regulation. Against this backdrop, the political institutionalist provides a set of tools for analysing the shift from hierarchical towards more hybrid and collaborative forms of private security regulation.

The political institutionalist approach seeks to build on some of the convergence and consolidation of the ‘second-wave’ institutionalism (see Lowndes and Roberts 2013).<sup>12</sup> However, it is perhaps more accurate to think of this as a distinct institutionalist theory given the significant amount of divergence and debate between different institutionalist approaches (Hysing and Olsson 2018, p.27). The key tenets of the political institutionalist approach are that: (i) institutions shape actors’ behaviour through informal as well as formal means; (ii)

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<sup>12</sup>The ‘old’ or ‘first-wave’ institutionalism focused on the formal structures of government and was criticised by newer approaches for being ‘incapable of coping with the dynamism and complexity of the contemporary political world’ (Peters 2008, p.17; see Rhodes 2011). The ‘second-wave’ institutionalism broadened institutionalist theory to include informal as well as formal rules, practices and ideas; they perceived institutions to embody power relationships; and suggested that whilst institutions shape political behaviour, they are nonetheless a product of human agency (Lowndes and Roberts 2013, pp.28-9). It is not the intention of this chapter to engage in a theoretical debate between various strands of institutionalism, but to adopt a more pragmatic, problem solving approach. This approach is illustrated by Thelen (1999, p.370; see also Hall 2010, p.220): ‘The walls dividing the three perspectives have also been eroded by ‘border crossers’ who have resisted the tendencies toward cordoning these schools off from each other and who borrow liberally (and often fruitfully) where they can, in order to answer specific empirical questions.’ Likewise, Hall (2010, p.220) has argued that: ‘My bet is that the greatest advances will be made by those willing to borrow concepts and formulations from multiple schools of thought’.

they exhibit dynamism as well as stability; (iii) they distribute power and are inevitably contested; (iv) they take a messy and differentiated forms and; (v) they are mutually constitutive with the political actors whom they influence and by whom they are influenced' (Lowndes and Roberts 2013, p.200). In this respect, the political institutionalist approach can be considered part of a 'third-wave' of institutionalist theory designed to 'utilise synergies between various institutionalisms to create novel heuristics' (Hall 2010, p.220). This approach has been built upon by Hysing and Olsson (2018, pp.35-37) who contend that political aspects such as power, authority and formal organisation, which were 'lost' during the emergence of the second-wave, still matter and that formal institutions still structure political behaviour, only that they do not determine but condition it.

The political institutionalist defines institutions in terms of formal and informal rules, practices and narratives (Lowndes and Roberts 2013, p.41). This encompasses not only the first-wave focus on formal rules and organisations, but the second-wave institutionalism's focus on norms, traditions, rituals, ceremonies and standards (Flinders 2006, p.45; Hall and Taylor 1996; White 2010). This break between the 'old' and 'new' institutionalisms, and the dominance of economic and sociological thinking within the latter 'meant that political aspects such as power, authority, and formal organisation were put aside to a large extent' (Hysing and Olsson 2018, p.35). The political institutionalist approach therefore seeks to reaffirm the continued importance of formal structures – such as laws and regulations – and political issues such as authority and responsibility, albeit with the caveat that these institutions condition rather than determine behaviour (Hysing and Olsson 2018, p.36). This focus on formal institutional structures resonates within our puzzle of explaining the persistence of formal institutional structures such as the Private Security Industry Act 2001 while tracing changes in regulatory practices (the emergence of more networked regulatory practices) and narratives (such as the shift from 'protecting the public from private security' to 'protecting the public with private security'). Moreover, in the post-crisis era, the post-crisis politics of private security has been dominated by restructuring the PSIA 2001. In this sense, the PSIA 2001 as a formal rule matters because it establishes the state's responsibility for regulating the private security industry – a distributional arrangement that certain coalitions of actors have sought to amend in the post-crisis era.

Political institutions are considered to be both stable and dynamic in the sense that both institutional change and institutional maintenance are the product of human agency (Lowndes and Roberts 2013, p.42). Second-wave institutionalisms presented a sharp distinction between sudden change and gradual evolutionary change (March and Olsen 2009, p.167). The political institutionalist approach straddles this divide by suggesting that institutional change and stability may occur simultaneously; for instance, the concepts of conversion, layering and drift provide insights into how institutions may be adapted or subverted whilst their formal rules

remain unchanged (Streeck and Thelen 2005, p.7; see below). In this respect, the political institutionalist perspective provides a set of heuristics for understanding how changes in private security regulation have occurred despite the PSIA 2001 remaining unreformed. Stemming from this discussion is a focus on both exogenous and endogenous sources of institutional change. One set of explanations focus on how institutions are embedded within wider structural and institutional environments and therefore may be susceptible to changes – or shocks - in these environments (Lowndes and Roberts 2013, p.42). Certainly, the key focus within the historical institutionalist perspective has been the explanation of transformative change by reference to crises or critical junctures in which long periods of stability are marked by short periods of rapid change (Capoccia and Kelemen 2007). The financial crisis catalysed a wider set of changes within the political, economic and regulatory contexts, prompting various actors to pursue different institutional goals. The Coalition Government has capitalised on the economic downturn to achieve its objectives to reduce the size and the scope of the state and consolidate its control over pluralised regulatory arrangements (Matthews 2012a). More broadly, regulation has evolved through various crises (Fitzpatrick 2016) As Fitzpatrick and White (2014) state: regulation and crisis are ‘natural bedfellows.’. Equally, transformative change may be the product of endogenous forces, where actors may seek to sustain and adapt institutions from within (Thelen 2004). The subsequent chapter will demonstrate how both exogenous and endogenous forces have contributed to regulatory change: exogenous changes – the 2007/08 financial crisis and the 2010 election of the Coalition government and its attempt to dismantle private security regulation – have in fact contributed to and accelerated existing endogenous change – the SIA’s internal business licensing agenda (see Hacker 2004). Chapters 3, 4 and 5 emphasise contestation over the implementation of the PSIA 2001.

Since institutions are the product of political struggle and compromise, they are messy, complex and pervaded by different power relationships (Mahoney and Thelen 2010; Hall 2010, p.219; Lowndes and Roberts 2013, p.3). First wave institutionalists assumed institutions to be consistent, coherent and a product of rational design (Peters 2011, pp.30-11). Second and third-wave institutionalists have converged on the point that institutions are differentiated i.e. they do not represent functionally desirable solutions, they impart power and resources unevenly between groups, that there is a gap between this behaviour, and that there are gaps between constraints and actual behaviour (Hall and Taylor 1996, p.937). The PSIA 2001 for instance, establishes the SIA as the sole regulatory authority for the UK private security industry although grants it a limited range of tools to achieve these ends - an outcome that was a product of political bargaining within the development of the Act. Political institutions distribute power because they (unevenly) allocate resources and decision-making power to different actors (Lowndes 2017, p.63). The PSIA 2001 establishes the state’s responsibility

for regulating the private security industry, which works in the interests of some coalitions – such as elements of the private security industry who perceive regulation to endow their activities with a sense of ‘stateness’ required to overcome cultural barriers to higher profits – and against others – for instance, the Coalition government who view regulation as a burden on private enterprise (White 2010; 2018; Smith and White 2014). However, although institutions constrain and facilitate different groups, they provide space for resistance (Lowndes and Roberts 2013, p.43). As Mahoney and Thelen (2010, p.14) claim: ‘the fact that rules are not just designed but also have to be applied and enforced, often by actors other than the designers, opens up space for change to occur in a rule’s implementation and enactment’. In this respect, even actors who are fairly constrained by the PSIA 2001 – such as the SIA – may be able to interpret and redirect it to different ends. In this respect, ‘rule takers’ are not passive implementers of institutional rules, practices and narratives but ‘creative agents who interpret rules, assign cases to rules and adapt or even resist rules’ (Lowndes and Roberts 2013, pp.104-5). Chapter 6 illustrates further how the SIA has interpreted the PSIA 2001 to facilitate more collaborative regulatory processes.

Political institutions are both determinant and contingent in the sense that they shape agency and are, in turn, shaped by agency (Lowndes and Roberts 2013, p.43; Streeck and Thelen 2005, p.13-16)). ‘Old’ or first-wave institutionalist perspectives were criticised for their structuralism, that is the assertion that political institutions determine behaviour. The political institutionalist approach, whilst retaining focus on formal political institutions, departs on the point that these institutions do not determine but condition, i.e. constrain and facilitate, political behaviour (Hysing and Olsson 2018, p.37). Even where institutions are formally codified, as is the case with the PSIA 2001, their purpose may ‘remain ambiguous and open to interpretation, debate and contestation’ (Mahoney and Thelen 2010, pp.10-11). Agents – understood within this thesis as organisations such as the SIA, Home Office and British Security Industry Authority – therefore exercise some discretionary and interpretive capacities within the shaping of political institutions (Rocco and Thurston 2014).

Political institutionalism also seeks to ‘bring the actor back in’ (Lowndes and Roberts 2013, p.145). Agency refers to the ‘capacity of an actor to act consciously and in doing so, to attempt to realise his or her intentions’ (Hay 2002, p.93). Lowndes and Roberts (2013, p.104-10) present a ‘distinctively institutionalist’ view of agency as collective, combative, cumulative, combinative and constrained. Agency is collective, insofar that institutional change requires coalitions of actors to work together to oppose or generate change. This has historically been the case within the creation of the Private Security Industry Act 2001 (White 2010). In the post-crisis era, the Security Industry Authority has brokered a pro-business licensing consensus between different interests and coalitions (see White 2018). Second, agency is combative in the sense, that these agents and coalitions will seek to sustain or change

institutions to achieve their goals and undermine other groups. As Lowndes and Roberts (2013, p.110) argue: ‘not only do political actors seek to empower themselves and their allies; they seek to also constrain their opponents in a direct and combative manner’. Hysing and Olsson (2018, p.38) build on this by conceptualising political agency as goal-oriented action in which actors engage strategically with their institutional contexts. This understanding of political agency is informed by the two logics of social adaptation and combative action, which emphasise that agents will both conform to and subvert rules in order to achieve their interests. This is not to say that logics of calculation and appropriateness are not present: all political actors express a complexity of different logics (Lowndes and Roberts 2013, p.145). Agency is cumulative in that the effects of agency on institutions can only be seen over time and occurs within the context of shifting coalitional and institutional arrangements (Pierson 2004) This resonates with the processes of gradual institutional change that have occurred in the post-crisis era as new actors and more collaborative practices have been incorporated into the boundaries of the existing regulatory regime. In this sense, the small institutional changes to private security regulation – such as the responsabilisation of non-state actors and the expansion in the SIA’s jurisdiction have accumulated over time. Finally, agency is combinative in the sense that actors are must draw on the institutional resources and configurations at hand (Lowndes and Roberts 2013, p.106). Finally, agency is constrained in the sense that actors do not have pure free will – all actors must work within the constraints of the existing institutional context.

This approach makes a distinction between formal institutional change/stability (i.e. explicit creation, repeal of alteration) and informal change/stability (i.e. the actual functioning of institutions). This provides a framework through which to understand the persistence of the Private Security Industry Act 2001, and its key institutions and provisions, and broader changes within the regulatory regime, such as the incorporation of non-state actors, the adoption of less coercive regulatory instruments and the emergence of more collaborative relationships (Streeck and Thelen 2005, p.7; Hacker *et al.* 2015). In particular the notion of conversion ‘provides a crucial link between processes of institutional change and reproduction, often treated as distinct’ (Hacker *et al.* 2015, p.203). Institutional conversion occurs when institutions remain the same, but are redirected to new goals, functions or purposes (Thelen 2004; Streeck and Thelen 2005; Olsson 2016, p.107). Conversion can occur through the ‘adoption of new goals or bring in new actors that alter the institutional role or core objectives of an institution’ (Béland, 2007, p.22; Mahoney and Thelen 2010, p.36). In this latter instance, conversion may occur through ‘layering’ in which new elements are attached to existing institutions and gradually change its status and structure (Shpaizman 2014, p.1039; see van der Heijden 2011, p.9). Maggetti (2014, p.280) argues that ‘conversion indicates a regulatory configuration that those who made the rules/goals did not expect. Rocco



and Thurston (2014, pp.47-48) present several indicators of institutional conversion. Institutional conversion may be distinguished by the: differential application of policies and procedures; the differential definition of policy goals; and the development of policy innovations that are directed at different purposes over time, such as substantial changes in the techniques used to sanction non-compliance. In this sense, the notion of institutional conversion provides a powerful analytical tool for understanding how the PSIA 2001 remains unaltered but how it has been adapted to the changing post-crisis regulatory context. This conversion has been distinguished by the changed application of the act, where it has been increasingly redirected from its initial purpose of protecting the public *from* the private security industry to protecting the public *with* private security, which has facilitated the growth of more networked practices and relationships within the regulatory regime. The driving force behind this has been the SIA's desire to transfer greater responsibility for regulation to the private security industry so that it could better achieve its objectives within the face of increasing political and legal constraints, stemming predominantly from the intensification of the Better/Reducing Regulation agenda.

It is further necessary to establish the conditions conducive to institutional conversion (see Rocco and Thurston 2014). First, a necessary condition of institutional conversion is institutional ambiguity. Institutions with ambiguous statutory language, and which embody multiple or ambiguous goals, can create opportunities for the authoritative reinterpretation of rules (Rocco and Thurston 2014, p.44). As will become apparent within the following empirical narrative, the PSIA 2001 stipulates that the SIA should be responsible for 'raising standards' in the private security industry. Whereas this was initially included to ensure consistency and a minimum level of service provision within the private security industry to protect the public *from* private security, this clause is increasingly being used by the SIA to promote continued professional development so that it can protect the public *with* private security. Second, actor and/or environmental discontinuity are key conditions for change; broad changes in the socioeconomic context may change the saliency or impact of institutions – or create a gap between the institution and the context - and conversion strategies may be used to 'update' the institution, the failure to do so which results in 'drift' (Thelen and Steinmo 1992, p.18). In this sense, conversion may be used as a strategy of organisational maintenance where an organisation reinterprets its mandate so to adapt to new circumstances (Dodds and Kodate 2012). Chapters 6 and 7 demonstrate that the PSIA 2001 has been reinterpreted to enable the SIA to adapt to changes in the post-crisis regulatory context. Furthermore, conversion strategies may be adopted in the face of strong veto pressures, where the opportunity for change is limited: 'the hallmark of conversion is that it allows reformers to pursue important substantive changes even in the face of formidable obstacles to more direct forms of institutional re-engineering' (Mahoney and Thelen 2010, p.18; Hacker *et al.* 2015;

Galanti 2018, pp.55-56). As mentioned above, institutions are not self-sustaining – they require direct action to maintain them (Mahoney 2010, p.8). Importantly significant changes in the regulatory regime have occurred after the Home Office announcement in 2014 that business licensing (i.e. formal institutional change) was to be postponed. In this respect, Chapter 5 draws attention to the vetoing of formal regulatory restructuring by the core executive. Third, actors are considered to possess discretionary power; they can interpret and negotiate opportunities for strategic action (Marsh and Smith 2000, p.6; Streeck and Thelen 2005, pp.13-16). Rocco and Thurston (2014, pp.45-6) argue that ‘agents must either possess discretionary resources to change the meaning of a given institution or have material or intellectual capacities that give them access to discretionary agents with the ability to manipulate the meaning of a given institution’. When considering the issue of discretionary resources within the regulatory regime for private security, it is evident that the SIA possesses significant discretionary resources by virtue of its position – a point made in Chapter 3. Fourth, conversion also enables change agents to emphasise continuity so to enrol the support (or at least acquiescence) of those supporting existing institutions (Hacker *et al.* 2015). Institutional entrepreneurs will form alliances with institutional supporters and challengers (Mahoney and Thelen 2009, pp.30-31). For instance, conversion strategies enabled the Security Industry Authority to emphasise that it was working within the terms of its mandate when engaging within more networked regulatory governance arrangements. Finally, these studies refer to the proponents of institutional conversion – or ‘institutional entrepreneurs’ – who ‘seek to adapt the ‘rules of the game’ in order to respond to changing environments and protect (or extend) their influence’ (Lowndes 2005, p.299). For instance, Thelen (2010) explores how ‘weak actors’ can ‘hijack’ institutions and reinterpret the rules which constrain them to realise their interests. Hacker *et al.* (2015) identify bureaucratic agencies as the ‘first crucial arena’ to explore concerning questions of conversion. In this respect, it may be possible to identify the Security Industry Authority as an institutional entrepreneur due to its attempt to negotiate external pressures in order to maintain its foothold within regulatory governance arrangements. The next section takes off from this point.

In sum, the political institutionalist approach provides a flexible heuristic for analysing the shift from hierarchical to more collaborative and networked forms of private security regulation. The political institutionalist approach emphasises the continued importance of formal political institutions in shaping political outcomes and therefore provides a lens for how existing formal regulatory institutions, such as the PSIA 2001 have shaped the transition to more networked patterns of private security regulation. Its contention that institutional continuity and change occur simultaneously (through the mechanism of ‘conversion’) provides insights into the hybridisation of private security regulation. Due to this, the political institutionalist approach provides a method of structuring the empirical narrative (with each

chapter titled according to steps in this process i.e. ‘context’; ‘crisis’; ‘veto’; ‘conversion’; ‘collaboration’). Finally, the political conception of agency illuminates how relatively ‘weak’ actors such as the Security Industry Authority may shape regulatory arrangements by virtue of their discretionary capacities. However, to further examine this institutional entrepreneurship, this chapter turns to insights from the bureaucratic politics perspective.

## **2.6. Bureaucratic Politics**

Independent regulatory agencies are public organizations that operate at arms-length from government departments and are responsible for implementing regulatory policy and exercising public authority in a regulatory manner (Thatcher and Stone Sweet 2002, Levi-Faur 2005, Gilardi 2008). Within the literature on private security regulation, regulatory agencies have typically been perceived as apolitical bodies tasked with implementing regulatory policy (e.g. Prenzler and Sarre 2008). By contrast, there is a growing recognition within the public administration literature that ‘bureaucrats are politicians, and bureaucracies are organizations of political actors.’ (Carpenter 2001, p.353). It posits that agencies are animated by the desire to defend, maintain and even enhance their autonomy, understood as the ability to undertake their mission as they see fit (Wilson 1989; Maggetti 2007; Gilardi and Maggetti 2010; Maggetti and Verhoest 2014; Bach 2016; Bach and Wegrich 2016; Heims 2019). According to this perspective, the scope of an agency’s autonomy is not simply fixed by the terms of its founding legislation but is dynamic and shaped by its relationship with its external stakeholders (Carpenter 2001; 2010). This approach contends that public bodies regarded as legitimate and competent by relevant audiences are less likely to attract criticism and undue influence than those regarded as less competent (Wilson 1989; Bach 2016; Bach and Wegrich 2018; Heims 2018). Accordingly, agencies will seek to minimise external influence by practising a ‘politics of legitimacy’ which involves strategies such as coalition building and reputation building – a dimension of which is performing its mission well (Carpenter 2001; Carpenter and Krause 2010; Maor 2014; Heims 2019). This section therefore outlines the bureaucratic politics perspective. First it highlights the distinction between the formal and actual autonomy of regulatory agencies. It then draws insights from the bureaucratic politics perspective to elaborate on the political behaviour of the SIA in the post-crisis era. It argues that the bureaucratic politics approach enables us to explain the puzzling hybridisation of private security regulation with reference to the SIA negotiating pressures stemming from the shifting post-crisis context (i.e. increasing fragmentation and centralisation) in order to achieve its objectives, sustain its legitimacy and maintain its autonomy.

Within the public administration literature, two broad approaches to conceptualising the independence of regulatory agencies can be identified (Gilardi and Maggetti 2011; Bach

2016). The ‘top-down’ approach focuses on the formal independence of regulatory agencies, which is broadly conceived in terms of the extent of its insulation from political principals (Gilardi 2008; Bach 2016). In this sense, independence is indistinguishable from the discretion afforded to the agency from politicians as inscribed within legislation. This perspective has traditionally been concerned with the top-down relationship between the agency and political principals and focuses on moral hazards such as regulatory creep or bureaucratic drift (Thatcher and Stone Sweet 2002). This relationship between regulatory agencies and politicians has traditionally been analysed through principal-agent theory in which political principals delegate authority to an agent (Gilardi 2002; Thatcher and Stone Sweet 2002). Within this model, self-interested principals are predominantly concerned with maximizing the benefits gained by delegation – achieving policy objectives in a more credible, efficient and effective manner – whilst minimizing the negative consequences of the resulting information asymmetries, namely regulatory creep, agency drift and loss (Thatcher and Stone Sweet 2002, pp.4-5; Huber and Shipan 2002). Agents are perceived as rational actors who can exploit information asymmetries between itself and its principals to pursue self-serving objectives such as budget maximization (Niskanen 1971), focusing on the most interesting or rewarding tasks (Dunleavy 1991) or expanding their jurisdiction, powers and/or mandate (Majone 1996). Principals therefore seek to adjust incentive structures to ensure that delegated agencies deliver certain objectives by deploying a series of *ex ante* and *ex post* controls (Busuioc 2009). These controls may relate to various dimensions of agency autonomy, including policy, personnel, financial and legal autonomy. In this case, agency autonomy refers to the scope of delegated decision-making competencies and the extent to which politicians can limit and control the use of these decision-making competencies and is therefore indistinguishable from discretion (Verhoest *et al.* 2004).

The formal autonomy of regulatory agencies can be measured with reference to several indicators or variables (Gilardi 2002; 2005; 2008; Hanretty and Koop 2012; 2013). These indicators concern the scope of regulatory tasks, competencies and jurisdiction delegated to the agency as well as the appointment and removal of the agency chair and board, their respective terms of office, relationships with government departments and parliament and their autonomy over financial and corporate matters, such as budget size and allocation (Gilardi 2008; Yesilkagit and Christensen 2010; Hanretty and Koop 2012). Although formal controls and the level of political influence are important determinants of agency behaviour, this approach assumes that agencies are passive recipients of political control and therefore overlook both how agencies actively cultivate autonomy and the influence of alternative actors. In fact, agencies may exercise degrees of autonomy which differs from the level of autonomy granted to them by statute. Regulators are embedded in complex multi-actor configurations that shape their independence and control (Maggetti and Verhoest 2014,

p.240). Regulation occurs within multi-lateral, fragmented institutional contexts in which agency autonomy is moulded not only by political principals and formal structures, but also by networks of other actors, including other governmental agencies (Rommel and Verhoest 2014) and the media (Alon-Barkat and Gilad 2016).

Accordingly, these observations have been made by proponents of a ‘bottom-up’ perspective who focus on the actual (or de facto) independence of regulatory agencies (Bach 2016). This independence – or autonomy – refers to the extent to which agencies can formulate and pursue relatively distinct organisational interests which may exceed their statutory mandates and even deviate from the preferences of elected politicians (Carpenter 2001, p.4; Maggetti 2007). In this conception, autonomy does not refer to the scope of decision-making competencies but to a ‘gradual process of institutionalisation through which the organization acquires a distinct identity and a coherent organizational mission that may diverge from its original mandate through an evolutionary process’ (Bach 2016; Carpenter and Krause 2010, p.12). This perspective focuses on how independent agencies are not passive actors within regulatory processes and may develop and pursue distinct policy preferences, which provides a lens for understanding the SIA’s adoption of its business regulation agenda.

The acquisition of bureaucratic autonomy is contingent upon three conditions (Carpenter 2001, p.15). First, an agency must have a distinct identity and mission. Agencies that fail to cultivate and pursue a distinct mission (or have multiple or even contradictory missions) are more susceptible to external interference or competition by bureaucratic rivals (Wilson 1989; Bach and Wegrich 2016). Secondly, it must develop ‘unique organisational capacities – capacities to analyse, to create new programs, to solve problems, to plan, to administer programs with efficiency, and to ward off corruption’ (Carpenter 2001, p.15). In short, an agency must perform its mission well (Wilson 1989, p.92). In fact, Heims (2019) argues that agency behaviour is driven by the desire to perform their core mission well, due to the perceived benefits in terms of enhancing their legitimacy in the eyes of relevant stakeholders and principals and therefore in terms of defending, maintaining and enhancing their autonomy. This contrasts with traditional rational choice perspectives which contend that agencies will seek to expand their budgets or ‘empires’ (Niskanen 1971) or focus on the most rewarding or stimulating tasks at the expense of more routine ones (Dunleavy 1991). It is argued here that such rational choice approaches are limited in explaining the behaviour of the SIA given that it has actively sought to *reduce* licence fees in the post-crisis era – its main source of income. Moreover, White and Hayat’s (2018, p.99) research into the organisational identity dynamics of the SIA between 2008 and 2010 reveal it to be ‘an organisation an organisation grappling with the big question of ‘who am I?’ and therefore acutely concerned with cultivating a distinct mission. This theme traces these dynamics throughout the whole empirical narrative.

Third, bureaucratic autonomy is conditional upon the acquisition of organisational legitimacy (Carpenter 2001; see also Wilson 1989, p.182). Agencies that fail to cultivate legitimacy amongst key audiences or stakeholders – such as political principals and regulated industries – will face threats to their autonomy in the form of increasing oversight or even termination (Kuipers *et al.* 2018). By contrast, agencies that enjoy higher levels of organisational legitimacy typically face lower levels of interference and may even be granted more responsibilities (Groenleer 2014, p.262). Moreover, agencies with high levels of organisational legitimacy have been found to exercise considerable influence over the policymaking process, especially over policy design, shaping the policy preferences of political principals and taking the primary role in achieving and implementing significant legal or policy changes (Maggetti 2009, p.466; Bach *et al.* 2012, p.185; Cuéllar 2014, p.476). Agency autonomy is therefore not absolute but relative and conditional upon a range of factors including the scope of formal decision-making responsibilities and relations with external groups (Maggetti and Verhoest 2014). As Dommett and Skelcher (2014, p.541) argue:

Independence is negotiated on a day-to-basis along the boundary between the agency, its mission, how it undertakes its tasks, and the framing of its conclusions and decisions are politically salient and potentially subject to attempts by external actors to exert influence. As a result, the management of independence is inherent within the ethos of the agency.

This perspective therefore emphasises the sensitivity of regulatory agencies to their institutional contexts, as well as to their relationships with external audiences (Carpenter 2001, p.4; Gilad *et al.* 2015; Alon-Barkat and Gilad 2016, p.43).

Whether an agency successfully practices a ‘politics of legitimacy’ is contingent upon it forging a supportive coalition from the multiple networks in which it is situated, as well as developing and maintaining a strong reputation (Carpenter 2001, p.354; Carpenter 2002, p.14). According to this perspective then, agencies will seek to acquire political support and other resources from other organisations within their institutional context (Carpenter 2001, p.15). While Carpenter’s seminal work has provided the foundation for this insight, most empirical research on the impact of networks on bureaucratic autonomy has focused on the involvement of national agencies in EU-level networks (see Bianculli *et al.* 2017, p.1250). Participation within transnational networks have allowed some domestic regulators to gain new regulatory powers through the opportunity to play a two-level game and adopt new roles (Bach *et al.* 2016, Yesilkagit 2011, Bach and Ruffing 2013, Maggetti 2014b). Participation in European networks has been found to strengthen member agencies’ bargaining position in front of their domestic principals which gives them a model for reform and a political strategy for supporting the delegation of further regulatory competencies (Maggetti 2013, p.493).

Likewise, Bianculli *et al.* (2017) identify how the Spanish nuclear regulator was able to strengthen its position vis-à-vis the national government by acting as a node for diffusing information and expertise within international and domestic networks. Similarly, Groenleer (2014) demonstrates how at the supranational level, the European Medicines Agency gained autonomy by developing a web of networked based professionals which supply it with expertise. Dommett and Skelcher (2014) demonstrate that a key factor in the SIA surviving abolition was its embeddedness in a supportive network of actors, a point considered in greater depth in Chapter 4. In this respect, agencies may actually achieve their own policy preferences, enhance their capacities and maintain their autonomy by co-opting and enrolling other actors (Groenleer 2014).

Second, agencies will seek to cultivate organisational legitimacy through ‘reputation building’ (Maor 2010). Organisational reputation is defined as ‘a set of beliefs about an organisation’s capacities, intentions, history and mission that are embedded in a network of multiple audiences’ (Carpenter 2010, p.33). Reputation is therefore the external manifestation of an organisational identity, as understood by those outside the agency (Gilad and Yogev 2012). However, what the audience see ‘is not the perfectly tuned or visible reality of the agency but an image that embeds considerable uncertainty and ambiguity’ (Carpenter and Krause 2012, p.27). Moreover, public bureaucracies have multiple audiences, which place potentially conflicting demands upon them as various stakeholder groupings may value different aspects of an organization’s activities (Carpenter and Krause 2012). One strand of this literature focuses on how public agencies cultivate distinct reputations and how they respond to associated reputational threats (see Bach and Wegrich 2018, p.17). Accordingly, extensive research has been undertaken into how reputational concerns drive many facets of agency behaviour such as: regulatory enforcement practices (Gilad 2009, Maor and Sulitzeanu-Kenan 2013, Etienne 2015), the prioritization of regulatory tasks (Carpenter 2002), jurisdiction claiming (Maor 2010) and the strategic use of communication (Gilad *et al.* 2013, Maor *et al.* 2013). In this vein, this literature posits that regulators are not necessarily rational, but strategic and politically conscious organisations that carefully construct and protect their unique reputations (Gilad *et al.* 2013). For instance, Verhoest *et al.* (2007, p.488) argue that in their case of Flemish governmental agencies that ‘the [agencies] oriented themselves quite strongly towards what they perceived as the expectations of their customers, interest groups, and sometimes quite indirectly, their political principals (or some factions of these principals) in order to enhance their legitimacy’ (Verhoest *et al.* 2007, p.488). In the words of Gilad and Yogev (2012) ‘reputation regulates regulators.’

Public agencies not only react to reputational threats but are also active in shaping such external perceptions through a series of political, policy and presentational strategies (see Gilad and Yogev 2012; White and Hayat 2018). As Gilad and Yogev (2012, p.322) argue:

‘regulatory bodies continuously seek to manage the gap between their self-perception - their role, adequate means of operation, the constitution of success/failure - and the way the public perceives their role, develops expectations of them, and accordingly assesses their performance’. Groenleer (2014) emphasises that agencies may enhance their legitimacy and reputation through strategies of differentiation, moderation, balancing and networking. Likewise, Wood (2017) explores how EU agencies adopt various strategies to disseminate information regarding their regulatory activity to shape audience perceptions and evaluations of them. In this respect, agencies may actively shape regulatory arrangements in the course of their reputational management: Regulation is continuously being shaped and reshaped in light of the reputational risks that regulators face in their interactions with multiple stakeholders. Regulators’ reputation-management strategies are therefore an important driver of regulatory policy and its implementation. (Gilad and Yogev 2012, p.333).

In sum, the bureaucratic politics approach provides a lens for conceptualising and understanding the SIA’s political and regulatory actions, as well as its response to increasing fragmentation and recentralisation within the regulatory regime. The bureaucratic politics approach emphasises on the interaction between agencies, their statutory framework and external stakeholders clearly integrates both with the political institutionalist approach and the decentring/recentring models. The bureaucratic politics perspective further enables us to explain the puzzling hybridisation of private security regulation with reference to the SIA negotiating pressures stemming from the shifting post-crisis context (i.e. increasing fragmentation and centralisation) in order to achieve its objectives, sustain its legitimacy and maintain its autonomy.

## **2.7 Conclusion**

This chapter has constructed a theoretical framework through which to examine the changing nature of private security regulation in the post-crisis era. It comprised of three complementary theoretical strands. First, the contrast between the centred, decentring and recentring modes provide a framework for analysing the changing relationship between the British state, regulation and private security in the post-crisis era, as encapsulated in the debate concerning the extent to which state-centred regulatory arrangements have been supplanted or supplemented by more hybrid and networked modes of regulation. Moreover, the divergence between the centred, decentring and recentring perspectives further enable us to explore pertinent questions relating to the coordination (‘to what extent has the state shifted from a direct to an indirect – or meta-regulatory – role?’) and objectives of private security regulation (‘to what extent has the goal of private security regulation shifted from one of ‘cleansing’ to one of ‘communalizing’ or ‘civilizing’ the market for security?’). Whereas the centred



approach will be used in Chapter 3 to conceptualise the set of regulatory institutions constituted by the PSIA 2001, the decentring and recentring perspectives will be used throughout Chapters 4 to 7 to illuminate the concurrent processes of fragmentation and consolidation/centralisation within the regulatory regime. Finally, Chapters 6 and 7 will use the recentring and decentring perspectives to analyse the more hybrid regulatory arrangements.

Second, the political institutionalist approach complements these debates by enabling us to trace the shift from command-and-control regulation to more hybrid patterns of private security regulation in the post-crisis era. This approach enables us to capture the dynamics of contestation, continuity and change in private security regulation. Accordingly, each empirical chapter maps a subsequent step in the progressive redirection of the PSIA 2001 from its original intention of protecting the public *from* private security to protecting the public *with* private security in the post-crisis era. Each chapter draws attention to key contributing factors: Chapter 3 emphasises the fact that the PSIA 2001 was a product of political compromise, and therefore is pervaded by power imbalances between different groups. Chapters 3, 4, 5 and 6 draw attention to the impact of the shifting post-crisis regulatory environment on the implementation of the PSIA 2001, as well as to shifts in the balance of power between different groups which led to the vetoing of formal regulatory reform. Chapter 6 further highlights the gaps between the interpretation and implementation of the PSIA 2001. Chapters 6 and 7 complete this narrative by mapping the changed enactment of the PSIA 2001 after 2014

Third, the bureaucratic politics approach enables us to further explain the puzzling hybridisation of private security regulation with reference to the SIA negotiating pressures stemming from the shifting post-crisis context (i.e. increasing fragmentation and centralisation) in order to achieve its objectives, sustain its legitimacy and maintain its autonomy. Between 2008 and 2014, the SIA sought to enhance its capacity to achieve its regulatory objectives and maintain its autonomy within the context of increasing legal, regulatory and resource constraints stemming from the Better Regulation Agenda by amending its formal jurisdiction over private security companies (who were omitted from licensing due to political compromises). However, with plans to formally restructure the SIA's formal jurisdiction postponed in February 2014, the SIA has sought to negotiate these increasing constraints on its regulatory activities by adopting more collaborative regulatory practices. These more collaborative not only seek to enrol the self-regulatory capacities of the private security industry but also to exercise a 'pull' effect by enabling and empowering the private security industry to better contribute to public policing objectives. Essentially, the SIA has supplemented its limited (and increasingly restricted) formal authority with the informal authority acquired from more networked and collaborative approaches. It is this dynamic which explains the conversion of the PSIA 2001 in the post-crisis era. This approach therefore

also enables us to link debates over the formal restructuring of private security regulation between 2010 and 2014 (which form the focus of Chapters 3, 4, and 5) with the informal changes in private security regulation after 2014 (which form the focus of Chapters 6 and 7).

In sum, these three complementary theoretical strands enable us to engage with a series of concepts, issues and debates relevant to the post-crisis regulation of the UK private security industry. When combined, they constitute a novel lens through which to organise, interpret and explain the empirical dynamics unveiled in the following chapters, thereby generating a theoretically-informed narrative of the changing regulatory relationship between the state and market for security in the post-crisis era. It is to this empirical narrative that this thesis now turns.

### **3. Context**

The UK is unique in licensing individuals without taking any formal interest in the companies that employ them, and of course dictate the way in which these individuals work. To some this is a fundamental weakness in the regulatory approach. Whatever truth there may be in this, compulsory registration would certainly make it easier for the SIA to communicate with the industry and would allow more accurate modelling and focussing of licensing and compliance activities.

— *Mike Wilson, SIA Chief Executive, SIA Stakeholder Conference, 16 June 2008*

#### **3.1 Introduction**

In order to investigate the hybridisation of private security regulation in the post-crisis era, it is necessary to establish the form and content of private security regulation prior to the 2007/08 financial crisis. Drawing on secondary material, the purpose of this chapter is therefore to provide some contextual information about the initial implementation of the Private Security Industry Act (PSIA) 2001. It makes three foundational points. First, it will show that the PSIA 2001 provided for a hierarchical command-and control-style regulatory regime designed to protect the public from malpractice within the private security industry (Home Office 1999; House of Commons Library 2001; White and Smith 2009). Second, it will establish that the PSIA 2001 was a product of political compromise between competing demands for public protection, normative legitimation and regulatory efficiency (see White 2010) and therefore contains significant gaps (such as the omission of private security companies) and embodies, preserves and imparts differential power resources to different groups (for instance, it grants the SIA the formal responsibility for regulating the private security industry). It will further highlight how tensions between these competing demands shaped the implementation of the PSIA 2001 between 2003 and 2010 as evidenced by increasing fragmentation and centralisation within the regulatory regime. Third, it argues that the evolution of private security regulation between 2007 and 2010 can be explained with reference to the SIA's attempts to manage the gap between internal and external perceptions of its mission in the context of increasing centralisation (evidenced by increasing legal and regulatory constraints on the SIA's activities) and fragmentation (evidenced by early decisions to contract-out key regulatory responsibilities to third-party providers). This chapter explores these three interrelated dynamics over four sections. Section 3.2 details the regulatory institutions constituted by the Private Security Industry Act 2001. It draws attention to the competing goals and expectations embodied within the Act. It also considers the SIA's formal

independence and the development of its ‘transformational’ mission between 2003 and 2007. This transformational mission focused on robustly implementing the PSIA 2001 in order to professionalise the private security industry and improve its reputation and standing within the broader policing landscape (White and Hayat 2018). Section 3.3 then traces the early implementation of the licensing regime between 2003 and 2007. It highlights the SIA’s failure to gain recognition for competently performing its transformational mission, due to several administrative errors in the implementation of licensing. These failures – and the resulting criticism – prompted the SIA to pursue a more streamlined mission focused on implementing the licensing regime and achieving its core statutory objectives of reducing criminality and raising standards within the private security industry (White 2010). Section 3.4 traces the various policy, political and presentational strategies deployed by the SIA to manage the gap between internal and external perceptions of its mission between 2007 and 2010 within the context of a changing regulatory environment. Against this backdrop, this section traces the antecedents of business regulation, an issue which would dominate the post-crisis politics of private security. This section concludes with the argument that the SIA’s business regulation strategy was driven by the perception that such amendments to its statutory mandate would enable it to reduce the gap between internal and external perceptions of its mission. Section 3.5 concludes the chapter by re-situating these empirical dynamics within the overarching theoretical framework.

### **3.2 The Private Security Industry Act 2001**

This section sets out some important contextual information about the Private Security Industry Act 2001. First, it argues that the PSIA 2001 was a product of political compromise between the competing demands for normative legitimation, public protection and regulatory efficiency (see White 2010). This consideration of the historical and political context is particularly important because it has shaped both the content of the PSIA 2001 and its implementation between 2003 and 2007 as demonstrated by the SIA’s pursuit of a ‘transformative mission’. Second, it examines the key features of the regulatory regime constituted by the PSIA 2001. The PSIA 2001 establishes a hierarchical command-and-control regulatory regime targeted at the private security industry and designed to protect the public from malpractice within the private security industry. Third, it examines the formal independence of the Security Industry Authority as laid out in the provisions of the PSIA 2001. Importantly, this examination reveals that the SIA is afforded a significant degree of discretion over the design and implementation of private security regulation.

The Private Security Industry Act 2001 was a product of political compromise. During the post-war period, several major private security companies and industry associations had

sought statutory regulation as a means of increasing profit margins within a state-dominated policing landscape. These organisations envisaged that statutory regulation would not only prevent criminal elements (and smaller companies) from undercutting ‘legitimate’ security providers and sustaining profit-squeezing competition, but that it would also repair the private security industry’s tainted image and render their services more acceptable to a broadly ambivalent consumer base (White 2010). At the core of this ‘re-legitimation’ agenda was that statutory regulation was a mechanism for capturing or appropriating normative legitimacy from the state in order to increase profits (Smith and White 2014). Successive post-war governments had failed to legislate on the matter, partly due to the private security industry’s position on the peripheries of the policing landscape but also due to the belief that regulation would either accelerate the erosion of traditional state policing functions or impose too many unnecessary burdens upon the private security industry (White 2018). It was only with the New Labour government (1997-2001), and its commitment to a partnership approach to the delivery of public services, that regulation was viewed as an opportunity to harness the capacities of the private security industry within public policing whilst tackling criminality and poor standards within the industry (White 2010). Within this ‘reformist’ agenda the stipulation of minimum standards requirements and criminal checks would address criminality and malpractice within the industry, which would lead to a safer and more professional industry in which the police and public could trust.<sup>13</sup> The key overlap between these ‘re-legitimation’ and ‘reformist’ agendas is that they both, and for different reasons, believe that the state should be responsible for regulating the private security industry (White 2010). Smith and White (2014, p.426) identify a ‘paradox of private security regulation’: that whilst private security regulation serves to protect the public by imposing minimum standards on private security contractors, it also serves to endow the private security industry with a degree of ‘stateness’ which may disguise rent-seeking behaviour and capturing a greater share of the policing market. For the re-legitimators, statutory regulation would serve as a ‘foundational act’ which would ‘allow the industry to break with its past and begin a process which promised greater recognition and repute’ (Thumala *et al.* 2011, p.291). For the reformers, the existence of statutory regulation, and its visible and robust enforcement, would communicate to the public that the state still maintained a degree of public control over plural security provision (White 2016).

Marking a convergence between these two perspectives, the March 1999 White Paper: ‘The Government’s Proposals for the Regulation of the Private Security Industry in England and Wales’ set out plans for the statutory regulation of the UK private security industry. The

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<sup>13</sup> Evidence given by the ACPO to the 1995 Home Affairs Committee indicated that around 2,600 offences were committed each year by private security contractors (House of Commons Library 2001)

White Paper proposed that statutory regulation would raise standards and ensure greater consistency within the private security industry by removing criminal and substandard contractors. It suggested that a mandatory licensing system be introduced for individual contractors across a wide range of sectors including manned guarding, alarm installation, and the in-house sectors, and that standards be raised and maintained through a voluntary inspection scheme for businesses (Home Office 1999). However, the subsequent Private Security Industry Bill contained a diluted version of the White Paper's proposals, with the Home Office deciding to omit in-house security and alarm installers, claiming licensing would impose unnecessary administrative burdens on these sectors, which prompted criticism from the private security industry (Button 2002, p.127). Accordingly, the reformist and re-legitimation positions co-exist and compete with a free-market coalition which perceives the private security industry as 'just another industry' and who are wary of placing undue burdens on the market (White 2018). This goal will be referred to as 'regulatory efficiency'. Despite concerns over its limited scope, the Bill passed through Parliament with ease, becoming the Private Security Industry Act on 11 May 2001. Concessions on the width and depth of private security regulation were forced by the rejection of several amendments by the House of Lords on extending licensing to the in-house sector, as well as by limits on parliamentary time imposed by the impending June 2001 General Election (White 2010, pp.137-8). In this respect, the PSIA 2001 represents a compromise between the overlapping/competing goals of public protection, normative legitimation and regulatory efficiency.

The PSIA 2001 provides for a state-centred command-and-control style regulatory regime. Its stated purpose is to protect the public from malpractice within the private security industry (see Smith and White 2009). The PSIA establishes the Security Industry Authority (SIA), a non-departmental public body accountable to the Home Secretary and tasked with regulating the private security industry in the UK. The SIA has two statutory objectives: reducing criminality and raising standards within the private security industry.<sup>14</sup> To reduce criminality, the SIA is authorised by the PSIA 2001 to administer, monitor and enforce a system of compulsory licensing for individuals undertaking designated security functions. All individuals undertaking licensable activities, or who manage, supervise and employ individuals performing licensable activities (including directors and partners of private security companies) must hold a licence to do so. To obtain a licence, individuals must demonstrate that they are 'fit and proper' by undergoing criminal records and identity checks. The SIA's mandate was initially extended to seven sectors within the private security industry:

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<sup>14</sup> The SIA's statutory functions are: to licence individuals and approve companies; to monitor the activities of those working in the industry; to conduct inspections; to keep under general review the private security industry and the operation of the legislative framework; to set and approve standards of conduct, training and effectiveness of those working in the industry; and to make recommendations to improve standards

cash and valuables in transit (contract); close protection (contract); door supervision (contract and in-house); public space surveillance (CCTV) (contract); key holding (contract); manned guarding (contract); and the immobilisation, restriction and removal of vehicles (contract and in-house). The Act also contains provisions for the licensing of private investigators and security consultants which is subject to commencement by the Home Secretary. The PSIA 2001 initially applied to England and Wales only, as regulatory matters are devolved to Scotland and Northern Ireland. However, the decision to extend the licensing regime to Scotland was made in 2003 (Scottish Executive 2003).

The SIA is also responsible for raising standards to ensure consistency within the private security industry. The PSIA 2001 grants the SIA the authority to specify the required competencies and level of training required to obtain a licence. The purpose of this provision was to improve professionalism and ensure consistency in the private security, which had traditionally been characterised by varying levels of service provision, by imposing minimum standards. The Act does not stipulate mandatory licensing for private security companies but requires the SIA to raise standards by establishing and maintaining a voluntary accreditation scheme (the 'Approved Contractor Scheme'). Private security companies that meet key standards and criteria relating to good business practice (rather than regulatory risks) can gain competitive advantages by advertising as 'approved contractors', gaining special dispensation to deploy a fixed number of staff whilst their licence applications are processed- SIA also seek to persuade underwriters to provide an insurance incentive (HC 894 [2003-04], p.19). These provisions for a voluntary approval scheme were included to address issues with the poor management of staff and contracts as well as to provide reassurance to buyers. The absence of business licensing within the PSIA 2001 creates a tension in the regulatory regime: the SIA has a statutory requirement to raise standards within the private security industry but lacks the statutory authority to compel companies to adopt minimum standards. Nevertheless, the PSIA 2001 grants the Home Secretary the power to make the Approved Contractor Scheme compulsory. The ACS scheme was introduced from February 2006 which private security companies could apply directly and undertake an inspection by an externally accredited assessment body; through a 'fast track' if they already held relevant private sector standards; or through a 'passporting' process if they held an equivalent industry association accreditation.

The PSIA 2001 establishes several criminal offences relating to: the undertaking of security activities without a licence, supplying unlicensed security officers, and falsely claiming approved contractor status. The maximum penalty for breaching the terms of the PSIA 2001 is a maximum of six months in prison and/or an unlimited fine, although these can

only be imposed by the courts.<sup>15</sup> The PSIA 2001 grants the SIA a series of statutory powers for sanctioning non-compliance. The SIA is reserved the statutory powers of licence refusal, suspension and revocation and may initiate a prosecution for serious non-compliance. The SIA has further developed non-statutory tools such as formal warnings and improvement notices, although it has no recourse to mid-range sanctions such as fines. This includes a series of compliance tools for the ACS Scheme, based on contractual agreements. To ensure compliance with the ACS terms and conditions, the SIA has the capacity to issue improvement notices, withdraw licence dispensations, and remove a company from the scheme. At its core, the PSIA 2001 provides for a system of command-and-control regulation – the SIA is authorised to directly regulate the private security industry by imposing tightly specified rules backed with criminal sanctions.

The Security Industry Authority is characterised by its formal independence from the Home Office. This formal independence can be measured across two dimensions: the level of decision-making competencies of the agency (concerning management and policy autonomy) and the exemption of constraints on the actual use of decision-making competencies (which refers to structural, financial, legal and interventional constraints) (Verhoest *et al.* 2004, pp.104-5). The SIA exercises a high degree of formal policy autonomy, which is related to the notion of ‘discretion’ (Bach 2012). Button (2007, p.114 see also Button 2008, p.97; White 2010) states that ‘the legislation gave a great deal of discretion to the Home Secretary, and to the chief executive and the chair (and board) of the SIA in creating the actual standards and in the ability to create secondary regulation’. The PSIA 2001 delegates the responsibility to the SIA for the definition of specific licensing criteria relating to criminality and competency in each designated sector and the application of these criteria in the approval, modification, suspension and revocation of licences.<sup>16</sup> Politicians (or any other party) are restricted from intervening within operational (or ‘day-to-day’) decision making; the only recourse is through appeal at a Magistrates’ court. Moreover, Section 1(3) of the PSIA states that ‘The Authority

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<sup>15</sup> The level of this fine varies across England and Wales (unlimited); Scotland (up to £10,000) and Northern Ireland (up to £5,000).

<sup>16</sup> It is important to note that in practice, these are developed using extensive stakeholder consultation and close partnership working with Home Office policy teams (HC 894 [2003-04], p.15). Section 7(1) requires the Authority to prepare and publish the criteria that it will apply in reaching decisions on granting, modifying or revoking licences. Section 7(2) allows the Authority to revise the criteria as and when necessary and requires that any revised criteria be published. The criteria, and any revisions of them, must be approved by the Secretary of State. Section 7(3) requires that the criteria ensure that applicants are fit and proper persons to be engaged in licensable security activities and may also specify the skills required to perform such activities or relate to other criteria determined by the Authority. Section 7(4) permits the Authority to apply different criteria to different areas of the industry, and to apply different criteria to the initial issue and to the renewal of a licence. Section 7(6) requires the Authority to publish its criteria and any revisions to them in a way that it judges will bring them to the attention of those affected



may do anything that it considers calculated to facilitate, or is incidental or conducive to, the carrying out of any of its functions'. The SIA is further granted the power to keep legislation under review, to commission research relating to the provision of private security services, and to present the Home Secretary with proposals to modify or amend regulations. This contrasts with relatively low managerial autonomy with governmental caps on recruitment numbers and staff salaries (HC 1059 [2004-5], p.35).<sup>17</sup>

The exercise of these broad decision-making capacities is mitigated by extensive political controls and constraints. First, in terms of its structural autonomy – or the extent to which the agency head and board are accountable to political principals – the Home Office appoints, dismisses and sets the term lengths of the SIA Board and Chair. Second, the SIA initially exercised low levels of financial autonomy. The SIA's budget was initially provided by the Home Office until such times it became self-funding from the licence and ACS registration fees. Later, and although the SIA has the authority to impose charges (licence fees), adjustments to licence and registration fees requires a statutory instrument from the Home Office (e.g. Private Security Industry Act 2001 Regulations (Amendment) 2001). Nevertheless, the SIA remains accountable to various governmental bodies, including the Home Office, Treasury and Parliament for its financial management. The Chief Executive acts as the Accounting Officer and is directly responsible to Parliament for ensuring that the SIA as an organisation used its resources efficiently and effectively (HC 1059 [2004-5] p.35). Key financial controls include the obligation to operate on a cost-recovery basis (the SIA has been unable to retain any surplus). Third, in terms of its interventional autonomy, the Home Secretary can pass ministerial directions and holds the power to exempt and designate activities.<sup>18</sup> The Home Office monitors whether the SIA is performing an adequate function using performance metrics and by reviewing the details of corporate and business plans (SIA Chief Executive, private interview). The SIA is further required to submit all board meeting minutes, annual reports and financial accounts to the Home Office for approval. The SIA and elements of its regulatory regime are also subject to a variety of inspections and audits by governmental and non-governmental bodies, such as the National Audit Office. Termination – 'the ultimate act of political control' – remains a decision for parliament, as demonstrated by the Public Bodies Bill debate in the next chapter (Carpenter and Lewis 2004, p.2002).

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<sup>17</sup> This has become more acute in the post-crisis era. 'Managing Public Money' requires the SIA to balance its budget 'to ensure that the private security industry receives the benefit of cost reduction measures at the earliest opportunity to achieve value for money and fairness' (SI 2011/2917, p.2). The SIA Annual Reports and Accounts state that the SIA aim to balance its budget with a variance of no more than 3% turnover. The SIA must surrender any additional surpluses to the Consolidated Fund (the Government's 'general bank account') (e.g. HC 744 [2016-07], p.17).

<sup>18</sup> The Authority must comply with directions which the Secretary of State gives it (Schedule 1; Section 2(1)) and must provide any information that the Secretary of State requests (Schedule 1; Section 2(3)) The Secretary of State must consult the Authority before giving it any directions (Schedule 1; Section 2(2)).

This historical, political and institutional context shaped the implementation of the Private Security Industry Act 2001 between 2003 and 2007 (see Button 2007, p.115; White 2010, p.142). Certainly, the extent to which the SIA intervened within the private security industry and maintained a highly visible inspectorial presence or whether the SIA intervened only in cases of clear market failure has been a key political battleground and source of contention within the SIA's regulatory regime. Certainly, with the reformist/re-legitimation coalition situated within key political institutions such as the Home Office and police, the SIA was encouraged to adopt a broadly interventionist and 'transformational' mission based on robustly implementing licensing, maintaining a visible inspectorial presence and using its enforcement powers extensively to professionalise the private security industry and enhance its position within the 'extended policing family' (White 2010, p.142; White and Hayat 2018, p.98). As Smith and White (2014, p.430-1) elaborate: 'throughout the White paper and parliamentary debates that preceded the Act, it was clear that the SIA was being mandated to employ these regulatory tools in a manner which brought about far reaching change across the industry'. This 'transformational' mission was articulated by SIA Chair Peter Hermitage within the SIA's 2003/04 Annual Report:

There is still a long way to go before the private security industry is viewed with trust by the general public, as a partner by other enforcement authorities, and making a real contribution in the fight against crime. Key to this is nothing less than transformation of the industry – eradicating criminality, increasing professionalism and skills, improving career paths and employment prospects, providing reassurance for security users and for the wider public (HC 894 [2003-04], p.2).

It is possible here to witness an early alignment between the internal and external perceptions of its mission. For this 'transformative' position resonated with the private security industry's expectation that regulation would usher in a period of increased profits via increased public and police confidence, and the Home Office's view that robust regulation would eradicate criminality and malpractice thereby reducing its risk to public safety and potential as a policing partner (Smith and White 2014). However, the SIA would encounter some obstacles during the initial implementation of regulation raising doubts concerning the SIA's ability to competently perform its transformative mission. It is to this dynamic that the chapter now turns.

### **3.3 Failed Expectations**

The Private Security Industry Act 2001 was implemented in two phases. Licensing was first rolled out to the door supervision sector between April 2004 and March 2005, and then to all

other sectors, including manned guarding between April 2005 and March 2006. The implementation of licensing during this initial period would pose a crucial test for the SIA and its transformational mission. As White (2010, pp.141-2) states: ‘a credible, efficient and effective SIA would serve to lay down a successful realisation of the reform and re-legitimation agendas, while an impotent, inefficient SIA would serve to frustrate the successful realisation of these agendas.’ This section examines the implementation of licensing between 2004 and 2006. It demonstrates that errors in the implementation of licensing contributed to an increase in licensing processing times and eventual increase in licence fees which served to undermine the early credibility of the SIA (White 2010).

The Private Security Industry Act 2001 was a product of political compromise. As such, criticism was initially levelled towards the limited scope of the PSIA 2001, especially for the omission of private security companies and in-house security from compulsory licensing (Button 2009).<sup>19</sup> However, administrative errors between 2004 and 2007 served to redirect criticism from the regulations to the regulator itself. First, during the initial phase of implementation, inaccurate data concerning the number of licensable door supervisors led the SIA to grossly over-estimate the number of licence applications from this sector by 90,000 (HC 1059 [2004-05], p.17). This poor forecasting led to the SIA accruing a £17.4 million deficit and necessitating a bail-out from the Home Office (HC 1036 [2007-8], p.4). Second, the SIA and its managed service provider, BT Syntegra, also experienced ‘teething problems’ whilst processing licensing applications from the door supervision sector causing significant delays in issuing licences (White 2010, p.143; HC 1059 [2004-05], p.11). Problems with the timely processing of licence applications persisted during the second phases of implementation between April 2005 and March 2006. Despite agreeing with major security industry associations to stagger licence applications from the manned guarding sector, the SIA was unable to cope with the surge in demand for licence from this sector around the March 2006 deadline. In fact, thirty percent of applications were received after the deadline creating further delays and financial deficits (HC 178 [2005-6], p.17). Moreover, in 2007, a replacement licensing system was not completed in time, creating a further six-week backlog of applications and incurring additional costs of over £1 million. Overspending was further caused by the Home Office policy decision to exempt in-house security at sports venues, as well as delays to the implementation of licensing for private investigators and security consultants. The absence of licensing for private investigators alone put a £2.45 million hole in the SIA’s finances (HC 819 [2006-07], p.11).

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<sup>19</sup> Button’s (2007, p.122) league table of regulatory systems for the static manned guarding sectors placed the UK system 14<sup>th</sup> out of 15 EU systems. A more comprehensive update of this league table placed the UK 20<sup>th</sup> out of 26 EU systems (Button and Stiernstedt 2016, p.9). For a more in-depth overview of the limitations of the PSIA 2001 see Button (2011, pp.121-122).

By 2007, the SIA had failed to establish a reputation as a credible regulator. Poor forecasting and administrative errors resulted in increased licence costs and processing times which contributed to increased dissatisfaction amongst the SIA's stakeholders (White 2010, p.144). The 29% increase in the licence fee from £190 to £245 in April 2007, which aimed to cover shortfalls in the SIA's operating costs, served to erode industry trust and support for the SIA as this fee came to be perceived as an unnecessary tax on individuals working in the private security industry (White 2010, p.154).<sup>20</sup> Moreover, complaints with licence processing times constantly circulated around the private security industry and industry press (Professional Security Magazine 2008). The SIA would also receive 35 formal complaints about its licence processing times between August 2008 and August 2009 (HC Deb 1 September 2009 c.1894W). This prompted the SIA to adopt a less ambitious and more streamlined mission focused on achieving full compliance with the act (SIA 2007, p.16; White 2010). This was illustrated by Peter Hermitage: 'perhaps the enthusiasm to create this brave new world when we first started off faded by the time we got to March 2006, where the issue was much more around: "let's just make sure we can achieve what we can achieve, which is getting people licensed"' (cited in White 2010, p.144).

The SIA's reputation took further damage in November 2007, when it transpired that the SIA has issued 39,885 licences to non-European Economic Area individuals who had not undergone 'right to work' checks. The SIA response was that although it had no legal obligation to perform such checks – the statutory responsibility lies with employers – it had been granted the discretion to do so and performed these on 10% of licence applications since April 2005 (HC Deb [2007-08] vol.467 c.531). In August 2007, the SIA had sent letters to 2000 British private security companies reminding them of their responsibilities (HC 144 [2007-8], p.4). It further emerged during this period that the SIA had employed 38 members of agency staff who had not received appropriate security clearance to issue licences. As a matter of fact, these individuals had been employed by the SIA's delivery partner LDL<sup>21</sup>, a subsidiary of BT, who remained responsible for undertaking such security clearance checks, although these were audited by the Home Office Departmental Security Unit. The 'right to work' scandal elicited further negative evaluations of the SIA's competency. For instance, A 2008 ACS review revealed that the revealed that the right to work scandal had damaged

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<sup>20</sup> This poor reputation was also evident during the Delegated Legislation Committee's consideration of the piece of secondary legislation passed by the Home Office to raise licence fees with one committee member quipping: 'the SIA seems to have suffered from poor planning from the outset. The blame seems to have been based on an unreliable base data source, which falls into the same category of excuses as 'I ate a dodgy curry' when one has had too much to drink... The SIA has got off to a particularly bad start in its short life' (Wilson cited in Delegated Legislation Committee 2007, c.4).

<sup>21</sup> During this period, licence applications were processed by delivery partner LDL in Liverpool, although approvals were confirmed by a permanent member of SIA staff in Holborn, London. SIA licensing managers conducted audits and inspections of applications processed by LDL.

perceptions of the quality and robustness of the ACS approval process from within the industry (OGC 2008, p.4). As White (2010, p.146) concludes ‘it seems that the industry’s regulator – like the industry itself – had now become a prime target for the media’. The SIA’s failure to develop a reputation for performing its mission well prompted external intervention and increased oversight by its political principals in the Home Office. In the aftermath of the scandal, the Home Office expressed a deep concern with the SIA’s organisational capacities and commissioned an independent Delivery Review (the first of its kind) into the leadership and management of the SIA (HC Deb 6 Nov 2008 c27WS). The result would be a restriction in the formal independence of the SIA from the Home Office, with the SIA reforming its governance and management structures and being subjected to greater political oversight through additional annual Home Office reviews. Notwithstanding this, blame was directed at the SIA, with a wave of negative media coverage and parliamentary questioning leading to the resignation of SIA Chief Executive Mike Wilson after the Independent Delivery Review (White 2010, p.146; HC 144 [2007-8], ev.10).

### **3.4 A ‘Changing Agenda’**

This section examines the SIA’s shift from its transformative to a more streamlined mission between 2007 and 2010. It traces the various policy, political and presentational strategies deployed by the SIA to manage the gap between internal and external perceptions of its mission within the context of increasing fragmentation and legal and regulatory constraints. Against this backdrop, this section traces the antecedents of business regulation, an issue which would come to dominate regulatory discussions between 2010 and 2015. In this respect, this section departs from and contributes to existing accounts of this period of private security regulation. It concludes with the argument that the SIA’s business regulation strategy was driven by the perception that such amendments to its statutory mandate would enable it to better perform its streamlined mission and manage stakeholder expectations within the context of increasing fragmentation and centralisation within the regulatory regime.

The period between 2007 and 2010 was one of ‘existential flux’ for the SIA (White and Hayat 2018). In 2007, the SIA underwent a leadership change, with Baroness Ruth Henig joining as Chair in January 2007 and Mike Wilson as Chief Executive in September 2007. During this period, the SIA gradually abandoned its transformational mission, which had aimed to enhance the private security industry’s status within the policing landscape, for a more ‘streamlined’ mission focused on simply achieving its two statutory objectives of reducing criminality and raising standards (White 2010, p.145). For instance, the SIA’s initial mission focused on ‘introducing regulation as a catalyst to stimulate change and improvement in the industry’ (HC 819 [2006-07], p.12). However, after 2007, the SIA’s mission was to

‘regulate the private security industry effectively; to reduce criminality; raise standards and recognise quality service’ (HC 79 [2008-09], p.11). This new direction – and acknowledgement of past failures - was announced by the SIA Chair, Baroness Henig, at the SIA’s May 2007 ‘The Changing Agenda’ conference (Henig 2007). This changing regulatory strategy was delivered through a process of internal and external restructuring, identifiable through the ‘outward facing “Regulation” and internal facing “Excellence” development programmes’ as well as the 2007 Stakeholder Engagement Strategy (SIA 2007, pp.17-20).<sup>22</sup> The SIA would also undergo a series of external audits and reviews of its function and performance between 2007 and 2009 by the National Audit Office (NAO 2008), the Better Regulation Executive (BRE 2009) and by academics at the University of Sheffield (White and Smith 2009).

As part of the pursuit of this streamlined mission, regulatory efficiency became a key priority for the SIA. A key objective during this period was ‘to ensure we live within our means’ (SIA 2009). Internal discussions revealed that the SIA wanted to communicate that it was self-sufficient, well run, that costs were under control and that the licence fee was well spent, especially in the aftermath of fee rises (SIA Board 26 April 2007, p.4). With the promise of regulation fading, and with profit margins declining, the industry press led a campaign for ‘fair charging’ and ‘cutting red tape’ which was supported by the BSIA (SMT/Infologue 2006a). This aligned with the better regulation agenda’s emphasis on economic efficiency. Furthermore, the SIA commissioned research into the impact of licensing on the door supervision and security guarding sectors in 2007 and into the benefits of the ACS scheme, partly to assess and justify costs imposed (White and Hayat 2018). At the 2007 Stakeholder Conference, SIA Chair Ruth Henig sought to allay doubts over the SIA’s financial standing:

Because the SIA is required to be self-funding, the result of these early problems has been an increased licence fee. I regret this, but all I can say is that our aim is to run as tight a ship as possible; to be cost effective and to undertake a review of the licence fee on an annual basis. One rumour that I have often heard, and would like to squash, is that the SIA moved into expensive flashy new offices in December, which is another reason why the licence fee was increased - absolutely not true – by moving we have reduced our accommodation costs by £100,000 a year (Henig 2007)

Accordingly, ACS subscription fees were reduced in October 2007 from £20 to £17 per employee. Furthermore, the SIA expressed an external commitment not to licence new groups

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<sup>22</sup> The changing strategy and relationship with key stakeholders were further developed through the SIA Corporate and Business Plan 2008/09-2010/11 (SIA 2008a), the SIA Corporate and Business Plan 2009/10-2011/1 (SIA 2009a)

to solely raise funds, noting that ‘this would be disproportionate and not meet the commitment to the good regulatory agenda’ (Home Office 2007, p.12). During the SIA’s early institutionalisation, a series of partial impact assessments and research were conducted into extending licensing to in-house security (August 2005); sport ground security and stewards (March 2006; November 2006) enforcement agents (January 2007) and private investigators (August 2007). Despite public protection arguments made by the SIA, the extension of licensing to these areas, especially stewards, were opposed or delayed on the grounds of avoiding duplication and excessive burdens (Home Office 2005; 2006, p.6). Further regulations were laid to ensure that alternative sectors already vetted and trained to equivalent standards, such as prison custody escort officers and aviation security, were exempted from the Act (HC 178 [2005-06], p.28). The exemption of football stewards from the Act prompted serious concerns over the loopholes in the SIA’s regime and threats of judicial review from the BSIA (Professional Security Magazine Online 2005).

The SIA further restructured its regulatory relationships to accommodate increasing plurality within the regulatory regime. Initial concern with the relationship between the SIA and sections of the private security industry (such as the British Security Industry Association), in the early years of regulation had raised the suspicion of regulatory capture (Button 2007, p.116)<sup>23</sup>. For instance, Lucia Zedner (2006, p.280) criticised the SIA for being a ‘pimp’ for the industry, stressing how the regulatory regime appeared to prioritise the private security industry’s reputation and consumer confidence over deeper concerns for the public good. Adam Crawford and Stuart Lister (2006, pp.167-8) also pointed out how the licensing regime served to improve the image of the industry, rather than its accountability. The 2009 Better Regulation Executive Report noted that interactions between the SIA and private security industry were ‘dominated by larger companies, at the expense of hard to reach groups such as individual door supervisors and close protection staff’ (BRE 2009, p.13).

The preference for autonomous stakeholder networks over the development of a national stakeholder panel was a key factor in strengthening the autonomy of the SIA. Key members of the private security industry had supported the idea of a formal national stakeholder panel, in addition to permanent industry representation on the SIA Board which would have further institutionalised this dyadic regulatory relationship (SMT/Infologue 2006b). In contrast the April 2007 Stakeholder Engagement Strategy recognised the need to engage with multiple stakeholders for various purposes (SIA 2007). The minutes of the April 2007 SIA board meeting emphasised the need for the SIA to adopt a more proportionate approach to

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<sup>23</sup> Button (2012, p.216-7) has warned that since the private security was pivotal in saving the SIA from abolition, the SIA risks becoming a ‘fag’ (a term used in British public schools to describe junior pupils acting as servants for their elder pupils).

stakeholder engagement due to the need to reduce costs (SIA Board Meeting Minutes 26 April 2007). These networks were established from 2007 to ‘support constructive dialogue with the diverse elements within the private security industry and to facilitate collaboration and the development of proportionate regulation’ (HC 79 [2008-09], p.45)<sup>24</sup>. It is evident from minutes of these network meetings that these events provided useful opportunities for the SIA to consult on its performance, communicate plans for business licensing and inform the industry of the limits of its policy and regulatory remit. For instance, two of the central topics at the 8 January 2008 Small Business network meeting were ‘what do you think of the SIA?’ and ‘how should regulation develop?’ (SIA 2008b)

This accompanied a broader engagement programme. Greater importance was attached to the need to have broader support for regulation, especially in the context of the review of the Private Security Industry Act 2001, which formed the focus of the 2008 Stakeholder Conference (Wilson 2008, p.2). The 2009/10 Business Plan communicated the importance the SIA ascribed to ‘meeting industry expectations’ and highlighted that ‘a key challenge for us is how to develop the optimal mix of communications channels to reach all our stakeholders’ (SIA 2009). Visits by the SIA Chair to private security companies ‘enabled her to get a strong feel for the way the industry was thinking and developing’ (SIA Board 26 July 2007 p.3). The decision was also made at the November 2007 Board meeting to enhance the SIA’s transparency by publishing board meeting minutes (SIA Board 29 November 2007). Furthermore, after the BRE Review, the SIA brought its communications and marketing division closer to its strategic centre (BRE 2009, p.22). These changes in the stakeholder engagement strategy reveal not only the pressure to adopt more proportionate enforcement practices but to adapt to increasing complexity and fragmentation within regulatory space.

The SIA also sought to distance itself from the industry and ‘borrow’ from the symbolic capital of more established organisations within the policing landscape. At a January 2008 Board Meeting, the SIA Director of Compliance and Enforcement Andy Drane introduced plans: ‘to look at ways to make more obvious the link between the SIA and Home Office. This had operational benefits in showing that the SIA was part of the Home Office delivery network rather than being mistaken for an industry group’ (SIA Board, 31 January 2008, p.2). Accordingly, the SIA’s website changed in 2010 from *www.the-sia.org.uk* to *www.sia.homeoffice.gov.uk*, placing greater emphasis on its links with the Home Office.<sup>25</sup>

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<sup>24</sup> These self-perpetuating networks were established across according to various sectors: door supervision, vehicle immobilisation, CCTV, close protection, small businesses and the approved contractor forum.

<sup>25</sup> It is worth comparing this with other (and future) Home Office NDPBs, none which have a ‘Home Office’ domain name: the Gangmasters Licensing Authority *www.gla.gov.uk*; Independent Police Complaints Commission *www.ipcc.gov.uk*; Investigatory Powers Tribunal *www.ipt-uk.com* and the Office of the Immigration Services Commissioner: *www.gov.uk/government/organisations/office-of-the-immigration-services-commissioner*



This also aligned with broader concerns regarding the lack of an agreed strategic direction and poor working relationships between the SIA and Home Office (HC 1036 [2007-08], p.8). This symbolic alignment with the Home Office would communicate to stakeholders its role within public protection.

This transition to a more streamlined regulatory mission must be understood within the context of the broader 'Better Regulation agenda' (White 2015). The Better Regulation agenda represented a 'fundamental shift in the UK government's rhetoric on regulation' as it framed regulation as a burden upon businesses (Baldwin 2006, p.203). The key milestones within this agenda occurred in 2005 with the publication of the Hampton Report 'Reducing Administrative Burdens: Effective Inspection and Enforcement' which promoted more efficient inspection and enforcement practices amongst regulators (Hampton 2005), and the Better Regulation Task Force's 'Less is More' report which identified how the government might reduce the costs of complying with regulation (BRTF 2005). Moreover, the 2006 Macrory report, 'Regulatory Justice: Making Sanctions Effective' concluded that regulatory systems were too reliant on prosecutions and that regulators should adopt a more flexible approach to ensuring compliance (Macrory 2006). These reports marked 'a watershed in the better regulation agenda and the size, scope and pace of change has increased substantially since' (NAO 2008, p.4). The recommendations of these reports were codified into the Legislative and Regulatory Reform Act 2006 and then into the Regulators Compliance Code which came into force in April 2008. The Regulators Compliance Code imposed restrictions on inspection and enforcement activities, reconstituting regulatory interventions as permissible only in instances where there was a clear and demonstrable risk to the public (BRE 2009). In this respect, the Regulators Compliance Code is evidence for increasing consolidation and centralisation within private security regulation as the core executive seek to align private security regulation with broader regulatory objectives. However, the SIA increasing compliance with the Regulators Compliance Code would create a disjuncture between its legal and regulatory capacities and the expectations of the private security industry (White 2015)

In fact, tensions between demands for more stringent licensing conditions and enforcement practices, on the one hand, and increasing legal and political constraints placed upon the SIA, on the other, had played out since the inception of the Private Security Industry Act 2001. For instance, Button (2002, p.127) argues that 'the Act [was], in many ways a dilution of the proposals set out in the White Paper published in 1999. This is largely a result of the Better Regulation Initiative (the structures within government designed to reduce the burden of regulation on businesses).' This tension was particularly evident within the setting of minimum standards. Minimum standards took the form of 'core competencies' for each sector, developed in consultation with the private security industry, Skills for Security, the

skills setting body for the private security industry, the Qualifications Curriculum Authority, and awarding bodies. Likewise, ACS requirements were based on existing private-sector standards (such as ISO9001:2000) Individual core competencies and ACS requirements were set low both to ensure broad coverage and to avoid imposing administrative burdens (Smith and White 2014, p.432). However, the stipulated amount of training required to obtain a licence in the UK has been criticised for being significantly lower than in other EU countries (Button 2007; Thumala *et al* 2011, p.290). As Button (2007, p.115) criticises: ‘the SIA had an opportunity to create a much more ambitious set of standards for firms within the approved contractor scheme but has instead gone for the status quo and a set of standards that will do little to improve the performance of the industry’. In fact, the first SIA Chair Molly Meacher resigned in January 2004 reportedly due to concerns over the limited ambition of the SIA (Button 2008, p.98). The need to balance these competing demands was recognised by SIA Chairman Peter Hermitage in 2006: As we move into our second year of operation we must continue to relate to the commercial needs of the industry and the public policy agenda of the government and Home Office Ministers. Achieving this balance is not easy and requires rigorous debate and agreement on strategic priorities (HC 178 [2005-06], p.3)

This tension persisted throughout this period. The 2009 Better Regulation Executive review concluded that despite the SIA making substantial progress in becoming fully compliant with the Hampton principles, it still had to go further in better delineating responsibility for standards between itself and the industry, concluding that ‘We found that expectations from the industry on the SIA itself were unrealistic in some areas, and that (notably in key areas like the Approved Contractor Scheme and the training requirements for licences)’ (HC 233 [2009-10], p.6). By contrast, the 2009 ‘Baseline Review’ concluded that the industry perceived standards to be set too low, especially for private security contractors in public-facing roles, and that this had the effect of bringing employee requirements down to the bare minimum across the industry (White and Smith 2009, p.39). Further concerns from the industry circulated around the sentiment that training providers and ACS inspectors were not delivering in a robust and effective manner (White 2015). Periodic instances of training malpractice have further demonstrated the limited capacity of the SIA in policing areas of the regime, except to revoke licences granted to individuals with fraudulently obtained qualifications (BBC Panorama 2008; White and Smith 2009, p.41). Despite concerns from the industry, the SIA does not regulate training providers nor examinations, which is the responsibility of the qualifications regulator:

The difficulty we’ve had – and the SIA still has this problem today – is that the industry still complains about training providers. They would like us to control training providers...We can do that insofar as we can ask for reports on malpractice.

We can ask the awarding bodies to monitor them very closely. But isn't our remit as the security industry regulator to regulate trainers. We haven't got that. (SIA Board Member cited in White and Smith 2009, p.41).

Certainly, these problems stemmed from the fact that the SIA was only responsible for setting and approving competency standards and not for delivering training nor regulating training providers. However, the SIA had been active within this fragmentation of the regulatory regime through a series of early decisions to contract out and delegate functions – such as ACS inspections - to third parties (White 2015; BRE 2009, p.10)

Moreover, several regulatory 'myths' had circulated within the private security industry, challenging the SIA's credibility, such as: the SIA ignored or didn't act upon information and that the SIA did not prosecute enough (e.g. SMT 2007, p.36; Almond 2009, p.371). This was corroborated by the 2009 Baseline Review which revealed that: 'Private security providers generally viewed the SIA's enforcement policies as being weak, observing that: the SIA has limited street presence; the SIA does not fully capitalise on the intelligence it receives; the SIA's investigative procedures are problematic, and the SIA does not prosecute enough' (White and Smith 2009, p.5). Certainly, the private security industry has an interest in promoting an ever-more active regulator as greater levels of state intervention are believed to alleviate the anxieties of buyers and policing partners that stand as cultural impediments to the attainments of higher profits (Smith and White 2014). Regulation had not delivered on its transformative promise – according to industry estimates, growth had stagnated, within industry estimates that the total worth was £2.2 billion between 2004 and 2009 (Infologue 2004, 2009) Nevertheless, such concerns have been shared by other key stakeholders, such as the Association of Chief Police Officers (ACPO) (White 2010, p.150). The SIA's capacity to promote compliance within the regulatory regime have been limited both by the range of sanctions made available to it by the PSIA 2001 as well as resource constraints. Due to budgetary constraints, the SIA has had limited in-house investigators, and depends to a large extent on the police and local authorities, as well as on industry whistle-blowers (HC 894 [2003-04], p.21). However, it had attempted to counter this by delegating inspection powers to local authorities and non-sworn police officers. For example, by November 2006, the SIA had authorised 937 local authority staff and 308 civilian police offices with PSIA 2001 powers (HC 819 [2006-07], p.3). This disjuncture between the perceived responsibility for regulation and the SIA's actual capacities was has been highlighted by White (2015, p.15): 'Not only does the Better Regulation agenda constrain the degree to which the SIA can develop tougher regulatory tools, but the provisions of the PSIA 2001 mean that the SIA does not have sole control over the auditing and enforcement policies for which it is held responsible'. In this respect, it is important to contrast these judgements with the Better Regulation Executive's

judgement that the SIA was a ‘highly effective’ risk-based regulator (White and Hayat 2018, p.101)

To mitigate this growing gap between internal and (competing) external perceptions of its mission, the SIA sought to shape stakeholder perceptions regarding its compliance and enforcement activities. The need to reconcile competing expectations regarding its compliance and enforcement activity was recognised by the SIA leadership within the stakeholder engagement strategy: ‘Some feedback has suggested a range of views about the effectiveness of our approach to compliance and conformance. Some believe that our approach is too tough whereas others are saying it is not tough enough’ (SIA 2007 p.10). The SIA adopted a more ‘visible’ approach to enforcement in which the SIA would attempt to communicate how it was establishing regulatory credibility and predictability through stakeholder networks and through a dedicated section on the SIA website (SIA Board 26 April 2007, p.4; SIA 2009, p.41). Accordingly, the SIA leadership sought to address these myths and reshape industry expectations through a series of articles in the industry press (e.g. SMT 2007). At a March 2008 board meeting, the Chief Executive Andy Drane ‘said that he felt it was clear that while the current compliance strategy was successful, it was certainly the case that this message was not getting out to the industry. He noted that the SIA website contained good information, and it was now part of the corporate plan to promote and increase use of these pages’ (SIA Board 27 March 2008, p.3).

Enhancing its credibility was at the heart of this more streamlined agenda: amongst the SIA’s 2007/08 objectives were: ‘to deliver the expected benefits of regulation and ensure our credibility’ and ‘gain buy-in from statutory authorities e.g. the police because the regulatory regime is credible’ (SIA 2008, p.45). A reputation for active and robust enforcement was therefore perceived to harbour functional benefits for the SIA in terms of facilitating better enforcement partnerships with other government agencies such as the police (HC 732 [2007-08]) p.45). During the ‘Future of the Private Security Industry’ section at the 2009 stakeholder conference delegates reached the conclusion that ‘there needs to be a proper understanding of what regulation has delivered – an awareness campaign was suggested as a means of doing this. The group identifies the need to close the gap between the expectation of the industry and what the SIA can deliver as a regulator’ (SIA 2009b, p.5). In May 2008 the SIA carried out its first random compliance checks – or ‘action days’ (HC 1036 [2007-08], p.5). Board meeting minutes from March 2008 reveal that the SIA’s leadership was actively seeking to regulate in a more ‘visible way to randomly check non-compliance’ after which it was suggested that the ‘the Regulators Compliance Code recognises the value of regulators performing a small number of “compliance testing” operations.’ (27 March 2008 Board Meeting Minutes, p.3). Furthermore, the SIA won several landmark cases regarding its enforcement and prosecutorial capacities. These cases found that the SIA could automatically

refuse a licence to applicants with convictions for offences of serious violence; that courts on appeal must apply the licensing criteria and do not have the discretion to consider the merits of an application that had been automatically refused due to previous convictions; and the SIA's right to prosecute offences under the PSIA 2001 was confirmed (NAO 2008). In fact, by the end of the 2008/09 financial year, the SIA had successfully prosecuted 13 individuals for 89 offences (BRE 2009, p.30). By March 2010 it had issued 328,167 licences, refused 18,505 applications, revoked 17,137 licences and granted 665 companies ACS status. It appears that the SIA has made slight headway into changing expectations during this period with one industry press outlet concluding in 2009 that 'the argument that the SIA is a toothless regulator appears to be specious when reviewing the amount of licence revocations and refusals since the inception of regulation until the end of 2009' (Infologue 2009).

The SIA also sought to improve the robustness of its licensing process. Changes were made to licensing system with the aims of reducing administrative burdens on the customer (i.e. the licence fee payer), improving customer services and increasing the rigour of identity checks (HC 732 [2007-08], pp.21-23). This was particularly important given that individual licensing was extended to Scotland in 2007 and Northern Ireland in 2009 at the request of the devolved administrations<sup>26</sup>. The SIA also underwent a process of organisational restructuring, 'creating an unambiguous separation between customer services and regulatory roles' (SIA 2009a). Furthermore, the SIA was keen to communicate its customer service successes, especially in the aftermath of the administrative errors faced during implementation. The SIA would continually exceed its performance targets relating to the timeliness and accessibility of its services and the overall level of customer satisfaction. Surveys held in in 2009 and 2010 revealed that customer satisfaction was increasing (from 76% to 80% satisfied). The SIA has also established a Customer Service Commitment consisting of four pledges concerning the speed and responsiveness of the licensing service and in 2011 it was awarded the Cabinet Office Customer Service Excellence Award.

The development of the SIA's business licensing agenda must be understood within this context of the SIA seeking to manage the gap between internal and external perceptions of its mission. The SIA sought to review the application of the Private Security Industry Act 2001. This was an effort to define its formal responsibilities within the regulatory regime. This

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<sup>26</sup> In 2009, concerns about the effectiveness of the SIA were raised within the Northern Irish Ad Hoc Committee on the Private Security Industry Order by Alan McFarland MLA: 'I have concerns which I raised at committee meetings about the SIA's ability to oversee the system. Last year a National Audit Office report into the SIA's ability to monitor and police the system in England was critical of that body. We raised that with the Secretary of State, and he has assured us that the SIA is now up to speed. However, I still have doubts as to whether the SIA is capable of taking on the extra burden of Northern Ireland, especially since it was called to book last year in GB. We need to look at the SIA's capabilities again' (NI Ad Hoc Committee 2009).

included the consideration of exemptions, exclusions and additions; identifying and resolving unintended consequences of the Act; reviewing criminality criteria and introducing regulation to new sectors and regions (SIA 2008, p.8). One of the most prominent developments was the SIA's preference for business regulation. The licensing of private security companies had been a critical omission from the Private Security Industry Act (White 2010, p.131; Button 2011).<sup>27</sup> The PSIA did not include licensing criteria for private security companies, although it stipulated that all employees, including supervisors and directors, must undergo a criminal records and background check to ensure that they are a fit and proper person to hold a licence (these licences are categorised into 'front line' and 'non-front line'). Instead, a voluntary accreditation scheme for companies was created as the main vehicle to improve standards within the industry and to act as the main point of contact between the SIA and businesses. Several previous attempts to expand this remit had been unsuccessful. For instance, in May 2006, the former SIA Chief Executive John Saunders mentioned the possibility of transferring some regulatory responsibilities to ACS companies in a *Professional Security Magazine* article. (Professional Security Magazine 2006). Later, in May 2008 Chair Mike Wilson further mentioned the need to 'sell the idea of compulsory [ACS] registration to ministers' and the desire to revisit the licensing of directors to improve the SIA's regulatory efficiency and effectiveness (IFSEC Global 2008). As a former SIA Chair would later note: 'I think there was always the sense that you would need business licensing at some point to tighten the regulatory framework' (private interview).

This incongruence between the provisions of the PSIA and the locus of criminality within the industry – or the 'sanction gap' – was noted by a 2008 National Audit Office report which recommended that the SIA introduce a low-cost system of business registration to close existing loopholes within the regulatory regime (HC 1036 [2007-08], p.6). There was significant evidence that criminality remained in businesses, even after the implementation of the Act: at the 2009 SIA stakeholder conference, SIA Chair Ruth Henig announced that during the 2008/09 financial year, the SIA had 'dealt directly' with 300 high risk businesses, and by mid-2009 had 26 ongoing prosecutions comprising of over 200 offences against private security companies (Henig 2009, pp.4-5). The absence of business licensing therefore created a perceived sanction gap. The nature of this was explained by the SIA Director of Partnerships and Interventions:

We can take interventions against businesses only if they are in the Approved Contractor Scheme, which is voluntary. In the main we're dealing with the people who want to comply. It leaves a gap in regulation, and gap in terms of the levers we

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<sup>27</sup> The 1999 White Paper indicated that it was 'not the Government's intention to license private security companies' instead choosing to licence managers and directors of companies (Home Office 1999).

can pull as a regulator. But what about those businesses that are not in the ACS? Aren't they actually the ones that you're worried about? We have no means to intervene in these businesses and that's the gap that business licensing would give us (private interview).

Business licensing would create the institutional framework under which the SIA could more effectively achieve its regulatory objectives within the context of competing stakeholder expectations, limited formal powers and the increasingly restrictive regulatory context. On the one hand, business regulation would enable the SIA to eliminate the sanctions gap and target criminal and poor business practice, thus fulfilling the interventionist expectations of the private security industry and the police:

The UK is unique in licensing individuals without taking any formal interest in the companies that employ them, and of course dictate the way in which these individuals work. To some this is a fundamental weakness in the regulatory approach. Whatever truth there may be in this, compulsory registration would certainly make it easier for the SIA to communicate with the industry and would allow more accurate modelling and focussing of licensing and compliance activities (Wilson 2008)

This gap in the regulatory regime had become prominent within the vehicle immobilisation sector. Although licensing had made a positive impact on the industry, a significant degree of malpractice still existed among vehicle immobilisation businesses who lay outside the regulatory regime – as well as what steps the SIA were taking to tackle it (HL Deb [2008-09] vol.710 c1073). The PSIA 2001 had already been amended by secondary regulation to include vehicle-towing and blocking in, clarify that those who removed clamps and collected payment must also be licensed, and introduce more stringent competency requirements (SI 2005/361). Further legislation also clarified that those who remove clamps and collected payments must also hold a licence to do so. However, issues persisted with extortionate release fees, poor business practices, and the SIA's lack of powers against this conduct (Home Office 2009, p.7). These issues became the subject of continued media and political scrutiny during this period (e.g. Edwards 2008).

In 2008, the SIA was tasked with determining the feasibility of business licensing for the vehicle immobilisation sector. It was, however, explicitly stated within the subsequent Home Office consultation that the consideration of business licensing was limited to the vehicle immobilisation sector and did not include the rest of the regulated private security industry (Home Office 2009, p.28). The Government's preferred option was a system of compulsory business licensing with an accompanying code of conduct (this was considered against voluntary regulation and the status quo; a ban was not considered) (Home Office 2009, p.9). The political saliency of vehicle immobilisation and its consideration by Parliament therefore

provided the SIA with the opportunity to reconcile this broader sanction gap. This point was later highlighted by a former SIA Director of Transition:

We had been saying that individuals are compliant, they're licensed, they're trained, they are meeting the conditions of their licence; giving receipts and so on. Those individuals can't be held responsible for the poor business practice that is leading to members of the public being upset and complaining about the practices of vehicle immobilisers. So, in trying to work out how we would address the public concern, which leads to political concern about the behaviour of vehicle immobilisers, we also considered the concept of regulating businesses as a way of removing poor and criminal business practices from a sector in the industry. So, there was that broad consensus on how we move regulation forward. In addition, there was a specific consideration about mitigating public risk created by a particular sector. So those two concepts came together. (cited in Infologue 2012a)

Although the consultation focused explicitly on the vehicle immobilisation sector, the SIA's attention shifted to developing a political justification for its extension to other sectors. SIA board meeting minutes indicated this as a top priority, with SIA Chair Ruth Henig emphasizing that 'this work was of huge importance and that she felt making the case for this form of regulation would not be difficult given the potential of compliance, communications and proportionality benefits' (SIA Board 29 January 2009, p.9). These same minutes reveal support from the Home Office, with the representative indicating that 'there was a good deal of political will to support the development of a company licensing regime and said Home Office colleagues were in full agreement with the SIA over the value and benefits of such a scheme (SIA Board 29 January 2009, p.9). This strategy was also published within the SIA's 2008/09 Annual Report: 'Company licensing (later renamed 'business licensing') could eventually lead to the SIA regulating all security businesses providing designated security activities to ensure that they would meet a minimum set of standards' (HC 79 [2008-09], p.28). In short, the SIA was keen to exploit this opportunity.

Delegates at a 2008 SIA Small Business network meeting indicated support for company registration on the basis that it would 'eradicate the remaining elements of criminality' (SIA Small Business Network 2008, p.12). Importantly, there was a distinction made between compulsory membership of the ACS scheme, in which businesses would be forced to meet certain competencies, and business licensing, where the SIA could undertake more extensive criminality and identity checks (Home Office 2009). However, business regulation would also enable the SIA to make more proportionate interventions within the private security industry, as this would involve targeting the smaller constituency of private security companies (the number being substantially smaller than the 300,000 licence holders) and allow the SIA to establish formal communications channels with these companies. The Crime and Security Act 2010 amended the Private Security Industry Act 2001 to enable the



SIA to introduce a licensing regime for private security businesses (importantly, the explanatory notes of the Act indicate this is for vehicle immobilisation businesses in particular). The Crime and Security Act further amended the PSIA to enable the extension of the Approved Contractor Scheme to enable in-house private security services to apply for approved status. The 2009/10 – 2012/12 SIA Corporate and Business Plan indicated the potential roll-out to the private security industry from ‘late 2010 onwards’, plans that would be thrown into flux with the election of a Conservative-Liberal Democrat Coalition in the May 2010 General Election.

### **3.5 Conclusion**

This contextual chapter examined the implementation of the Private Security Industry Act 2001 between 2003 and 2010. It established three foundational points. First, it established that the PSIA 2001 constituted a hierarchical command-and-control style regime in which the SIA is authorised to directly regulate the private security industry through the imposition of a licensing regime backed by criminal sanctions. Furthermore, the intended purpose of the licensing regime was to ‘cleanse’ or remove criminal and substandard providers from the market for security. In this respect, this examination of the PSIA 2001 provides the foundation for the overarching ‘hybridisation’ thesis – the argument that there has been shift from hierarchical command-and-control regulation to more collaborative and networked patterns of private security regulation in the post-crisis era.

Second, this chapter argued that the PSIA 2001 was a product of political compromise between competing/overlapping demands for public protection, normative legitimation and regulatory efficiency and therefore: (a) there are distinct gaps within the PSIA 2001 such as the absence of mandatory business licensing and (b) the PSIA 2001 is pervaded by power imbalances and is therefore subject to contestation (especially over its implementation, as illustrated by debates over the extent to which the SIA should undertake its mandate). These insights are important because they reveal that (a) the PSIA does not represent a functional solution to the problems of private security and (b) that the initial implementation of private security regulation has been a dynamic and politically contested rather than a technocratic process, and which suggests a gap between institutional rules and their implementation. This chapter therefore provides an empirical starting point for exploring the ‘conversion’ or redirection of the PSIA 2001 in the post-crisis era from its initial purpose of protecting the public *from* private security to protecting the public *with* private security.

Third, this chapter further argued that the evolution of private security regulation between 2003 and 2010 can be explained with reference to the SIA’s attempt to manage the gap between internal and external perceptions of its mission, in the context of emerging

centralisation (evidenced by increasing legal constraints upon the SIA's activity stemming from the Better Regulation agenda) and fragmentation within its regime (evidenced by gaps within its statutory mandate, as well as early decisions to contract out key responsibilities to third parties). In this respect, the bureaucratic politics perspective provides a lens for explaining the SIA's shift from a transformative to a more streamlined mission, as well as for the range of political, policy and presentational strategies adopted after 2007. The SIA adopted a more streamlined mission in order to draw a line under the criticism it had received from key stakeholders (such as the private security industry and police) for both its error-ridden implementation of licensing between 2004 and 2007 and for perceived weaknesses in its enforcement activities. On this point, this chapter illustrated that the SIA's various political, policy and presentational strategies sought not only to improve the robustness of its regulatory processes, but also to actively communicate with stakeholders, address existing concerns and manage expectations regarding its regulatory activities. The SIA's pursuit of business regulation was driven by the perception that this amendment to its statutory mandate would enable it to intervene more efficiently and effectively within the private security industry therefore meeting both its legal obligations and stakeholder expectations. Crucially, then the SIA sought formal institutional reform – updating its mandate to a changing post-crisis context - in order to enhance its capacity to achieve its public protection mission within the context of emerging centralisation and fragmentation in its regime. However, these internal plans would quickly be derailed by the incoming Conservative-led Coalition government and its electoral promise to reduce the burden of regulation in order to catalyse private sector growth. The next chapter turns to these dynamics.

## 4. Crisis

The Government is committed to making substantial reforms to its public bodies, increasing accountability and reducing their number and cost. The Security Industry Authority (SIA) was considered against the Cabinet Office's tests of retention as part of the Public Bodies Review. We concluded that there was no evidence that the functions of the SIA needed to be performed by a public body, and that it did not meet the three tests of performing a technical function, impartiality and establishing facts transparently. The private security industry has matured in the six years since SIA regulation began in England and Wales. We believe the time is now right to give the private security industry the responsibility for regulating itself.

— *Home Office Statement, Public Bodies Review, 14 October 2010*

### 4.1 Introduction

In September 2010, the Security Industry Authority was plunged into an unexpected crisis. A document leaked to the BBC revealed Home Office plans to abolish the SIA in order to 'reduce burdensome regulation' indicating that 'the industry had matured enough to police itself' (Campbell 2010). In October 2010, amended plans indicated that there would be a 'phased transition to a new regulatory regime' in which the SIA would no longer be a NDPB. However, the SIA was still listed under Schedule 1 of the Public Bodies Bill: Power to Abolish: Bodies and Offices (HL Bill [2010-2012] 25). However, after significant resistance, the SIA was removed from the Bill in March 2011 and by November 2012, the Home Office released proposals for a new regulatory regime. These plans indicated that a new regulatory regime and new regulator should be established, reflecting the maturity of the private security industry and supporting the industry's willingness to take on further responsibility and be more accountable for its own actions. The emphasis of regulation would shift from the licensing of individuals to the licensing of businesses, in which businesses would take on greater responsibility for the individuals they employ. Moreover, the new regulator would maintain the same objectives of reducing criminality and raising standards within the private security industry (Home Office 2010, p.7). What is interesting about these proposals is not only that they signal a restructuring of the regulatory relationship between the state and private security industry, but that they largely resemble the SIA's regulatory 'blueprint' announced at the 2010 SIA conference. The purpose of this chapter is therefore to explain these developments in post-crisis private security regulation. This chapter traces the political negotiations surrounding the restructuring of the regulatory regime for the UK private security industry between from the June 2010 Cabinet Office Structural Reform Plan to the November 2010 Home Office consultation on a new regulatory regime for the private security industry. It

argues that despite the constraints imposed upon it by its constitutional position, the SIA managed to evade termination and cultivate support for its business regulation proposals by mobilizing, institutionalizing and leveraging the political resources of a supportive coalition. This political support raised the (albeit low) costs of termination and enhanced the SIA's bargaining power vis-à-vis the Home Office. In fact, by November 2012, the SIA had built a fragile consensus around its core regulatory mission and its business regulation agenda.

This chapter follows on chronologically from the previous contextual chapter. It develops the argument over the following four sections. Section 4.2 examines two changes in broader economic and political context which precipitated the crisis for private security regulation: the 2007/08 financial crisis and the election of a Conservative-led Coalition government. It demonstrates that the crisis was triggered by actor discontinuity in which a more free-market-oriented government had gained the necessary legislative resources to dismantle private security regulation (see White 2018, pp.86-7). Section 4.3 traces the period between the leak and the removal of the SIA from the Public Bodies Bill in March 2011. It makes two points. First it contends that the termination threat acted as a 'focusing event' for the SIA's business licensing proposals, progress on which had been interrupted by the Cabinet Office's moratorium on new policy proposals. It shows how the SIA was able to re-frame the debate around these proposals. Second, it reveals the SIA's role in cultivating a supportive coalition around the continuance of its regulatory mission, albeit under reformed regulatory arrangements. Section 4.4 considers the period between the removal of the SIA from the Public Bodies Bill and the publication of the Home Office's proposals for the new regulatory regime in November 2012. It emphasises the role that the SIA played in brokering negotiations and cultivating support for its business licensing proposals. Finally, it highlights the key features of the regulatory regime, which placed a greater emphasis on the sharing of regulatory responsibility between the state and private security industry. Section 4.5. concludes by resituating these empirical dynamics within the broader theoretical framework.

## **4.2 Crisis**

News that the Security Industry Authority was to 'face the axe' came as a surprise to those outside the Home Office (Campbell 2010; White 2018). Despite its early mistakes, the SIA had achieved a degree of stability and made a significant impact upon the private security industry. In fact, by August 2010, it had issued 345,442 licences, refused 21, 242 licences, revoked 19,120 licences and awarded 676,886 training qualifications (White 2018, p.84). Yet if this is the case then why was the SIA plunged into crisis? This section examines two changes in the broader economic and political context which precipitated the crisis for private security regulation: the 2007/8 financial crisis and the election of a Conservative-led Coalition

government in May 2010. It illustrates that potential institutional change was triggered by actor discontinuity in which a more free-marked oriented government had gained control of the political and legislative resources necessary to dismantle private security regulation (see White 2018, pp.86-7).

The global financial crisis constituted a considerable exogenous shock for the (regulatory) state (Richards and Smith 2014; Fitzpatrick 2016). The financial crisis spanned a chain of events leading from the credit crunch in the summer of 2007, caused by a sharp rise in defaults on sub-prime mortgages in the USA, the bursting of the housing bubble in September 2007, the banking collapse of September 2008, and its transformation into a broader economic and sovereign debt crisis in 2009 (Gamble 2009; Hay 2011). In the United Kingdom, the financial crisis was distinguished by the run on Northern Rock in September 2007, the first occurrence of this since 1866. Between September 2007 and December 2009, the Labour Government made a number of interventions into the banking sector, including the nationalisation of Northern Rock and Bradford and Bingley, as well as using public funds to invest in Lloyds TSB and the Royal Bank of Scotland. The effect of these interventions was to socialise private debts (Fitzpatrick 2016, p.16). The UK's debt as a percentage of GDP rose from 34.7% in September 2007 to 65.9% in May 2010 (Office for National Statistics 2018a). In May 2010, the UK Government had reached a deficit of £144 billion (or 9.9% of GDP) (Office for National Statistics 2018b). The May 2010 General Election occurred against the backdrop of the 'worst recession for 60 years', producing little disagreement between the main political parties over the necessity of cutting public expenditure and stimulating private sector growth (Smith 2010, p.823). In fact, the issue of regulatory and public-sector reform had been growing prior to the election (HC Deb [2010-12] vol.516 c.507). Antecedents to public sector reform can be found in key policy documents published in the final months of the Labour Government. For instance, the Treasury report: *Reforming Arms-Length Bodies* announced plans for a fundamental review of the public-sector landscape, suggested that ALB's should face restrictions on lobbying and PR and made a series of proposals to improve the transparency of these bodies and their accountability to ministers if Labour were to win the election (HM Treasury 2010a). The Conservative manifesto spoke of 'curtailing the quango state' (Conservative Party 2010, p.70).

The significance of this May 2010 election is that it triggered a change in government and placed a more free-market oriented coalition in control of the key resources required to renegotiate regulatory arrangements (see White 2018). Against this backdrop, the newly elected Conservative-Liberal Democrat Coalition government embarked upon a programme of public-sector and regulatory reform, guided by an electoral pledge to reduce the national debt and deficit and an ideological commitment to reducing the size and scope of the state (HM Government 2010, p.7). Although a latent crisis of state regulation had been unfolding

since before the 2007/08 financial crisis, the formation of a Conservative-led Coalition government brought the issue of curtailing state intervention directly onto the political agenda (Fitzpatrick and White 2014). Crises may be narrated so as to justify particular forms of intervention or action (Hay 1996; Rhodes and Bevir 2010). Matthews (2014) notes how core executives may use crisis narration as a strategic capacity as it enables them to intervene and shore up governing capacities. In the UK the global financial crisis has been strategically narrated by the Conservative party as a ‘crisis of (public) debt’ to which the solution is austerity and public-sector reform (Hay 2014, p.66). What could be considered an issue of the inadequate regulation of the market has been eclipsed by rhetoric that the state had burgeoned under the New Labour government and what was required to solve the crisis was a wholesale transfer of power from the state to market, communities and individuals – which formed the central plank of David Cameron’s ‘Big Society’ project (Kisby 2010, p.485). In this respect, the prevailing economic conditions have provided a resonance to the Coalition government’s arguments concerning the necessity of abolishing public bodies and curtailing regulatory interventions in reducing public sector debt and stimulating private sector growth.

The June 2010 Cabinet Office Structural Reform Plan, included a programme of quango reduction, aimed at abolishing arms-length bodies, bringing functions back into departments, and enforcing new standards for remaining bodies (Cabinet Office 2010, p.2). This initial review stage was driven by the rationale that culling the numbers of arms-length bodies would create financial savings, enhance their democratic accountability, and reduce state intervention (Flinders and Skelcher 2012, p.328). In this respect, the Public Bodies Review marked an attempt by the core executive to both centralise control over arms-length governance, but also to decentralise power and delegate responsibility to the market and society. All public bodies were subjected to an ‘existential question’ of whether the role performed by the arms-length body was required (Flinders et al. 2015, p.69). If deemed unnecessary, the body could be abolished. If not, it would be judged against three criteria: Does the body undertake a precise technical operation? Is it necessary for impartial decisions to be made about the distribution of taxpayer’s money? Does it fulfil a need for facts to be transparently determined, independent of political interference? (HC Deb [2010-12] vol.511 c313). The review assessed over 900 public bodies, recommending the abolition of over a third (159 advisory NDPBs, 78 executive NDPBs, 6 tribunal NDPBs and 19 ‘other’). These tests were applied by individual departments with little guidance from the Cabinet Office and no consultation with the public nor bodies in question, which explains the surprise announcement (HC 537 [2010], p.16). The main vehicle through which the Coalition government would implement these changes was through the October 2011 Public Bodies Bill within which the SIA and other public bodies were listed for abolition. Though news that the SIA was to face the axe would come

prematurely. This chapter now turns to the impact of the Public Bodies Review on private security regulation.

### **4.3 Coalitions**

This section examines the period between the September 2010 leak and the removal of the SIA from the Public Bodies Bill in March 2011. It makes two points. First it contends that the termination threat acted as a ‘focusing event’ for the SIA’s business licensing proposals, progress on which had been interrupted by the Cabinet Office’s moratorium on new policy proposals (Kingdon 1995, pp.94-96; Birkland 2004). Focusing events refer to ‘dramatic episodes that attract media attention such as natural catastrophes or unexpected political developments’ (Béland 2005, p.6). Certainly, termination threats constitute such an event for they heighten public attention to the agency (Bertelli et al. 2015, p.1170; see also White and Hayat 2018). Moreover, focusing events create framing contests and provide actors with the change to challenge the status quo (Boin et al. 2009, p.90). The fact that focusing events occur with little or no warning therefore makes such events important opportunities for groups to mobilize and push items onto the political agenda (Birkland 2004). This section will therefore argue that the SIA was able to reframe the issue of termination in favour of reform based on a business regulation. Second, it examines how the SIA was able to mitigate the termination threat by mobilizing, institutionalising and leveraging the resources of supportive coalition comprised of key security industry association, Opposition members in the House of Lords and the devolved administrations. The SIA was able to leverage the political and informational resources to raise the political costs of termination and strengthen its bargaining power against the Home Office.

Due to the SIA’s constitutional separation from majoritarian politics, the SIA leadership faced significant constraints on its response to the leaked proposals to abolish it (Dommett and Skelcher 2014, p.533). In fact, the SIA did not make a public statement regarding abolition until after the official Home Office announcement on 14 October. The inappropriateness of publicly challenging governmental plans pushed the board to pursue alternative strategies. The SIA Board’s initial strategy was to seek private clarification from the Home Office and use ‘links and experience to coordinate a campaign fronted by others’ (Shrinking the State 2010; see SIA Board 30 September 2010). This informal strategy focused on cultivating support and recognition of the continued necessity of the SIA, as articulated by the contemporary SIA Chair: ‘The first thing was simply to keep the SIA alive, obviously because I think there was a view in 2010 that regulation had been effective, which was not the case in 2007’ (Former SIA Chair, private interview). Despite the announcement coming as a surprise, the SIA leadership had nonetheless anticipated the potential risks to its organisational survival posed

by a potential change in government. Accordingly, the SIA leadership had focused on developing a vision for a future regulatory regime based on business licensing:

Knowing that a change of government was possible, the Chief Executive and I had been talking about: were we in any danger and, if we were in any danger, what should we need to do and what should we be focusing on? So, we'd already anticipated what might happen and tried to have some idea of what we needed to do, and we decided at that point that our focus should be on business licensing and on showing what a difference licensing had made to the security industry. (Former SIA Chair, private interview)

Substantive progress on business licensing had been impeded by pre-election purdah and the Cabinet Office's decision to extend the moratorium on all public announcements regarding new policy developments to the period immediately following the formation of the Coalition government. The Coalition Agreement included plans to 'tackle rogue private sector wheel clampers' which threatened the justification for business licensing (HM Government 2010, p.31). The potential reputational risks to the SIA incurred by the delay to business licensing was noted at a May 2010 Board Meeting and by July 2010, the Home Office had still not indicated its intentions for the business licensing project (SIA Board 27 May 2010, p.3; SIA Board 29 July 2010, p.3). Despite these frustrations, the SIA began to reframe the regulatory agenda around transferring greater responsibility for regulation to the private security industry. It was at the June 2010 SIA stakeholder conference where the SIA Chair Ruth Henig publicly outlined what would later be termed the SIA's 'regulatory blueprint':

At a strategic level, in the next few years we need to take the opportunity to change the regulatory landscape quite significantly. After six years of regulation, the basic licensing framework is firmly in place and working effectively. Criminality has been reduced, standards of competence and professionalism have risen and public confidence in the industry is increasing. One of the last measures to pass through Parliament before the election was an act which will give the SIA the opportunity to move from the licensing of individuals to compulsory business licensing, starting with vehicle immobilising companies. This will enable the SIA in the future to set minimum standards for all businesses and to focus our attention on where the major risks to public safety still lie. We can then tackle this through the intelligence we gather, using more effective enforcement to tackle the remaining pockets of criminality in the industry. At the same time, as I have already said, I would like to see the SIA working with partner bodies and private security companies on the most effective way to plan for the transfer of the SIA's responsibilities for developing and maintaining competency standards and qualifications to the industry, while maintaining a role in approving these standards, and facilitating the establishment of an industry-led hallmark scheme to drive higher standards above the minimum requirements for compulsory business licensing. Further down the road I foresee the empowerment of compliant businesses to take on additional responsibilities for staff licensing and compliance management. (Henig 2010)



In fact, the initial responses by key industry figures to the leak within industry press outlets reveal support for the Security Industry Authority's pre-existing proposals for a future regulatory regime. This was articulated both by James Kelly, the chief executive of the British Security Industry Association (BSIA): 'Subject to more detailed consultation with our members, the BSIA has already communicated to the SIA its support for the future direction of regulation that the Authority's chairman, Baroness Ruth Henig, indicated at the recent Annual Stakeholder Conference, in particular, its proposed partnership with industry' (Infologue 2010c) and by David Greer, the chief executive of Skills for Security – the security-sector skills body: 'The SIA has shown itself to move forward and to explore with the industry and its representatives how a new model of regulation might be developed: a model that includes a greater degree of self-regulation and responsibility for standards on the part of the industry' (Infologue 2010c). The termination threat therefore accelerated the SIA's reform agenda: 'the threat to the SIA, which of course grew stronger as 2010 wore on, made focusing on business licensing even more urgent, so in a sense, the two went together' (Former SIA Chair, private interview).

The leaked proposals revealed a critical mass of support from the private security industry for continued statutory regulation (e.g. Infologue 2010a). Government plans to stimulate private sector growth by reducing the regulatory burdens placed upon the private security collided with industry perceptions that statutory regulation was a necessary component in achieving increased growth (Smith and White 2014, p.434). Continued police engagement with the private security industry on topics such as counter-terrorism was highlighted as a key point in the BSIA's strategy for engaging with the main political parties in the 2010 election (IFSEC Global 2010b). In September 2010, the BSIA sought to strengthen its position in the emergency services sector by holding a conference on the theme of 'working together: protecting communities' (IFSEC Global 2010a). Although the private security industry was active in exploiting the growing demand for private security services generated by police budget cuts (which stood at twenty percent) and the hosting of the 2012 Olympic Games, regulation was perceived as a vital tool in enhancing public and police confidence in the private security industry which stood as a precondition to more effective partnership working and, therefore, more lucrative contracts (Smith and White 2014; Gill 2015). This position was illustrated by The Security Institute Chairman, Mike Bluestone:

There can be no doubt that, since the introduction of regulation, there has been a notable reduction in the extent of criminal involvement and influence in the private security sector. This has enabled increased confidence and trust in the private security sector on the part of the police and, indeed, the British public in general. Any steps taken which would damage such trust and confidence would, in our view, be a retrograde act, with the potential to threaten public safety and security in the United Kingdom at a time of continuing threats from terrorism (cited in Infologue 2010b)

Consequently, at the encouragement of the SIA board and industry press, several major security associations claiming to represent over 80% of the private security industry united to form the ‘Security Alliance’ thus formally organising this critical mass of industry support (Shrinking the State 2010). In comparison to previous attempts at industry-wide representation, such as the Joint Security Industry Council, which petered out around 2008, the Security Alliance was fairly limited to security guarding and facilities management sectors. However, it was influential. On the 13 October 2010, in a letter to Home Secretary Theresa May, the Security Alliance pledged support for the SIA’s ‘regulatory blueprint’:

Regulation in the future could take many forms, not least that of ‘lighter touch’ regulation signalled by the SIA’s chairman Baroness Ruth Henig earlier this year at the regulator’s annual stakeholder conference. The Security Alliance has already responded positively to this initiative and pledged the industry’s support to such a path. Continued policing and enforcement by the SIA has been mooted among the industry, and the Security Alliance feels that the SIA would be best placed to undertake it since independent oversight is key to maintaining public confidence in the private security industry (Infologue 2010b)

This proved to be a decisive intervention by the private security industry which served to raise the political costs of termination. In response to this opposition, the official announcement of the Public Bodies Review on the 14 October 2010 marked a slight departure from the leaked proposals. The Home Office stated there would be a ‘phased transition to a new regulatory regime’ in which the SIA was to be reconstituted outside the NDPB sector as ‘there was no evidence that the functions of the SIA needed to be performed by a public body and that it did not meet the three tests of performing a technical function, impartiality, and establishing facts transparently’ (HL Deb [2010-12] vol.725, c.903). This outcome was characteristic of the broader Public Bodies review which sought to either to repatriate functions back into central departments or reallocate them to non-governmental organisations (Dommett and Flinders 2015). The difference then was that the SIA was not simply to be abolished but reconstituted as part of a wider restructuring of private security regulation. The SIA’s official response to the Public Bodies Bill announcement was typical of many other bodies that were threatened with termination, unable to publicly criticize governmental plans and committed to the furtherance of its mission (Dommett and Skelcher 2014, p.553): ‘our plan is to work with what is a maturing industry to achieve a steady reduction of the regulatory burden, empowering the industry to take greater control within a business registration scheme and leaving the SIA to focus on serious criminality and compliance issues’ (SIA 2010).

The Public Bodies Bill shifted debates concerning private security regulation into parliament. The aim of the Public Bodies Bill was to enable the Home Office to abolish the SIA through secondary legislation and therefore contained no reference to the content of the new regulatory regime (HL Deb [2010-12] vol.725, c.910). During the Second Reading of the

Public Bodies Bill, Baroness Henig, the SIA chair, exploited her capacity as a member of the House of Lords to mount a political defence of the SIA's mission. The first line of defence focused on its success in undertaking its core mission i.e. reducing criminality and raising standards within the private security industry:

In the past five years, the Security Industry Authority has worked with the police, local government and other partners to identify 175 companies and nearly 300 individuals with links to organised crime groups. The associated criminality was at the most extreme end of the spectrum of harm to the public—dealing in class A drugs, organised immigration crime, gang violence, domestic terrorism and laundering the proceeds of crime. Since 2004, 47,000 individuals have been removed from working in the industry because they were identified as not fit and proper to do so, and of these nearly 1,500 had their licences suspended in response to a clear, serious and imminent threat of harm to the public. The SIA itself has successfully prosecuted 24 cases and nine companies because of suspected links to organised crime, and through collaborative working with the UK Border Agency it has revoked about 8,000 licences of people with no right to work in the United Kingdom. (HL Deb [2010-2011] vol.722 c.131).

These parliamentary debates further revealed widespread support for the SIA and the necessity of statutory regulation in preventing criminality and maintaining public safety i.e. protecting the public from the private security industry (HL Deb [2010-2012] vol.725 c.909). This position was supported by an industry analysis estimating that only 6.58% of private security companies (i.e. those with assessment scores in the top quartile of the ACS) had 'sufficient processes in place which [met] the current thinking as to what could be the minimum requirement for security businesses to operate in a self-regulatory environment' (Infologue 2010c). Opposition voices, such as that of the former SIA Chair Baroness Meacher iterated the necessity of state oversight:

There is, of course, merit in the proposal to focus in the future on the system of business registration, leaving individual licensing largely in the hands of the industry. However, I too do not accept the Government's argument that none of the SIA's functions need to be carried out by a public body. In view of the extent of criminality in the industry, and the potential for far greater amounts of criminality, this just does not seem realistic. It is difficult to imagine that all aspects of the SIA can effectively be carried out by the industry itself (HL Deb [2010-12] vol.725 c.906).

The second theme focused on questioning the economics underpinning the abolition. Within the Government's perspective, the SIA was wrongly encroaching on the responsibilities of the free market as illustrated by Baroness Neville-Jones 'we believe that employers should now be given more responsibility for making safe and legal recruitment decisions in the same way as employers in other professions. In other words, they should not have normal responsibilities taken from them' (HL Deb [2010-12] vol.725 c.910). The governmental position was that

reduced criminality and higher standards could be achieved more efficiently through market forces than state intervention: 'the industry will have a strong self-interest in ensuring that the cowboys are not allowed in and are not permitted to sully the reputation of an industry that is responsible for its regulation. There is a strong incentive actually to take this regime and make it work well' (HL Deb [2010-12] vol.725 c.913). The Cabinet Office's economic rationale driving the Public Bodies Review was questioned and turned against the government, as Baroness Henig indicated that the SIA was self-financing, had made efficiency savings and that abolition would jeopardise the private security industry's £300 million 'investment' in regulation (HL Deb [2010-12] vol.722 c.131). Outside parliament, the SIA sought to cultivate this fiduciary relationship with the broader industry. For instance, in an open letter to the private security industry on the 1 December 2010, SIA Chief Executive Bill Butler cultivated this form of economic accountability: 'I want to assure you that it is my intention to protect the investment you have made in training and your SIA licence. I do not want to see you lose out or be disadvantaged under a new system of regulation' (Butler 2010).

Thirdly, information asymmetries between the Security Industry Authority, Home Office and central government departments enabled Baroness Henig to posit the SIA as the only institution with the expertise, capacity and support to broker and guide successful regulatory change (Dommett and Skelcher 2014, p.558). Within this narrative it is possible to see how the SIA was using industry support for its blueprint to enhance its bargaining power against the Home Office:

The irony of all this is that had the Cabinet Office done any research at all, it would have learned that the private security industry and its regulator had agreed on a blueprint for the next few years to move to greater industry involvement in the regulatory regime, particularly for companies achieving high standards in annual independent inspections, so that regulation could focus more strongly on the not so good, not so highly performing companies. The Home Office had already been approached to introduce business licensing alongside the licensing of individuals to make it easier to set minimum standards which could then be progressively raised, and to ensure compliance. Eventually, even Ministers in the Cabinet Office, I am happy to say, heard the message and heeded it. They agreed that, while the SIA should no longer be a non-departmental public body, there should be a phased transition to a new regulatory regime. This was endorsed last week in a letter to me from the Home Secretary, and I am happy to accede to her wish to ensure that: "any transition to a new regulatory regime is phased in smoothly and takes into account the needs of the industry as well as the priorities of the Government including the devolved Administrations", and that there should be no "significant changes prior to the Olympic Games". However, I am aware that none of that is in the Bill. (HL Deb [2010-2011] vol.722 c.131).

In fact, the Home Office arms-length body team was given just three weeks to review their public bodies and provide the Cabinet Office with a list of mergers and abolitions, a process within which the arms-length bodies were not consulted (Flinders and Tonkiss 2016, p.508).

Due to the idiosyncrasies of the British political system, the SIA has multiple political principals and is therefore not accountable solely to the Home Office but also to the Scottish Ministry of Justice and the Northern Irish Department of Justice. This is important as agencies that have multiple political principals can insulate themselves from principals who seek to curtail their autonomy by collaborating with ones that share the agencies' values and interests (Groenleer 2014, p.264). In this respect, the devolved administrations played an instrumental role within the SIA's survival. Interventions by Lord Foulkes and Lord Empey within the Public Bodies Bill debate raised concerns with the government's plans from the devolved administration. Opposition from Northern Ireland was based on the fact that licensing had been implemented only a year previously and abolition would result in sunken implementation costs at the very minimum (HL Deb [2010-12] vol.725 c.903). The Scottish Ministry of Justice was vociferous in its opposition to abolition, and active in its defence of the SIA, with the Justice Secretary, Kenny MacAskill, penning official position letters to the Deputy Prime Minister and Home Secretary and expressing the wish to be personally involved in the SIA's Strategic Consultation Group. The Scottish government's position on the SIA's termination was made clear within the Scottish Parliament in November 2010: 'The Security Industry Authority has been working very well in Scotland and the Scottish Government made a very strong case to the UK Government for its continuation as the independent body responsible for regulating the private security industry' (HL Deb [2010-12] vol.725 c.908). Continued regulation was also supported by the Scottish Shadow Justice Secretary, Richard Baker, demonstrating the extent of the pro-regulatory consensus (HL Deb [2010-12] vol.725 c.908). Licensing in Scotland had been a relative success, given the pockets of organised crime on the Scottish west coast, and the Scottish government had taken more extensive regulatory measures, making it compulsory for private security contractors (and sub-contractors) performing security services under a public contract to be ACS-accredited (Scottish Government 2010). The leaked document detailing the SIA's potential abolition occurred during Home Office consultations with the Scottish Government (Shrinking the State 2010). Between October 2010 and June 2011, officials from the Scottish government met with the Home Office on ten separate occasions to discuss the future of regulation (S4O-00068).

During this period the SIA institutionalised this supportive coalition. The establishment of a 'Strategic Consultation Group' in November 2010, at first consisting of a small number of key industry representatives, but quickly establishing a more formal, wider and permanent membership, was the main institutional avenue between the Security Industry Authority and key stakeholders. The purpose of the body was to allow selected stakeholders to collaborate, contribute to, and challenge the transition to a new regulatory regime but it was not expected to steer the SIA nor agree with the transition plan (SIA 2011, p.7). The co-optation of key stakeholders into the negotiation process, would not only enhance the legitimacy of the SIA

and its business licensing agenda, but provide it with key informational and political resources which could bolster its technical expertise and afford it significant political leverage in negotiations with the Home Office. This political leverage was articulated by the former SIA Chair:

So, the Home Office were happy because they were able to go back to the Cabinet Office and say: 'we're in regulatory discussion with industry representatives and this is what they think'. It was very good for the Home Office because it gave them a range of industry people to talk to that it would have been more difficult for them to access otherwise. So, in a way, we facilitated a very useful dialogue (Former SIA Chair, private interview)

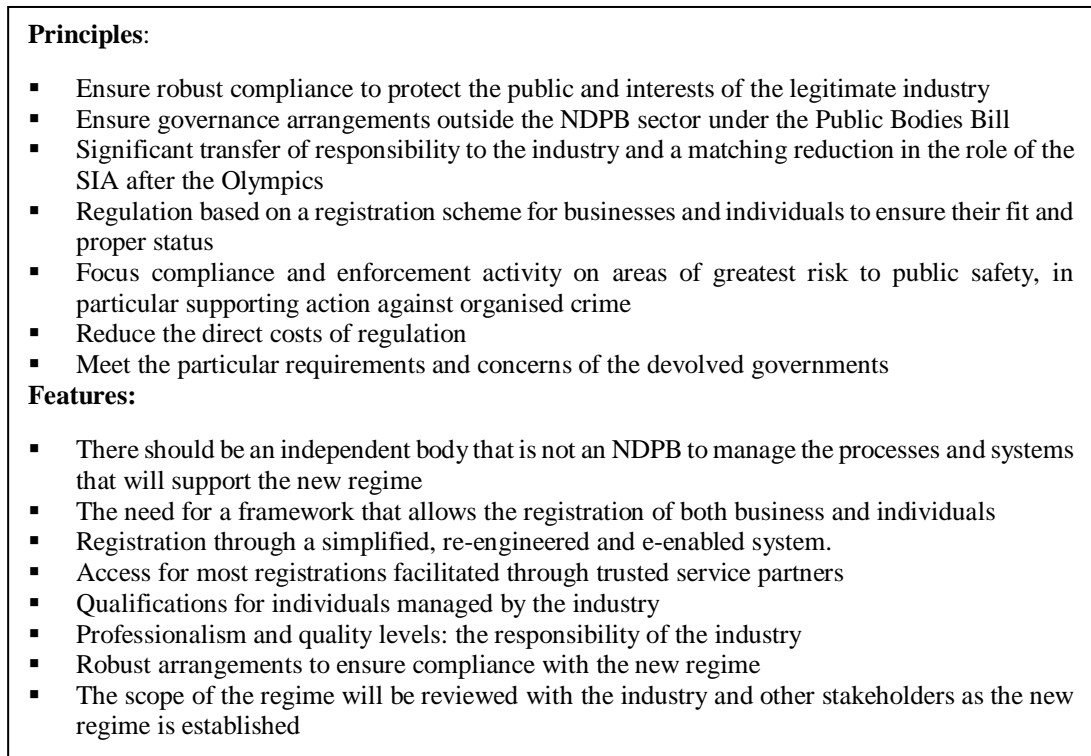
However, the organization of major industry associations into the Security Alliance institutionalised their influence within regulatory negotiations. The Strategic Consultation Group consisted primarily of governmental actors and security suppliers; those who 'buy and rely' on security were absent from negotiations (SIA Board Member, private interview). National Doorwatch Chair Ian Fox claimed that whilst the most part of the private security industry – especially individual licence holders – would not necessarily experience any immediate economic benefit, companies at the higher-end of the private security industry would be afforded a 'competitive advantage' (Fox 2011a). This perspective demonstrates the belief that continued governmental engagement and regulation – including the extension of regulation to include private security companies – would enable the top-end of the industry to remain competitive and successful within the context of public policing cuts by enhancing trust amongst public and private purchasers and partners in the private security industry as a whole (Smith and White 2014, p.434).

Ongoing negotiations within the Strategic Consultative Group were also crucial to the survival of the SIA. The SIA Chief Executive presented the SIA's blueprint for change at the 1 February 2011 meeting of the Strategic Consultative Group. According to the SCG minutes, 'the members of the Strategic Consultation Group agreed with the general direction of travel of the blueprint for change and endorsed this as the view to be communicated to the Minister on 16 February' (SCG 1 February 2011, p.1). Several key features of the blueprint are worth highlighting. Firstly, the regulator would be reconstituted outside the NDPB sector. Secondly, responsibility for individual competency requirements would be transferred from the regulator to an industry-based skills body (e.g. Skills for Security). The industry would assume responsibility for business quality standards. Thirdly, the regulatory relationship would shift from the direct regulation of 350,000 individuals to the regulation of 2,500 businesses. Regulated businesses would directly manage individual licence holders. Fourthly, responsibility for conducting basic checks would shift from the regulator to the industry. Finally, and importantly, the regulator would concentrate on tackling serious risks and non-compliance. The proposed outcome was more efficient, effective and less burdensome

regulation (McCormick 2011). On 1 February 2011, the Security Alliance outlined its official position on regulation in a letter to Lynne Featherstone, the minister responsible for the SIA. At the core of this position was that the regulatory framework should be extended to include businesses; that enforcement procedures remained robust; and that the industry should be represented on the board of the regulator. However, the Security Alliance capitalised on governmental conceptions of regulatory efficiency, underlining that ‘all costs should be transparent, proportionate and lower than the current system’ (Infologue 2011a). These principals were congruent – almost identical – to the SIA’s vision for business licensing set out in June 2010. As a result, the SIA’s blueprint was signed off by the minister of state responsible for the SIA on 16 February 2011 (SCG 22 March 2011, p.1).

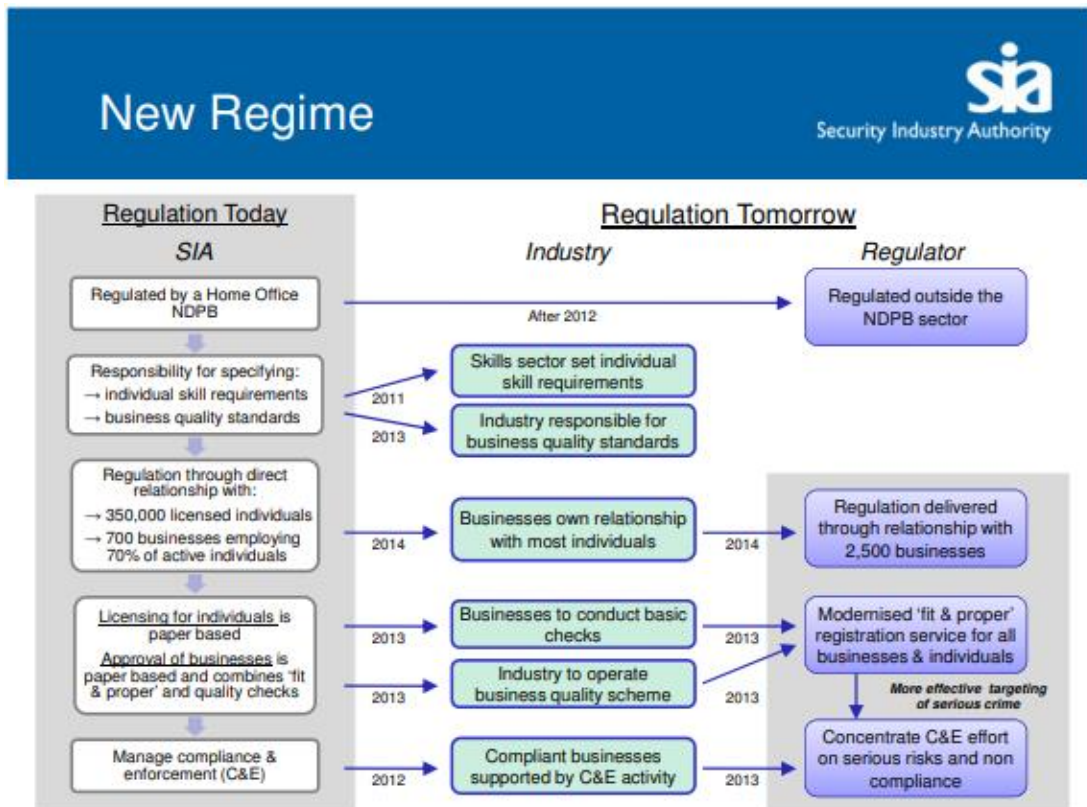
On 14 March 2011, the Chair and Chief Executive of the SIA provisionally enlisted the support of the Home Secretary for a SIA-led transition to a new regulatory regime based on business licensing (HL Deb [2010-12] vol.726 c.834). A key part of the future regulatory regime was that the new regulator would have the power to impose sanctions on non-compliant businesses, including the power to remove the right to trade (HL Deb [2010-12] vol.726 c.832). The acceptance of the blueprint for regulatory reform, strengthened by a broad coalition of support from the devolved administrations, lawmakers and the private security industry, is a clear indicator of how the SIA was able to sustain its legitimacy and avoid outright termination through the communication of its mission and the adoption of networked interactions. A March 2011 survey released on the day of the announcement of 200 security buyers revealed that 98.7% of respondents supported continued industry regulation, with 80.8% indicating a preference for both individuals and business licensing, further strengthening the SIA’s position (IPSA 2011). During the Report Stage of the Public Bodies Bill, the Government announced that it would support Amendment 19, removing the SIA from the Public Bodies Bill. Notwithstanding this, the Home Office announced that there would be a ‘phased transition to a new regulatory regime’ in which regulation would shift from licensing individuals to registering businesses. It would still be ‘Government’s intention to abolish the existing body and replace it with another body for the private security industry that its self-regulatory’ (HL Deb [2010-12] vol.726 c.832). This further demonstrates how business regulation acted as a ‘coalition magnet’ (Béland and Cox 2016). In this sense, the SIA was able to pursue its own regulatory preferences by capitalising on the government’s lack of detailed reform plans beyond the ominous phrase: ‘phased transition to a new regulatory regime. SIA no longer an NDPB’. In sum, the SIA had managed to frame the issue as one of reform (based on its vision of business regulation as the best institutional arrangement through which to reconcile these competing demands) and build a coalition of support around its core mission of protecting the public which increased its bargaining power vis-à-vis the Home Office.

**Figure 1: SIA Regulatory Blueprint (2011)**



Source: McCormick (2011)

**Figure 2: The New Regime (2011)**



Source: McCormick (2011)



#### 4.4 Consensus: Business Regulation

As the SIA is leading the debate you may be shaping it where you want it to go. It's a catch-22 situation because there is nobody else to lead the debate.

— *Delegate, SIA Stakeholder Conference, 12 October 2011*

This section considers the period between the removal of the SIA from the Public Bodies Bill and the publication of the Home Office's proposals for the new regulatory regime in November 2012. It emphasises the role that the SIA played in brokering negotiations and cultivating broader support for its mission and its business licensing proposals. Finally, it highlights the key features of the regulatory regime, which placed a greater emphasis on the sharing of regulatory responsibility between the state and private security industry, though it marked the persistence of the SIA's core mission of protecting the public from the private security industry.

Despite its situation within this relatively small policy community, institutionalised in the form of the SCG, the SIA cultivated wider support for its business licensing agenda throughout this period. The purpose of the new March 2011 stakeholder engagement strategy was for the SIA to demonstrate its credentials as a 'modern, efficient and collaborative regulator [and] to develop regulation in collaboration with the industry, balancing the public purpose of regulation with the commercial implications' (SIA 2011, p.3). The engagement priorities also reflected the need for the SIA to enrol the organizational and informational capacities of external stakeholders, including the private security industry and third-parties such as the Post Office, to inform plans to transfer the responsibility for standards and licence management (SIA 2011, p.6). As the former SIA Chair elucidated: 'the whole idea was that we were going to have to move into a much more equal partnership with industry, so in sense, the terms of engagement were going to have to change' (private interview). This reflected a shift away from previous stakeholder strategy focused on managing perceptions of compliance activity (SIA 2008b). Furthermore, the consequence of this was to formally recognise the Strategic Consultative Group as the body with 'strategic oversight of plans for and progress towards the delivery of the transition to a new regulatory regime' (SIA 2011, p.7). This was particularly important as key policy agreements and amendments were made within this venue (e.g. SCG 5 October 2011, p.2).

Between March 2011 and November 2012, the SIA embarked on an unprecedented scale of stakeholder engagement, attending and hosting a series of conferences, sector-specific network meetings, Approved Contractor forums and regulatory roadshows. The purpose of this was to ensure as wide support as possible for business regulation to minimize future implementation costs. This included meetings with buyers of security – three such meetings

had been held by November 2011 – and with academics. These events and meetings gave the SIA the opportunity to disseminate current thinking, respond to queries, gain feedback on proposals and cultivate a reputation for responsiveness amongst its wider stakeholder base. According to one Security Manager: ‘sometimes when you went to some of these groups and meetings you could argue: was there credible output? Maybe not in all cases but they engaged and communicated as much as they could or were allowed to. I think that built loyalty and respect for them’ (Security Manager, private interview). This engagement activity culminated in 2012/13 and 2013/14 with the establishment of a fifth regulatory objective: ‘delivering a phased transition to a new regulatory regime’ complete with performance targets to track and assess progress. One such target regarded stakeholder engagement and aimed at receiving 80% positive feedback in relation to their support and engagement received on the transition to a new regulatory regime (HC 945 [2013-14]).

Through its refurbished website, and its growing social media presence, the SIA was able further demonstrate its responsiveness to stakeholder’s concerns.<sup>28</sup> From March 2011, the SIA Chief Executive Bill Butler began detailing his actions and SIA achievements in a monthly blog. This was extended to the publication of enforcement activities and statistics in April 2011. Through these platforms – and especially through the newly developed ‘Fact or Fiction’ section of their monthly newsletter – the SIA sought to cultivate support for its strengthened public protection mission, by continuing to dispel myths surrounding its regulatory activity (SIA Update 2012a; 2012b; 2012c). As such, via these outlets the SIA could project itself as an active and effective regulator to its stakeholder base, essential for maintaining faith in the regulatory regime during this period of significant flux. Moreover, the SIA appeared to be particularly concerned about its public image during this period of regulatory reform, with the 2011/12 Annual Report and Accounts including statistics on the SIA’s representation within local and national media reports. Out of 1476 mentions, 59% were deemed ‘positive or supportive’ whilst 1% were considered ‘negative or unsupportive’ of the SIA (HC 290 [2011-12], p.9). In fact, this was the only instance in the SIA’s lifetime that statistics of this nature were included within the Annual Report submitted to the Parliament.

Regulators will engage more conscientiously and extensively with stakeholder audiences where its reputation is weak or still developing (Maor et al. 2012, p.586). The SIA afforded particular attention to the door supervision sector – not only the largest constituent of the SIA licensing regime but one of the most critical of the SIA in the past. A 2011 consultation by National Doorwatch for the SIA indicated high levels of ambivalence towards the regulator

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<sup>28</sup> This shift to social media can also be interpreted as a response to increasing fiscal controls. After 2009/10 the SIA’s annual expenditure on advertising and publicity decreased from £872,000 in 2009/10 to £207,000 in 2012/13. Communications budgets are key resources for reputation-sensitive agencies, especially in times of crisis (Puppis *et al.* 2014).

from individual licence holders in the door supervision sector. The study concluded that: ‘it is almost as if, in the absence of anything else, door supervisors see the SIA as an imposed de-facto trade union organisation’ (National Doorwatch 2011, p.4) demonstrating the sector’s concern with the cost and length of the licence application and renewal process. Two further conclusions of the report are particularly important. Firstly, the consultation questioned the impartiality and effectiveness of the SIA’s stakeholder engagement strategy, accusing the SIA of concentrating communication on company directors and managers rather than individual licence holders (National Doorwatch 2011, p.11). Secondly, the consultation reported a significant level of dissatisfaction with the SIA’s enforcement activity, corroborating the findings of the 2009 Baseline Review. Whilst 77.4% favoured a national licensing scheme, only 52.8% thought current enforcement practices were effective demonstrating that the SIA still had distance to go in convincing this sector of the robustness of its enforcement practices (National Doorwatch 2011, p.13). Addressing these issues provided the bulk of the SIA’s engagement activity with the sectors.

Although security industry associations had been in informal discussions over the future of licensing, the idea of business regulation had not resonated with the wider industry much before October 2010. Sections of the private security industry less likely and able to tender for policing contracts emphasised the importance of reducing regulatory burdens and duplications and pointed to the existent of more stringent and cheaper third-party businesses regimes, such as the one offered by the National Security Inspectorate (Infologue 2010a). There was a sense within the lower echelons of the private security industry that regulation had exacerbated cutthroat competition and eroded quality standards (Infologue 2010a). For instance, when asked whether business regulation would offer a competitive advantage, one security manager thought not:

In terms of going to the end-user showing that there are fit and proper people running these businesses and that they’re running in a legal and compliant manner and I think that’s important. But for the individual businesses, I am not too sure whether they will benefit one way or another. In the case of the larger ones, or FM companies, will they get more contracts because of business licensing? Probably not because everyone has to have a business licence so everybody’s back on a level playing field again. It’s not a differentiator (private interview).

However, industry self-regulation was not considered a viable alternative at this point. The fragmented nature of the UK private security industry, the varying criteria of association membership, and associated problems with enforcement have undermined the credibility of self-regulation in the UK (Button and George 2006). This was highlighted by one security association representative:

We are keen to see good standards within the industry and we can encourage or put in place requirements for our members to be compliant with those standards as a condition of that membership, however, as soon as you go outside of that membership then we have no control. So, if it was a case that the associations were given responsibility for the industry as a whole, the only way you could actually do that is either by an association that has been given the role of acting as the regulator rather than a membership body, or going ahead and making membership of an association a compulsory activity (Security Industry Association Representative, private interview)

Likewise, another industry association representative noted how the post-crisis economic downturn posed disincentives to association membership: ‘In the current financial climate, trade association membership is regarded by many as a bit like training; ‘nice to have’ but not essential and easy to cut when budgets are tight’ (Professional Security Magazine, 2012). Self-regulation had been dismissed as a viable option in the May 2012 Impact Assessment on the grounds that business regulation provided a better compromise between regulatory efficiency and public protection (Home Office/SIA 2012, p.7). In fact, this Impact Assessment, the Home Office indicated that it supported business licensing over self-regulatory arrangements on the basis that it not only saved £0.2m but provided for the industry to take greater responsibility for regulation and standard while retaining a degree of state oversight.

The SIA played a central role within balancing competing demands concerning the new regulatory regime. Although the Home Office had accepted the amendment to the Public Bodies Bill, it remained the government’s intention to reconstitute the SIA outside the NDPB sector (although there was no indication from the Home Office of the preferred organisational form the SIA would take nor whether it would retain the same name). This transition to new governance arrangements was not openly disputed by key actors in the SIA due to prevailing constitutional norms concerning the appropriateness of public bodies in disputing government proposals, restrictions on the political communication of public bodies, and the compromise between the SIA and Home Office on a phased transition to a new regulatory regime (Dommert and Skelcher 2014, p.552). Within this context, the SIA’s strategy focused on cultivating support for its organisational mission and balancing this with the governmental imperative that the SIA be reconstituted to reduce costs. This was evident from the former SIA chair

And the second part of the strategy was: if we were going to have to hand some powers to industry, to do it in such a way that it didn’t undermine the regulatory force, in a way that regulation still stays strong. So, the example we kept looking at were things like the way in which the medical profession regulated itself – or accountants. In other words, to have a strong body even though you were handing over control to the industry; to make sure you had a strong body that could run it in a disinterested kind of way (Former SIA Chair, private interview).

In May 2011, the SIA Director of Transition visited the General Medical Council to gain an insight into its governance and organisational structure (SIA 2011). An October 2011 SCG paper indicated that the regulator should be ‘constituted by statute on the basis of an independent council model... which may retain the brand name SIA’ (SCG 5 October 2011, p.2). Importantly, there was support for this organisational mission from the Home Office. The Home Office Director of Civil Liberties and Public Protection announced during the March 2011 SIA Stakeholder Conference that: ‘we are looking for a suitable legislative vehicle to wind down the SIA and put in place a new regulatory regime. What we want to achieve is a statutory regulator with teeth’ (SIA Update 2011). SIA leadership figures continually communicated that the regulator would continue to have an extensive role within the regulatory regime. The October 2011 SCG paper revealed such intentions: ‘The regulator will be responsible for compliance and enforcement of the regulatory regime. The regulator will be able to use information gateways, investigatory powers, civil sanctions and prosecution, as set out in legislation. Statutory offences will underpin the regulatory regime (5 October 2011 SCG Paper)’ Professional associations, such as IPSA, had previously indicated that support for business licensing was that it would allow the regulator to more easily and effectively intervene in the industry (Infologue 2011).

There was also a concern throughout this period the SIA that ‘lighter touch’ regulation would signal or imply a lack of robustness within the SIA’s enforcement practices (Infologue 2012a). Maintaining central oversight over standard setting and enforcement remained central to the SIA’s reform narrative. In an interview to the industry press, SIA Chief Executive Bill Butler communicated the SIA’s continued policing role within the regulatory regime: ‘we will not be saying to security companies: establish your own set of standards. What we will be saying is that they have a key to a portal which will allow them to register people. Where there are issues on the right to work or criminality, those decisions will still need to be made centrally’ (Infologue 2011b). It is possible to see that the SIA leadership understood the ‘significant transfer of responsibility to the industry’ to consist primarily of the delegation of low-risk administrative duties, such as individual identity checks, to private security companies. The SIA’s regulatory mission - protecting the public by removing criminals from the industry (either by pre-licence checks, or post-licence enforcement) - would within this model remain centralised within the future regulatory body, a position at this point largely shared by the Home Office and the private security industry. The resulting position, as outlined within the Home Office consultation document, was that there would be a phased transition to a new regulatory regime, by which business licensing would be introduced first through existing secondary legislation enabling ministers to make the voluntary approved contractor scheme compulsory (SCG 31 January 2012).

Over eighteen months of negotiation and engagement culminated in November 2012 with a Home Office consultation on proposals for the future regulatory regime. This is a key document as it provides evidence of the extent to which the Home Office had deferred to the SIA's proposals (Carpenter 2001, p.14). In this sense, the similarity between the SIA's 2010/11 Change Blueprint and these proposals is an indicator of the SIA's success in building a broad coalition of support in favour of business regulation (see Figure 2). The document indicated that the Government's preferred option is that there would be a phased transition to a new regulatory regime based on the licensing of businesses and individuals. The focus of the regime would be on businesses, and business and third parties would assume the responsibility for undertaking checks on individuals working within industry, although the regulator would retain responsibility for criminal records checks. The regulator would be responsible for compliance and enforcement activity and have 'appropriate powers' to undertake this role. The responsibility for quality standards would be transferred to an industry organisation (Home Office 2012). According to the Home Office, the intention of this reform was to achieve 'some deregulation' to reduce the cost of regulation whilst continuing to protect the public and raise standards (Home Office 2012, p.7). Importantly, the consultation did not consider the future status of the SIA. At the November 2010 SIA stakeholder conference, the Home Office minister responsible for the SIA, Lord Taylor, indicated the four principles underpinning the government's proposed regime: greater transparency and accountability; deregulation and a reduction in red tape; a reduction in the cost of regulation; that the SIA continued to raise standards, combat criminality and protect the public (Taylor 2010). Although these proposals outlined a regulatory regime in which responsibility for regulation was formally shared by the state and private security industry, and in which the regulator would play a more residual role in licensing, it still retained the SIA's core mission of reducing criminality and raising standards in order to protect the public from private security.

An important omission from the consultation proposals was the extension of licensing to the in-house sector. The absence of provisions for in-house security (in which companies directly employ, rather than contract in, security personnel) had long been regarded by the regulated sections of the private security industry as a loophole within the regulatory regime. During the passage of the Private Security Industry Act, the House of Lords had rejected two separate amendments by Bruce George MP to require in-house security to be regulated due to the potential costs imposed on the sector). The initial exclusion of this sector was based on economic concerns, as illustrated by one Home Office representative at the first Regulation Roadshow in 2003: 'to be truthful, we haven't included in-house security because of the regulatory impact. The Government didn't want to burden the in-house sector with this regulation' (IFSEC Global 2003). Moreover, a 2009 SIA report concluded that there was 'no clearly defined or substantiated risk to public protection', thus preventing the extension of

licensing to that sector (SIA 2009c). In fact, support for business licensing from the regulated industry was in part predicated on the assumption that business licensing would make it easier to extend regulation to companies that provided security functions in-house (Managing Director Large Security Company, private interview). Other compromises included a phased implementation of business regulation, initially through existing secondary regulation, raising significant concerns from the private security industry. This will be the focus of the next chapter.

In sum, this section examined the role of the SIA in brokering negotiations and convening broader discussions on the future regulatory regime for the UK private security industry. Although groups such as the Strategic Consultative Group constituted an important arena, the SIA also cultivated wider support for its mission and for the new regulatory regime by consulting with wider stakeholder groups. It also completed the narrative that the termination threat constituted a ‘focusing event’ for the SIA’s business regulation agenda. For it has been possible to trace the evolution of the SIA’s ‘regulatory blueprint’ from SIA Chair Ruth Henig’s speech at the June 2010 stakeholder conference (although the previous chapter traced the antecedents of this), through various key speeches and policy documents, right through into the Home Office’s proposals for a new regulatory regime. In this respect, this chapter has illustrated the political strategies that the SIA adopted in order to ‘update’ its statutory mandate so in order to enhance its capacity to achieve its core public protection objectives

**Figure 3: Summary of Home Office Proposals (2012)**

- Focus of regulatory control would move to the regulation of businesses, with a new process for licensing individuals.
- The regulator would be responsible for regulating businesses to work in the private security industry. Applications would be made to the regulator. On approval of applications the regulator would add those businesses to a public register
- Businesses would be given responsibility for ensuring that identification and qualification checks on individuals are carried out. Guidelines could be produced to ensure that regulated businesses had adequate knowledge to fulfil their responsibility to check identification and qualifications.
- In practice, all individual applications would be made either through regulate business that meet necessary standards, known as Trusted Service Providers (TSPs), or, through third parties, known as Mediated Access Partners (MAPs)
- TSPs and MAPs would be responsible for checking identification and qualification criteria. The regulator would be responsible for checking criminality. If the regulator was satisfied that criminality requirements had been met an individual would be added to a public register owned and maintained by the regulator.
- The quality business hallmark scheme (currently ACS) would cease to be run by the regulator. Responsibility would be transferred to an industry-led organisation and it would be left to industry to decide how to set and apply such a scheme
- The regulator would be responsible for compliance with and enforcement of the regulatory regime. The regulator’s compliance and enforcement measures would be proportionate, robust and effective to protect the public, as well as legitimate businesses and individuals
- The overall regulatory cost on the private security industry will be reduced. The regulatory regime would be self-funded from fees.

Source: Collated from Home Office (2012, pp.13-20).

## 4.5 Conclusion

This chapter has examined the political negotiations surrounding the restructuring of private security regulation from the June 2010 Cabinet Office structural reform plan to the November 2012 Home Office consultation on a new regulatory regime for the private security industry. First, this chapter demonstrated that the restructuring of private security regulation was triggered by two exogenous shocks: the global financial crisis and the election of a Conservative-led Coalition government in 2010. The crisis for private security regulation – the plan to abolish the SIA and consequently restructure formal regulatory arrangements – was therefore triggered by an actor discontinuity in which a more free-market oriented coalition had gained control of the political and legal resources necessary to dismantle the PSIA 2001 (White 2018, pp.86-7). Accordingly, the Public Bodies Review can be interpreted as an attempt by the core executive to both enhance its control over delegated governance (marking a potential recentring of private security regulation) and to reduce state intervention and transfer greater responsibility to the market and society (marking a decentring of private security regulation) (see Flinders and Skelcher 2012, p.328).

Second, this chapter demonstrated that the SIA has negotiated these recentring and decentring pressures to maintain its foothold within changing regulatory arrangements. It argued that these exogenous shocks (originating from a change in government and its response to the economic downturn) has accelerated the SIA's internal reform processes, which has been postponed due to the Public Bodies Review. In this sense, this chapter argued that the striking similarity between the SIA's June 2010 regulatory blueprint and the November 2010 Home Office consultation proposals is evidence that the threat of abolition constituted a 'focusing' event for the SIA's business regulation agenda. It further argued that the SIA evaded termination and secured defence from the Home Office for its business regulation proposals by mobilizing, institutionalising and leveraging the resources of a supportive coalition. These political and informational resources leveraged from this coalition raised the (low) costs of termination, strengthened the SIA's bargaining power vis-à-vis the Home Office and enabled it to play a broader role in brokering and convening political negotiations on the future regulatory regime. However, the SIA was not 'heroic' in the sense that it was able to act without constraint. In fact, it acted strategically within its institutional context replete with constraints and opportunities (Levy and Scully 2007, p.986). For instance, constrained by its constitutional position within the British state, the SIA leadership could not publicly criticise the Home Office's decision to abolish the SIA or future decision to reconstitute it outside the NDPB sector.

These dynamics can be explained with reference to the bureaucratic politics approach. During the Public Bodies Bill debate and subsequent negotiations, the SIA has continued to



justify the necessity of its public protection mission, even within new regulatory arrangements. The SIA's key narrative throughout these negotiations has been that shifting focus from individuals to businesses would enable it to better target its regulatory interventions (and thus enhancing its effectiveness) and reduce regulatory burdens by transferring to businesses the responsibility for individual regulation. In this respect, the SIA maintained its strategy of attempting to update its statutory mandate to match the shifting post-crisis context.

Third, the Home Office plans are an important milestone within the evolution of private security regulation in the post-crisis era for they propose a shift from existing command-and-control regulation to more co-regulatory arrangements in which the private security industry assumes greater responsibility. The Home Office proposed that there should be a phased transition to a business regulation regime, in which the focus of regulation would shift to businesses. Businesses would then take on the responsibility for undertaking required checks on individuals, although criminal checks would be performed by the regulator. The new regulator would be constituted outside the NDPB sector although it would retain the objectives of reducing criminality and raising standards within the private security industry (Home Office 2010, p.7). Although Home Office proposals indicated that the phased transition to business licensing would be complete by 2013, the Home Office announced in February 2014 that the implementation would be postponed until 2015. The next chapter examines these dynamics.

## 5. Veto

I fear the government have impaled themselves on a hook of their own making. There is an obsession with deregulation, and we are promised a Bill to reduce what is perceived to be excessive regulation on businesses. This is no doubt making it extremely difficult for the Home Office to sell the move from individual to business licensing to the Cabinet Office and Department for Business, Innovation and Skills since this could be seen as increasing the regulatory burden on the industry rather than reducing it.

— *Baroness Ruth Henig, HL Deb [2013-14] vol.745 c.64*

### 5.1 Introduction

By November 2012, the Security Industry Authority had brokered a fragile consensus on business regulation. This was the culmination of an attempt to update its statutory mandate in order to enhance its capacity to achieve its regulatory objectives in the context of increasing legal and regulatory constraints. However, by February 2014, a suitable legislative vehicle had not been found, prompting the Home Office to announce that business regulation would be postponed, although the April 2015 enforcement date still applied. Despite this, and only a month before the enforcement date, the Home Office declared that business regulation would be postponed until the next parliament. Thus, by the end of the Coalition government's first term (2010-2015), the Private Security Industry Act 2001 stood unreformed. This chapter explores the dynamics underpinning this formal-institutional stability. It makes three key points. First, it highlights how key actors within the core executive, namely the Cabinet Office and the Department for Business Innovation and Skills, have sought to centralise control over the regulatory policymaking process in the post-crisis era. Second, it argues that through the gatekeeping of the legislative policymaking process, the core executive was able to effectively *veto* the formal restructuring of private security regulation. Essentially, the core executive possessed the key legislative resources (i.e. parliamentary time) required to make formal changes to the PSIA 2001, however made access to these resources conditional on reducing the impact of regulation. The potency of this (de)regulatory context and the subordination of public protection arguments to economic calculations was further demonstrated by the Home Office's failure to commence licensing for private investigators despite its high political saliency (occurring between 2011 and 2012). This legislative impasse had precluded any change to the regulator's legal mandate or formal powers, which meant that the SIA continue to face the problem of achieving its regulatory objectives in the context of increasing legal and regulatory constraints. Third, in contrast to its high degree of political agency within the pre-

parliamentary phases of regulatory reform, the SIA was constrained by its formal separation from politics and was thus dependent on Home Office ministers and officials to make the case for legislation on its behalf within an increasingly de-regulatory context. The SIA could only mitigate these constraints by suggesting a phased implementation of business regulation, firstly through the commencement of existing regulations and then adjustment through primary legislation when available. Paradoxically, the consequence of this would be to layer business licensing upon existing arrangements and was subsequently rejected on this basis.

This chapter is divided into four sections. Section 5.2 considers the Coalition government's regulatory reform agenda. It argues that on the one hand, the core executive has sought to reduce the size and scope of the state and decentralise regulation and, on the other hand the core executive has sought to 'recentralise' regulatory authority by stipulating stringent requirements on new regulations. Section 5.3 traces the political negotiations concerning the new regulatory regime for the private security industry between the November 2012 and the February 2014 postponement by the Home Office due the lack of parliamentary time. Section 5.4 considers the regulation of private investigators, an issue within the SIA's remit which came to prominence between 2011 and 2012 after the 'phone hacking scandal'. The consideration of private investigators is important because it both serves to illustrate the potency of the deregulatory context, given that regulation became a highly salient issue, but also because it highlights the contradictory tensions within the state between seeking to transfer responsibility to the market for security, while at the same time attempting to assume more responsibility for the regulation of the market for security. Section 5.5. concludes the chapter, relocating these empirical dynamics within the theoretical narrative.

## **5.2 Reducing Regulation**

The Coalition government intensified the delegitimation and reduction of statutory regulation that had occurred since the introduction of the Better Regulation agenda under New Labour (Fitzpatrick and White 2014; Tombs 2015). Established arguments that regulation – or 'red tape' – stifled innovation and competition and reduced profits became more potent within the context of the economic downturn and underpinned government plans to achieve economic recovery through private sector growth. Moreover, evident within the Coalition Agreement, various ministerial statements and other key policy documents, such as *Reducing Regulation Made Simple: Less Regulation, Better Regulation, and Regulation as a Last Resort*, was a distinct political narrative that framed regulation not only as a barrier to private sector growth, but also to individual responsibility. This point is illustrated by the Business Secretary Vince Cable: 'We need to change the balance of power away from the state and back to individuals, businesses and communities. For too long, there has been a misplaced notion that the

Government's job is to regulate. That is not the case. Regulation should be the last resort' (BIS 2010a). In this sense, the Coalition government's Reducing Regulation programme represented both a political and economic attack on the regulatory state, with a view to placing greater responsibility for regulatory delivery on the market and third-sector (see Smith 2010). However, this decentralising dynamic was accompanied by a recentralisation of the regulatory policymaking process as evidenced by a series of reforms which included the strengthening of the Regulatory Policy Committee. This section examines these reforms.

The Coalition government's reducing regulation agenda was animated by Prime Minister David Cameron's desire 'to be the first government in modern history to complete its term having reduced the overall burden of regulation, rather than increasing it' (Prime Minister's Office 2011). Firstly, the core executive has targeted the stock of existing regulations through several high-profile initiatives. In 2010, Deputy PM Nick Clegg launched the Your Freedom campaign which focused in part on regulation that 'stifle the way charities and businesses work' (Deputy Prime Minister's Office 2010). The 2011 Red Tape Challenge invited the public to make suggestions regarding whether any of the 21,000 existing regulations should be kept, scrapped or improved. Business Minister Michael Fallon maintained the momentum for deregulation by launching a 'Red Tape Blitz' on a further 3,000 regulations in September 2012 and announcing a tranche of further reductions in October 2013 (dubbed 'Freedom Day'). Nevertheless, these initiatives drew significant criticism on the grounds that the utility of existing regulation was judged in terms of the economic burden imposed solely upon businesses thus overlooking wider societal impacts such as public protection (Lodge and Wegrich 2014).<sup>29</sup> Secondly, a series of meta-regulatory measures have been designed to stem the flow of new regulation. The 'One-in One Out' policy introduced by the previous Labour government was upgraded to 'One-in Two-Out' in January 2013. In this system, any new regulations introduced would have to be compensated by the removal of regulations at double the monetary cost. This was further raised to 'One-in Three-out' in March 2016 by the subsequent Conservative Government in a drive to further reduce the regulatory burden on businesses by £10 billion. Moreover, domestic regulation that imposed a burden on businesses or individuals were required to be periodically reviewed to determine its continued relevance and which ministers would have to make the case to the Cabinet Office to renew or modernise the regulation (BIS 2013; 2015a) The Enterprise and Regulatory Reform Act 2013 further granted ministers the power to include sunset clauses in secondary legislation

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<sup>29</sup> This point was raised by the House of Commons Public Accounts Committee: 'The focus on reducing business costs means that departments are not consistently giving adequate consideration to the wider societal costs and benefits of particular regulations, for example where they impact on the environment, consumers or employees' (HC 487 [2016], p.3). Likewise, Tombs (2016) has identified the drastic effects that the government's deregulatory agenda has had on social protection, including food, environmental, and health and safety regulations.

Whether the Coalition government achieved their deregulatory targets is moot. Official estimates indicated that the reducing regulation programme had produced an overall saving of £2.2 billion to businesses between 2010-2015 (BIS 2014, p.2). The Regulatory Policy Committee confirmed this figure with the added caveat that 90% of the costs and savings to businesses were generated by only fifteen measures and that out-of-scope and EU regulations added a combined £2.8 billion of costs (Regulatory Policy Committee 2015). A National Audit Office report signalled that 46% of regulatory measures introduced between 2010-2015 were out-of-scope and confirmed that the overall regulatory burden had been increased (NAO 2016).<sup>30</sup> Likewise, a Reform UK report claimed that the government had actually added £3.50 of regulation for every £1 it removed (Harris and Sawyer 2014). This was compounded by the fact that reviews of existing regulation had generally served to justify its continued existence. In fact, only 800 regulations, many imposing almost no costs, were scrapped under the Red Tape Challenge (see Fitzpatrick and White 2014; Lodge and Wegrich 2015).

A moratorium on the introduction of all new domestic regulation affecting micro-businesses (businesses with fewer than ten employees) provided an initial obstacle to reforming private security regulation. The rationale for this measure was that the regulatory burden fell disproportionately upon smaller businesses which unfairly hampered growth (BIS 2013). The intention to implement business licensing after the expiry of the moratorium in March 2014 is evident in preliminary regulatory proposals, however, these precursory plans were later scuppered by the announcement that the moratorium would be extended past this date to include all businesses employing up to fifty staff. To illustrate the gravity of this situation, contemporary Home Office estimates indicated that over 73% of private security companies were classed as micro-businesses. With small businesses included, this figure stood at over 85% (Home Office/SIA 2012, p.12).<sup>31</sup> This economic assessment of the utility of new regulation grated against concerns for the credibility of the new regulatory regime. Within SIA Strategic Consultative Group meetings, industry representatives communicated the belief that micro-businesses should remain under the same regulatory umbrella so to avoid a loophole being created ‘whereby companies could set up a micro-business to avoid compliance requirements’ (SCG 28 January 2013). In fact, the necessity (and difficulty) of acquiring a waiver was raised in early SCG meetings and was included as a key risk within the 2012 Home Office Impact Assessment (SCG 21 June 2011; Home Office/SIA 2012). In

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<sup>30</sup> Measures outside of scope for One-in One-out/ One-in Two-out: measures that have no direct impact on business; measures that have a temporary and short lifespan; measures that relate to changes in wage and price inflation; measures that relate to regulatory enforcement or compliance fees; measures that relate to fines and penalties; measures that relate to civil emergencies; measures that relate to financial systemic risk; measures that implement EU regulations, decisions and directives; and measures that implement international agreements and obligations (BIS 2013, pp.40-41).

<sup>31</sup> It is important to note that SIA estimates show that the largest 30 private security companies – less than 1% of all private security companies – employ over 77% of licensed individuals.

fact, between 2010-2015 only 24 exemptions were granted by the Regulatory Policy Committee out of a total of 83 applications.

The core executive has become increasingly involved in ‘meta-governing’ the regulatory policymaking process. Meta-governance is defined as ‘the governance of governance networks conducted by the central state as a privileged (although not uncontested) site of political authority’ (Bailey and Wood 2017, p.968). In this case, the core executive has created an institutional framework and deployed a series of policy instruments aimed at aligning decentred policymaking processes – business licensing included - with its deregulatory objectives.<sup>32</sup> The Department for Business, Innovation and Skills became a key department under the Coalition government, with the Liberal Democrat Business Secretary Vince Cable leading the assault on regulation.<sup>33</sup> The Better Regulation Executive, situated within BIS, was tasked with coordinating and supporting deregulatory activities across the whole of government, despite suffering from significant cutbacks (Lodge and Wegrich 2015, p.34). The Cabinet Office retained a key position, with Cabinet Office minister, Oliver Letwin driving forming a ‘Better Regulation Group’ and taking ownership of the Red Tape Challenge (Lodge and Wegrich 2015, p.35). A ‘Reducing Regulation’ cabinet sub-committee (RRCC) chaired by the Business Secretary Vince Cable was established to take strategic oversight of the delivery of the reducing regulation agenda (Cabinet Office 2010b, p.11).<sup>34</sup> Indeed, from 2010, all regulatory proposals were to be submitted to the RRCC alongside relevant policy committees, and Cabinet Office guidance emphasised that ‘Committees will not sign off policy proposals that do not comply with the Government’s established policy on better regulation’ (Cabinet Office 2010b, p.9).

Alongside this centralisation of the regulatory policymaking process has been the creation of a broad institutional framework designed to embed this deregulatory culture within government departments and other policymaking institutions. Better Regulation Ministers, Board-Level Champions (senior officials) and Better Regulation Units (lawyers and experts) were located within each government department to challenge policymakers to develop alternatives to regulation and ensure the delivery of the Government’s reducing regulation agenda. The Better Regulation Strategy Group comprising of businesses, consumer and governmental representatives was positioned as an advisory group to provide cross-

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<sup>32</sup> This argument was touched on in the previous chapter concerning the promotion of alternative regulatory systems.

<sup>33</sup> Vince Cable held membership of various cabinet committees including the Coalition Committee, Economic Affairs (Deputy Chair), National Security Council, European Affairs Committee and Reducing Regulation.

<sup>34</sup> RRCC membership consisted of: Vince Cable (BIS), Philip Hammond (Transport), Caroline Spelman (DEFRA), Danny Alexander (Treasury), Francis Maude (Cabinet Office), Oliver Letwin (Cabinet Office), David Liddington (FCO, Europe), Mark Prisk (BIS), and Steve Webb (DWP). Even the Home Affairs Committee was chaired by Nick Clegg (Deputy PM) and Ken Clarke (Justice).

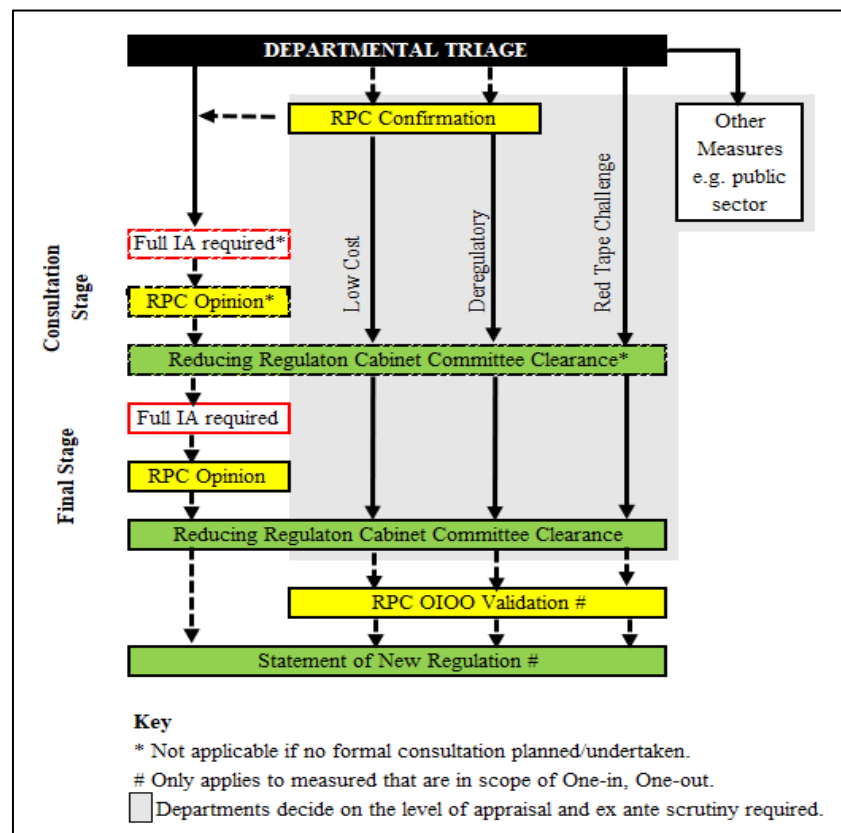
government support for the reducing regulation agenda. The Better Regulation Framework Manual outlined the rules within which all government departments and public bodies must work within in order to translate the government's regulatory perspective into practice. Within this framework, it is government departments that are responsible for ensuring that regulatory proposals align with wider deregulatory objectives, rather than the core executive specifying how each proposal could reduce burdens. Biennial 'Statements of New Regulation' were introduced to hold government departments to account for hitting deregulatory targets. Since 2012, departments that are in deficit regarding their One-in Two-out totals are expected to inform the Regulatory Policy Committee how they intended to remedy it. In fact, whilst business licensing proposals were out for consultation in December 2012, the Home Office was reported as one of the two departments in 'deficit' (Gibbons and Parker 2013, p.456).

The core executive has further strengthened its steering capacities within the regulatory policymaking process and embedded its deregulatory objectives through the more systematic use of impact assessments (Dommett and Flinders 2015; Fritsch *et al.* 2017). In recent years, the impact assessment has become a key instrument for eliminating administrative burdens (Dunlop and Radaelli 2016). When submitting regulatory proposals, policymaking departments are required to calculate the impact of proposed measures. From 2010, this was achieved through a single, standardised measure – the 'Equivalent Annual Net Cost to Businesses' (EANCB) – which quantified the impacts of regulation solely in terms of monetary costs imposed upon (or removed from) businesses (e.g. HM Treasury 2011). These calculations were also subject to independent validation by the Regulatory Policy Committee, an advisory NDPB within the Department for Business, Innovation and Skills. Whilst performances in quantifying impacts varied, and approaches to the assessment process differed across departments, with some departments incorporating wider costs and benefits into regulatory analysis, there was a general recognition that wider societal impacts were overlooked within this process (Dunlop *et al.* 2012). In fact, one of the central concerns for the SIA during this period was developing an economic argument for business regulation. For instance, in the October 2011 meeting of the Strategic Consultative Group, SIA officials requested evidence from members on how business regulation would enable businesses to make savings and reduce end-user costs. (SCG 5 October 2011, p.2).

The RPC has been used by the core-executive as a 'vehicle of meta-governance' (Kelly 2006, see Figure 4). Established in 2009 to provide advice on select regulatory proposals at the consultation stage, the RPC's responsibilities were extended under the Coalition government to include the scrutiny of all departmental Impact Assessments (IA) of in-scope regulatory proposals both at consultation and before final passage to the RRRRC. The RPC issues independent opinions on whether impact assessments are 'fit for purpose'. These opinions include either green, amber, or red ratings, pertaining to the quality of analysis and

evidence supporting regulatory proposals. By doing so, the RPC effectively regulates the policymaking process by judging whether departmental policymaking practices align with governmental deregulatory objectives. The RRCC indicated that it would not accept regulatory proposals that have been issued a red rating by the RPC, further highlighting the RPC's importance within the pre-legislative process. However, it is important to note that these opinions are not binding (Gibbons and Parker 2012, p.261). Fritsch *et al.* (2017, p.338) recognise the importance of the IA for the success of regulatory reform: 'a solid IA... is a necessary condition to gather consensus within cabinet-level committees with de-regulation preferences. Given the de-regulatory zeal of Gordon Brown and George Osborne, a strong IA is a good way to defend regulatory proposals generated by the periphery'. In contrast, the Home Office's 2012 Impact Assessment on the future regulatory regime for the private security industry received an amber rating because no information regarding the fee structure was supplied, and further information on how micro-businesses would display competency and how the removal of regulatory controls would increase the risk of business malpractice was required (Regulatory Policy Committee 2012, p.452).

**Figure 4: UK Regulatory Policymaking Process**



Adapted from: Regulatory Policy Committee (2012)



In sum, this section has emphasised two dynamics. On the one hand, the Coalition government has initiated a series of reforms that have contributed to a centralisation of central control over the regulatory policymaking process. On the other hand, the reducing regulation agenda has put pressure upon other actors in the regulatory policymaking process, such as the SIA, to decentralise regulatory responsibility, through adopting ‘lighter touch’ approaches and eliminating regulation of equivalent or greater value. Moreover, the restructuring of the regulatory policymaking process, and the increasing meta-governance by the RPC, has made access to legislative resources conditional upon new regulation meeting these (de)regulatory objectives. The next section examines the evolution of negotiations on the future of the regulatory regime from 2011 within the context of these reforms.

### **5.3 Vetoing Regulatory Reform**

The Security Industry Authority had exercised significant degree of influence over the regulatory policymaking process by mediating between the conflicting regulatory perspectives of its various stakeholders and forging a broad coalition around its proposals for a new regulatory regime based on the regulation of private security companies. Although regulatory proposals were designed to enhance the SIA’s capacity to achieve its regulatory objectives in the context of increasing regulatory constraints (such as the obligation to reduce the impact of regulation), the fragile coalition built around business regulation begun to unravel over its implementation and particularly over the necessity of primary legislation. This section outlines the next phase of political negotiations between November 2012 and February 2014. Firstly, it examines early concerns over implementation, and the phased approach using secondary legislation. It argues that this strategy was devised by the SIA to maintain support for proposals within an increasingly restrictive legislative context. Secondly, it outlines the factors that led to the postponement of regulatory reform. It argues that that the core executive – the Cabinet Office and Department for Business Innovation and Skills – effectively exercised a veto over regulatory reform through their possession of key legislative resources.

The initial decision by the Home Office to adopt a phased transition to a new regulatory regime was to communicate to the private security industry that reform would pose as little disruption as possible, especially in the run-up to the London 2012 Olympics, and to provide reassurance that some degree of regulatory oversight would continue after leaked plans to abolish the SIA were invariably met with resistance. However, after the removal of the SIA from the Public Bodies Bill, and the acquiescence of the Home Office to the SIA’s business licensing proposals, this phased transition was redefined by the SIA in order to maintain cross-party support and momentum for reform within the increasingly restrictive regulatory and

legislative context. This was illustrated by SIA Chair Ruth Henig's address to the Autumn 2011 SIA Stakeholder conference:

But we must also bear in mind that, with so many competing priorities, the final timetable for the Government's new primary legislation has yet to be confirmed. If the legislation does take time to put into place, then it is vital we do not stall; that with the industry we keep up the momentum of change and continue to move forward, working with you to decide what the priorities are and begin now to make changes. Even without the immediate primary legislation, with Government support there are still plenty of options for developing regulation and introducing key elements of the planned changes (Henig 2011)

This strategy was further reflected on by the contemporary SIA Director of Transition:

By the Autumn of 2011 it started to become clear that the government had got too much legislative business to fit into the second session and it became clearer and clearer that the primary legislation in the second parliamentary session wasn't going to be possible. So, we at the SIA devised a proposal for a different legislative route using secondary legislation to amend the Private Security Industry Act to enable the implementation of business licensing to enable businesses to have that role in individual registration and that could happen more quickly than primary legislation that is now expected to take place in the third session (SIA Director of Transition, quoted in Infologue 2012).

It is therefore possible to conclude that the SIA developed plans for the phased implementation of business regulation as a strategy to maintain momentum for reform in the face of parliamentary obstacles. Primary legislation, required in order to reconstitute the regulatory body outside the public sector, equip it with a broader range compliance powers for more proportionate regulatory enforcement, enable more effective information sharing arrangements, and amend individual licensing, would be introduced when parliamentary time became available (Home Office 2012). Certainly, without these reforms, the SIA would lack such powers and capacities. Under secondary legislation, the SIA would only be able to refuse, suspend and revoke a business licence, impose additional conditions and issue directions. Industry representatives communicated to the Home Office minister Lord Taylor that support for a phased transition to a new regulatory regime was premised upon the assumption that primary legislation detailing extensive enforcement measures would be introduced. Moreover, it was argued that implementing a business licensing regime through secondary legislation alone, or through making membership of the ACS scheme mandatory, would mean that private security companies would not be subject to a sufficient level of scrutiny necessary to exclude criminality and build police confidence in the industry (Ziedler 2013). Finally, primary legislation was also required to more effectively delineate responsibility for regulation between the regulator and private security industry, especially surrounding responsibility for undertaking individual checks.

As the third session of parliament (2013-2014) drew closer, it became clear that key departments in the core executive were vetoing legislative progress due to the belief that business licensing would not contribute to deregulatory targets (as mentioned in the previous section, the RPC had expressed doubts that, in the absence of official costings, business licensing would reduce costs on business). Most interviewees pointed towards the Department for Business Innovation and Skills as the key actor vetoing progress. By July 2013, a revised Impact Assessment had gained ministerial approval and had been sent to the relevant Cabinet Committees to gain cross-governmental approval. At this point, due to its constitutional separation from the legislative process, the SIA was fully dependent upon the Home Office for ensuring the progress of business regulation. The fact that the RPC did not publish an opinion on this IA indicates the possibility that either a ‘red status’ was granted or plans were shelved by the Home Office. The results of the Home Office consultation ostensibly provided little reassurance to the RPC about costs, as only 32% of respondents believed that the new regime would ‘reduce costs and burdens’ (moreover, the SRA response stated that there was not enough information about fee structures to pass judgement) with only 50% indicating overall support for a transition to business licensing (Home Office 2013b, pp.23-4). Furthermore, parliamentary time is a scarce resource commanded by the core executive and negotiated with individual government departments according to governmental priorities and political salience. When considering that measures to ban vehicle immobilisation and towing introduced under the Protection of the Freedoms Act 2012 imposed £21 million, it can be deduced that the low political saliency of business regulation also contributed to the lack of regulatory reform (RPC 2015, p.18). To further place business licensing in context, only eleven Home Office-sponsored Bills received Royal Assent during the Coalition government’s administration – an average of two per legislative session.<sup>35</sup>

Faced with these obstacles, Baroness Ruth Henig (her term at the SIA finished) sought to secure primary legislation through two separate amendments to an existing Home Office bill.<sup>36</sup> These series of ‘probing amendments’ to the 2013 Anti-Social Behaviour, Crime and Policing Bill were designed to ascertain why the Home Office appeared to be retreating from its

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<sup>35</sup> This figure excluded Private Members Bills which affect the department, such as the Scrap Metal Dealers Act 2013. The Home Office sponsored eleven successful Bills in the 2010-2012, 2012-2013, 2013-2014 and 2014-2015 parliamentary sessions: Identity Documents Act 2010; Police (Detention and Bail) Act 2011; Police Reform and Social Responsibility Act 2011; Terrorism Prevention and Investigation Measures Act 2010; Protection of Freedoms Act 2012; Police (Complaints and Conduct) Act 2012; Immigration Act 2014; Anti-Social Behaviour, Crime and Policing Act 2014; Counter-Terrorism and Security Act 2015; Modern Slavery Act 2015; and the Serious Crime Act 2015. In the subsequent 2015-16 and 2016-17 parliamentary sessions, the Home Office sponsored four successful Bills: Immigration Act 2016; Investigatory Powers Act 2016; Criminal Finances Act 2017 and the Policing and Crime Act 2017.

<sup>36</sup> The Home Office had decided not to renew Baroness Henig’s term as Chair.

commitments to introduce business licensing.<sup>37</sup> This legislative excursion revealed the Home Office's untenable position, having explicitly supported the phased transition to the new regulatory regime, yet unable to influence key decision-making institutions within the core executive, due to the embeddedness of deregulatory institutions and policy instruments. Faced with this dilemma, the Home Office Minister Lord Taylor could offer only a nominal form of regulation: 'as the noble Baroness may know, we do not need primary legislation – we do not need to put anything in this Bill to introduce business licensing' (HL Deb 4 December 2013 c.316). Moreover, at the 2013 Stakeholder Conference the Home Office minister responsible for the SIA, Lord Taylor indicated that licensing would be implemented in 2014 (Taylor 2013).

In October 2013, amidst this backdrop of legislative gridlock and uncertainty, the SIA launched the business licensing programme. An enforcement date of 6 April 2015 was announced, after which it would be a criminal offence to supply security services without a licence. The resemblance between this official policy document and the October 2011 SIA position paper is testament to the SIA's centrality within the regulatory policymaking process. The 2013 policy document *Get Business Licensed* informed that business licensing would be introduced through the relevant sections of the PSIA 2001 which enabled ministers to make the voluntary accreditation scheme compulsory. To obtain a licence, private security companies would undergo checks on: identity, background, criminality, financial probity and relevant qualifications and competencies. Moreover, private security companies would need to continually comply with a set of approval conditions, submit an annual return evidencing continued compliance with these conditions and pay a licence fee (SIA 2013, p.7). Micro-businesses would need to meet a different set of competencies and requirements. Excluding enforcement powers, the prime difference between the two positions was that in the original proposals, business licensing would be accompanied by individual registration, whereas this official policy paper stated that individual licensing would continue under section 3(2) of the PSIA (SIA 2013, p.8). These exclusions were due to the lack of available primary legislation needed to make such amendments to the existing regime.

This addition of business regulation to the existing individual regulatory regime raised further questions concerning the duplication of costs and the overall administrative burden. The SIA position was that burdens imposed on private security companies would be offset by corresponding reduction on individual licence holders. Home Office calculations that an

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<sup>37</sup> The amendment introduced at the Committee stage was designed to extend the application of IPCC provisions to individuals licensed under the PSIA 2001 (HL Deb 4 December 2013, c.312) and the amendment introduced at the Report stage sought to repeal Sections 42 and 43 of the Crime and Security Act 2010 (which gave Ministers the power to make the ACS scheme mandatory) and introduced a requirement to licence businesses undertaking work on behalf of public authorities (HL Deb 20 January 2014 c.518).

overall reduction of £0.2 million would be made was based on the fact that individual registration (rather than licensing) would negate the need for multiple licences and licence renewals, generating combined savings of £16.3 million over a ten-year period (Home Office 2012). With individual licensing continuing instead of being replaced by individual registration, these costs would not be saved. ‘As an industry we find ourselves in a state of limbo, whereby companies are attempting to make business forecasts with no ideas of the costs or administrative implications of a new regulatory regime’ (Infologue 2013c). Furthermore, indicative fee structures were not released by the Home Office until December 2013, after acquiring BIS and Treasury approval (SCG 20 May 2013, p.2).

The *Get Business Licensed* Document made no reference to primary legislation, provoking further claims that the government had reneged on original agreements. Industry concerns over the implementation of business licensing had gradually emerged in 2013 with key industry media outlets publishing headlines such as ‘Is the security industry heading for a legislative cliff?’ in March and ‘Has the Government let the security industry down?’ in October (Infologue 2013a; 2013b). The SRA outlined in a letter to the Minister for Business and Enterprise and Minister for Government Policy in October 2013 that:

The new regulatory regime will be good for all businesses, reduce costs, help build a private security industry that is fit to hold the public’s trust, and support the police. However, this will only be the case if all the phases of the new regulatory regime are completed with proportionate powers that allow robust enforcement to be continued. If, as seems possible, an incomplete process without primary legislation is enacted it would be damaging as long as the uncertainty persisted (Infologue 2013c)

Similar concerns were expressed over the duplication and purpose of the voluntary accreditation scheme. Since the inception of the Approved Contractor Scheme (ACS) in 2006, debate had continued over the extent to which this hallmark scheme should exist to raise standards across the whole industry, or whether it exist to differentiate between security providers, with the intention that companies displaying higher standards gain a larger share of the market for security. Whilst low barriers to entry and the broad scoring scheme was designed to encourage as many companies as possible to join, security industry representatives complained about how the lack of differentiation forced ACS companies (even with vastly different scores) to compete on price rather than quality (see White and Smith 2009). Nevertheless, the SIA had gained recognition that it had positively contributed to professionalism within the private security industry. As outlined by one Security Director:

The SIA have done a good job of addressing the quality standards at the base of our sector’s quality triangle. In essence the SIA is delivering the push from below. We now need the collective will to move the industry on from there. We need to create something that will pull companies up that triangle, hopefully regaining the

momentum we had at the very start of regulation ten years ago (Security Director, large PSC, private interview)

The highest performing (and also largest) private security companies expressed the concern that the ACS had eroded the value of professionalism. These worries were prevalent within industry press outlets and annual reviews of the ACS scheme but became more prominent within the post-crisis context in which cutthroat competition has shrunk profit margins across the industry. Without primary legislation, the SIA would retain the responsibility for raising standards within the industry, paradoxically conflicting with the government's view that the private security industry was mature enough to take on greater responsibility for standards.

However, on 27 February 2014, Home Office officials informed the Strategic Consultative Group that the timetable for implementation would be revised, although the enforcement date remained unchanged. Ultimately, the Home Office had failed to obtain the necessary approvals to commence licensing before the end of the 2013/14 parliamentary session (HC Deb 16 October 2013 c.778W). This did not turn out to be the case, with Home Office minister Lord Bates reconfirming in March 2015 that legislation would be introduced 'early in the next parliament' (HL Deb 26 March 2015 c.1529).

This section has illustrated that regulatory reform was prevented by power imbalances between the core executive, who exercised control over the legislative process and granted access to it on the condition that proposals contribute to wider governmental priorities, and the SIA's political coalition whom, apart from their uneven access to the legislative process, were unable to persuade the core executive that reform would not increase regulatory burdens. This was augmented by the low political saliency of business licensing within a de-regulatory political context. In contrast to the SIA's instrumental role within agenda-setting and policy development, its structural separation from this part of the policy making process increased its dependency on the Home Office to make the case for reform. Paradoxically, the implementation of a less burdensome regulatory regime was blocked by the core executive as it was perceived as incremental regulation. However, the alternative method of implementing business regulation through secondary legislation would create a layering of individual and business regulation which would increase the administrative burden upon the industry, whilst not granting the regulator access to more proportionate sanctions. The resulting legislative stalemate and postponement of the implementation date meant that the formal regulatory relationship between the British state and market for security remained fixed under the terms of the Private Security Industry Act 2001.

## 5.4 Regulating Private Investigators

Mr Barr: *So, the bottom line is everybody thinks it is a good thing, but for various unfortunate reasons, nothing has yet happened?*

Mr Butler: *That would be a fair summary.*  
— *Leveson Inquiry, Morning Hearing, 2 February 2012*

This section considers the regulation of private investigators, an issue which achieved significant political salience between July 2011 and July 2013.<sup>38</sup> This section argues that the failure to regulate private investigations despite two high-profile inquiries and a Home Office pledge to commence licensing further serves to illuminate the power imbalance between the SIA, Home Office and central government bodies such as the Cabinet Office and Department for Business Innovation and Skills. At the heart of this failure were the trade-offs between public protection arguments that emphasised how rogue elements posed a threat to individual privacy, and concerns with administrative burdens and curtailing press freedoms, as manifest in debates concerning the definition of private investigators. The issue of licensing private investigators also reveals a contradictory dynamic within the private security regulation in the post-crisis era between pressures to transfer regulatory responsibility to the private security industry (as was the case with the parallel development of business licensing) and pressures to assume greater responsibility for regulating the private security industry (as demonstrated by the Home Office's plans for the licensing of private investigators).

Throughout the post-war period, attempts to regulate private investigators were continuous but abortive.<sup>39</sup> Not only have governments traditionally been 'reluctant to introduce what has been described as a 'licence to snoop' (Gill and Hart 1999, p.249) but proponents of regulation have been unsuccessful in overcoming prevailing perceptions of private investigators and articulating the sector's contribution to society (Gill and Hart 1997a; 1997b; 1997c). During the 1980s and 1990s the political salience of the private investigations waned within the content of a de-regulatory political context, the growth of the wider private security industry, and the relative political power of mainstream security trade associations (Button 1998, p.13). It was only within the context of New Labour's partnership approach to crime and policing – even then only in the 'eleventh hour' - that the regulation of private

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<sup>38</sup> Private investigators perform various functions, mostly relating to the obtaining of information for law firms, insurance companies, newspapers and private individuals on matters relating to court proceedings, fraud, and background and credit checks (HC 100 [2010-12], pp.6-7 see also Button 1998). They have become increasingly integrated within the policing of fraud, both providing and funding criminal investigations (Button and Brooks 2016).

<sup>39</sup> Many Bills have been proposed to Parliament including: Private Investigators Bill 1969; Right of Privacy Bill 1969; Control of Personal Information Bill 1973; Private Detectives Control Bills 1973; Security Industry Licensing Bill 1973; Private Investigators Registration Bill 1984; and Private Security Registration Bills 1977, 1988, 1990, 1992, 1994 (see Button 1998)

investigations was seriously considered and consequently written into the statute books in 2001 as a licensable activity (HC 100 [2010-12], ev.66).<sup>40</sup>

Low political salience and difficulties with reaching a consistent estimate of the size of the private investigation sector impeded the initial implementation of regulation. Initial attempts to ascertain the number of licensable private investigators and understand the nature of private investigations activities between June 2005 and April 2006 were informal and undocumented. Although substantive progress was halted by delays to the publication of a regulatory impact assessment, ostensibly due to the lack of a concrete estimate, the SIA released the results of the competency research undertaken during this period as suggested ‘best practice’ (SIA 2006, p.32). Responses to an August 2007 Home Office consultation provided little clarity on the issue – estimates ranged from zero to over 100,000 – forcing the government to maintain its pre-existing figure of 10,000 (Home Office 2008, p.10). According to the President of the Association of British Investigators, this was an overestimation:

The figure of 10,000 came from my estimate way back before the Act, when I was asked and, in those days, we didn’t have the reliability of databases and internet. Based on the numbers in Yellow Pages, phone directories and those members of various organisations and I said 5,000. So, to justify adding investigators, they said double it – 10,000 (private interview).<sup>41</sup>

This estimate of 10,000 was used within a September 2008 Impact Assessment to determine costs and benefits of the potential regulatory regime (Home Office/SIA 2008, p.2). Concerns with the size of the industry were further highlighted in a June 2010 consultancy report ‘Scoping the Private Investigators Market’ which concluded that the industry consisted of between 500 – 10,000 active investigators (COI 2010, p.11). Furthermore, the report revealed mixed responses to licensing, highlighting resistance to potential costs and questions concerning the effectiveness of regulation (COI 2010, p.11). Notwithstanding this, by March 2009 licensing private investigations became a SIA priority alongside business licensing (HC 100 [2010-2012], Ev 64). In the 2008 consultation, forty respondents supported licensing without competency criteria (with fourteen of these indicating support for a phased transition to competency criteria) however, the government’s preferred option was for SIA licensing

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<sup>40</sup> Schedule 2, Part 1 section 4 of the PSIA 2001 applies to: ‘any surveillance, inquiries or investigations that are carried out for the purpose of: obtaining information about a particular person or about the activities or whereabouts of a particular person; or obtaining information about the circumstances in which or means by which a property has been lost or damaged’. The Act further exempts in-house investigations, crown servants, investigations for market research purposes, investigations by solicitors or barristers for legal purposes, accountants who have professional accreditation, investigation with a view to publication (i.e. journalism/academia), investigation involving open records and investigations conducted with the consent of the subject.

<sup>41</sup> Within the Leveson Inquiry hearings, estimates of the sector ranged between 2,000 and 20,000.



with competency criteria (Home Office 2008, p.15). Support for this phased approach was based on this need to discover the true size of the industry: ‘my advice to the SIA at that time – and I met with the CEO and the Chair – was the SIA needed to find out who they are dealing with, who the investigators are, where they are, what they do, before they even start thinking about implementing competency tests’ (President Association of British Investigators, private interview). Nevertheless, implementation was postponed in September 2009 due to practical constraints such as the lack of available training and qualifications (to support competencies), resource constraints (from the re-tendering managed service provider), and Home Office requirements for an updated Impact Assessment. With Home Office endorsement, plans to implement licensing in 2011/12 were included in the SIA’s October 2009 Corporate and Business Plan and a launch date scheduled in February 2010 with an enforcement deadline in 2011. Progress towards actual implementation was then halted in turn by pre-election Purdah, the Public Bodies Review and, ultimately, regulatory reform in the private security industry (HC 100 [2010-12], Ev.64).

Even in the absence of statutory regulation, private investigators operate within a fragmented regulatory landscape (see Button 1998, p.3). The potential to breach data protection laws, such as section 55 of the Data Protection Act relating to the unlawful obtaining, disclosure and selling of personal data, means that the activities of private investigators falls under the multifarious, but limited remits of the Information Commissioner, Chief Surveillance Commissioner and the Interceptions of Communications Commissioner (Home Office 2013, p.5). Offences related to the misuse of personal data further come under the Regulation of Investigatory Powers Act 2000 and the Computer Misuse Act 1990 and the activity of ‘blagging’ could be punishable under the Fraud Act 2010 (Home Office 2013, p.7). Self-regulatory regimes also exist alongside these statutory frameworks. Professional associations, such as the Association of British Investigators (ABI) and the Institute of Professional Investigators (IPI) require criminal checks, certain qualifications, insurance, and adherence to professional code of ethics as conditions of membership.

This issue of statutory licensing, however, was thrust back onto the political agenda in July 2011 when it emerged that the voicemail messages of murdered schoolgirl Milly Dowler had been accessed and deleted by journalists and a private investigator employed by the News of the World newspaper. An intense backlash to these events prompted the formation of two high-profile public inquiries, one by the Home Affairs Select Committee into private investigators (February - July 2012) and a wider judicial public inquiry into the culture, practices and ethics of the press, chaired by Lord Justice Leveson (September 2011 – November 2012). The predominant narrative sustained throughout these inquiries, and buttressed by negative media coverage of the sector, was that ‘rogues’ within the private investigation sector were illegally obtaining and selling private information, posing a threat to

individual privacy and the commercial interests of the ‘professional’ industry. For example, during these inquiries a 2008 report by the Serious and Organised Crime Agency emerged which indicated that a ‘rogue element’ of the sector had been involved in deleting intelligence records, trying to discover the identity of informants and attempting to discover the locations of witnesses and providing this information to criminal groups (SOCA 2008). These problems were augmented by the growing integration of the private investigations sector into the criminal justice system, especially within fraud investigation (Home Office 2013, p.8). The 2008 SIA impact assessment further listed the risk profile of the private investigations sector as including: ‘blagging’ or accessing data through unlawful means; breaching individual privacy; using intimidating behaviour; lacking relevant skills or training; and not providing services (Home Office/SIA 2008). Support from the major industry associations was based on the need to tackle this rogue image. For instance, in an interview to Channel 4 News, Beverley Flynn of the World Association of Private Investigators (WAPI) explained the importance of regulation for the private investigations industry:

I think it legitimises us as an industry. We are a professional body of people and we are not always seen as that. We have many hardworking investigators who spend many hours working gaining qualifications, working in their profession doing good for the public and that’s not always recognised – it’s always the rogue element that is brought out - and I think to be recognised as a professional body of people is excellent (Channel 4 News 2013).<sup>42</sup>

Whilst there was consensus on the necessity of regulation, there was considerable disagreement over the potential structure of the regulatory regime. Support for the statutory regulation of businesses over individual licensing from the large private investigation companies in the UK was based on the argument that the cost of individual licensing would be too burdensome (HC 100 [2010-12], Ev.20). Nevertheless, issues were raised with the wording of the Private Security Industry Act and how it could be extended to sectors which posed no threat to public safety such as professional headhunting (HC 100 [2010-12], ev.74-76). Alternative regulatory structures suggested by the WAPI included licensing through the Tribunals, Courts and Enforcement Act 2007 (HC 100 [2010-12], ev.73). The ABI suggested that its self-regulatory model, touted as more robust than the system proposed in the PSIA, should be adopted as the model for wider regulation of the private investigations sectors, a move which would support its application to be a Chartered Institute (HC 100 [2010-12], ev.67). The necessity of facilitating professional self-regulation within a robust statutory

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<sup>42</sup> The importance of regulation for the legitimation of the sector is congruent with the conclusions of Thumala *et al.* (2014) and White (2010) on the legitimation concerns of the wider private security industry.

framework was further highlighted by the Information Commissioner Christopher Graham on the basis that self-regulation alone was ineffective (HC 100 [2010-12], ev.6).

SIA Chief Executive Bill Butler indicated the SIA's willingness to regulate private investigations within both hearings (Leveson Inquiry, 2 February 2012a, p.102). Underpinning this was the claim that the SIA already had the legal authority to regulate the private investigations sector and that it fell within its public protection mission. This was tempered with the caveat that the definition of private investigations be revisited to avoid capturing other professionals (such as lawyers and journalists) within the regulatory regime in order not to impose any undue, and that private investigations be incorporated into the SIA's wider business licensing agenda (See HC 100 [2010-12] ev.53; Leveson Inquiry, 2 February 2012, p.106). Certainly, according to one SIA board member, business licensing was needed to enhance the SIA's capacity to police this sector: 'If you don't have business licensing, how on earth – quite apart from the definition of what a private investigator is, is it a journalist or a lawyer or just someone with soft shoes and funny coat? Quite apart from that definitional problem, how are you going to manage it without corporate line of sight?' (SIA Board Member, private interview). What also emerged from Bill Butler's evidence was that regulation was also dependent upon the establishment of accredited courses, the training of trainers and the roll-out of training to private investigators, elements which the SIA depended on other actors for (BBC News 2012).

The July 2012 Home Affairs Select Committee Report recommended 'the introduction of a two-tier system of licensing of private investigators and private investigations companies and registration of others taking investigative work'. Registration would apply to in-house investigations carried out by employees of insurance companies and legal firms (HC 100 [2010-12], p.23). It further recommended that private investigation companies and their employees be governed by a Code of Conduct and that a criminal record for a breach of section 55 of the Data Protection Act should disqualify an individual from operating as a private investigator. This latter recommendation was taken from the 2006 Information Commissioner's Office report *What Price Privacy?* (HC 1056 [2006], p.30).<sup>43</sup> Although the Leveson Inquiry did not report directly on private investigations per se, Lord Justice Leveson pledged support for a regulatory regime during the hearings: 'nothing I have heard in the last

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<sup>43</sup> Section 55 of the Data Protection Act 1998 creates two offences: A person must not knowingly or recklessly, without consent of the data controller: (1) obtain or disclose personal data or the information in personal data; or (2) procure the disclosure to another person of the information contained in personal data. Proceedings for section 55 criminal can be brought by the Information Commissioner's Office (ICO) or by the Crown Prosecution Service. The ICO can impose fines of up to £500,000 for serious breaches of the Data Protection Act and is possibly set to receive more punitive sanctions under the EU Data Protection Regulation in 2018. Commentators have criticised the existing data protection regime on the basis that imposed fines for breaches of the Act are generally low i.e. under £5000 (Button and Brooks 2016, p.225).

three months persuades me other than the view that this is an industry that does require regulation, and I don't believe, simply on the basis of what I've heard today, that it could be a self-regulatory model, given the fractured nature of the associations that are involved in it' (Leveson Inquiry 2 February 2012 p.110).

Accordingly, in July 2013, the Home Office announced plans to introduce a new system of regulation for private investigators to protect the public from unscrupulous activity. Interestingly, the Home Office's proposal was to commence the existing provisions within the PSIA 2001 making it a criminal offence to operate as a private investigator without a licence. In this sense, the Home Office adopted the traditional command-and-control style approach in which individuals would have to undergo criminal and identity checks, complete training and obtain an SIA-accredited qualification in order to obtain a licence. Operating as a private investigator without a licence or supplying unlicensed investigators would elicit a fine of up to £5,000 and up to six months in prison. This decision reveals an interesting and even contradictory dynamic where against the backdrop of transferring greater regulatory responsibility to the private security industry, the British state has sought to assume greater responsibility for regulating the private security industry, reverting to command-and-control regulation (the commencement of licensing underpinned by criminal sanctions).

However, press groups, such as the Chartered Institute of Journalists expressed concern with proposals to regulate private investigators citing the fear that 'legislation may be used in the future to interfere with the free flow of information which should be part of any democratic society' (Chartered Institute of Journalists 2013). Such debates have created further constraints on the implementation of licensing, making it difficult for the Home Office or SIA to develop a public protection argument for regulation in fear of placing undue burdens and curtailing freedoms. This difficulty in distinguishing between private investigations and investigative journalism in building a regulatory framework was raised by the Home Office during a November 2013 Board Meeting (SIA Board 28 November 2013, p.9). Nevertheless, at the 2013 Stakeholder Conference the Home Office minister responsible for the SIA, Lord Taylor indicated that licensing would be implemented in 2014 (Taylor 2013). This difficulty in distinguishing between private investigations and investigative journalism in building a regulatory framework was raised by the Home Office during a November 2013 Board Meeting (SIA 2013, p.9). By January 2014, whilst detailed policy regarding private investigators had been approved by the responsible minister, statutory instruments still required formal approval from the Home Secretary (SIA Board 14 January 2014, p.4). Despite plans to rollout licensing in October 2014, this did not turn out to be the case, with Home Office minister Lord Bates stating in March 2015 that legislation would be introduced 'early in the next parliament' (HL Deb [2014-15] vol.760 c.1529). Ultimately, private investigations regulation suffered the same fate as other sectors. As indicated by one SIA Board Members: 'So, we believed Theresa

May was strongly in favour, however, departmentally it was seen as incremental regulation' (SIA Board Member, private interview).

In sum, this section has traced the failure to regulate private investigations despite two high-profile inquiries and a Home Office pledge to introduce statutory regulation to protect the public from private investigators. This section has further served to illuminate the power imbalance between the SIA, Home Office and central government bodies such as the Cabinet Office and Department for Business Innovation and Skills who stalled this as part of the wider restructuring of private security regulation. It would appear that continual failure to regulate private investigations has been due to tensions between public protection arguments that emphasised how rogue elements posed a threat to individual privacy, and concerns with administrative burdens and curtailing press freedoms, as manifest in debates concerning the definition of private investigators. In this respect, the core executive has not only exercised a veto over the restructuring of private security regulation, but also its extension to new areas of the private security industry in the post-crisis era.

### **5.5 Conclusion: Institutional Stability**

This chapter examined the political developments between the Home Office consultation in November 2012 and the postponement of the implementation of these proposals in February 2014. It argued that the Cabinet Office and Department for Business Innovation and Skills had effectively exercised a veto over the reform of private security regulation. It made three key points. Firstly, it highlighted how institutions within the core executive have gradually centralised control over the regulatory policymaking process through the use of (i) regulatory impact assessments and one-in-two-out policies to assess the merits of proposals (ii) the implementation of a moratorium on all new regulations affecting small and micro-businesses, and (iii) the strengthening of institutions designed to achieve reductions in administrative burdens such as the Regulatory Policy Committee. Moreover, the core executive possessed key legislative resources, such as control of the parliamentary agenda, and made access to these conditional on meeting deregulatory targets. It further highlighted how the Coalition government has sought to reduce the scope of state intervention into economy (under the rubric of reducing regulatory impact) and sought to delegate greater responsibility for regulatory delivery to the market and third sector. In this respect, it has been possible to identify a dual process of fragmentation (or decentring of power) and consolidation (a recentring of power) within the post-crisis era.

Secondly, it examined the impact of these reforms on the phased transition to a new regulatory regime for the private security industry. It highlighted how the Security Industry Authority's formal separation from the legislative process and its dependence upon the Home

Office to make the case for business regulation significant constrained its political agency (cf. Maggetti 2009, p.466). This chapter has shown that as early as Autumn 2011, the SIA advocated a phased approach to regulatory reform in which business licensing would be implemented initially by commencing existing regulations (in fact those parts amended in 2010 before the change in government) and then primary legislation would later be passed to change the legal status of the regulator, grant it more proportionate sanctions and formally transfer greater regulatory responsibility to private security companies. Nevertheless, this attempt to layer business licensing upon the existing system was resisted on the grounds that it would increase administrative burdens and perpetuate the existing sanctions gap as the SIA would be limited to refusing, revoking and suspending business licences. Ultimately, the postponement of business licensing in February 2014 demonstrated the relative weakness of the SIA, Home Office and private security industry within the regulatory policymaking process. The strength of the core executive's veto and the subordination of public protection arguments to economic considerations was further highlighted by the inaction on private investigators, despite its high political saliency between 2011 and 2013. The issue of private investigations further highlighted a contradictory dynamic where against the backdrop of transferring greater regulatory responsibility to the private security industry, the British state has sought to assume greater responsibility for regulating the private security industry, reverting to command-and-control regulation (the commencement of licensing underpinned by criminal sanctions).

Third, this legislative stalemate created the conditions for institutional conversion which will be considered in the next chapter. For the core executive had essentially blocked an authoritative change to the PSIA 2001, thus perpetuating the dissonance between the PSIA 2001 and its broader environment. In this respect, this chapter marks an important bridging point between processes of formal institutional change (and stability) and the processes of hidden change which this thesis now turns to.

## 6. Conversion

**More than just a regulator.** A long time ago we stopped being a regulator that simply issued licences, raised industry standards and maintained the Approved Contractor Scheme. While we continue to focus on these activities, we have become increasingly involved in supporting police in their efforts to identify and disrupt serious and organised crime and we're engaging regularly with businesses, and licensed operatives, to deliver the wider safeguarding agenda. This includes initiatives associated with violence reduction, child sexual exploitation, modern day slavery and protecting vulnerable people

— Ed Bateman, SIA Deputy Director, SIA Blog 16 August 2017

### 6.1 Introduction

Between 2008 and 2014, the Security Industry Authority had sought to enhance its capacity to effectively to perform its core regulatory mission within the context of increasing legal, regulatory and resource constraints by seeking adjustments to its formal jurisdiction. In particular, the SIA perceived that extending its formal jurisdiction over private security companies (who were omitted from the PSIA 2001 to avoid the imposition of regulatory burdens) would enable it to more effectively and efficiently target its regulatory activities. Certainly, this strategy needs to be understood within the context of increasing legal, regulatory and resource constraints imposed by core executive as well as concurrent demands for credible regulation from the private security industry. The previous chapters traced the SIA's pursuit of business regulation which culminated in the postponement (or veto) of business licensing plans in February 2014. This chapter traces the evolution of UK private security regulation between 2014 and 2018. It examines the puzzling redirection of the Private Security Industry Act 2001 from its original intention of protecting the public *from* private security to protecting the public *with* private security. This redirection has been characterised by the increasing orientation of private security regulation towards enabling and empowering the private security industry to contribute to public policing objectives as well as the role that the SIA is playing in facilitating the penetration of the private sector into public policing. This chapter argues that these dynamics can be explained with reference to the SIA seeking to effectively perform its regulatory mission in the context of increasing legal, regulatory and resource constraints *in the absence of formal regulatory reform*. In this respect, the SIA has sought to negotiate these increasing constraints by supplementing its limited formal responsibility with the informal authority gained from more collaborative and networked regulatory processes. Unable to protect the public and raise standards by imposing minimum requirements on businesses and raising minimum requirements for individuals (i.e. by

exercising a ‘push from below’), the SIA has sought to protect the public and raise standards by encouraging, influencing and incentivising private security companies and officers to adopt higher standards themselves (i.e. exercising a ‘pull from above’). The SIA has therefore paradoxically, sought to protect the public from private security by protecting the public with private security. This chapter further argues that these changes in strategy need to be understood within reference to the unintended consequences of the PSIA, changing environmental factors, and the changing coalition dynamics. This chapter traces the hybridisation of private security regulation between the February 2014 postponement of business licensing and the publication of the Home Office Review of the SIA in June 2018. Section 6.2. emphasises the change in SIA’s strategy and interprets it as an attempt to distance itself from the protracted debates surrounding business licensing. However, it highlights how the SIA’s still intended to shift greater responsibility to the private security industry in order to enhance its effectiveness within the context of persistence legal and regulatory constraints. Crucially, this section highlights how the SIA has reinterpreted the terms of the PSIA 2001, especially relating to standards. This section further traces three dimensions of the SIA’s strategy after 2014. Section 6.3 contextualises this change in the SIA’s strategy highlighting the importance of environmental and coalitional changes during this period. Section 6.4 concludes the chapter, linking these empirical dynamics back into the overarching ‘hybridisation’ thesis.

## **6.2 ‘Moving Forward’**

This section traces the evolution of the SIA’s regulatory strategy after 2014. It makes three key points. First, it emphasises a change in the SIA’s regulatory mission after 2014. This was characterised on the SIA focusing less on reforming its limited formal authority and more on supplementing its formal authority with the informal authority gained from more collaborative and networked practices. Second, it highlights how the SIA reinterpreted its mandate relating to standards to facilitate these more collaborative practices. This section therefore provides an important analytical step in the redirection of the PSIA 2001 in the post-crisis era. Third, it examines the redirection of the PSIA 2001 and explains this redirection with reference to the SIA attempting to negotiate its legal, resource and regulatory constraints in order to perform its mission well.

In February 2014, the Home Office announced to the Strategic Consultative Group that although the proposed April 2015 enforcement date remained open – subject to a commitment to allow at least six months between the rollout and enforcement dates – the rollout date of April 2014 had been postponed. This announcement is important because it marks a turning



point in the SIA's regulatory strategy. As highlighted in the previous chapter, industry frustration over the lack of reform had, by and large, been directed to central government departments, as illustrated by the BSIA Chief Executive's open letter to the Minister for Business and Enterprise and the Minister for Government Policy (Infologue 2013c). However, it is evident within the minutes of various SCG meetings that continuing delays were beginning to affect the SIA. For instance, it was noted in the February 2014 SCG meeting that 'the fact that constant delay and uncertainty is seriously undermining confidence within the industry, affecting the credibility of the SIA, the Home Office and the SCG' (SCG 27 February 2014, p.1). Similarly, minutes from the following meeting in July 2014 indicated that 'industry representative made clear their continuing serious frustration with the lack of progress and the impact of uncertainty on businesses.' (SCG 28 July 2014, p.2).

Under new leadership, the SIA began to distance itself from protracted debates over business licensing.<sup>44</sup> As part of this departure from business licensing, the SIA disbanded the SCG in October 2010. This move was reflected upon by the SIA Chair, Elizabeth France: 'I inherited a very frustrated industry who had been attending a strategic group that thought it was advising on changing the law and when that didn't happen it was very difficult and frustrating, and we decided to end it – clean cut – and wait' (SIA Chair, private interview). Evidently then, this need to avoid the reputational consequences of the industry's frustration was a clear factor in the SIA wanting to 'move forward'. In its place was established a 'Strategic Forum', comprised of a broad range of stakeholders, including security associations, the editors of the main industry media outlets as well as individual licence holders and buyers.<sup>45</sup> This distancing tactic was particularly evident within the SIA's October 2014 stakeholder conference which was aptly entitled 'Moving Forward'. In her keynote speech, the SIA Chair Elizabeth France recognised the time, money and effort that the private security industry had invested in planning for business regulation and acknowledged the frustration and disappointment over the lack of reform. However, she also sought to close the business licensing debate and open a new chapter in the regulatory journey:

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<sup>44</sup> This period marked significant change within the SIA leadership, with Geoff Ziedler, the immediate past chair of the BSIA joining the SIA Board as a member 'with industry experience' in December 2013; Elizabeth France, a former Home Office civil servant, Information Commissioner and Chief Ombudsman taking over as SIA Chair in January 2014; and Sir Ian Johnston, an ex-Metropolitan Police Assistant Commissioner and Director of Security for the London Organising Committee for the Olympic and Paralympic Games (LOCOG), joining in February 2014. Dr. Alan Clamp, the former Chief Executive of the Human Tissue Authority would also later replace Bill Butler as Chief Executive in June 2015.

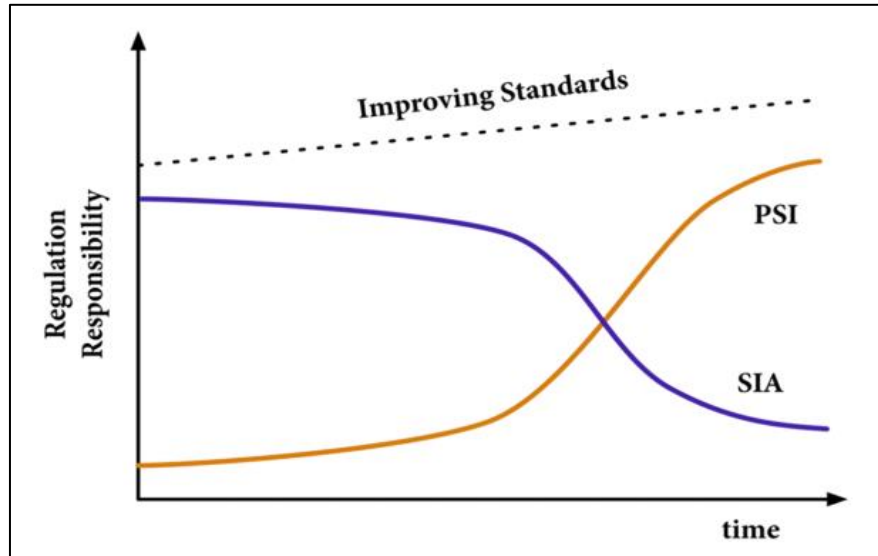
<sup>45</sup> This restructuring of the SIA's supportive coalition – and the incorporation of a wider range of stakeholders more oriented to the SIA's emerging networked approach - coincided with the waning of the Security Regulation Alliance and the creation of a Security Commonwealth by the Security Institute to take the lead on matters of professionalisation.

Business licensing is now a Government matter. We at the SIA are creatures of statute. We must work to the legislation provided for us, and we cannot work without proper legislation or powers. We have done everything we can to prepare for business licensing, the SIA and industry stand ready for business licensing, as and when we have the legislation. However, the SIA and industry cannot stand still and wait on business licensing – together we have to move forward... We will be audacious with the powers we already have. We will continue to move forward, to deliver the most effective regulation possible, to protect the public and support legitimate businesses (France 2014)

This was accompanied by a formal revision of the SIA's mission and vision. Between 2008 and 2014, the SIA had sought to cultivate a 'streamlined' regulatory mission focused on achieving its statutory objectives of reducing criminality and raising standards while achieving regulatory efficiencies (White 2010, p.162). Crucially, the SIA sought to achieve these goals through direct intervention within the private security industry, as evidenced in its mission: 'to regulate the private security industry effectively, to reduce criminality and recognise quality service' (HC 79 [2008-09]; White 2010, p.162). By contrast, the SIA revised its mission in December 2014 to 'to hold the private security to account for continuously improving standards in order to protect the public (HC 1088 [2015-16]). Interestingly, this mission was released for public consultation in as part of the draft Business Plan 2015/16, the first instance of this happening.

Certainly, changes to public agencies' mission statements reflect changing priorities, values and objectives (Boin et al. 2017, p.6). However, there is one particularly noticeable feature of this new mission. The SIA envisaged a more *indirect* role for itself within raising standards, with greater responsibility transferred to the private security industry – the set of regulatory arrangements that business licensing was meant to promote (see Figure 5). This continuity was raised within its draft Business Plan: 'Our aspiration for the development of regulation and the industry since 2010 has been that businesses should take on greater responsibility for ensuring the standards operated in the industry, in an environment where those standards will continue to improve over time' (SIA 2014, p.3). In this respect, this change can be interpreted as the SIA seeking to enhance its capacity to achieve its public protection objectives in the context of increasing legal, regulatory and resource constraints and *in the absence of formal regulatory reform*.

**Figure 5: 'The SIA's Vision'**



**Source:** SIA (2015) *Business Plan 2015/16 and Corporate Plan 2015-18*, p.7.

Another factor in this change in regulatory mission has been the SIA's reinterpretation of its statutory mandate, particularly relating to standards. This reinterpretation was facilitated by ambiguity in the PSIA 2001, as articulated by SIA Chair, Elizabeth France:

My phrase which I use frequently is: if you are a creature of statute, the key is to understand your statute and understand where you can be bold in applying it. Sometimes when you've been in an arms-length body that has a statutory framework for a long while, you get used to doing things as you do them and when someone comes along and says: 'can't we do such and such' you say 'I don't think we can' and you ask your policy team and lawyers to look and they say 'actually we could do that'. So, the best bit of our act is the bit that says we have a duty to raise standards as that gives you some scope - it doesn't dot I's and cross t's as to what that means. So, we can look at reviewing the ACS scheme, we can look at reviewing the training standards without having to go back to ministers and say we need you to change our primary legislation. (SIA Chair, private interview).

Section 2(e) of the PSIA 2001 states that one of the functions of the SIA shall be 'to set or approve standards of conduct, training and levels of supervision by adoption by (i) those who carry on businesses providing security industry services or other services involving the activities of security operatives; and (ii) those who are employed for the purposes of such businesses.' Certainly, the original intention of this provision was to protect the public by raising standards to an acceptable minimum within the private security industry (see White and Smith 2009, p.33). Reinterpreting this responsibility to raise standards have been used not to ensure that all private security companies and individuals meet a legally-defined minimum standard – the absence of business licensing meant that the SIA lacked jurisdiction over the former and increasing constraints from the Better Regulation agenda meant that the SIA faced restrictions on the latter – or to exercise a 'push' from below. Moreover, there was a clear idea

within the SIA that it was not the SIA's responsibility to continually raise minimum standards. This was articulated by the SIA Chief Executive Alan Clamp: 'I don't think we would want those bars to be too high as a barrier of entry to the industry, we would want to encourage people to go beyond that, but it's probably not the job of a national regulator to do that, certainly not a government-sponsored regulator' (private interview). Rather the SIA, has sought to raise standards by adopting a more aspirational strategy designed to motivate and encourage the private security industry to continuously improve. Whereas the former strategy relies primarily on the use of hard regulatory tools to raise standards below the line— such as licences, inspections, and prosecutions, the latter strategy focuses on developing softer non-legal mechanisms, such as training, workshops, and voluntary arrangements to continually raise standards above the line (see Braithwaite, Makkai and Braithwaite 2007, p.322). The consequence is that the SIA has reinterpreted this provision to exercise a 'pull from above' as highlighted by Alan Clamp:

So in the detail of the Act it talks about us having a responsibility to raise standards, *so we try to have a pull effect as well as a push from below*, but as you get further and further above that standard of entry, you could argue, and what we generally have at the moment is a government that is not too keen on regulation that that is not the role of a regulator, but perhaps of the industry itself. An example I'd use there would be something like the GMC in medicine: the GMC will be keeping an eye on the quality of the work of doctors at a certain level, but actually most doctors are members of Royal Colleges which require higher standards and extra qualification and training, so we are very much in that space and we need to work in partnerships with others, such as trade bodies and so on and probably where we've got more work to do is to promote the benefits of high standards (private interview)

It is possible to see that the aim of these more aspirational strategies has been to promote continuous improvement within the industry with the aim of formally – *but not legally* – transferring the SIA's responsibilities for raising standards to the private security industry. This is evident within the SIA's vision – of sharing regulatory responsibility in order to reduce the responsibilities of the regulator – and within the following remark by the SIA Chair:

This is all about being imaginative with what we can do because we've got the ability to look at training, to look at best practice – obviously we don't someone's licence away from them, but we can influence, help and improve. Obviously, you've seen our graph which says we want the industry to grow in maturity, so we do less, but we have to help them grow to maturity and I think it's that sort of way we can signal that (private interview)

There are three key ways in which the SIA has 'influenced, helped and improved'. First, the SIA has focused greater attention on enabling and empowering private security officers to contribute to public protection through sponsoring specialised training and awareness events. Second, the SIA has broadened its activities beyond the direct regulation of the private security industry to include more indirect roles such as steering, coordinating and facilitating

regulatory networks relating to safeguarding, counterterrorism and violence reduction. Third, the SIA has played a central role in brokering public-private policing partnerships, in particular, the Police and Security Initiative. This section now moves on to examine these strategies in greater depth, arguing that the consequence is that in the post-crisis era, the PSIA 2001 has been progressively redirected from its original intention of protecting the public *from* private security towards the goal of protecting the public *with* private security:

So, our approach now, and the approach of our partners, is not so much about protecting the public from private security, it's enabling the private security industry to protect the public. So that's quite a different concept. Although the end goal is public protection, the means to get there is quite different. It's not let's shield the public from these dreadful people who do security work because they might be criminal and might be dangerous - though there's a legacy argument that that is still true. Standards have been raised sufficiently to pose the question differently and say there's a great resource there – 300,000 people working through 4,000 businesses that can be used effectively to protect the public and yes there's a point about UK PLC and the growth of the sector and its importance financially, but beyond finance it's got a role in law and enforcement itself of working with the police and others to keep the public safe. And the regulator has got a big part to play in that because if the police and private security are going to work together effectively, there needs to be trust and confidence, and to get that good regulation is quite an enabler (SIA Director of Partnerships and Interventions, private interview).

#### *Sponsoring training and awareness events*

First, the SIA has placed a greater emphasis on information, training and sponsored events. The SIA's work within counterterrorism and national security has been characterised by softer strategies that rely on collaboration, information and education, as elaborated by the SIA Deputy Director of Partnerships and Interventions: Our approach to Counter Terrorism (CT) has a number of components. Some of the broad themes of activity are communication, intelligence sharing, and training and qualifications (SIA 2016).<sup>46</sup> For instance, the SIA has piloted 'document awareness' training sessions to some ACS companies in partnership with the National Counter Terrorism Security Office. This training involved teaching screening and vetting staff from ACS companies to identify false or altered identification 'as well as gaining an understanding of the importance of false identities to criminals and terrorist groups' (HC 744 [2016-17], p.14). Effectively, the SIA is adopting a facilitative role, ensuring that ACS companies have the processes in place to prevent and disrupt terrorism and organised crime themselves. Regional teams have begun work with local Counter Terrorism Security Advisers

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<sup>46</sup> This work has been facilitated by the changing relationship between the private security industry and the public, and its position as the 'eyes' and 'ears' of the police – as demonstrated by the June 2017 London Bridge attacks and recognised by Lord Harris' (2016, pp.44-5; p.53) report on London's preparedness to respond to a major terrorist incident

to deliver awareness briefings across the UK and encourage attendance at Project Griffin and Argus training. Project Griffin is a national counter-terrorism awareness initiative for businesses designed by the NaCTSO aimed at guiding individuals and businesses on how to recognise, report and respond to terrorist activity. Project Argus assists businesses to identify measures to help their organisation prevent, manage and recover from a terrorist incident. Furthermore, the SIA appears to have sought legal advice to ascertain whether it could directly provide specialised voluntary counter-terrorism training to improve standards (SIA Board 18 January 2018; p.3; 22 February 2018, pp.7-8). It has further promoted the ‘You can Act’ counter-terrorism awareness training, the aim of which is to promote awareness and share best practice amongst private security officers. Alongside sponsoring and delivering training and industry awareness, the SIA has also acted as a networked node, brokering information flows between state security institutions and the private security industry: ‘We routinely receive and pass on critical messages from UK CT Policing. We do this either specifically to the 14,000 subscribers to our SIA Update and ACS Update newsletters, or more generally via our website and to our 27,000 social media followers’ (Bateman 2017). The SIA also distributes relevant material relating to safeguarding and modern slavery.

#### *Facilitating Networks*

Second, the SIA has also brokered multiple and overlapping networks of public and private actors oriented towards the achievement of public protection objectives. With the limited capacity to independently raise standards and promote industry contributions to the broader public protection agenda, the SIA has facilitated inter-agency workshops to enrol the resources and capacities of third parties. Since 2014, the SIA has launched several initiatives aimed at communicating broader policing goals relating to safeguarding and violence reduction to private security contractors, and equipping them with the knowledge, training and skills necessary to identify, report and deal with such incidents. In this sense, the SIA’s achievement of this broader public protection agenda has relied on connecting and convening broad networks of actors and organisations with the knowledge, resources and capacities to achieve these ends.

Certainly, in the first sort of ten years of the SIA we just dealt with [intervention] cases. This was our bread and butter. Sometimes we would meet with companies but other than that cases would come through and we would investigate and deal with them. I suppose now we have more of a dual remit as we have the cases and then we have a regional plan of what we’re going to do in the region with our partners and a lot of that will be promoting violence reduction initiatives, counter-terrorism, and safeguarding (SIA Official, Partnerships and Interventions, private interview)

The SIA has not sought to solve these issues independently or primarily through the application of its statutory powers but by creating inter-institutional linkages and facilitating

deliberation between actors and institutions best placed to solve these cross-cutting governance problems. Though broader Home Office objectives filter through into SIA regional priorities, they do not stipulate how to achieve them. Several initiatives have been developed independently from the Home Office, frequently arising from interactions between individual SIA officials and their various networks (SIA Official, Partnerships and Interventions, private interview). The SIA's participation within this local CSE network began with the attendance of an SIA investigator at the Nottinghamshire Authorities Licensing Group in 2015. The initiative in Nottingham involved local authorities raising awareness of child exploitation and vulnerability amongst licensed security operatives through the distribution of advice cards on how to identify and report potential CSE incidents (SIA 2016b). The SIA has rolled out a series of nationwide child sexual exploitation (CSE) events in partnership with the Barnardo's and the Children's Society to raise awareness of exploitation within the private security industry. There have involved a diverse range of actors including local authorities, police units, the Gambling Commission, and the NHS. A key aim of these workshops has been to promote information sharing between the private security industry and the police, as well to designate CSE safeguarding roles within private security companies. Likewise, within the area of violence reduction, the aim of these workshops has been to bring together relevant stakeholders, such as the police, private security industry and training bodies to discuss local initiatives, share experiences and good practices, and developed shared understandings of problems (such as that violence reduction also includes reducing violence against private security contractors).<sup>47</sup> In this sense, the SIA has sought to draw on the knowledge and capacities of stakeholder groupings in the strategic steering of the private security industry (Wood and Shearing 2007, p.142). It has also used softer mechanism such as information and guidance to promote best practice. For instance, the SIA has provided inputs into a wider multi-agency guidance on CSE for professionals working in the night time economy (The Children's Society 2018). SIA Investigations Officers further hand out small 'z cards' assisting security operatives in identifying, reporting and preventing child sexual exploitation, and meet with private security companies to check whether appropriate safeguarding measures have been put in place.

Alongside hosting inter-institutional workshops, facilitating public-private collaborations, promoting external counter-terrorism training packages, and incorporating terrorism awareness training into the ACS standard, the SIA has sought to communicate to policing partners and the public how the private security industry contributes to counter-terrorism, especially through press releases:

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<sup>47</sup> These sessions focus on physical interventions skills, weapon search skills, and identifying vulnerable people and people at risk of sexual exploitation and hate crime.

The SIA is working with enforcement and security agencies and with the security industry to make communities safer from terrorism. One way in which we can do this through the Approved Contractor Scheme (ACS), which certifies that businesses that are part of the scheme have met the agreed standards. A security business frequently has professional, trained staff working in locations which may be a target for a terror attack- therefore they can offer an informed response in a crisis to ensure public protection. (SIA 2016)

This activity was also present within the SIA's growing equality and diversity agenda: 'While it is for the industry to take ownership of encouraging career progression in the sector and building a business culture that attracts more diverse candidates, we are ready, as a regulator, to work with the industry to identify ways in which we can facilitate this change; a change we are confident will contribute to raising standards' (SIA Update June 2015). Research revealed that only 9% of private security contractors are female, which is lower than in the police or armed forces, and that only 2% have physical disabilities, despite only the door supervision role requiring physical intervention training (SIA Update June 2015). Whilst there are no statutory tools at the SIA's disposal to compel change within the industry, the SIA has supported more positive mechanisms, such as awards ceremonies to promote greater inclusivity within the industry, hosting a seminar to promote discussion and debate on the topic and potential solutions, and commissioning research into how having a disability affects performance of certain security roles.

Nevertheless, some of these collaborative initiatives have been reinforced with hard regulatory actions. Alongside promoting voluntary harm reduction measures, and facilitating deliberation between affected parties, the SIA has deployed its regulatory levers, setting standards for individuals and businesses which contribute to violence reduction and targeting high risk venues with inspection activity. The SIA has further used its statutory power to amend training and competency requirements to ensure that private security contractors have training in safeguarding and violence reduction. The SIA have also been proactive within the Modern Day Slavery agenda, not only sponsoring third-party initiatives such as the 'Stop the Traffik app' (which private security contractors can use to provide information to authorities about suspected human trafficking) but also utilising its capacity to set standards by introducing mandatory vulnerability training for door supervisors, developed in partnership with Northumbria police, and capacity to prosecute offences under the PSIA 2001 as it successfully did in February 2014 against a guarding company suspected of committing a number of immigration and PSIA offences (SIA 2014, p.9).<sup>48</sup> The SIA also suspended the

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<sup>48</sup> This instance was the first time that a custodial sentence had been imposed by the courts for offences under the Private Security Industry Act. The SIA training module for door supervisors was introduced in November 2013 and covers: identifying vulnerable people; understanding the risks to vulnerable



licence of a security guard charged with indecent exposure at a public swimming pool, a regulatory decision which was later upheld by the courts after an appeal (SIA 2018).<sup>49</sup>

### *Brokering Public Private Partnerships*

The SIA has also been present within brokering public-private policing partnerships. One illustrative example is the Police and Security (PaS) initiative. The Police and Security initiative emerged as a multi-agency collaboration between the BSIA, the London Mayor's Office for Policing and Crime (MOPAC) and other stakeholders to improve collaboration, coordination, communication and trust between the metropolitan police and private sector partners, as well as to support the delivery of MOPAC's Business Crime Strategy. The 2014-16 Business Crime Strategy emphasised the importance of public-private policing partnerships in the context of police budget cuts, the continued threat of terrorism, and the underreporting of business crime (MOPAC 2014). The Police and Security initiative is better understood as a broad governance network consisting of over 400 stakeholders, some already involved in existing initiatives and collaborations, and coordinated by small steering group consisting of public, private and third sector actors including the SIA.<sup>50</sup>

In the absence of hierarchy, successful networked interactions rely on diplomacy, information and trust (Kooiman 2003). However, in the policing landscape, public-private interactions have traditionally been characterised by fragmentation, competition and mistrust (Crawford *et al.* 2005). An initial PaS consultation revealed that barriers to trust and effective information sharing still existed between the police and private security contractors, hindering successful partnerships (PaS 2015). This was corroborated by research revealing that senior police officers hold mixed attitudes towards the private security industry (Gill 2015). In fact, negative perceptions of the private security industry are ingrained within all levels of the police with a recent study indicating that a high percentage of police officers were sceptical of the private security industry's role in public protection and their capacity for partnership working (Gill and Mawby 2017).<sup>51</sup> The SIA was established as the lead organisation on the

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people being ejected from, or refused entry to, a venue, and what actions can be taken to protect them; identifying the behaviour of sexual predators; and identifying and knowing how to report indicators of child sexual exploitation.

<sup>49</sup> Within this incident, published in an SIA press release, the licence holder had been charged with indecent exposure after allegedly exposing himself to a group of children (aged 1, 4 and 8) at a public swimming pool.

<sup>50</sup> The PaS Group, which steers the PaS initiative, consist of the British Security Industry Association, Security Industry Authority, London Mayor's Office for Policing and Crime, City and Security Resilience Network (not for profit advisory service), London First (business association), and Safer London Business Partnership.

<sup>51</sup> In 2014 a petition was submitted to the UK Government 'for the benefit of highlighting the UK private security industry's vote of no confidence in the regulatory body, the Security Industry Authority; specifically, the training standards implemented for the Close Protection sector since 2006'. It suggested

‘Training and Accreditations Workgroup’ responsible for identifying, defining, developing and recommending changes to standards considered ‘necessary to reduce the risk of business crime and build trust between the private security industry and police’ (PaS 2015, p.5). The importance of the SIA in fostering trust between the police and private security industry was illustrated by the PaS lead:

The SIA is critical. The PaS Initiative came from the BSIA. The BSIA have been doing a few things on from the Olympics and then basically sat down with the Business Hub which was newly created as part of Business Crime Strategy launched by MOPAC and said ‘right, we’ve now got a nexus, we’ve now got Stephen Greenlaugh as Deputy Mayor and we’ve got Craig Matthews as Deputy Commissioner who want this- there’s a commitment – and we’ve got the capability to add to it’. So, PaS was basically incorporated into part of that. It used that as a platform. The other participants were London First, who work closely with the police generally and the SIA because, again, there’s nowhere else you can look in terms of actually managing the relationship and one of the questions is: ‘how does the SIA express what you get from an ACS company? How does it tell the police these are good people?’ because trust and communication are the core of the whole problem. (SIA Board Member, private interview)

These actions demonstrate the complex blurring of the public private divide. Two implications are relevant. Firstly, it cannot be denied that this is further evidence of how the private security industry has sought to leverage regulation and the regulator to camouflage its activities, gain access to police partnerships and contracts, and capture an ever-growing share of the market for policing (White 2010; Smith and White 2014; cf. Button 2012). Undoubtedly, the regulatory mission of enabling the private security industry to protect the public smacks of regulatory capture. However, this is further evidence that SIA public protection strategies dovetail with industry interests (White and Smith 2013). Moreover, distinguishing distinct and mutually exclusive public and private interests is difficult in the context of both public-private policing partnerships and within the broader pro-market context (Froestad and Shearing 2005; also see White and Gill 2013). Certainly, the SIA has promoted the private security industry as complementary to the police:

When I was in the Home Office Policing department in the 1980s, the police didn’t have a good word to say about the private security industry. It’s taken a long time and there’s still a cultural gap but the more they do work together with the top end of the private security industry. We say look these are ACS companies; these take quality of their work seriously – the more we can open those doors and let them work together the better. And we are in a time where the number of police officers is less than the people on our register. So, it’s important that there is a complementary role and if we can improve standards and improve confidence by our role as regulator then we can open doors to those complementary roles working properly, appropriately, both knowing what their roles are (SIA Chair, private interview)

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that an alternative system of professional regulation be instituted instead. This petition received 383 out of the necessary 10,000 signatures.

Moreover, it is possible to see how the SIA has harnessed market incentives (i.e. lucrative policing contracts) to promote continuous improvement within the private security industry and therefore to achieve its statutory responsibility to raise standards. This thinking is illustrated by the following insights and dialogue:

We are formally a sponsor of PaS, so we are one of the people around the table, we contribute our expertise, we offer our communications channels, we devote some resource to the process and we are very supportive of it, because if you want a simple view of how the industry has moved on in 2001 we were protecting the public from the industry, and now we are much more in the space of enabling the private security industry to make a positive contribution to public protection or certainly the better parts of the industry to do that

*SB: And do these partnerships impact on your effectiveness?*

I certainly think so in terms of standards because there's something aspirational there – in order to be an official, or even an unofficial partner of the police, they'd be looking for certain additional standards over and above the SIA standards. I think overall if what we are about is public protection, and making a contribution to safeguarding and national security, then initiatives such as PaS can only have a positive effect. (SIA Chief Executive, private interview)

The changing application in the PSIA 2001, in which the it has been used to facilitate the contribution of the private security industry to public policing objectives has been driven by the SIA's attempt to achieve its statutory objectives of reducing criminality and raising standards within the context of increasing legal restrictions on its regulatory interventions. The SIA has sought to achieve its objectives of reducing criminality and raising standards not through imposing more stringent minimum standards, but by harnessing and using market mechanisms to induce and incentivise private security contractors to promote higher standards and continuous improvement. In this respect, the SIA has – somewhat paradoxically – sought to protect the public *from* private security by protecting the public *with* private security.

### **6.3. Shifts in the Post-Crisis Context**

The previous section identified two key factors within the progressive redirection of the PSIA 2001: the ambiguity of the PSIA 2001 (and whether the SIA's role should be to ensure a minimum legal standard or promote continuous improvement) and the SIA reinterpreting this provision in order to achieve its objective of raising standards within the context of increasing legal and regulatory constraints. This section examines some broader changes in the context of private security regulation that shaped the SIA's changing regulatory strategy after 2014. Namely shifts in the environment and changing coalition dynamics. It draws attention to three trends. Firstly, it examines the intensification of the Better Regulation agenda after the 2012

Autumn Statement. This introduced a series of reforms, including an updated Regulators Code, which not only put further legal restrictions on the extent to which the SIA could intervene in the private security industry but also obliged the SIA to regulate in a way which promoted economic growth within the industry. Second, it considers the second phase of the Public Bodies agenda from 2012, which sought to enhance central control over arms-length agencies, primarily through the imposition of spending controls. Accordingly, the SIA was operating under increasing resource constraints which trickled through into its regulatory activities. This section also considers the SIA's move to reduce the licence fee. Third, this section evaluates the changing position of the private security in the extended policing family. During the formulation of the Private Security Industry Act 2001, the private security industry occupied a position on the periphery of the extended policing family. However, in the post-crisis era two dynamics have occurred – the private security has become more prominent in the post-crisis era, but so has its failures. This section argues that environmental changes and changing power balances between different coalitions and actors (and the SIA relationship with these actors) have facilitated the progressive redirection of the PSIA 2001.

#### *Environmental Shifts*

The SIA's new regulatory direction has been affected by shifts in the post-crisis regulatory environment. A series of measures under the Better and Reducing Regulation agendas have placed significant constraints upon the SIA's enforcement activities in the post-crisis era. The 2012 Autumn Statement (delivered in December 2012) announced several measures which contributed to an increasing restrictive regulatory context which emphasised that regulators should not only seek to minimise administrative burdens but regulate in a way that helps businesses to comply and grow. These measures have been designed to standardise regulatory interventions across different policy domains and make regulatory agencies more accountable for reducing burdens imposed upon the private sector (Rothstein *et al.* 2012, pp.220-1). They thus represent part of a growing trend of centralisation and consolidation in the regulatory state, in which arms-length bodies are faced with increasing standardisation and oversight (Black 2007). For instance, the 2013 Accountability for Regulator Impact (ARI) obliged regulators such as the SIA to provide regulated industries with an indication of how (even minimal) changes to policies, procedures and operations would impact upon businesses. This measure applied to new standards, enforcement practices and changes to the provision of information (BIS 2013b, p.4). The 2014 Regulators Code, a successor of the 2007 Regulators Compliance Code (which demanded that regulators should streamline inspection activities and intervene only where there was a demonstrable threat to the public) ensured that regulators 'design their service and enforcement policies in a manner which best suits the needs of

businesses and other regulated entities’ (BIS 2014b, p.2) Under these provisions, the SIA must supply a self-assessment to the Department for Business Innovation and Skills detailing how its regulatory operations support economic growth within the private security industry. Furthermore, the code posits that regulators should base their activities on risk, therefore perpetuating the demand that the SIA streamline its activities in order to reduce costs on businesses and minimise uncertainty which was seen to undermine investment (BIS 2014b, p.4; BEIS 2017, p.2). Regulators also have a statutory duty (the ‘Growth Duty’) under the 2015 Deregulation Act ‘to have regard for the desirability of promoting economic growth’ when undertaking their regulatory functions. The key theme running through these pro-business reforms is that public protection and private sector growth should not be mutually exclusive and are in fact mutually supportive as non-compliant behaviour undermines fair competition as well as the interests of legitimate businesses’ (BEIS 2017, p.2). In this respect, since 2012 (and even earlier – see Smith and White 2014) the SIA has been under increased pressure to regulate in line with governmental concerns with regulatory efficiency.

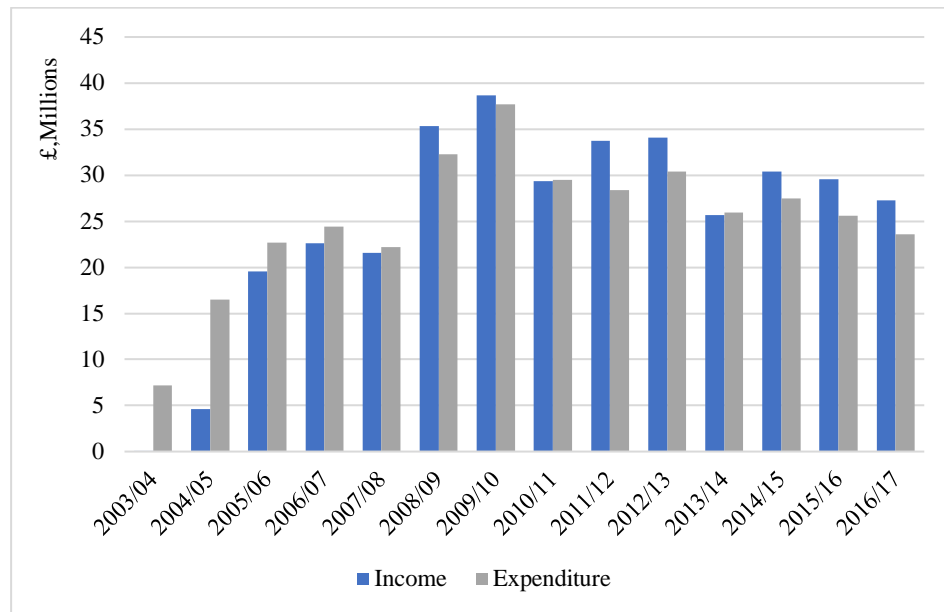
Government efficiency drives placed additional fiscal constraint on the SIA during this period. The 2010 Spending Review proposed cuts of up to 34% to administration budgets across Whitehall and arms-length bodies, aiming to save £5.9 billion a year by 2014/15 (Treasury 2010b, p.9). During the 2010/11 financial year, the SIA reported £4 million of efficiency savings from across all its directorates, achieved primarily through staff and support costs cuts (staff numbers would drop from a peak of 216 in 2010/11 to 180 in 2014/15) (HC 1243 [2010-11], p.2). Following this cost-reduction initiative, the SIA reduced licence fees from £245 to £220 and ACS registration fee from £17 to £15 per employee to comply with its obligation to operate on a cost-recovery basis.<sup>52</sup> Whilst the number of licence applications increased during the 2010/11 – 2012/13 cycle, the SIA’s total income and expenditure slowly decreased, a trend that would continue until 2015/16 (see Figure 6).

Furthermore, stuck between the incapacity to implement a fee reduction, and with efficiency drives pushing expenditure down, the SIA has been in the process of developing plans to spend this surplus on partnership and training activities to ‘benefit licensees and contribute to meeting Home Office objectives’ (SIA Board 18 January 2017, p.7). This has facilitated the development of these preventative and more proactive strategies and tools. Notwithstanding this approach, the SIA has also sought to overcome resource restrictions. The SIA ‘discovered’ that they held a ministerial direction dated back to November 2012 which removed the need for the Home Office to provide deficit funding if needed (SIA Board 27 July 2017, p.8; HC 744 [2016-17], p.59)

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<sup>52</sup> The SIA was forecast to generate a surplus of £5.2 million in 2011/12, £3.4 million in 2012/13 and £3.1 million in 2013/14 (Home Office/SIA 2012).

**Figure 6: SIA Income and Expenditure 2003/04 – 2016/17**



Source: Collated from SIA Annual Reports and Accounts 2003/04 – 2016/17

During this period, the SIA further found itself in more restrictive governance arrangements with the Cabinet Office. Whereas the initial Public Bodies Review had focused on the reduction in the number of arms-length bodies (and almost exclusively NDPBs), the second phase of the Public Bodies agenda sought to reform arms-length governance arrangements to strengthen central control over the NDPB landscape (Flinders *et al.* 2015, pp.69-74). Greater central oversight of arms-length bodies, it was argued, would foster greater democratic accountability, eliminate wasteful expenditure and reduce the deficit (Cabinet Office 2012). The primary lever used by the Cabinet Office to improve central coordination were spending controls. Originally introduced in September 2010 as a temporary measure, but made permanent in 2012, the Cabinet Office controls framework reduced the discretion of all NDPBs by requiring either sponsor department or Cabinet Office approval for certain levels of expenditure in nine areas: advertising, marketing and communications, strategic supplier management, commercial models, ICT, digital by default, external recruitment, consultancy, redundancy and compensation, and property. In addition, from 2013 the management of arms-length bodies was further improved and formalised through the revision of sponsorship arrangements and the introduction of Framework Agreements. Nevertheless, in practice the sponsorship arrangement is influenced by many factors including personal relationships, and the relative political saliency of the arms-length body. Cumulatively, these measures have created a ‘twin-track’ model in which the public bodies – including the SIA – have become accountable to the Cabinet Office directly, rather than solely through their sponsoring department, in this case the Home Office (Flinders and Tonkiss 2016; see also Black 2007).

Fiscal controls were supplemented from 2012 by accountability mechanisms that promoted transparency of public bodies. The intention of the transparency agenda was to make government more open to enable the public to be able to hold ministers and public bodies to account:

The Minister for the Cabinet Office has highlighted that the Public Bodies Reform programme is principally about placing overall responsibility for public functions into the hands of democratically accountable ministers. The Government recognises that the public expect ministers and other elected representatives to take responsibility not just for public money, but for difficult decisions and the efficient and effective delivery of essential public services. This means accountability at a local or national level, greater transparency within Westminster and Whitehall and responsibility for government policy placed in the hands of those who are elected, rather than appointed. (Cabinet Office 2012, p.4)

These measures included requirements to publish an Annual Report, open meetings to the public and publish information on: board meetings, performance, expenditure, and on how to make complaints and freedom of information requests. Furthermore, the Cabinet Office developed a new 'Code of Conduct for Board Members' which emphasised non-executive directors' duties in regarding the responsible spending of public funds (Cabinet Office 2011a), and an updated 'Rules on Lobbying for NDPBs' which placed restrictions on public bodies political interactions and on the content of advertising, public relations and marketing activities (Cabinet Office n.d). These measures served to limit the SIA's formal independence vis-à-vis actors with less formal authority, such as the media and the public. Triennial reviews were introduced to 'provide a robust challenge to the continuing need for individual NDPBs – both in their functions and form' and to explore the potential for further efficiency savings. According to the Cabinet Office Minister, Frances Maude, triennial reviews were implemented to 'ensure that never again will the quango state be allowed to spiral out of control' (HC 108 [2010-12]). In fact, the Minister responsible for the SIA, Mike Penning, announced in July 2015 that the SIA would be subjected to a triennial review of whether it was operating efficiently, the results of which were not published until June 2018 and had the effect of postponing any progress on business licensing (HCWS100). In sum, these measures are constitutive of the broader centralisation of power that has been occurring in the post-crisis regulatory landscape – as Dommett and Flinders (2015, p.10) conclude: 'the centre has struck back'.

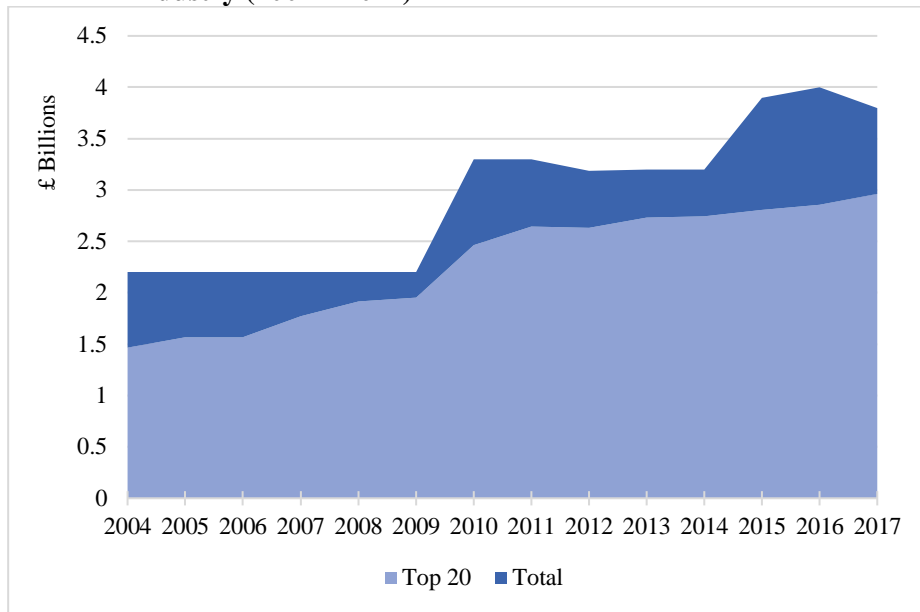
The PSIA 2001 has not only been situated within these processes of centralisation and consolidation within the post-crisis regulatory context but also within changes in the policing context. The PSIA 2001 was initially established to protect the public from the private security, who operated with low levels of legitimacy on the peripheries of the policing landscape, however, this purpose had been challenged by the industry's increasing legitimacy and role within the post-crisis policing landscape (White 2010; White 2017). The Coalition

government's austerity programme enhanced the social and economic importance of the private security industry in the post-crisis era. The 2010 Spending Review aimed to eliminate the UK's structural current budget deficit and reduce national debt as a percentage of GDP over the course of a Parliament by drastically reducing public expenditure. Accordingly, central funding for police forces in England and Wales would be reduced by 20% in real terms by 2014/15 (HM Treasury 2010b, p.54). Smith and Jones (2015, p.226) highlight how 'the Conservatives have used austerity as a lever for radically reducing state spending, reforming welfare and increasing the role of the private sector' in the delivery of public goods and services. The partnership between Lincolnshire Police and G4S is evidence of how police forces in the United Kingdom have sought to achieve cost reductions through contracting out responsibilities to the private sector, although many police forces have preferred more informal arrangements (White 2014). The outsourcing of 'back-office' functions to the private sector was justified in the economic terms of freeing the police from bureaucratic constraints upon their crime-fighting function (Loader 2014; for instance, see Home Office 2010, p.36).

This is symptomatic of the wider (yet uneven) integration of the private sector into the criminal justice system, with private security companies undertaking a range of duties including: prison management, offender management, immigration removal and asylum housing management (see Lister and Jones 2016). In some areas, police cutbacks have pushed local communities into seeking solutions from the market though the UK public at large remains ambivalent towards the industry (White 2010; Crawford 2014). The extent of the private security industry's involvement within the London 2012 Olympics is further testament to the dependency of the UK government on the market for the delivery of public safety (the initial venue security contract requested over 11,000 private security personnel). During the post-crisis period, the estimated turnover of the private security industry would consequently increase from £2.2 billion in 2009 to £4 billion in 2016 (see Figure 7). Certainly, the coverage of the private security industry may be greater than that of the police (though this does not mean that public policing has been eclipsed: see White and Gill 2013). Police numbers had dropped by over 11% between 2010 and 2016 from 171,600 to 151,000 (House of Commons Library 2018 p.3). By contrast, the number of valid SIA licences had peaked at over 398,000 in 2015 (see Figure 8).

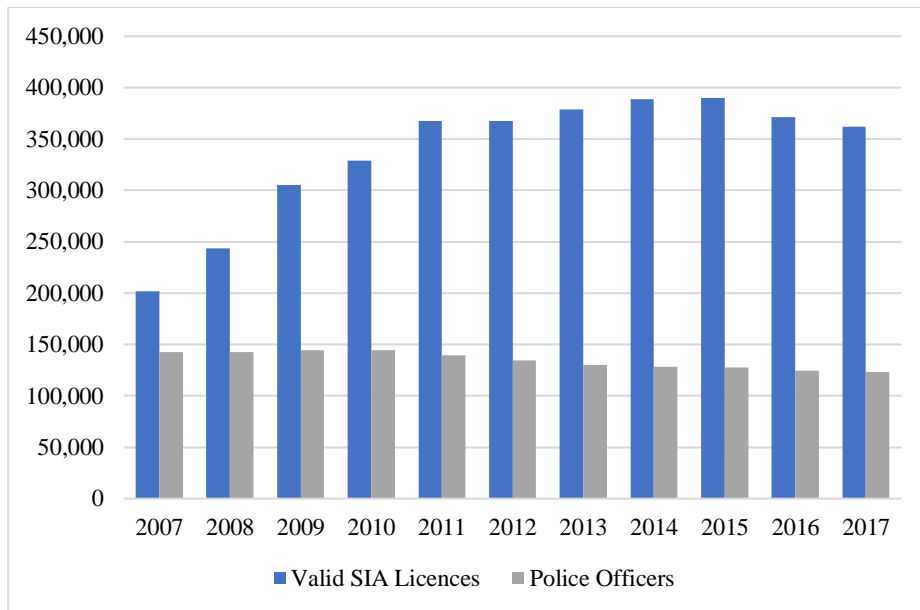


**Figure 7. Estimated Annual Turnover of the UK Private Security Industry (2004 – 2017)**



Source: Data collated from Infologue Reviews 2004 – 2017

**Figure 8: Total Number of Valid SIA licences (2007 -2017)**



Source: FOI Request 0072

### *Coalitional Shifts*

Leading figures within the private security industry had actively sought to capture a greater share of the policing market by exploiting this prevailing political context. Throughout a series of parliamentary roundtable meetings between 2010 and 2014, the BSIA lobbied various state actors, including Parliamentarians, Police and Crime Commissioners and Police

representatives, on the benefits of greater cooperation between the police and private security industry. The BSIA argued that considering fiscal constraints upon police forces the private security industry could ‘free up police officers to return to the front line’ by more efficiently performing non-essential duties (Infologue 2012b). Regulation, especially its extension to private security companies, formed part of the strategy to increase police trust (and investment) in the private security industry, as illustrated by the Chair of the BSIA’s Police and Public Service section in 2011:

At present, our police officers perform far too many tasks that don’t necessarily require the presence of a warranted officer, for example, managing cordons, area searches and taking witness statements. The introduction of a new era of regulation, including company registration, will hopefully serve to increase police confidence in working alongside our industry (IFSEC Global 2011)

This rhetoric was repeated by BSIA Chief Executive James Kelly after a March 2013 parliamentary roundtable meeting: ‘Despite some reservations, the progress made by the private security industry in gaining public trust over recent years was also acknowledged, and the role of the Private Security Industry Act 2001 in increasing the professionalisation of the industry cannot be underestimated’ (Professional Security Magazine 2013). In June 2012, G4S Head of UK and Africa, David Taylor-Smith claimed within *The Guardian* that private security companies would be running major parts of the police forces within the next five years due to ‘budgetary pressure and political will’ (Taylor and Travis 2012).

However, this legitimisation agenda had begun to align with the free-market perspective (White 2018). A key feature of the government’s position on the future of private security regulation was that the industry had ‘matured’ to the point that continued state intervention was unnecessary. At the October 2011 SIA Stakeholder Conference, Minister Lynne Featherstone asserted that:

It was recognised that in the seven years since the regulation of the private security industry in England and Wales began, the industry had matured to a level where the Government believes the time was right to give the industry greater responsibility for achieving improved regulation. The fact that the Government has arrived at this conclusion is testament to all the hard work put in by the SIA and you, the industry as a whole. I am very impressed by how well the private security industry has worked closely with the SIA on developing the detail of the new regime. This is further evidence of the growing maturity and professionalism of the industry, for which you are to be congratulated (Featherstone 2011, p.1)

This position remained stable throughout this period of negotiations, with the successive minister Lord Taylor taking similar lines at the 2012 and 2013 SIA stakeholder conferences (Taylor 2012, p.2; Taylor 2013). Underpinning this was the idea that deregulating markets

would stimulate private sector growth. However, this manifested itself within debates as the idea that the private security industry could take responsibility for itself (has the capacity). Strengthened by the better regulation agenda which was to explore how self-regulatory capacities could better be used (for efficiency). Since its introduction, licensing had contributed to lower criminality and higher standards within the industry, as demonstrated by ACS scores and compliance rates during this period (see Figures 9 and 10). Certainly, in some sectors, such as the CCTV and CVIT sectors, there was a sense that regulation had become obsolete in light of the checks and higher standards required by employers, and the development of comprehensive codes of conduct:

So, if we took, for example, Cash and Valuables in Transit, we are asking serious questions to ourselves about what are we doing in this sector? It was there in our act because standards were needed in that sector, you wanted good and professional people who weren't criminal moving cash and valuables around the country, that's logical – you can see why legislators would want that. But then there's a reality that since the act, the people that do that work now are subjected to far higher levels of scrutiny by their employer than by us as a regulator. So, our standards have become redundant (SIA Director Partnerships and Interventions, private interview)

This has also aligned with the Home Office's and ACPOs increasingly positive perceptions of the private security industry as illustrated by the appointment of a 'Director for Security Industry Engagement' and the ACPO's appointment of Private Security Industry Liaison, tasked with working with the SIA and other bodies to 'ensure connectivity between the private sector Security providers and law enforcement'. Accordingly, The SIA has further oriented the activities of private security contractors to national security, organised crime, safeguarding vulnerable people (including child sexual exploitation), addressing modern day slavery, reducing violence, and improving equality and diversity:

So, in slightly changing our strategy [...] we have tried to be overt about how we are playing into the Home Office's strategic objectives. So, we could go on as a little NDPB issuing badges, doing what the act tells us to do – and we wouldn't be doing anything wrong – or we can be a bit bolder about why we are actually here. In 2001 it was making sure of a minimum standard of security professionals, but what we're now saying is that there is more we can do with that. We can work with the police and use the powers we've got (SIA Chair, private interview).<sup>53</sup>

This is a growth sector in terms of importance, and we envisage that direction of travel continuing. That as police budgets get tighter and tighter, private security steps into that breach to a degree – in a rather ill-defined way, but it does step into that breach. It doesn't fill the gap completely because not all the jobs are lucrative, but it does step in. So, in terms of that journey of private security and regulation, we've had our minds changed in terms of equipping it to do its functions better, but the function itself has

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<sup>53</sup> Elizabeth France later affirmed this strategy in her keynote speech to the 2017 SIA Stakeholder conference: 'In the medium term we must work imaginatively with the provisions of the current Private Security Industry Act and work in partnership with the industry on key initiatives that play into the strategic objectives of the Home Office' (France 2017).

broadened and become bigger and more expansive (SIA Director, Partnerships and Interventions, private interview).

This alignment has facilitated a broader role for the SIA in the policing landscape. This gradual shift has occurred during a period in which sponsorship arrangements were being improved within the Home Office. The SIA sits within the responsibility of two units within the Home Office Crime, Policing and Fire Group. The Public Protection Unit in the Safeguarding Directorate holds lead responsibility for sponsorship and policy issues, whereas, like all Home Office-sponsored arms-length bodies, corporate and non-policy challenge and support is conducted through a separate Efficiency and Resources Unit (Home Office/SIA 2016, p.10). Under the Home Office/SIA Framework Agreement, the SIA Chair has the overall responsibility for formulating the SIA's strategy (Home Office/SIA 2016, p.14). In principle and practice, the Public Protection Unit briefs the SIA on 'ministerial priorities, Home Office initiatives and significant developments in the wider policing or public-sector landscape that may be relevant to the SIA or the delivery of its functions' and such issues were discussed in informal and formal meetings between members of the SIA and Home Office, however, the Home Office does not have the capacity to compel the SIA to undertake functions not specifically outlined within the PSIA 2001 (Home Office/SIA 2016, p.11).

Since 2010, the government has had the firm view that the government should not take a long screwdriver and tell other bits of the public sector what to do in great detail. So, I think the department under principle did do a lot less directing than it did do under previous governments. The SIA as an organisation were thoughtful and did want to help government deliver priorities, so it was a clear coming together of Home Office agenda and broader government agenda about the importance of safeguarding [...] So some encouragement from the centre and some enthusiasm from the SIA about wanting to approach these issues as well (private interview)

In fact, the SIA was recognised and praised for the important contribution it had been making to the Home Office's safeguarding agenda at the 2017 SIA stakeholder conference. Traditionally, bureaucratic autonomy (understood as a political capacity) has been identified as a situation in which public agencies take action that 'neither politicians nor organised interests prefer but that they cannot or will not overturn or constrain in the future' (Carpenter 2001, p.17). In this instance, the SIA has sought to enhance its standing and capacities by doing precisely the opposite: voluntarily aligning its regulatory activity with wider governmental public protection objectives.

Yet, whether the industry was mature or still maturing was moot (Infologue 2011). The narrative that 'cowboys' still operated within the market for security was prevalent within arguments for the continuation of regulation (e.g. HL Deb [2010-12] vol.725 c.903). Reports of malpractice by individual private security contractors (predominantly in the door

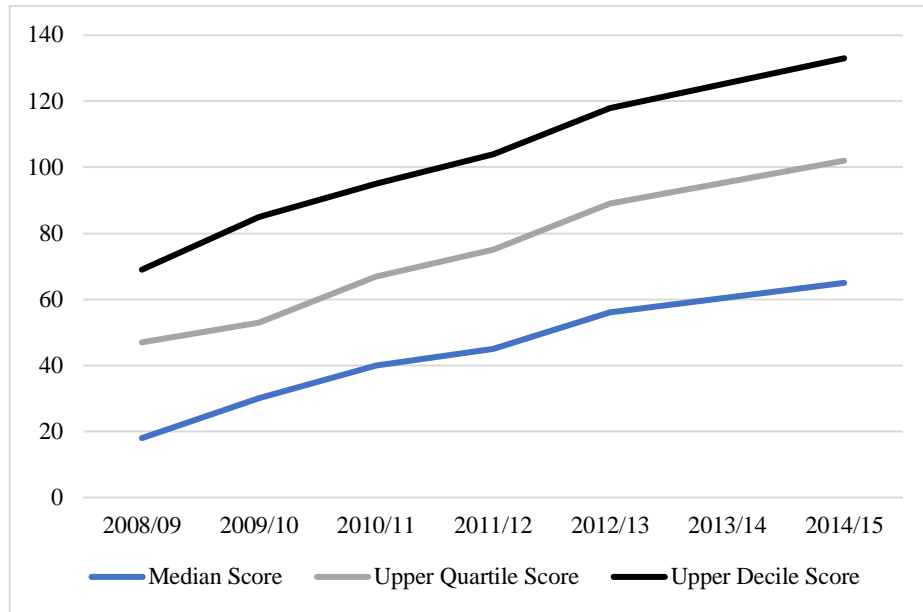
supervision sector) continued to be a constant feature within local media outlets during this period. The private security industry's image would be further tainted by several high-profile scandals including: G4S' failure to fulfil the terms of its £284 million Olympic venue security contract; the 2013 Serious Fraud Office investigation into G4S and Serco for overcharging the Ministry of Justice for tagging offenders, and the ongoing inquest into the death of deportee Jimmy Mubenga whilst in the custody of three G4S guards. The Home Affairs Select Committee into the G4S Olympic contract voiced concern on the implications of market failure: 'perhaps the most significant area of public concern flows from the growing role that G4S plays in the criminal justice system and in public contracts more widely' (Home Affairs Committee 2012b, p.3). The effect of these market failures was to buttress pro-regulation arguments and discourage some police forces, for instance Surrey and West Midlands, from proceeding with outsourcing activities (Crawford and Barker 2013). Idea that de-regulating markets would exacerbate these issues. The public safety implications of the increasing reliance on an unsupervised industry provided a clear justification for the SIA's business regulation agenda and the SIA's public protection mission. The notion that regulation had not evolved to cover this changing role of the private security was recognised by the SIA Chair at the October 2011 Stakeholder Conference (Henig 2011b, p.2) The following quote illustrates this point:

Every day that goes by it becomes clearer that private security is playing a frontline role, in which case you want to make sure its properly vetted. It will only take one incident for somebody to realise that private security is a big loophole, that you could have completely fraudulent or terrorist directors of a private security company because, at the moment, the checks are very minimal (Former SIA Chair, private interview)

As such, the SIA has balanced these tensions between perceptions that the industry has matured and perceptions that the private security industry presents a risk to the public by developing a more indirect role. This was articulated by the SIA Chief Executive:

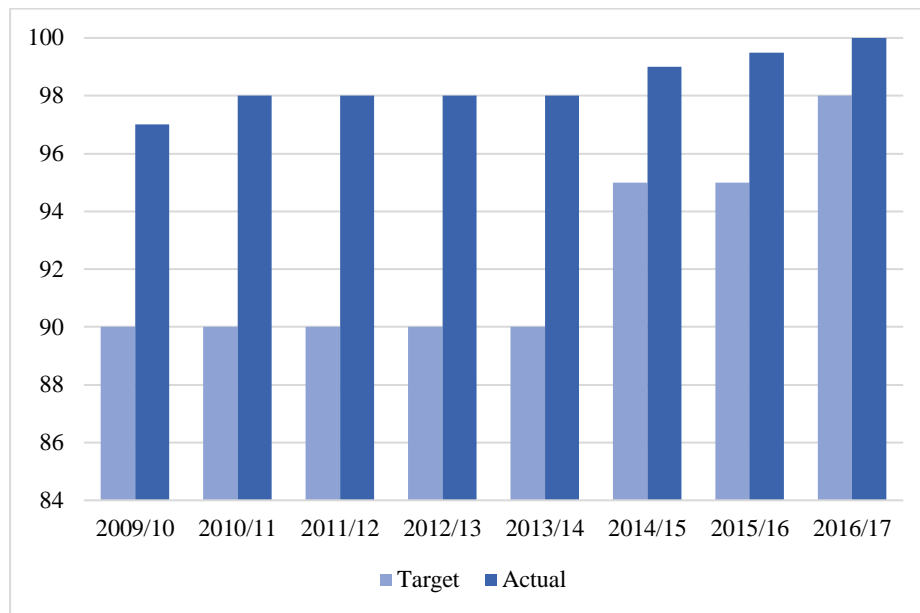
The industry taking more responsibility for standards was certainly there when I arrived. But I think if you go right back to the beginning of the SIA and the 2001 Act, there were many issues around the quality of private security provision and some quite fundamental changes needed which is why licensing and the ACS scheme was introduced. As standards have improved, then a more mature sector can take more responsibility for the quality of its own work. But the regulator still has to be there to hold it to account' (SIA Chief Executive, private interview)

**Figure 9: ACS Scores (2008/09 – 2014/15)**



Source: SIA Annual Reports and Accounts 2014/15

**Figure 10: Compliance Rates (2009/10 – 2016/17)**



Source: Collated from SIA Annual Reports and Accounts 2009/10 – 2016/17

#### 6.4. Conclusion

This chapter traced the redirection of the PSIA 2001 in the post-crisis era. It argued that while the PSIA 2001 has remained unaltered or fixed between 2014 and 2018, it has been increasingly redirected from its original intention of ‘protecting the public from private security’ to the goal of ‘protecting the public with private security’. Whereas the goal of protecting the public from private security involves the SIA imposing legal minimum

standards and thus preventing and removing private security contractors from the policing landscape, the latter goal involves promoting continuous development and enabling the private security industry to play an active role within the policing landscape, and especially with public protection. This chapter has demonstrated how the private security industry has been harnessed within the attainment of goals related to safeguarding and counterterrorism. This changing implementation of the PSIA 2001 was evidenced by SIA's various regulatory strategies designed to enable the private security industry to protect the public: sponsoring training and awareness, facilitating networks related to safeguarding, counterterrorism and public protection, and promoting cooperation and facilitating public-private partnerships. These strategies also mark a more heterarchical relationship between the SIA and private security industry where the SIA – in the absence of formal regulatory tools – facilitates or 'helps, influences and improves' rather than directs and imposes. It is also important to note, that the formulation of these regulatory networks and promoting public-private cooperation involves the co-optation of third-parties – such as charities and law enforcement partners – into the regulatory regime. In this respect, private security regulation has not only been redirected to new goals, but it has been constituted by increasingly complex constellations of governmental and non-governmental actors.

This chapter argued that these dynamics must be explained with reference to the SIA seeking to effectively pursue its regulatory mission in the context of continued legal, regulatory and resource constraints. First it argued the SIA sought to distance itself from the business regulation quagmire which was beginning to affect its credibility and standing amongst key stakeholder groups. Rather than continuing to pursue a revision to its formal jurisdiction, the SIA sought to achieve its mission through a more informal strategy. Unable to impose legal minimums on businesses and restricted in its ability to raise minimum standards for individuals (i.e. by exercising a 'push from below') the SIA has sought to achieve its statutory objective of raising standards by encouraging, influencing and incentivising both private security businesses and officers to commit to raising standards themselves (i.e. by exercising a 'pull from above'). As part of this, the SIA has sought to use market incentives (lucrative policing partnerships and contracts) to influence the private security industry to undertake training and continuously improve standards. The thinking behind this was that police contracting requirements exceed the SIA's minimum standards thereby exercising a pull effect on the private security industry. In this respect, the SIA has sought to negotiate these increasing constraints by supplementing its limited formal responsibility with the informal authority gained from more collaborative and networked regulatory processes. Somewhat paradoxically, then, the SIA has started to protect the public *with* private security in order to protect the public *from* private security. These have been seen as two mutually-reinforcing goals. To repeat the point made by the SIA Director of Partnerships and

Interventions: ‘although the end goal is public protection, the means to get there is quite different’ (private interview). A key driver of this more facilitative role has been to enhance the private security industry’s capacity to take on more responsibility for standards, therefore enabling a reduction in the SIA’s role and responsibility (thus enabling it to more effectively target its resources and meet its legal and regulatory obligations under the Better Regulation Agenda)

This chapter further argued that this conversion dynamic must be understood with reference to three other factors. First, the ambiguity of the PSIA 2001, and whether the SIA’s statutory obligation to raise standards meant establishing a legal minimum or facilitating continuous improvement, facilitated its reinterpretation and redirection by the SIA. Second, broader shifts in the post-crisis regulatory environment, such as the intensification of the Better Regulation agenda after 2014 served to intensify the legal constraints on its regulatory activity, thus promoting a more collaborative and facilitative approach. It also emphasised the emergence of more fluid policing arrangements in the post-crisis era, facilitated by austerity-related budget cuts. The changing role of private security industry within the policing landscape raised questions about the purpose of the PSIA 2001 and the need to ‘update’ private security regulation to this new post-crisis context. Third, and building on this point, the SIA was also situated at the centre of coalitional shifts. This was evidenced by the consensus between various state institutions and the private security industry that the private security had a positive role to play within public policing objectives. It finally emphasised how the SIA aligned itself with the Home Office’s safeguarding agenda in order to facilitate its aspirational regulatory mission. In sum, this redirection of the PSIA 2001 therefore marks an important step in the ‘hybridisation’ of UK private security regulation in the post-crisis era – a narrative which will be completed within the next chapter.



## 7. Collaboration

Our role is to hold individuals and businesses to account for quality and to take action if standards are not met. My purpose in pointing out that quality is a key role of a number of partners in the private security industry is not to abdicate the responsibility, but simply to emphasise that everyone has a role to play and that ultimately, quality will be better if we all maximise our contribution and work in partnership. The goal is one of high standards and effective public protection – the key to achieving this is good teamwork.

— Alan Clamp, *SIA Chief Executive, SIA Blog 27 February 2017*

### 7.1 Introduction

The purpose of this chapter is to complete the empirical narrative relating to the ‘hybridisation’ of private security regulation in the post-crisis era. This ‘hybridisation’ refers to the shift from hierarchical command-and-control to more complex and network-oriented patterns of private security regulation. In this respect, private security regulation in the UK has been characterised by an increasing diversity in norms, institutions, actors and instruments. This chapter examines the hybridisation of private security regulation and the SIA’s adoption of more collaborative regulatory strategies across three dimensions: (i) the harnessing of the self-regulatory capacities of the private security industry; (ii) a shift in the emphasis of the SIA’s regulatory activity from individuals to businesses and (iii) a greater reliance on third-parties such as buyers and law enforcement partners. It argues that where its statutory authority is weak, the SIA has developed softer instruments, repurposed existing tools and leveraged self-regulation and third-party regulation. Building on previous chapters, this chapter posits that these dynamics can be explained with reference to the SIA negotiating external pressures stemming from the post-crisis context in order to achieve its regulatory objectives. These arguments are developed over the following three sections. Section 7.2. begins by revisiting the tension in the SIA’s regulatory regime between increasing legal and regulatory constraints on the one hand and demands for hierarchical intervention on the other. It demonstrates that in the absence of reform to its formal enforcement powers, the SIA has sought to negotiate this tension by framing more collaborative and responsive strategies within hierarchical rhetoric. Section 7.3 demonstrates that in the absence of business licensing, the SIA has used risk-based rationales and repurposed existing tools to construct its (informal) jurisdiction over private security companies. Section 7.4 examines the SIA’s greater reliance on third-parties, such as buyers of security services, training organisations and enforcement partners. Building on the previous section, it concludes that in the post-crisis era, the SIA has supplemented its (limited) formal authority with the informal authority of third parties. Section 7.5 concludes by resituating these empirical dynamics within the overarching theoretical narrative.

## 7.2 Harnessing Self-Regulation

This section examines how the SIA has sought to negotiate tensions within its regulatory regime – especially those concerning the extent to which the SIA should intervene within the private security and maintain a degree of ‘street presence’ – after 2014. It argues that the SIA has sought to frame more risk-based and responsive strategies (which entail a reduction in regulatory interventions) within hierarchical narratives (which emphasise constant and direct supervision). Against this backdrop, this section emphasises a polarization of enforcement activity in the post-crisis era.

Since the 2005 Hampton Review, public regulators such as the SIA have come under increasing pressure to reduce regulatory costs, promote economic growth and become more ‘risk-focused’ (Hampton 2005; BRE 2009, p.13). Risk-based regulation refers to a range of approaches ranging from the use of cost-benefit analyses to prioritise inspection and enforcement activity to the wider frameworks used to make strategic policy decisions regarding the types of risks to be addressed (Black 2005; Baldwin and Black 2010). The central idea underpinning risk-based regulation is that regulators should focus their regulatory resources on the firms or issues which pose the highest risks to the public (Black 2008). This involves calculations as to what risks regulators are willing to address and which ones they are willing to tolerate as well as the likelihood of those risks and their potential impact on society and the regulator (Baldwin and Black 2010, p.184). Inherent within these approaches is the assessment of regulatory activities against (predominantly quantitative) cost-benefit calculations, ensuring that, in theory, resources are directed towards the highest risks (Lodge and Wegrich 2012, p.194). Risk-based approaches recognise that the resources available to regulators are finite and that regulators must be selective towards the types of issues they face (Baldwin and Black 2010, p.184; Tombs and Whyte 2013). Certainly, this risk-based rationale is underpinned by an individualist narrative which regards regulation as a burden on private enterprise, only to be used in instances of clear market failure (Fitzpatrick and White 2014, pp.198-9). Indeed, Tombs (2015, p.118) argues that within this worldview, regulation is ‘somewhat illegitimate [...] and impinges the freedom of law-abiding businesses’ (Tombs 2015, p.118).

The requirement to adopt a more targeted regulatory process has existed in tension with industry expectations that the SIA adopts an active and visible role within enforcing the PSIA 2001. Traditionally, the failure to negotiate this tension has been one of the main threats to the SIA’s reputation. As a reference point, the 2009 SIA Baseline Review found that the private security industry generally viewed the SIA’s enforcement policies as weak, noting that the SIA had limited street presence; that it didn’t fully capitalise on the intelligence that it received; that the SIA’s investigative procedures were problematic and; that the SIA did not

prosecute enough (White and Smith 2009, p4). For instance, a 2012 survey of 509 security directors and managers and 209 clients revealed the same perceptions of under-enforcement as those highlighted within the 2009 Review (Mawby and Gill 2017). Similarly, these issues continued to circulate around the industry press – in January 2015, IFSEC, an industry media outlet, published a debate asking: ‘Is the Security Industry Over-Regulated or Under-Regulated?’ demonstrating the persistence of this issue. The 2016/17 Home Office review of the SIA revealed that although 57% of surveyed respondents strongly agreed that ‘the current arrangements provide [the SIA with] appropriate powers’ it was noted that the respondents ‘felt the powers were not being used effectively enough, many of them saying that the SIA carries out insufficient compliance activity’ (Home Office 2018, p.67). In contrast to the view of regulation embodied with the Better Regulation agenda, underpinning this hierarchical perspective is the idea that the SIA should intervene extensively within the private security (ostensibly, to endow the private security industry with a sense of stateness, see White 2010; Smith and White 2013).

It has already been established that the SIA’s enforcement activity is restricted by its relatively limited legal powers: its only legally-backed sanction has been prosecution, and then the exercise of this capacity is limited by resource constraints (White and Smith 2009, p.31). Certainly, the SIA’s absence of a comprehensive ‘regulatory pyramid’ was articulated by one SIA official:

More powers would be helpful – if you had the option of giving civil penalties out – fixed penalty notices – that would go some way. A written warning is a written warning. Unless someone racks up four or five of them, they won’t do anything about it (SIA Official, Partnerships and Interventions, private interview)

Concordant with the broader dynamics explored, the SIA’s approach to negotiating this tension was to seek an extension to its formal jurisdiction. One strategy has been to persuade the Home Office to take advantage of the Regulatory Enforcement and Sanctions (RES) Act 2008. The RES Act encourages public regulators to use alternatives to prosecution by granting the authority to impose a range of civil sanctions including fines, temporary suspension notices and new enforcement undertakings (creative ways of encouraging compliance). The intention of the RES Act was to promote more consistent, proportionate and flexible regulation, as part of the wider ‘better regulation agenda’. However, it does not directly grant regulatory agencies access to these sanctions but empowers ministers to enable these powers after proper consultation on their economic impact on businesses (BERR 2008, p.28). The 2005 Macrory Report concluded that risk-based regulation works more effectively when a regulator can select from a flexible range of sanctions. However, such reforms intended to fix the ‘broken pyramids’ found under command-and-control regimes have passed over the Security Industry Authority (see Brown and Scott 2010). The 2008 National Audit report expressed concern

with the scope of sanctions available to the SIA and its incapacity to deal with minor transgressions and recommended use of the RES Act to manage the sanction gap between the written warnings and prosecution (NAO 2008, p.6). SIA Board meeting minutes from 2009 reveal that ‘the board agreed that the gaining of RES Act powers was extremely important’ with the SIA Chair making representations to the Home Office on this matter (SIA Board Meeting, 26 March 2009, p.2). However, Home Office prioritisation of the implementation of regulation in Northern Ireland, and the extension of licensing to companies, private investigators and enforcement agents precluded the attainment of these powers. Accordingly, one Board Member indicated that ‘the decision not to pursue the RES Act was not just a potential risk but actually a mistake: it undermines our effectiveness by not extending the scope of our enforcement action’ (SIA Board Meeting, 28 May 2009, p.2). Further review in early 2010 proved equally unfruitful (SIA Board Meeting, 25 March 2010, p.3). Although such questions were subsumed within business licensing debates, the issue of the RES Act was raised again by the Security Regulation Alliance as a way to bolster the existing regime (see Infologue 2014).

Since 2014, the SIA has managed this tension in a different manner. It has sought to supplement its limited formal authority with more informal and collaborative strategies. However, it has framed and justified these more collaborative strategies within hierarchical narratives. Certainly, one of the SIA’s ‘values’ is ‘courageous: we are confident in our approach, integrity and independence. We enforce proportionately without fear or favour. We are not afraid to challenge’ (SIA 2017, p.22). This is further evident in the SIA’s Right Touch strategy:

The SIA is widely recognised as an effective and successful regulator. We have done this by developing a distinctive style of principled, proportionate and risk-based regulation, which we refer to as right-touch regulation. This is underpinned by close working relationships with our partner stakeholders and members of the public who come into contact with our regulation or have an interest in it (SIA 2018, p.6)

Within this formulation, the emphasis on ‘right’ touch conveys that the SIA is making expert decisions on what constitutes risk thereby seeking to insulate themselves from critique, however it is clear from this short statement that the enforcement activities will not only be targeted but also delegated to other actors.

One of the key organisational changes within the SIA has been the creation of a ‘desk-based compliance team’ (later renamed the ‘Customer Service Compliance’ team) in July 2014. Located in the Operations Directorate, the section of the SIA responsible for granting, suspending and revoking licences, the purpose of the team is to deal with low-level non-compliance and technical issues with the aim of achieving a quicker and more cost-effective

approach to non-serious breaches of the PSIA 2001. As indicated within the SIA's 2015/16 annual report:

This added a new dimension to our approach to achieving compliance with the Private Security Industry Act 2001 (PSIA 2001) and compliance with the terms and conditions of the Approved Contractor Scheme. CSC is a more cost-efficient approach to dealing with low level non-compliance cases, releasing regionally based investigators to focus on higher risk enquiries. Since its introduction, CSC has contacted over 1,000 individuals (directors of security suppliers, buyers of security services and those working in front line security roles) and developed effective relationships with hundreds of businesses (HC 1088 [2015-16])

With a limited field force and resources, the compliance team has arguably enabled the SIA to intervene within a greater number of cases and to deal with potential issues at an earlier stage. According to the SIA's December 2015 Annual Review 'the new capacity provided by the Customer Service Compliance team resulted in a three-fold increase in the number of cases closed against the previous year due to the ability to take on new, low to medium risks compliance cases', the importance of which was to prevent more serious (and expensive) offending (SIA 2015, p.12). Since its inception in July 2014 until November 2015, the compliance team managed 189 cases, escalating 49 (25%) to the partnerships and interventions team for face to face meetings. According to the SIA 2014/15 annual report, 96% resulted in a 'positive outcome i.e. managed to comply, or no offending found' (HC 640 [2014-15], p.6). Later annual reports would indicate that the compliance team dealt with, on average, 180 compliance cases a year (HC 1088 [2015-16]).

The creation of this Customer Service Compliance team marks a concrete organisational shift to an approach to compliance which places greater emphasis on enrolling and harnessing self-regulatory capacities. The assumption underpinning more 'responsive' compliance strategies is that private companies can and do have moral commitments for preventing and mitigating risks (Tombs and Whyte 2012). This idea was illustrated by both an SIA Official and the SIA Chief Executive:

So essentially what we are saying is that we are going to be taking a non-intrusive approach, we are going to work with you, we need to see your compliance and your commitment to compliance, but we are here to provide you with the guidance and support you need (SIA Official, private interview).

Now that phrase 'compliance to commitment' is actually a personal one which I'll have written into draft plans because if a person or organization is compliant with the rules, they are following them but not necessarily because they believe in them but because they don't want to have sanctions put on them. If you're committed then the idea is that you believe in the benefits of higher standards and you want to achieve them and, actually, in the absence of a regulator you'd aspire to achieve those (SIA Chief Executive, personal interview)

One way in which the SIA has facilitated this ‘commitment’ has been to provide information and guidance on safe physical intervention and restraint and on ‘standards of behaviour for security operatives’ the latter of which has been ‘designed support security operatives deliver the high standards required of them’ (SIA 2019)

A key driver of this more responsive approach has been the SIA’s desire to meet its regulatory obligations under the Regulators Compliance Code. This was articulated within its self-assessment against the Code: ‘We seek to bring non-compliant entities back into compliance as a first course of action, avoiding the adverse economic impact of more punitive approaches.’ (SIA 2016, p.2). In fact, this more collaborative approach was articulated in terms of enabling the SIA to focus its limited resources on serious criminality:

We did have a consultancy when I first came to see how we were dealing with stakeholders who said does it worry you that the industry thinks you’re a friendly regulator? And I said no, you should be working together in cooperation with the industry where the industry complies and using your regulatory powers where it’s not complying. So, provided people understand that you can still use those powers, then you’ll achieve more working with them, rather than sitting here issuing threats from an ivory tower – it doesn’t work. It’s not cost effective. It’s not what we want to be doing. We want to use any powers we’ve got for that few percent who really are criminal (SIA Chair, private interview)

However, SIA officials noted that this more cooperative and facilitative approach to ensuring compliance grated against key stakeholder expectations that SIA enforcement should be ‘harder’:

I know in the decisions area is in the last year – in discussions with the police who sometimes felt frustrated that we didn’t revoke or suspend a licence because we didn’t feel that they met the criteria which is given the fact that our criteria are quite broad didn’t worry me. But there was an area where there was a set of cases where we weren’t taking enforcement action, but we weren’t particularly pleased the way that a person handled the situation. So we now take the approach that we write to that person to say we are not taking enforcement action in this instance but you do need to be aware that the SIA, formally, is less than impressed, maybe think about your training – retake it – we don’t compel them to although we have the power to amend the licensing conditions and enforce that a person retakes training, so again another quite robust power that is within our armoury but the lighter touch is ‘we’re not taking action but giving a chance – you need to think about your approach, please do better next time, because if there is a next time then the licence will be lost (SIA Official, private interview)

Nevertheless, it was suggested that this function further contributed to augmenting the SIA’s ‘presence’ – the idea that the SIA needed to be highly visible in order to both act as a deterrent and demonstrate to the public that this was a highly policed and therefore responsible industry (White and Smith 2009; Smith and White 2013; White 2015):

I think from our side in terms of lighter touch, generally on cases we will engage with maybe four or five different people, being it a customer, a buyer of security, a

stakeholder, a partner, and talking to thousands of people a year can show people we are here, we are watching, we are looking into things, but what we are also here to do is to help you if you need that help. So, engaging with that vast amount of people in itself is a compliance measure in ensuring compliance because industries talk to each other and if we are contacting that many people it provokes better compliance just by doing what you do (SIA Official, private interview)

There is also evidence that the SIA has escalated and deescalated enforcement activity despite limited formal powers, as published in the SIA's strategy: 'For lower risk allegations, we may contact you via email or telephone, whilst higher priority cases will normally involve a face to face meeting. The most severe cases of non-compliance will be dealt with via an SIA prosecution (SIA 2015, p.6). These escalation approaches were also seen across the compliance, interventions and investigations teams:

So, if it's a business that we've met two or three times before and they might have had a warning or improvement notice before and we have now found new offending, it's more likely that it is going to be escalated to a criminal case because they know what the rules are, we've already caught them in the past and warned them and they've carried on and done it again. If they are a brand-new company that has just been set up we may be a bit more lenient and just issue them a warning or improvement notice and organise an industry awareness meeting with them to say this is what you need to do, you need to set up watchlists on all your staff, you need to do regular checks to make sure they are still licensed (SIA Official, Partnerships and Interventions, private interview)

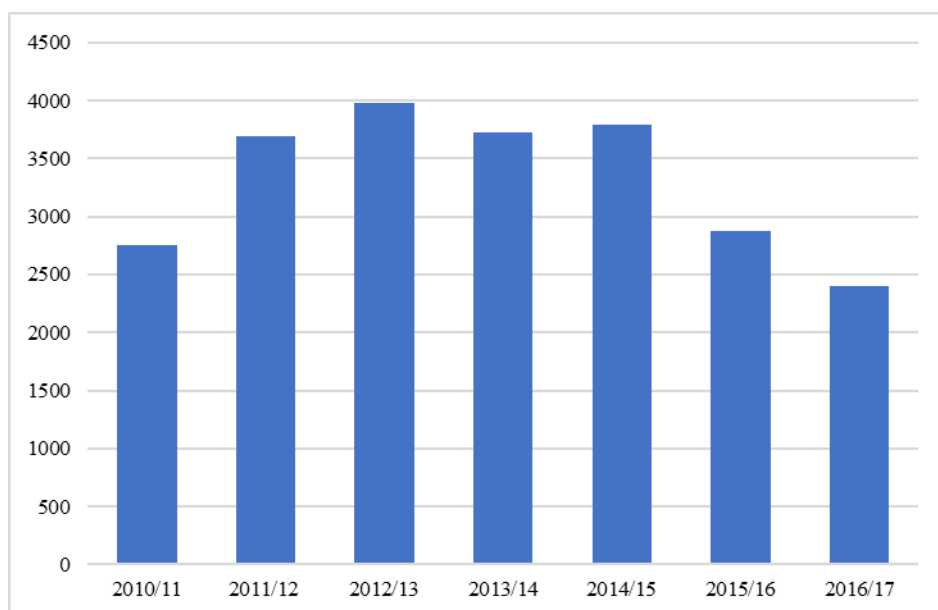
One was where we were looking at an educational establishment. We get some intel in, we go and do a visit on our own and we find a load of people working unlicensed and it's been going on for two years. So, we put a referral onto the criminal investigations team because it's been going on for so long and it's a flagrant abuse of the PSIA. And you've also got an educational establishment, so there's the public risk factor as well [...] So generally, my team will go as far as a written warning, but anything past that my team hasn't got the power to do so if someone's really flouting the PSIA it will go off to [the criminal investigations] team (SIA Official, Partnerships and Interventions, private interview)

It is possible to identify a polarization in enforcement activity after 2014 in which SIA enforcement has become more coercive and more cooperative (see Ayres and Braithwaite 1992). Despite its limited range of legal sanctions, the SIA has constructed an enforcement pyramid using a range of non-statutory disposals such as providing advice, issuing verbal and written warnings to individuals, and improvement notices. These enforcement powers 'have no statutory basis' but are a 'result of the SIA's power to prosecute offences which is the ultimate sanction that can be applied' (SIA 2015, p.8). Although the use of low-level sanctions such as written warnings and improvement notices increased between 2007/08 and 2013/14 in which the SIA attempted to adopt a more visible approach to inspection and enforcement these levels have dropped dramatically after 2014 with the change in the SIA's direction (see Figures 11 - 15). Between 2008/09 and 2012/3 the number of written warnings issued rose

from 62 to 749 a year. The number of Improvement Notices issued also increased over three-fold during this period from 17 to 73. Increase in licence revocations between 2010/11 (3652 revocations) and 2013/14 (5962 revocations). However, this has been matched with a decline in revocations between 2013/14 and 2016/17 (1459 revocations). Furthermore, while the number of inspections, written warnings, improvement notices and licence revocations have declined, the number of successful prosecutions has increased in the post-crisis era (see Figures 15 and 16). In a similar manner, the number of licence applications refused for criminality has dropped from 4304 in 2008/09 (3.2% of all applications) to 1263 in 2016/17 (1.1% of all applications) (FOI Request 0072, 8 March 2018). What is clear from this data is that there has been a decline in the use of the mid-range sanctions whilst an expansion in the use of more cooperative and punitive techniques. This shift in focus away from a more punitive and coercive regulatory approach was justified by that perception that the SIA would be able to target its resources more effectively and therefore achieve its objectives within the context of increasing constraints:

What we've done in that same time period is focus more on more on the most serious of offences and away from the minutiae of 'you're breaking our regulatory regime so we're going to take you on' – it's technical rather than a public safety matter – and moving into where the public is most at threat and there's links to serious and organised crime or there's links to wider criminality. Increasingly over the period, the cases we're adopting for intervention have got links to wider criminality as well. (SIA Director, Partnerships and Interventions, private interview)

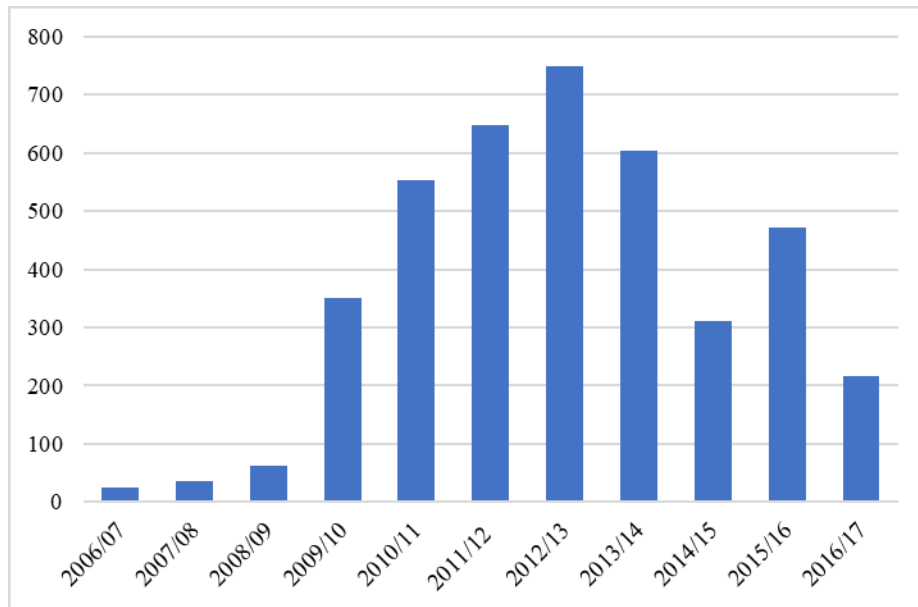
**Figure 11: SIA Checks on Individual Licence Holders (2010/11 – 2016/17)**



Source: FOI Request 0039. 21 September 2017 (no data available prior to 2011)

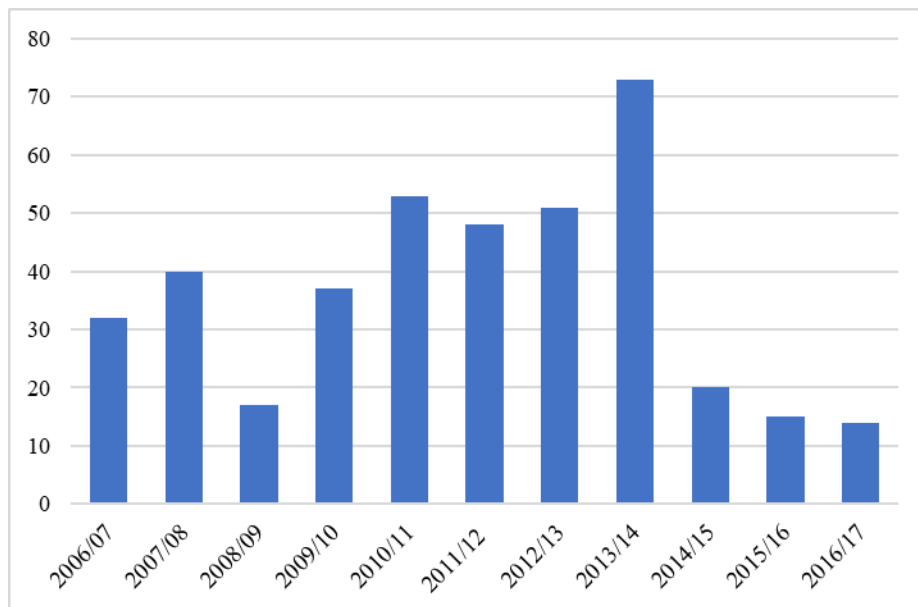


**Figure 12: Written Warnings Issued (2006/07 – 2016/17)**



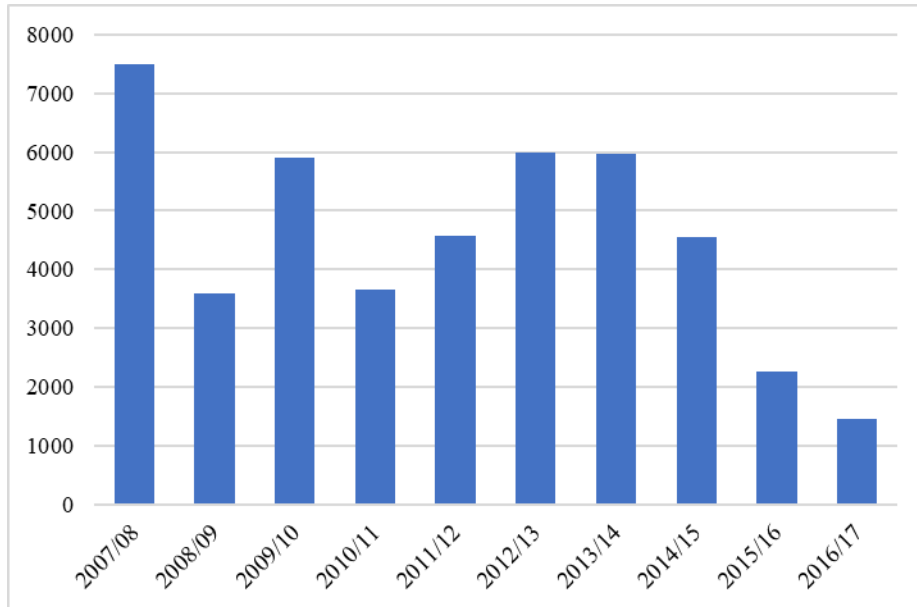
Source: FOI Request 0039. 21 September 2017

**Figure 13: Improvement Notices Issued 2006/07 – 2016/17**



Source: FOI Request 0039. 21 September 2017

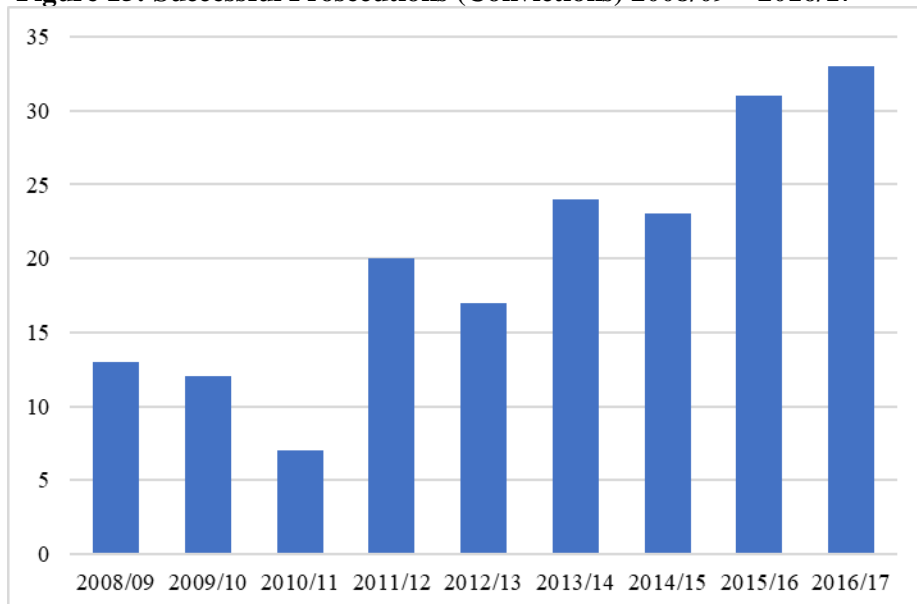
**Figure 14: Licence Revocations 2007/8 – 2016/17**



Note: These figures do not include an additional 639 revocations for which it was impossible to determine a date.

Source: FOI Request 0039. 21 September 2017

**Figure 15: Successful Prosecutions (Convictions) 2008/09 – 2016/17**



Source: FOI Request 0039. 21 September 2017

These more collaborative and responsive strategies have been underpinned by the increasing use (and changing nature) of prosecution activity. Prosecution is the ‘last resort’ of all social regulators in the United Kingdom (Tombs 2015, p.143). For the SIA to prosecute, cases must meet two tests: ‘the SIA is satisfied that there is sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge [and] the SIA considers to be in the public interest to prosecute each suspect. (SIA 2015, p.12). Decisions on whether to prosecute or not are based on factors such as compliance history, or serious offending and whether it is judged to undermine aspects of the regime. Nevertheless, prosecutions are also one of the most resource-intensive parts and the SIA only has a relatively small team of 2 managers and 8 investigators on the criminal investigations team (who make about 30 prosecutions a year).

The SIA’s enforcement regime was galvanised by three significant legal rulings between 2006 and 2008, one which confirmed the SIA’s right to prosecute offences under the PSIA 2001 (NAO 2008, p.7). These rulings were: *R (on the application of Nichols) v Security Industry Authority* [2006] EWHC 1792 (Admin) which decided 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) which 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; and *R (on the application of Securiplan Plc & Ors) v Security Industry Authority & Anor* [2008] EWHC 1762 (Admin) which decided that the Authority has the power to prosecute offences under the PSIA 2001 (see NAO 2008). Furthermore, early in the regime, the SIA has developed the capacity to conduct private prosecutions. This process was illustrated by one SIA Official: ‘there was almost no intention to do prosecutions ourselves and I think that two or three years into that process I think that there was a realisation that if we were going to curb offending, then we would really need to set up a unit’ (SIA Official, Partnerships and Investigations, private interview). Prior to 2008/09 the SIA conducted only four prosecutions. After this date, annual successful prosecutions by the SIA have been increasing (see figure 15). As of March 2018, only 8% of appeals have been upheld by courts (SIA n.d.)

The SIA has also sought to improve the robustness of the licensing regime by expanding its prosecutorial jurisdiction. The SIA has utilised section 1(7) of the PSIA 2001 which confers on the SIA the capacity to investigate any offence that may affect the integrity of the regulatory regime. Two prominent areas where the SIA has been active are training fraud and identity theft as illustrated by two high profile prosecutions for ‘possession of an article for the use of fraud’ (SIA 2017d) and ‘use of a false instrument purporting to be a SIA licence’. This growth was reflected upon by the SIA Director of Partnerships and Interventions:

In the last two to three years we have perhaps expanded our scope beyond the offences under the PSIA to consider any offending that has been committed by individuals within the private security industry or offences which have an impact on the regulatory regime. So that might include things like training fraud, it might include approved contractor consultants undertaking types of fraud, it might be things like identity theft for licence holders so individuals holding themselves out as a licenced security operative when in fact they are completely different people. So those types of things we see that either are having an impact on our licensable population or they’re offences being committed by our licensable population and we feel it is within our remit to actually do something about that (SIA Official, Partnerships and Investigations, private interview).

On this expanding prosecutorial role, it is worth touching on the SIA’s regulatory communication. According to the SIA: ‘we view effective engagement as key to a successful ‘right touch’ regulatory approach’ (SIA 2018, p.28). This importance was reflected within the SIA’s internal restructuring as the Stakeholder Communications Unit was moved from the Partnerships and Intervention Directorate into its own separate unit directly accountable to the SIA Chief Executive in 2015. Research has demonstrated how financial regulators use communication in order to communicate expectations with the industry and also ‘name and shame’ in the context of non-compliance (Puppis et al.2014, p.402). Gilad *et al.* (2013) further argue that such efforts to name and shame also ‘inform the audiences of the regulated firm about: the status of the offended, about desired behaviour, and about the relation between the regulator and regulated industry (van Erp 2011). This rationale was included by the SIA in its Regulators’ Code self-assessment: ‘publicising enforcement outcomes to deter buyers from using non-compliant businesses (helps compliant businesses to grow by having a larger market share)’ (SIA 2015, p.4). Yet it is also possible to see that the SIA’s communication tools have been used to manage its reputation, especially in the context of the tension between risk-based regulation and industry expectations. Gilad et al. (2013) claim that regulatory communication is used by agencies to combat claims of under-regulation rather than over-regulation. Certainly, during this time the SIA has placed greater emphasis on communicating its regulatory activities. This was evident at the 2014 Moving Forward conference: We support our enforcement partners to target organised crime gangs involved in the private security

industry. We have robust and targeted enforcement and successful prosecutions, focused on businesses that are breaking the law. You only have to visit the news section of our website to see the lists of news releases about business we have prosecuted or seized their profits of crime (France 2014). Moreover, an analysis of the SIA’s press releases between 2008 and 2017 reveal that the SIA has placed greater emphasis on its prosecution activity so as to communicate to the private security industry its ongoing presence and impact (see Figure 16). Certainly, this motive was evident in the reflections of one SIA official:

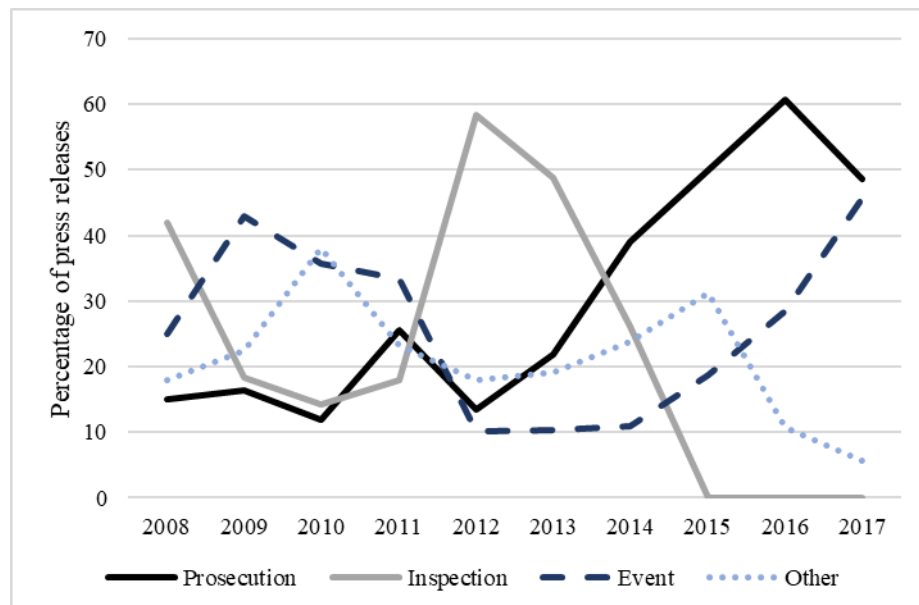
We are always being asked to publicise the work that we do, particularly the prosecutions and I know that recently we have tightened up their reporting of prosecution case so we are making sure that the results of the prosecutions are being published much wider and much quicker.

SB: *Why is that?*

Because the industry like to see that the bad guys aren’t getting away with it, if that makes sense? (SIA Official, private interview)

In this sense, then, it is possible to see how the SIA has sought to place greater emphasis on its prosecution activities so as insulate itself from potential criticism arising from its more indirect and targeted strategies.

**Figure 16: Content of SIA Press Release (2008 – 2017)**



Source: 522 SIA Press Releases published 01/01/2008 – 31/12/2017.

### 7.3. Regulating Businesses without Business Regulation

The regulation of individuals has been successful, but now we have a clear focus on security businesses

— Elizabeth France, *SIA Chair, SIA Stakeholder Conference 16 October 2014*

This section argues that in the absence of business licensing, the SIA has used risk-based rationales and repurposed existing tools to construct its jurisdiction over private security companies. Regulators may adopt risk-based approaches to manage not only their resources, but also their reputations. Socio-political approaches to risk-regulation focus on how regulators adopt risk strategies to avoid and manage blame (Hood 2011; Gilad and Yogev 2012). Risk-based approaches enable regulators to define and justify what risks they should and should not be expected to prevent (Baldwin *et al.* 2012, p.294). As such, regulators can use risk-based approaches to shape their accountability relationships with politicians, the media and regulated interests. In these instances, regulators can use risk-based approaches to protect themselves from potential accusations that they should have prevented a risk from occurring (Black 2006). Furthermore, regulators may even target regulatory resources towards minimalizing institutional risks i.e. the risk that regulators will not achieve their objectives (Rothstein *et al.* 2006a). Regulators will thus seek to prevent the occurrence of high-salience (but low-probability) events which would negatively affect the regulator's reputation if they were to occur. This carries the risk that regulators may then face the unintended consequences of focusing policy attention on problems that carry high institutional at the expense of those that carry high risks to society (Rothstein *et al.* 2006b, p.1058). Rather than defensively defining the boundaries of their responsibility to insulate themselves from external criticism (and the negative consequences of such), regulators may also use risk strategies to actively cultivate their reputation or construct certain jurisdictions (Gilad and Yogev 2012).<sup>54</sup>

Risk-based regulation has been utilised in the absence of business licensing to construct the SIA's jurisdiction vis-à-vis private security companies. In contrast to rules-based regulation, risk-based regulation is more proactive and preventative. The emergence of right-touch regulation emphasises how regulators should look forwards and anticipate risks, rather than correcting market failure in order to understand how regulation can best be targeted (Bilton and Cayton 2013, p.16). In fact, one of the SIA's strategic objectives is to 'monitor changes in our environment and act where these changes have implications for protecting the public' (SIA 2017, p.7). Certainly, at the 2014 Stakeholder Conference, the SIA Chair Elizabeth France highlighted a shift in emphasis from individuals to businesses:

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<sup>54</sup> Of course, regulators will be concerned with both blame avoidance and the pursuit of an exclusive domain (Gilad and Yogev 2012).

For good, compliant businesses: low levels of intervention; active customer recognition of the standards achieved; the opportunity to take increased responsibility for staff licensing – carrying out all checks other than the criminality checks as a trusted service provider (TSP); regulatory protection from incompetence and criminal competition. For businesses that aspire to be compliant: there will be clear standards against which to aim for improvement recognition and support for that improvement; a proportionate burden and appropriate, risk-based intervention; regulatory protection from incompetent and criminal competition. But for bad businesses, for those who will not take on the responsibility to be respected and professional, for those businesses which undermine the reputation of the whole industry: there will be robust regulatory intervention, licence conditions and restrictions to control the extent of risk to the public where necessary, we will seek to prevent such businesses from operating (France 2014).

It is possible to see a related shift in the SIA's inspection and monitoring activities towards businesses. With the emphasis on businesses, inspectors undertake 'industry awareness meetings' where investigators will meet with newly identified private security companies to ensure that they understand the requirements of the regulatory regime, to update them on sector-specific issues, and also to introduce them to the SIA's priorities regarding safeguarding, violence reduction and counter-terrorism:

They'll be a two-hour meeting and we will go through safeguarding, we'll talk about counterterrorism, child sexual exploitation, serious and organised crime, all the home office topics – we will ask them what they know, we will send that loads of links so they've got the information, we'll steer them towards project griffin, CSE workshops etc. We'll ask them about handcuffs and different bits of information that our intel team have asked for – One, it's a good way of meeting companies, and two, it's a good way of getting the message out as well. We get good intel [intelligence] from them. They ask questions about the licensing process, some of it we know, some of it we don't know. From an investigator's point of view, it's a great way of getting our snouts into the trough if you like, to see what is going on early doors. A little bit of profiling – giving us an opportunity to think when a name or case comes up, when you get a bit of intelligence through, you think 'okay – we're investigators – we're nosy'. It gives us a great way of getting into these companies and having a good look around. Likewise, it's good for the stakeholders to have somebody that comes and meets them – they like to see someone from the SIA. Some people like to say that they've had a licence for fifteen years and they've never seen anyone – well there isn't many of us. That's why it's quite good for them – the industry awareness meetings (SIA Official, Partnerships and Investigations, private interview)

These comments about enhancing the inspectorial presence of the SIA are particularly pertinent when situated within the SIA's broader inspection activities. It is possible to highlight some tensions within the SIA's monitoring. Firstly, the SIA has limited resources. The SIA has 40 field investigators, including the national criminal investigations team – this works out to about 1 inspector for every three counties in the UK. This is split into around 30 investigators who form the wider nationwide 'interventions' team, and 10 who form the

criminal interventions team. In fact, official statistics reveal a gradual decline in the SIA's inspection activity after 2014/15 (see Figure 11). Accordingly, the SIA has predominantly relied upon third-parties for its monitoring activities. The SIA has various sources of information: anonymous callers (whether direct or through third-parties such as Crime Stoppers<sup>55</sup>; and partner agencies, especially through the Government Agency Intelligence Network (to tackle serious and organised crime). Most interviewees reported that the bulk of anonymous calls came from private security contractors informing the SIA of unlicensed individuals and sub-par practice. Third party monitors often refer to the most obvious and trivial regulatory infractions, potentially skewing the enforcement agenda away from the pursuit of serious offenders (Lochner *et al.* 2008, p.217). However, changes in the post-crisis context had put further pressures on the SIA's inspection activity:

The frontline sector has, historically, been fairly well policed – you can't hide, you're on the doors in major towns and cities where you've got your licensing teams and police around – they have kept quite a firm grip on it all. Our concern now is there is no one looking. We're probably getting more intelligence through about possible offending and that falls on to our shoulders to investigate or try and persuade the police to assist us. [In this city] they had a team of about twelve people who did the licensing. Now they are down to one PC and one civilian – two people to cover the whole thing. There are going to be further issues because of it (SIA Official, Partnerships and Interventions, private interview)

In this sense, conducting inspections and meetings at the 4000 businesses rather than for 350,000 individuals therefore serves to enhance the 'street presence' of the SIA in the face of resource constraints.

The SIA's broader focus on private security companies has also filtered through into the enforcement regime. Despite not a wholesale shift away from prosecuting individuals (which still constitutes a large part of the SIA's enforcement activity), there has been a greater emphasis on private security companies, and the Section 5 offence of supplying unlicensed individuals. In fact, the SIA has about 30 businesses under criminal investigation at any time (HC 744 [2016-17], p.12). Furthermore, the SIA has increasingly directed prosecutorial activity at private security companies (see Figure 17). The reason for this was articulated by one SIA official:

So initially, it was a lot of Section 3 offending which is unlicensed individuals and Section 5 which is a company offence - a controlling minds offence - and they probably still make up the bread and butter of our cases. I don't think we tend to prosecute section 3 like we did early days, generally nowadays we warn section 3's

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<sup>55</sup> Partnership with Crimestoppers, an independent crime fight charity which allows members of the public to provide anonymous tip-offs, who are then rewarded if the tip off leads to an arrest. The SIA began this partnership in 2006 and renewed it in 2014.



*SB: Is that policy?*

Yes [...] sometimes you could say the individuals know they should be licensed but some of them are almost forced into it. These people earn the minimum wage, is it worth prosecuting and potentially barring them from the industry every time? The more serious offence is the company offence because they are profiteering from using unlicensed staff. (SIA Official, Partnerships and Investigations, private interview).

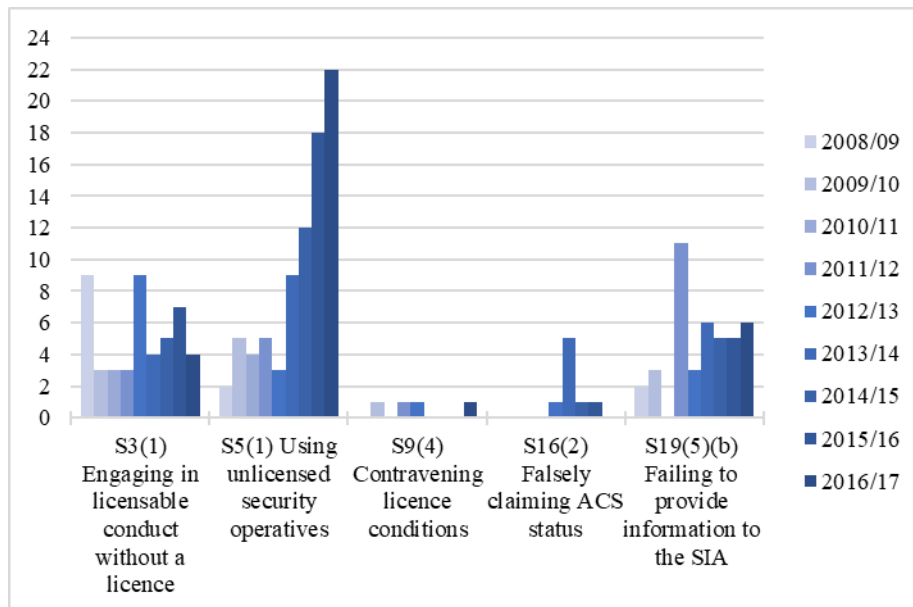
It is clear from this interchange, and when read in the context of Elizabeth Frances's speech that the SIA has shifted the responsibility for unlicensed guards to private security companies, thus sending a message that it expects private security companies to perform appropriate checks, thus marking an informal process of responsabilisation.

The SIA has also strengthened its investigative prosecutorial capacities against private security companies. The acquisition of confiscation, investigation, restraint and search and seizure powers under the Proceeds of Crime Act in December 2015 (POCA) (Home Office 2015, p.6). The SIA has used POCA confiscation to remove the criminal benefit of offending and prevent the risk of 'phoenix companies' in partnership with Regional Asset Recovery Teams in the past, however, developing the independent capacity means that the revenue recovered by the SIA has been doubled. One SIA official noted how the aim of this was also to make the criminal investigations unit 'self-funding' thereby reducing the burden on the licence fee payer (private interview). Funds recovered from confiscation have been used to fund further POCA investigations, train in-house financial investigators and support new initiatives such as violence reduction and promoting 'women in security' (Home Office 2015, p.6). The acquisition of POCA powers makes the SIA's regulatory regime more punitive: under the PSIA 2001, enabling courts to impose fines in the £100,000s. The SIA Chief Executive mentioned that the aim of POCA was to 'take more criminal bodies through the courts in order to ultimately improve standards' (private interview). Certainly, the aim has been to extend hierarchical levers over private security companies in order to improve its effectiveness to achieve its public protection mission:

The fundamental reason for it was to stop individuals who had earned money out of criminal offending in our industry re-investing that money in phoenix businesses in future years. So, what we were seeing was a lot of individuals who were being prosecuted and then popping up again with a different company and then continuing and then folding their business with a tax liability. We felt that if offending has been committed, by using the proceeds of crime act we could look to take that money off individuals which would be a disincentive to continuing in our industry (SIA Official, private interview)

In sum, this section has witnessed an increasing focus of the SIA’s regulatory enforcement activity on businesses, an approach which has been characterised by the use of hierarchy and hard tools, such as prosecution.

**Figure 17: Successful Prosecutions by Offence (2008/09 – 2016/17)**



Source: FOI Request 0072 by S Booth. 08 March 2018

#### 7.4 Third-Party Regulation

This section examines the SIA’s increasing use of third-parties. It argues that the SIA has supplemented its (limited) formal authority with the informal authority of third parties.

The objective of transferring greater regulatory responsibility to the private security industry has been made difficult by the absence of business regulation. The 2014 ‘Get Business Licensed’ document indicated that under a reformed system individual registration would be completed through licensed businesses and authorised third parties (‘Mediated Access Partners’). Nevertheless, the SIA has sought to replicate these arrangements by subcontracting regulatory function to private actor (Ayres and Braithwaite 1992, p.103). For instance, in July 2016, the SIA introduced a new licensing system which would enable all private security companies to pay for applications on behalf of licensable employees and check that employees held valid licences. Approved contractors were to be granted to further licensing services – ‘Licence Assist’ and ‘Licence Management’ which offered an enhanced role within the licensing process, such as the ability to submit applications on behalf of staff and to undertake right to work and identity checks. The published purpose of the Licence Management service was ‘to provide approved contractors with increased control and

oversight of the licensing process – a first step towards the industry taking more responsibility for regulation’ (HC 744 [2016-17] p.7):

For us, Licence Management has a strategic value that fits with how we drive business improvement via the ACS and how we seek to engage businesses using our licence system. We hope that the service will give us closer relationships with businesses and that this will help raise industry involvement in regulation... I think that Licence Management is a significant step forward for both the industry and the SIA. This initiative will strengthen our overall approach to driving up the quality and operational efficiency of businesses (Holyland 2018).

The Licence Management service denotes a shift towards a more indirect mode of regulation on the part of the SIA. The responsibility for directly performing identity and photograph checks is transferred to approved contractor by means of a contract (or ‘partnership agreement’) and in which the SIA adopts a quality assurance role in ensuring that at least 99% of checks meet SIA-established standards (SIA 2017, p.34b). This does not necessarily mark a withdrawal of the SIA: to use the Licence Management Service, approved contractors must meet enhanced criteria such as: registration with the Information Commissioner as a Data Controller; not have been subject to SIA interventions and sanction activity; and have appropriate internal procedures, capacities and policies related to checking identity, processing applications and preventing fraud. On top of this the approved contractor must adhere to a mandatory ‘code of connection’ relating to data security (SIA 2017b, p.5). The SIA still retains responsibility for undertaking criminality checks. The partnership agreement also confers on the SIA a series of powers to ensure compliance with the agreed terms, such as additional inspections, more quality assurance checks, improvement and action plans, and termination. Building on the transactional nature of this relationship, the SIA offers a ‘carrot’ or incentive to promote use of internal capacities: ACS contractors using Licence Management are able to use the tagline: ‘The SIA and approved contractors working together to licence the private security industry’. (SIA 2017b, p.4) In a September 2016 review of the Licence Management Pilot, businesses fed back that this trust between the SIA and private security companies was a ‘good selling point for clients’ (SIA 2016c, p.2).

Whilst this marks the emergence of a more co-regulatory relationship between the SIA and private security industry, it is important not to overstate this shift. The Licence Assist service, which allows approved contractors to manage applications on behalf of staff has been used by a reported 30% of approved contractors (~240 companies). The Licence Management service, by contrast has been piloted by nine major ACS companies (HC 744 [2016-17] p.8). In this sense, the SIA is only adopting these meta-regulatory relationships with a small proportion of private security companies. Furthermore, although all employers have the statutory responsibility to check identity and whether prospective employees have the right to

work in the UK.<sup>56</sup> Licence management may then amount to a limited enrolment of the administrative capacities of a few ‘trusted’ organisations in processing applications forms, taking photos and checking identity:

There are some parts of our territory that can be done equally well by some of the bigger organisations in the industry. So, there’s a moderated access that we can allow to the process that means the big organisations can take a little more control over ensuring that their operatives apply correctly and have the correct paperwork in place and manage some of the systematic stuff (SIA Director, Partnerships and Interventions, private interview).

The SIA has sought to overcome limitations stemming from the regulatory context on the extent to which it could intervene within the supply-side of the market for security by influencing the demand for security services. In this sense, a greater number of regulatory interventions have been targeted at third-parties or ‘gatekeepers’ who ‘are not directly the subject of regulation but have a strategic position over those who are’ (Black 2012, pp.1048-9). Concerns with the role of consumers within the regulatory regime ebbed and flowed throughout the post-crisis period.<sup>57</sup> Although the SIA had previously consulted with and held various awareness events and initiatives for buyers, from 2014/15 it developed a more coordinated and better resourced strategy focused on improving buying practices (SIA Director of Partnerships, private interview).<sup>58</sup> This was highlighted at the 2014 Conference – ‘we will encourage informed buyers to play their part in ensuring effective protection of the public, by working with suppliers which are well respected and professional’ (France 2014). This alternative direction was outlined by the SIA Chair:

We’re saying what can we do without change? You could have a law change which says you can only buy private security from people – if we get business licensing, then business licensing – or a revised ACS but that would require law. What we can do is say to buyers: ‘come on now buyers it’s not all in the price, what are you buying if you’re a big buyer, if you’re the NHS, if you’re universities?’ (SIA Chair, private interview)

Furthermore, the SIA has adopted ‘soft’ rules and mechanisms to influence behaviour where its formal authority and capacities are limited or non-existent. Soft rules seek to regulate behaviour using legally non-binding recommendations, guidelines, norms and standards

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<sup>56</sup> The Immigration, Asylum and Nationality Act 2006 made employers liable for any employees found to be working illegally. Employers that fail to adequately carry out such checks could face: a civil penalty of up to £20,000 per worker; a criminal conviction carrying a prison sentence of up to 5 years and an unlimited fine; closure of the business; director disqualification and/or seizing of earnings

<sup>57</sup> In the wake of the Sabrewatch affair, a question was raised at the 2009 stakeholder conference asking whether the SIA would be willing to investigate the possibility of a specific offence for clients who use unlicensed security guards (SIA 2009).

<sup>58</sup> Prior to the financial crisis, the SIA had released a series of leaflets aimed at security buyers.

(Maggetti and Gilardi 2014). For instance, the SIA ‘Buying Right in Construction’ initiative targeted major construction companies across the United Kingdom and sought to educate these companies about the risks of procuring poor quality security services, ensure that due diligence purchasing practices were in place, and to provide information about the ACS scheme. Alongside providing information (SIA investigators distributed materials on the ACS scheme and a HMRC leaflet ‘Use of Labour Providers: Advice on Due Diligence’), the SIA created a soft rule, or guideline, designed to steer purchasing practices in line with the SIA’s broader goals of reducing criminality and raising standards:

Basically, we went to a number of companies to work out what their charge rate was. We kept this figure that we would say anything below that rate would be a risk, it would be a risk of the company taking shortcuts, not necessarily meeting their obligations in relations to pensions, in relation to HMRC, it could be a risk of them supplying unlicensed staff without the right to work because potentially some shortcuts were being taken (SIA Official, Partnerships and Interventions, private interview).

This constitutes part of a broader strategy to steer buying practices in line with the SIA’s public protection objectives. Interviewees highlighted issues with the complexity of the buying landscape, the unwillingness of buyers to engage, the non-binding nature of SIA capacities, and the limited resources available to engage smaller buyers. The SIA has also had limited contact with public buyers of security. In order to overcome limitations to engaging and influencing buyers, the SIA has also sought to harness the regulatory capacities of third parties – such as Business Crime Reduction panels - in shaping buying practices: ‘we are trying to use others which are more in contact with buyers, so they are listening to one of their own, essentially saying it’s good to look out for ACS’ (SIA Chief Executive, private interview; HC744 [2016-17], p.13).

The ACS scheme, despite its apparent shortcomings, has been used as a proxy for business licensing and has been one of the key levers that the SIA has sought to steer buying practices and communicate the maturity of the private security industry and its contribution to public protection and wider government priorities (e.g. SIA ACS Update January 2017). The intention of this strategy is to ensure that only private security companies that have made a commitment to continual improvement (represented by ACS membership) win security contracts, thereby exercising a ‘pull’ on the market for security by marginalising poor quality companies through market competition. Communication and persuasion are the key non-statutory tools used by the SIA. In November 2017, the SIA released guidance on contract security procurement: *Do you buy security? The regulators guide to buying private security*. This document advises ‘responsible buyers’ to avoid making procurement decisions based on cost alone and identifies the risks of using low cost security services. It also provides

information on due diligence practices, nudging readers towards the ACS scheme: ‘Or you can simply appoint an SIA approved contractor knowing that all these checks and more have already been done by the SIA – saving you time and money’ (ACS/17-18/01). The SIA has also been working with several local councils to ensure that all security suppliers have ACS contractor status (HC 744 [2016-17], p.17). These tools were also highlighted by SIA staff:

Over and above the minimum is when we try to use our communications tool to share examples of good practice, to get people to use and aspire to the ACS scheme, to promote the scheme with buyers saying: ‘if you’re going to go out and buy security see if it’s got the ACS stamp because then you’ve got more assurance (SIA Chief Executive, private interview)

We give advice [to buyers] and the advice is generally around: you can do your own checks that people are licensed. As much as we’re not selling the ACS, but you might want to consider an ACS company. If someone’s committed an offence, we might give advice to a buyer. We might do quite a bit of work with a buyer around an event, so if you look at [major event] we’ve done quite a bit of work with the organiser in relation to who’s organising your event? Have you decided who is licensable and who is a steward? And it will be about giving them advice, going to the events company, giving them advice and then going to the security company and giving them advice. (SIA Official, Partnerships and Interventions, private interview)

Nevertheless, these strategies operate in the shadow of hierarchy. The updated 2015 SIA Enforcement Policy warned that:

Consumers represent an important link in the chain of criminality – without customers being willing to flout the rules and accept the supply of unlicensed security operatives, there would be no market for them in the first place [...] We may consider if such customers and employees are liable for alleged offences [...] (SIA 2015, p.6)

For instance, the BRIC initiative was followed up in 2015/16 with inspections at 53 different construction sites. Likewise, if advice concerning the appropriate procurement of private security was not followed, that is, if purchasers hire security operatives from contractors offering unrealistic prices (one SIA Official indicated that a threshold of £9 per hour was established as the minimum price necessary to meet tax and pension obligations), then the SIA would threaten to launch an investigation with HMRC or the Department of Work and Pensions on the grounds that there would be a high risk that the security company was not meeting these requirements and potentially supplying unlicensed guards (SIA Official, Partnerships and Intervention, private interview).

More broadly, the SIA has also leveraged the informational resources of others in the strengthening of its regulatory regime. (and vice versa). Participation in the GAIN network has enabled it to contribute to broader national security and serious and organised crime agendas. The SIA has also used its inspectorial capacities to complement the work of other law enforcement agencies, such as the police, HMRC, Home Office Immigration and

Enforcement and other regulators such as the Gangmasters Licensing Authority. These networked relationships are underpinned by non-legally binding arrangements, such as memoranda of understanding. Despite signing a MOU with the HMRC in September 2013 to strengthen the exchange of information between the two organisations. This relationship has been further characterised by poor information sharing practices and the lack of a legal gateway (SIA Board 18 January 2018, p.4). Opening an official information gateway with the HMRC required Home Office approval and changes to legislation and was considered part of a wider list of legislative changes that the Home Office was considering in connection with the SIA's triennial review (SIA Board Meeting 20 October 2016, p.3). This was updated in July 2018: 'This MoU will allow us to track businesses with rogue employment models and create a level playing field that ensures that security staff are employed legitimately and treated fairly; and that this standard becomes the norm.'. Certainly, this partnership working was directed towards the facilitation of this broader (and more effective role) in the policing landscape:

So, to start off with, it was working with police and local authorities to get people in the tent, to get people licensed and to understand the need to comply and also securing the boundaries of what's caught by regulation and what's not. People were disputing that they weren't licensable, we'd work with others to fix that and win cases accordingly. Now because we are working on the more serious offences and the link to wider offending, we're still working with police forces a lot, but it's on more serious casework. So, the partner itself doesn't change, but the nature of the case we work on together does. So, we'll also work with the National Crime Agency, we'll work with HMRC, we'll work with immigration enforcement, but it won't just be on their small cases, it will be on their most serious cases. (SIA Director of Partnerships, private interview)

There is serious criminality still and I mean serious criminality in a small proportion and sometimes our regulatory powers are what opens the door because you might not have grounds to go in as a police officer or Revenues and Customs but we can go in and ask to see the various things that we need to see from companies employing registered staff – that can sometimes begin to unravel and assist (SIA Chair, private interview).

If I had information that company A was linked to organised crime and there isn't any PSIA offending – I would probably go and speak to partners and I would say I'm going to have a meeting with this company, is there anything you want me to get out of them? Then I'd go and meet the company, find out what they are about, and obviously they are only going to tell me their clean side, but that's information I can get in and share to the partner and it might be there's something in there that helps them along the journey to try and break that organised crime network up – that's our role when it comes in (SIA Official, private interview).

In sum, this section has demonstrated how the SIA has developed more indirect and meta-regulatory roles which seek to harness and steer self-regulation.

## 7.5 Conclusion

This chapter further examined the hybridisation of private security regulation after 2014. It argued that the increasing hybridisation of private security regulation can be explained with reference to the SIA supplementing its (limited and increasingly restricted) formal authority by harnessing and leveraging non-state authority through the use of more collaborative strategies and softer regulatory instruments and tools. It explored this dynamic across three dimensions. First it highlighted how the SIA has negotiated tensions between legal obligations to adopt more risk-based strategies and demands for visible and active intervention by fostering and harnessing the self-regulatory capacities of the private security industry. It further highlighted how these more collaborative and consensual approaches to regulation have been articulated both in terms of achieving efficiencies and enhancing ‘presence’ and ‘effectiveness’ in attempt to reconcile competing stakeholder demands and constraints. Nevertheless, it used quantitative data to identify an increasing polarization in enforcement activity where the SIA’s regulatory activities have not only been more cooperative, but also more coercive. Second, it traced the shift in emphasis from individuals to businesses. It argued that in the absence of formal legal authority the SIA has used risk-based rationales to informally extend its jurisdiction over businesses. It further noted how the SIA has strengthened its direct and formal regulatory capacities over business through the acquisition of new enforcement powers (granted by the Proceeds of Crime Act). Third, it highlighted how the SIA has sought to enrol third-parties within the achievement of its public protection objectives. Essentially, the SIA has sought to harness market forces (i.e. third-party purchasing power) through persuasion, information and guidance. Linking to previous chapters, it is important to explain these dynamics with reference to the SIA negotiating external pressures stemming from its post-crisis regulatory environment in order to pursue its mission, achieve its objectives and sustain its autonomy. In this respect, it was illustrated throughout the chapter that the increasing engagement and collaboration with the private security industry – both individual licence holders and businesses – as well as with third parties, has been driven by the SIA’s desire to shore up some of its capacities in the face of increasing legal, regulatory and resource constraints. This thesis now turns to the concluding chapter which draws together the theoretical and empirical dimensions of this investigation.



## 8. Conclusion

### 8.1 The Hybridisation of UK Private Security Regulation

This thesis set out to explain changes in UK private security regulation in the post-crisis era. It identified a puzzling shift from a hierarchical, command-and-control to more hybrid patterns of private security regulation, a process termed the ‘hybridisation’ of private security regulation. This ‘hybridisation’ dynamic referred to the fact that since 2010, private security regulation in the United Kingdom has been increasingly constituted by complex mixes of different (state and non-state) institutions, actors, strategies and instruments (Levi-Faur 2012). The introductory chapter indicated that this ‘hybridisation’ of UK private security regulation was particularly puzzling, because these more complex and networked regulatory arrangements have emerged in the absence of any formal regulatory reform. To explore this process of hidden change, this thesis posed the following research question: **how can we explain the hybridisation of UK private security regulation in the post-crisis era?**

To answer this question, this thesis constructed a novel analytical framework by drawing conceptual and theoretical insights from the literature on private security regulation, political institutionalism and bureaucratic politics. To start, this thesis framed this question within extant debates concerning the shifting regulatory relationship between the British state and the market for security. It was argued that the conventional approach to analysing private security regulation - termed the ‘centred’ model - provided an inadequate answer to the research question. The centred perspective was shown to be constituted by a series of studies which seek to classify and compare national statutory frameworks in order to develop model regulatory systems and disseminate best practices. It was clear from focus on statutory frameworks that proponents of the centred model conceptualise private security regulation in terms of hierarchical command-and-control, that is public agencies exercising direct control over the private security industry using legal rules backed by (criminal) sanctions. They assume that regulation is a strictly governmental function (i.e. that regulatory authority is ‘centred’ or monopolised by the state) and that the key regulatory relationships and mechanisms are based on hierarchy and law. Moreover, proponents of this approach contend that the purpose of private security regulation should be to protect the public from private security by removing criminal and substandard providers from the market. While this model provided an accurate description of the formal regulatory arrangements constituted by the Private Security Industry Act 2001 (PSIA 2001) – and therefore provided an analytical starting point for the empirical narrative – its narrow focus on statutory frameworks and legal provisions meant that it could not capture the increasingly complex and dynamic nature of UK private security regulation in the post-crisis era. In short, if we were to take the centred

approach to analysing the post-crisis regulation of the UK private security industry – i.e. drawing logical inferences about the regulatory relationship between the British state and market for security from the PSIA 2001 – it would not reveal the emergence of more hybrid and network-oriented regulatory arrangements.

Accordingly, this thesis introduced two governance-inspired perspectives: the ‘decentring’ and ‘recentering’ models to help analyse these more hybrid and network-oriented regulatory arrangements. These models were selected because they move beyond the narrow conceptualisation of private security regulation as consisting of legal frameworks and public agencies and incorporate a broader range of regulatory norms, actors, strategies and instruments into their analyses. Despite this conceptual consensus, the decentring and recentering models were shown to disagree on the descriptive, explanatory and normative implications of this more ‘decentred’ analysis of private security regulation. Nevertheless, it was argued that when taken together, the decentring and recentering models provide two useful lenses for analysing the more hybrid and network-oriented regulatory arrangements that have emerged in the post-crisis era. For when counterposed to the centred model, the decentring and recentering models provide a framework for examining the extent to which state-centred settings have been supplanted or supplemented by more networked modes of regulation. In this sense, where the decentring model illuminated increasing fragmentation within the regulatory regime, such as the Security Industry Authority’s increasing dependence upon third parties to deliver its regulatory objectives, the recentering model captures increasing centralisation and consolidation in the regulatory regime, such as the core executive’s attempt to steer the regulatory regime for private security by imposing tighter legal, regulatory and resource constraints upon the SIA. These models also enabled us to explore the extent to which there has been a shift in the orientation of the regulatory regime, or the extent to which the goal of private security regulation has shifted from one of ‘cleansing’ (removing substandard providers from the market for security) to one of ‘communalizing’ (broadening access to the market for security) or ‘civilizing’ (ensuring deliberation over the moral limits of the market for security) the market for security. Accordingly, it was argued that while the decentring model provided a useful lens for capturing increasing complexity and fragmentation within private security regulation, the recentering model provided a lens for articulating the concurrent process of centralisation. Yet although these two perspectives illuminated the pressures on existing regulatory arrangements, it was argued that they do not explain the fact that more collaborative and networked modes of regulation have developed within the boundaries of the PSIA 2001.

This debate was therefore supplemented with the political institutionalist approach, which provided a framework to examine and explore the shift from hierarchical command-and-control to more collaborative and networked modes of private security regulation. In

particular, the notion of institutional conversion provided a lens for examining how the PSIA 2001 has been redirected from its original purpose of protecting the public *from* private security to protecting the public *with* private security. It was reasoned that this framework illuminated role of institutional ambiguity and environmental and coalitional shifts on institutional creation, stability and change and therefore provided a lens for exploring the impact of the financial crisis and its aftermath on private security regulation. Finally, it was argued that the political institutionalist approach further articulated how ‘weak’ actors, such as the SIA, may play pivotal roles in institutional change by virtue of their discretionary capacities. Finally, the bureaucratic politics perspective was utilised to conceptualise the agency – or autonomy – of the SIA and further explain the hybridisation of private security regulation in the post-crisis era. This approach argued that the scope of the SIA’s autonomy is not simply shaped by the legal independence granted by politicians as defined within its constituent document (the PSIA 2001) but also by its relationship with external stakeholders. Moreover, this perspective posits that public agencies are animated by the desire to maintain their autonomy, understood as the capacity to pursue their mission as they see fit. In this respect, public agencies will attempt to defend their autonomy by practising a ‘politics of legitimacy’ – which they do through coalition and reputation building. It was concluded that the bureaucratic politics approach enabled us to explain the hybridisation of private security regulation with reference to the Security Industry Authority negotiating pressures stemming from the shifting post-crisis regulation environment (i.e. increasing fragmentation and centralisation) in order to pursue its mission, achieve its objectives and therefore maintain its autonomy. It is against this theoretical backdrop that the key arguments and findings of this thesis are articulated.

The first argument concerns the changing relationship between the British state, market and society in the post-crisis era. This thesis has argued that we have witnessed a **‘hybridisation’ of private security regulation** in the post-crisis era. This term referred to the shift from hierarchical command-and-control to more collaborative and networked modes of private security regulation, characterised by a mix of state and non-state actors, hierarchical and collaborative regulatory strategies and legal and non-legal tools. In the post-crisis era, then, private security regulation has increasingly become the product of networks. Whereas the SIA has traditionally been responsible for directly administering, monitoring and enforcing the licensing regime (through the imposition of minimum standards, the suspension and revocation of licences and prosecution of non-compliance), it has increasingly taken on the role of harnessing, influencing and steering self- and third-party regulation. To use the words of the SIA Chair: the SIA has become ‘more than just a little NDPB issuing badges’. The term ‘hybrid’ therefore highlights the fact that the Security Industry Authority has increasingly enrolled non-state actors (and their informal authority) in the fulfilment of its regulatory

objectives of reducing criminality and raising standards. Accordingly, in the post-crisis era, there has been a growing shift in the responsibility for private security regulation from the state (or the SIA) to the private security industry and third-parties, such as buyers, and consequently a blurring of the public-private divide.

The second argument relates to the changing impact of the Private Security Industry Act 2001 in the post-crisis era. This thesis has argued that although the PSIA 2001 remains unreformed, it has been redirected from its original intention of **protecting the public from private security** to the goal of **protecting the public with private security**. This is evident within the Security Industry Authority's regulatory strategy which has increasingly been focused on brokering public-private policing partnerships and empowering and enabling the private security industry to better contribute to public protection objectives such as safeguarding and counterterrorism. In this respect, in the post-crisis era, statutory regulation is not only oriented towards 'cleansing' the private security industry but also to facilitating its integration into the policing landscape. This thesis further revealed that the SIA has perceived these goals as mutually reinforcing as the SIA has sought to exercise a 'pull effect' on the private security industry by harnessing market incentives (i.e. public sector contracts). Moreover, a key driver of this more facilitative role has been to enhance and harness the private security industry's capacity to take on more responsibility for raising standards, therefore enabling a reduction in the SIA's responsibilities (and thus enabling it to more effectively target its limited resources and meet its legal and regulatory obligations as set out by the Better Regulation Agenda). This suggests that there has not been a significant shift in the orientation of the regulatory regime away from 'cleansing' and towards 'communalizing' or 'civilising' the market for security.

On this theme, this thesis also traced the steps which led to this redeployment of the PSIA 2001 in the post-crisis era. First, it explained the redirection of the PSIA 2001 with reference to shifting coalitional dynamics. Chapter Three established that the PSIA 2001 was the product of political compromise between competing demands for public protection, normative legitimation, and regulatory efficiency (see White 2010) and therefore contains significant gaps (such as the omission of private security companies) and embodies, preserves and imparts power resources to different groups (for instance, it grants the SIA the legal authority to regulate the private security industry). Certainly, the extent to which the SIA has been able to define and pursue its regulatory mission and achieve its objectives has been shaped by the changing balance of power between these competing political coalitions. Chapter Four demonstrated that the crisis for private security regulation was triggered by changes in the balance of power in which a more free-market-oriented government had gained the legislative resources necessary for dismantling private security regulation and abolishing the SIA (see White 2018, pp.86-7). Moreover, a key factor in the SIA's survival and (relative) success of

its June 2010 regulatory blueprint was its support from an opposing political coalition, comprised of the private security industry, the devolved administrations and opposition members of the House of Lords. Chapter Five further revealed that the Cabinet Office and Department for Business Innovation and Skills were able to exercise a veto over regulatory reform thereby paving the way for institutional conversion. Second, the redirection of the PSIA 2001 was explained with reference to environmental shifts, especially concerning the economic downturn, the changing role of the private security industry within the policing landscape, and the intensification of the Better Regulation Agenda. Third, a key factor related to the ambiguity of the PSIA 2001 and in particular, whether the SIA should only be responsible for imposing minimum standards or for promoting continuous improvement within the security industry. Finally, this thesis highlighted ‘intra-institutional’ factors such as the SIA’s capacity to reinterpret the PSIA 2001 due to its discretionary resources.

The third argument relates to how the SIA has negotiated pressures stemming from the shifting post-crisis regulatory environment in order to achieve its statutory objectives (of reducing criminality and raising standards within the private security industry) and **maintain its bureaucratic autonomy**. Since 2008, the SIA has sought to achieve its objectives in the context of a fixed legal mandate and increasing legal, regulatory and resource constraints on its regulatory activity. It has faced considerable legal constraints due to gaps in its formal jurisdiction (such as private security companies), limited enforcement powers and decisions to contract out key regulatory responsibilities to third parties. It has faced increasing regulatory constraints on its inspection and enforcement activities, due to its obligation to comply with the Regulators Compliance Code (and later the Regulators Code). It has further operated under increasing resource constraints as a result of ongoing government efficiency drives and increased spending controls. Moreover, the SIA has faced competing stakeholder demands for the increased robustness and visibility of its regulatory activities on the one hand, and greater regulatory efficiency on the other (see Smith and White 2009).

This thesis has identified two distinct strategies that the SIA has adopted to negotiate these pressures. Between 2008 and 2014, the SIA sought to negotiate these constraints by formally reforming its legal mandate to include private security companies. The SIA perceived that business licensing would enable it to more effectively and efficiently target its limited resources, thereby achieving its statutory objectives and satisfying stakeholder demands within this more restrictive regulatory context. Indeed, the SIA was able to cultivate support for its business regulation proposals by mobilising, institutionalising, and leveraging the political resources of a supportive coalition between 2010 and 2014. However, with the possibility of reforming its legal mandate essentially vetoed by the core executive, between 2014 and 2018, the SIA sought to negotiate these constraints by supplementing its (limited) formal authority with the informal authority of non-state actors and networks. The SIA has

sustained its foothold within changing regulatory arrangements by adopting more informal, collaborative and networked regulatory strategies which harness the capacities of the private security industry and third-parties. In this sense, the SIA has not been a passive actor in the hybridisation of private security regulation but has actively created these more complex and networked arrangements.

## **8.2. Research Contributions and Implications**

This section details two key theoretical contributions, one pertaining to the theoretical approach taken, and the other to parallel debates within the criminology, regulation and political science literatures. First, this thesis makes a significant contribution to the current study of private security regulation. As highlighted in the introductory chapter, the literature on private security regulation has predominantly concerned itself with classifying and comparing states in terms of their statutory frameworks, with the aim of developing model regulatory systems and disseminating best practices (e.g. Button and George 1998; de Waard 1999; Button 2007; Prenzler and Sarre 2008; Button 2012; UNODC 2014; Button and Stierstedt 2017). Certainly, where this literature does analyse the relationship between the British state and regulation, it does so largely by drawing logical inferences from statutory frameworks and legal provision (e.g. Button 2008; 2009; 2012). However, viewing the post-crisis regulation in the UK private security industry through this lens would not reveal the subtle changes in the state-market relationship that have occurred in the post-crisis era. In this case, by recasting regulation as a political process (through the use of the political institutionalist and bureaucratic politics perspectives) and regulatory agencies not as passive implementers but as political actors in their own right, this research has therefore demonstrated that while formal rules remain fixed, their impact may change. It is further contended here that this not only provides a richer empirical understanding of private security regulation, but such insights may further help develop normative regulatory proposals and models.

Second, the arguments put forward here further contribute to overlapping debates (identified in the introductory chapter) about the changing relationship between the British state, regulation and policing. The first debate derived from the criminology literature concerns the extent to which transformations within the policing sector represent a radical new era of policing or a gradual extension of state-centred arrangements. In particular, this thesis contributes to debates concerning the role regulation is playing in this ‘transformation’. On the one hand, states have predominantly sought recourse to statutory regulation to maintain a degree of public control over private security. On the other hand, statutory regulation has been sought by the private security industry to ‘capture’ legitimacy from the state in order to

overcome cultural barriers that stand in the way of growth (White 2010; Smith and White 2014). In this respect, private security regulation is increasingly ‘Janus faced’ (White 2018). The political institutionalist approach has revealed a similar dynamic where the PSIA 2001 has been redirected from its original intention of protecting the public *from* private security to protecting the public *with* private security. Certainly, this has been demonstrated by the fact that the SIA has actively brokered public-private policing partnerships and promoted cooperation between private security and the police. However, this thesis revealed that these goals have been perceived as mutually reinforcing in the sense that the SIA has sought to exercise a ‘pull effect’ on the private security industry, due to increasing constraints on its regulatory activities imposed by the core executive. The consequence of this then is that statutory regulation (and restrictions thereon) are increasingly facilitating the private security industry’s integration into the post-crisis policing landscape.

This thesis also cuts into a parallel debate concerning transformations within regulation and the extent to which hierarchical state-centred regulation have been replaced with more networked arrangements. As highlighted in Chapter Two this has manifested itself within debates concerning the extent to which there has been a shift from the ‘regulatory’ to the ‘post-regulatory’ state. Certainly, some headway has already been made to answering this question in previous chapters for those within the decentring perspective have been shown to argue that regulation has become constituted by complex interactions between networks of state and non-state actors. In particular, this perspective emphasises the dispersal of power throughout these actors. This was contrasted with the recentring perspective which recognises this fragmentation but suggests that states can consolidate their position through coordinating more hybrid and networked arrangements. This thesis cuts through the middle of this debate. It revealed that the SIA has responded to increasing pressures of centralisation and consolidation by engaging in more networked and collaborative practices, therefore promoting further fragmentation. In this respect, we have witnessed a dual decentring and recentring within private security regulation. In other words, we have departed from the regulatory state - but have not reached a post-regulatory state (Perhaps we are at a *past*-regulatory state?).

### **8.3 Future Research**

Building on the main argument and wider significance of this thesis, this section now outlines a future research agenda. The key contribution of this thesis has been to provide a theoretical framework through which to examine the dynamic nature of private security regulation. It is contended here – with the methodological caveats discussed in the appendix – that this framework could be used to analyse private security regulation within different contexts. This framework could therefore be used to examine gaps between statutory frameworks and their implementation as well as the strategies that bureaucratic agencies employ to pursue their

mission. This could in turn contribute to developing better regulatory models and systems, as well as provide greater insights into how agencies sustain their foothold within the changing governance of security. Indeed, one particularly interesting area for future research would be to analyse private security regulation in the Global South and examine how bureaucratic agencies build and sustain their authority within the context of highly salient transnational pressures, intense redistributive politics and limited capacities (Dubash and Morgan 2012). Indeed, Berg and Howell (2017, p.279-80) provide an insight into the pressures upon private security regulation in Africa:

‘Those countries which do have laws in place usually experience problems of a lack of/or low resources, lack of capacity and staffing, and a general lack of political will to properly fund regulatory efforts. For instance, even for a fairly well-resourced country, like South Africa, PSIRA struggles with capacity issues with respect to the number of inspectors allocated to inspect private security businesses’

Certainly, then, the South African case could be the starting point.



## Appendix: Methodology

This appendix outlines the methodology used to generate data for the research question: **how can we explain the hybridisation of UK private security regulation in the post-crisis era?**

### *Mixed Method*

Research design refers to the ‘plan or proposal to conduct research [that] involves the intersection of philosophy, strategies of inquiry, and specific methods’ (Cresswell 2009, p.5). Traditionally, the positivist/interpretivist divide within the social sciences has limited the types of questions that can be explored and answered by qualitative and quantitative research designs. Quantitative research designs, built on the positivist assumption that social and political phenomena can be directly observed, have focused on explaining and predicting certain social and political phenomena using numerical or statistical data. In contrast, qualitative research designs, predicated on the interpretivist assumption that social and political phenomena do not exist independently of human interpretation, have been concerned with understanding social and political phenomena by uncovering and understanding the meanings that inform individual and organisational attitudes and behaviour using textual and spoken data (Hollis and Smith 1990). Moreover, while quantitative research has traditionally adopted a deductive approach, which consists of testing general theories and hypotheses using specific cases, qualitative research has adopted an inductive process which consists of beginning from a specific case and building a general theory from it (Cresswell 2009, p.4). Certainly, whereas quantitative designs assume that that general laws and theories can be made for all cases, qualitative methods usually emphasise the context-specific nature of individual cases (Burnham et al. 2004, p.31).

Mixed-methods designs combine elements of the above approaches in various combinations (Tashakkori and Creswell 2007). This thesis adopts a mixed-methods research design, the purpose of which is to explain the outcome within a particular case using qualitative and quantitative data (Mahoney and Goertz 2006, p.320). In this respect, this mixed-method research design seeks to describe and explain the more complex patterns of private security regulation that have emerged in the post-crisis era. However, this type of ‘explanation’ is slightly different to the predictive form of explanation used in positivist inquiries, instead using a more probabilistic, ‘best-fit’ form of explanation which accounts for the complex and context-specific nature of social and political outcomes (Falletti and Lynch 2009; Halperin and Heath 2016). One benefit of the mixed methods approach is that different approaches may provide complementary data which strengthens research findings and provide better understandings of the research problem at hand (Burnham et al. 2004, p.31).

Underpinning this investigation then, are certain ontological and epistemological assumptions i.e. philosophical assumptions concerning the nature of social and political phenomena and how they can be observed. Ontological questions include: ‘what exists?’ and ‘what is the nature of the social world’, whereas questions of epistemology refer to ‘what sort of knowledge is possible?’ or ‘how can we know about the social world?’. By contrast, methodology refers to the strategies used to gain that knowledge. Though ontological and epistemological debates cannot be ‘solved’, these positions do have implications for how political inquiry is approached. Here, the research question is approached from a critical realist position which posits that there is an objective reality (‘ontological realism’) but human beings are essentially subjective actors who interpret and understand the world through value- and theory-laden judgements (‘epistemological relativism’). Whilst social and political phenomena exist independently of human interpretation, differing interpretations of these phenomena affect political outcomes. However, critical realists reject judgemental relativism, or the idea that all representations of the world are equally ‘good’ and therefore there may be ‘better’ knowledge of the world (Furlong and Marsh 2001; Marsh and Smith 2001). These assumptions are important when considering the nature of the data collected, a point which will be returned to later in this section.

### *Process Tracing*

To explore the hybridisation of private security regulation in the post-crisis era, this thesis adopts a ‘process tracing’ strategy. Strategies of inquiry are ‘types of qualitative, quantitative and mixed-methods designs or models that provide specific direction for procedures in research design’ (Creswell 2009, p.11). Process tracing is an: ‘analytical tool for drawing descriptive and causal inference from diagnostic pieces of evidence often understood as part of a temporal sequence of events or phenomena’ (Collier 2011, p.284). Process tracing has been used widely in historical and political analysis to uncover causal paths, identify the causal mechanisms through which independent variables produce outcomes, and assess mechanisms identified and hypothesized within existing theories using empirical evidence (Halperin and Heath 2012, p.172; see Bennet and George 2005, p.223; Checkel 2005; Beach and Pederson 2013). Process tracing has been used in various studies to achieve various methodological goals, but here it will be used to explain an outcome in a single case (Beach and Pederson 2013, p.21).

The utility of process tracing is that it can generate context-specific explanations for political outcomes that ‘are not predicted or explained adequately by existing theories’ (George and Bennet 2005, p.215). The aim, then, will be to explain a particularly puzzling historical outcome – the hybridisation of private security regulation in the post-crisis era – by

building a minimally sufficient explanation in a case study (rather than a theory-centric effort aimed at a broader population of cases) (Beach and Pederson 2013, p.169). Accordingly, this thesis takes an abductive process which involves a continual and creative juxtaposition between theoretical and empirical material (Beach 2017). This process tracing strategy supports the chronological structure of the thesis as it allows us to create a narrative or causal chain between 2003 and 2018 (Vromen 2010, p.258). It is also an effective way of teasing out and providing a ‘thick description’ of subtle and dynamic processes such as the ‘hybridisation of private security regulation’ (Lowndes and Roberts 2013, p.33; Lowndes 2018, p.68). In this respect, the thesis adopts the ‘analytical explanation’ style which is like a historical narrative ‘couched in theoretical forms’ (George and Bennet 2005, p.216). Instead of explicitly hypothesizing the causal chain, this thesis’ argument unfolds in an inductive manner – as is the case in most institutionalist research (Hall and Taylor 1992, p.954; Trampusch and Palier 2016, p.443).

This thesis uses two research methods to generate data for this investigation. Research methods refers to the ‘forms of data collection, analysis and interpretation that researchers propose for their study’ (Cresswell 2009, p.15). In a process tracing approach, ‘the researcher examines histories, archival documents, interview transcripts, and other sources to see whether the causal process a theory hypothesizes or implies in a case is in fact evident in the sequence’ (George and Bennett 2005, p.6). In this respect, the data collection method involves searching for ‘diagnostic pieces of evidence’ (Bennett 2010) which are similar to ‘clues in a detective story’ (Collier *et al.* 2010, p.105). Vromen (2010, p.258) has highlighted two methods which are useful when trying to construct a historical process or narrative: document analysis and elite interviews.

### *Document Analysis*

The first method used was document analysis. Documents were used to construct a timeline and thick narrative of the evolution of private security regulation in the post-crisis era. They were also used to gain an insight into regulatory perspectives of key actors within the British state and private security industry, as well as to internal and external perceptions of the SIA’s mission (with the key caveat that many documents are ‘clean’ and therefore cannot provide a comprehensive picture of policymakers’ beliefs) (Hay and Smith 2010, p.904). Documentary analysis was a constant and iterative process which is concordant with the wider political institutionalist approach that ‘worries back and forward between the theory and empirical exploration’ (Lowndes and Roberts 2013, p.20; see Chapter 2). In this sense, documents were purposefully selected for their relevance in illuminating and understanding the specific case

of the hybridisation of UK private security, rather than for their broader representativeness and ability to generate generalisations (Bryman 2012, p.422).

The first tranche of documents related to the Security Industry Authority. Many of these documents are publicly accessible on the SIA's website as well as through the Government Web Archive. Freedom of Information requests were made to the SIA for the minutes of the Strategic Consultative Group meetings as well as for unpublished statistics relating to compliance and enforcement activity. In some instances, materials were provided by interviewees. These documents included:

- SIA's legislative framework: PSIA 2001; various statutory instruments.
- SIA published material: 14 Annual Reports and Accounts, 3 Annual Reviews, SIA Board Meeting Minutes 2004 – 2018; Corporate and Business Plans, SIA Governance documents (e.g. self-assessment against Business Impact Target); Stakeholder Engagement Policies; Licensing, Enforcement and ACS Scheme policy documents; Impact Assessments and Consultations; SIA Research Papers; SIA Guidance and Promotional Material; Official Statistics; SIA and ACS news updates; 522 press releases (Jan 2008 – December 2017). SIA blog and social media outlets;
- Speeches and newspaper interviews by leadership; evidence and transcripts from Leveson Inquiry and Home Affairs Select Committees.
- Minutes from 20 SIA Strategic Consultative Group (SCG) (2010-2014) as well as key policy papers relating to business regulation (e.g. Get Business Licensed)

The second tranche of documents related to other institutions and organisations within the British state:

- Home Office: SIA Framework Agreement; Triennial Review; consultation and policy documents relating to the regulation of the UK private security industry.
- Policy documents from other government bodies such as the Cabinet Office, Department for Business, Innovation and Skills (later the Department for Business, Energy and Industrial Strategy), the Treasury, Better Regulation Executive, National Audit Office and Regulatory Policy Committee relating to the Public Bodies Agenda, Reducing Regulation/Red Tape Challenge and Better Regulation Agendas.
- Parliamentary debates (relating to the restructuring of private security regulation 2010-2015)
- Transcripts and reports from the Home Office Select Committee and Leveson Report relating to the licensing of private investigators

The third tranche of documents related to the policy positions of the private security industry and other SIA stakeholders:

- Private security industry: key online and print publications such as *Infologue and Professional Security Online*. Blogs, interviews and reports of meetings. Press releases and statements by key trade industry associations such as the SRA BSIA, IPSA and National Doorwatch. SIA conference notes, as well as the networks provide minutes and transcripts of industry comments and questions. Industry views were also supplemented by existing surveys and secondary and grey material, for instance the

research by White and Smith (2009) and by Mawby and Gill (2017) as well as by Perpetuity Research and other consultancies.

### *Elite Interviews*

Document analysis was supplemented with elite interviewing (Burnham *et al* 2008, p.195). The purpose of these elite interviews was to fill in two gaps in the documentary analysis. First these elite interviews provided an opportunity to gain a fuller understanding of the reform processes and fill in gaps in the timeline left by an absence of written documents (Seldon 1996, p.558; Richards 1996, p.200). Certainly, there is the risk with elite interviewing that interviewees may overstate their role (Beach and Pederson 2015, pp.134-5) or even be 'significantly wrong about what they are doing and what the effects of their activities are' (Dowding 2004, p.141). It is therefore important to note that when elite interviews were used to gather evidence about sequences of events, they were corroborated with other sources to minimise the risk of inaccuracy and unreliability. Secondly, elite interviews provided a deeper understanding of both internal and external perceptions of the SIA's regulatory mission as well as the regulatory perspective and worldviews of key actors who have exercised significant influence over the trajectory of private security regulation in the post-crisis era (Mason 2002, p.66).

Interviewees were selected through two methods. Most interviewees purposefully selected for their prominent role within regulatory reform processes – which was discerned from the initial document analysis - rather for their wider representativeness (Richards 1996, p.200; Tansey 2007). That said, considerable effort was made to interview a range of actors within the SIA as well as from within key stakeholder groups (this is evident in the list of interviewees). The second method employed was a snowballing method for officials within the SIA, where much of the responsibility for identifying and selecting individuals was shared with the SIA's Stakeholder Manager. Interviews were semi-structured, in the sense that questions were tailored to the individual and were sufficiently open to enable the interviewee to take about the issues they perceived as the most salient but were conducted on the same themes of: 'guided conversations' that 'rely less on a fixed schedule than a series of topics to be covered and/or prompts intended to direct the respondent in particular directions of interest to the researcher. (Davies 2001, p.76). This enabled interviewees to discuss themes and issues which were important to them, thereby contributing to a richer understanding of the evolution of private security regulation in the post-crisis era (Yin 2003, p.86). Interviews were structured along several themes, although specific questions would differ according to the participant. The first theme related to the issue of regulatory reform, and business licensing in particular. The second was on perceptions of the SIA's regulatory mission, strategy and performance

thereof. Certainly, the position of the interviewee, as well, as their perspective shaped the balance between these two interrelated themes.

In total, 21 interviews were conducted. This was with six members of the SIA leadership (both former and present Chairs, Chief Executives and Directors); eight SIA officials of varying ranks and roles within the SIA; six representatives of the private security industry associations and major companies and one former Home Office official. In one interview, two SIA officials were interviewed together. All interviewees were offered anonymity, and non-attributability, but some interviewees agreed to disclose their identities as due to the nature of their position, it would be impossible to separate the two. As the SIA is such a small organisation of fewer than 200 people, the categories of individual SIA officials were omitted (Bryman 2012, p.124). – replaced with just their directorate. All interviews were recorded with a dictaphone and transcribed in order to ensure the accuracy of the data collected. These decisions were accepted by the ELMPS ethics committee. In the empirical narrative, interviewees are referenced according to their position to help contextualise their comments.

Several issues were encountered relating to access. First, many potential participants, especially from the private security industry declined to participate within the study, ostensibly due to fatigue over regulatory reform and the sense that ‘nothing had happened’. Second, due to the timeframes, some key actors within the SIA leadership had retired and I was unable to obtain contact details. Third, the interview period (2015-2017) was also a period of significant flux for the SIA. In July 2015 it was announced that the Home Office would undertake a review of the SIA, leading to problems with accessing interviewees, as well as the willingness of interviewees to discuss related matters. This review was not published until June 2018. Likewise, the SIA underwent a change in Stakeholder Manager in 2015 leading to some significant delays in reaching interviewees within the SIA. Due to these ongoing access problems, these interviews were conducted between 2015 and 2018.

### *Trustworthiness*

It is finally necessary to establish the steps made to ensure that this thesis produces a valid process-tracing narrative. As this thesis predominantly draws upon qualitative methods and data it will evaluate the status of the data generated here by evaluating it against established ‘trustworthiness’ criteria. Trustworthiness consists of four criteria which seek to mimic or replace validity and reliability, namely: credibility, transferability, dependability and confirmability (on debates on the appropriateness of validity and reliability for qualitative research see Bryman 2012, p.390). In particular, these four criteria seek to address concerns about qualitative data relating to replicability, generalisability and subjectivity (Bryman 2012, pp.391-2).

Firstly, credibility is presented as an alternative to internal validity. The credibility criterion essentially asks whether the arguments, conclusions and causality claims inferred from the data are plausible and represent an accurate interpretation of the interviewees' views. To enhance the plausibility of the conclusions made, this thesis has adopted one key strategy. It has solicited data from multiple sources in order to cross-check and corroborate evidence in order to minimise misinterpretations of the data – a strategy known as ‘triangulation’ (Davies 2001, p.75). It has also adopted best practice relating to interview material: ‘where interviews alone are the available source for a particular item, a good practice [...] is a minimum of two independent interview sources are required for any item to be treated with real confidence’ (Davies 2001, p.78). Although the resulting narrative is not ‘perfect’, it has drawn on multiple sources, used multiple methods (including using quantitative data) and used different theories (see Chapter 2) to corroborate timelines and causality and minimise misinterpretations of the data.

Secondly, transferability is used as an alternative to external validity. This criterion questions the extent to which the findings can be extrapolated or transferred to other contexts. Certainly, qualitative research designs are usually unconcerned with generalisability (and are concerned more with explaining rather than predicting outcomes). Certainly, this present investigation is particularly concerned with explaining the hybridisation of private security regulation *in the United Kingdom and in the post-crisis era*. In this respect, this study has very limited transferability. As Gerring (2007, p75) argues: case studies ‘offer a framework which may be used to shed light upon a particular case, but not a falsifiable proposition that could be applied to other cases’ (Gerring 2007, p.75). Nevertheless, this does not mean that this study has no implications for thinking about the relationship between the state, regulation and security within different contexts (as will be argued in the concluding chapter). It is possible to make ‘analytical generalisations’ (Yin 2003, p.10) in which some of the conceptual and theoretical arguments, especially pertaining to how the contours of private security regulation have been shaped by the SIA’s concerns with its bureaucratic autonomy. As Beach and Pederson (2013, p.157) argue: ‘explaining-outcome process-tracing case studies often point to specific systematic mechanisms that in principle can be tested in a wider population of cases or that can act as building blocks for future attempts to create generalizable causal mechanisms that can explain outcomes across the population of relevant cases’ (Beach and Pederson 2013, p.157). In this respect, this thesis has engaged within a ‘thick description’ of the hybridisation of private security regulation in order to allow other researchers to judge whether these findings could be transferred to other settings (see Geertz 1973)

Third, dependability is used as an alternative to reliability. This refers to the consistency of research practices over time and the extent to which this investigation could be adequately replicated (Bryman 2012, p.376). It is contended that the research conducted within this thesis

can be audited and replicated – all documents have been referenced within the thesis and all materials are publicly available and accessible online. As a result – these documents and the interpretation of these documents may be checked. Moreover, most interviewees are clearly identifiable and transcript data will be deposited into a relevant repository, enabling any other research to further scrutinise the research process. The one caveat is that some interviewees are anonymous, though the specification of their particular role i.e. ‘SIA Official Partnerships and Investigations’ means that anyone wishing to test or confirm these findings could interview people in similar roles.

Finally, confirmability concerns questions of subjectivity and reflexivity within the research process (Bryman 2012, p.379). Objectivity is impossible within qualitative research, particularly as it aims to understand the complex social world and works with meanings, perspectives and worldviews. However, it is important to note that the researcher’s subjectivity may enter the research process, primarily during primary interviews, but also during the interpretation of data. Several strategies have been employed in order to control against bias and reduce the impact of personal values within the research process (although as mentioned, total objectivity is not possible). First, interviewees were continually asked to clarify and provide examples to ensure that their perspectives and thoughts were not misinterpreted. Likewise, a range of interviewees were selected also to minimise bias and gain a wide view of the SIA and related issues around private security regulation. Third, this thesis has exposed its meta-physical assumptions (in this appendix) and theoretical assumptions (in Chapter Two) as well as drawing attention to alternative theoretical perspectives and interpretations. In sum, this thesis has sought to conform as closely as possible with the ‘trustworthiness’ criteria and therefore contends that with the aforementioned caveats, the arguments and conclusions can be treated as ‘trustworthy’ and able to be used within ongoing debates concerning the changing relationship between the British state, regulation and security in the post-crisis era.



## Interviews with SIA personnel

Interviewee Name	Position(s)	Interview Details
<b>Ruth Henig</b>	Former SIA Chair (2007-2013); Special Advisor on Regulatory Change, BSIA (2013-present).	7 <sup>th</sup> December 2015 House of Lords, London
<b>Geoff Zeidler</b>	SIA Board Member (2013-present); Former BSIA Chair (2013) PaS Group Lead (2014- present)	10 <sup>th</sup> March 2016 Institute of Directors, Mayfair London
<b>Dave Humphries</b>	SIA Director of Partnerships and Interventions (2010-present)	10 <sup>th</sup> March 2016 SIA HQ, Holborn, London
<b>Alan Clamp</b>	SIA Chief Executive (2015 – present)	7 <sup>th</sup> March 2017 SIA HQ, Holborn, London
<b>Elizabeth France</b>	SIA Chair (2013 – present)	8 <sup>th</sup> March 2017 SIA HQ, Holborn, London
<b>Anonymous</b>	Former SIA Board Member	2016
<b>Anonymous</b>	SIA Official 1 Partnerships and Investigations	2017
<b>Anonymous</b>	SIA Official 2 Partnerships and Investigations	2017
<b>Anonymous</b>	SIA Official 3 Partnerships and Investigations	2017
<b>Anonymous</b>	SIA Official 4 Decisions	2017
<b>Anonymous</b>	SIA Official 5 Decisions	2017
<b>Anonymous</b>	SIA Official 6 Partnerships and Investigations	2018
<b>Anonymous</b>	SIA Official 7 Partnerships and Investigations	2018
<b>Anonymous</b>	SIA Official 8 Communications	2018

## Interviews with SIA Stakeholders

Interviewee Name	Position(s)	Interview Details
<b>Justin Bentley</b>	Chief Executive Officer, International Professional Security Association	11 <sup>th</sup> March 2016 IPSA HQ, Chorley, Lancashire
<b>Peter Webster</b>	Chief Executive Officer, Corps Security (2010 – Present)	7 <sup>th</sup> April 2016 Telephone Interview
<b>Simon Pears</b>	Head of Security UK and Ireland, Sodexo (2007-2013) Global Security Director, Sodexo (2013-present) IPSA representative to SRA and SCG.	22 <sup>nd</sup> April 2016 Telephone Interview
<b>Alex Carlile</b>	President, the Security Institute (2008-2016). Independent Member, SCG.	26 <sup>th</sup> April 2016 Telephone Interview
<b>Mike White</b>	Chairman, IPSA (2011-2015) Director, Security Institute (2015-present)	28 <sup>th</sup> April 2016 Skype Interview
<b>Tony Imossi</b>	Head of Secretariat, Association of British Investigators.	20 <sup>th</sup> February 2017 ABI HQ, Elstree, Hertfordshire
<b>Anonymous</b>	Former Home Office Official	2018

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