

Terms of Reference for the Independent Review of Prevent

- (1) The Independent Reviewer(s) of Prevent shall:
 - (a) conduct an independent review of the operation and impact of the Prevent strategy; and
 - (b) send a report to the Secretary of State on the findings of the review.

- (2) The report must address the following matters:
 - (a) the theoretical and evidential basis for the Prevent strategy including the extension of Prevent to encompass 'non-violent extremism'
 - (b) the impact of the Prevent strategy on, but not limited to, education (inclusive of early years, secondary and tertiary education), the health sector, and the child welfare sector;
 - (c) the human rights and societal/social cohesion implications of the Prevent strategy;
 - (d) the interaction, overlap and potential conflict of the Prevent strategy with:
 - (i) other legal duties on public authorities including but not limited to safeguarding and equalities duties; and
 - (ii) the criminal law.
 - (e) the manner in which personal information is processed and shared by authorities involved in the Prevent strategy and Channel programme;
 - (f) the relationship between the Prevent and Pursue strands of the Government's counter-terrorism strategy CONTEST;
 - (g) the adequacy of current oversight and disclosure arrangements; and
 - (h) consider the consequences of the Prevent Programme informing the UK Government's international activities including the export of the Prevent strategy as a policy frame to other countries as well as the funding of prevent related projects via the FCO and DfID.

- (3) The Review should be consultative and participatory, including at a minimum, appropriate engagement with other review mechanisms, parliamentary committees, operational actors, civil society, and affected communities. In particular, the Independent Reviewer(s) must invite and seek evidence from civil society groups and others with expertise in, or experience of, Prevent.

- (4) The Independent Reviewer(s) should be appointed through a public appointments process. An individual must not be appointed to the role of independent reviewer if that individual—
 - (a) has a close association with Her Majesty's Government; or
 - (b) has concurrent obligations as a Government appointed reviewer, adviser or commissioner.

- (5) The Independent Reviewer(s) must have access to security sensitive information on the same basis as the reviewer appointed under section 36 of the Terrorism Act 2006. This includes full disclosure of information and cooperation of all relevant Government officials and civil servants. The Independent Reviewer(s) should have access to all previous internal reviews of the Prevent strategy

that the Government has undertaken, the research upon which the Prevent strategy is based, and all relevant statistical information that the Government holds.

(6) The Secretary of State should provide the Independent Reviewer(s) with a sufficient budget to carry out the functions of the Review and attract necessary support and expertise. This includes:

- (a) a support team to assist the Independent Reviewer(s) in the carrying out of his/her functions;
- (b) the convening of a multidisciplinary Advisory Committee to share their experience and expertise with Independent Reviewer(s);
- (c) the necessary resources to facilitate the participation of civil society; and
- (d) expenses incurred by the Independent Reviewer(s) in carrying out her/his functions, and such allowances as the Secretary of State determines.

(7) With respect to the Report referred to in subsection 1 (b) there is to be a presumption of disclosure of all relevant information subject to the minimum level of redactions necessary. The report will contain a statement as to whether any information has been excluded from the report, the scale of any such redactions, and to the extent possible, the reasons for the redactions.

(8) The Secretary of State must lay before Parliament, 18 months from the day that the Counter Terrorism and Border Security Act 2019 was passed, a copy of the report received under subsection 1(b). The report must be accompanied by a statement by the Secretary of State responding to each recommendation made as part of the independent review.

(9) After one year from the time that the report of the Independent Reviewer(s) is laid before Parliament under section 8, the Government will report to Parliament on the implementation of the any recommendations made in the report.

(10) In this section "Prevent" means the Prevent strand of the Government's counter-terrorism strategy, CONTEST together with the provisions set out at Part 5 of the Counter-Terrorism and Security Act 2015.

Briefing Note: Independent Review of Prevent

Date: 14 March 2019

1. This briefing is on the independent review (IR) of Prevent and in particular, the proposed terms of reference for the IR.
2. On 22 January 2019 the Government announced that it would be establishing an *ad hoc* IR of its flagship counter extremism policy, Prevent. This was given statutory effect in February 2019 in s 20 (8) of the Counter-Terrorism and Border Security Act 2019.¹ As Labour² and others have noted, this is a welcome development in light of the many policy and human rights concerns that have been raised about the strategy.³
3. This will be the first time that the Prevent strategy has undergone any kind of independent public review, oversight or assessment since the shift in focus in 2011 to ‘non-violent extremism’ defined as ‘active or vocal opposition to British values’ and the introduction of the statutory duty in 2015; both developments that significantly heightened the controversy and criticism of Prevent.⁴ Furthermore, a number of key aspects of the strategy remain purely at the policy level and have never been subject to Parliamentary oversight, including the definitions of ‘extremism’ and ‘radicalisation’.⁵ Accordingly, this Review presents a timely and important opportunity to subject the strategy to rigorous, holistic and independent scrutiny.
4. However, there are also risks that are attached to this IR. The Government has discretion as to the terms of reference of the IR. The Government could establish a Review that is narrow in scope (i.e. limited to effectiveness and ignoring the broader societal and human rights impacts of Prevent), and not genuinely independent, transparent and participatory. Any such review will only serve to reinforce the perception of bias in this sensitive field and, further undermine community trust in the Government, and potentially opposition parties that support the IR.
5. RW(UK) considers that a government strategy which seeks to engage with people, including youth, and change their behaviour, as Prevent does, cannot be effective without relationships built on trust and confidence that the government is acting in people’s best interests. The first

¹ The [Act](#) received Royal Assent on 12 February 2019. Subsection (8) of the Act provides that the Secretary of State must, within the period of 6 months beginning with the day on which this Act is passed, make arrangements for an independent review and report on the Government strategy for supporting people vulnerable to being drawn into terrorism. Subsection (9) requires that a report and any recommendations of the review under subsection (8) must be laid before both Houses of Parliament within the period of 18 months beginning with the day on which this Act is passed, and subsection 10 requires that the laying of the report and recommendations under subsection (9) must be accompanied by a statement by the Secretary of State responding to each recommendation made as part of the independent review.

² See Thomas-Symonds, Nick, [Labour Secures an Independent Review of Prevent Strategy](#), Labour Party Press Release, 23 January 2019 23 January 2019.

³ For a summary of the concerns that have been raised about Prevent’s operation in education see para 6 of Rights Watch (UK) and Liberty’s proposed [amendment](#) to the Higher Education and Research Bill. Concerns have been raised by the Independent Reviewer of Terrorism Legislation, a number of Parliamentary Committees, two UN Special Rapporteurs, the Committee on the Rights of the Child, a host of academics, the National Union of Teachers, the National Union of Students, Muslim Community groups, members of the House of Lords and Commons and human rights organizations.

⁴ *Ibid.*

⁵ For a detailed discussion of Prevent and parliament see paras 74-84 (n14), Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016

step in rebuilding that trust and confidence is a genuinely independent, effective and transparent IR.

6. The Government has not yet published a terms of reference for the IR but have committed to appointing, within the next 6 months, an Independent Reviewer who will lay the report and any recommendations to both Houses of Parliament within 18 months from the beginning of the Review.⁶ Importantly, the Security Minister has committed to consulting with all parts of the House on the appointment of the Independent Reviewer,⁷ and presumably, the terms of reference of the Review. This presents an important opportunity for Parliamentarians and Parliamentary Committees to push for a review that is credible, and capable of inspiring trust and confidence.
7. Rights Watch (UK) has identified a strong potential candidate who possesses the necessary expertise, experience and credibility to lead the Review: Baroness Nuala Patricia O'Loan, (the former Police Ombudsman in Northern Ireland from 1999 to 2007).
8. RW(UK) attaches a draft Terms of Reference (ToR)⁸ which we consider will provide the necessary framework for an independent, effective and transparent IR of the Prevent strategy. We have consulted widely with affected communities and those with experience of counter terrorism reviews, including a former Independent Reviewer of Terrorism Legislation, as well as those leading the Counter Terrorism Review Project,⁹ in developing the ToR. Set out below are the six core principles that we consider must underpin the IR and from which the attached ToR are drawn.

1: Independence: The Independent Reviewer(s) must be appointed through the public appointments process, and be independent of the Government.

2: Full and Effective Government Cooperation: The Reviewer must have access to classified and sensitive information and full cooperation of all Government officials and civil servants to ensure that the results of the IR are fully informed (this is likely to require that the Independent Reviewer(s) are security cleared).

3: Consultative and Participatory: The Review must, in form and substance, be consultative and participatory.

4: Effectively Resourced and Supported: The Independent Reviewer(s) must be given sufficient budget to carry out the proper functions of the Review including appointing a support team, and a diverse and multidisciplinary Advisory Committee. Resources should also be provided for civil society to participate in the IR.

5: Transparency and Parliamentary Oversight: The Review must produce a public report¹⁰ that is laid before Parliament within 18 months of the beginning of the Review,¹¹ and after

⁶ See HMG Home Office Blog, [Government Announces Independent Review of Prevent](#), 22/01/2019.

⁷ Hansard, [Counter-Terrorism and Border Security Bill](#), Hansard, 22 January 2019, Volume 653, Column 172.

⁸ This builds on the terms of reference that Rights Watch (UK) and Liberty proposed in 2007 in the [amendment](#) to the Higher Education and Research Bill, which in turn was the basis of the proposed amendment to the Counter Extremism and Border Security Act 2019. The ToR are the result of detailed research and analysis that Rights Watch (UK) has undertaken on the Prevent strategy over a number of years and the organization's experience of engaging with counter terrorism oversight and review mechanisms in the UK for over three decades.

⁹ [The Counter Terrorism Review Project](#) maps counter-terrorism review (CTR) in the UK. It aims to discover how CTR works, and to propose reforms where necessary for the purpose of ensuring the good governance of counter-terrorism in the UK. The Director of Rights Watch (UK) is a member of the Advisory Board of the Project.

¹⁰ There must be a presumption of disclosure of all relevant information subject only to necessary redactions (see background section for a fuller discussion of this).

one year from the date it is laid before Parliament, the Government must report to Parliament on the implementation of any recommendations made in the Report.

6: Holistic and Comprehensive: The substantive scope of the IR must go beyond effectiveness, and a superficial analysis of statistics, and cover the human rights and broader social impacts of the strategy as well the interaction and overlap of the strategy with other statutory duties and the criminal law.

Background

1. Below is a more detailed description of how the abovementioned principles are given effect to in the proposed ToR.
2. **Independence (Sec. 4 ToR):** Given that there is a crisis of trust, it is of utmost importance that the IR is entirely independent of Government. The Independent Reviewer(s) must have no association with, or concurrent obligations to, the Government. In the absence of such independence, communities already concerned as to the integrity of government action in relation to Prevent, will naturally have little confidence that any of their concerns will be addressed. Accordingly, there must be a clearly articulated job description against which the appointees can be publically assessed, with the selected candidates appointed through the usual public appointments process.¹² Considering the nature and scope of the Review, and the need for credibility with a wide range of stakeholders, the government should appoint at least two Independent Reviewers. As noted above, Rights Watch (UK) has identified a strong potential candidate.
3. **Full and Effective Government Cooperation (Sec. 5 ToR):** In order to ensure that the results of the IR are properly informed, and that the conclusions are not compromised by incomplete inquiry, the Independent Reviewer(s) must have access to classified and sensitive information and the full cooperation of all Government officials and civil servants on the same terms as the Independent Reviewer of Terrorism Legislation.¹³ To this end, the Independent Reviewer(s) will need to be security cleared. This will ensure access to, *inter alia*, all previous internal reviews of the Prevent strategy, relevant statistics, as well as the Extremism Risk Guidelines (ERG22+) study¹⁴ which underpins and informs the entire Prevent strategy. Furthermore, and as discussed below, the Review needs full cooperation and disclosure to examine the relationship between Prevent and the three other pillars of the Government's CONTEST strategy, in particular Pursue, as well as the manner in which information is processed and shared by authorities involved in the Prevent strategy.

¹¹ The Government has committed to this, see HMG Home Office Blog, [Government Announces Independent Review of Prevent](#), 22/01/2019.

¹² See [Public Appointments Order in Council 2019](#) and the applicable [Governance Code on Public Appointments 2016](#).

¹³ S 36 of the Terrorism Act 2006. This is underscored by the former Independent Reviewer of Terrorism Legislation David Anderson QC, "I believe that effective review requires the perusal of secret and unrestricted material from the civil service, intelligence agencies and police. See, Anderson QC, David, *The Independent Review of Terrorism Laws*, Public Law, 2014, pg 410.

¹⁴ This supposedly provides the evidence base for the identification of 22 claimed 'risk factors' indicating whether individuals are vulnerable to engaging with terrorist groups and/or posing a security risk. Those risk factors were referred to in a journal article entitled 'The Development of Structured Guidelines for Assessing Risk in Extremist Offenders' published by forensic psychologists Ms Lloyd and Mr Dean in volume 2(1) of the *Journal of Threat Assessment and Management* in March 2015, in which Ms Lloyd and Mr Dean referred to their research under the auspices of the National Offender Management Service ('NOMS').

4. **Consultative and Participatory (Sec. 3 ToR):** RW(UK) considers that for the review to be effective, and have credibility with all stakeholders, it must be a consultative and participatory process that effectively engages with other review mechanisms, parliamentary committees, operational actors, civil society, and importantly, affected communities. The Independent Reviewer(s) should actively invite and seek evidence from civil society groups and others with expertise in, or experience of, Prevent. In so doing, the Review should work with local authorities and devolved administrations across the UK to organise and host public hearings in community centres and university halls to gather first hand evidence of the impact of Prevent.

5. **Effectively Resourced and Supported (Sec. 6 ToR):** Two features that have been critical to the success of other reviews and oversight bodies, which RW(UK) considers necessary for this Review are (1) adequate resourcing to attract necessary expertise and support the work of the Reviewer(s)¹⁵ and (2) an advisory committee (AC) that brings a breadth of experience, expertise and community access that no one individual possesses, and provides scrutiny, challenge and legitimacy to the work of the Review.¹⁶

6. RW(UK) considers that an IR of this nature is best served by a multidisciplinary AC given that it concerns an area of policy, countering non-violent extremism, that is both complex and contentious (in particular the purported link between extremism and terrorism), involves overlapping complex regulatory frameworks (including safeguarding and equalities duties), requires sector specific expertise (including education, health, and child welfare), and will need to navigate competing community expectations and dynamics. For the purposes of credibility and effectiveness, it is essential that persons from affected communities are represented on the AC. As a general principle, all appointments to the staffing team and the Advisory Committee must be informed by the principles of diversity, equality and stakeholder engagement.

7. **Transparency and Parliamentary Oversight (Sec. 7 & 9 ToR):** RW (UK) considers that rebuilding trust and confidence demands that the results of the IR must be made public, subject to the minimum level of redactions necessary,¹⁷ and be transparent as to whether any information (including its nature and scale) has been excluded from the Report. Accordingly, the Reviewer(s) must produce a public report that is laid before Parliament within 18 months from the start of the Review. As for the information in the report, there must be a presumption of disclosure subject only to the duty (1) to maintain confidentiality and privacy, (2) not to prejudice the administration of justice,¹⁸ (3) to protect life,¹⁹ (4) to prevent harm to individuals,²⁰ and (5) protect counter terrorism methodologies and effectiveness.²¹ In general, any redactions of

¹⁵ In developing the attached ToR, Rights Watch (UK) has spoken with a former Independent Reviewer of Terrorism Legislation as well as those who supported his office, and they stressed the importance of adequate resourcing for the Review to operate effectively. This is mirrored by the experience of other counter terrorism oversight bodies such as the UK Parliamentary Intelligence and Security Committee.

¹⁶ The [Independent Advisory Committee](#) to the Windrush Lessons Learned Review has been critical to the perceived legitimacy, and effectiveness of the Review.

¹⁷ See n/f 8 above.

¹⁸ In making such a determination, the Independent Reviewer should seek the advice and guidance of the DPP as to whether particular information should be included in the report or indeed whether the report should be issued in advance of a pending or on-going prosecution

¹⁹ No information shall be included in the report which might present a real and immediate threat to the life of an individual or individuals from the criminal activity of a third party. The relevant test is set out in paragraph 116, *Osman v UK* (87/1997/871/1083), ECHR Judgment 28 October 1998.

²⁰ The risk of harm, which includes physical or specific psychological injury or harassment or intimidation, must be likely to reach the threshold of inhumane and degrading treatment and must be to an identified individual or individuals. There must be a direct, foreseeable and describable link between the proposed disclosure and the anticipated harm. The threat must be to carry out harm through criminal acts and the source of the threat must have demonstrated the willingness and capability to carry out the abovementioned threats to either the individual concerned or to a defined class of persons to which the individuals arguably at risk belong.

²¹ It may be necessary and proportionate to redact information to protect the effectiveness of operational methods of the police and security services which are in current use and which are lawful. Such information must not already be in the public domain and it must be demonstrated that the proposed disclosure would, in fact, in the foreseeable future, damage the operational effectiveness of the method

information must be the minimum that is necessary to materially reduce the risk of death or harm to the specified persons concerned and proportionate to the level of risk when balanced against the public interest in disclosure. The Report must be transparent as to whether, and the nature and scale, of any information that has been excluded from the Report.

8. To ensure that the recommendations of the report are acted upon, it is critical that Parliament has oversight of the recommendations that are made by the Reviewer(s). Accordingly, the ToR require that within a year from the date that the Report is laid before Parliament, the Government must report back to Parliament on the implementation of any recommendations made in the report.
9. **Holistic and Comprehensive:** The substantive scope of the Review must go beyond operational impact, and a superficial analysis of statistics, and consider the following substantive issues:
 - A. The theoretical and evidential basis for the Prevent strategy including the extension of Prevent to encompass ‘non-violent extremism’ (**Sec. 2a ToR**). There are a number of significant structural/foundational concerns with Prevent that are central to the operation of the strategy and questions of effectiveness and human rights compliance.²² To this end, the Review must consider:
 - I. **The purported link between extremism and terrorism:** The strategy is rooted in the assumption that support for non-violent extremism is an indicator of future participation in terrorism. As noted in RW(UK)’s report,²³ this assumption has been widely criticised as lacking any evidential basis. For any review of Prevent to be credible, including any assessment of effectiveness and legality, this assumption needs to be interrogated.
 - II. **Broad and overly vague definitions, and indicators of risk and vulnerability:** The concept of ‘Non-violent extremism’ is defined in extremely broad and vague terms and, in so far as it is defined, is set in opposition to, the nebulous concept of ‘British values’.²⁴ Similarly, the indicators of risk of, and vulnerability to, becoming a terrorist that are identified by the statutory guidance are ambiguous and appear poorly correlated with potential terrorist activity. They include, for example, grades going up or down, a change in style of dress.²⁵ The consequence of this ambiguity is evidenced in the most recent statistics which show a significant over referral to Prevent with only 17% of the people referred to Prevent actually considered by a Channel panel, and a mere 5% eventually receiving Channel support.²⁶ Accordingly, and in light of the abovementioned interrogation of the link between terrorism and extremism, the IR will need to consider whether the definitions and indicators that are central to the operation of the strategy are sufficiently cogent so as to be effective and lawful.
 - B. **The human rights and societal/social cohesion implications of Prevent (Sec. 2 (c) ToR).** Until now, the Government has either equivocated on or completely ignored the human

in question in such a way as to place a person or persons at a real and immediate risk of serious harm. In general, the reasons for restricting disclosure under this criterion must be “particularly convincing and weighty
Smith and Grady v. United Kingdom (1999).

²² See paras 15 – 34 of Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016.

²³ Ibid, paras 25 – 34.

²⁴ In the HM Government, Prevent Strategy (Cm 8092, June 2011) [pg 22] Extremism is defined as ‘vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs. We also include in our definition of extremism calls for the death of members of our armed forces, whether in this country or overseas.’

²⁵ See paras 20-24 of Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016.

²⁶ See pg 4, Home Office Statistical bulletin 31/81 (13 December 2018) [Individuals referred to and supported through the Prevent Programme, April 2017 to March 2018](#)

rights and societal concerns that have been raised about Prevent. For this Review to have any credibility, particularly with impacted communities as well as broader stakeholders who have raised human rights and societal concerns about the strategy, it is essential that the Review is wide enough in scope, as Labour and others have suggested it should be, to 'assess the impacts of Prevent on communities across the UK'.²⁷ Indeed it is in line with the Government's own stated expectations of the Review which will allow critics of Prevent to produce solid evidence of their 'allegations' about the policy.²⁸ The Review should be sure to consider the impact on children²⁹ as well as the gendered impact of the policy, and in particular the impact on women.³⁰

In line with this, RW(UK) considers that it is important that the Review also has the breadth of mandate to fully interrogate Government statistics on Prevent. For example, the Government relies on the number of those who *eventually* receive Channel support (50% for Islamic extremism and 44% for Right-wing extremism) to evidence that Prevent does not target Muslims and is not 'about a particular group or ideology' but rather deals with 'all forms' of extremism.³¹ This interpretation of the statistics rests on the assumption that any potential discriminatory effect of Prevent, as well as other human rights and societal harms that it may give rise to, only occurs at the stage of entering the Channel programme. In fact, it is well documented that many of these harms stem from an individual being referred to the Prevent Programme in the first instance, irrespective of whether they eventually receive Channel support.³² With this in mind, the statistics take on a different meaning given that only 18% of *referrals* to the Prevent Programme are for Right-wing extremism and 44% are for Islamic extremism.³³ The disproportionate incidents of Muslim referrals into the Prevent Programme itself raises an inference that the Prevent duty is being given effect in a manner which discriminates on the basis of the referred individuals' religious identity (or perceived religious identity).³⁴

- C. **The interaction, and possible overlap or conflict of Prevent with other legal duties, including safeguarding duties, and the criminal law (Sec. 2d ToR).** The Review must examine the underlying assumption that existing legal frameworks, including widely drawn criminal law offences relating to terrorism, together with statutory health and safety, equality and safeguarding frameworks, are somehow inadequate and therefore necessitate the separate and additional Prevent Programme under the rubric of counter-extremism or counter-terrorism. The most recent Prevent statistics indicate that 40% of Prevent referrals do not receive Channel support but are re-directed towards alternative services, including Local Authority, Education and Health services.³⁵

²⁷ See, Thomas-Symonds, Nick, Labour Secures Independent Review of Prevent strategy, Labour Party Press Release, 23 January 2019; Abbott, Diane, The Prevent Programme Clearly has Flaws and Should be Subject to a Wide-ranging Review, Labour Party Press Release, 27 March 2018.

²⁸ See HMG Home Office Blog, [Government Announces Independent Review of Prevent](#), 22/01/2019.

²⁹ For a detailed analysis of the impact of the Prevent strategy, and in particular the introduction of the statutory duty, on children in education, see Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016.

²⁹ Ibid, paras 25 – 34.

³⁰ For an overview of the gender harms that arise from CVE and CT policies in the UK see [Rights Watch \(UK\)'s Shadow Report to the Committee on the Elimination of Discrimination Against Women](#), January 2019.

³¹ Hansard, Counter-Terrorism and Border Security Bill, Hansard, 22 January 2019, Volume 653, Column 172.

³² See for example, See, Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016.

³³ Of those 44% referred for Islamic extremism, only a little over 20% are discussed at a Channel panel, and just under 10% receive Channel support. See, [Individuals Referred to and Supported Through the Prevent Programme: April 2017 to March 2018](#), Home Office Statistical Bulletin 31/18, 13 December 2018, pg 4.

³⁴ According to the Office of National Statistics, approximately 5.17% of the UK population identifies as Muslim. See, Annual Population Survey April 2017 to March 2018.

³⁵ [Individuals Referred to and Supported Through the Prevent Programme: April 2017 to March 2018](#): Home Office Statistical Bulletin 31/18, 13 December 2018, pg 10.

Furthermore, despite the Government seeking to characterise Prevent as a ‘safeguarding’ measure, counter-terrorism and safeguarding have materially different aims: one concerns preventing terrorism and the other the welfare of the child. Blurring the lines between counter-terrorism policies, on the one hand, and safeguarding on the other, raises questions about the potential conflict between these frameworks, and the appropriateness and consequences of securitising public services including education, child welfare and health. Accordingly, it is important that the Review considers the range of existing legal duties and whether Prevent is warranted in light of, and consistent with, those other existing legal frameworks.

- D. **The manner in which personal information is collected, processed and shared by authorities involved in the Prevent programme (Sec. 2e ToR).** One of the principle concerns among impacted communities is that Prevent is largely a soft and unregulated surveillance tool. This concern has been echoed by RW(UK), and others, who have questioned the manner in which personal information is being dealt with by those involved in the Prevent programme, including police, schools and local authorities. In our 2016 report, which was confined to the operation of Prevent in schools, we documented case studies which suggested that some system of data collection and sharing is operating among public authorities which deals with students and Prevent.³⁶ Despite broad policy statements of compliance with data protection and privacy rights, it is difficult to see how such a system, which contains no prior notification or consent, and is described by those operating it in amorphous terms as potentially indefinite, could possibly be operating in compliance with the DPA or human rights law more generally. Accordingly, the review must examine how data collection and sharing operates, how it is regulated, and what legal framework is in place to deal with potential breaches of the processing of personal information in the context of Prevent.
- E. **The relationship between the Prevent and Pursue strands of the CONTEST strategy (Sec. 2f ToR).** While the government admits to the existence of “touch points between these two programmes” it has not provided sufficient information about the nature or extent of these touch points, including, but not limited to, the extent to which data sharing, whether formal or informal, occurs between these two programmes.³⁷
- F. **The adequacy of current oversight and disclosure arrangements (Sec.2 (g) ToR).** To date there has been insufficient independent oversight of, and disclosure in relation to, the Prevent Programme. While the announcement of an *ad hoc* independent review of Prevent is a welcome development, there is currently no permanent arrangement, akin to the Independent Reviewer of Terrorism Legislation (whose mandate does not extend to Prevent) to Review the Prevent strategy. The Government claims to have undertaken an internal review of Prevent but neither the methodology nor the findings of this review have ever been made public. Given the controversial nature of the policy which is widely perceived a discriminatory and harmful, RW(UK) consider that it is important that the Reviewer(s) consider whether a permanent Review of the strategy should be put in place. Furthermore, the disclosure arrangements of information relevant to the operation of the strategy should also be considered. For example, the Government has continually refused to release the Extremism Risk Guidelines (ERG22+) study which underpins and informs the entire strategy,

³⁶ See paras 85 onwards of Rights Watch (UK), [Preventing Education? Human Rights and the UK Counter-Terrorism Policy in Schools](#), July 2016.

³⁷ See for example, HM Government, Prevent Strategy, Cm 8092, June 2011, pg 31; HM Government, CONTEST: The United Kingdom’s Strategy for Countering Terrorism, cm 9608, June 2018, pg 29.

and the statistical data released continues to suffer from limitations.³⁸ Finally, despite there being serious concerns raised about the manner in which personal data is being collected, stored and shared in the context of Prevent, to date there has been a lack of transparency as to existing policies, procedures and oversight for the processing of personal data.

- G. **The export of the Prevent strategy as a policy frame to other countries as well as the funding of prevent related projects via the FCO and DfiD (Sec.2 (g) ToR).** The Government has openly acknowledged that they are exporting the Prevent Strategy to other countries,³⁹ and Senior UK officials involved in implementing the UK counter extremism strategy have been appointed by international organisations to develop similar programmes in other countries, including countries in Central Asia that lack a fundamental rule of law framework.⁴⁰ Similarly it is understood that the Government is funding prevent related projects via the FCO and DfiD.⁴¹

About Rights Watch (UK)

Rights Watch (UK) (formerly British Irish Rights Watch) (hereafter “RWUK”) is a registered charity which works to promote just and accountable security. We have over 25 years of experience in working in the field of counter terrorism policy in the UK and have received wide acclaim for our work, including the Parliamentary Assembly of the Council of Europe (PACE) Human Rights Prize. In July 2016 we published a landmark report, [“Preventing Education? Human Rights and UK Counter-Terrorism Policy in Schools,”](#) concluding that the strategy suffers from a number of systemic flaws with serious resulting human rights implications, and that the strategy should be subject to an independent review. We have since been advocating for an independent review. In 2017 Rights Watch (UK) - with Liberty - drafted an [amendment](#) to the Higher Education and Research Bill that would have established an independent review of Prevent as it applies to Higher Education. Although unsuccessful, the proposed amendment, which set out a proposed terms of reference, formed the basis of the amendment that was put forward in 2018 to the Counter Terrorism and Border Security Bill for an independent review of Prevent.

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³⁸ For example the most recent statistics do not sufficiently disaggregate the data to allow one to determine the number and percentage of children (below the age of 18 years) that have been referred to the Prevent programme, discussed at the channel panel, and received channel support. Similarly, with respect to education it does not distinguish between nursery, primary and secondary education. See, [Individuals Referred to and Supported Through the Prevent Programme: April 2017 to March 2018](#), Home Office Statistical Bulletin 31/18, 13 December 2018, pg 4.

³⁹ See <https://www.gov.uk/government/publications/official-development-assistance-oda-fco-departmental-programme-spend-objectives-2018-to-2019/countering-terrorism-and-violent-extremism-objectives-2018-to-2019>. Rights Watch (UK) attended and spoke at the first-ever global High-Level Conference of heads of counter-terrorism agencies of the Member States of the United Nations in New York in June 2018 see <https://www.un.org/press/en/2018/sgsm19118.doc.htm>. RW(UK) came to understand that the UK Government, in particular officials from the Home Office, were at the conference promoting the UK Prevent strategy, and the Government’s technical expertise, to other countries as a means of tackling domestic extremism.

⁴⁰ See <https://www.middleeasteye.net/fr/news/home-office-prevent-strategist-build-counter-extremism-programmes-central-asia-1883821989>

⁴¹ See <https://www.gov.uk/government/publications/official-development-assistance-oda-fco-departmental-programme-spend-objectives-2018-to-2019/countering-terrorism-and-violent-extremism-objectives-2018-to-2019>.

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