



House of Commons

House of Lords

Joint Committee on Human
Rights

**Counter-Extremism:
Government Response
to the Committee's
Second Report of
Session 2016–17**

**First Special Report of Session
2016–17**

HC 756

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by authority of the House of Commons and House of Lords

Joint Committee on Human Rights

The Joint Committee on Human Rights is appointed by the House of Lords and the House of Commons to consider matters relating to human rights in the United Kingdom (but excluding consideration of individual cases); proposals for remedial orders, draft remedial orders and remedial orders.

The Joint Committee has a maximum of six Members appointed by each House, of whom the quorum for any formal proceedings is two from each House.

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Committee staff

The current staff of the Committee are Robin James (Commons Clerk), Donna Davidson (Lords Clerk), Murray Hunt (Legal Adviser), Alexander Horne (Deputy Legal Adviser), Ami Breen (Legal Assistant), Penny McLean (Committee Specialist), and Miguel Boo Fraga (Senior Committee Assistant).

Contacts

All correspondence should be addressed to the Clerk of the Joint Committee on Human Rights, Committee Office, House of Commons, London SW1A 0AA. The telephone number for general enquiries is 020 7219 3472; the Committee's email address is jchr@parliament.uk.

First Special Report

The Joint Committee on Human Rights published its Second Report of Session 2016–17, entitled [Counter-Extremism](#) HC 105 on 22 July 2016. The Government's response was received on 12 October 2016 and is appended to this report.

In the Government response, the Committee's recommendations are in bold text and the Government's responses are in plain text.

Appendix: Government Response

Introduction

The Government is committed to tackling all forms of extremism. This includes far-right extremism which causes significant social harm in our communities, as well as Islamist extremism. Our Counter-Extremism Strategy was published last year and, for the first time, commits the Government to addressing all the harms which extremism can cause, not just where it leads to terrorism.

Extremists of all types seek to normalise attitudes and behaviours which run contrary to the values and freedoms which make our society so successful. One of those harms is the use, or justification, of violence (terrorism) to achieve political or social change. But, the harms extremists seek to justify are not limited to this use of justification of violence. We see evidence of extremists drawing on ideology to seek to justify:

- the purposeful segregation of communities - a rejection of integration based on differences in race, religion or denomination;
- the discrimination against women and girls and creating or supporting an environment in which illegal cultural practices are more likely to go unchallenged, including female genital mutilation (FGM), forced marriage and so called honour based violence;
- the hatred of others on basis of race, religion, denomination, or sexual orientation - which can lead to hate crime including violence; and,
- The rejection of the core concept and institutions of democracy and rule of law.

I am grateful for the Committee's consideration of the issues around Counter-Extremism. As its Report states, tackling extremism raises complex issues such as freedom of speech and the right to express religious beliefs. These values are fundamental to our way of life and our Counter-Extremism Strategy is designed to protect them. Yet we also have a responsibility to protect communities and individuals from harm too. We are committed to ensuring that children are properly safeguarded.

Below we set out our response to each of the recommendations made in the Committee's Report. However, we accept that any proposals in this area will need careful consideration and cannot be rushed. That is why we have given a firm commitment that there will be a full and detailed consultation on any measures before they are introduced.

We will publish a consultation document on the Counter-Extremism Bill later this year. I look forward to the Joint Committee on Human Rights playing a full and active role in that consultation.

Response to the Committee's Recommendations

Right-wing extremism and xenophobia

Conclusion / Recommendation 1 - Following the EU referendum there appears to have been a deeply worrying rise in the expression of xenophobia and racism. We note that the Government is drawing up a Hate Crime Action Plan. Given that the Counter Extremism Strategy refers to right wing, as well as religious, extremism these issues should be seen as part of that strategy and will have to be considered if any legislation is forthcoming. (Paragraph 34)

Conclusion / Recommendation 2 - Unfortunate and deplorable incidents involving racism and xenophobia persist. The criminal law already contains offences which make such expressions of hatred unlawful. The Government and police should monitor the situation carefully and ensure that these incidents are dealt with vigorously and swiftly under the existing law so that no further harm is done to community relations. It must also seek to repair the harm that has undoubtedly already been sustained. (Paragraph 35)

Hate Crime is not a new threat to communities. For a number of years the Government has prioritised our response to hate crimes through a programme of work which aims to:

- prevent hate crime through the co-ordination of activities across government;
- work with communities to tackle hate crime;
- increase reporting of hate crime; and,
- improve support for victims and further build our understanding of hate crime.

We have seen the results of this in a long term decline in the incidence of hate crimes and an increase in the level of reporting as reported in the Crime Survey for England and Wales. In 2014/15, 52,528 hate crimes were recorded by the police, up 18% on the previous year. Reports on all five monitored hate crime strands (race, religion, sexual orientation, disability and transgender) increased between 2013/14 and 2014/15, partly due to people having increased confidence to report hate crime. Combined data from the 2012/13 to 2014/15 Crime Survey for England and Wales gives an estimated 222,000 hate crimes on average per year. The general trend, in line with other crime, is downward.

The Government published the Hate Crime Action Plan on 26 July 2016 and it contains a number of actions for departments and agencies to do more to tackle hate crime. While hate crime is not necessarily all driven by extremist ideology some clearly is. This includes both far-right and far-left extremists stoking antisemitism and hatred towards Muslims. But we also see evidence of other extremists promoting sectarianism and hatred against others because of their race, religion or sexual orientation. The development and publication of the Action Plan was a key part of the Counter-Extremism Strategy. The

Plan focuses on a victim-centred approach, and does not seek to target any specific form of hate crime, instead looking more holistically at a number of drivers behind hate crime, as well as offering support to victims.

The United Kingdom has in place one of the strongest legislative frameworks in the world to protect communities from hostility, violence and bigotry and we will keep it under review to ensure that it remains effective and appropriate in the face of new and emerging threats. The Government already works closely with Police on hate crime. This includes monitoring the levels of hate crime and discussing planned and current interventions to ensure victims are treated correctly when they do experience hate crime. The Police and Crown Prosecution Service had a significant role in the drafting of the Action Plan and their work will be key to its delivery. Ensuring cases progress through the criminal justice system and are prosecuted correctly is one of the measures against which the success of the Plan will be assessed. The Home Secretary also announced in July that Her Majesty's Inspectorate of Constabulary (HMIC) will be asked to assess the Police's response to hate crime.

An independent review of the Prevent Strategy?

Conclusion / Recommendation 3 - Any new Bill on countering extremism should draw on all the available evidence. Those preparing the Bill should consider the experience of the Prevent Strategy and the operation of the Prevent Duty. An independent review of the Prevent Strategy and Duty should be published as part of the consultation on the Bill. The current oversight arrangements for Prevent are too opaque and do not engender confidence. It is not clear to us why the Government does not currently regard the Prevent Strategy as being part of the background to its proposed Bill. (Paragraph 42)

The Government's work to counter extremism is distinct from, but complementary to, its work to counter terrorism, which includes work that aims to prevent people from becoming terrorists or supporting terrorism. Prevent is one of four work streams that is part of the Government's counter-terrorism strategy (CONTEST).

The aim of the Prevent work stream is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism. The 2011 Prevent Strategy has three key objectives:

- respond to the ideological challenge of terrorism and the threat we face from those who promote it;
- prevent people from being drawn into terrorism and ensure they are given appropriate advice and support; and,
- work with sectors and institutions where there are risks of radicalisation which we need to address.

Through the Counter Terrorism and Security Act 2015, we introduced the Prevent statutory duty. The Prevent Duty requires local authorities, schools, colleges, universities, health bodies, prisons and probation, and police to prevent people from being drawn into terrorism as part of their day to day work.

We have supported the roll out of the Prevent Duty with guidance for each sector and a dedicated package of training. Over half a million frontline staff now understand the radicalisation process and know what to do if they have concerns.

The Strategic Defence and Security Review (SDSR), published in December 2015, committed to updating the UK's counter-terrorism strategy (CONTEST) in 2016. The Home Office is leading the cross-Government review which includes work under the four 'P' framework: Pursue, Prevent, Protect and Prepare. The review will set out the changes since 2011 in the terrorism threat and in the wider operating environment; reflect the national security context, policy and investment decisions outlined in the National Security Strategy, Strategic Defence and Security Review and Spending Review 2015, and consider how we can better prepare for future counter-terrorism trends and shock events across Government.

The CONTEST Board is responsible for developing and monitoring implementation of the government's UK counter-terrorism strategy. Oversight of Prevent and the Prevent Duty is provided by the Prevent Oversight Board.

The operation of the Prevent Duty in Schools

Conclusion / Recommendation 4 - It is too early to reach any definitive conclusions on the success of the Prevent Duty in schools. Anecdotal evidence suggests that there may be some cause for concern about the impact of the Duty and the Government would be well-advised to ensure that referrals are made in a sensible and proportionate fashion. However, we also accept that it is very easy for dangerous myths to be spread about Prevent. The only way for these to be dispelled is for there to be rigorous and transparent reporting about the operation of the Prevent Duty. (Paragraph 50)

Schools have a vital role to play in safeguarding pupils from radicalisation. The Home Office and the Department of Education have made a wide range of advice and materials on extremism and radicalisation available to schools. In particular, on 30 June 2015, the Department of Education issued practical advice for schools and childcare providers on the Prevent Duty which complements the Prevent statutory guidance.

This was followed by the launch of the Educate Against Hate website, in January of this year. The website provides practical advice to parents, school leaders and teachers on protecting children from extremism and radicalisation.¹

Schools should be safe places where young people can discuss any issue and develop the knowledge to see extremist ideologies for what they are and challenge them. The Prevent Duty is about safeguarding children from extremist ideologies, not about shutting down that debate.

Protecting pupils from the risk of radicalisation should be seen as part of schools' wider safeguarding duties. It is important to understand the risk of radicalisation as a safeguarding risk that is similar in nature to protecting children from other harms. We agree with the Committee that it is important that referrals are made in a sensible and proportionate fashion. That is why the Department's advice and guidance on the Prevent

¹ <http://educateagainsthate.com/>

Duty make clear that if teachers have concerns about any pupils they should follow normal safeguarding procedures and act proportionately. There are no mandatory reporting requirements under the Duty.

We recognise the importance of dispelling myths and improving understanding of Prevent, and are working proactively to communicate its positive impact and encourage balanced reporting by the press. We are also working closely with schools and local communities to improve understanding of the duty and make clear that it is about safeguarding young people from the dangers of being drawn into terrorism.

The Department for Education's recent teachers' omnibus survey shows that 83 per cent of school leaders are confident in how they should implement the Prevent duty.²

Ofsted inspectors take account of schools' effectiveness in protecting pupils from the risks of extremism and radicalisation and in promoting fundamental British values. Ofsted have also built their capacity to identify and report on possible instances of extremism. They have strengthened their inspection frameworks so that inspectors assess how well all schools protect pupils from the risks of extremism and radicalisation and promote fundamental British values.

The operation of the Prevent Duty in universities

Conclusion / Recommendation 5 - Any proposed legislation will have to tread carefully in an area where there is already considerable uncertainty. For example, in the university context, it is arguable whether the expression of certain views constitutes putting forward new ideas in the form of controversial and unpopular opinions, or whether it amounts to vocal and active opposition to the UK's fundamental values. The potentially conflicting duties on universities to promote free speech, whilst precluding the expression of extremist views, is likely to continue to cause confusion. (Paragraph 62)

We agree that freedom of speech and robust academic debate are central to our higher education system and to the pursuit of knowledge and excellence. Universities offer students the opportunity for open debate and academic and intellectual exploration: the most effective tools we have to enable students to develop the resilience against terrorist and extremist ideologies. In this context students should be exposed to challenging views and empowered to critique them. But providing an opportunity for the expression of challenging views should not risk spreading hatred, violence and fear. To manage this, universities have to balance their duty to promote freedom of speech with their other legal responsibilities including equalities law, health and safety responsibilities, and the Prevent duty. The Prevent duty requires Universities to have clear policies in place to limit the opportunity for giving extremist speakers uncontested opportunities to promote extremist views that could draw students into terrorism. For example, Guidance on the duty is explicit that mitigation includes ensuring that, where an event is allowed to proceed, speakers with extremist views are challenged with opposing views.

We recognise that balancing these responsibilities is not always an easy job and that there are difficult decisions to be taken. We have a network of regional coordinators who are available to offer practical advice and support to Universities.

2 <https://www.gov.uk/government/publications/teacher-voice-omnibus-november-2015-survey-dfe-questions>.

HEFCE is the body responsible for monitoring compliance with the Prevent duty in the higher education sector in England. Its monitoring framework requires universities to demonstrate that they have clear policies and procedures in relation to external speaker events that ensure open debate and challenge.

Conclusion / Recommendation 6 - We believe that free speech is precious particularly in universities and should not be undermined. (Paragraph 63)

We agree. That is why the principles of academic freedom and freedom of speech at universities are enshrined in statute. Universities have a duty to ensure that lawfully expressed views can be heard but equally can be robustly challenged and debated and we will continue to support those universities which show leadership in doing this.

Conclusion / Recommendation 7 - If the Government wish to take further action in this area it will have to ensure that there is legal certainty in what is proposed. (Paragraph 64)

We will ensure that we engage with the sector on any future proposed Counter-Extremism measures which may impact on Universities.

Out of school settings

Conclusion / Recommendation 8 - The need to safeguard children from neglect, physical harm and sexual abuse is well understood. But it is rather less clear how one can draw a line between religious freedom and requirements for safeguarding that genuinely protect children. While there may be some argument for safeguarding measures to be introduced in out of school settings, these should not be specifically aimed at religious activities, nor are we convinced that existing safeguarding measures are inadequate in this regard. Any new measures should be proportionate, focused, and should only apply where identifiable concerns about the safety or wellbeing of children and young persons have been raised within a particular institution. We do not support a regime of routine inspections of out of school settings. We are aware of the very grave concerns around Government proposals for a regime of compulsory registration. We reserve the right to return to this issue if and when we see detailed proposals from the Government. (Paragraph 74)

Conclusion / Recommendation 9 - Moreover the Government should listen with particular attention to those who would be expected to apply for and enforce these orders such as the police educational establishments and councils and Muslim or other faith communities. (Paragraph 75)

The Government is committed to safeguarding all children and protecting them from the risk of harm, including from extremism. We recognise the important role that out of school educational providers play in many communities, but we also have evidence that children are at risk of harm in a minority of these settings and that existing powers are not always sufficient.

Schools and childcare providers are currently regulated under child protection, education and childcare law. This helps ensure that pupils are properly safeguarded. Harmful practices such as corporal punishment are banned, and requirements are in place to ensure that background checks are being carried out on staff. However, out of school settings fall

outside these existing legal frameworks for regulation and oversight. This means that the safeguards which protect children in schools and childcare settings are not mandatory in out of school settings, and children are more vulnerable to harm.

Our proposals to regulate them are therefore aimed at ensuring that action can be taken where there are genuine concerns that they are failing to ensure the safety and welfare of children.

Following our call for evidence, we have been considering the range of views expressed in response and how best to take the policy forward. We will set out next steps in due course, and will continue to work closely with faith communities and other interested parties like the police, educational establishments and local authorities, to ensure that the proposed system of regulation is targeted, proportionate and focuses firmly on those settings which are failing to safeguard and promote children's wellbeing.

Combating extremism by the way of civil orders

Conclusion / Recommendation 10 - It appears that the Government has retreated from its original proposals for Banning Orders, Closure Orders and Extremism Disruption Orders. It is now making reference to what is described as a new "civil order regime". The Government should not use civil orders (breach of which is a criminal offence) as a means to avoid having to make a criminal case to the requisite criminal standard of proof. This is particularly important in circumstances where the relevant behaviour which is prohibited is not a clear cut criminal offence in its own right. (Paragraph 105)

Conclusion / Recommendation 11 - The Government should not legislate, least of all in areas which impinge on human rights, unless there is a clear gap in the existing legal framework. The Government has not been able to demonstrate that such a gap exists. We therefore take the view that the Government has not demonstrated a need for new legislation. The current counter terrorism, public order and equality legislation form a comprehensive framework which deals appropriately with those who promote violence. There is a danger that any new legislation may prove counterproductive. (Paragraph 106)

The proposed civil order powers, announced in this year's Queen's Speech, are concerned with a small number of the most serious cases where extremists' behaviour threatens others and causes real harm both to individuals and communities.

The Government will consult fully on any proposed measures, including civil orders, before they are introduced. Any consultation will set out any gaps in existing legislation that new powers are intended to fill.

Conclusion / Recommendation 12 - The Government's approach, set out in its Counter Extremism Strategy, appears to be based on the assumption that there is an escalator that starts with religious conservatism and ends with support for jihadism; and that combating religious conservatism is therefore the starting point in the quest to tackle violence. However it is by no means proven or agreed that conservative religious views are, in and of themselves, an indicator of, or even correlated with, support for jihadism. (Paragraph 107)

We do not accept the premise that our approach is based on an assumption that there is a course of behaviour that starts with religious conservatism and ends with jihadism. The situation is more complex.

Research has shown that no single factor is enough to cause someone to join a terrorist group or support terrorism. There is no single pathway to radicalisation for Islamist inspired, Far Right or any other form of terrorism, and our radicalisation model applies to all forms of terrorism. People become radicalised when background factors, together with radicalising influences combine during a period in a person's life where there is an ideological opening and, crucially, where there is a lack of protective factors. Universal psychological needs for identity, esteem, belonging, and others underpin this process.

Moreover we note that our approaches to tackling extremism and terrorism are often unhelpfully conflated. We are clear that terrorism is only one of the harms extremism can cause and government has a clear duty to protect people from that harm. But equally, as laid out in the Counter-Extremism Strategy, the Government's responsibility to safeguard people (particularly the vulnerable) extends to tackling all the harms extremists contribute to.

The strategy is not about targeting a particular religion or community, nor is it about seeking to suppress certain views or beliefs.

Conclusion / Recommendation 13 - The Government gave us no impression of having a coherent or sufficiently precise definition of either 'nonviolent extremism' or 'British values'. There needs to be certainty in the law so that those who are asked to comply with and enforce the law know what behaviour is and is not lawful. We are concerned that any legislation is likely either: (a) to focus on Muslim communities in a discriminatory fashion (which could actually increase suspicion and even opposition to the Prevent agenda); or (b) could be used indiscriminately against groups who espouse conservative religious views (including evangelical Christians, Orthodox Jews and others), who do not encourage any form of violence. (Paragraph 108)

We accept that there needs to be certainty in the law. Legislation would not be discriminatory or targeted at a particular section of the public. It would apply to all citizens and be targeted at harmful activities rather than the holding of views. Freedom of worship is a fundamental and hard-fought British liberty that should be defended.

Conclusion / Recommendation 14 - The legal problems that we have considered are so fundamental that it will serve no purpose to have a further general consultation. If the Government wishes to take forward these proposals a draft Bill is required. A consultation which does not provide a clear legal definition of what is meant by extremism would be futile. Moreover the different implications for different communities make this a particularly sensitive issue which requires a longer consultation than the standard 12 week period. (Paragraph 109)

We are committed to having a full and detailed consultation on this issue and the options that are available.