



The Prevent Duty and its Chilling Effect on Human Rights: March 2024

SUMMARY OF KEY POINTS AND RECOMMENDATIONS

Amnesty International UK's (AIUK) report – '[This is the thought police](#)' – investigates the human rights impacts of the UK Government's Prevent strategy.¹

The report concludes that the Prevent duty and strategy do not comply with international human rights law and AIUK calls on the UK Government to abolish and withdraw it. Prevent violates the right to freedom of expression; freedom of thought; and critically, the right to equality and non-discrimination – with a significant impact on Muslim and neurodiverse people.

While national security and counter-terrorism legislation is reserved to the UK parliament, Prevent is implemented in Scotland by many devolved public sector institutions. Scotland has separate statutory guidance and Prevent work sits within the Scottish Government's Connected Communities Division.

At a minimum Amnesty is calling on the UK Government to:

- Immediately introduce an outcome-focussed independent complaints mechanism for challenging referrals
- Collect and publish data disaggregated by ethnicity and religion
- Ensure every individual referred to Prevent to be informed it has happened and how they can challenge the referral and what their rights are.

We call on the Scottish Government to:

- Ensure data on Prevent referrals is disaggregated by ethnicity and religion;
- Ensure that every individual referred to Prevent in Scotland is informed it has happened, how they can challenge the referral, and what their rights are
- To reject any drift towards the English and Welsh model of Prevent implementation.

ABOUT PREVENT

The Prevent strategy is one of four elements of the UK Government's counter-terrorism strategy, CONTEST. Prevent's stated aim 'is to stop people becoming terrorists or supporting terrorism', enabling authorities to intervene in the lives of people who they deem 'at risk' of committing a crime – but who haven't yet done so.

The way Prevent is implemented in Scotland differs from that in England and Wales and there is separate statutory guidance for Scotland (detailed later in this briefing).

¹ Between July 2022 and June 2023, AIUK undertook a series of interviews with people involved in – and directly impacted by – the Prevent strategy. Researchers also attended Prevent training, reviewed publicly available documentation, and conducted an online questionnaire which received over 4,500 respondents.

Prevent has changed significantly since its inception in 2003. Between 2006-2011, it focused exclusively on so called 'Islamist extremism', targeting only Muslim communities. This involved funding local projects, including sports clubs, education and arts initiatives, and emphasised 'community cohesion'. The programme was expanded to include all types of 'extremism', including 'non-violent extremism'. In 2014, the UK Government introduced a statutory duty on schools in England and Wales to promote British values, as first defined in the 2011 Prevent strategy.

In 2015, the Prevent duty was expanded again. This required all 'specified authorities' to have 'due regard to the need to prevent people from being drawn into terrorism' in the exercise of their functions. 'Specified authorities' included local authorities, prison services, schools, certain youth groups, hospitals and other NHS services, universities and police forces. These institutions are required to have policies in place to identify individuals at risk of 'being drawn into terrorism' – but who have not committed any crimes – to the police.

The Prevent strategy has been widely criticised by human rights organisations, civil society groups including Muslim-led organisations, activists, academics, politicians, trade unions and international bodies. Such criticisms include that it:

- discriminates against Muslims and treats Muslims as a 'suspect community';
- interferes with the right to privacy and family life;
- limits the rights to freedom of expression, freedom of association and peaceful assembly (particularly for Muslims and other racialised communities and in education), thereby negatively impacting civil society and hindering non-violent political activism;
- negatively impacts the rights to education and health.

REPORT AND METHODOLOGY

'This is the thought police' recognises that the Prevent strategy has many dimensions, and focuses on referrals of individuals to Prevent and interventions in public events by institutions subject to the Prevent duty.²

To gather information Amnesty International requested meetings with the Home Office, Counter-Terrorism Policing, and Police Scotland. The Home Office were offered the opportunity to contribute to the research but chose not to do so. Counter-Terrorism Policing declined a meeting but offered to answer questions in writing. Police Scotland responded with general written information regarding Prevent.

THE HUMAN RIGHTS IMPACT OF PREVENT

The Prevent strategy defines certain indicators of 'radicalisation', but interviewees explained to Amnesty International that decisions about who to refer to Prevent ultimately rely on 'gut feeling'. Given the high prevalence of negative attitudes towards Muslims demonstrated in surveys of the British public, the

² Between July 2022 and June 2023, Amnesty International met with fifty-one people, including people directly impacted by Prevent as well as activists, representatives of nongovernmental organisations (NGOs), academics, journalists, students, a barrister, former or current police officers and Prevent practitioners. An Amnesty International researcher also participated in Prevent training and reviewed publicly available documentation relating to Prevent, as well as documentation provided by individuals in relation to their experiences with Prevent. An online questionnaire, designed specifically for this research, elicited 4,685 responses.

wide degree of discretion permitted in Prevent decision-making has resulted in a significant risk of discrimination. Islamophobic stereotypes associating Muslims with 'extremism' or 'terrorism' have played a significant role in referrals to Prevent.

Case study

Irfan is aged 30, Muslim and a teacher in northern England. His former employer, a local school, referred him to Prevent in 2020. Before the referral, Irfan had made a formal complaint about his manager's Islamophobic harassment, including taunts about Irfan's beard and calling him a 'terrorist', and reported this to the police. In mid-2020, he was called into a disciplinary meeting, questioned on his recent work absences and told that the school was referring him to Prevent. He was not given any reasons for the referral and subsequently resigned from his post.

Amnesty International spoke to people who were referred to Prevent largely because of their expression of non-violent political beliefs. Prevent practitioners said that the expression of such beliefs should not, on its own, be sufficient grounds for a referral. Nevertheless, Prevent policies and trainings focus considerably on ideology and political expression (including anarchism, anti-fascism, and environmentalism), and some indicators of 'radicalisation' are clearly associated with non-violent political beliefs. The referral of people on the basis of their expression, with the intention of influencing their views and beliefs, interferes with the rights to freedom of expression and freedom of thought, conscience, and religion.

Under the Prevent duty, local authorities and universities must not provide a platform for so-called 'extremists'. To fulfil this duty, local authorities and universities are intervening in public events – including on topics such as Islamophobia and Palestine - by cancelling room bookings or imposing restrictions, in a manner which unduly stifles the right to freedom of peaceful assembly.

Prevent also causes a 'chilling effect' on the rights to freedom of expression and peaceful assembly. Interviews with people impacted by Prevent and responses to Amnesty International's online questionnaire demonstrate that people have modified their behaviour, including refraining from participating in protests and from expressing their political and religious views, from fear of being flagged, and thus stigmatised by association with Prevent.

There is a deeply concerning lack of transparency around Prevent; people often do not know why they have been referred or how they can challenge any referral. Authorities routinely fail to provide information in writing and refuse requests for information.

States must combat terrorism-related acts but any restrictions on human rights for a national security aim must be provided by law and demonstrably necessary and proportionate to serve that aim. Combined with the lack of demonstrated effectiveness of the strategy in meeting its intended aims, the Prevent strategy disproportionately restricts human rights. The UK Government should abolish the Prevent duty and leave professionals to use ordinary safeguarding processes to refer individuals at risk of harm, including children facing recruitment to non-state armed groups.

NEURODIVERSITY

A disproportionate number of neurodiverse people and children also factor among Prevent referrals. Jonathan Hall KC, the Independent Reviewer of Terrorism Legislation, has stated that the incidence of autistic people being referred to the Prevent programme were 'staggeringly high'. Experts believe that 'there is no empirical evidence to link autism and terrorism'. The UK's latest counter-terrorism strategy

also states that there is ‘limited evidence to support a direct causal link between mental ill-health or neurodivergence and an individual’s terrorist threat or susceptibility to radicalisation’.

The overrepresentation of neurodiverse people in Prevent referrals does not, therefore, reflect any increased risk of committing terrorism-related acts. Instead, some autism features could be mistaken for signs of ‘radicalisation’ in the Prevent context, such as ‘intense interests [and] the drive to collect facts and figures about a topic’.

Case study

Connor is a 24 year old autistic man, who is also diagnosed with Attention Deficit Hyperactivity Disorder (ADHD), Pathological Demand Avoidance (PDA), an anxiety disorder and learning difficulties. His social worker referred him to Prevent in October 2021, noting a number of concerns in the referral form, including looking at ‘offensive and anti-trans’ websites, ‘interest in anime’, putting on ‘offensive videos when his care staff are around’. The social worker had also raised concerns with Connor’s father about Connor’s interest in video games (Warhammer) and his music tastes, which the social worker interpreted as an interest in militarism.

Connor’s social worker and the local authority justified his referral as a way to ‘explore other means of support and education.’

KEY RECCOMENDATIONS – UK GOVERNMENT

Amnesty International concludes that the UK Government’s Prevent Strategy does not comply with international human rights law. We recommend that the UK Government:

- Abolish the Prevent duty under the Counter-Terrorism and Security Act 2015, thereby leaving professionals to use ordinary safeguarding processes to refer individuals at risk of harm, including children facing recruitment to non-state armed groups,
- Withdraw the Prevent strategy and refrain from associating non-violent groups and their views (‘non-violent extremism’) with terrorism,
- Refrain from attempts to delegitimise criticisms of the Prevent strategy by journalists, academics, and civil society, and instead engage meaningfully with issues raised,
- Establish and implement alternatives to the criminal justice system for children accused of terrorism offences,
- Ensure victims of human rights violations under the Prevent strategy have access to an effective remedy, including access to justice, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Should the Prevent strategy remain in operation:

- Provide an effective independent complaints mechanism for challenging Prevent referrals which includes, among its potential outcomes, removing the referral from any databases.
- Ensure that any individual referred to Prevent is informed of their referral in writing, and provided with information about how to challenge their referral and have their data removed from any databases (including individuals referred in the past).
- Collect and publish data relating to Prevent’s operation disaggregated by ethnicity and religion.

In relation to counter-terrorism law and practice more broadly:

- Refrain from adopting or maintaining vague and overly broad definitions of “terrorism”,
- Ensure that each constituent element of a terrorism-related offence under national law is precisely and sufficiently circumscribed to uphold the principle of legality,

- Refrain from classifying certain crimes as “terrorism” based solely on the presumed political or ideological motive of the perpetrator, relying instead on the ordinary criminal justice system and, where necessary, on war crimes, crimes against humanity and international criminal law.
- Address broader, long-term determinants of violence and social harm, including by ensuring that social services are adequately funded,
- Take steps to address racist and discriminatory attitudes and behaviour towards others based on race, colour, descent or national origin by politicians, the media and wider society, as required by international law, for example, by implementing public anti-discrimination campaigns, rather than addressing such issues through a national security lens.

PREVENT IN SCOTLAND

The way Prevent is implemented in Scotland differs from that in England and Wales in several ways. In sectors where responsibility is devolved to the Scottish Parliament, such as health, social work, education and policing, Prevent is implemented via public sector institutions. There is separate guidance for Scotland’s Prevent duty, for example there is no requirement to promote ‘British values’ in Scottish schools; and Prevent is less clearly integrated into ordinary safeguarding practices. Prevent sits within Scotland’s wider work on community cohesion (the Scottish Government’s Connected Communities Division). Scottish universities have no oversight of the Prevent duty equivalent to that of the Office for Students in England and Wales.

In a letter to Amnesty International UK, Police Scotland explained that Prevent ‘sits within [its] Partnerships, Prevention and Community Wellbeing Division’ and takes a ‘preventative, rights-based approach [...] which is balanced, proportionate and aligned to existing safeguarding procedures’. Proportionately fewer referrals are made in Scotland compared to England and Wales.

SCOTTISH DATA

The following information is drawn from the most recent Prevent Referral data from 2022/23 published by Police Scotland.³

In 2022/23 there were 87 referrals to Prevent in Scotland. This represents a slight decrease of 5% compared with the previous year (91 referrals in 2021/22).

As is in previous years, the Police made the highest volume of referrals (31; 36%), closely followed by the education sector (29; 33%). The vast majority of referrals to Prevent were for males (80; 92%), and the largest proportion of referrals was for individuals aged 15-20, based on their age at time of referral (31; 36%).

The 29 referrals from the education sector included:

- Two referrals from primary schools
- Six referrals from higher education (college/education)
- 21 referrals from secondary schools

³ Prevent Referral Data, Scotland, April 2022 to March 2023

Of the 87 Prevent referrals, the largest proportion was for individuals aged 15-20 (31; 36%), based on their age at the time of referral. There were 22 referrals for individuals aged under 15 (25%), and 14 referrals for individuals aged 21-30 (16%).

Of the 87 Prevent referrals, 37 (43%) were for concerns relating to a mixed, unstable or unclear ideology. This category reflects instances where the ideology presented involves a combination of elements from multiple ideologies (mixed), shifts between different ideologies (unstable), or where the individual does not present a coherent ideology yet may still pose a terrorism-related risk (unclear). 31 (36%) were for concerns related to right-wing extremism, while 10 (11%) were for concerns related to Islamist extremism. The remaining nine referrals (10%) were for referrals assessed as No Prevent Issue.

PREVENT DUTY GUIDANCE FOR SCOTLAND

In March 2015, Prevent guidance for Scotland⁴ was issued by the UK Government. Significant differences between the Scottish and English Prevent programs are evident within it.

Education

The implementation of Prevent in Scottish schools does not require engagement with the 'British Values curriculum'. In England and Wales 'referral pathways' are set out whereas in Scotland 'an awareness of Prevent' is integrated within the 'Getting it Right for Every Child' approach to safeguarding children.

Health

In England and Wales health professionals have a legal responsibility to pay 'due regard' to the prevention of radicalisation in safeguarding procedures. Scottish guidance encourages the health sector to 'embed Prevent within activities to protect vulnerable people' but health boards only formal responsibilities are to produce a Prevent action plan, appoint a Prevent lead, train staff on the signs of radicalisation and to submit performance reports on Prevent through the NHS Resilience Unit. As with education, radicalisation has not been formally integrated into safeguarding procedures.

The different legislative frameworks in Scotland and in England and Wales around adult protection and safeguarding reflect the slight differences in Prevent's implementation. In England and Wales the Care Act 2014 integrates Prevent into safeguarding by defining it as a form of abuse. The Adult Support and Protection (Scotland) Act 2007 places a duty to protect vulnerable people from harm, and Prevent remains a relevant but ultimately separate process from adult support and protection.

After 2015, however, Scottish implementation has shown minor moves towards convergence with the English approach, including by considering adopting an official definition of extremism.

KEY RECOMMENDATIONS – SCOTTISH GOVERNMENT

Given that Westminster legislates for the UK on matters of defence and security, it is not within the Scottish Government's competence to scrap the Prevent duty. However, we recommend that the Scottish Government review its implementation of the strategy within devolved functions on human rights grounds, specifically to determine to what extent it can:

- Collect and publish data disaggregated by ethnicity and religion,

⁴ Revised Prevent Duty Guidance for Scotland: <https://www.gov.uk/government/publications/prevent-duty-guidance-england-scotland-and-wales-2015/revised-prevent-duty-guidance-for-scotland-2015>

- Ensure that every individual referred to Prevent in Scotland is informed it has happened, how they can challenge the referral, and what their rights are.

We also urge the Scottish Government to reject further drift towards policy coherence with the UK, including considering the adoption of an official definition of extremism, and to arrive at a policy position which recognises the Prevent duty and strategy do not comply with international human rights law; and to call for its abolition on those grounds.