



Ministry
of Justice

Tackling Terrorism in Prisons

**A Response to the Independent Reviewer
of Terrorism Legislation's Review of
Terrorism in Prisons**

April 2022

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of Justice

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Presented to Parliament

by the Lord Chancellor and Secretary of State for Justice

by Command of Her Majesty

April 2022



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Tackling Terrorism in Prisons

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Foreword



As the threat from terrorism shifts and evolves, so too must our response if we want to keep our country safe – the first duty of any Government.

Thirty-two terrorist plots have been uncovered and intercepted by our security services in the last five years, before any harm was caused. Nonetheless, terrorism continues to take new and previously unthinkable forms around the globe.

At the time of writing, the UK's national terrorism threat level is set at substantial, meaning an attack is likely. It was raised last November to severe after the senseless killing of Sir David Amess MP and a bomb being detonated a month later outside Liverpool Women's Hospital.

Those incidents came after a number of terror attacks over the course of 2019 and 2020: at Fishmongers' Hall where Saskia Jones and Jack Merritt were stabbed to death; on Streatham High Road in London where a man and a woman survived being stabbed; in Reading where friends James Furlong, David Wails and Joseph Ritchie-Bennett were stabbed to death and three others were seriously injured; and the first attack inside a British prison, when a prison officer survived being stabbed at HMP Whitemoor.

All the terrorists involved in planning and carrying out these attacks wanted to kill and injure in the name of warped and fanatical ideologies. But there is something else they all share, which is a huge cause for concern. The perpetrators had come into contact with the prison or probation services.

This highlights the crucial role that the Ministry of Justice has to play in addressing the threat of terror, and I welcome the independent review of terrorism in prisons that has been carried out by Jonathan Hall QC, the Independent Reviewer of Terrorism Legislation. As he notes, this Government has taken significant steps to tackle terrorism in prisons. And as Justice Secretary, I have made it a priority to work with Counter-Terrorism Policing, MI5 and our national security partners across Government to support this effort.

We will remain vigilant, learn lessons to adapt to the threat we face, and act swiftly and decisively to deliver the improvements necessary to keep the public safe.

Recently, we strengthened the law around terrorism, including putting an end to the automatic early release of terrorist offenders, and introducing tougher sentences for the most serious terrorist offences. The Counter-Terrorism and Sentencing Act 2021, implemented the largest overhaul of terrorist sentencing and monitoring in decades. It introduced the new 'Serious Terrorism Sentence' that carries a 14-year minimum jail term and minimum licence period of 7 years, widens the range of offences that can be classed as terror-connected, increases maximum penalties for certain terrorism offences and extends maximum licence periods.

Next, we are taking a robust and rigorous approach to managing terror offenders in prison – limiting their interactions with each other and restricting and monitoring their communications with the outside world where necessary.

We continue to invest millions of pounds in our Step Up programme, launched by the Government to improve how prisons and the Probation Service tackle terrorism. Since inception, we have doubled the number of specialist Counter-Terrorism probation officers and launched a joint intelligence hub to boost information sharing between security partners.

Our prison staff are trained to spot and challenge extremist beliefs, as well as understanding whether any literature found in prisons is a cause for concern.

And we house the most ideologically dangerous offenders in Separation Centres, which help us to stop the spread of twisted views in our prisons.

Crucially, we are much better equipped now to tailor specific interventions to individuals in order to draw offenders away from terrorism.

Equally, incarcerating more terrorist offenders for longer brings new challenges. At any one time, we can have more than 200 offenders convicted of terrorist offences in our prisons, and a similar number of other offenders that we consider to be a terrorist risk.

In December, I launched a consultation on a Modern Bill of Rights seeking views, amongst other things, on ways to prevent trivial claims from terrorist and terrorist risk offenders in prison. To take just one illustration, our proposed reforms could make it more difficult for terrorist offenders to bring legal challenges by deploying elastic interpretations under the Human Rights Act, for example, in order to frustrate their placement in a Separation Centre.

We must remain vigilant and continue monitoring our response to ensure that it is as effective as possible. That is why I have fully accepted 12 of the 14 recommendations put forward by Jonathan Hall, with another recommendation accepted in part.

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Central to our approach, we are making the referral process for Separation Centres more robust, so that we can swiftly stop those with hateful beliefs radicalising and recruiting other prisoners.

We are developing national guidance on how to reduce the terrorist risk in prisons, which will empower Governors to feel more confident in their operational response.

At the same time, we will also entrust Governors with greater latitude to take action necessary to address the particular terrorist risk they may see emerging in their prison, using Key Performance Indicators to set clear expectations – in line with my focus on using data to improve performance across the prison estate.

Furthermore, our existing training for prison staff will be strengthened with new courses that contain up-to-date information on evolving threats and the most effective means to tackle them.

These improvements in training, guidance and data usage will all be underpinned greater methodological rigour, for example, in making terrorist risk behaviours a more readily identifiable reference point for our prison staff on the front-line, ensuring consistency and confidence across the board in dealing with them.

These initiatives will reinforce our defences, but we must go further to clamp down on extremism in prisons. So, we will invest an additional £1.2m over three years to create a new Separation Centre and High-Risk casework team. This specialist team will help us target those offenders who need to be isolated from the wider prison population, to prevent them recruiting to terrorist causes or poisoning the minds of other susceptible inmates.

We will also invest £6.1m over three years to create a new Close Supervision Centre unit with an extra ten cells, increasing our capacity by 20 percent. These will hold some of the most violent men in the prison system, who pose a significant risk of harm to our staff and other prisoners.

Through additional investment, deployment of tech and the expertise of our dedicated prison officers, we've made great strides in pursuing, prosecuting, and imprisoning terrorists. But, the price of liberty is eternal vigilance, and recent attacks only strengthen our resolve to do everything within our power to protect the public from the evolving terrorist threat we face.



Rt Hon Dominic Raab MP

Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice

1. The Operational Context: Tackling Terrorism in Prisons in 2022

The terrorist threat and countering it in prisons

- 1.1 The UK's national terrorism threat level is assessed by the Joint Terrorism Analysis Centre and the Security Service and at the time of writing is set at substantial, meaning an attack is likely. Currently Islamist terrorists represent the greatest threat to the UK, but the threat from Extreme Right-Wing terrorism is also a significant and growing concern. This is broadly reflected across prisons in England and Wales, with 71% of terrorist offenders assessed as Islamist in ideology, compared to 23% Extreme-Right Wing.¹
- 1.2 The work to tackle terrorism across the criminal justice system, including in prisons, is crucial in delivering the UK's Counter-Terrorism Strategy, CONTEST. In 2019 and 2020, a series of terrorist attacks were carried out by individuals both in prison (HMP Whitemoor) and on probation (Fishmongers' Hall, Streatham and Forbury Gardens, Reading), serving as a stark reminder of the risk carried across the criminal justice system.
- 1.3 Tackling terrorism in prisons is challenging work, and despite the best efforts and commitment of our staff, risks remain. However, we have a broad range of tools at our disposal and our dedicated prison officers across the country are trained to spot and take action against extremist views and damaging behaviour. We are determined to meet these threats, and our response to this report indicates this.
- 1.4 All terrorist and terrorist-risk offenders are managed through a specialist case management process. In addition to **monitoring and restrictions** placed on their communications, we limit terrorist offenders' interactions with other terrorists in prison. We use a 'dispersal' method to dilute their influence across the estate, and since 2017 have housed those most determined to radicalise others in Separation Centres away from the main prison population, depriving them of the chance to draw more recruits into their hateful ideology. Our forthcoming reforms to the Human Rights Act, will aid us in this endeavour.
- 1.5 This Government would be failing in its duty to protect the public if it did not make every effort to divert people from violence, and where possible **rehabilitation** of prisoners should be our goal. We employ specialist psychologists and other experts

¹ As of 11 March 2022

to assess and provide a range of tailored interventions to terrorist offenders of all ideologies, to draw them away from extremism and reduce their threat to the public.

Progress since 2019/20

- 1.6 Since the appalling terrorist attacks of 2019 and 2020, we have redoubled our commitment to fighting terrorism, learning important lessons from those attacks and working with other agencies to deliver significant improvements.
- 1.7 We have **strengthened the law**, bringing an end to automatic release of terrorist offenders, and to implement tougher sentences for the most dangerous. Through the Terrorist Offenders (Restriction of Early Release) Act 2020, we have taken swift action to ensure that terrorist offenders spend more of their sentences in prison. We have also introduced the Counter-Terrorism and Sentencing Act 2021, which strengthens every stage of our process, from a 14-year minimum jail term for the most dangerous offenders, to stricter monitoring measures.
- 1.8 We have invested in our **CT Step Up** (CTSU) programme which provides a step change in our Counter-Terrorism capabilities through a raft of reforms to overhaul key areas such as joint working, rehabilitation and training. Some of these are set out below.
- 1.9 Launched as part of CTSU to improve **joint working**, the Joint Counter-Terrorism Prisons and Probation Hub (JCTPPH) is game changing for our combined security capabilities. It brings together HMPPS, MI5 and Counter-Terrorism Policing into one co-located tri-agency unit, improving our assessment of the threat both in prisons and on the outside. The JCTPPH is already delivering positive impact on the ground co-ordinating better intelligence sharing and decision-making. Jonathan Hall also notes the impact the JCTPPH has had in improving mutual understanding of capabilities and authorisation processes in covert techniques.
- 1.10 CTSU will also deliver a Counter Terrorism Assessment and Rehabilitation Centre (CTARC) to promote innovation and provide greater capacity to respond to changing threats and challenges. The CTARC will allow expert psychologists to research, implement and evaluate rehabilitative interventions, to help draw offenders away from extremism and empower them to lead more fulfilling lives.
- 1.11 CTSU has also delivered;
 - A new National Tactical Management Command, enabling **more effective placement** of the highest risk terrorist prisoners.
 - A new central Counter-Terrorism Training Team who are overhauling the **Counter-Terrorism training** available to all frontline staff, and providing additional Prison Prevent Leads to increase training delivery capacity. So far

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over 15,000 frontline staff have received enhanced training, and we expect a further 2,000 to receive training through CTSU by April 2022.

- Funding for hundreds of **new roles** including specialist search teams, covert human intelligence source handlers, communications control staff, intelligence analysts, polygraph testers and psychologists.

1.12 These measures are all strengthening our hand in the fight against terrorism, and it is in this context that Jonathan Hall conducted his review. His intervention is timely – we are pleased that he acknowledges the strides that have been taken to better protect the public since the tragic attacks, and these new capabilities will be invaluable in delivering on his recommendations. But we must also acknowledge the real challenges that Jonathan Hall highlights, and we are determined to meet these head on. The threat is growing; as it continues to evolve, so must our work to tackle the issue, ensuring the best safeguards are in place to keep people safe.

2. Confidently and Consistently Identifying Terrorist Risks

- 2.1 Identifying those that pose a terrorist risk in prison is not always straightforward, and Jonathan Hall is right that when doing so we must look out for their damaging behaviour rather than awaiting a full picture of the ideology behind it. Our staff are well trained to spot the signs of radicalisation, but sometimes the associated behaviours are ambiguous, hidden from view or they may emerge and evolve very rapidly. We know that some offenders, and sometimes the gangs they operate in, use behaviours associated with terrorism to exert influence in prison for all kinds of reasons. For example in his report, Jonathan Hall identifies a trend of influential Islamist gangs in prison that *“condone or encourage violence towards non-Muslim prisoners, prison officers and the general public”*.
- 2.2 In this context motivation is less important than the impact it has, both within the prison and after release. Indeed, Jonathan Hall points out that the prisoners who carried out the terrorist attack within HMP Whitemoor, and the individual who perpetrated the Fishmongers' Hall attack after being released, had demonstrated such behaviours. Jonathan Hall provides some examples of the kind of behaviours he has identified in the course of his review; such as dictating what other prisoners can wear or cook in communal areas, or a wing 'Emir' having his cell cleaned by a new arrival. However, he notes that there is no agreed list of such behaviours for prison officers to use.
- 2.3 We are determined to ensure that such behaviour is properly dealt with, before it can develop into parallel power structures that undermine good order and discipline within a prison, prevent rehabilitation and ultimately increase the risk to the public. Jonathan Hall recommends we codify terrorist risk behaviour – we will.
- 2.4 **We are committing to the development of a new framework that highlights specific terrorist risk behaviours**, which will give staff the information to confidently, consistently and rigorously identify it and take action before it escalates. We acknowledge there is sometimes hesitancy in challenging this type of conduct, for fear of treading on religious sensitivities. It is right that our officers are sensitive to the faiths of prisoners, but this can not be allowed to deter or inhibit the taking of timely and preventative action to avoid violence or deliver on our Counter-Terrorism objectives.

Commitments

Recommendation 1: *When assessing or taking action to reduce terrorist risk, officials should pay more critical attention to the role played by Islamist groups and hierarchies.*

We accept this recommendation. **We will ensure that critical attention is paid to groups as well as individuals in addressing terrorist risk, and that the necessary frameworks are in place to formalise assessment of and action against extremist gangs.** We will gather more evidence on the scale of the problem **in 2022**, review our current risk assessment and intervention tools to make sure they fully recognise gang risks, and consider the case for new and updated tools to counter the threat.

To assist staff in doing so, we will also be fully supporting Recommendation 3 which will limit any uncertainty as to what constitutes terrorist risk behaviour.

Recommendation 3: *Officials should establish Terrorist Risk Behaviour as a recognised and codified phenomenon in the prison context. Identifying Terrorist Risk Behaviour should not depend upon being able to establish the ideological motivation of particular prisoners.*

We accept this recommendation. **We will work collaboratively with stakeholders to develop a consistent, codified and rigorous approach to identifying terrorist risk behaviour and pilot this in 2022.** Success will provide the bedrock upon which a whole range of crucial further improvements set out in the report, from enhanced training and data collection to performance measures for prison Governors, will be built.

Recommendation 6: *All staff, including governing governors and line managers, should have regular training on terrorist risk in the prison estate based on concrete examples.*

We accept this recommendation. **We will equip our workforce with the knowledge and confidence to effectively deal with terrorist risk, boosting our existing offer by developing new training courses that contain specific and up to date information on the threat and the most effective means to tackle it.** We will incorporate this work into Counter-Terrorism training improvements **already underway**, including training designed for senior leaders, to enhance their understanding of the issue and encourage wider take up among prison staff.

Recommendation 7: Data on identification and prevalence of Terrorist Risk Behaviour in individual prisons, and on steps taken to reduce terrorist risk in individual prisons, should be collected and assessed.

We accept this recommendation. We will develop the codified terrorist risk behaviours identified in recommendation 3 **in 2022**. Once this is complete, **we will implement robust data collection and assessment based on these behaviours.**

Delivering this recommendation will also help to achieve Recommendation 4; helping to grasp the issue of terrorism in prisons through **empowered and inspiring leadership** underpinned by clear expectations and outcome measures.

Going Further

Close Supervision Centres

- 2.5 The above commitments will tangibly improve how we are able to deal with terrorist risk behaviour in prisons. However when this problem behaviour escalates and creates additional dangers such as serious violence, it is vital that we are able to utilise the strongest tools at our disposal to protect staff and other prisoners. That is why we want to go even further, and will also be funding an expansion of Close Supervision Centres to separate out the most violent offenders.
- 2.6 Close Supervision Centres are designed to hold the most violent offenders not able to mix peacefully with the wider prison population, often those who have carried out serious assaults whilst in custody. We will invest £6.1m over three years to create a new Close Supervision Centre unit with an extra ten cells, increasing our capacity by 20% and helping to keep our staff and other prisoners safe.

Mental Health

- 2.7 In addition to the outward behaviours associated with terrorist risk, we must also get better at tackling some of the underlying causes of this behaviour. We take the issue of appropriately responding to the mental health needs of prisoners very seriously. As set out in the Prison Strategy White Paper, where a prisoner has a severe mental health need to the extent that warrants detention under the Mental Health Act, they should be transferred to a secure hospital. The Government has committed to introducing a new statutory time limit of 28 days from referral for transfers from prison to secure mental health hospitals, and NHS England and Improvement guidance which includes this timeframe is already being put into practice. Implementing this is a top priority.

- 2.8 We are committed to ensuring that our staff receive an appropriate level of mental health training to better equip them to identify mental health and substance misuse needs at the earliest opportunity, understand how these needs can affect offenders' behaviour, and how to work with healthcare services to mitigate these impacts. All our staff receive self-harm and suicide prevention training, alongside mental health training. HMPPS has also commissioned Skills for Justice to lead and project manage the creation of a Core Capabilities Framework for Adult Health & Social Care. The framework will outline the core capabilities required to work with adults who require health and social care interventions and support within the custodial setting.
- 2.9 Underpinning our work to improve mental health support in prisons will be a focus on improving information sharing between agencies and promoting better joint working to improve outcomes for individuals with mental health needs. To meet this end, we will continue to help ensure staff have the confidence and knowledge to use information systems to consistently record relevant data about health needs, for example, by reviewing guidance for flagging mental health needs on the Probation Service case management system (n-Delius).

3. Grasping the Issue through Empowered and Inspiring Leadership

- 3.1 Prison Governors have an extremely challenging job – they are accountable for what goes on in their establishment. There are a challenging set of cross-cutting issues that are integral to the day to day running of prisons. Whether it is managing some of the most dangerous and complex individuals in society, intercepting drugs and mobile phones or supporting offenders to build a new life away from crime, Governors have our support. It is in this context that we understand Jonathan Hall's assertion that '*commitment of governing governors to counter terrorism varies widely across the prison estate*'. It is important that our prison leaders are prioritising Counter-Terrorism and are seen to be doing so. We need to do more to support them in this to help guard against the understandable impulse for under pressure Governors to delegate completely responsibility for addressing terrorist risk.
- 3.2 In recent years HMPPS has made great strides in developing specialist Counter-Terrorism capabilities. These are largely centralised and this has contributed to a feeling that Governors can focus on what they see as immediate issues because Counter-Terrorism is someone else's responsibility. In truth our centralised Counter-Terrorism resources will work best when in lock step with the leadership of a prison.
- 3.3 An effective prison Governor is arguably the most important factor in ensuring better outcomes in prisons. Leaders who can foster a shared vision, have an in-depth understanding of their prison, and can clearly see and communicate which next steps need to be taken, naturally instil confidence in those around them. Strong leadership is infectious, and can inspire those at all levels of an establishment with the confidence and impetus to drive forward change on a key issue like Counter-Terrorism. That is why our Prisons Strategy White Paper committed to establish a lasting framework of Governor accountability and autonomy. This represents a new delivery contract between HQ and Governors, underpinned by our commitment to set clear expectations for delivery through measurable and transparent Key Performance Indicators (KPIs). Our plans for reform are built on trust in Governors to deliver, and on the recognition that they are often best placed to drive effective change in their establishments. We will therefore also empower Governors by rolling out earned autonomy, giving our strongest performers the opportunity to take on greater local autonomy and further improve their delivery against the new KPIs.

- 3.4 We are committed to supporting Governors in their efforts to address terrorist risk; the actions we have taken since 2019 and many of Jonathan Hall's other recommendations are contributing to this. We will provide specific training for Governors to help best direct their resources against the threat, and develop specific policies for action, linked to terrorist risk behaviours, so that once a problem is identified Governors can put in place a strategy to address it.
- 3.5 We know the challenge is not the same in every prison – we might already expect the Governor of a high security prison to have much of what they need to deliver, including a specialist Counter-Terrorism team. Outside the high security estate Governors will need to seek out the specialist resource of a central pool to tackle the problem. The key principle is that whatever the prison, the Governor should lead an organisation that is proactive in identifying issues and puts in place robust plans to deal with them. That means ensuring staff are aware of the latest information on terrorism in prison, understand its impact, know how to deal with it and where to get the resources to do so.

Commitments

Recommendation 4: Governing governors should be formally accountable for reducing the risk of terrorism from prisoners in their establishments and required to take into account the potential for terrorism by these prisoners following transfer to another establishment or on release.

We accept this recommendation. **Governors are already accountable for what goes on in their prison. We will support them in fulfilling their important role in the security system by:**

- Strengthening accountability of Governors by making the reduction of terrorist risk within an establishment a formal part of each Governor's responsibilities.
- Considering whether, and what, KPIs could be developed for Governors on managing terrorist risk, ensuring they have the people and processes in place to deal with the threat. This will be underpinned by, and follow the completion of, our responses to Recommendations 3 and 7; implementing robust data collection and assessment based on the codified terrorist risk behaviours.
- Extending this to the establishment by assessing whether independent scrutiny of the terrorist threat within establishments could be improved.

Recommendation 5: Specific policies for governing governors should be developed on terrorist risk, comprising general principles for action, and specific steps.

We accept this recommendation. **We will develop national guidance for Governors on how to reduce terrorist risk in prisons, including a framework for actions and additional steps to take.** This will correspond with, and follow, the codified terrorist risk behaviours set out in Recommendation 3, which we will complete in **2022**. We will thoroughly test the actions we recommend for efficacy, providing bespoke support for Governors. In the meantime, Governors are still able to access advice and support from specialist staff about how to reduce terrorist risk in their establishments. Once in operation, Governors will be responsible for ensuring the guidance is followed in their establishment.

We are confident this will provide Governors with greater legal certainty and will help to protect prisons from potential frivolous legal claims. Indeed, our consultation on a Modern Bill of Rights, published in December 2021, recognised that dealing with repeated spurious claims takes up the valuable time of those working in the prison, and incurs costs for the public purse. As the consultation indicated, it is crucial that our justice system protects people who have genuinely suffered from human rights breaches. People lose trust in that system, however, when frivolous or spurious cases come before the courts. Even when those claims are unsuccessful, the public is left with the sense that human rights are being deliberately misused. This devalues the concept of human rights. The consultation therefore sought views on a Bill of Rights that would implement a permission stage, similar, but not identical, to those in other branches of law, to ensure that spurious cases do not undermine public confidence in human rights; and strengthen the courts' discretion when granting remedies for human rights breaches.

4. Working Together for a Stronger System

- 4.1 Our operational approach to countering terrorism in prisons is dependent on seamless collaboration with our national security partners in Counter-Terrorism Policing and MI5. In practice, this involves a number of different organisations, each with different powers, priorities and ways of working. We bring our own specialist capabilities to this field of overlapping interests and responsibilities. The system works best when these organisations work well together, however the prison environment is unique and poses operational and legislative challenges for the police, MI5 and HMPPS. Our role therefore is to help partners navigate their way through this unique operating context, and provide clear advice and leadership on how the threat of terrorism can be best managed in prisons.
- 4.2 Jonathan Hall offers a set of principles that can harness our joint working capabilities – these are valuable. We will promote awareness of them amongst our partners and use them to approach the challenges on how each organisation uses its covert powers, how we work together to identify and prosecute crime in prisons, and how we continue to integrate our ways of working and mature our systems. We have made significant progress in recent years, with the establishment of the Joint Counter-Terrorism Prisons and Probation Hub (JCTPPH) which brings together HMPPS, MI5 and CT Policing into one co-located tri-agency unit. This is an example of how we are already spearheading change and strengthening the criminal justice system's resilience to terrorist risk, but we must do more. The terrorist population in prisons is expected to increase in the coming years, and we will be at the forefront of managing this challenge.
- 4.3 The creation of the JCTPPH is just the beginning of the work that needs to be done. Jonathan Hall identifies the complex cultural, institutional and technical challenges HMPPS, CT Policing and MI5 face in working together. The way our different powers and authorisation processes interact sometimes serves to disempower proactive intelligence activity rather than facilitate it. Jonathan Hall asks us to consider whether HMPPS has the right powers to operate in prison – we will and will make sure that this is a cross-government exercise.
- 4.4 Jonathan Hall identifies a key area where more progress is required – crimes committed by terrorist or terrorist risk offenders while in custody. We are committed to a zero-tolerance approach to crime in prisons. Our recent establishment of a Crime in Prisons Taskforce is illustrative of this resolve, but when crime is committed by someone we know poses a terrorist risk we should be able to work

with the police and Crown Prosecution Service to prioritise its investigation and prosecution. If opportunities to prosecute such dangerous individuals and keep them behind bars for longer present themselves then we must take them, even for low level crime.

- 4.5 One of the key institutional differences between HMPPS, MI5 and the Police is the decentralised nature of policing. CT Policing has a national remit but must work with local forces, who will be the first port of call after an incident in a prison. Jonathan Hall's suggestion that a senior officer in CT Policing should be responsible for championing the Counter-Terrorism requirement from police in prisons is welcome and we are glad that the Metropolitan Police Force has accepted it. We will work closely with the relevant officer to make sure that this senior leader has the support needed to effectively conduct their important work in prisons.

Commitments

Recommendation 8: *Joint working on terrorist risk should be organised with regard to the following principles:*

- *Action: development of intelligence must not be an end in itself but a means to taking the right action (whether overt or covert) to reduce terrorist risk.*
- *Ownership: governing governors remain responsible for terrorist risk in their prisons.*
- *Simplification: the number of different entities should be reduced, intermediary bodies avoided where possible, and processes (for example, the OPT scheme) reviewed. There should be clarity over responsibilities, for example on which HMPPS body is responsible for commissioning intelligence.*
- *Consistency: sharing of intelligence by CT Police and MI5 needs to be improved throughout the prison estate, and there needs to be a consistent understanding of what is meant by terrorist risk.*
- *Integration: mutual understanding of different capabilities should be encouraged between different bodies, and MI5 and CT Police should consider how to apply the Intelligence Handling Model effectively in relation to conduct in prison.*

We accept this recommendation. **We will build on the successful launch of the JCTPPH, assessing how HMPPS, CT Policing and MI5 work together in the JCTPPH and beyond through an internal review with reference to these five principles. This will be completed before the end of 2022.**

Recommendation 9: *CT Police should establish senior leadership with responsibility for ensuring that potential terrorist offences in prison, and other offences committed by terrorist risk offenders, can be effectively investigated for the purposes of criminal prosecution.*

We accept this recommendation. A senior CT Police officer of at least Superintendent rank will be assigned formal responsibility for the police response to terrorist risk in prisons in the first half of 2022. This officer will be accountable for ensuring a consistent approach to investigating potential terrorist offences and other offences committed by terrorist risk offenders in prison.

Recommendation 10: *A specific crime in prison agreement between HMPPS, CT Police, and the Crown Prosecution Service should be drawn up on the subject of potential terrorist offences, and offences committed by terrorist risk offenders.*

We accept this recommendation. **We will implement specific guidance on terrorism in prisons in a new crime in prison agreement with HMPPS, CT Policing and the CPS before the end of 2022.**

Recommendation 11: *Consideration should be given to whether HMPPS's current powers to authorise covert activity are sufficient, and in particular whether legislative changes are need so that HMPPS can authorise directed surveillance and the use and conduct of covert human intelligence sources on grounds of national security.*

We accept this recommendation. **We will conduct a systematic audit into HMPPS's powers to authorise covert activity and will agree legislative and/or operational improvements this year.** Naturally such a review will be sensitive, and it would not be appropriate for HMG to comment on it further. We will make the review available to the Independent Reviewer of Terrorism Legislation.

Legislation

Recommendation 2: The government should consider whether or not to amend the Terrorism Acts so that conduct falling within section 13 Terrorism Act 2000 and section 1 Terrorism Act 2006 is capable of amounting to an offence even if committed within a prison cell and even if, in the case of encouragement of terrorism, it only involves two prisoners.

We welcome Jonathan Hall's analysis of the limitations of the offences of encouraging terrorism (section 1, Terrorism Act (TACT) 2006) and displaying an article arousing reasonable suspicion that the person is a member or supporter of a proscribed organisation (section 13, TACT 2000) in prison settings. He notes that the section 1 offence does not apply to one-to-one encouragement and the recipients of the encouragement must properly be described as 'members of the public', and the section 13 offence can only be committed in a 'public place'.

Terrorism legislation is the responsibility of the Home Secretary. **The Home Secretary has accepted Jonathan Hall's recommendation to consider amending the Terrorism Acts to ensure these two offences are fully applicable in prison settings.** The Home Office is working closely with HMPPS, CT Policing and the CPS to better understand the strength of any operational case for legislative change, including whether doing so would make a valuable difference to our overall counter-terrorism efforts. The Government is clear of the vital importance of ensuring that our legislative framework is up-to-date, and our operational partners have the tools and powers they need, and we will update Jonathan Hall on the outcome of our consideration in due course.

5. Physical Measures to Halt the Influence of Radicalisers

- 5.1 Prison should never be a recruiting ground for terrorists. Extremists wishing to influence other prisoners should find the prison environment hostile to their poisonous ideology. Offenders, whatever their offences, should be safe from extremist ideologies and those who espouse them. Where possible we disperse terrorists around the prison estate to dilute their influence – where this is not enough we can place them in a Separation Centre. It is vital that we can swiftly place the most pernicious radicalisers in Separation Centres in a way that is fair and legally robust before their influence grows. We have already taken steps to ensure we can do this, supporting the important and growing role that Separation Centres play in our approach.
- 5.2 As mentioned in Chapter 3, in December 2021 we published a consultation on a Modern Bill of Rights seeking views on ways to mitigate the risk of trivial claims from terrorist and terrorist risk offenders in prison. Our proposed reforms would make it more difficult for terrorist offenders to bring legal challenges on elastic human rights grounds in order to try to frustrate their placement into a Separation Centre. Furthermore the proposals would encourage judges to take into account criminals' behaviour, where warranted, when deciding on any pay-outs for them – a trend we are starting to see emerge – helping avoid resulting costs to the taxpayer.
- 5.3 Offenders that pose a terrorist risk in prison are not a homogenous group – some are drawn into terrorism by others, some, affected by mental health issues or conditions such as autism become obsessed with violent groups or weapons, but amongst the cohort are dedicated radicalisers with the ability to draw others into their twisted world view.
- 5.4 In placing terrorist and terrorist risk offenders in prisons, there is a decision to be made on how concentrated or dispersed their distribution across the estate is. HMPPS' approach is to spread them out across the prison system; denying them the opportunity to network with likeminded individuals and aiming to dilute their world view amongst the range of voices on the prison wing. In some cases, exposure to a diverse prison wing can serve to highlight the inconsistencies in their own ideologies.
- 5.5 In systems where terrorist and terrorist risk offenders are more concentrated on specialist wings, the aim is to avoid the risk of spreading their ideologies further by denying them contact with other prisoners. However, as well as offering an

opportunity to make links with other terrorists, it risks hardening the offenders' commitment to the cause and each other. Countries such as France and Belgium run specialist units for terrorists, whilst the Netherlands has fully adopted the concentration model. Their justice systems and the number of offenders they must deal with are different and, whilst we always look to international partners for examples of success, and there are considerations about the right level of dispersal at any given time, we are confident that dispersal is the right policy for England and Wales at this time.

- 5.6 Even when spread out among other prisoners, there are a small number of individuals whose radicalising influence means they can draw others into their world view. They can have a serious impact on the lives of those they groom, the prison wing and ultimately on the public who face an increased risk of terrorism. Since 2017 Separation Centres have provided a critical mechanism to remove and separate these offenders from the general population, preventing them from poisoning the minds of others with their perverse ideologies, and allowing the rest of the system to continue to function as normal.
- 5.7 Separation Centres are small units that follow a comparable regime to that of the rest of the prison – association, exercise etc. but are physically completely separated. Offenders in a Separation Centre have no contact with prisoners outside the centre. These wings are intensively resourced – the staff are specially trained to work with such dangerous individuals and also include psychologists and specially trained Imams. There are three centres at HMPS Frankland, HMP Woodhill and HMPS Full Sutton with a total of 28 places although only 2 sites are currently in use.
- 5.8 There have been 15 individual prisoners placed in the Separation Centre system up to December 2021, with some having spent more than one period in the Separation Centre. In the same period, 21 individual prisoners were referred, again with some having been referred more than once. These low numbers have an impact on the viability and effective running of the centres.
- 5.9 Jonathan Hall says that the referral process 'contains hurdles and is unnecessarily complex'. We agree, and want to make it easier for prison governors to put these dangerous predators into Separation Centres, to stop them recruiting more terrorist foot soldiers and minimise the risk of trivial legal challenges based on procedural complexities. That is why we have already begun a Separation Centre Reform Programme that will have delivered key improvements, including Jonathan Hall's recommendation 13, by Summer 2022. These include making clear that the use of Separation Centres should not be a last resort, putting in place a simplified referral process and developing a new process to ensure the impact of a prisoner's removal from a wing is understood.

Commitments

Recommendation 12: *“Rule 46A Prison Rules 1999 should be retained, but amended to remove the reference in ground (3) to protecting or safeguarding others; and to remove ground (4) in its entirety.”*

Rule 46A Prison Rules 1999 enables the Secretary of State to order separation where it appears desirable on one or more of 4 grounds:

1. The interests of national security.
2. To prevent the commission, preparation or instigation of an act of terrorism, a terrorism offence, or an offence with a terrorist connection, whether in prison or otherwise.
3. To prevent the dissemination of views or beliefs that might encourage or induce others to commit any such act or offence, whether in prison or otherwise, or to protect or safeguard others from such views or beliefs.
4. To prevent any political, religious, racial or other views or beliefs being used to undermine good order and discipline in a prison.

We reject this recommendation. Whilst we recognise the benefits of trying to simplify the prison rules, we consider there to be value in the rule referencing safeguarding in ground 3. Safeguarding is a key responsibility of prisons, particularly in the context of Separation Centres, and its role in the process is important.

We will review whether ground 4 could be removed 12 months after the completion of the Separation Centre Reform Programme.

Recommendation 13: *Redesign Separation Centre Referral Process to improve decision-making, evaluation of terrorist risk and use of sensitive data.*

We accept this recommendation. **As part of the ongoing Separation Centre Reform Programme we are developing a new referral policy so that the process will be more streamlined for operational staff to remove dangerous radicalisers from the mainstream prison population.** This includes clarifying how an offender leaves the Separation Centre and returns to the rest of the prison population. These improvements, including a new, published referral manual will be completed in **Summer 2022**.

Recommendation 14: *“Where a periodic review under Rule 46A(3) falls to take place on the second anniversary of the initial direction, it should be carried out by a more senior official who was not directly involved in the initial referral or subsequent reviews.”*

We partially accept this recommendation. As part of the ongoing Separation Centre Review Programme we have already increased the seniority of the chair of the panel that considers referral to the board to Deputy Director level. We agree an element of independence at the two-year review point would be beneficial to the process. **All two-year reviews will in future be undertaken by another Deputy Director who was not directly involved in the referral process.**

Going Further

Separation Centre and High-Risk casework team

5.10 Jonathan Hall identifies some important areas to improve the Separation Centre referral process, and our Separation Centre Reform Programme will deliver on these this year. However it is crucial not only that the process for separating prisoners intent on radicalising others is simple and robust, but also that the right staff are in place to be able to put these improvements into action. That is why we will deliver but also go beyond Jonathan Hall's recommendations in this space, investing £1.2m over three years to create a new Separation Centre and High-Risk casework team. This team will fulfil a vital role; streamlining and improving decision making, freeing up other staff to focus on important day to day tasks such as identifying terrorist risk behaviour, and embedding legal expertise to mitigate risks to the public purse arising from trivial legal challenges from terrorists.

Table of Recommendations

Recommendation	Response
1. When assessing or taking action to reduce terrorist risk, officials should pay more critical attention to the role played by Islamist groups and hierarchies.	Accept
2. The government should consider whether or not to amend the Terrorism Acts so that conduct falling within section 13 Terrorism Act 2000 and section 1 Terrorism Act 2006 is capable of amounting to an offence even if committed within a prison cell and even if, in the case of encouragement of terrorism, it only involves two prisoners.	Accept
3. Officials should establish Terrorist Risk Behaviour as a recognised and codified phenomenon in the prison context. Identifying Terrorist Risk Behaviour should not depend upon being able to establish the ideological motivation of particular prisoners.	Accept
4. Governing governors should be formally accountable for reducing the risk of terrorism from prisoners in their establishments and required to take into account the potential for terrorism by these prisoners following transfer to another establishment or on release.	Accept
5. Specific policies for governing governors should be developed on terrorist risk, comprising general principles for action, and specific steps.	Accept
6. All staff, including governing governors and line managers, should have regular training on terrorist risk in the prison estate based on concrete examples.	Accept
7. Data on identification and prevalence of Terrorist Risk Behaviour in individual prisons, and on steps taken to reduce terrorist risk in individual prisons, should be collected and assessed.	Accept
8. Joint working on terrorist risk should be organised with regard to the following principles: Action; Ownership; Simplification; Consistency; Integration.	Accept

Tackling Terrorism in Prisons

A Response to the Independent Reviewer of Terrorism Legislation's Review of Terrorism in Prisons

Recommendation	Response
9. CT Police should establish senior leadership with responsibility for ensuring that potential terrorist offences in prison, and other offences committed by terrorist risk offenders, can be effectively investigated for the purposes of criminal prosecution.	Accept
10. A specific crime in prison agreement between HMPPS, CT Police, and the Crown Prosecution Service should be drawn up on the subject of potential terrorist offences, and offences committed by terrorist risk offenders.	Accept
11. Consideration should be given to whether HMPPS's current powers to authorise covert activity are sufficient, and in particular whether legislative changes are need so that HMPPS can authorise directed surveillance and the use and conduct of covert human intelligence sources on grounds of national security.	Accept
12. Rule 46A Prison Rules 1999 should be retained, but amended to remove the reference in ground (3) to protecting or safeguarding others; and to remove ground (4) in its entirety.	Reject
13. Redesign Separation Centre Referral Process to improve decision-making, evaluation of terrorist risk and use of sensitive data.	Accept
14. Where a periodic review under Rule 46A(3) falls to take place on the second anniversary of the initial direction, it should be carried out by a more senior official who was not directly involved in the initial referral or subsequent reviews.	Partially Accept

Annex A – Equality Statement

Section 149 of the Equality Act 2010 places a duty on Ministers and the Department, when exercising their functions, to have 'due regard' to the need to:

- Eliminate unlawful discrimination, harassment and victimisation and other prohibited conduct under the Equality Act 2010;
- Advance equality of opportunity between different groups (those who share a relevant protected characteristic and those who do not); and
- Foster good relations between different groups (those who share a relevant protected characteristic and those who do not).

Paying 'due regard' needs to be proportionately considered against the nine "protected characteristics" under the Equality Act 2010 – namely race, sex, disability, sexual orientation, religion and belief, age, marriage and civil partnership, gender reassignment, pregnancy and maternity. This Equality Statement considers the potential effects of our proposals according to the protected characteristics for which we have data: race, sex and age.

This response to the IRTL's review into Terrorism in Prisons discusses how the Ministry of Justice will continue to manage the threat of terrorism across the prison estate. It provides a high level overview of our response to all fourteen of the IRTL's recommendations, and outlines a number of commitments that will allow us to deliver material improvements in how we protect the public.

A number of these commitments that may have possible equalities implications will require further analysis before specific policy changes can be confirmed. As a result, a more detailed equalities analysis is not possible at this time.

There are also a number of recommendations that have cross-Government implications for our approach to managing the risk of terrorism in prisons, and we will ensure that relevant legal, operational and policy stakeholders are consulted and informed accordingly in this process. We will ensure that a detailed equality assessment is delivered prior to any substantive change in Government policy.

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