



HM Government

# The Government Response to the Report by David Anderson Q.C. on Terrorism Prevention and Investigation Measures in 2012

May 2013



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Presented to Parliament  
by the Secretary of State for the Home Department  
by Command of Her Majesty

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Home Office

Home Secretary

2 Marsham Street,  
London SW1P 4DF  
[www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

David Anderson QC  
Brick Court Chambers  
7-8 Essex Street  
London  
WC2R 3LD

13 MAY 2013


*Dear David*

**FIRST ANNUAL REPORT ON THE OPERATION ON TERRORISM PREVENTION  
AND INVESTIGATION MEASURES ACT 2011**

Thank you for your report on the operation in 2012 of the Terrorism Prevention and Investigation Measures Act 2011.

I am grateful to you for providing a helpful and considered report and I am attaching the Government's formal response to the recommendations you have made.

Copies of the Government's response will be made available to both Houses of Parliament and a copy will also be placed on the GOV.UK website.

*Yours sincerely*  


**The Rt Hon Theresa May MP**

## **The Government Response to the Report by David Anderson Q.C. on Terrorism Prevention and Investigation Measures in 2012**

- 1. JTAC should be invited to explore the possibility of providing an authoritative open account of the threat from terrorism, in the form of a regular publicly available report.**

The Government notes this recommendation. There are currently three different threat levels in respect of: the International Counter-Terrorist (ICT) threat (set by the Joint Terrorism Analysis Centre), the Northern Irish Related Terrorism (NIRT) threat for Great Britain and the NIRT threat for Northern Ireland (both set by the Security Service). These are communicated to the public via the GOV.UK and Security Service websites. In addition, the annual report on the UK's strategy for countering terrorism (CONTEST) contains a narrative on the threat level with detail of key operations, incidents and arrests. We do not consider that an additional open report is required at this time.

- 2. In the event that it should be decided to bring the ETPIM Bill into force, some such formal mechanism for involving the Intelligence and Security Committee as was recommended by the Joint Bill Committee should be given effect, supplemented as may seem appropriate by the involvement of the Intelligence Services Commissioner and / or the Independent Reviewer of Terrorism Legislation.**

The Government notes this recommendation. As set out in the Government's formal response to the report from the Joint Committee on the Draft Enhanced Terrorism Prevention and Investigation Measures Bill<sup>1</sup>, we have concerns that the proposal to brief the Intelligence and Security Committee on the circumstances necessitating the enactment of the Bill – should they arise – may not be feasible in certain emergency situations where Parliament may need to consider the Bill with limited time for scrutiny. The most appropriate approach to briefing Parliament is likely to be specific to the particular situation and cannot readily be anticipated, but we agree that where it is appropriate and possible, the Intelligence and Security Committee (and other parties) may be able to play a role in assuring Parliament that the introduction of the Bill is necessary.

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<sup>1</sup> Cm 8536, January 2013

**3. Information regarding the location of TPIM subjects, broken down by region, should be supplied in future quarterly reports under TPIMA 2011, section 19, as recommended in my last report.**

The Government notes this recommendation and will continue to keep inclusion of this information under review. We do not currently believe that it is necessary to do so, and that to put such information into the public domain might risk compromising a TPIM subject's anonymity.

**4. The technical, operational and strategic lessons of BX's recent abscond should be identified and implemented, without abandoning the principle that TPIM requirements must reflect only the risks that are posed by the individual upon whom they are imposed.**

The Government agrees that it is important to identify and implement the technical, operational and strategic lessons from the abscond. This work is already in progress. The Government also agrees that the statutory basis for imposing both a TPIM notice and the specific measures in the notice requires the Secretary of State to believe that they are necessary and proportionate.

**5. A forum should be established under judicial chairmanship, as recommended in my last report, with the power to consider procedural concerns raised by special advocates and representatives of TPIM subjects and to recommend change to court rules and practices if it considers that such changes are necessary.**

The Government continues to keep this recommendation under review; however, we do not believe that a formal forum is required at this time. Instead, we are seeking to foster a flexible working relationship with Special Advocates and other professionals operating in this field so that they can provide their comments to Government at any time. We believe that this will allow action to be taken more quickly when a compelling case for change is made.

**6. It should be recognised that a "zero tolerance" approach to TPIM compliance will not always be appropriate. In particular, its advantages may need to be weighed in a particular case against any possible negative impact on the exit strategy for that subject.**

The Government notes this recommendation. Enforcement of TPIM measures is a matter for the police, who deal with breaches robustly taking into account the full

circumstances of any non-compliance. The police investigate all potential breaches and consult with the CPS regarding the viability of prosecution in each case. Where there is sufficient admissible evidence and it is deemed to be in the public interest, a prosecution for breach of the measures in a TPIM notice will usually be taken forward.

**7. More work should be done on developing exit strategies from TPIMs. In particular, any related PREVENT activity should be integrated into the management of TPIMs, and consideration should be given to involving the probation service where appropriate, pursuant to a new or existing power to require attendance at meetings with specified persons.**

The Government agrees that exit strategies for individuals subject to a TPIM notice are important. Exit strategies for individuals who are subject to a TPIM notice are already considered proactively throughout their duration, including through the formal quarterly multi-agency TPIM Review Group. Exit strategies have also been examined in the high court reviews of some cases.

The exit strategies for TPIM subjects are determined on a case by case basis and engagement may not be appropriate in every case. If an individual ceases to be subject to a TPIM notice, this does not prevent the police and Security Service from continuing to monitor their activities.

The Government agrees that Prevent activity should be integrated into the management of TPIM cases as necessary. Prevent activity already forms part of the case management process, and we keep under review whether there are further ways in which its role can be increased. For example, we are discussing with the National Offender Management Service (NOMS) how they might appropriately be involved in the case management of TPIM subjects, noting that the TPIM Act 2011 does not provide the power to require attendance at particular meetings or other engagement with any intervention that might be delivered by Prevent or NOMS, including Probation Trusts.

Exit strategies are kept under review both for each individual subject and to identify whether there are new interventions that could form part of the wider management of cases.

**8. The feasibility of requiring involvement in terrorist-related activity to be proved on the balance of probabilities should be kept under careful review, with a view to possible future legislative change.**

The Government notes this recommendation. We believe that the current legal threshold of reasonable belief of involvement in terrorism-related activity strikes the right balance between protecting the public from the risk of terrorism and ensuring that there is an appropriate safeguard for the proper use of the powers in the TPIM Act 2011.

The review of counter terrorism powers concluded that the replacement for control orders should have a higher legal test as an additional safeguard, and that reasonable belief was the appropriate test. It is also consistent with the approach taken in the Terrorist Asset Freezing etc Act 2010 and we see no reason to change this.





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