

<b>Title:</b> <b>Enhanced Terrorism Prevention and Investigation Measures</b>  <b>Lead department or agency:</b> Home Office - OSCT  <b>Other departments or agencies:</b>	<b>Impact Assessment (IA)</b>
	<b>IA No:</b> HO 0047
	<b>Date:</b> 31/08/2011
	<b>Stage:</b> Final
	<b>Source of intervention:</b> Domestic
	<b>Type of measure:</b> Primary legislation
<b>Contact for enquiries:</b>	

## Summary: Intervention and Options

**What is the problem under consideration? Why is government intervention necessary?**

The Terrorism Prevention and Investigation Measure (TPIM) Bill, which implements the recommendation of the Government's Review of Counter-Terrorism and Security Powers to repeal control orders and replace them with a less intrusive and more focused system, is currently before Parliament. The powers in the Bill - allied to additional money provided to the police and Security Service for investigative purposes - will normally be sufficient to protect the public. However the Review concluded that emergency legislation should be prepared, but not introduced until needed, to allow more stringent restrictions to be imposed in exceptional circumstances where we are facing a terrorist threat that cannot be managed by any other means.

**What are the policy objectives and the intended effects?**

The Enhanced Terrorism Prevention and Investigation Measures (ETPIM) Bill builds on, rather than replaces, the TPIM Bill. If both Bills are in force the Secretary of State will be able to impose either ETPIM or TPIM notices on individuals. Under an ETPIM notice more stringent restrictions will be available than under a standard TPIM notice. These will include lengthy curfews (up to 16 hours), a total ban on access to communications devices, relocation to another part of the UK, and tighter restrictions on association. These tighter restrictions will provide enhanced reassurance where necessary if exceptional circumstances apply. The more restrictive powers will only be available if the case is made out on the balance of probabilities - a higher test than that for making a control order.

**What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)**

The following policy options have been considered:

- Option 0: Do nothing (baseline). Rely on existing powers under TPIM Bill.
- Option 1: Prepare emergency Enhanced TPIM Bill to be introduced when needed.
- Option 2: Strengthen powers in TPIM Bill to routinely provide more stringent restrictions.

Option 1 is the preferred option. It will ensure that robust powers to protect the public are available when needed. It will ensure that the more intrusive powers proposed are not included in the statute until such a time as they are needed, and will only be introduced with the approval of Parliament. It provides the most balanced solution by providing additional powers to protect the public when they are needed on an exceptional - rather than routine - basis.

**Will the policy be reviewed?** It will be reviewed. **If applicable, set review date:** Month/Year  
**What is the basis for this review?** Duty to review. **If applicable, set sunset clause date:** Month/Year

<b>Are there arrangements in place that will allow a systematic collection of monitoring information for future policy review?</b>	Yes
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**SELECT SIGNATORY Sign-off** For final proposal stage Impact Assessments:

***I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) the benefits justify the costs.***

Signed by the responsible SELECT SIGNATORY: \_\_\_\_\_ Date: \_\_\_\_\_

# Summary: Analysis and Evidence

# Policy Option 1

## Description:

Prepare emergency Enhanced TPIM Bill to be introduced when needed

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

### Description and scale of key monetised costs by 'main affected groups'

The costs of administering and enforcing enhanced TPIM notices - if introduced - will be similar to the costs associated with standard TPIMs. There may be some additional administrative or judicial costs in cases where a standard TPIM notice is revoked and an enhanced TPIM notice imposed on the same person, although these are likely to be minimal.

### Other key non-monetised costs by 'main affected groups'

The availability of more stringent restrictions would have an impact on those subject to enhanced TPIM notices - if introduced - who might otherwise have been subject to standard TPIM notices.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

### Description and scale of key monetised benefits by 'main affected groups'

Enhanced TPIM notices would only be available in exceptional circumstances where the reassurance provided by standard TPIM notices and the additional resources provided to the police and security and intelligence agencies needed enhancement. The more stringent restrictions would provide a less resource-intensive and more disruptive means of mitigating risk than providing additional money for covert investigative techniques. (The impact of enhanced TPIM notices would also be immediate.)

### Other key non-monetised benefits by 'main affected groups'

The main benefits that arise from this option cannot be monetised, and concern the increased level of public protection and mitigation of the risk of terrorism that would be provided by the more stringent restrictions.

<b>Key assumptions/sensitivities/risks</b> N/A	<b>Discount rate (%)</b>
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<b>Direct impact on business (Equivalent Annual) (£m):</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: None	Benefits: None	Net: None	No	NA

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			N/A		
Which organisation(s) will enforce the policy?			Home Office, Police, Security and Intelligence Agencies		
What is the annual change in enforcement cost (£m)?			Unknown		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

Please note this checklist is not intended to list each and every statutory consideration that departments should take into account when deciding which policy option to follow. It is the responsibility of departments to make sure that their duties are complied with.

Does your policy option/proposal have an impact on...?	Impact	Page ref within IA
<b>Statutory equality duties<sup>1</sup></b> <a href="#">Statutory Equality Duties Impact Test guidance</a>	Yes	13
<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	Yes	13
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	13
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

# Summary: Analysis and Evidence

# Policy Option 2

## Description:

Strengthen powers in the TPIM Bill to routinely provide more stringent restrictions

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: N/A	High: N/A	Best Estimate: N/A

COSTS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

### Description and scale of key monetised costs by 'main affected groups'

There would be no significant monetised costs associated with this option. If relocation is available routinely and is used more frequently there would be some limited costs associated with providing accomodation.

### Other key non-monetised costs by 'main affected groups'

The routine availability of more stringent restrictions might lead to them being imposed more frequently than if they were only available in exceptional circumstances - and certainly more frequently than if they were not available at all. This could have an impact on those subject to the more stringent restrictions.

BENEFITS (£m)	Total Transition (Constant Price) Years		Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	N/A		N/A	N/A
High	N/A		N/A	N/A
Best Estimate	N/A		N/A	N/A

### Description and scale of key monetised benefits by 'main affected groups'

Having more stringent restrictions available on a routine basis would allow the police and security and intelligence agencies to provide an even greater level of assurance with the same level of resources.

### Other key non-monetised benefits by 'main affected groups'

The main benefits that arise from this option cannot be monetised, and concern the increased level of public protection and mitigation of the risk of terrorism that would be provided by the more stringent restrictions.

<b>Key assumptions/sensitivities/risks</b> N/A	<b>Discount rate (%)</b>
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<b>Direct impact on business (Equivalent Annual) £m):</b>			<b>In scope of OIOO?</b>	<b>Measure qualifies as</b>
Costs: None	Benefits: None	Net: None	No	NA

## Enforcement, Implementation and Wider Impacts

What is the geographic coverage of the policy/option?			United Kingdom		
From what date will the policy be implemented?			01/01/2012		
Which organisation(s) will enforce the policy?			Home Office, Police, Security and Intelligence Agencies		
What is the annual change in enforcement cost (£m)?			Unknown		
Does enforcement comply with Hampton principles?			Yes		
Does implementation go beyond minimum EU requirements?			N/A		
What is the CO <sub>2</sub> equivalent change in greenhouse gas emissions? (Million tonnes CO <sub>2</sub> equivalent)			Traded: N/A	Non-traded: N/A	
Does the proposal have an impact on competition?			No		
What proportion (%) of Total PV costs/benefits is directly attributable to primary legislation, if applicable?			Costs: N/A	Benefits: N/A	
Distribution of annual cost (%) by organisation size (excl. Transition) (Constant Price)	Micro	< 20	Small	Medium	Large
Are any of these organisations exempt?	Yes/No	Yes/No	Yes/No	Yes/No	Yes/No

## Specific Impact Tests: Checklist

Set out in the table below where information on any SITs undertaken as part of the analysis of the policy options can be found in the evidence base. For guidance on how to complete each test, double-click on the link for the guidance provided by the relevant department.

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<b>Economic impacts</b>		
Competition <a href="#">Competition Assessment Impact Test guidance</a>	No	
Small firms <a href="#">Small Firms Impact Test guidance</a>	No	
<b>Environmental impacts</b>		
Greenhouse gas assessment <a href="#">Greenhouse Gas Assessment Impact Test guidance</a>	No	
Wider environmental issues <a href="#">Wider Environmental Issues Impact Test guidance</a>	No	
<b>Social impacts</b>		
Health and well-being <a href="#">Health and Well-being Impact Test guidance</a>	No	
Human rights <a href="#">Human Rights Impact Test guidance</a>	Yes	13
Justice system <a href="#">Justice Impact Test guidance</a>	Yes	13
Rural proofing <a href="#">Rural Proofing Impact Test guidance</a>	No	
<b>Sustainable development</b> <a href="#">Sustainable Development Impact Test guidance</a>	No	

<sup>1</sup> Public bodies including Whitehall departments are required to consider the impact of their policies and measures on race, disability and gender. It is intended to extend this consideration requirement under the Equality Act 2010 to cover age, sexual orientation, religion or belief and gender reassignment from April 2011 (to Great Britain only). The Toolkit provides advice on statutory equality duties for public authorities with a remit in Northern Ireland.

## Evidence Base (for summary sheets) – Notes

Use this space to set out the relevant references, evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Please fill in **References** section.

### References

Include the links to relevant legislation and publications, such as public impact assessments of earlier stages (e.g. Consultation, Final, Enactment) and those of the matching IN or OUTs measures.

No.	Legislation or publication
1	Review of Counter Terrorism and Security Powers, CM8004, Jan 2011
2	Review of Counter Terrorism and Security Powers Equality Impact Assessment, CM8006, Jan 2011
3	Terrorism Prevention and Investigation Measures Impact Assessment, HO 0042, 17/05/2011
4	

+ Add another row

### Evidence Base

Ensure that the information in this section provides clear evidence of the information provided in the summary pages of this form (recommended maximum of 30 pages). Complete the **Annual profile of monetised costs and benefits** (transition and recurring) below over the life of the preferred policy (use the spreadsheet attached if the period is longer than 10 years).

The spreadsheet also contains an emission changes table that you will need to fill in if your measure has an impact on greenhouse gas emissions.

#### Annual profile of monetised costs and benefits\* - (£m) constant prices

	Y <sub>0</sub>	Y <sub>1</sub>	Y <sub>2</sub>	Y <sub>3</sub>	Y <sub>4</sub>	Y <sub>5</sub>	Y <sub>6</sub>	Y <sub>7</sub>	Y <sub>8</sub>	Y <sub>9</sub>
<b>Transition costs</b>										
<b>Annual recurring cost</b>										
<b>Total annual costs</b>										
<b>Transition benefits</b>										
<b>Annual recurring benefits</b>										
<b>Total annual benefits</b>										

\* For non-monetised benefits please see summary pages and main evidence base section



Microsoft Office  
Excel Worksheet

# Evidence Base (for summary sheets)

## A. Strategic Overview

### A.1 Background

Control orders were introduced in 2005 as emergency legislation. They were designed to address the threat from a small number of people engaged in terrorism in this country whom the Government could neither successfully prosecute nor deport. The objective of the orders was to prevent these individuals engaging in terrorism-related activity by placing a range of restrictions on their activities, including curfews, restrictions on association and access to communications equipment and, in some cases, relocation.

The Coalition Agreement contained a commitment to review control orders as part of a wider review of counter-terrorism measures, legislation and programmes. A control order can currently be made against an individual whom the Secretary of State has reasonable grounds for suspecting is or has been involved in terrorism-related activity, if she considers that it is necessary to make a control order imposing obligations on that person for purposes connected with protecting the public from a risk of terrorism. Control orders have had some success in protecting the public from a risk of terrorism, but have proved controversial because they can impose intrusive restrictions on individuals who have not necessarily been convicted of an offence, on the basis of closed material.

The Review of Counter-Terrorism and Security Powers concluded that the current threat from terrorism is serious and sustained. The Government's absolute priority is to prosecute and convict suspected terrorists in open court but this is not always possible. For the foreseeable future, there is likely to be a small number of people who pose a real threat to our security but who cannot be prosecuted or, in the case of foreign nationals, deported. It would not be responsible to allow these individuals to go freely about their terrorist activities, and there will continue to be a need for powers to protect the public from the threat they pose. Whilst the aim of control orders was to provide such powers, the Government has concluded there is a need to ensure that the powers are less intrusive. The Government therefore introduced the Terrorism Prevention and Investigation Measures Bill to provide robust powers which will effectively protect the public but which are more focused. The Enhanced Terrorism Prevention and Investigation Measures Bill is an integral part of the new approach.

It has been the policy of successive Governments not to publish details of funding for the Security and Intelligence Agencies disaggregated beyond their total allocation voted by Parliament for National Security reasons, and details of the costs of police operations. Therefore, these elements of costs cannot be set out in this document.

### A.2 Groups Affected

Those who are involved in terrorism-related activity and who cannot be prosecuted or deported will potentially be affected if the ETPIM Bill is introduced. This may include both those who are subject to TPIM notices at that time and others who pose a terrorism-related threat to the public. For example, 12 individuals were subject to a control order on 10 June 2011.

## B. Rationale

The CT Review concluded that there may be exceptional circumstances where it would be necessary for the Government to seek Parliamentary approval for additional more stringent measures, beyond those that will be available under the TPIM Bill. This might be for example in the event of a serious terrorist risk that cannot be managed by any other means. These measures would not be brought forward until necessary and would only be available with the agreement of Parliament.

## C. Objectives

The policy objective is to provide a system of Enhanced Terrorism Prevention and Investigation Measures (ETPIMs) that would operate alongside standard Terrorism Prevention and Investigation Measures (TPIMs) once they have been introduced. The enhanced regime will make available more stringent restrictions to protect the public, and would only be introduced when necessary in exceptional circumstances.

## D. Options

The following policy options have been considered:

Option 0 - Do nothing (baseline). Rely on existing powers under TPIM Bill.

Option 1 – Prepare ETPIM Bill to be introduced when needed.

Option 2 – Strengthen powers in TPIM Bill to routinely provide more stringent restrictions.

Option 1 is the preferred option. It ensures that the more intrusive powers can be made available to protect the public when they are needed but that they are not on the statute book when they are not needed. It provides the most balanced solution to ensuring the public can be protected in exceptional circumstances where there is a heightened threat.

## E. Appraisal (Costs and Benefits)

### GENERAL ASSUMPTIONS & DATA

- The do nothing option is used as the baseline. For the other options the associated costs and benefits are assessed in terms of the change with respect to the baseline.
- It is assumed that the changes will impact directly on a limited number of individuals and – as they will be a response to exceptional circumstances – will not necessarily be in place for an extended period of time. There are currently 12 control orders in force and we anticipate that a broadly comparable number of TPIM notices will be in force at any time. Not all individuals subject to a TPIM notice at the time the ETPIM Bill is introduced will necessarily be made subject to an ETPIM notice. And we do not expect that there would be significant numbers of new cases.
- Since the aim of the policy is to provide strengthened powers to protect the public from a risk of terrorism in exceptional and, by definition, unforeseeable circumstances, the benefits need to be considered in terms of mitigation of the high level of terrorist threat that would exist in those circumstances. Risk and its mitigation cannot easily be quantified, particularly in relation to a hypothetical future scenario.
- The main impact of the policy on those affected by it – aside from the impact on the wider public of a higher level of protection from a terrorist threat – would be a greater interference with their liberty. The costs therefore need to be considered in terms of civil liberties. However, quantification of this is difficult, not least because it is an abstract concept that is difficult to measure. More specifically the restrictions imposed, and the combination in which they are imposed, will vary, sometimes significantly, throughout the life of a TPIM or ETPIM notice or from one individual case to another.
- The extent of the impact of more stringent restrictions will depend on the individual circumstances of those affected. For example, those with families may experience a greater impact from being relocated than those who are single with no dependents. It is particularly challenging to identify consistent measures or indicators of such impacts.
- Ideally, all the costs and benefits would be monetised so as to provide a common means of comparison but this has not been possible across the range of impacts on both public protection and civil liberties that arise. For example, the monetised value that society places on an hour of



liberty is difficult to define and the views of different members of society vary widely from one individual to another.

### **OPTION 1 – Prepare ETPIM Bill to be introduced when needed**

#### **COSTS**

There would be no significant costs associated with this policy as it is not expected that any person would be made subject to a ETPIM notice who would not have been made subject to a TPIM notice (if the ETPIM powers were not available). The operational and administrative processes involved in managing both types of notice will be similar and will have similar costs. There will be some non-monetised impact on the civil liberties of the small number of suspected terrorists who would be subject to a ETPIM notice when introduced.

There may be some limited administrative burden associated with revoking TPIM notices and replacing them with ETPIM notices, in the small number of cases where this is considered necessary. Any cost would come out of existing budgets and would have a negligible impact.

#### **BENEFITS**

The benefits of the policy would be the non-monetised increase in public protection in exceptional circumstances.

#### **ONE-IN-ONE-OUT (OIOO)**

##### COSTS (INs)

N/A

##### BENEFITS (OUTs)

N/A

##### NET

N/A

### **OPTION 2 – Strengthen powers in TPIM Bill to routinely provide more stringent restrictions**

#### **COSTS**

There would be no significant costs associated with this policy as the only changes to the system currently contained in the TPIM Bill would be the availability of further, more stringent restrictions. There would be no additional operational and administrative processes involved in managing individual cases. There would be some non-monetised impact on the civil liberties of the small number of suspected terrorists who may be subject to the more stringent measures. It is likely that such measures would be used more frequently – if routinely available under this option – than they would be under option 1 (whereby the measures would only be available in exceptional circumstances).

#### **BENEFITS**

The policy would take a different approach to addressing the terrorism-related threat by making available more stringent restrictions than are currently contained in the TPIM Bill on a routine basis. The mitigation provided by more stringent restrictions would potentially reduce the need for that risk to be managed through other covert investigative and disruptive techniques.

#### **ONE-IN-ONE-OUT (OIOO)**

##### Costs (INs)

N/A

##### Benefits (OUTs)

N/A

##### NET

N/A

## F. Risks

### **OPTION 1 – Prepare ETPIM Bill to be introduced when needed**

Delay in securing Parliamentary time to debate Bill, or in the Bill being agreed by Parliament, might result in the enhanced measures not being available as soon as they are needed.

### **OPTION 2 – Strengthen powers in TPIM Bill to routinely provide more stringent restrictions**

This option would remove the exceptional nature of the additional powers but would circumvent the policy intention that they would only be available when needed.

## G. Enforcement

The enforcement of Terrorism Prevention and Investigation Measures will be conducted by the Police and Security and Intelligence Agencies and they will also fulfil the enforcement role for Enhanced Terrorism Prevention and Investigation Measures. No net change in enforcement costs is expected to arise from either option.

## H. Summary and Recommendations

The table below outlines the costs and benefits of the proposed changes.

<b>Option</b>	<b>Costs</b>	<b>Benefits</b>
<b>2</b>	£/year	£/year
	Un-quantified impact on civil liberties of those subject to the enhanced measures	Un-quantified benefits to public protection and national security
<b>3</b>	£/year	£/year
	Un-quantified impact on civil liberties of those subject to the enhanced measures	Un-quantified benefits to public protection and national security
Source:		

Option 1 is the preferred option. Compared with Option 0, do nothing, it provides more stringent powers to protect the public in the exceptional circumstances where it is judged such powers are needed. Whilst Option 2 would ensure these powers were routinely available, the policy intention is that they should only be made available in exceptional circumstances. While the powers that would be available under each option are the same, and therefore the costs and benefits in terms of civil liberties and national security are broadly the same, the distinction is in the approach taken to making the powers available. Option 1 takes a more balanced approach and would achieve the intended policy outcome.

## I. Implementation

The current control orders regime will be repealed the day after royal assent of the TPIM Bill (though the Bill makes provision for a 28 day transitional period), and in any case will expire on 31<sup>st</sup> December 2011. The new TPIM regime will come into force the day after royal assent of the TPIM Bill. Under option 1 – the preferred option – the changes to make provision for ETPIM notices would not be implemented until it was necessary to do so.

## **J. Monitoring and Evaluation**

The effectiveness of the ETPIM regime would be monitored through a statutory obligation on the Secretary of State to provide quarterly reports to Parliament on her exercise of the powers during each period, and to appoint an independent reviewer to review the operation of the legislation in respect of each calendar year.

## **K. Feedback**

N/A

## **L. Specific Impact Tests**

See Annex 2.

## Annexes

Annex 1 should be used to set out the Post Implementation Review Plan as detailed below. Further annexes may be added where the Specific Impact Tests yield information relevant to an overall understanding of policy options.

### Annex 1: Post Implementation Review (PIR) Plan

A PIR should be undertaken, usually three to five years after implementation of the policy, but exceptionally a longer period may be more appropriate. If the policy is subject to a sunset clause, the review should be carried out sufficiently early that any renewal or amendment to legislation can be enacted before the expiry date. A PIR should examine the extent to which the implemented regulations have achieved their objectives, assess their costs and benefits and identify whether they are having any unintended consequences. Please set out the PIR Plan as detailed below. If there is no plan to do a PIR please provide reasons below.

<b>Basis of the review:</b> [The basis of the review could be statutory (forming part of the legislation), i.e. a sunset clause or a duty to review, or there could be a political commitment to review (PIR)];
<b>Review objective:</b> [Is it intended as a proportionate check that regulation is operating as expected to tackle the problem of concern?; or as a wider exploration of the policy approach taken?; or as a link from policy objective to outcome?]
<b>Review approach and rationale:</b> [e.g. describe here the review approach (in-depth evaluation, scope review of monitoring data, scan of stakeholder views, etc.) and the rationale that made choosing such an approach]
<b>Baseline:</b> [The current (baseline) position against which the change introduced by the legislation can be measured]
<b>Success criteria:</b> [Criteria showing achievement of the policy objectives as set out in the final impact assessment; criteria for modifying or replacing the policy if it does not achieve its objectives]
<b>Monitoring information arrangements:</b> [Provide further details of the planned/existing arrangements in place that will allow a systematic collection of monitoring information for future policy review]
<b>Reasons for not planning a review:</b> [If there is no plan to do a PIR please provide reasons here] There is no plan to conduct a PIR since the new regime - if introduced - will be monitored through a statutory obligation on the Secretary of State to provide quarterly reports to parliament on her exercise of the powers during each period, and to appoint an independent reviewer to review the operation of the legislation in respect of each calendar year.

## **Annex 2. Specific Impact Tests**

### **Statutory Equality Duties**

#### Equality Impact Assessment

The equality impact of the repeal and replacement of control orders – including the policy to prepare emergency legislation providing for more stringent restrictions - was addressed in the Review of Counter-Terrorism and Security Powers Equality Impact Assessment (Cm 8006, January 2011). There have been no changes to the policy which would change the assessment.

### **Social Impacts**

#### Human Rights

ETPIM notices would permit a higher level of interference with rights than TPIM notices. However any such interference must be proportionate. The applicable safeguards – including full court review of the Secretary of State's decisions, and a higher test for imposing ETPIM notices – will ensure that any interference is proportionate and that the system is operated compatibly with the ECHR. There is settled case law in relation to control orders, which will be applicable to ETPIM notices where the courts consider it relevant, and none of the proposed restrictions are more stringent than those allowed for under control orders.

#### Justice

The introduction of new legislation for ETPIM notices may prompt new legal action to challenge it. Historically, there has been a consistently high level of litigation of control orders and this may be expected to continue under TPIM notices and ETPIM notices. There may be a slight increase in litigation upon the introduction of ETPIM notices as new case law is established.