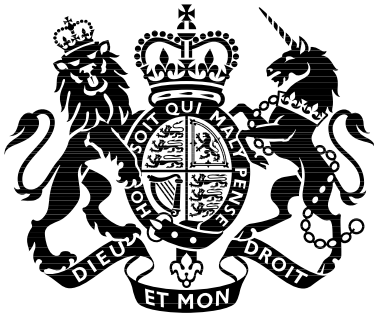




HM Government

The Government Response to the Report by David Anderson Q.C. on Terrorism Prevention and Investigation Measures in 2014

March 2015



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

March 2015



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Home Office

David Anderson QC
Independent Reviewer of Terrorism Legislation

12 March 2015

David

GOVERNMENT RESPONSE TO THIRD ANNUAL REPORT ON THE OPERATION OF THE TPIM ACT 2011

Thank you for your report on the operation in 2014 of the Terrorism Prevention and Investigation Measures Act 2011.

I am grateful to you for providing a helpful and considered report that provides a summary of the use of the TPIM Act in 2014, along with the changes to the Act which, as you acknowledge, enacted a number of the recommendations you made in previous annual reports. This includes introducing the ability to locate subjects away from their locality, a new appointments measure to require TPIM subjects to attend meetings and an increase in the threshold to impose a TPIM notice from reasonable belief to balance of probabilities.

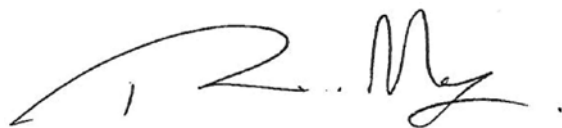
As you are aware, the Government remains of the view that the Home Secretary is best placed to make the decision to impose a TPIM notice in order to protect the public from terrorism given her remit in relation to a range of aspects of terrorism. Although each case is decided on an individual basis, the Home Secretary is well placed to understand the wider context of the terrorist threat that we face. This point was considered at length by Parliament and it concluded that the role of the Home Secretary and the courts should continue in line with longstanding use of this type of power, both under the Prevention of Terrorism Act 2005 and under the TPIM Act 2011. This means that the decision on whether a TPIM notice should be imposed remains one for the Home Secretary to exercise. This decision will then, as has always been the case with this type of power, be reviewed by the court in order to ensure that the Home Secretary has acted reasonably and proportionately in making the decision. Both the Home Secretary's decision to impose a TPIM notice and the review by the court will be considered on the balance of probabilities that the individual is or has been involved in terrorism-related activity.

The new appointments measure, which is in line with a recommendation in a previous annual report, will be an important part of the management of TPIM subjects and will mean subjects must meet with organisations and other persons as required by the Home Secretary. This could include: probation, Job Centre Plus staff or others who can contribute to the ongoing management of a TPIM subject. I note your concern that provision should be made to protect against self-incrimination under this measure.

The primary purpose of this measure is not to gather evidence to prosecute TPIM subjects. However, a TPIM notice is used when the subject cannot be prosecuted or deported. There is an ongoing duty to keep under review whether a TPIM subject can be prosecuted, including considering any evidence gathered during the period they are subject to a TPIM notice. It would be undesirable to create a situation where a TPIM subject provided clear evidence of committing a crime, including terrorism, but then, due to an absolute statutory bar, could not be prosecuted for their involvement, or the full evidence against them could not be presented to a criminal court. The criminal courts do, however, have the power to exclude evidence where to admit it would have an adverse effect on the fairness of proceedings and I consider that this is a sufficient safeguard to ensure that information obtained in these meetings cannot be unfairly used against the individual. Such information could of course also be relevant for exculpatory purposes. However, we will consider on a case by case basis whether appropriate assurances can be provided about how information obtained through the appointments measure will be used.

Your report notes that following changes under the Counter Terrorism and Security Act 2015 there is no longer a requirement for you to publish a report on the operation of the TPIM Act 2011 on an annual basis. I hope that this change will provide greater flexibility to carry out effectively your important continuing role as the Independent Reviewer of Terrorism Legislation.

I am copying this letter to the Rt Hon Keith Vaz MP, Chair of the Home Affairs Select Committee and to Dr Hywel Francis MP, Chair of the Joint Committee on Human Rights, and will place a copy in the House Library. A copy will also be placed on the gov.uk website.

A handwritten signature in black ink, appearing to read 'T. May', with a large, sweeping flourish at the end.

The Rt Hon Theresa May MP

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