

Equality Statement

Terrorist Offenders (Restriction of Early Release) Bill

Policy Summary

The purpose of the Terrorist Offenders (Restriction of Early Release) Bill is to ensure terrorist offenders are not released before the end of their custodial term/sentence without the agreement of the Parole Board.

In response to the recent incident in Streatham the government is taking immediate action to strengthen the law in order to end the automatic release of terrorist offenders before the end of their custodial term/sentence and ensure that no offender is released early if he or she continues to pose a risk to the public.

The Bill amends the release point for relevant offenders sentenced for a terrorism offence and means those offenders are referred to the Parole Board at the two thirds point in their sentence – as currently with those offenders receiving an extended determinate sentence. The measures will apply to offenders currently serving any form of determinate custodial sentence for a relevant terrorism offence with either automatic release before the end of the custodial term/sentence, or discretionary release before the two-thirds point of the term/sentence. These measures will also apply to future terrorist offenders who receive a standard determinate sentence (SDS) or a sentence for offenders of particular concern (SOPC).

The provisions in the Bill will apply to all relevant offenders equally, regardless of gender, race, religion, age or disability. Counter-terrorism is reserved; however, the provisions in this emergency legislation are the result of particular circumstances and will apply to England, Wales and Scotland only.

Equality Duties

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.

Equality Considerations

Direct discrimination

The law in the UK applies to all members of the public. Similarly, the provisions in this Bill apply to all members of the public who are convicted and sentenced for a relevant terrorism offence. There is therefore no direct discrimination within the meaning of the Equality Act as the law applies equally to all offenders sentenced for these offences. We do not consider that this results in people being treated less favourably because of protected characteristics.

Indirect discrimination

Incidents of terrorism are, fortunately, very rare. However, when they do occur a terrorist incident can have devastating and wide-ranging consequences. The aim behind this Bill is to end the release of terrorist offenders before the end of their sentence without the oversight of the Parole Board. Release arrangements are part of the administration of a sentence, which can change without breaching an offender's human rights.

The provisions of this Bill apply to all members of the public who are convicted and sentenced for a relevant terrorism offence, including those who are currently serving a sentence for a relevant terrorism offence.

Quantitative data suggests that Asian/British Asian and Muslim individuals have been disproportionately affected by terrorism legislation relative to the percentage of Asian/British Asian and Muslim individuals in the total population¹. There is a perception by some Muslim communities that terrorism legislation is both designed and used to target Muslim communities. However, the Forward Thinking report 'UK "Building Bridges" Programme – Community Roundtables: A report on the aftermath of the terrorist attacks in London and Manchester' (July 2017) notes that this "may represent a perception more than the reality".

However, the trends reflect the current types of terrorism which are prevalent in the UK, most notably Islamist and extreme Far Right terrorism. Sizeable numbers of White individuals are also arrested, charged and convicted of terrorism offences (see Table 1 below). Our assessment is that the proposals are not reflective of discrimination; direct or indirect, within the meaning of the Equality Act 2010 as we believe they do not put people with protected characteristics at a particular disadvantage when compared to others who do not share those characteristics. The overrepresentation of some groups within scope of this policy is based on other drivers such as the type of offending committed by certain groups which can have catastrophic consequences and not on the protected characteristics. The new provisions will apply to all relevant terrorist offenders, regardless of race, religion or otherwise.

As a matter of public protection, the provisions of the Bill are a proportionate approach to achieve the legitimate aims of the reforms as detailed above and not indirectly discriminatory within the meaning of the Equalities Act 2010.

Advancing equality of opportunity

We have had regard to this aspect of the equality duty but do not consider any changes to sentencing and the extended determinate sentence regime for these offenders would impact on the advancement of equality of opportunity.

¹ Home Office, Operation of Police Powers under the Terrorism Act 2000, quarterly update to September 2019, Annual Tables, Tables A.09, A.10, A.11, A.12a-c, P.01, P.02, P.03, and P.04 <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>

Discrimination arising from disability and duty to make reasonable adjustments

In so far as this policy extends to disabled terrorist offenders, we believe that the policy is proportionate, having regard to its aim.

We do not consider that any adjustments are required for disabled people over and above the ones already in place in courts and prisons.

Fostering good relations

We do not consider that there is any significant impact on the achievement of this objective. While there is a perception by some Muslim communities that terrorism legislation is used to target their communities, the current types of terrorism prevalent in the UK, most notably Islamist and extreme Far Right terrorism, are reflected in trends of arrests, charges and convictions. This legislation will apply to all terrorists regardless of protected characteristic.

Evidence

Please see the table below for a summary of the current equalities data for England, Wales and Scotland as published on 5 December 2019 in the Home Office statistical bulletin to year ending September 2019 of the operation of police powers under terrorism legislation². Where possible, we have included figures from Joint-Extremism Unit (JEXU) on those in custody (and convicted) as at 30 September 2019 for terrorism-related offences in scope of the policy³. Numbers are small and so care should be taken when interpreting the results.

The scope of this legislation applies to those that are sentenced to a fixed term custodial sentence (an SDS or a SOPC and some sentences where the release provisions have been repealed that will still apply to current prisoners) for a relevant terrorism offence (TACT). The Home Office Operation of police powers under the Terrorism Act 2000 publication does not split by sentence type and we do not know how these people are sentenced. Using existing volumes of TACT prisoners in custody from JEXU data, 43% are serving SDS, 26% are SOPC and 31% are serving extended determinate sentences (EDS) (of all SDS, SOPC and EDS sentences). It would therefore be appropriate to scale down the figures published in the Home Office publication to determine a more accurate representation of the effect of the policy on convictions and sentences, however numbers are small so would not give a reliable representation in this instance. It is assumed that of the 30 September 2019 cohort of 196 convicted offenders in custody, 88 were serving sentences in scope of the policy.

Table 1

Race/Ethnicity	<ul style="list-style-type: none">The Home Office statistical bulletin published in December 2019 of the Operation of police powers under terrorism legislation shows that in the year ending September 2019 there were 259 arrests for terrorism and terrorism-related activity. Of those arrested, 41% were White, 9% were Black, 37% were Asian, and 12% were Other (ethnic appearance as recorded by police at time of arrest).
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² <https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-quarterly-update-to-september-2019>

³ Sentences in scope from JEXU data include: CJA03 Standard Determinate Sentence, Extended Sent Public Protection CJA 03, ORA CJA03 Standard Determinate Sentence, Section 236A SOPC CJA03, Sent Extended Sec 86 of PCC(S) Act 2000, Young Offender Institution

	<ul style="list-style-type: none"> In the same year, 62 people were charged with terrorism-related offences. Of these, 47% were White, 13% were Black, 27% were Asian, and 10% were Other. 24 individuals were convicted of terrorism-related offences. Of these, 50% were White, 21% were Black, 21% were Asian, and 8% were Other.⁴ <p>In custody serving sentence types in scope of the policy:</p> <ul style="list-style-type: none"> Of 88 convicted prisoners in custody for terrorism-related offences at 30 September 2019 and on sentence types in scope of the policy, 42% were Asian, 10% were Black, 5% Mixed and 39% were White.
Religion/belief & non belief⁵	<ul style="list-style-type: none"> Of the 88 convicted prisoners in custody for terrorism-related offences and serving sentences in scope of the policy, 67% were Muslim, 10% Christian, 8% No religion, 6% Pagan, 1% were Jewish, 1% Sikh and 1% atheist. Of the 88 persons in custody for terrorism-related offences and serving sentences in scope of the policy, 67% had Islamist extremist ideologies, 26% were Extreme right wing and 6% Other.
Disability	Statistics relating to the disability of individuals arrested, charged, or convicted of terrorism or terrorism-related offences are not gathered.
Sex	<ul style="list-style-type: none"> The Home Office statistical bulletin published in December 2019 of the Operation of police powers under terrorism legislation shows that in the year ending September 2019 There were 259 arrests for terrorism and terrorism-related activity in the year ending September 2019. Of those arrested 89% were male, 11% were female. In the same year, 62 people were charged with terrorism-related offences, 94% were male, 6% were female. 24 individuals were convicted, 100% were male, 0% were female.⁶ <p>In custody serving sentence types in scope of the policy:</p> <ul style="list-style-type: none"> Of the 88 convicted prisoners in custody at 30 September 2019 and serving sentences in scope of the policy, 9% were female and 91% were male.
Gender Reassignment	Statistics relating to gender identity of individuals arrested, charged, or convicted of terrorism or terrorism-related offences are not gathered.

⁴ A.11: Ethnic appearance of persons arrested, charged and convicted after a charge for terrorism-related offences [Operation of police powers under the Terrorism Act 2000: quarterly update to September 2019: annual data tables](#)

⁵ Prisoners self-declared their religion on entry to prison. Prisoners may change religion while in prison

⁶ A.09: Gender of persons arrested, charged and convicted after a charge for terrorism-related offences [Operation of police powers under the Terrorism Act 2000: quarterly update to September 2019: annual data tables](#)

Sexual Orientation	Statistics relating to the sexual orientation of individuals arrested, charged, or convicted of terrorism or terrorism-related offences are not gathered.
Age	<ul style="list-style-type: none"> • The Home Office statistical bulletin published in December 2019 of the Operation of police powers under terrorism legislation shows there were 259 arrests for terrorism offences. Of these, 4% were under 18, 12% were 18-20, 10% were 21-24, 17% were 25-29, 58% were 30 or over, and 0% were not known. • Of the 62 individuals charged, 5% were under 18, 18% were 18-20, 8% were 21-24, 24% were 25-29, 45% were 30 or above • Of the 24 individuals convicted, 4% were under 18, 21% were 18-20, 0 were 21-24, 21% were 25-29, and 54% were 30 or over.⁷ <p>In custody serving sentences in scope</p> <ul style="list-style-type: none"> • Of the 88 convicted prisoners in custody serving sentences in scope of the policy, 51% were aged 30 and over, 23% were aged 25-29, 19% were aged 21-24 and 7% were aged 18-20.
Pregnancy and maternity	Statistics relating to pregnancy or maternity of individuals arrested, charged, or convicted of terrorism or terrorism-related offences are not gathered.

⁷ A.10: Age group of persons arrested, charged and convicted after a charge for terrorism-related offences, [Operation of police powers under the Terrorism Act 2000: quarterly update to September 2019: annual data tables](#)