



HM Government

The Government Response to the Annual Report on the Operation of the Terrorism Acts in 2022 by the Independent Reviewer of Terrorism Legislation

November 2024



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

November 2024



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Dear Mr Hall KC

Review of the Operation of the Terrorism Acts in 2022

Thank you for your fifth annual report as the Independent Reviewer of Terrorism Legislation (IRTL). Your review of the UK's counter-terrorism legislative framework has been conducted in impressive depth and detail. I am grateful for the high-quality analysis contained within your report, which has been a hallmark of your time as IRTL.

Your report on the operation of the Terrorism Acts in 2022 makes ten recommendations. I have considered all of these at length, and they have been discussed with operational partners and other Government departments where appropriate. Seven of those recommendations have been accepted, one has been partially accepted, and one has been rejected. I will also ensure that one of your recommendations is considered as part of a wider programme of work to improve our capabilities at the UK Border. I have also provided an update on recommendations made in your previous reports.

2022 UK Threat Picture

On 9 February 2022, the independent Joint Terrorism Analysis Centre (JTAC) lowered the UK National Threat Level (UKNTL) to SUBSTANTIAL, meaning an attack in the UK is likely. In the previous year, JTAC had raised the UKNTL to SEVERE following two terrorist attacks in the UK in quick succession, in October and November 2021.

The Northern Ireland-related Terrorism (NIRT) threat level in Northern Ireland was lowered to SUBSTANTIAL on 22 March 2022, meaning an attack is likely, and continued at this level for the remainder of the year.

JTAC assessed that the terrorist threat to the UK was complex and came from a diverse range of sources. The greatest threat came from Islamist terrorism. There was an ongoing threat from Extreme Right-Wing Terrorism (ERWT) and to a lesser extent, Left-Wing, Anarchist and Single-Issue Terrorism (LASIT).

On 30 October 2022, we also witnessed the horrific attack on the Western Jet Foil Immigration Centre in Dover. CT Policing (CTP) stated the attack was “primarily driven by an extremist ideology” and met the “threshold for a terrorist incident”. It is attacks such as these that provide a stark reminder that the terrorist threat in the UK is ongoing, and that our security and law enforcement agencies, as well as the Government and members of the public must remain vigilant.

Our operational partners work tirelessly to keep the public safe from terrorism, and it is essential that our counter-terrorism legislative framework that underpins their efforts is robust, effective, and up to date.

Statistics on terrorism powers

I appreciate your continued scrutiny of official statistics relating to the operation of police powers under the Terrorism Acts (TACT) 2000 and 2006. I agree that wherever possible it is important to provide transparency on the use of counter-terrorism powers, and recognise the benefits that official statistics can provide in understanding emerging trends. My officials will work with CTP, who collect and own this data, on how to take this recommendation forward, and my Department will provide an update on this to you in due course.

Investigating Terrorism

I would like to thank you for your continued role overseeing records made by Independent Custody Visitors (ICVs) for arrests under TACT 2000, and your visits to TACT suites in Great Britain. I agree that ICVs play an essential role in providing effective independent oversight, particularly for those detained under TACT powers which can include longer detention periods. I also agree that there should be absolute certainty that TACT ICVs should be notified of individuals detained in local TACT suites, whether they were detained under TACT or under the Police and Criminal Evidence Act (PACE) 1984. Given that individuals held under arrest powers in the National Security Act (NSA) 2023 are also held in TACT detention suites, this notification should be extended to those detainees too. CTP have accepted your recommendation that they should notify TACT ICVs of all terrorism-related detainees in TACT Suites, whether arrested under PACE, section 41 of TACT, or section 27 of the NSA, and that the relevant TACT ICV authorities should ensure that visits take place. CTP have also confirmed that this supports developing operational practice. The Home Office will ensure that the Code of Practice on Independent Custody Visiting is updated in due course.

In respect to your commentary on the weapons and explosive measure imposed on Terrorism Prevention and Investigation Measures (TPIM) subjects, my officials have engaged with operational partners and the Crown Prosecution Service (CPS). I agree with your analysis and accept your

recommendation in full. The required legislative change will be made at the next practicable opportunity. This will amend the TPIM Act 2011 to make clear that the weapons and explosive measure can prohibit all knives, without the need to show evidence of intent.

I welcome your analysis of the police powers to seize articles under section 13 of TACT 2000. I agree with your assessment that the current seizure power in section 13 limits the police's ability to seize articles where there is not a sufficient connection to criminal proceedings. This is particularly relevant in the context of Northern Ireland, where articles, such as flags, which would arouse reasonable suspicion that an individual is a supporter or member of a proscribed organisation, cannot be seized by police officers in some cases where there would be no realistic prospect of undertaking a criminal investigation (e.g. where there is no connection to any specific individual). My officials have liaised with the Police Service of Northern Ireland and the Northern Ireland Office on this recommendation. Both are supportive of amending the seizure power in the offence to allow the seizure of any article if the constable reasonably suspects that it has been displayed in such a way or in such circumstances as to arouse reasonable suspicion that a person is a member or supporter of a proscribed organisation, without the need to be satisfied that the article will be directly used as evidence in criminal proceedings. My officials have also consulted CTP, who support making this change in Great Britain. Making this amendment will address a lacuna in the legislative framework. I accept the recommendation. We will take forward the required legislative changes at the earliest practicable opportunity.

I would also like to thank you for your informative analysis on the presence of proscribed organisations in conflict zones and parts of the world where peacebuilding is most needed. It is right that the UK has a broad range of offences to tackle involvement in terrorism-related activity overseas, including involvement with terrorist organisations. These offences however should not impede the legitimate activities of charitable organisations, including vital humanitarian delivery in high-risk jurisdictions. I am aware of the reassuring guidance published by the CPS in October 2022, and its value in setting out a clear range of factors that are relevant when considering prosecution of a humanitarian organisation. I agree with you that humanitarian organisations may not be experts in criminal prosecution or terrorism offences, and uncertainty about the law can lead to costs, delay and the stifling of desirable aid programmes. As such, I accept your recommendation that HMG's publicly available guidance on operating within counter-terrorism legislation, counter-terrorism sanctions and export controls should be amended to make reference to the CPS's guidance.

Stopping the travelling public

I appreciate your analysis of the justification for Schedule 7 powers in the border area in Northern Ireland. Following careful consideration of the issue, I have decided against your recommendation that the power be abolished in the border area. Given the changing threat that the UK faces from terrorism, it is my view, and that of CTP, that we must continue to have the strongest possible powers available to law enforcement at all the UK's international

borders to allow law enforcement to deter, detect and disrupt terrorist threats. I welcome your comments about paragraph 3 to Schedule 7. In response to your analysis, I have instructed my officials to look into the issues you raise and consider whether any amendment to the Code of Practice is needed to further clarify the purpose of this paragraph.

I am grateful for your analysis regarding using facial recognition technology at Western Jet Foil to support the identification of persons of interest who arrive in the UK via small boats, and welcome your recommendation. Robust security checks are on all those arriving through illegal migration routes and law enforcement have the powers to deal with them appropriately. It is imperative that we continue to improve and accelerate our processes to detect persons of interest. We are therefore committed to improving our capabilities, and will update you on this work in due course.

I welcome your analysis around the benefits of introducing a new offence of travelling to support a proscribed organisation. I recognise that at present there is no offence of providing moral or intangible support to a proscribed organisation, although it is an offence to invite support for a proscribed organisation under section 12 of TACT 2000. My officials have engaged operational partners on your recommendation, including CTP and the CPS. I accept your recommendation to consider introducing this offence. My officials will continue to work with operational partners to assess the various elements of a potential new offence, the extent to which any gap is preventing prosecutions in practice and identify, if a new offence is taken forward, what humanitarian exemptions and other safeguards might be necessary. My Department will provide an update on considerations around the offence in due course.

Terrorism trials and sentencing

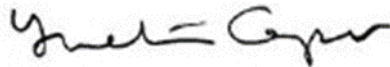
I am grateful for your recommendation to introduce extraterritorial jurisdiction to the child cruelty offence contained within section 1 Children and Young Persons Act (CYPA) 1933. I agree with you that parents, or guardians, who take their children overseas to join proscribed organisations, such as the Islamic State, should be held accountable for the harm caused to the child, particularly considering the significant long-term physical and psychological impacts this can have. I recognise that the child cruelty offence in section 1 CYPA 1933 does not apply to activity carried out overseas, given there is no extraterritorial jurisdiction to the offence. My Department has liaised with the Ministry of Justice (MOJ) and I am pleased to note that the Lord Chancellor has accepted your recommendation to consider introducing extraterritorial jurisdiction to the child cruelty offence in section 1 CYPA 1933. The Government is committed to ensuring that a wide range of options are available to operational partners to prosecute individuals suspected of involvement in terrorism-related activity overseas. However, this is a complex area. My officials will work with their counterparts in the MOJ to ensure that, before any legislation introducing extraterritorial jurisdiction to this offence is brought forward, it does not risk unintended consequences, considering the wide range of different types of harm to children covered by the offence.

Thank you for your detailed analysis of post-charge questioning in an extradition context. I agree that post-charge questioning, in limited circumstances, can provide vital evidence for prosecuting individuals charged with terrorist or terrorist-connected offences. I note that this power is rarely used by CTP, reflecting its exceptional nature. Nonetheless, my Department has consulted with CTP and following this engagement I have decided to agree that this amendment should be made to make it clearer that section 22 can be used in extradition cases. This will support efforts to prosecute individuals, such as foreign terrorist fighters, who return to the UK. We will seek to make this change at the next available opportunity.

Recommendations from previous reports

In your report on the Terrorism Acts in 2018, you recommended that the Counter-Terrorism and Security Act 2015 should be amended so that a Temporary Exclusion Order (TEO) expires two years after the individual's return to the UK. My Department will be taking this recommendation forward when there is an appropriate legislative opportunity, to strengthen the effectiveness of TEOs.

I would like to reiterate my thanks again to you for your 2022 Report and the comprehensive analysis it contains. I look forward to receiving your forthcoming annual report and continuing to work alongside you in your role as the Independent Reviewer of Terrorism Legislation.



Home Secretary

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