

Terms of Reference

Independent Review of Legislation to Address State-Based Security Threats to the UK

Purpose

The purpose of this independent review is to examine whether there are tools available in terrorism legislation which could be emulated to specifically address state-based security threats to the UK. To tackle the growing and diversifying range of state threats, we must continually review our legislation and the offences therein to ensure they address all forms of state-linked hostile activity.

This review should consider how any new tools or offences would complement and enhance those already available under terrorism legislation and state threats legislation. Any recommendations resulting from the review will be considered as part of a potential wider package of state threats legislative measures to be introduced to Parliament in the future.

Objectives

The review will consider the case for recommendations to strengthen the suite of state threat-related legislation, including offences in the National Security Act 2023, based on an analysis of whether legislative tools used to combat terrorism could be emulated and applied in the state threats context. These recommendations may include the need for new powers in primary legislation, as well as the introduction of new tools or interventions to supplement or replace existing ones. The Reviewer will have access to information as is necessary to complete the review.

With regards to legislative tools to counter state-based security threats to the UK, the review will consider at least the following:

- Which, if any, legislative tools in terrorism legislation could be replicated or emulated to create state threats equivalents, and the legal and operational benefits and disadvantages of doing so. This should include consideration of a state threats tool similar in nature to proscription and related offences (Part 2, Terrorism Act 2000).
- Operational requirements for new tools, including practical benefits, impacts on wider frameworks and specific gaps in capabilities that will be addressed.
- How any new tools or offences would supplement and interact with existing offences and levers in state threats legislation.
- How domestic legislation would interact with international law principles relating to state sovereignty, including specific laws and immunities.
- At the discretion of the Reviewer, consideration of the utility of tools entrenched in both terrorism and state threats legislation of international partners may also be brought within scope of the review.

Outputs

The Reviewer should consider the case for recommendations on legislative options to enhance powers to address state-based security threats to the UK,

based on an assessment of tools available in terrorism legislation, including, if deemed appropriate, state threats legislation used by international partners, and the applicability of these to modern day state threats. Any recommendations should be evidence-based and proportionate, with consideration given to their implementation and interaction with existing tools and offences. The Reviewer will have access to relevant classified information to inform their recommendations.

The Reviewer will provide a report to the Secretary of State for the Home Department for consideration and, subject to a security and fact check review, for publication. A classified annex may be produced alongside the report, if it is necessary to refer to classified information.

Scope

The review will not be concerned with operational decisions except in so far as these are illustrative of the wider legislative questions outlined above. This review should consider and examine existing material and tools with an assessment of how these might be applied in the state threats context.

This review will be distinct but complementary to the annual review of parts of the National Security Act 2023 carried out by the Independent Reviewer of State Threats Legislation. The report, including any recommendations of the review, will be submitted to the Secretary of State for the Home Department alongside the first annual review of the National Security Act 2023, in early 2025.