

ERODING TRUST



**The UK's PREVENT Counter-Extremism
Strategy in Health and Education**

OPEN SOCIETY JUSTICE INITIATIVE

Eroding Trust

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The Open Society Justice Initiative bears sole responsibility for any errors in this report.

Methodology

This report attempts to assess the human rights impact of the UK's Prevent strategy in the health and education sectors. It focuses on these sectors because they have particular care-giving functions that have not traditionally been directed towards preventing terrorism, which is the objective of Prevent. In addition, these sectors are critically dependent on relationships based on trust – for example, between medical professionals and patients, and between education professionals and students (including children). The need for trust in the effective functioning of these sectors raises prima facie questions about their suitability for being conscripted into preventing terrorism.

The Justice Initiative conducted research for this report from January to September of 2016. During this period, the Justice Initiative interviewed more than 87 people, including parents, school teachers, university officials, college and university students, members of parliament, current and former government officials, health professionals, religious leaders, community advocates, academics and journalists. The interviews were conducted in Bradford, Birmingham, Cheadle Hulme, Edinburgh, Kingston, Leicester, London, Luton, and Manchester, as well as other locations in the West Midlands and Lancashire. The interviews were supplemented by legal research as well as an extensive review of relevant publicly available materials.

The Justice Initiative announced in multiple public outlets that it was conducting research on the UK's Prevent strategy in health and education and seeking to interview relevant individuals for this project. These outlets included networks of health and education professionals, students and community advocates, as well as conferences where community advocates, academics, UK government officials, and Prevent practitioners were present. Leads for the 17 case studies documented in this report were obtained from this outreach and interviews conducted by the Justice Initiative.

The Justice Initiative did not confine its requests for information to Muslims. It specifically attempted – unsuccessfully – to interview the parent of a non-Muslim child who the press reported had been wrongfully targeted under Prevent. The fact that all of the individual case studies in this report are about Muslims does not imply that there are no human rights violations at issue with respect to non-Muslims targeted under Prevent. The prominence of case studies relating to Muslims is, however, consistent with UK government figures showing that in 2015, around 70 percent of referrals to Channel were linked to “Islamist-related extremism” while only 15 percent were linked to “far-right extremism”.¹

All of the individuals interviewed for this report were informed of the purpose of this report. Only if a person gave informed consent for the contents of their interview to be contained in this report was this information included. With respect to the single account of a minor included in this report, the Justice Initiative obtained parental consent. None of the individuals interviewed for this report received any financial benefit for participating. Almost all of the interviews were conducted in person; a handful were conducted on the phone.

Most of the case studies and many of the other interviews of health and education professionals documented in this report have been anonymised, or use fictional names for real ones, at the request of the interviewees because they feared retaliation by the institutions with which they were affiliated and/or government authorities. The interviewees’ request for anonymity constrained the Justice Initiative’s ability to corroborate the facts of some of the case studies from additional sources. However, some individuals were able to provide the Justice Initiative with documentation that corroborated key facts.

The UK government’s position is that it cannot comment on individual cases arising under Prevent. In the few cases where interviewees did not request anonymity, the Justice Initiative approached the relevant school or university for comment unless it had publicly indicated that confidentiality obligations constrained it from divulging details about the individual case.

There were several other accounts of arbitrary treatment under Prevent that could not be documented in this report because the individuals subjected to this treatment reported fearing retaliation from speaking out about it. In addition, because individuals targeted under Prevent experienced it as inherently stigmatising, some declined to speak about their experiences. Two individuals with accounts of arbitrary treatment under Prevent communicated with the Justice Initiative with an intent to be included in this report, but subsequently withdrew, fearing retaliation.

This report does not purport to have a complete account of every possible experience of Prevent. Indeed, a report of this nature could not possibly record every instance in which Prevent was applied in an inappropriate way: the Government’s own figures

state that between April 2007 and 31 March 2014, 3,934 referrals were made to Channel, but about 80% were set aside, showing that the hit rate was very low (about 20%) and that thousands of individuals were wrongly referred to Channel.² In light of these figures, the number of case studies contained in this report are likely to be a significant underestimate of instances of possible human rights violations associated with the Prevent strategy.

Finally, most of the case studies documented here relate to incidents that occurred after the Prevent statutory duty took effect.³ Three case studies relate to incidents that occurred prior to the Prevent statutory duty taking effect, but during the period that the 2011 Prevent strategy was in effect.⁴ Two case studies span a period that pre-dates and post-dates the statutory duty⁵. While public source information suggests that the volume of allegations of arbitrary treatment under Prevent has significantly increased since it became a mandatory duty, these case studies suggest the pre-statutory version of Prevent also created some risk of human rights violations.

“I’ve never felt not British. And this [Prevent experience] made me feel very, very, like they tried to make me feel like an outsider. We live here. I am born and bred here, not from anywhere else”.⁶

“It could have gone the opposite way if I wasn’t thinking straight, if I were the type who was being brainwashed. The way they went about it, [Prevent] could have made me do exactly what they told me not to do. I associate with Prevent negatively, it is not helpful at all”.⁷

Executive Summary and Recommendations

The UK’s Prevent strategy, which purports to prevent terrorism, creates a serious risk of human rights violations. The programme is flawed in both its design and application, rendering it not only unjust but also counterproductive.

Launched in 2003, the Prevent strategy has evolved against the background of increased public fears over the threat of “home grown” terrorism. The strategy in its current form aims “to stop people becoming terrorists or supporting terrorism”.⁸ In 2015, legislation created a statutory Prevent duty on schools, universities, and NHS trusts, among other public sector entities, to have “due regard to the need to prevent people from being drawn into terrorism”.⁹ This requires doctors, psychologists, and teachers, among other health and education professionals, to identify individuals at risk of being drawn into terrorism (including violent and non-violent “extremism”) for referral to the police-led multi-agency “Channel” programme (for England and Wales) or “Prevent Professional Concerns” (for Scotland), both of which purport to “support” such individuals¹⁰.

This report analyses the human rights impact of Prevent in its current form in the education and health sectors. It focuses on these sectors because they are critically dependent on trust and have particular care-giving functions that have not traditionally been directed towards preventing terrorism. Under Prevent, doctors and teachers who have a professional duty to care for their charges are now required to assess and report them for being at risk of “extremism”, which is defined as “vocal or active opposition to

fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs”.¹¹ Because the conscription of these sectors into preventing terrorism is part of a growing trend,¹² the report’s principal findings, listed below, not only apply to the United Kingdom, but are relevant and instructive for other governments grappling with these challenges.

► First, the current Prevent strategy suffers from multiple, mutually reinforcing structural flaws, the foreseeable consequence of which is a serious risk of human rights violations. These violations include, most obviously, violations of the right against discrimination, as well the right to freedom of expression, among other rights. Prevent’s structural flaws include the targeting of “pre-criminality”, “non-violent extremism”, and opposition to “British values”. This “intensifies” the government’s reach into “everyday lawful discourse”.¹³ Furthermore, Prevent’s targeting of non-violent extremism and “indicators” of risk of being drawn into terrorism lack a scientific basis. Indeed, the claim that non-violent extremism – including “radical” or religious ideology – is the precursor to terrorism has been widely discredited by the British government itself, as well as numerous reputable scholars.¹⁴ Prevent training, much of it based on unreliable indicators, appears to be largely unregulated. Moreover, the statutory duty creates an incentive to over-refer. This incentive is reinforced by the adverse consequences associated with non-compliance with the Prevent duty¹⁵ and the lack of adverse consequences for making erroneous referrals. The case studies and interviews in this report confirm the tendency to over-refer individuals under Prevent. The fundamental nature of these defects makes them unlikely to be cured by a mere renaming of Prevent to “Engage”.¹⁶

► Second, Prevent’s overly broad and vague definition of “non-violent extremism” creates the potential for systemic human rights abuses. On the basis of this definition, schools, universities, and NHS trusts, among other “specified authorities” subject to the Prevent duty, are required to assess the risk of children, students, and patients being drawn into terrorism and report them to the police-led Channel programme where necessary.¹⁷ By the government’s own admission, thousands of people have been erroneously referred to the Channel programme¹⁸. Individuals (including children) erroneously referred under Prevent experience the referral as inherently stigmatising and intensely intimidating. They also fear continued surveillance and the creation and retention of Prevent records, which may taint them and lead others to view them as “extremists” in the future¹⁹.

Specifically, the targeting of non-violent extremism raises serious concerns about possible violations of the right to freedom of expression. Children in schools have been targeted under Prevent for expressing political views.²⁰ University

conferences relating to Islamophobia and Islam in Europe have been cancelled,²¹ raising questions of possible breaches under the Education Act (1986) and article 10 of the European Convention on Human Rights.²² More generally, the case studies and interviews in this report suggest that Prevent has created a significant chilling effect on freedom of expression in schools and universities, and undermined trust between teachers and students.²³ This risks driving underground, removed from debate and challenge, conversations about controversial issues such as terrorism. In addition, as indicated by the large number of interviewees for this report who requested anonymity, there is a genuine and intensely held fear among some that public criticism of Prevent will trigger retaliation.²⁴ This fear is particularly acute for parents who fear that their children will bear the brunt of the retaliation.

- ▶ Third, the Prevent duty creates a risk of discrimination, particularly against Muslims. Frontline professionals have broad discretion to act on their conscious or unconscious biases in deciding whom to report under Prevent. Current and former police leads for Prevent recognise that currently, Prevent operates in a climate marked by Islamophobia.²⁵ Significantly, between July 2015 and July 2016, Islamophobic crime in London rose by 94 percent.²⁶ This climate creates the risk that Muslims in particular may be erroneously targeted under Prevent. All of the case studies relating to the targeting of individuals under Prevent raise serious questions about whether they would have been targeted in this manner had they not been Muslim.²⁷ Relatedly, in some case studies, Muslims appear to have been targeted under Prevent for displaying signs of increased religiosity, raising questions about the violation of their right to manifest their religion.²⁸
- ▶ Fourth, by requiring the identification and reporting of individuals at risk of violent and non-violent extremism, Prevent creates a risk of violations of the right to privacy. Many of the case studies describe individuals being intrusively questioned under intimidating conditions about their religious and/or political beliefs²⁹. One case study raises troubling questions about the collection (apparently without informed consent) of names and political opinions from Muslim children for the Home Office.³⁰
- ▶ Fifth, there are serious concerns about the treatment of children under Prevent.³¹ Although the government describes Prevent as a form of “safeguarding” (a statutory term which denotes promotion of welfare and protection from harm), the two sets of obligations have materially different aims, particularly with respect to children. In contrast to the Prevent strategy, for which the primary objective is preventing terrorism,³² the primary objective of the duty to safeguard children under domestic legislation is the welfare of the child.³³ This reflects the obligation under article 3(1) of the Convention on the Rights of the Child to make the best

interests of the child a primary consideration in all actions relating to children.³⁴ Accordingly, while compliance with safeguarding obligations would only permit referral to Channel while prioritising the best interests of the child, the Channel duty guidance does not specify that as a mandatory or even a relevant consideration. All of the case studies in this report relating to children – including one in which a four year-old child was targeted³⁵ – appear to be instances in which the best interests of the child were not a primary consideration.

- ▶ Sixth, the Prevent duty risks breaching health bodies’ duty of confidentiality towards their patients and undermining the relationship between health professionals and their patients. The standard for disclosure of confidential information under Prevent appears to be much lower than that warranted by the common law duty of confidentiality enshrined in the NHS confidentiality code of practice and the General Medical Council’s confidentiality guidance. Specifically, requiring a medical professional to report to the police-led Channel programme an individual who is at “risk of being drawn into terrorism”, including “non-violent extremism”, appears to be a much lower standard than requiring the medical professional to report (under the GMC guidance) the individual only when failure to disclose confidential information would expose others to a risk of death or serious harm. This could generate breaches of the confidentiality duty along with violations of the right to private life under article 8 of the European Convention on Human Rights.³⁶
- ▶ Finally, there are serious indications that Prevent is counterproductive. The case studies show that being wrongly targeted under Prevent has led some Muslims to question their place in British society.³⁷ Other adults wrongfully targeted under Prevent have said that, had they been different, their experience of Prevent could have drawn them *towards* terrorism, and not away from it.³⁸ Government data reveal that 80% of all Channel referrals were set aside, implying that there were thousands of individuals wrongly referred to Channel³⁹. This in turn risks undermining the willingness of targeted communities to supply intelligence to law enforcement officials which could be used to prevent terrorist acts.⁴⁰

As Sir David Omand, the architect of the original version of Prevent, has observed: “The key issue is, do most people in the community accept [Prevent] as protective of their rights? If the community sees it as a problem, then you have a problem”.⁴¹ This report demonstrates that the UK’s Prevent strategy is indeed a serious problem.

Recommendations

To the UK Government:

1. Repeal the Prevent duty with respect to the health and education sectors.
2. End the targeting and reporting of “non-violent extremism” under the Prevent strategy.
3. End the use of empirically unsupported indicators of vulnerability to being drawn into terrorism.
4. Establish an independent public inquiry – with civil society participation – into the Prevent strategy and associated rights violations.
5. Create a formal and independent complaints mechanism through which individuals whose rights have been violated by the Prevent strategy can seek and obtain prompt and meaningful remedies.
6. Publicly commit to a policy of zero tolerance regarding retaliation against individuals who allege rights violations under Prevent.
7. Publicly disclose data on total number of individuals referred to and processed through Prevent, Channel, and Prevent Professional Concerns (PPC), as well as the breakdown of these figures by age, type of extremism, and referring authority.
8. Publicly disclose, to the extent it exists, evidence underpinning and data relating to the UK’s Extremism Risk Guidance (ERG) 22+.

To the Children’s Commissioners for England, Wales, and Scotland:

Conduct an assessment of the impact of Prevent on children, including but not limited to whether the best interests of the child are a primary consideration in Prevent-related actions.

To the National Association of Head Teachers, the National Association of Schoolmasters Union of Women Teachers, the Association of Teachers and Lecturers, the National Union of Teachers, and other teachers associations:

Conduct an assessment of the impact of Prevent on teachers and children, including but not limited to the extent to which the best interests of the child are a primary consideration in Prevent-related actions.

To Universities UK:

Conduct an assessment of the impact of Prevent in universities, including but not limited to its impact on academic freedom and freedom of speech.

To the General Medical Council:

Review and clarify professional standards relating to the duty of confidentiality as interpreted and applied in Prevent settings.

To the British Medical Association, the British Psychological Society, the Academy of Medical Royal Colleges, the Royal College of General Practitioners, the Royal College of Psychiatrists, and other professional bodies in the health sector:

Conduct an assessment of the impact of Prevent on the practice of doctors, psychologists and other healthcare professionals, and on patients and patient care, including but not limited to an assessment of how the duty of confidentiality is being interpreted and applied in Prevent settings.

I. History of Prevent

The UK government's Prevent strategy has evolved against the background of increased public fears over the threat of "home grown" terrorism. In July 2005, four British men carried out coordinated suicide attacks in London that killed 52 people and injured hundreds more.⁴² The threat of attacks has remained. Throughout 2015, the government's Joint Analysis Centre assessed the threat level for the UK to be "SEVERE", meaning "an attack was highly likely".⁴³ According to the government, "Islamist terrorism" including attacks by terrorists "inspired or directed by Daesh", has "remained the principal threat".⁴⁴ The government estimates that about 850 individuals "of national security concern" have travelled from the UK to Iraq and Syria since the conflict there began, and just under half have returned.⁴⁵ According to the government, "terrorists associated with the extreme right also pose a threat, though it remains lower by comparison".⁴⁶ Prevent does not directly apply in Northern Ireland⁴⁷ where the threat from dissident republican groups remains. In 2015, there were 16 "national security attacks" there and the threat was assessed as "SEVERE".⁴⁸

In 2006, following the July 2005 London bombings⁴⁹, the UK government published *Countering International Terrorism: The United Kingdom's strategy*.⁵⁰ The strategy noted that since early 2003, the government had a strategy known as "CONTEST" for "countering international terrorism". The aim of the CONTEST strategy was to "reduce the risk from international terrorism, so that people can go about their daily lives freely and with confidence."⁵¹ The strategy was divided into four principal strands: "PREVENT, PURSUE, PROTECT, and PREPARE".⁵² The 2006 strategy document stated that the Prevent strand is "concerned with tackling the radicalisation of individuals" and sought to do this by (i) "tackling disadvantage and supporting reform – addressing structural problems in the UK and overseas that may contribute to radicalisation, such as inequali-

ties and discrimination”; (ii) “Deterring those who facilitate terrorism and those who encourage others to become terrorists – changing the environment in which the extremists and those radicalising others can operate”; and (iii) “engaging in the battle of ideas – challenging the ideologies that extremists believe can justify the use of violence, primarily by helping Muslims who wish to dispute these ideas to do so”.⁵³

As the first UK Security and Intelligence Coordinator from 2002 until 2005, Sir David Omand was the instigator of the original version of CONTEST and its component, Prevent. (He was previously the former director of Government Communications Headquarters (GCHQ), the UK’s signals’ intelligence agency). He told the Justice Initiative that the government had launched the Prevent strategy in 2003, but it was not made public until later.⁵⁴ Sir David recalled: “The year after 9/11, everyone was very busy patching holes in security. We needed to take a step back and see what strategy we are adopting against al-Qaeda and where future investment in security was best directed. To do this we needed to construct a British national counterterrorism strategy for which I coined the acronym CONTEST”.⁵⁵

In contrast to the US counterterrorism strategy which was based on the premise that “America is at war”, Sir David noted, he and his team “contended the opposite, that for the UK, the strategic objective – in 2002–03 and for the next 5 years which was the timescale of the original CONTEST – was normality”. He told the Justice Initiative: “If we could continue with normal life, the terrorists are losing since their objective is to disrupt society. We therefore came up with the strategic objective, which was to reduce the risk from international terrorism so that people can go about their normal lives freely and with confidence”.⁵⁶

He recalled the original conception of Prevent:

Prevent was all about preventing violent extremism. So a useful parallel for Prevent work in the UK could be seen in earlier programmes to discourage young people from becoming a gang member – you are trying to stop the route into violence. Prevent is about persuading people that violence, including against innocents, is not a legitimate way in a democracy to promote your aims.... Notions which later crept in about the need to promote specifically “British values”, including equality for women, however justified, were not an explicit part of the CONTEST strategy to prevent violent extremism.... Policing is about upholding the criminal law, not about policing some concept of “Britishness” in the community. But it is of course legitimate and desirable for an elected government to promote values such as freedom, equality and democracy”.⁵⁷

From 2007 onwards, when it was first piloted, the Channel programme was a key element of the Prevent strategy.⁵⁸ Very little was publicly known about Channel when

it commenced or indeed when it was later implemented across England and Wales in April 2012.⁵⁹ In a subsequent version of the UK's strategy for countering international terrorism published in 2009, the Government described Channel as "a community-based initiative which uses existing partnerships between the police, local authority representatives and the local community to identify those at risk from violent extremism and to support them, primarily through community based interventions".⁶⁰

The 2009 counterterrorism strategy described the Prevent strategy as aimed at "stopping people becoming terrorists or supporting violent extremism".⁶¹ The strategy noted that the Government had introduced a revised Prevent strategy in October 2007 "based on a better understanding of the causes of radicalisation (the process by which people become terrorists or lend support to violent extremism)".⁶² The 2009 publication did not define "extremism". It defined "radicalisation" as "the process by which people come to support violent extremism and, in some cases, join terrorist groups", while noting that radicalisation "has a range of causes (including perceptions of our foreign policy), varying from one country and one organisation to another".⁶³ The objectives of the new strategy were to: (i) challenge the ideology behind violent extremism and support mainstream voices; (ii) disrupt those who promote violent extremism and support the places where they operate; (iii) support individuals who are vulnerable to recruitment, or have already been recruited by extremists; (iv) increase the resilience of communities to violent extremism; and (v) address the grievances which ideologues are exploiting.⁶⁴ The publication noted: "Because the greatest threat at present is from terrorists who claim to act in the name of Islam, much Prevent activity takes place in and with Muslim communities. But the principles of our Prevent work apply equally to other communities who may be the focus of attention from violent extremist groups".⁶⁵

The Prevent strategy and the Channel programme were criticised as being based on the vague concept of "extremism" that could be exploited to target anyone with radically different opinions, and for lacking transparency and accountability.⁶⁶ Prevent was also criticised for constructing Muslims as a "suspect community" by pressuring local authorities to accept Prevent funding in direct proportion to the numbers of Muslims in their area.⁶⁷ There were also concerns that through the embedding of counterterrorism police officers within the delivery of local services and the pressure on Prevent-funded voluntary sector organisations and local authority workers to supply information to the police, Prevent operated as a method of government surveillance of target communities.⁶⁸

Sir David told the Justice Initiative:

Over the years, Prevent got revamped and relaunched. There was quite a lot of criticism in 2010 when the government changed. They criticised the fact that in the course of countering violent extremism, government agencies were talking

to Islamic groups who took a fairly extreme (even if non-violent) position on current events which the government ministers thought was unwise. Some Ministers were attracted by the conveyor belt theory of how individuals could start by association with non-violent radical groups but then be spotted and recruited into violent networks. So the later version of Prevent was very much about insisting upon democratic values; the government said it would not work with or subsidise groups that do not embrace British values.⁶⁹

In 2011, the coalition government revised the Prevent strategy. The June 2011 Prevent strategy stated: “the Prevent programme we inherited from the last Government was flawed. It confused the delivery of Government policy to promote integration with Government policy to prevent terrorism. It failed to confront the extremist ideology at the heart of the threat we face; and in trying to reach those at risk of radicalisation, funding sometimes even reached the very extremist organisations that Prevent should have been confronting”.⁷⁰

The 2011 strategy stated that “Prevent is part of our counter-terrorism strategy, CONTEST. Its aim is to stop people becoming terrorists or supporting terrorism”.⁷¹ It identified three objectives for Prevent: to “respond to the ideological challenge of terrorism and the threat we face from those who promote it; prevent people from being drawn into terrorism and ensure that they are given appropriate advice and support; and, *work with a wide range of sectors and institutions (including education, faith, health and criminal justice)* where there are risks of radicalisation which we need to address.”⁷² It noted that “a Prevent strategy needs to engage with many of the sectors considered here because they have the capability of addressing and resolving challenges we face”.⁷³ Accordingly, although the Prevent statutory duty for health and education bodies did not come into effect until 2015, the 2011 Prevent strategy expressly contemplated enlisting them in preventing individuals from being drawn into terrorism.

The Prevent strategy was expressly modified in 2011 to address “all forms of terrorism” and “non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists then exploit”.⁷⁴ The revised strategy stated that resources would continue to be allocated in proportion to threats which, in light of the threat assessment at that time, meant that the majority of resources and efforts would continue to be devoted to preventing people from joining or supporting Al Qa’ida, its affiliates or related groups.⁷⁵ In addition, the revised strategy observed: “In the past, funding for local authority Prevent projects was allocated on the basis of Muslim population size, with those areas with the largest Muslim populations receiving the most funding. The limitations of this approach are clear, but at the time, it was considered the best available. With the benefit of greater information and understand-

ing, funding to local authorities in the future will be prioritised on our assessment of the risk of radicalisation in specific areas.⁷⁶

The 2011 strategy stated that “preventing terrorism will mean *challenging extremist (and non-violent) ideas* that are also part of a terrorist ideology. Prevent will also mean intervening to stop people moving from extremist groups or from extremism into terrorist-related activity”.⁷⁷ The 2011 strategy defined “extremism” as “the active opposition to fundamental British values, including democracy, the rule of law, individual liberty and the mutual respect and tolerance of different faiths and beliefs”, as well as “calls for the death of members of our armed forces, whether in this country or overseas”.⁷⁸

The strategy added that as a general rule, to avoid giving integration and cohesion programmes a “security label”, they would remain distinct but coordinated with Prevent. The government had decided that responsibility for Prevent would lie with the Home Office (in the OSCT) and responsibility for integration with DCLG [Department of Communities and Local Government].⁷⁹

The new Prevent strategy was to build on Channel, the existing multi-agency programme to identify and provide support to people at risk of radicalisation.⁸⁰ Radicalisation was referred to as “the process by which a person comes to support terrorism and forms of extremism leading to terrorism”.⁸¹ Finally, the 2011 Prevent strategy noted that the term “violent extremism” previously used in Prevent documents was “ambiguous” and that while the strategy avoided that term, it recognised that “programmes comparable to Prevent are being run in other countries under the banner of preventing or countering violent extremism.”⁸²

For years, the Prevent strategy has absorbed significant financial and human resources. From 2011–2015, the annual budget for Prevent ranged between £35 million and £40 million.⁸³ The government’s annual report of CONTEST reveals that in 2015, over 400,000 frontline staff received Prevent training, more than double the number from the previous year.⁸⁴ This scale of Prevent operations is troubling in light of its structural flaws, described below, which generate a serious risk of human rights violations.

II. Current Prevent Strategy

The scope of the Prevent strategy has been repeatedly expanded, and its obligations enhanced. As a result, the current version contains a series of structural flaws that together create a serious risk of human rights violations, in particular: the breadth of activities that can be caught by poorly defined or undefined terms such as “non-violent extremism” or “terrorist ideology”; the imposition of a statutory obligation to refer; the fact that this obligation is imposed on such a broad range of public servants engaged in entirely unrelated professions and with inadequate training and guidance; and the fact that any referral under this broad and obligatory system involves the police at the first instance. This section describes the structure of the current strategy which forms the basis for the analysis in the subsequent section.

A. Prevent Duty

A key element of the current version is the Prevent statutory duty created in 2015, by the Counterterrorism and Security Act (CTSA). The Act states: “A specified authority must, in the exercise of its functions, have due regard to the need to prevent people from being drawn into terrorism”.⁸⁵ Schedule 6 of the Act lists “specified authorities”, and includes schools, most further and higher education bodies, NHS trusts and foundation trusts, local authorities, prisons, probation service providers, and the police. Although the duty applies to institutions rather than individuals, individuals are likely to find themselves required by the institutions for whom they work or are otherwise associated to address the Prevent duty in the course of their work.

The Prevent duty is a mandatory duty, and specified authorities are monitored for their compliance with it.⁸⁶ Failure to comply can lead to adverse consequences. If a specified authority is failing to discharge the Prevent duty, under section 30 of the CTSA, the Secretary of State is empowered to issue directions for the purpose of enforcing the performance of the duty.⁸⁷ In requiring “due regard” to the need to prevent people being drawn into terrorism, however, the Prevent duty is a process duty, rather than a duty of result.⁸⁸

The Revised Prevent Duty Guidance for England and Wales⁸⁹ and the Revised Prevent Duty Guidance for Scotland⁹⁰ purport to “assist authorities to decide” what the Prevent duty of “due regard” means in practice. (The Prevent Strategy (including the Section 26(1) duty) does not apply to Northern Ireland.⁹¹) Section 29(2) of the CTSA states that “a specified authority must have regard to any such guidance in carrying out” the Section 26(1) duty. The Revised Prevent Duty Guidance defines “having due regard” as meaning “authorities should place an appropriate amount of weight on the need to prevent people being drawn into terrorism when they consider all the other factors relevant to how they carry out their usual functions”.⁹² Existing case law indicates that authorities are obliged to follow clear requirements in guidance unless there is good reason to depart from it.⁹³ However, the guidance cannot authorise a failure to comply with other statutory duties.

The Revised Prevent Duty Guidance indicates that the current strategy is a continuation of the 2011 strategy. It notes that “[t]he aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism”.⁹⁴

The Scottish Guidance as well as the Guidance for England and Wales specify that “being drawn into terrorism includes not just violent extremism but also non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists exploit”.⁹⁵ Both sets of guidance also define “extremism” in the same way, viz., “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs”.⁹⁶ However, Scottish government officials told the Justice Initiative: “We don’t ever use that phrase ‘British values.’ It’s in the guidance, but it’s just not the focus of our approach. It could be damaging or unhelpful if it endorses a ‘them and us’ mentality”.⁹⁷

B. Channel and Prevent Professional Concerns (PPC) Duty

Each local authority has a duty under the CTSA to ensure that a panel of persons is in place to for its area to “provide support for people vulnerable to being drawn into terrorism”.⁹⁸ This duty is met through the Channel panel programme (for England and Wales), and the Prevent Professional Concerns (PPC) programme (for Scotland) that purport to provide “support for people vulnerable to being drawn into terrorism”.⁹⁹ (Scottish government officials told the Justice Initiative: “When we looked at Channel in 2010, we didn’t take the Channel brand name but we did take many features of the Channel scheme and incorporate them into PPC”.¹⁰⁰)

The Channel process is led by the police. The Channel Police Practitioner (CPP) is responsible for co-ordinating Channel in their area and managing referrals and cases through the Channel process.¹⁰¹ Referrals to Channel are likely to be made in the first instance by individuals (such as those working in the education sector, social services, health, children’s and youth services) who come into contact with vulnerable people.¹⁰² When the initial referral is received, the CPP will lead in assessing whether or not the case is potentially appropriate for Channel. If the individual’s vulnerability is not “terrorist related”, the CPP will refer the individual to other support services. If the individual is not filtered out by the CPP, he will be subject to a “thorough assessment of vulnerabilities” by the Channel panel. The Local Authority Chair, known as the Channel Panel Chair, has oversight of all Channel cases in his or her area.¹⁰³

The Channel Duty Guidance, which members and partners of Channel panels “must have regard” to¹⁰⁴, notes that the “police co-ordinate activity by requesting relevant information from panel partners about a referred individual. They will use this information to make an initial assessment of the nature and extent of the vulnerability which the person has. The information will then be presented to a panel”.¹⁰⁵

C. Prevent in Schools

The 2011 Prevent strategy identified education as a “priority” sector.¹⁰⁶ In England, about eight million children are educated in some 23,000 publicly-funded and around 2,400 independent schools.¹⁰⁷ In Wales, over 450,000 children attend Local Authority maintained schools, in addition to those that attend 70 independent schools.¹⁰⁸

The 2011 Prevent strategy notes that “sympathy for terrorism is highest among young people. Statistically, it is clear that in this country and overseas most terrorist offences are committed by people under the age of 30. We therefore regard it as vital

that Prevent engages fully – though in differing ways – with schools, higher and further education”.¹⁰⁹

By 1 July 2015, private and publicly funded schools in England, Wales, and Scotland were subject to the Prevent duty. The Revised Prevent Duty Guidance for England and Wales states that to comply with the duty, schools are expected to assess “the risk of children of being drawn into terrorism, including support for extremist ideas that are part of terrorist ideology” and, if appropriate, to refer them to the Channel programme.¹¹⁰

The Guidance makes clear that schools could face adverse consequences for non-compliance with Prevent obligations. The Guidance states: “Maintained schools are subject to intervention, and academies and free schools may be subject to termination of their funding agreement, if they are judged by Ofsted to require significant improvement or special measures, or if they fail to take the steps required by their local authority, or for academies or free schools by the Secretary of State pursuant to their funding agreement, as applicable, to address unacceptably low standards, serious breakdowns of management or governance or if the safety of pupils or staff is threatened”.¹¹¹ The Office for Standards in Education, Children’s Services and Skills (Ofsted) monitors schools’ compliance with the Prevent duty.

The Revised Prevent Duty Guidance for Scotland states that to comply with the Prevent duty, schools are expected to, *inter alia*, have robust procedures for sharing information about vulnerable people, undergo Prevent training, and submit to monitoring and enforcement by Education Scotland, the schools inspectorate, with respect to this duty.¹¹²

D. Prevent in Further and Higher Education Bodies

The 2011 Prevent strategy observes that “[u]niversities and colleges – and, to some extent, university societies and student groups – have a clear and unambiguous role to play in helping to safeguard vulnerable young people from radicalisation and recruitment by terrorist organisations”.¹¹³ It adds: “Whether radicalisation occurs on campus or elsewhere, staff in higher and further education institutions can identify and offer support to people who may be drawn into extremism and terrorism”.¹¹⁴

The Prevent duty applies to private and publicly funded further and higher education “specified authorities” in England and Wales as well as in Scotland.¹¹⁵ The further and higher education guidance requires appropriate staff members to have sufficient training to be able to *recognise individuals vulnerable to being drawn into terrorism and know how to respond, including by making referrals to the Channel programme*.¹¹⁶

Section 31 of the CTSA provides that, when carrying out the duty under section 26(1), further and higher education bodies have a corollary duty to “have particular regard to the duty to ensure freedom of speech”; and “must have particular regard to the importance of academic freedom”. The further and higher education guidance for England and Wales and for Scotland specifies that in order to comply with the Prevent duty, those institutions should have policies and procedures in place for the management of events held on their premises and “balance” their legal duties in terms of both ensuring freedom of speech and also protecting student and staff welfare.¹¹⁷

In particular, the guidance states that when deciding whether or not to host a particular speaker, institutions “should consider carefully whether the views being expressed, or likely to be expressed, constitute *extremist views* that risk drawing people into terrorism or are shared by terrorist groups. In these circumstances the event should not be allowed to proceed” except where institutions “are *entirely convinced* that such risk can be *fully mitigated* without cancellation of the event. This includes ensuring that, where any event is being allowed to proceed, speakers with extremist views that could draw people into terrorism are challenged with opposing views as part of that same event, rather than in a separate forum. Where institutions are in any doubt that the risk cannot be fully mitigated they should exercise caution and not allow the event to proceed”.¹¹⁸

Finally, as part of the institution’s role in pastoral care for students, the higher and further education guidance requires institutions “to have clear and widely available policies for the use of prayer rooms and other faith-related facilities”¹¹⁹, to have appropriate policies students and staff using IT equipment to research terrorism, and to consider the use of internet filters to prevent individuals from being drawn into terrorism.¹²⁰

E. Prevent in Health Bodies

The 2011 Prevent strategy identified health as a “priority” sector.¹²¹ It notes that “[t]he National Health Service (NHS) spans primary care, acute hospital care, community and mental health care, dentistry, pharmacy and delivery of services such as prison health. 1.3 million NHS workers have contact with over 315,000 patients daily and some 700,000 workers in private and voluntary healthcare organisations see many thousands more”.¹²² The Prevent strategy notes that “[g]iven the very high numbers of people who come into contact with health professionals in this country, the [health] sector is a critical partner in Prevent”.¹²³ It adds that “healthcare professionals may meet and treat people who are vulnerable to radicalisation. People with mental health issues or learning disabilities ... may be more easily drawn into terrorism”.¹²⁴

Health specified authorities to which the Prevent duty applies are NHS Trusts and NHS Foundation Trusts.¹²⁵ The Scottish Guidance adds that the health “specified authorities” subject to the Prevent duty include Health Boards, Special Health Boards, and Healthcare Improvement Scotland.¹²⁶ The Revised Prevent Duty Guidance notes that that the staff of health bodies are expected to recognise and refer those at risk of being drawn into terrorism to the Prevent lead who may make a referral to the Channel programme”.¹²⁷ Health specified authorities are subject to monitoring by Monitor in England and Healthcare Inspectorate in Wales.¹²⁸ The Scottish Government’s NHS Resilience Unit monitors the delivery of Health Boards’ Prevent action plans.¹²⁹

The foregoing analysis describes the current Prevent strategy with particular focus on health and education. As set forth below, the strategy suffers from structural defects that create the risk of human rights violations.

III. Structural Flaws in the Current Prevent Strategy

The current Prevent strategy described in preceding section suffers from multiple mutually reinforcing structural flaws, the foreseeable consequence of which is a serious risk of human rights violations, including violations of the right against discrimination, as well the rights to freedom of expression and religion, private and family life, and education. The fundamental nature of these defects suggest that renaming Prevent strategy to “Engage”¹³⁰, is unlikely to cure them.

A. “Pre-criminality”, “Non-violent Extremism”, and “British Values”

“Pre-criminality”, “non-violent extremism”, and “British values” are hallmarks of the Prevent strategy. Official public descriptions of Prevent and Channel repeatedly claim that these programmes operate in a “pre-criminal” space that targets individuals with a view to stopping them from committing terrorist crimes in the future.¹³¹ As noted above, in 2011, the Prevent strategy was expressly revised to target “non-violent extremism” on the theory that it is the precursor to terrorist activity. Thus, the strategy states that “preventing terrorism will mean *challenging extremist (and non-violent) ideas* that are also part of a terrorist ideology. Prevent will also mean intervening to stop people moving from extremist groups or from extremism into terrorist-related activity”.¹³² In addition, the Revised Prevent Duty Guidance explains that the duty on specified authorities to have due regard to the need prevent people from being drawn into terrorism includes

preventing them from being drawn into violent extremism and “non-violent extremism which can create an atmosphere conducive to terrorism and can popularise views which terrorists then exploit”.¹³³ The definition of “extremism” in the Prevent strategy is far broader than terrorism¹³⁴ and includes “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs”.¹³⁵

The targeting of “pre-criminality”, non-violent “extremism”, and opposition to “British values” is fundamentally flawed. It is unclear how the Prevent strategy might determine whether an individual is going to commit a terrorist crime in the future. As noted below in the section on domestic legal provisions, the “gap” that Prevent purports to fill through its pre-criminal approach should be measured in light of existing broadly framed criminal law provisions that criminalise conduct well before the commission of substantive acts of terrorism.

Dal Babu, a former Chief Superintendent of the Metropolitan Police, told the Justice Initiative in relation to Prevent’s targeting of the “pre-criminal” space: “This is a very dangerous road to go down – I don’t know what it means to be ‘pre-criminal’-I suspect it means holding a certain point of view”.¹³⁶ Lord Ken Macdonald, former Director of Public Prosecutions, has observed: “many, perhaps most, of the behaviours targeted by Prevent, are behaviours that are not in themselves criminal in any way ... [this] intensifies the strength of surveillance and government reach into people’s everyday *lawful* lives – and indeed into whole areas of their everyday *lawful* discourse”.¹³⁷

Moreover, even though Prevent does not entail an arrest record or imprisonment, the case studies documented below demonstrate that Prevent with its labels of “pre-criminality” and “vulnerability to being drawn into terrorism” is perceived by its targets – who have not committed any crime – as extremely intimidating, humiliating and stigmatising. Indeed, being targeted by the government under the rubric of counterterrorism is likely to be inherently stigmatising for someone who engaged in no criminal activity.

The expansion of Prevent to cover “non-violent extremism”, including promoting “views which terrorists then exploit”, widened its net greatly: from those who were perceived to be themselves at risk of committing terrorism or violent extremist acts, to those who merely espouse views – often on political questions – which are in common with the positions held by some terrorists. There must be space for legitimate and serious debate, and expressing concern, over questions such as the status and future of the Palestinian territories, or the suffering of people in Syria, without stigmatising certain views (and all of those who express them) as extremist. Of course, it may well be that not all who express such views are stigmatised – some of the individuals interviewed for this report observed that only Muslims are suspected of extremism if they voice these concerns; others are able to engage fully and freely in debates over such issues.

In addition, it is not clear what “British values” are. A recent survey of 14 to 18 year-olds from minority and ethnic minority backgrounds, a third of whom were Muslims, found that they were generally “uncomprehending” of the term “British Values” but that they “understood Islamic values, Christian values, and humanitarian values very well”.¹³⁸ The students regarded democracy (one of the British values listed in the Prevent strategy) as a “system of government, rather than as a value” while several Muslim students observed that the “rule of law” was also a “principle of Islam”.¹³⁹ In addition, the term “British values” risks alienating target communities. Scottish government officials told the Justice Initiative: “We don’t ever use that phrase ‘British values.’ It’s in the guidance, but it’s just not the focus of our approach. It could be damaging or unhelpful if it endorses a ‘them and us’ mentality”.¹⁴⁰

The overly broad definition of “extremism” by its terms creates the potential for a myriad subjective interpretations – many of them in error – of who is likely to be at risk of being drawn into terrorism. The government’s own figures show that over 2007–2014, 80% of referrals to the Channel programme were set aside – this reflects an extremely high error rate.¹⁴¹ The scope for a myriad interpretations of “extremism” in turn creates the potential for systemic human rights violations, including most obviously, violations of the right against discrimination and the right to freedom of expression and religion, among other rights. See section below on applicable international human rights standards.

The potential for discrimination is particularly serious in light of the prevailing political climate in the UK, one marked by rising anti-Islamic and xenophobic sentiment. Significantly, between July 2015 and July 2016, Islamophobic crime in London rose by 94 percent.¹⁴² As Simon Cole, the police lead for Prevent, acknowledged: “Prevent doesn’t sit on its own, it sits in a framework where people are concerned about Islamophobia, we are a nation that has just voted for Brexit, and immigration is an issue”.¹⁴³ This climate is likely to affect who is regarded as an “extremist”. In this context, the statutory Prevent duty to identify and report to Channel individuals at risk of being drawn into terrorism (including violent and non-violent extremism) gives legal backing to potentially discriminatory determinations of “extremism” by frontline professionals.

The overly broad definition of “extremism” also creates a serious risk of violating freedom of expression. Lord Ken Macdonald has observed that opposition to “British values” “might plausibly include much Platonic discourse, Marxist analysis of a supposed class basis for our rule of law, and many atheist deconstructions of religion. To the response that these forms of speech are not the ones the government wishes to target, we might ask: who is to say?”¹⁴⁴ The statutory Prevent duty to identify and report to Channel individuals at risk of being drawn into terrorism (including violent and non-violent extremism) gives legal backing to erroneous determinations that identify and report lawful speech as “extremist”.

Regarding the focus in the current version of Prevent on “non-violent extremism” and “British values”, Sir David Omand, the architect of the original version of Prevent told the Justice Initiative: “My instinct is to be cautious about bringing in all these elements together. We did think [in the original version of Prevent that] the priority was to prevent violent extremism. Once you get into being accused of policing different ways of living and ‘thought crime’ over controversial areas such as foreign policy you enter a difficult area”.¹⁴⁵

More fundamentally, however, the claim that non-violent extremism leads to terrorism is empirically unsupported. This claim is a version of the “conveyor belt” theory, which posits that individuals follow a predictable path towards terrorism, and that there exist reliable indicators for predicting who is on that path. This theory – advocated in 2004 by Zeyno Baran in the course of describing Hizb ut-Tahrir as an organisation “active in the ideological preparation of the Muslims”, a “*de facto* conveyor belt for terrorists”¹⁴⁶ – has been widely discredited, including by the British government itself.

British government documents leaked in 2010 revealed “a clear assessment that individuals do not progress through non-violent extremist groups to violent groups Extreme groups may also provide a legal ‘safety valve’ for extreme views”.¹⁴⁷ One paper, entitled “Government strategy towards extremism”, said: “It is sometimes argued that violent extremists have progressed to terrorism by way of a passing commitment to non-violent Islamist extremism for example of a kind associated with al-Muhajiroun or Hizb ut Tahrir We do not believe that it is accurate to regard radicalisation in this country as a linear ‘conveyor belt’ moving from grievance, through radicalisation, to violence This thesis seems to both misread the radicalisation process and to give undue weight to ideological factors”.¹⁴⁸ Similarly, in 2008, a leaked briefing by MI5’s Behavioural Analysis Unit found that there was no single pathway to terrorism and that it was impossible to develop a typical profile of the British terrorist; and that most terrorists were not “Islamic fundamentalists”.¹⁴⁹

The claim that ideology – including religious ideology based in Islam--is a root cause of terrorism has also been rejected.¹⁵⁰ Professor Andrew Silke, a counter-terrorism expert who has advised the Cabinet Office, has observed:

The evidence isn’t there to say ideology is the prime reason why people are becoming terrorists, and yet ideology is the foundation on which the counterterrorism effort is built on. Everything is pitched in terms of counter ideology, even though ideology is not the prime mover in terms of bringing people into terrorism. That is a mistake. It is not going to be effective in terms of preventing people becoming radicalised. And it diverts attention from other causes which play a role in why people become involved in terrorism.¹⁵¹

Significantly, a 2016 Europol report notes that “[i]n view of th[e] shift away from the religious component in the radicalisation of, especially, young recruits, it may be more accurate to speak of a ‘violent extremist social trend’ rather than using the term ‘radicalisation’”.¹⁵² The Joint Committee on Human Rights has similarly observed in relation to the UK’s counter-extremism strategy that “it is by no means proven or agreed that religious conservatism, in itself, correlates with support for violent jihadism”.¹⁵³

John Horgan, a prominent terrorism expert, has observed that “the idea that radicalization causes terrorism is perhaps the greatest myth alive today in terrorism research ... [First], the overwhelming majority of people who hold radical beliefs do not engage in violence. And second, there is increasing evidence that people who engage in terrorism don’t necessarily hold radical beliefs [I]t’s time to end our preoccupation with radicalization ... Radicalization is not the issue. Terrorism is”.¹⁵⁴

Former CIA officer and psychologist Marc Sageman has similarly observed that “with each new terrorist incident we realize that we are no closer to answering our original question about what leads people to turn to political violence”.¹⁵⁵ He notes that many practitioner-driven programmes are “based on flawed lay understanding of radicalization: misinterpretation of Islam and potential terrorist vulnerability to them But since scientists have not been involved in creating these programs, there has been no built-in control group for comparison in any of them. Comparison of people receiving any intervention (the test group) with people who do not (the control group) is really the only way to estimate the effectiveness of any social intervention. Simply put, in the absence of comparison with any control group, we have no idea whether the counter- or de-radicalization programs work or not”.¹⁵⁶

Similarly, when referred to a recent report in the *New York Times* about the lack of answers to the question of what causes people to become terrorists,¹⁵⁷ Sir David Omand told the Justice Initiative:

In the course of developing the CONTEST strategy, the Security Service undertook (with professional psychological advice) a study (unpublished) of possible pathways to radicalisation based on character studies of those who had come to the attention of law enforcement in connection with terrorist offences and concluded there was no discernible pattern that could be of operational use to separate those who might be vulnerable to radicalisation from those of similar backgrounds who would not be. As the *New York Times* article says, each case has unique characteristics. Profiling was therefore not part of Prevent or the CONTEST strategy generally.¹⁵⁸

The lack of empirical support for the Prevent strategy’s assumption that non-violent extremism leads to violent extremism is problematic because it leads to the targeting of “non-violent” extremists who may not be at any risk of being drawn into

terrorism. This structural flaw is compounded by the Prevent strategy's spawning of a large number of empirically unsupported "indicators" which purport to identify individuals at risk of being drawn into terrorism.

B. Indicators of Vulnerability to Being Drawn into Terrorism

In a recent position statement on counterterrorism and psychiatry, the Royal College of Psychiatrists notes "concerns" about "the variable quality of the evidence underpinning the [Prevent] strategy".¹⁵⁹ It adds: "Predicting very rare events is extremely difficult. No tools have been developed that can reliably identify people who have been radicalised, who are at risk of radicalisation or who are likely to carry out a terrorist act".¹⁶⁰ As noted above, the Prevent strategy rests on the empirically unsupported assumption that non-violent extremism is the precursor to terrorism. In addition, the Prevent strategy purports to identify individuals at risk of being drawn into terrorism (i.e. violent or non-violent extremism) through multiple and overlapping lists of indicators, the empirical basis of which is also unproven. As the case studies below demonstrate, there is a real danger that these "factors" and "indicators" could be applied under Prevent and Channel to target innocent people and children who are nowhere close to committing terrorist acts. Indeed, these indicators exacerbate Prevent's potential for generating human rights violations.

For example, the Channel "Vulnerability Assessment Framework" (VAF), assesses "vulnerability to being drawn into terrorism" based on individual's (i) engagement with a group, cause or ideology (or psychological hooks) which the VAF breaks down into 13 factors: feeling under threat; a need for identity, meaning and belonging; a desire for status; desire for excitement and adventure; need to dominate and control others; susceptibility to indoctrination; desire for political or moral change; opportunistic involvement; family or friends involvement in extremism; being at a transitional time of life; being influenced or controlled by a group; and relevant mental health issues; (ii) intent to cause harm, which the VAF breaks down into six factors: over-identification with a group or ideology; "Them and Us" thinking; dehumanisation of the enemy; attitudes that justify offending; harmful means to an end; harmful objectives; and (iii) capability to cause harm, which VAF breaks down into three factors: individual knowledge, skills and competencies; access to networks, funding or equipment; and criminal capability.¹⁶¹

The total of 22 factors identified in the VAF are known as the Extremism Risk Guidance (ERG) 22+,¹⁶² "an assessment tool" developed by the UK's National Offender Management Service (NOMS) Operational Intervention Services Group and launched

in 2011.¹⁶³ The tool apparently assesses offenders on 22 factors theoretically related to “extremist offending”; the “+” in the title apparently indicates that the model may consider additional factors if they are shown to be relevant to a particular case. The underlying government document relating to the ERG 22+ is not publicly available, but is cited to in other public sources as a document produced by the National Offender Management Service (NOMS).¹⁶⁴

Professor Andrew Silke, a counter-terrorism expert who has advised the Cabinet Office, notes, “ERG is a theoretical model and, as yet, does not have an evidence base demonstrating clear links to future offending”.¹⁶⁵ Indeed, he observes that the authors of the ERG 22+ test themselves highlight that:

The ERG factors are essentially working hypotheses to account for how an individual became engaged and to capture the features of their mind-set, their intentions and their capability for terrorism. None of these factors has a demonstrated link with future offending, so are as yet unproven. As such the ERG cannot predict risk with any certainty, but directs attention to aspects of the individual associated with their offending where intervention may be targeted or proportionate risk management approaches deployed.¹⁶⁶

In these circumstances, it is unclear how these 22+ factors, apparently developed in the context of a prison population by the National Offender Management Service, with no demonstrated link with future offending, can be applied to a general population to assess vulnerability to being drawn into terrorism. Indeed many of the VAF factors--for example, the need for identity, meaning and belonging; a desire for status; and desire for excitement and adventure--are so widely prevalent so as to capture virtually every young person within the net of “vulnerability”. In addition, a UK child and adolescent psychiatrist with knowledge of the VAF said that it had been drawn from very small samples of people, and that it had “very poor inter-rater reliability” i.e., the degree of agreement among those conducting assessments based on the VAF is very low.¹⁶⁷

The Royal College of Psychiatrists, in a recent position statement on counter-terrorism notes:

Data on evaluations of Prevent, as with any initiative requiring public services to alter their practice, must be in the public domain and subjected to peer review and scientific scrutiny. Public policy cannot be based on either no evidence or a lack of transparency about evidence. The evidence underpinning the UK’s Extremism Risk Guidance 22+ (ERG22+; HM Government 2011c), and other data relating to this guidance, should be comprehensively published and readily accessible”.¹⁶⁸

In addition, the Channel Duty Guidance identifies “indicators” of the presence of the 22 factors identified in the VAF. Indicators of engagement with terrorism include, *inter alia*, “spending increasing time in the company of other suspected extremists”; “changing their style of dress or personal appearance to accord with the group”; “day-to-day behaviour becoming increasingly centred around an extremist ideology, group or cause”; or “possession of material or symbols associated with an extremist cause”.¹⁶⁹ Indicators of intention to cause harm include, *inter alia*, “clearly identifying another group as threatening what they stand for and blaming that group for all social or political ills that group for all social or political ills”.¹⁷⁰ Indicators of capability to cause harm include, *inter alia*, having occupational skills that can enable acts of terrorism (such as civil engineering, pharmacology or construction); or having technical expertise that can be deployed (e.g. IT skills, knowledge of chemicals, military training or survival skills).¹⁷¹ Once again, particularly in light of the broad definition of “extremism” employed, these criteria are susceptible to capturing lawful activity wholly unconnected to terrorism in their ambit. The unfortunate reality is that modes of dress or behaviours associated with minority religions are more likely to be considered “extreme”, especially in an environment marked by Islamophobia. The indicator “changing their style of dress or personal appearance to accord with the group” appears to have been applied in two of the case studies to target under Prevent individuals who had started wearing Islamic dress, but had nothing to do with terrorism.¹⁷²

In 2015, the Safeguarding Children Board of the London Borough of Camden published a pamphlet entitled Keeping Children and Young People Safe from Radicalisation and Extremism: Advice for Parents and Carers tells worried parents to call Prevent officials.¹⁷³ In a section entitled “What are signs [of radicalisation] to look out for?”, the pamphlet lists, *inter alia*, showing a mistrust of mainstream media reports and belief in conspiracy theories; and appearing angry about government policies, especially foreign policy.¹⁷⁴ In this context, the risk of targeting under Prevent innocent children who have views critical of the government and the media is evident, as is the risk of infringing on their right to freedom of expression.

Numerous other lists of questionable indicators are also being applied under Prevent, including through the proliferation of trainings being delivered around England, Scotland and Wales. As noted in case study below, the Prevent training that a teacher received in the West Midlands gave teachers a list of indicators of “radicalisation” to watch out for – if the child has a different group of friends, if the child has *strongly held political beliefs*, if he or she changes the way she dresses, or if there is a drop in grades.¹⁷⁵ These indicators could potentially apply to a broad swath of children who have nothing to do with terrorism while running the risk of penalising them for their political views and violating their right to freedom of expression. Many young people go through a period when they change their dress, when they take strong political stands, when they

may be angry at authority. But only certain examples of this behaviour are referred to and questioned by the police. As one interviewee notes, “Muslim kids are not afforded the same opportunity of rebelling as white kids are”.¹⁷⁶

More recently, it has been reported that a police study of 500 Channel cases found that “44% of the individuals involved were assessed as being likely to have vulnerabilities related to mental health or psychological difficulties”.¹⁷⁷ It is unclear whether and how the results of this study will be applied under Prevent. However, experts have warned:

We are too ready to invoke ‘terrorism’ as the cause of most sudden and unprovoked acts of individual or group violence, and simultaneously to propose mental illnesses as the explanation behind such complex behaviours. Not only does this unfairly stigmatise the many millions with mental health problems, perhaps deterring people from seeking help, but it can also stand in the way of the careful analysis that must be undertaken in each case before coming to judgment.¹⁷⁸

C. Statutory Duty Incentives

The Prevent statutory duty, which came into effect for most bodies in England and Wales in July 2015, led to a sharp rise in referrals to the Channel programme. From the start of July 2015 until the end of June 2016, the number of Channel referrals increased by 75% over the preceding year to a total of 4,611 people, a figure that included more than 2,000 children and teenagers.¹⁷⁹ Referrals from schools more than doubled over this period, rising from 1121 from 537 the previous year.¹⁸⁰ Data relating to the number of Prevent Professionals Concerns (PPC) referrals does not appear to be publicly available for Scotland. Scottish government officials told the Justice Initiative that they “are unable to provide statistics, but the referrals to the PPC are very low [and] [t]hey are likely to remain low”.¹⁸¹

The United Kingdom appears to be the only country that imposes a statutory duty to report individuals at risk of being drawn into terrorism. (For more on this, please see the section below on Prevent in international perspective.) Significantly, the statutory duty was imposed by the Counterterrorism and Security Act of 2015, 12 years after Prevent was first adopted. Baroness Elizabeth Manningham-Buller, who was Director General of MI5 when the July 2005 bombings occurred, observed in the context of the parliamentary debate on that Act: “I prefer to believe that a voluntary, optional regime of securing co-operation is preferable to what is proposed in Part 5 [of the Act] ... I have real difficulty in understanding the practicality of requiring an enormous range

of authorities to respond to what is described as the “local threat”, which may after all be covert. How will they judge who is vulnerable? How will they judge who is a non-violent extremist?”¹⁸²

The architect of the original Prevent strategy, Sir David Omand, told the Justice Initiative:

My instinct would have been not to go down the statutory route. Because if you can persuade people of why it benefits everyone to do what you consider best you will get a more positive response than you would if you simply instructed them on what you want them to do. You don’t want to lessen the effort to persuade people this is the right grounds for doing things. And with the statutory duty you could get into issues over conflict with the duty to uphold free speech in universities. Whereas if you rely on a voluntary system, people can use their common sense when something deserves to be drawn to the attention of the authorities.¹⁸³

Sir David added:

“You have to be very careful. If, for example, you impose a legal duty on teachers to report signs of radical thinking amongst their students then teachers may feel obliged to report to the authorities, and thus start an official process over every minor adolescent rebellious outburst, matters that really could be better handled by them on the spot”.¹⁸⁴

The sharp rise in referrals to the Channel programme since the statutory duty took effect, particularly from schools, appears to reflect this dynamic. The statutory duty creates a system in which all of the incentives are stacked in favour of referring individuals under Prevent and Channel. The Prevent duty has added weight because it is a legal obligation for specified authorities. Health and education bodies are monitored and can face adverse consequences for non-compliance with Prevent.¹⁸⁵ On the other hand, there do not seem to be any adverse consequences for a person who wrongly refers someone else to Prevent or Channel.

Significantly, in March 2016, the National Union of Teachers, the largest teachers’ union in England and Wales, called for the Prevent duty to be withdrawn and replaced with new guidance for schools.¹⁸⁶ Alex Kenny, a national executive member of the National Union of Teachers (NUT), and chair of its education and equalities committee, told the Justice Initiative that Prevent is “leading to cases of overreaction by schools because of the way schools are judged. We have a very top down school inspection system which schools are afraid of, and where Prevent is monitored by this inspection authority. Schools are afraid of being seen to be doing the wrong thing. They

are afraid of getting caught out by not reporting something that further down the line it may turn out they should have reported. Small things, rather than being dealt with by the school, are being reported to the police”.¹⁸⁷

A mental health professional and academic in a UK university said that after attending a Prevent training, some of her colleagues told her they thought that the Prevent strategy was “dodgy” but that they were not allowed to question it because it was a statutory duty.¹⁸⁸ She added that the Prevent training “was all presented in the context of keeping people safe, and that silences people” because if they raise questions about Prevent, the response is “don’t you want to be safe”? She observed: “It worries me because I feel that as academics we are also silencing each other in the same way. This is about keeping us safe and it’s a statutory obligation so we should just shut up and do it. We are slipping into a regime ... where we are all handmaidens to state, and we are just sleep walking into this, and afraid to question it because if you do you come under the radar”.¹⁸⁹ The statutory duty creates a system where the incentive for officials is to refer, because the cost of not doing so would be borne by them whereas the cost of a referral is borne by the referred individual.

Under these circumstances, individuals are likely to err on the side of referring under Prevent. The interviews and case studies in this report confirm that the Prevent statutory duty creates a tendency to rush to refer people rather than address the issue at hand in a manner that comports with common sense.¹⁹⁰

Finally, there are concerns that the Prevent duty privileges countering terrorism over other kinds of crimes. Robert Beckley, a retired police officer who became the police lead for Prevent in 2004, told the Justice Initiative that he was concerned about the Prevent duty’s “singular nature”. He observed: “As a public servant, one should be looking out for crime and criminality as a whole, of which terrorism is just one part. Bringing out just terrorism feels crude and clunky and puts terrorism on a pedestal. Terrorism is always a horrible crime, but it is still just a crime. Child abuse is also a horrendous crime”. He added: “There is a real danger of stigmatisation [on account of the statutory duty], because state agents of all types could be seen as being marshalled to inform on people rather than protect the community”.¹⁹¹

D. Training Problems

In 2015, over 400,000 frontline staff received Prevent training, more than double the number from the previous year”.¹⁹² As a threshold matter, there are serious questions about whether training that is based on the empirically unsupportable claim of non-violent “extremism” being the precursor to terrorism and questionable “indicators” of “vulnerability to being drawn into terrorism” could possibly be beneficial. As noted

above, there are numerous flawed sets of “indicators” that are being used under Prevent to spot and report to Channel individuals at “risk of being drawn into terrorism”. Many Prevent trainings employ these indicators, and particularly in the absence of meaningful regulation, exacerbate the risk of erroneous and discriminatory referrals.

Alex Kenny, a national executive member of the National Union of Teachers (NUT), and chair of its education and equalities committee, told the Justice Initiative there were “significant concerns” about Prevent training.¹⁹³ He said: “there is a whole industry now grown up in Prevent training, it’s completely unaccredited and unregulated ... and it’s very varied in content and very varied in quality – that is exacerbating the confusion [around Prevent]”. He noted that some of the training was “fine”, but in other instances, trainers were including “deciding to learn Arabic” or “a girl deciding to wear a headscarf where previously she might not have done”, as signs of radicalisation.¹⁹⁴ Mr. Kenny said: “In that context, you really are creating lots of problems. This does seem to be targeting Muslim students despite what the government says being about it targeting all kinds of organisations.... It is largely Muslims that are being reported”.¹⁹⁵

A significant number of health and education professionals interviewed for this report said that the Prevent training they received was wholly unsatisfactory and, in some instances, counterproductive. In many instances, health and education professionals experienced their training as promoting anti-Muslim bias. A professional who works in a London charity that provides vocational education and child care training described a Prevent training delivered by her local authority in June or July 2015 as “focused mainly on Muslims”. She added: “the training materials only had images of Muslim women wearing hijab and men with long beards”. She said the “images of extremism were based on ISIS imagery only”. The training gave “just one view of Islam” and made “people look at Muslims in a stereotypical way”. “Such exclusive depiction of only one form of extremism”, she said, “has fed anti-Muslim sentiment and led to attacks in the tube on women wearing hijab”.¹⁹⁶

A consultant in adult psychiatry working with the NHS in Manchester who received his Prevent training in February 2015 told the Justice Initiative that it was “quite clear” that the trainer didn’t seem confident or knowledgeable about it; and “didn’t seem to be wanting to deliver it”.¹⁹⁷ He added: “It was very vague stuff, she described what the Prevent duty was – she read out from a document – used the term ‘being drawn into terrorism’. It was very basic. Changing behaviour, changing patterns of speaking, becoming more religious, withdrawing from family, people isolating themselves – these were identified as possible indicators of being drawn into terrorism”.¹⁹⁸ He said that the Prevent training was being done by “people who don’t have expertise They deliver the training so that the hospital trust can check the box saying the job is done”.¹⁹⁹ Similarly, an assistant head teacher at a London primary school told the Justice Initiative that the Prevent training she attended in January 2016 “did not add anything”; it was “a tick-box

exercise” that was not “thorough”. In any event, she didn’t think “a single person knows what to look for, how to identify signs of radicalisation”.²⁰⁰

In July 2016, Parliament’s Home Affairs Select Committee expressed concern about a “lack of sufficient and appropriate training in an area that is complex and unfamiliar to many education and other professionals, compounded by a lack of clarity about what is required of them”.²⁰¹ In addition, a recent Ofsted report into further education providers’ compliance with the Prevent duty noted that “staff training was ineffective in a third of the providers” surveyed.²⁰² The report found that “[t]oo many providers adopted a ‘one-size-fits-all’ approach” and relied on online training that “was often too superficial to help staff understand the nature of specific risks in the communities that they serve”.²⁰³

Notwithstanding the flaws in the content of Prevent training, it has been reported that it is being extended to entities well beyond the “specified authorities” specified by the CTSA. Indeed, taxi drivers have been receiving Prevent training on the theory that they have “a unique reach into society”.²⁰⁴ The training provided is on “how to spot the signs of radicalisation”.²⁰⁵ The spread of Prevent training beyond the “specified authorities” contemplated by the CTSA further exacerbates the risk of spreading incorrect notions of who is “vulnerable to being drawn into terrorism” as well as erroneous referrals to Prevent.

E. Prevent vs. Safeguarding

The government often describes Prevent as a form of safeguarding (a statutory term that denotes promotion of welfare and protection from harm).²⁰⁶ The Revised Prevent Duty Guidance asserts that “preventing someone from being drawn into terrorism is substantially comparable to safeguarding in other areas, including child abuse or domestic violence”.²⁰⁷ However, a closer examination of Prevent and safeguarding reveals that they have materially different aims, particularly with respect to the treatment of children.

The 2011 Prevent strategy states that “Prevent is part of our counter-terrorism strategy, CONTEST. Its aim is to stop people becoming terrorists or supporting terrorism”. This goal is reiterated in the Revised Prevent Duty Guidance, which states that “[t]he aim of the Prevent strategy is to reduce the threat to the UK from terrorism by stopping people becoming terrorists or supporting terrorism”.²⁰⁸

Consistent with this objective, as noted above, the Channel programme is led by the police. The Channel guidance itself acknowledges that “the Channel provisions in Chapter 2 of Part 5 of the CTSA are counter-terrorism measures (since their ultimate objective is to prevent terrorism)” while adding that “the way in which Channel will be delivered may often overlap with the implementation of the wider safeguarding

duty, especially where vulnerabilities have been identified that require intervention from social services, or where the individual is already known to social services”.²⁰⁹

Safeguarding obligations with respect to children have long preceded the Prevent duty. See section below on relevant domestic legal provisions. In contrast to the Prevent strategy, for which the primary objective is preventing terrorism,²¹⁰ the primary objective of the duty to safeguard children under domestic legislation is the welfare of the child.²¹¹ This reflects the obligation under article 3(1) of the Convention on the Rights of the Child to make the best interests of the child a primary consideration in all actions relating to children.²¹² Accordingly, while compliance with safeguarding obligations would require the best interests of the child to be a primary consideration in any referral to the police-led Channel programme, the Channel duty guidance does not specify that as a mandatory or even a relevant consideration.

While in some circumstances preventing a child from being drawn into terrorism may coincide with safeguarding aims, there are serious questions about potential conflicts in certain circumstances between the Prevent strategy and the safeguarding of children. For example, the Prevent strategy may target a child under Prevent for non-violent “extremist” views in opposition to “British values”, but particularly where this exposes the child to lasting trauma, this may be inconsistent with safeguarding’s primary consideration of serving the best interests of the child. The requirement to refer to a police-led process deprives officials of the ability to balance the risks and the appropriate response, and to calibrate their actions to ensure that the best interests of the child are respected. Notably, all of the case studies documented below relating to children appear to be examples of Prevent being applied in a manner that does not give primary consideration to the best interest of those children.

Significantly, Parliament’s Joint Committee on Human Rights (JCHR) recently observed in the context of counter-extremism measures:

Everyone can understand the definition of safeguarding when it comes to child neglect, physical abuse and sexual abuse. In relation to extremism, however, there is no shared consensus or definition as to what children would be safeguarded from. The difficulty around these issues should lead the Government to tread with great care, for fear of making the situation worse, not better.²¹³

This reasoning applies to the Prevent strategy, because, as the JCHR recognised, “the Prevent Strategy (and the related Duty) are explicitly designed to counter extremism, not just terrorism, and are used in schools and universities as well as other institutions”.²¹⁴

More generally, by securitising relationships between teachers and students and stifling debate, Prevent risks undermining schools’ ability to keep children safe. Alex Kenny, a national executive member of the National Union of Teachers (NUT), and

chair of its education and equalities committee, told the Justice Initiative that “the NUT believes fundamentally that schools and teachers do have a duty and obligation to keep children safe”, but that Prevent is a “blunt instrument that lacks clarity and is actually hindering schools” from doing the important work of keeping children safe. He added: “The government say to us that they want schools to be places where debate happens”, but “the reality is that by imposing this as a separate duty on schools, by making Prevent a specific thing around terrorism and extremism, it’s leading to a situation where that debate is being stifled”. He added: “that’s got to be worrying if a child can’t speak to teachers – they will look somewhere else to have those discussions”. He observed: “At the heart of this is the relationship between teachers and students and schools and students. If you break that trust, if students feel what they say is being monitored, you are shifting the boundaries of trust and confidence”.²¹⁵

A concrete example of how Prevent can interfere with efforts to safeguard students in schools was provided by a secondary school teacher from East London. He told the Justice Initiative that a student he was close with told him that he and his friends had grown concerned about a fellow student who had been isolating himself, playing “Call of Duty” (a first person shooter videogame) and viewing Daesh propaganda online. The fellow student ultimately ended up “fine”, but during the time that his friends were concerned about him, they were unable to talk with any teachers about their concerns because they were afraid that the teachers would report their friend under Prevent. This particular school teacher learned of this case after the fact in part because his students knew he was critical of Prevent and therefore trusted him.²¹⁶

F. Risk of Confidentiality Breaches in the Health Sector

The Prevent duty risks breaching health bodies’ duty of confidentiality towards their patients and undermining the relationship of health professionals with their patients. The common law duty of confidentiality, set out in the NHS Confidentiality Code of Practice, is founded on the principle that information confided should not be used or disclosed further, except as originally understood by the confider, or with their subsequent permission.²¹⁷ In “exceptional circumstances”, confidentiality can be breached “in the public interest”, in order to “prevent and support detection, investigation and punishment of *serious crime and/or to prevent abuse or serious harm* to others where they judge, on a case by case basis, that the public good that would be achieved by the disclosure outweighs both the obligation of confidentiality to the individual patient concerned and the broader public interest in the provision of a confidential service”.²¹⁸

The General Medical Council (GMC) has published Confidentiality Guidance to inform healthcare professionals’ approach to their confidentiality obligations. The

GMC Guidance observes that “[c]onfidentiality is central to trust between doctors and patients” and “[t]here is a clear public good in having a confidential medical service”.²¹⁹ However, the duty of confidentiality is “not absolute”.²²⁰ Personal information shared in a confidential setting may be disclosed “if it is justified in the public interest” without patients’ consent, and in exceptional cases where patients have withheld consent if the benefits to an individual or to society of the disclosure outweigh both the public and the patient’s interest in keeping the information confidential”.²²¹ For example, disclosure of personal information about a patient without consent may be justified in the public interest “if failure to disclose may expose others to a risk of death or serious harm”.²²² Such a situation might arise, for example, if “a disclosure would be likely to assist in the prevention, detection or prosecution of serious crime, especially crimes against the person”.²²³

The standard for disclosure of confidential information under Prevent appears to be much lower than that warranted by the common law duty of confidentiality and the GMC guidance. Section 26 of the CTSA imposes on health specified authorities a duty of “due regard to the need to prevent people from being drawn into terrorism”.²²⁴ The Revised Prevent Duty Guidance makes clear that in relation to the health sector, “staff ... are expected to recognise and refer those at risk of being drawn into terrorism to the Prevent lead who may make a referral to the Channel programme”.²²⁵ Moreover, the guidance adds that “[b]eing drawn into terrorism includes not just violent extremism but also non-violent extremism, which can create an atmosphere conducive to terrorism and can popularise views which terrorists exploit”.²²⁶

In a recent position statement on counterterrorism and psychiatry, the Royal College of Psychiatrists noted “concerns about the implementation of Prevent” including “potential conflicts with the duties of a doctor as defined by the GMC”.²²⁷ Sir Simon Wessely, chair of the Royal College of Psychiatrists, told the Justice Initiative: “We are also aware of possible ambiguities surrounding current legislation, which we suspect will sooner or later need to be resolved in the Courts”.²²⁸ The Prevent guidance observes that “[i]t is important that staff understand how to balance patient confidentiality with the [Prevent] duty” and that they get relevant advice and support in relation to this issue.²²⁹ But requiring a medical professional to report (under Prevent) to the police-led Channel programme an individual who is at “risk of being drawn into terrorism”, including “non-violent extremism”, appears to be a much lower standard than requiring the health professional to report (under the common law duty and GMC guidance) the individual only when failure to disclose confidential information would expose others to a risk of death or serious harm. Indeed, Prevent and Channel are expressly designed to intervene at the “pre-criminal” stage, not when individuals are about to commit a terrorist or other crime that places others at risk of death or serious harm.²³⁰ Accordingly, there is a material risk that compliance with the Prevent duty will lead to breaches of confidentiality obligations

in the health sector. In addition, there is a risk that this aspect of Prevent could potentially violate the right to private life under article 8 of the European Convention on Human Rights.²³¹ See section below on applicable international human rights standards.

Dr. Clare Gerada, a General Practitioner (GP) since 1992 and a former chair of the Council of the Royal College of General Practitioners, told the Justice Initiative that the Prevent strategy presents a conflict with doctors' duty of confidentiality towards their patients because they have to report certain patients under the strategy. She said she cannot assure her patients of confidentiality anymore. She added: "I am fearful of this idea that we as doctors have a higher standard of duty than the man on the Clapham omnibus. I feel that we have been corrupted because we are abusing our position as doctors".²³²

Dr. Gerada added that as a GP she was "very concerned about Prevent". She related an incident in which she was engaged as a GP with Muslim parents who had concerns about their children's schooling. She was interested to ask the father how he was coping, but was afraid to ask him questions about himself because she was afraid he would mistrust her. She was also afraid that if he said something like "I can't bear the British government", she would have to report him. She told the Justice Initiative: "Prevent completely stopped me in my tracks. It completely changed my relationship with my patients. I am an experienced GP unable to ask my patient questions".²³³

A GP from Manchester similarly observed that Prevent risks a "breakdown in the doctor-patient relationship" by deterring patients from telling their doctors things that are relevant for health care. She added that if her patients could not speak with her "openly" because they were "concerned about getting referred" under Prevent, it would become "very difficult" for her to treat them properly because she would not have access to all relevant information.²³⁴ In addition, a London psychologist observed that among the Muslim communities she works with, "this focus on radicalisation is causing mental health problems, especially among young people, because their religion and identity [is] being pathologised, and this [is] causing depression".²³⁵

Numerous psychologists also expressed concerns that Prevent could lead to a breach of confidentiality and undermine the therapeutic relationship. Clinical psychologist, A, with the NHS in London told the Justice Initiative:

One of the most important principles in our work is confidentiality – the absolute bedrock of our work is trust. When you first meet a client, you would talk with them confidentiality and tell them that there are really limited circumstances when you would break it. You would guarantee them privacy except when there was a serious risk of harm to them or someone else. That promotes trust.... People come to us to talk about the most private things about in their lives – things they are ashamed about, scared about. They put their trust in us. Even if we break confidentiality, we tell them we are going to do it unless it would put someone at risk.

The transparency is really important for building up the therapeutic relationship, which is the main vehicle for change in a person's life.

She elaborated on the dangers that Prevent posed with respect to the therapeutic relationship and confidentiality:

Where Prevent interferes with [the therapeutic relationship] is that it may lead people (clinical psychologists) to not have unconditional positive regard, particularly where it intersects with prejudice that is there already and lack of knowledge and understanding. So if a patient starts talking about the political situation for fellow Muslims, or Syria, or despair about drone attacks, or how Palestinians are treated ... and you've been told it's your duty to detect potential radicals and report them, that may influence how you hear that person's discussion. There is also the risk that you will share information about them without consulting with the patients first.... And I think that is ethically hugely problematic.²³⁶

Psychologist A said she knew of a number of cases in which other psychologists had shared confidential information about their patients without informing their patients or obtaining their consent. Another psychologist, B, told her about a case somewhere in the Midlands. The case concerned a young man who was diagnosed with schizophrenia who had started talking about his religion and was also becoming more religious. Psychologist B and her team reported the case to Prevent. As far as psychologist A knew, the young man presented no threat of violence, and had made no threats to anyone, but the police showed up at his doorstep.²³⁷ Psychologist A also learned from another psychologist, C, that she was working with a person with learning disabilities. Psychologist C was worried about her patient and was advised to call Prevent. The Prevent officers fed C questions to ask her patient and also asked her to feed back the patient's responses to the officers without disclosing to the patient that this information was being relayed. Psychologist C complied with the Prevent officers' requests.²³⁸

Psychologist A added:

There is a lot of fear within us as workers with respect to Prevent... When I have tried to raise concerns with my trust, I was told this is just like managing risk. I said, no its not, because we do act on violence to others, but this is something else – we are being encouraged to police thought crimes and political opinions. The Prevent programme tries to make a pretence about not being aimed solely at Muslims, so it talks about the far right, but really, the vast majority of people reported to it are Muslims.²³⁹

IV. Applicable International Human Rights Standards

As described above, the current Prevent strategy suffers from certain structural flaws that creates the risk of human rights violations in the application of the strategy. This section describes in further detail the specific human rights violations that arise from these structural flaws.

The United Kingdom is bound by international human rights law. The European Convention of Human Rights (ECHR)²⁴⁰ is incorporated into domestic law by the Human Rights Act of 1998. The United Kingdom is also bound by other international legal instruments such as the International Covenant on Civil and Political Rights (ICCPR)²⁴¹, International Covenant on Economic, Social, and Cultural Rights (ICESR)²⁴² and the United Nations Convention on the Rights of the Child (CRC), article 1 of which defines a ‘child’ as a person below the age of 18, unless the laws of a particular country set the legal age for adulthood younger.²⁴³

All of the rights listed below are relevant for an assessment of Prevent under international human rights law. They apply to children under generally applicable treaties as well as under analogous provisions in the CRC. Importantly, in recognition of the special status of children, article 3(1) of the Convention on the Rights of the Child provides that “[i]n all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration”.²⁴⁴ The U.K. Supreme Court has recognised that this is a binding international obligation in international law that has been translated into domestic law.²⁴⁵

A. Right against Discrimination

The overly broad definition of “extremism” under the Prevent strategy creates a serious risk of discrimination, particularly against Muslims.

Article 14 of the European Convention states that “[t]he enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.²⁴⁶ The ICCPR²⁴⁷, ICESCR²⁴⁸ and CRC²⁴⁹ contain similar provisions.

The European Court of Human Rights has recognised that discrimination means treating differently, “based on an identifiable characteristic”, without an objective and reasonable justification, persons in relevantly similar situations.²⁵⁰ The Court has observed that indirect discrimination “does not necessarily require a discriminatory intent”, and occurs where “a difference in treatment ... take[s] the form of disproportionately prejudicial effects of a general policy or measure which, though couched in neutral terms, discriminates against a group”.²⁵¹

As noted above, Prevent requires frontline professionals to identify and report to Channel individuals at risk of being drawn into terrorism, including violent and non-violent extremism, where “extremism” is defined in overly broad terms “as vocal or active opposition to fundamental British values”. Current and former police leads for Prevent recognise that currently, Prevent operates in a climate marked by Islamophobia, in a nation that has just voted for Brexit, and where immigration is an issue.²⁵² Significantly, between July 2015 and July 2016, Islamophobic crime in Britain rose by 94 percent.²⁵³ Particularly in this climate of anti-Muslim sentiment, there is a serious risk that the mandatory Prevent statutory duty could lead to the discriminatory identification and reporting of Muslims who are in no danger of being drawn to terrorism. The police lead for Prevent, Simon Cole QPM, told the Justice Initiative that he does not see conscious bias in the referrals under Prevent, but acknowledges there may be unconscious bias, and that there is always room for additional training to conduct unbiased risk assessments under Prevent²⁵⁴. Significantly, the case studies described below raise serious questions about whether individuals targeted under Prevent would have been targeted in this manner had they not been Muslim.

B. Right to Freedom of Expression

The overly broad definition of “extremism” under the Prevent strategy creates a serious risk of individuals being targeted under Prevent for lawful speech.

Article 10 of the European Convention provides, in relevant part, that “Everyone has the right to freedom of expression”.²⁵⁵ Article 19 of the ICCPR similarly provides

that “Everyone shall have the right to freedom of expression”.²⁵⁶ Article 13 of the CRC establishes the right of children to freedom of expression.²⁵⁷

It is clearly established that freedom of expression is of critical significance for democracy and for the full development of a person.²⁵⁸ The European Court of Human Rights has recognised that article 10 “is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’. This means, amongst other things, that every ‘formality’, ‘condition’, ‘restriction’ or ‘penalty’ imposed in this sphere must be proportionate to the legitimate aim pursued”.²⁵⁹ Moreover, the plain language of article 10 protects not only the right to freedom of expression but also the right to receive information.

In determining whether there has been a violation of article 10, the Court first examines whether there has been an “interference” with freedom of expression under article 10 (1). If the Court finds the measure in question is an interference, it asks whether the interference can be justified under article 10(2). If the interference (i) is “prescribed by law”, (i.e., state authorities can identify the basis in national law for the measure and the law is adequately accessible and foreseeable and formulated with sufficient precision to enable the citizen to regulate his or her conduct); (ii) pursues a legitimate aim listed under article 10(2); *and* (iii) is “necessary in a democratic society” (i.e., there is a “pressing social need” for the measure and the measure is proportionate to the legitimate aims being pursued),²⁶⁰ it is justified. If the interference does not meet all three of the aforementioned criteria, it violates article 10.

The Court has given a wide interpretation to the provisions of article 10(1) and has taken the view that in principle most forms and means of expression and speech are protected. The Court has also recognised the “chilling effect” of penalties on freedom of expression that fosters self-censorship by deterring people from exercising engaging in free speech.²⁶¹ Finally, the European Court has recognised a positive obligation under article 10 to protect freedom of expression from threats stemming from private persons.²⁶²

C. Right to Freedom of Thought, Conscience, and Religion

Article 9 of the European Convention provides that: “Everyone has the right to freedom of thought, conscience and religion”.²⁶³ The principles of freedom of thought, conscience and religion are also enshrined in article 18 of the ICCPR and article 14 of the CRC for children.

The European Court has recognised that freedom of thought, conscience and religion, is one of the foundations of a “democratic society” within the meaning of

the European Convention.²⁶⁴ “It is, in its religious dimension, one of the most vital elements that go to make up the identity of believers and their conception of life, but it is also a precious asset for atheists, agnostics, sceptics and the unconcerned. The pluralism indissociable from a democratic society, which has been dearly won over the centuries, depends on it”.²⁶⁵

While religious freedom is primarily a matter of individual conscience, it also implies, *inter alia*, freedom to “manifest [one’s] religion” alone and in private or in community with others, in public and within the circle of those whose faith one shares.²⁶⁶ Furthermore, while article 9 of the Convention protects a person’s private sphere of conscience it does not encompass every public conduct generated by that conscience. Accordingly, it does not allow general laws to be broken.²⁶⁷

Like freedom of expression, under article 9(2), any interference with the exercise of the right to freedom of thought, conscience or religion must be (i) prescribed by law (i.e. adequately accessible and foreseeable and formulated with sufficient precision to enable the citizen to regulate his or her conduct); (ii) directed at a legitimate aim listed in article 9(2); and (iii) “necessary in a democratic society” (i.e. it must proportionately respond to a pressing need).²⁶⁸

The overly broad definition of “extremism” in combination with the anti-Muslim sentiment prevailing in the UK and empirically unsupported “indicators” of vulnerability to being drawn into terrorism creates a risk of individuals being targeted under Prevent for showing increased religiosity. Two of the case studies below provide examples of how this risk may manifest.²⁶⁹

D. Right to Private and Family Life

Prevent’s requirement that frontline professionals report to Channel individuals at risk of being drawn into terrorism (including violent and non-violent “extremism”) creates a serious risk of violations of the right to privacy.

Article 8 of the European Convention protects the right to respect for his private and family life, his home and his correspondence”.²⁷⁰ Article 7 of the ICCPR²⁷¹ and article 16 of the CRC are similar provisions.²⁷² In addition, the EU Data Protection Directive 95/45/EC²⁷³, implemented into domestic UK law by the Data Protection Act of 1998 (described below), gives substance to the right to privacy.²⁷⁴

The European Court has noted that the concept of “private life” is a “broad term not susceptible to exhaustive definition”.²⁷⁵ It covers the “physical and psychological integrity” of a person and “can therefore embrace multiple aspects of the person’s physical and social identity”.²⁷⁶ The Court has also recognised that article 8 engages the State’s positive obligations to ensure effective respect for the applicant’s private life, in

particular his or her right to respect for his reputation.²⁷⁷ However, “for article 8 to come into play, the attack on ... personal honour and reputation must attain a certain level of gravity and in a manner causing prejudice to the personal enjoyment of the right to respect for his or her private life”.²⁷⁸

The processing of personal data may constitute an interference with the right to respect for private life of the data subject. However, the right to respect for private life is a qualified right. Under European Court jurisprudence, an interference does not violate this right if it (i) is in accordance with the law (i.e., based on a provision of domestic law that is accessible to the person concerned and foreseeable as to its effects); (ii) pursues a legitimate aim enumerated in art. 8(2); and (iii) is necessary in a democratic society (i.e. the interference corresponds to a pressing social need and, in particular, is proportionate to the legitimate aim pursued).²⁷⁹

In addition, the Court has recognised with respect to article 8(1) that states have positive obligations that require them to act so as to allow the effective enjoyment of article 8 rights.²⁸⁰ The European Court has emphasised that “the protection of personal data is of fundamental importance to a person’s enjoyment of his or her right to respect for private and family life, as guaranteed by article 8 of the Convention. The domestic law must afford appropriate safeguards to prevent any such use of personal data as may be inconsistent with the guarantees of this article”.²⁸¹

The sharing of personal data – including medical data--by a State agency has been found to violate the right to respect for private life. The European Court has recognised that:

[T]he protection of personal data, not least medical data, is of fundamental importance to a person’s enjoyment of the right to respect for his or her private life as guaranteed by article 8 of the Convention. Respecting the confidentiality of health data is a vital principle in the legal systems of all the Contracting Parties to the Convention. It is crucial not only to respect the sense of privacy of a patient but also to preserve confidence in the medical profession and in the health services in general”.²⁸²

In addition, the European Court has recognised that “information about personal religious and philosophical conviction concerns some of the most intimate aspects of private life” such that imposing an obligation on parents to disclose detailed information to the school authorities about their religious and philosophical convictions may constitute a violation of article 8 of the Convention and possibly also of article 9.²⁸³

Finally, article 8 protects the right to enjoy family relationships without interference from government. Under article 8(2), any interference with family life such as taking a child into care or restricting contact between parents and their children, must

be in accordance with law, pursue a legitimate aim and be necessary in a democratic society.²⁸⁴

E. Right to Education

Prevent's overly broad definition of "extremism" when applied in the education sector risks targeting and/or reporting students for innocent comments made in the context of study, thereby implicating the right to education.

Article 2 of Protocol 1 to the European Convention provides: "No person shall be denied the right to education. In the exercise of any functions which it assumes in relation to education and to teaching, the State shall respect the right of parents to ensure such education and teaching in conformity with their own religious and philosophical convictions".²⁸⁵

Article 13 of the ICESCR and article 28 of the CRC also recognise the right to education. General Comment No. 13 of the United Nations Committee on Economic, Social and Cultural Rights (the body in charge of monitoring the implementation of the ICESCR) states that "education is both a human right in itself and an indispensable means of realizing other human rights".

The European Court has held that article 2 of Protocol 1 does provide a right of access to educational institutions.²⁸⁶ While the right may be regulated by the state, "such regulation must never injure the substance of the right to education nor conflict with other rights enshrined in the Convention".²⁸⁷ Restrictions are permissible if they are "foreseeable for those concerned and pursue a legitimate aim" and if there is a "reasonable relationship of proportionality between the means employed and the aim sought to be achieved".²⁸⁸

Finally, the European Court of Human Rights has held that it is sometimes necessary, if the parents' philosophical convictions are to be respected, for pupils to have the possibility of being exempted from certain classes.²⁸⁹

V. Relevant Domestic Legal Provisions

A number of domestic legal provisions are relevant for assessing the current Prevent legal strategy. As noted above, while authorities are obliged to follow clear requirements in the Prevent Duty Guidance unless there is good reason to depart from it, the guidance cannot authorise a failure to comply with other statutory duties. Other relevant legal obligations on UK health and education described in further detail below include: (A) Statutory duties arising under the Human Rights Act 1998; (B) Statutory Duties arising under the Equality Act 2010; (C) Statutory duties arising under the Data Protection Act 1998; (D) Duties of free speech under the Education Acts; and (E) Safeguarding duties. In addition, section F describes terrorism-related offences which are relevant for assessing the “gap” that Prevent purports to fill.

A. Human Rights Act

Section 6 of the Human Rights Act 1998 imposes on public authorities the obligation to act compatibly with the rights enshrined in the European Convention on Human Rights. This includes articles 2, 8, 9, 10, 11 and 14 of the Convention that are described in the previous section. Accordingly, while discharging their Prevent duty, public authorities remain subject to section 6 of the Human Rights Act and are prohibited from violating rights protected under the European Convention.

B. Equality Act

The Equality Act 2010 prohibits discrimination in the exercise of public functions on the basis of specified protected characteristics, including race, religion or belief,²⁹⁰ as well as discrimination in education²⁹¹ and work.²⁹² It also prohibits conduct that amounts to harassment, namely unwanted conduct related to a relevant protected characteristic that violates a person's dignity or creates a degrading, humiliating, or offensive environment.²⁹³

Section 149 of the Equality Act 2010 sets out the Public Sector Equality Duty (PSED), pursuant to which public authorities (which, by Schedule 19 of the Act, includes health bodies and educational establishments) must have due regard to the need to eliminate discrimination, harassment and victimisation; advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it; and foster good relations between persons who share a relevant protected characteristic and those who do not share it.

C. Data Protection Act

Since referrals under Prevent including to Channel Panels require the sharing of sensitive information, the obligations under the Data Protection Act 1998 (DPA) are relevant. The DPA protects the processing or disclosure of personal data and sensitive personal data, the latter of which is (by section 2 DPA) data consisting of information as to, among other things, a person's political opinions, religious beliefs or other beliefs of a similar nature. Information included in a referral to Prevent/Channel entities is likely in practice to frequently include such sensitive personal data.

The processing of personal or sensitive personal data is only lawful pursuant to the DPA if certain criteria are met. Schedule 3 of the DPA sets out the conditions for processing sensitive personal data. In so far as is relevant to health and education bodies in the context of Prevent, either the data subject must have given explicit consent; or processing must be necessary for the purposes of exercising or performing any right or obligation conferred or imposed by law in relation to employment; or processing is necessary to protect the vital interests of the data subject or another person where consent cannot reasonably be obtained or has been unreasonably withheld; or the personal data has been made public by the data subject.

In respect of processing of personal data which does not amount to sensitive personal data, Schedule 2 applies, pursuant to which processing is lawful if it is necessary to comply with a legal obligation on the data controller; is necessary to protect the vital interests of the data subject; or is necessary for the purposes of legitimate interests

pursued by the data controller or by the third party to whom the data is disclosed, except where it is unwarranted in any particular case by reason of prejudice to the rights and freedoms or legitimate interests of the data subject.

Section 38(4) of the CTSA sets out that compliance with the Prevent and co-operation duties does not require or authorise disclosures that would breach the DPA. The Channel guidance reiterates that “the duty to co-operate [with Panels] extends as far as is compatible with the partner’s legal responsibilities in respect of their functions; compliance with the duty does not require or authorise the making of a disclosure that would contravene the Data Protection Act 1998 or the disclosure of any sensitive information”.²⁹⁴ (“Sensitive” in this context has a different meaning from in the DPA).²⁹⁵

Whether breaches of the DPA in fact arise will in many cases be a fact-specific matter in a particular instance in which personal data is, for example, shared between specified authorities and Prevent/Channel entities. Systemic issues may also arise, such as where an institution maintains a policy or practice that requires or provides for sharing of personal or sensitive personal information in circumstances that do not meet the requirements of Schedules 2 and 3.

The DPA imposes an absolute prohibition on processing personal data and sensitive personal data when the relevant conditions are not met. Where, therefore, a referral would be made to Prevent and/or a Channel panel but none of the conditions that would make sharing the data lawful under the DPA are satisfied, the data cannot be shared, even if satisfying the Prevent duty would suggest a referral should be made. It is not clear, however, that safeguards are in place to ensure that specified authorities know how and when disclosures in pursuit of the Prevent duty are permissible under the DPA.²⁹⁶

D. Free Speech Duty for Education Bodies

Alongside the general safeguarding and statutory duties, educational institutions are subject to a number of specific statutory duties. Section 43 of the Education (No 2) Act 1986 provides in respect of most higher and further education institutions that:

- (1) Every individual and body of persons concerned in the government of any establishment to which this section applies shall take such steps as are reasonably practicable to ensure that freedom of speech within the law is secured for members, student and employees of the establishment and for visiting speakers.
- (2) The duty imposed by subsection (1) above includes (in particular) the duty to ensure, so far as reasonably practicable, that the use of any premises of the establishment is not denied to any individual or body of persons on any

ground connected with – (a) the beliefs or views of that individual or any member of that body; or (b) the policy or objectives of that body.

There is clear potential for conflict between this duty and aspects of the Prevent statutory guidance for higher and further education, such as the guidance on external speaker events. This requires consideration of the views likely to be expressed by external speakers and, where these constitute “*extremist views that risk drawing people into terrorism or are shared by terrorist groups*”, the event should not be allowed to proceed except where the institution is “*entirely convinced that such risk can be fully mitigated without cancellation of the event*”²⁹⁷

Such an approach is likely to entail denying use of premises on the basis of beliefs, views, policies or objectives of an individual or body, which are lawful (albeit deemed extremist in accordance with Prevent’s broad definition of extremism). A literal application of the approach in the guidance (requiring cancellation unless full mitigation of any risk however small can be achieved) may also constitute a disproportionate interference with free speech contrary to ECHR article 10 so as to be unlawful pursuant to section 6 of the Human Rights Act 1998.

In theory, to the extent that the Prevent statutory guidance conflicts with existing statutory duties (such as under section 43), the latter take precedence. This is reinforced by the provision in section 31 of the CTSA requiring that, in discharging the Prevent duty, further and higher education bodies must “have particular regard to the duty/need to ensure freedom of speech” (and also “must have particular regard to the importance of academic freedom”). The concern nevertheless remains that prescriptive aspects of the statutory guidance, such as on preventing perceived extremist speakers from attending events, may encourage institutions to act in breach of their binding legal duties notwithstanding the clear Parliamentary intention behind section 31 CTSA.

Section 202(2) of the Education Reform Act 1988 places an obligation on universities to “have regard [in the exercise of their functions] to the need to ensure that academic staff have the freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges they may have at their institutions”. This duty is replicated in the governance documents of many higher education institutions.

As already noted, section 31 of the CTSA makes clear that the Prevent duty is not intended to undermine this important duty. As with the CTSA obligations, the section 202 duty is a duty to have regard rather than to achieve any particular result and theoretically it is possible that the obligations can compatibly co-exist. In practice, however, conflicts between these duties may arise. Significantly, Parliament’s Joint Committee on Human Rights has recently observed that “in the university context, it is arguable

whether the expression of certain views constitutes putting forward new ideas in the form of controversial and unpopular opinions, or whether it amounts to vocal and active opposition to the UK's fundamental values. The potentially conflicting duties on universities to promote free speech, whilst precluding the expression of extremist views, is likely to continue to cause confusion".²⁹⁸

E. Safeguarding Duties

Safeguarding obligations with respect to children have long preceded the Prevent duty. Section 11 (for England) and section 28 (for Wales) of the Children Act 2004 place duties on various public authorities (including certain health organisations) to have regard, in the discharge of their functions (including any that are contracted out), to the need to safeguard and promote the welfare of children. Furthermore, sections 11 (4) and 28(4) provide for statutory guidance to which the prescribed public authorities must have regard. Section 22 of the Children (Scotland) Act 1995 places child safeguarding responsibilities on local authorities.

Educational institutions are not directly bound by section 11 or 28 Children Act 2004 (though local authorities who have certain responsibilities for maintained schools are). The governing bodies of schools and further education institutions are, however, bound by section 175 Education Act of 2002 to ensure that their functions are exercised "with a view to safeguarding and promoting the welfare of children".²⁹⁹

Each of these statutory duties must be viewed through the prism of the overarching safeguarding duty on public authorities to act in the best interests of the child. As the Supreme Court explained in *ZH (Tanzania)* [2011] UKSC 4:

The most relevant national and international obligation of the United Kingdom is contained in article 3(1) of the UNCRC: "In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration". This is a binding obligation in international law, and the spirit, if not the precise language, has also been translated into our national law.

As noted above, in contrast to the Prevent duty, for which the primary consideration is preventing terrorism, the primary consideration in the duty to safeguard children under domestic legislation is the welfare of the child.³⁰⁰ Compliance with that duty would require that when considering whether to make a referral to a Channel panel the best interests of the child is a primary consideration – though nowhere in the Channel panel guidance does it specify that as a relevant consideration.

Similarly, rather than prioritising the prevention of terrorism, existing safeguarding obligations with respect to vulnerable adults promote their well-being. Pursuant to the Care Act 2014, local authorities have an obligation to promote individuals' well-being, which is defined as including their physical and mental health and emotional well-being; as well as their social well-being and contribution to society.³⁰¹ Local authorities are required by section 43 of the Care Act of 2014 to have in place Safeguarding Adults Boards with the objective of helping and protecting adults in its areas. The adult safeguarding duty applies to adults who have needs for care and support, are experiencing or are at risk of abuse or neglect and, as a result of their needs for care and support, are unable to protect themselves against the risk of abuse or neglect.³⁰²

Specific legislation applies to Wales in respect of safeguarding adults. Section 128 of the Social Services and Well-being (Wales) Act 2014 creates a duty on relevant partners (which includes Local Health Boards and NHS Trusts) to report suspected cases of adults at risk.³⁰³ Section 126 sets out a duty on the local authority to make enquiries into whether an adult is at risk, and to determine if any action needs to be taken in response. A new Adult Protection and Support Order is introduced³⁰⁴, which supports professionals by allowing them to gain access to premises in order to determine whether an adult alleged to be at risk is making decisions freely and if any action is required. As with the Care Act 2014, the duties relate to adults with care and support needs.

F. Terrorism-related Offences

The availability of broadly framed criminal provisions that take a preventive approach to the commission of terrorist crimes raises questions about the “gap” left for Prevent to fill. To the extent that some may argue that Prevent's reporting obligations are valuable for the purpose of alerting government authorities to the commission of terrorist crimes, it is worth noting that UK criminal law already proscribes a broad range of conduct as terrorist offences, including the failure to report information that may prevent terrorist acts.³⁰⁵ Thus, pursuant to section 38B of the Terrorism Act of 2000, it is a criminal offence for an individual to fail to disclose to the police information that the individual knows or believes might be of material assistance in preventing the commission of an act of terrorism or in securing the apprehension, prosecution or conviction of another person, in the United Kingdom, for an offence involving the commission, preparation or instigation of an act of terrorism.³⁰⁶

To the extent that Prevent is regarded as a necessary means to prevent individuals from traveling to join ISIS in Syria, it is worth noting that travel to engage in terrorist acts or training in Syria or Iraq may be prosecuted under Sections 5 and 6 respectively of the Terrorism Act of 2006.³⁰⁷ Moreover, since travelling to Syria for this purpose tends

to amount to preparation for terrorist acts, failing to report individuals who are planning to travel to Syria or Iraq to fight or train with ISIS may well amount to a criminal offence under the Section 38B of the Terrorism Act of 2000.

In addition, UK criminal law, through its proscription of inchoate offences³⁰⁸, authorises law enforcement to intervene well before the actual commission of a terrorist act. Traditional inchoate offenses include: conspiracy to engage in terrorist acts (under section 1 of the Criminal Law Act 1977, which criminalises the agreement to commit a crime regardless of whether further steps taken to execute the agreement); attempts to commit terrorist acts (under section 1 of Criminal Attempts Act of 1981, which proscribes an act which is more than merely preparatory to the commission of the offence); and incitement to terrorism overseas (under section 59 of the Terrorism Act of 2000).

The criminalisation of inchoate offences has been criticised on the grounds that their boundaries are “vague and uncertain” and because they privilege *mens rea* (criminal intent) over the *actus reus* (criminal act) which can be very far removed from the actual commission of a terrorist act, thereby creating the potential for human rights violations.³⁰⁹ The Prevent strategy, particularly by authorising interventions for individuals at risk of being drawn into non-violent extremism, takes the preventive approach of inchoate offences much further by targeting individuals who may be nowhere near formulating even an *intent* to commit a terrorist act.

There has been an increasing tendency to create terrorist offences for conduct that is further and further away from the commission of substantive acts of terrorism. These offences include, *inter alia*, membership of a proscribed organisation (section 11 of the Terrorism Act of 2000); encouragement of terrorism (under section 1 of the Terrorism Act of 2006, including glorification of the commission or preparation of terrorist acts); dissemination of terrorist publications (under section 2 of the Terrorism Act of 2006); preparation of terrorist acts (under section 5 of Terrorism Act of 2006, which includes any conduct in preparation of a terrorist act); providing or receiving training for terrorism (under section 6 of the Terrorism Act of 2006); and possession of articles for terrorist purposes (under section 57 of the Terrorism Act of 2000).

The foregoing analysis assesses the Prevent strategy in light of international and domestic law provisions. The subsequent section presents case studies that suggest that many of these provisions might have been breached under Prevent.

VI. Case Studies

In his oral testimony before the Joint Committee on Human Rights, David Anderson, the UK's independent reviewer of terrorism legislation, observed that “there is a real potential [in Prevent] for inhibiting people’s human rights”.³¹⁰ The case studies documented below illustrate how Prevent risks violating a number of rights under the European Convention on Human Rights, including the right to freedom of expression, the right against discrimination, the right to manifest one’s religion, the right to private and family life, and the right to education. Many of the case studies involve children, whose treatment under Prevent raises serious questions as to whether the best interests of the child was a primary consideration, as required by article 3(1) of the Convention on the Rights of the Child. Many of the case studies also suggest that there have been breaches of the Equality Act and the Data Protection Act. Taken together, the following case studies make clear how Prevent may lead to possible human rights violations.

A. Schools

CASE STUDY 1

Collecting information from Muslim children for the Home Office³¹¹

Some applications of Prevent raise serious questions about possible infringements of the right to privacy. In one example, four teachers were running a three-day art workshop in a primary state-funded school in a suburb in the Midlands that is predominantly Muslim. The

teachers were told that the project was about creating links between Islamic art and British culture and that the funding was to be provided by Organisation A.

The workshops took place in Spring 2016. There were about 25 children, ages nine and ten, in the class, all from that predominantly Muslim area. On the first day of the workshop, just as it was about to begin, a woman from Organisation A entered the classroom. She introduced herself as a representative of Organisation A, and said she was there to observe. Then, without prior warning or explanation, she gave questionnaires to all the children in the classroom and asked them to fill in their answers. The teachers were unaware that this would happen and had not previously seen the questionnaires. The questionnaire, a copy of which is included in Appendix A of this report, had a list of 9 multiple choice questions, some of which had subparts.

The questions asked the young students whether they agreed or disagreed with statements such as: “The UK is a good place to live for me and my family”; “I personally feel part of society”; “I would do what a grown up told me to do, even if it seemed odd to me”; “I think most people respect my race or religion”; “People should be free to say what they like, even if it offends others”; “People from a different race, religion or community are just as good as people like me”; “It would bother me if a family of a different race or religion moved next door”; “Women are just as good as men at work”.

The questionnaire also asked whether the students thought people from different ethnic and religious groups should mix. It asked what the students intended to do after they finished school, and what kind of job they would want. It asked them how much they trusted people of their race or religion, people of another race or religion, school teachers, police officers, journalists, and the UK government.

The questionnaire stated: “These questions are not designed to test you but are to help us understand the effectiveness of this workshop so that we can improve the workshop”. But, on their face, the questions had nothing to do with what was being taught in the workshop, which was art; the only question actually related to the workshop asked “How interesting did you find this workshop”?

The questionnaire also stated: “Your responses will remain anonymous and confidential”. Yet the woman from Organisation A asked the children to write their names on the questionnaires.

The next day, a manager from Organisation A came to the art class with another set of the same questionnaires, to be filled out by the children on the last day of the workshop. One of the teachers asked her if the questionnaires were part of the Prevent agenda. The manager said they were. She said that the questionnaires were from the Home Office, and the responses would go back to the Home Office for a report. She added that the questionnaire measured responses before and after the workshop.

One of the teachers asked if the parents knew that their children were being asked to fill out these questionnaires. The manager said that the school was aware, and that it was

up to the school to inform the parents of the questionnaire. The teacher inferred from the manager's answer that the parents had not been informed about the questionnaire, and did not distribute the second set of questionnaires.

This case study raises serious questions about violations of the children's rights under article 8 of the European Convention and under the Data Protection Act. The collection of the names and political opinions of the children, without properly explaining what it was for – and apparently without first obtaining their parents' informed consent – constitute an interference with the children's right to privacy. This interference did not appear to serve a "legitimate aim", nor was it "necessary in a democratic society", nor was it proportionate to any aims pursued.

The information collected from the children for the Home Office was sensitive personal data within the meaning of the Data Protection Act. Neither the children nor the parents appear to have given explicit consent for the collection of this data. It does not appear that collecting this information was necessary for the purposes of exercising any right or obligation conferred or imposed by law in relation to employment. Nor was data made public by the subjects from whom the data was collected. Accordingly, this case raises serious questions about the violation of the children's rights under the Data Protection Act.

Finally, the collection of this sensitive personal information without informed consent does not appear to comport with article 3 of the Convention on the Rights of the Child, which requires a primary consideration of the best interests of the child in all actions concerning children, whether undertaken by public or private social welfare institutions. This underscores the serious concerns regarding the proportionality of the interference with article 8 of the European Convention on Human Rights. These nine and ten year-olds came to the workshop thinking they would learn about art, but instead appear to have had their names and personal opinions extracted for the Home Office.

CASE STUDY 2

School dinner lady targeted under Prevent³¹²

Prevent has apparently been used as a pretext for discriminating against Muslims who have nothing to do with terrorism. When a school in Lancashire began cooking halal meals for Muslim children, who were a small minority of the student body, the cook was not happy because it involved cooking different sets of meals and keeping a separate sets of utensils.

A dinner lady who worked in school's kitchen and was Muslim pointed out that the kitchen staff were not ensuring that the halal utensils were kept separate from the other utensils. In another instance, she noted to the head of the kitchen staff that a five year-old Muslim child was given a meal that wasn't halal. The head of the kitchen staff told her to forget it.

Apparently in retaliation for her complaints, the kitchen staff claimed that the dinner lady said she supported ISIS. The head of the kitchen staff reported this allegation to the school's head teacher. Immediately, the head teacher reported this to the local authority under Prevent, suspended the dinner lady from her job, and informed the police. The police said this was not of interest to them and did not pursue it. But news about the dinner lady's suspension and the false allegation that she claimed to support ISIS spread through the school. The school did not make efforts to guard against this information becoming public.

A disciplinary hearing was set up by the school and the local authority. Four of the kitchen staff submitted signed statements averring that the dinner lady said she supported ISIS. The school's head teacher argued that she should be dismissed, but the disciplinary panel instead gave her a final warning. She appealed this decision, resulting in an appeal hearing.

Mr. G., a governor of the school who sat on the appeal panel, provided information about the case to the Justice Initiative. According to Mr. G, the suspension was not done under "normal disciplinary" procedure, because Prevent had been invoked. Furthermore, according to Mr. G. the head teacher was not in favour of the school's providing halal meals.

Mr. G. heard the appeal in March 2016 along with two other governors. Mr. G. told the Justice Initiative that "the governors were informed that the head teacher informed the police [about the dinner lady] as per the Prevent Duty Guidance". It was clear to Mr. G. that two of the written statements provided by kitchen staff were unreliable: One of the staff denied saying what was in her written statement, while another gave an account that differed from her written statement.

Mr. G. told the Justice Initiative that the appeals panel "was concerned that [the dinner lady] had been set up to be sacked from her job". Mr. G. said: "The reality was that the school had used Prevent as a means of getting rid of her with immediate effect and [tried to] effectively bypass any formal disciplinary process". He added: "The case was a travesty. This could be my daughter and someone could make up something about what she said, and she would be out the door, sacked from her job, without even being able to explain her version of events. Is that right? This is why you have to dismiss the case". Mr. G. told the Justice Initiative that this type of scenario "typifies Prevent".

The appeal panel settled on reinstating the dinner lady but also issuing her a "first warning". Mr. G. said: "This was an example of Prevent being so discriminatory in its application that it may mean that Muslims cannot get a fair hearing in the workplace any more. It is so frightening because, suppose someone doesn't like me, I have a beard, I am a practicing Muslim, it's the perfect ammunition to say something like what was said about the dinner lady, a perfect method by which to contrive someone being dismissed from the workplace. And it absolutely bypasses any due process because it is counterterrorism".

Mr. G. told the Justice Initiative that although five months had passed since the appeal panel had heard the dinner lady's case, she still had not come back to work. He said: "She is

absolutely broken. It has affected her health. It has had a severe psychological effect on her. The fact that she went through this disciplinary procedure will affect her job prospects. If she applies for another job, she will have to explain. She will have to clear her name. Because she never said what she said. The reality is that this is a tragic case, an unjust case”.

This case presents an example of how Prevent may have a discriminatory effect on innocent individuals who have nothing to do with terrorism. Prevent gives enormous power and discretion to individuals who may act on the basis of their conscious or unconscious biases, or even to get rid of a co-worker they don't like.

This case raises questions about potential violations of article 14 in combination with article 8 of the European Convention as well as the Equality Act (likely direct discrimination which cannot in law be justified). The school's failure to guard against disclosure of the dinner lady's suspension and her alleged support of ISIS damaged her reputation and caused her considerable stress, to the point that she did not return to work. Had she not been Muslim, she would likely not have been treated in this way.

CASE STUDY 3

Nine year-old targeted for making a joke³¹³

It appears that Prevent has been and can be applied to children in a manner that does not give primary consideration to their best interests – a standard required under domestic and international law. In addition to apparently violating the best-interest-of-the-child standard, Prevent has sown concern among parents of children referred to the programme that records created under Prevent will follow their children and taint their future. In this particular case, a parent who used to work with Prevent decided to stop working with it because of how it treated his nine year-old son.

On 28 January 2016, Mr. M.'s son was laughing and joking at his voluntary aided primary school with a small group of boys – including Child A – about the school prom. They were fantasising about a fancy limousine, filled with chocolates, which would take them to the prom. One of the other children in the group told Mr. M.'s son that he couldn't attend the prom because of his religion, and therefore would not experience the imagined limousine and chocolates. Mr. M.'s son joked that, “to get to the chocolate [he] would use bombs and guns”. The boys in the group all laughed about this.

Later, Child A told Child B, a schoolmate who was not part of the original conversation, that Mr. M.'s son said that he was “going to use bombs and kill them at the prom and that it comes from Islam”. Child B got scared and reported this to the teaching assistant. The same day, Mr. M.'s son was called into the school office for questioning.

In the office, the headmistress and co-head teacher of the school questioned Mr. M.'s son. They asked him if he possessed weapons, and “where he would get weapons from if

he wanted to". Mr. M.'s son tried to respond but felt "threatened" and panicked under the intensity of their questioning. He started to cry.

At the end of that day, when Mrs. M. went to pick up her son, she was asked to meet with the headmistress. During this meeting, the headmistress told her that her son had made some inappropriate comments about the school prom, that he said he couldn't go to the prom because of his religion, and that he was going to bomb everyone and kill them because of Islam.

Mrs. M. responded: "I am shocked. I can't believe he said that". The headmistress and co-head teacher said that Mrs. M.'s son had confirmed to the teaching assistant what he had said. They also said that he repeated the same thing to them except for mentioning the religion – he referred to "his country". They said that her son had said he could get weapons from Yemen. Mrs. M. confirmed that guns were part of the culture of Yemen but that her son had never been to Yemen, let alone been exposed to the gun culture there. She said that his young cousins had been to Yemen a few years ago, and it was possible they had talked to her son about guns in Yemen. The co-head teacher asked Mrs. M. if anyone else could have put these thoughts in his mind. Mrs. M. said there not – her son only attended a mosque and Arabic school. She said that she and her husband had helped to set up the school and mosque and so knew about all the safeguarding precautions that were in place at these facilities. As far as unsuitable influences on her son were concerned, Mrs M. could only think of video games, which she would now forbid him from playing.

The co-head teacher stated that because Mrs. M.'s son had said that "this is from Islam" and had used the words "bombing and killing", the school had to seek further advice from Safeguarding and Prevent. She did acknowledge, however, that this seemed to be a case of an "inappropriate joke". It was agreed that Mrs. M. would talk with her son and relay back to the school any further information that might be helpful.

When Mr. and Mrs. M. spoke to their son, he told them what had actually happened in school: that he was joking.

The next day, Mrs. M. again met with the headmistress, to relay her son's side of the story. Mrs. M. noted that neither the headmistress nor the co-head teacher nor the teaching assistant had actually overheard the banter among the boys. Mrs. M. said that the content of the actual conversation had been distorted by third parties.

Mrs. M. told the headmistress, the co-head teacher, and the teaching assistant that the alleged conversation was now completely different from the account given to her the day before. Moreover, she noted that there was no adult present during the original banter, that her son's actual words had been distorted, with things being added on and inferred. In addition, she said that what her son allegedly recounted to the teaching assistant was unreliable, as he was extremely distressed and words were put into his mouth.

Mrs. M. asked the headmistress if the school was acting in this manner because her son was a Muslim and because he mentioned the words "bombs" and "guns". The headmistress

responded in the affirmative: it was because of Prevent that they reacted as they had. The headmistress and co-head teacher tried to reassure Mrs. M. that they did not think any further action needed to be taken, as they now accepted that it was “an inappropriate joke”. They said that they did not need to refer the case to Prevent. Mrs. M. was relieved.

However, Mrs. M. learned subsequently that in fact the school had already taken the case further: they had contacted the Safeguarding lead (for the school cluster, based at another school) and the Metropolitan Borough Council Prevent Coordinator. Although the schools’ email concluded that “we do not feel any further action is needed and would like your confirmation of this”, Mr. and Mrs. M. were concerned that their son’s school records had been tarnished with allegations that would follow him throughout his school years.

This incident caused great distress to the entire family. Within hours of the incident, Mr. M. was admitted to hospital with Angina brought on by stress. Mrs. M. couldn’t sleep for days and suffered psychological trauma which required medical attention and medication.

Today, Mr. and Mrs. M.’s son is scared to speak up in school, worried that anything he says may be misconstrued. Mr. M.’s three older sons are upset about how their younger brother was treated and have asked their parents to no longer work with Prevent. Mr. M. concludes: “Though our family are well equipped to challenge and to take our concerns further, it has left us exhausted, scarred, and for a short while questioning our belonging and acceptance in society as British Muslims”.

According to Mr. M., the school may have reacted as it did in order to avoid an “inadequate rating” for not implementing its Prevent duty. He said:

Since Prevent became a statutory duty, 100% things have gotten worse.... You’ve got a policy that comes from the government, but there is limited and inadequate training.... Teachers think to themselves, ‘If I don’t report and something happens, I could get into trouble.’ The danger is that if you have a racist view, then [Prevent] is a weapon.

Mr. M. believes that if his son was not Muslim and said the same words, he would not have been treated in this manner. He observed: “Prevent has created the perception that all Muslims are terrorists until proven innocent. It has become a witch hunt and a majority of the Muslim community is against it”. He also noted that, as someone who has worked with Prevent for many years, he did not see Prevent being applied with the same rigour to the far right. He added: “The hijab is being viewed as a sign of extremism. On the other side, there is freedom of speech for British people – they can say anything”.

He concluded: “There is no help for families affected by Prevent, no accountability. Me and my wife are going through hell. But when they need the Muslim community, they expect you to drop everything and come running”. Mr. M. said he is determined “not to allow another family to go through a similar experience”.

The treatment of Mr. M.’s son arguably does not comport with the legal requirement that in all actions concerning children, a primary consideration must be the best interests of

the child. That the child appears to have been treated in this manner because he was Muslim raises questions about possible violations of article 14 of the European Convention combined with the right to education enshrined in article 2 of Protocol 1 to the Convention and with article 8 of the Convention. It also raises questions about possible violations of the Equality Act (including through direct discrimination).

More generally, this case shows how Prevent's statutory duty may create incentives for frontline professionals to err on the side of reporting incidents to Prevent rather than dealing with them in common sense ways that prioritise the best interests of the child. It also shows how Prevent may risk alienating people. This experience caused Mr. M., who used to work with Prevent, to discontinue his association with the programme. Many people like Mr. M. may be sympathetic to Prevent's aims, but turned off by its flawed structure and application.

CASE STUDY 4

From “cucumber” to “cooker bomb”³¹⁴

This case raises serious questions about whether Prevent is leading education professionals to overreact and err on the side of referring students to Prevent. Such referrals are far from cost-free: this case illustrates how adverse experiences under Prevent can be traumatic for the child and his family, and can cause some British citizens to question their sense of belonging in society. No parent should have to warn their four year-old child not to draw pictures, just to avoid the risk being referred to a police-led intervention.

Ayesha is a 32 year-old mother in Luton. On 26 January 2016, as she dropped her son off to nursery school, she was confronted by the nursery manager and deputy manager. Ayesha recalled: “They took me to a side room. They had this file ready. They had pictures and a form and stuff. They had drawings my son had done. I recognised one drawing of his dad cutting a cucumber”. A copy of that drawing is included in this report; please see Appendix B. The nursery manager told Ayesha: “Your son is drawing inappropriate pictures”. Pointing to the drawing of his father holding a knife to cut a cucumber, the nursery manager said that Ayesha's son had told them it was a “cooker bomb”.

Ayesha was shocked. She said: “He has never said that at home. I don't know why he is saying that”. The manager said, “Well, he has talked about blowing things up”. Then she told Ayesha: “You need to sign this form”. Ayesha asked what the form was about. The manager responded: “They will help you”.

Ayesha asked the manager if they could discuss and resolve the matter themselves, since there had clearly been a misunderstanding. But the manager said: “Oh, but you've already been referred”. Ayesha asked who she had been referred to and the manager said “Channel”. The manager told Ayesha that she would be contacted by the authorities. Ayesha did not know what Channel was. She asked: “Why didn't you speak to me about it”?

The manager told her: “Well, we are just telling you – you need to sign this and you need to go on your way. They will help you bring up your kids in the right way”. The manager added: “You can prove yourself innocent. They might not take your kids off you”.

The manager gave Ayesha an Early Help Assessment form dated 26 January 2016 that checked the “yes” box next to the question “Is this a referral for CHANNEL panel”. The space in the form for the parent’s signature was blank. The manager explained to Ayesha that the information on the form would go to the early help assessment team and to Channel. Ayesha shared a copy of this unsigned form with the Justice Initiative. Another section of the form asks “What has led to this unborn baby, child or young person being assessed?” The nursery filled in, *inter alia*, “[Child] drew a man holding a knife and went on to talk about ‘cooker bombs’”.

Ayesha was in a panic. She went home and spoke with her husband. He said that the nursery had “obviously got it wrong”, because the word his son was using was “cucumber”, not cooker bomb. Ayesha called the nursery manager immediately and told her she had misheard her son, who was actually saying “cucumber”. But the manager responded: “But you’ve already been referred”. Ayesha was deeply troubled. She recalled: “I was so worried. ... I know I am not doing anything wrong at home. I feel I am as British as anyone else. We are against terrorism as much as the next person. Why would anybody think that of me? ... If he wasn’t Muslim, I don’t think this would have happened”.

Ayesha said this incident affected her whole family. She considered another nursery school but worried about disrupting her son’s routine. Yet, she keeps wondering, “what are they asking him, what are they going to come up with next”?

About a week after the incident, Ayesha wrote a detailed letter to the nursery expressing concerns and asking questions about the incident. In a letter dated 10 February 2016, the nursery manager wrote back. The letter, which Ayesha shared with the Justice Initiative, stated: “To confirm our position we did not make a referral but sought advice from other agencies as to whether a referral would be appropriate based on information we had. This is in accordance with Local Safeguarding Children’s Board policies and procedures which are obliged to follow, as well as compliance with Ofsted guidance on adherence to the Prevent duty within safeguarding requirements”. The letter concluded that after the nursery’s conversation with Ayesha, they “sought further advice and it was agreed that no further action is required”.³¹⁵ This contradicted the manager’s previous statements that the child had been referred to Channel.

Ayesha said: “It’s hard. I’ve never felt not British. And this made me feel very, very, like they tried to make me feel like an outsider. We live here. I am born and bred here, not from anywhere else”. She added: “I feel this Prevent duty is picking on you because you are Muslim, Asian, Pakistani, or whatever. I don’t feel it’s working at all. They are obviously picking on the wrong people, it’s ridiculous. They need to look at it and change it”.

She also questioned whether a teacher should be tasked with identifying children for Prevent: “Our school teachers, are they best qualified for this kind of job, whether they have their own prejudices, or they might not like someone?”.

The morning after the incident, Ayesha told her son “no more pictures now”. After that, d he came home from school one day and told her: “I drew a really nice picture of a house but didn’t bring it for you because you don’t like my pictures”. Ayesha told the Justice Initiative: “He is four. The reality is he was referred because he doesn’t speak properly yet.... The more we accept it the more it’s going to happen, they more we will be seen as the guilty ones who have to suck it up. That’s making a worse world for our children”.

A news report cites a spokesperson for the nursery saying that “no referral to Channel was made”, adding: “Under statutory guidance, as reflected by our own safeguarding policies, early years providers are required to record – and if necessary, report – any incidents that they feel may warrant further attention or discussion ... in this instance, after seeking advice from the appropriate agencies, we concluded that no referral was necessary”.³¹⁶ Another press report stated: “Luton Borough Council advised against the referral, adding: ‘The council does not wish to comment in detail on this particular case in order to protect the identity of the child’”.³¹⁷

This case suggests that Prevent’s statutory duty may create an incentive for education professionals to over-refer incidents to Prevent or Channel. The nursery school’s conduct in this case is unlikely to have amounted to giving primary consideration to the best interests of the child. Because it appears that the child was targeted because he was Muslim, this case raises serious questions about the violation of his rights under article 14 in conjunction with the right to family life under article 8 and with the right to education under article 2 of Protocol 1 to the Convention. It also raises questions about possible violations of the Equality Act (through direct discrimination).

The case also demonstrates a fundamental disconnect between how those in power applying the statutory duty – in this case, the nursery manager – perceive themselves and how they are perceived by the individuals they think they are trying to help. Ayesha noted that the nursery manager said she was trying to help. But Ayesha experienced her as coercive, discriminatory, and wholly uncaring about branding a four year-old child as a terrorist.

CASE STUDY 5

Twelve year-old targeted for playing a terrorist in drama class³¹⁸

This case raises serious questions about how Prevent may short-circuit the need to give primary consideration to the best interests of the child. It provides a window into how Prevent may stigmatise and instil fear into those who fall under suspicion. It also illustrates the acute worry a parent can experience at the possibility of his child being referred under Prevent.

Raza is a 12 year-old boy who attends a publicly funded school in Manchester. The school’s student body is predominantly Muslim. One day, during a drama lesson, Raza and his fellow students were asked to improvise a situation that was very “tense” and “melodramatic”. Raza chose to play a terrorist, with another student playing a journalist whom Raza held at

gun point. The scene was set in Africa. The two children played their parts, ending the scene with the journalist overpowering the terrorist and breaking free.

Later, on the evening of 16 December 2015, Raza's father Javed got a call from the school's safeguarding officer, Mrs. H, asking Javed to come in for a meeting. The next day, Javed and Raza met with Mrs. H. and Mrs. W. – both deputy head teachers and safeguarding officers in his son's school. Javed was worried. Raza had sensory processing difficulties, had been tested for Asperger's Syndrome, and struggled with Nystagmus, an eye condition that causes his eyes to shake rapidly from side to side, especially when he is nervous. Compounding these problems was bullying he had suffered at school. Javed feared that these conditions, combined with his son's deep religious convictions, set Raza apart.

Mrs. H. and Mrs. W. outlined a number of incidents involving Raza that they were concerned about. The weightiest incident for the two teachers involved Raza's conduct in the drama lesson. Mrs. H. and Mrs. W. described the situation as if it was real, emphasising that the hostage actor was "afraid" and "shaking" and that it was inappropriate for Raza to have play acted in this way.

Another incident recounted by the teachers related to Raza's behaviour on a school trip to France, a few months after the attacks on the *Charlie Hebdo* office in Paris. It was in May 2015. According to the teachers, while on the French trip, Raza asked a lot of questions about *Charlie Hebdo*, and where their offices were. The teachers thought that this implied that he was interested in terrorism. The teachers added that when Raza was at the airport on the way to France, he had inquired how the scanners worked, and asked what kind of things might be able to go through them. The teachers also said that Raza had "an unhealthy interest in Syria". Finally, the teachers asked Javed, "Do you see why we are putting this together"? Javed responded: "I can see why it looks this way, but this child has issues, he is going to trip up trying to explain things to you".

Confronted this way, Javed also felt compelled to condemn his son's behaviour. He told the Justice Initiative: "I told him off a bit in front of the teachers". Javed told the teachers: "Raza is not a threat, he is just a little boy, he is struggling. He is just a child trying to work out the world around him. He is against terrorism. He is very soft-hearted".

The meeting also included a discussion of religion. The teachers asked Javed where Raza studied Islam, and whether he knew what his son was taught. Javed said that after school, his son went to the madrasa where he was memorising the Qur'an. But, Javed added, "that's not ideology. It's just a recitation". Javed explained that Raza had always been strongly interested in religion and spirituality from a very young age. "He is very clear that terrorism is unacceptable within Islam", Javed told the teachers. Mrs. H. offered for Raza to speak to the school counsellor. Javed accepted without hesitation and asked the teachers if they could refer his son to Child and Adult Mental Health Services (CAMHS). Mrs. H. said she would try and get this done.

Mrs. W. told Javed that their intention had been to refer Raza to Channel, but that this was no longer necessary.

Javed thought he had done the right thing in not challenging the teachers, even though it had required him to criticise his own son in front of them. Javed told the Justice Initiative: “I felt horrible after this meeting. I kept thinking to myself: What is Prevent? What does happen to a child once he is referred? What is really going on in the background? Are they being honest when they say they will not refer him?” Javed told the Justice Initiative that he believed his son had been identified for potential referral under Channel because he was a Muslim.

Since that meeting, Raza sometimes comes home from school with his eyes shaking, due to stress. He tries to avoid speaking in class, saying “I am worried they think I am a terrorist”.

The teachers’ response under Prevent to Raza’s behaviour may not have complied with the requirement to treat the best interests of the child as a primary consideration. According to Raza, the school’s treatment made him feel “paranoid”, afraid of speaking and participating in class, worried about being labelled a terrorist. As such, this case raises concerns about the possible violation of Raza’s right to freedom of expression under article 10 of the Convention. Because it is unlikely that Raza would have been treated like this had he not been Muslim, the case also raises concerns of violations of his rights under article 14 combined with his right to education, as well as under the Equality Act (through direct discrimination).

CASE STUDY 6

Parent targeted for political and religious views³¹⁹

The Prevent strategy defines extremism to include “vocal or active opposition to fundamental British values”.³²⁰ This case raises questions about how the term “British values” is understood and how the lack of definitional clarity can lead to innocent people being swept up in Prevent. In November 2015, Saif’s oldest child was five years-old. Saif lives in the West Midlands, where he works with young people for the local authority. Saif went to his child’s school to meet with the parent liaison officer, to enquire about the children’s activities in school. It is a primary school that is publicly funded and local authority-maintained. It has a diverse student body, but there are a few other Muslims in the school. Saif was wearing his work uniform when he went to the school, from which the school could have deduced his place of employment.

In talking with the parent liaison officer, Saif discovered that the school was going to take the children to a church service, where they apparently would participate in worship. Saif had concerns about that. He recalled: “I am a Muslim. I don’t mind my child visiting a church – in fact, as a Muslim, I have a duty to give space to others and to respect non-Muslims for their choice of religious beliefs”. But he was upset that the school had not told him that his child was apparently going to be taken to worship at a church.

So he asked the parent liaison officer if he could accompany his child to the church, and was told he could. Saif asked specifically what was going to happen in the church. The

officer said that the children were going to sit in front and sing hymns, while the parents sat in the back. Saif told the Justice Initiative: “I said no to this. That is worship”. He told the liaison officer that if he could not sit next to his child, his child would not attend the church service. According to Saif, the parent liaison officer “didn’t take [this] very kindly”. She said: “We have had these directives from the government to try and promote British values”. Saif asked the liaison officer to define “British values”, but said that she “couldn’t give me a clear answer, because no one can”.

The liaison officer was wearing a remembrance poppy. Saif does not remember how the conversation about the poppy began. At some point, however, he said to her that he respected her choice to wear the poppy, but he was not going to wear it. Looking back, he believes that it was “precisely because of this” that the liaison officer “got upset ... and they put a complaint to my management at work”.

About a week later, in early December 2015, Saif arranged a second meeting with the deputy head teacher of his child’s school, seeking an alternative to his son’s apparent worship in a Christian church. He asked whether an alternative outing might be organised, or at least whether the school would authorise absences if he decided to take his child out of school that day. The deputy head teacher did not agree and, Saif said, “that was that”. In the end, Saif and his family ended up going abroad that month, so his child did not have to go on the church outing.

In December 2015, when Saif returned to work after his family trip, his line manager called him into another senior line manager’s office.. Saif said: “basically I was told that somebody had complained”. The two line managers mentioned the issue of the poppy. According to Saif: “They tried to probe me to see if I had extremist views. This was, very softly and subtly, an interrogation”. Saif asked where the line managers had heard these allegations about him. They said they had heard them from the school that his child attended, but they would not disclose the name of the individual who had complained.

He told the Justice Initiative: “I know for a fact that were I not such an integral part to the service we provide, my position could have been jeopardised. I could have been sacked or disciplined. It is only my hard work, honesty, and integrity that saved me. And the meeting was concluded with that”. Saif added: “But to me all of this was very upsetting. [It was] deeply offensive and insulting.... What was upsetting was the way my management dealt with the situation, the way I was called in without prior notice”. He feels he was treated in this manner because of Prevent.

The school official’s refusal – on grounds of the school’s obligation to promote “British values” – to exempt Saif’s child from a school trip that apparently involved worship at a church raises concerns about the violation of Saif’s rights under article 2 of Protocol 1 to the European Convention.³²¹ In addition, if the school shared information about its exchange with Saif with his employer, the school might have violated his right to privacy under article 8 and also his right to freedom of religion under article 9 of the Convention. Finally, it also appears

that Saif may have been treated in the manner because he is a Muslim, raising concerns about a violation of article 14 in combination with article 8 of the European Convention as well as of the Equality Act (through direct discrimination).

CASE STUDY 7

Fifteen year-old targeted for drawings of guns and a map³²²

It appears that Prevent may undermine education. This case illustrates how Prevent training can lead to a spike in teachers making referrals for innocent conduct. It also shows how Prevent can shut down debate in schools and alienate students with its talk of “British values”, while eroding trust between teachers and students. This case also provides an example of education professionals’ fear of being subjected to retaliation for criticising Prevent.

Martin is a teacher in an inner city all-boys school in the West Midlands. The school is publicly funded and maintained by the local authority. Martin teaches boys between the ages of 11 and 16. About 90 percent of the students are Muslim.

Martin told the Justice Initiative that he had his first Prevent training, delivered by a police officer, in about February 2015. Martin said: “The police officer scared everyone about the possibility of a terrorist attack. He opened by saying ‘our school fields would be used as makeshift mortuaries and fridges would be erected to put cadavers in’”. The officer said that Prevent is not about Islamic extremism alone, but most of the video he showed was about Islamic extremism. The first page of the PowerPoint used by the police officer showed a plane hitting the World Trade Center on 9/11. The teachers were given a list of indicators of “radicalisation” to watch out for, including if the child has a different group of friends, has strongly held political beliefs, changes the way he dresses, or earns lower grades.

Martin told the Justice Initiative that after that training, there was a marked change in the teachers’ attitudes. They were far more willing to report students, including for things like talking and laughing about 9/11. He explained: “Better to be safe than sorry, because people were being investigated for all sorts of things. They were more ready to pass things on to senior managers and Prevent officers. Anything that was Islamic and used in a naughty way was reportable. I am obliged to pass things along because of Prevent – if not, there will be a penalty. Everyone is so afraid that if they don’t report a child and the child goes to Syria, they will get into trouble”.

He also explained that teachers “were less inclined to open up discussions on the Middle East or talk about British foreign policy. After the Paris attacks [on *Charlie Hebdo*], the staff body was told to shut down all discussions. Don’t mention ‘the I word’ – this is the policy in schools”. Meanwhile, he said the “students were appalled” at the idea of “British values”. One of his students told him: “I am from Yemen, we have values as well”. Martin said he could see how Prevent’s emphasis on British values could “alienate students”.

When Martin criticised Prevent, his head teacher implied that Martin could be fired, saying “if you carry on, our hands will be tied”.

One of the students in Martin’s school was a 15 year-old boy, Jacob,³²³ who Martin described as “naughty but fine”. Martin had been his classroom teacher for a year. Jacob’s parents were converts to Islam who had recently moved to the U.K. from France. In about November 2015, Jacob made a drawing in class of two swastikas, six guns, a map, and a complex of buildings in which one place was identified as “somewhere to hide”. His teacher confiscated the drawing and gave it to the head teacher in charge. The deputy head teacher phoned the Prevent authorities to report the child. That evening, the deputy head teacher asked if Martin, who speaks French, would translate for Jacob’s father (who was not fluent in English) at a meeting about Jacob at the school. Martin agreed to translate.

Jacob’s father came to the school the next day. The meeting included the deputy head teacher, a police officer who worked for the counterterrorism unit with Prevent, and Martin as the translator.

According to Martin, the father appeared worried and did not know why he had been called in. The Prevent officer “bombarded” Jacob’s father with a long list of intrusive questions. She quizzed the father about his religious beliefs: “Are you a Salafi or a Sufi?” When Jacob’s father said, “We are not Salafists”, the officer said, “Good, because Salafism is more conservative”. Martin observed that “the Prevent officer was very interested in the fact that they were white Muslim converts. This raised eyebrows because converts are thought to be more orthodox”.

The police officer asked Jacob’s father when he converted to Islam, where he prayed, who else prayed there, and if he had put money aside for charity. The father answered these questions. She asked if Jacob went to a madrasa or whether his father taught him Islamic teachings at home. The father responded that his son was taught at home. The police officer responded: “That is good, because at madrasa, they teach you only to read the Arabic of the Qur’an, not to interpret it”.

Recounting this conversation to the Justice Initiative, Martin observed: “The questions were inappropriate. They were so personal. They were dangerous because they conflated religious belief with possibility of terrorist violence. The order in which the questions were asked was very disempowering – the questions about religious practice and prayer were asked before the father knew about the drawing”.

Jacob’s father was very strict. They did not have a television at home. At one point, he caught Jacob smoking and made his son promise to stop. But Jacob continued to smoke, hiding this fact from his father. During the meeting, the Prevent officer (who had been told by the deputy head teacher about Jacob’s secret smoking) told the father that his son continued to smoke and was lying to him. The Prevent Officer told Jacob’s father: “You don’t know your own son, he might go fight for ISIS”. The father became very angry.

At that point, Jacob was brought into the meeting. His father was shown the drawing that his son had made. The Prevent officer told Jacob that he had an obsession with guns

and asked where he had learned how to draw them. Jacob responded that he had googled the guns in school. The Prevent officer asked where the map was from. Jacob laughed and said it was from the videogame “Minecraft”.

The Prevent officer concluded the meeting by telling Jacob’s father that he had to stay in touch with the officer because his son was lying to him. Martin, who was translating during this time, thought it was very wrong of her to try to turn the father against his son.

After Jacob and his father left, the Prevent officer told the deputy head teacher and Martin that she had no concerns, and that the father “had said all the right things”. Martin told the Justice Initiative: “I wondered, why then did she turn the father against his son?”

Martin said that this incident had a harmful effect on Jacob. “The child used to go around saying I hate France and now he says he hates Britain”, he told the Justice Initiative. Martin thought there was no reason to involve a police officer in this incident. A conversation with the deputy teacher would have been enough. But, Martin observed, “instead of having a supportive conversation with the child, they decided to police him. He was treated in this way because he is Muslim; if he had not been Muslim they would not have thought he was a terrorist”. Martin noted: “Schools are more than capable of safeguarding without Prevent. Schools should talk to the child before ringing the police or social services. Prevent safeguarding involves police at an earlier stage. Students in my school come to school high, with weapons, and the police are not called. It is very heavy handed to involve the police for Prevent-related matters. Prevent makes Muslims feel like they are hated....There is no reason why this wouldn’t drive someone further into radicalisation. You’ve got people who really don’t know what they’re talking about being Prevent officers. It’s a bit dangerous because they are going around doing things that are alienating people more”.

The incident poisoned Martin’s relations with Jacob’s father, who Martin described as “a lot more hostile now.... a lot more questioning of the school”. Martin also argued that Prevent is damaging the relationship between students and teachers, saying that the strategy is “making teachers afraid of students”. He concluded that “Prevent makes teachers view students through a securitised lens”.

This case suggests that the school’s response to Jacob was heavy handed and may not have prioritised his best interests as required under the Convention on the Rights of the Child. Moreover, the school’s intervention was arguably counterproductive, because it made Jacob hate living in the UK while also alienating Jacob’s father.

Because other children engaged in far worse conduct (such as coming to school high or with weapons) were not targeted in a similar manner, it also raises questions about the violation of Jacob’s rights under article 14 combined with article 2 of Protocol 1 to the European Convention, as well as under the Equality Act (through direct discrimination). It appears that had he not been Muslim, Jacob would not have been targeted in this manner. The Prevent officer’s intrusive questioning of Jacob’s father also raises concerns about the violation of his rights under article 8 of the European Convention.

This case also shows how Prevent can cause teachers in school to shut down debate on issues relating to terrorism. Moreover, it provides an example of how teachers who criticise Prevent may face retaliation for doing so. Finally, this case provides insight on the nature and effects of Prevent training, which trains teachers to view students through a securitised lens, thus eroding trust between teachers and their students.

CASE STUDY 8

Fourteen year-old targeted for Facebook photo³²⁴

The story of Amina and her son's exclusion from school presents questions about the counterproductive effects of Prevent on a child's education, and the failure to give primary consideration to the child's best interests.

Amina is a struggling single mother of four who lives in England; the children's father lives in Pakistan. In about June 2015, after his uncle in Pakistan died, Amina's youngest son went to Pakistan to visit relatives. He returned to England in about August 2015 so he could re-join his publicly funded, local authority-maintained school in September. But Amina's son had been taken off the school's rolls.

Amina thought this was because he had left in June without notice. She requested that he be allowed to re-join the school, but the school kept delaying her son's re-entry into the school. Amina called the school repeatedly but could not get an answer. She said: "One of the teachers was abrupt, rude, almost racist. They were suspicious of my son going to Pakistan".

Finally, in late September or early October of 2015, the school called Amina and her son in for a meeting. The school authorities asked her if she was aware that her son had posted on Facebook a picture of himself holding a gun. They said that was the reason that they were reconsidering whether or not to let him back into school. The teacher in charge of pastoral care said that: "By law, I have to refer your son to Channel, and they will check it out. That is what we have to do".

Amina told the Justice Initiative: "I was flabbergasted. I had already seen that picture months ago on WhatsApp, I didn't think anything untoward had happened". The picture, taken that summer, was of her youngest son sitting in his father's house in Pakistan, wearing a salwar kameez, holding one of his father's guns. Amina said that the guns were licensed and usually kept locked away.

Amina explained this to the school authorities. It was an innocent photo, she said, but she also told her son to take the photo off Facebook. But the school authorities persisted, telling Amina that her son had a phone at school, and that they didn't know who he was ringing. She told the Justice Initiative: "Instead of saying it's not good for his learning, they were hinting at things. It was really scary. It was being spun out of proportion. I was getting more and more upset".

When the subject of Channel came up, a teacher in the meeting said that “Channel are the ones who deal with this kind of thing”. Amina did not know what Channel was. She later sent a text message to a teacher whom she knew, asking about it. The teacher said: “It’s something that teachers have to do and it makes us feel like we have to mistrust the children”. Amina was devastated by the way the school treated her son with suspicion. She told the Justice Initiative: “I think he was referred to Channel because he was a Muslim and because he went to Pakistan and so the picture said it all for them”. She added: “It was something a normal teacher could have dealt with by a conversation between the teacher and me”.

Eventually, in about October 2015, Amina’s son was allowed back into school. Amina said that her son was picked on in school, often being blamed for things other children had done. In late October or November, the school authorities told Amina that they were going to refer her son to the Pupil Referral Unit (PRU), a school for troubled children.

Her son joined the PRU in early 2016. According to Amina, a teacher from the PRU said that her son didn’t belong there. The children in that school have a lot of issues. The teacher told Amina: “He shouldn’t be here because he hasn’t shown the behaviour of children that come to this place. He should go back into a mainstream school”. But the original school would not take Amina’s son back, and at the time of writing, he was still at the PRU.

Reflecting on the experience, Amina observed: “I have always felt I was British. But ... I don’t feel like it is the Britain I know. The media and these Prevent powers have totally made the teachers misconstrue things, it has thwarted the actual aim – to safeguard. It has prevented trust rather than terrorism, broken down communications and trust between pupils and parents and teachers and undermined the education system”.

She added: “I still feel sorry for the teachers even though they have to implement this Prevent duty. Teachers are supposed to be a support, but this Prevent thing has given teachers the powers to cut support of parents. ... The teachers have so much pressure to refer, they don’t want to be blamed. The teachers, once they have referred a student, they just want to get rid of him”.

It appears in this case that the school may not have prioritised the best interests of the child. Indeed, the school’s intervention was counterproductive because it caused Amina’s son to become more withdrawn. The school delayed his re-enrollment and referred him to Channel apparently because of a photo posted on Facebook. If he had not been Muslim, it is unlikely that the Amina’s son would have been treated in this manner, raising concerns about the violation of his rights under article 14 combined with article 2 of Protocol to the Convention as well as under the Equality Act (through direct discrimination). More generally, this case shows how Prevent can destroy trust between teachers on the one hand and students and their parents on the other.

CASE STUDY 9

Seventeen year-old targeted for becoming more religious³²⁵

This case raises concerns about individuals being targeted under Prevent for showing signs of increased religiosity. It happened in about September 2015. Taufiq, a 17 year-old boy, was referred to Prevent by his college in Birmingham.³²⁶ His family, concerned about the referral, reached out to Nadim, a family friend and lawyer.

When police from the counterterrorism unit came to Taufiq's house in inner city Birmingham, Taufiq, his mother, and Nadim were there. Nadim told the Justice Initiative: "We had no idea what the allegations [against Taufiq] were, we were literally walking in blind". During the meeting, the police said the college had referred Taufiq under Prevent. Nadim told the Justice Initiative: "And this is a kid with no history of trouble. No one in the faculty had tried to talk with him".

Nadim said: "There was a list of allegations against him, concerns which the college had raised with the police. They came in and went through allegations one by one. Taufiq responded, and I intervened when I thought the allegations were inappropriate". The allegations included the fact that Taufiq had become more religious and had started wearing an Arab gown called a thawb. Taufiq responded that he wanted to emulate the prophet and it was his choice to wear the gown. The police also said that the school had noticed that instead of using the college computers, Taufiq used his own iPad. Taufiq said he kept all his notes on his iPad, and found it easier to use than the college computer. The police said that Taufiq did not seem to have many friends. He responded that he was still new to the college at that time, and that he did have some friends.

The police also raised the fact that during one of his classes, Taufiq asked if his parents would have to pay back his student loans if he died. Nadim intervened here. He explained that Taufiq's sister had just passed away a year or two previously. It was "still raw in Taufiq's mind".

Nadim told the Justice Initiative: "I know him, I know a bit about the family. I understand these things. As Muslims we are told you are held back from paradise if you have outstanding debt when you die". Nadim thought that the police's questions demonstrated "a lack of appreciation of the teachings of Islam".

The police concluded the meeting by saying they were satisfied that there was nothing of concern here. Nadim thought that was the end of the matter.

But in December 2015, Taufiq went to help with the refugee crisis in Calais. As many people were doing at the time, Taufiq brought food and clothing to the refugees gathered there. Taufiq stayed in Calais one or two nights, then came home. A few days later, the police called his family said "We need to come and see you, because we think your son has gone to Syria, we are concerned about his whereabouts". His brother said: "But he is upstairs". The police said: "Are you sure? You won't mind if we come and check?" Taufiq's brother phoned Nadim, and Nadim came over to the house.

The police came to the house, where Taufiq and Nadim explained the situation and asked why the police had automatically assumed that Taufiq had gone to Syria. Nadim observed: “Obviously, even after the first meeting they still believed that....I don’t know. They apologised, but it was pretty useless because it didn’t mean anything – they could easily come back again. As teenagers, you assume ‘the whole world is against me.’ I am no psychologist, but it wouldn’t surprise me if this only enhanced those alienated feelings. It’s not healthy for a 17 year-old kid”.

Nadim observed: “There was no other reason for subjecting Taufiq to this other than the fact that he was a Muslim. If he was dressed in black and wearing eyeliner, they wouldn’t have gone after him. Muslim kids are not afforded the same opportunity of rebelling as white kids are”. Now, Nadim says, “the family has lost trust in our government and in our police. Taufiq is a sweet little boy. He is lucky in that he has a strong family unit to keep him grounded. Had he not had that, something like this could push someone into the hands of terrorists You have created a problem where there was no problem”.

It seems that Taufiq was targeted for his Islamic clothing which was interpreted as a sign of “radicalisation”. Prevent’s targeting of Taufiq on account of his religiosity raises concerns about the violation of Taufiq’s right to freedom of religion under article 9 of the European Convention. Arguably, had he not been Muslim, he would not have been targeted in this manner. This raises additional concerns that his rights under article 14 in combination with article 2 of Protocol 1 to the Convention, as well as under the Equality Act (through direct discrimination) were violated. The police’s intrusive questioning of Taufiq, their tracking of his movements, and repeated appearance at his home also raises concerns that his rights under article 8 of the convention were violated.

CASE STUDY 10

Fourteen year-old targeted for talking about eco-terrorism³²⁷

This case raises concerns about how Prevent may cause schools to overreact to innocent comments made by students. A 14 year-old student, A., loved the school he attended in London. The school is publicly funded and maintained by the local authority. A. had attended it for three years and loved his teachers, who in turn regarded him as an outstanding student.

On the morning of 14 May 2015, A. was attending his French class. During the lesson, which was about the environment, the French teacher showed the class an image of deforestation, including heavy machinery, tree stumps, and trees. The teacher asked the class to comment on what was happening in the image. Various students suggested “Greenhouse effect” and “deforestation” in response. A. said “l’ecoterrorisme” or eco-terrorism. The teacher looked at him, concerned. A. explained that “eco-warriors” sometimes spike trees with metal nails to blunt the blade of chainsaws and prevent them from chopping the trees down.

He said that some people call it “eco-terrorism”. Other students joined in the conversation about eco-terrorism and noted that they had learnt about it as part of their extra-curricular debate club activity. The lesson ended.

The next day, on 15 May 2015, the French teacher wrote an email to the Designated Child Protection Officer (DCPO) stating: “I was teaching a year 9 French class yesterday afternoon on the topic of the environment and [A.] made several inappropriate references to terrorism which were out of context. For instance, they were asked to brainstorm words relating to an image of deforestation and he said ‘environmental terrorism.’ I just wanted you to be aware”.³²⁸ (The Justice Initiative reviewed this email, which the school produced in legal proceedings).

Three days later, A. was in class when a member of staff entered the classroom and spoke with the teacher. In front of the entire class, the teacher pointed at A. and said: “There he is”. The member of staff asked A: “Can you come with me?” A. stood up, took his bag and left, not knowing why he was being called out of class. He was taken to an office, where a woman, who A. did not know, was sitting at the desk. The school had not contacted A.’s parents or attempted to obtain their permission to conduct this meeting with their son.

The woman introduced herself as a child protection officer. She told A. that “a safety concern” had been raised. A. did not understand what she was talking about. She said: “Your French teacher... mentioned you used the word ‘terrorism.’” A. was surprised. He did not understand. He explained how he had mentioned the phrase “eco-terrorism” in relation to “eco-warriors” and saving the environment.

According to A., the child protection officer asked him if he had any affiliation with ISIS. (The school, in legal papers, stated that he was asked instead if he had heard of ISIS.³²⁹) A. became even more alarmed when he heard the word ISIS. He thought of ISIS beheading and killing people. He didn’t know why she was asking him this question. A. said he did not have anything to do with ISIS. The staff member who brought A. to the meeting asked: “Do the chainsaws explode”? The child protection officer asked: “Do you understand why there could be a misunderstanding”? A. replied he did not understand and explained that he and his classmates knew about eco-terrorism through their debate club. The member of staff said: “Boring debate that must have been”!

When A. got home that day, he told his mother what had happened. His mother rang the school and was put through to his head of year, who confirmed that A. had been questioned, but insisted that, “It was nothing”. A.’s mother asked if this had been done under Prevent and was told: “Yes, we have to do it. It is Government strategy”. In a letter dated 19 June 2015, the head teacher of the school denied that this was done under Prevent, and stated instead that “[t]he process followed in this case was in line with and following our child protection policy”.³³⁰ However, legal papers subsequently filed by the school state that it was “implementing its duty to safeguard and protect the welfare of children in line with statutory and non-statutory guidance, including the Prevent Duty”.³³¹

A. was devastated by this episode. For the first time, he was made to feel that he did not belong at the school he loved. He became worried that anything he said could be misconstrued. He feared being taken away from his family.

His mother told the Justice Initiative: “He is much more careful, much more wary in school to this day. First time in his life he wanted to be alone in his room”. She added: “He was really lucky that his peer group fully supported him. Had that not been the case I dread to think where he would be today. Why was he treated in this particular way? The only thing I could put it down to was because he is black and he’s a Muslim”. She told the Justice Initiative that the day of the incident, her son was talking about it with his friend, who was white. His friend told A: “They wouldn’t have done it to me”.

To the extent that A. was targeted in this manner under Prevent because he was black and Muslim, there are concerns that his rights under article 14 in combination with article 2 of Protocol 1 to the Convention as well as under the Equality Act (through direct discrimination) were violated.³³²

If he was penalised for appropriately expressing his views on eco-terrorism, this raises additional concerns that his rights under article 10 of the Convention were violated. This case shows how the Prevent duty may cause teachers to over-react to students’ innocent comments about terrorism that are entirely legitimate, thereby creating a chilling effect on the expression of legitimate views.

More generally, this case suggests there is a risk that the implementers of Prevent may not understand that their heavy-handed enforcement of the Prevent duty can be extremely traumatic for a child. In legal proceedings, the school argued that its response to A’s comment was “reasonable and proportionate”.³³³ But pulling A. out of class in front of the whole class and then questioning him about ISIS, all because of his reasonable comment on eco-terrorism, does not appear to comport with prioritising the best interests of the child as required by article 3 of the Convention on the rights of the child.

CASE STUDY 11

Fifteen/Sixteen year-old targeted for pro-Palestinian views³³⁴

In this case, the school appears to have overreacted under Prevent to a child’s political expression. The case shows that while Prevent may not entail criminal sanction, it is intensely intimidating for a child to be visited in his home for questioning by police officers.

Rahmaan, now 17 years-old, recalled his experience with Prevent from about 2014 and 2015, when he was 15 and 16 years-old and studying in a state school in North London. Rahmaan recounted that school officials told him not to wear a keffiyah (a black and white scarf sometimes associated with Palestine) in school because it “could offend some people”; confiscated a “Free Palestine” wristband and a pro-Palestine badge that he was wearing on

his uniform; told him to modify a poster (for a fundraiser that Rahmaan and his friends were organising for Palestinian children affected by war) by removing a picture of a Palestinian child from it, because it picked a political side; told him to remove from the same poster a quote from Ali Ibn Abu Talib, a revered Muslim leader, because it would suggest supporting a political cause; and confiscated from Rahmaan a leaflet made by Friends of Al Aqsa, a UK based NGO concerned with defending the human rights of Palestinians and protecting the sacred al-Aqsa Sanctuary in Jerusalem.³³⁵

A couple of hours after the school teacher confiscated the Al Aqsa leaflet, Rahmaan was brought in for a meeting with a “special constable” who told Rahmaan that one of his roles was to deal with Prevent. He asked why Rahmaan had brought in the leaflet, and why he supported Friends of Al Aqsa. Rahmaan said that they supported freedom for the Palestinian people. The constable said that from his research it appeared that Friends of Al Aqsa had some “radical tendencies”. The constable told Rahmaan that he did not want Rahmaan to be speaking about Palestine in school. Rahmaan asked if he could do so at lunch time and break time. The constable replied that he could not.

A few weeks later, Rahmaan’s friend brought to school another leaflet, about water shortages in Gaza. Rahmaan was holding it in his hand when a teacher took it away from him. A few hours later, Rahmaan was brought to meet with the same special constable. At the bottom of the leaflet was a quote saying something like, “the sun will never set until they have”, written by Rahmaan’s friend. The constable said that the quote could be a warning to the school. Rahmaan laughed. The constable said that they need to be a 100 percent sure that the school was safe.

It appears that the school referred Rahmaan to Prevent, because in the summer of 2015, two policemen came to Rahmaan’s house and asked to talk with him. One was from the Bedfordshire Prevent Task Force, and the other was from Channel. Rahmaan described them as “big and intimidating”. He added: “For an Afghan household, for police to come round to the house, it’s automatically a bad thing. My parents said it was a matter of shame for the police to come. It made me feel intimidated and targeted”.

The police officers asked Rahmaan: “Do you know why we are here? ... We are talking about what happened in school, can you explain what happened?” Rahmaan said: “What are you talking about specifically”? One of the police officers shouted at Rahmaan: “Don’t get smart with me”!

One of the officers said that he had read the report on Rahmaan, according to which he was wearing extremist badges and wristbands. He asked Rahmaan if he could see those wristbands and badges, which Rahmaan showed them. The police officers said that they did not see a problem with the wristbands and badges. They also asked if they could see the leaflets that he had at school. Rahmaan showed them the leaflets and one of the police officers said this was not extreme at all. Then he asked Rahmaan about what was going on in Palestine, what was going on in Syria, and what Rahmaan’s opinion of ISIS was.

Rahmaan was translating all of this for his mother, who speaks only Persian. This upset one of the officers, who, according to Rahmaan, “got very angry and shouted at me”.. The other police officer calmed his colleague and continued the questioning, asking Rahmaan what sect of Islam he belonged to.

Rahmaan recalled: “When I replied I am a Shia Muslim, he said ‘we are only looking for certain types of Muslims’. If I was a Sunni, I would probably still be on their radar. They came to the conclusion that I wasn’t a radical person – they looked at the leaflets and badges, and said ‘from what we can tell, you are not a radical person’”. He added: “If I was a white person asking to raise money for Save the Children or a white person wearing a Palestinian badge I don’t think I would have been referred to authorities.... If you are a Muslim and an Afghan and you are talking about Palestine, it ticks all the boxes. I am pretty sure that if I wasn’t a Muslim, I wouldn’t have been referred”.

Rahmaan asked if police records relating to him would be retained. The officers explained that the records would be retained but that they would be dormant, they would not be used.

These incidents had a chilling effect on Rahmaan’s and his friend’s political expression. They made Rahmaan reluctant to talk about Palestine in school. His friend – who had written the quote on the leaflet – completely “shut down”. He told Rahmaan that his parents told him not to talk with Rahmaan because he had been radicalised.

Rahmaan told the Justice Initiative: “If Prevent is meant to stop young people from expressing their views, it is working. If it’s meant to be stopping violent extremism, maybe in one or two cases it might wipe out ISIS sympathies, but in most cases it doesn’t do that. And it could be doing the opposite of what it intends – if I was a radical person, if police officers came to my house and questioned me and intimidated me, I could be vulnerable to being drawn into violent extremism”.

In February 2016, Rahmaan’s school issued a public statement saying that “due to the confidential nature of these matters, and for obvious reasons, we are unable to discuss how they may or may not relate to any individual students or why someone may have been referred as this is a private matter relating to an individual pupil”. The school added that “teachers were not concerned about the nature of the badges and wristbands or because he asked to raise money for Palestinian children ... the school does not permit the wearing of any accessories that are not part of the school uniform except for official badges such as prefect badges or badges that relate to curriculum projects that are going on within the school”. The school also said that: “At no point was the student told not to talk about Palestine in school”. The school added that it needed to “ensure that any materials that are presented within school represent a fair and balanced view” and that it had supported the efforts of students (including Rahmaan) with respect to a fundraising initiative to raise money for charities that alleviate poverty in Palestine.³³⁶

Rahmaan graduated from school and now attends college. One day, a teacher there kept him back and told him to be “careful” because someone had written a letter to the college about Rahmaan’s “radical tendencies”. In addition, senior staff had been asking the teacher about

Rahmaan's views. Rahmaan told the Justice Initiative: "Even though the police found I wasn't radical, they are still interested in me". Rahmaan's referral to Prevent, it seems, has followed him.

Even if the school's confiscation of the wristband, leaflets, and badges was not related to their pro-Palestinian content, there are serious questions about whether its reporting of these facts to the police and its confiscation of the leaflets amounted to a violation of his freedom of expression under Article 10 of the European Convention. Moreover, the school's actions appeared to have had a chilling effect on valid political expression by students at the school. To the extent that Rahmaan was targeted in this manner because he was Muslim, this case raises questions about a violation of his rights under Article 14 of the Convention combined with the right to education under article 2 of Protocol 1 to the Convention. His intrusive questioning by the police on intensely personal issues (including whether he was a "certain type of Muslim") raises concerns about the violation of his right to private life under article 8 of the Convention. This case also suggests that contrary to article 3 of the Convention on the Rights of the Child, Rahmaan's best interests were not a primary consideration for the school and the police.

More generally, this case shows how intimidating it can be for a young person to be questioned by the police under Prevent. It also raises serious concerns about the creation, retention, and use of records about individuals referred under Prevent and the lingering effects of being targeted as a "radical" under Prevent.

B. Universities

The Prevent duty in universities entails particular scrutiny of speakers, with a view to determining whether they might be "extremist" and undermine "British values".

On 17 September 2015, the day before the Prevent statutory duty for further and higher education was to take effect, Prime Minister Cameron's office issued a press release announcing that "for the first time, universities and colleges in the UK will be legally required to put in place specific policies to stop extremists radicalising students on campuses, tackle gender segregation at events and support students at risk of radicalisation, as part of the government's plans to counter extremism".³³⁷ The press release added: "Last year at least 70 events featuring hate speakers were held on campuses, according to the government's new Extremism Analysis Unit ...".³³⁸ In "Notes to Editors", the press release stated:

In 2014 there were at least 70 events involving speakers who are known to have promoted rhetoric that aimed to undermine core British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs, held on university campuses.

Queen Mary, King's College, SOAS and Kingston University held most events. Events included the hosting of 6 speakers that are on record as expressing views contrary to British values, including Haitham Al-Haddad, Dr Uthman Lateef, Alomgir Ali, Imran Ibn Mansur (aka 'Dawah Man'), Hamza Tzortis and Dr Salman Butt".³³⁹

All four universities mentioned in the release objected to Mr Cameron's claims.³⁴⁰

Julius Weinberg, Vice Chancellor for Kingston University, told the Justice Initiative that the "PM was wrong in detail and also wrong in principle" and that "the two speakers who spoke at Kingston spoke about anodyne subjects".³⁴¹ A spokesman for Kingston University said Dr. Haddad and Dr. Lateef had each addressed the university's Islamic Society once in 2014. Their topics, respectively, were, "How one needs to strike the balance between the worldly life and hereafter", and the crisis in the Central African Republic.³⁴²

The Vice Chancellor added: "We believe the data [for the PM's press release] came from an organisation called Student Rights (who are trying to push a particular agenda and not a helpful one), which is close to the Henry Jackson Society". (The Henry Jackson Society is a conservative British think-tank which lists Student Rights as one its projects.³⁴³) The Vice Chancellor observed that the same data was also used by the Home Office counterterrorism unit to demonstrate why Prevent is needed. He wrote to the Home Office to ask about their data, but received no response.³⁴⁴ The Home Office has separately acknowledged that its "Extremism Analysis Unit" relied in part on the Henry Jackson Society's research in identifying "hate speakers" for the press release.³⁴⁵

The case studies and other interviews conducted for this report strongly suggest that the Prevent statutory duty is restricting freedom of speech, including by creating a chilling effect in universities. A student at a London university told the Justice Initiative that it had become difficult to bring in external speakers, that the process of getting approval for them had become "highly bureaucratic", and that Prevent had created an "atmosphere of fear", particularly amongst Muslim students.³⁴⁶ Martyn Rush, politics officer for the Oxford University Islamic Society, observed: "It is not simply that events might be cancelled or changed by College authorities, but also that Muslim students are put off from political activism by the legislation. Students in Oxford are increasingly unwilling to put their heads above the parapet politically, and the Prevent legislation is in danger of encouraging quietism and disengagement. Several events, in my experience, have not got off the drawing board due to self-imposed concerns about Prevent",³⁴⁷ More specific examples that raise concerns about restrictions on freedom of speech are described below.

University of Huddersfield conference on racism and Islamophobia cancelled

This case raises concerns about whether onerous conditions were placed under Prevent on a conference organiser because of the views of a civil liberties and human rights organisation invited to attend.

On 12 July 2016, the school of Music, Humanities and Media at the University of Huddersfield was scheduled to host a one day interdisciplinary conference on “Racism and Islamophobia”.³⁴⁸ The conference was widely advertised, including on Eventbrite, an online event invitation and listing service. David Miller, Professor of Sociology at the University of Bath, accepted an invitation to be a keynote speaker at the conference. However, a few days before the conference, on 6 July 2016, the conference organiser informed him that the conference had been cancelled for “various reasons”.³⁴⁹

Partially redacted records received under the Freedom of Information Act³⁵⁰ suggest that the cancellation may have been partly related to the University Secretary’s insistence that additional conditions be met with respect to the participation of JUST West Yorkshire, a non-profit organisation advocating for racial justice, civil liberties, and human rights, set up in 2003 by the Joseph Rowntree Foundation.³⁵¹ The conditions were apparently motivated by the views espoused by JUST on its website.

Vetting procedures for the conference began almost two months before the conference date. On 19 May 2016, the Dean of the School of Music, Humanities and Media wrote an email to the conference organiser asking him if he had gone through the University’s Freedom of Speech (FOS) procedure or if it was something to be done. If it was still to be done, the Dean asked the organiser if he could “complete the External Speaker log as soon as possible”.

The next day, the organiser sent the University Secretary and the Dean the current list of confirmed speakers, who were all academics, while informing them that he was still waiting for confirmation from Police/Prevent speakers, including representatives of the Prevent programme of the Metropolitan Borough of Kirklees, which includes the town of Huddersfield. He said he was also hoping that some members of JUST would talk, and that he might also invite another advocacy group, Secure Societies.³⁵²

On 24 May 2016, the University Secretary wrote back asking the organiser to discuss the event with his Dean “in the first instance” in light of Huddersfield University’s Freedom of Speech and External Speakers Policy.

On 20 June 2016, the University Secretary sent an email (presumably to the organiser, the recipient’s name is redacted) saying: “It is difficult to clarify exactly what types of expressions would need to be closed down quickly, but I have set out below some guidance, which I hope is of assistance to you.... Whilst the programme for the academic conference may not of itself be a concern under the Freedom of Speech policy, *there is a risk that given*

the topics to be discussed, it may attract attendees which hold extremist views and, as such, the Chair(s) must be confident that they understand their responsibilities under the Freedom of Speech policy and would be able to manage any questions/behaviours which would pose a challenge to this and provide an opposing view should any extremist views be expressed” (emphasis added).

The “guidance” attached to the University Secretary’s 20 June email notes, in relevant part: “Your specific query relates to the fact that you are holding an event in which speakers are critical of the Government’s Prevent Strategy. Simply being critical of the Prevent duty would not, in itself, constitute an extremist view, but as Chair, you would need to be confident that the invited Speakers will not express extremist views and, if any such views are raised from the floor that you, as Chair, would be confident in challenging these and be able to provide an opposing view. The conference advertisement states ‘it will further debate if Government policies can successfully challenge issues like radicalisation or are they stigmatising Muslim communities;’ *if the only view presented during the conference is that government policy is ‘stigmatising’ Muslim communities and it isn’t acknowledged that other viewpoints exist then this would pose a problem under the University’s Freedom of Speech policy*” (emphasis added).

The guidance provided by the University Secretary goes on to provide further detail on the definition of extremist views (as defined by the Government) and the University’s obligations under the Prevent Policy under the guidance for Higher Education.

The guidance adds: “Some examples of extremist ideology that have been provided to the University during training, including those that (obviously this is not an exhaustive list):

- Deny equality of opportunity for women/girls – ideologically different/role in society.
- Purport fundamental differences between people and hatred of minorities and hatred of differences – for example ‘rising tide of islamophobia’, promotion of anti-semitism, or encouraging sectarianism.
- Deny that all are equal in the eyes of law and have the right to its protection, irrespective of their differences. Individuals who argue that secular law is subordinate to law of God.
- Reject democracy – any suggestion that an individual cannot participate in democracy”.

On 21 June 2016, the organiser responded to the University Secretary, stating: “I did ask PREVENT officers to take part and I also asked academics who fully support PREVENT to take part but they declined. The conference is not about PREVENT but about Islamophobia and racism. I assume speakers who are talking about PREVENT will provide an Overview of the policy”. Apparently exasperated, he wrote: “I quite simply don’t know what to do”.

On 22 June 2016, the University Secretary wrote to the Dean (while copying the deputy Vice Chancellor) saying:

It has been brought to my attention that the text advertising the above event on eventbrite, is different to the conference poster...shared earlier that week. The eventbrite posting contains in the following additional text: 'The Conference has invited community groups such as Just West Yorkshire and Kirklees Prevent and also to participate in the audience'. We had understood this event to be an academic conference, as opposed to a community/public event; this was the basis on which the event was presented and, I believe, assessed and approved by you. If community groups have been encouraged not only to attend, but to also have active participation in the event, their representatives should be assessed as external speakers in accordance with the Freedom of Speech Policy and recorded on the external speakers log.

Thereafter, the Dean and the University Secretary engaged in a series of emails about whether it was possible to distinguish an academic conference from a community/public event, and whether it was necessary to formally pre-vet JUST instead of managing through "active chairing of contributions from the floor", particularly since (as the Dean noted) JUST had been invited in "general terms" and "did not have a formal presence on the conference programme".³⁵³

On 4 July 2016, the University Secretary, while copying the Deputy Vice Chancellor, wrote to the Dean asking if he had been able to clarify whether JUST had been invited to address the conference, and if so whether they had been assessed under the Freedom of Speech policy. She added: "If these issues have not been resolved to your satisfaction presumably this has left you with heightened concerns around the management of this event which, *if not resolved within the next 24 hours, would lead you to consider very carefully whether the event can proceed*" (emphasis added).

On 5 July, the University Secretary wrote that "*the clarification on the involvement/'participation' of Just West Yorkshire, is of particular importance given the views espoused on their website*" (emphasis added). A copy of this email is included in this report; please see Appendix C.

On 6 July 2016 – just six days before the conference date – the University Secretary, while copying the deputy Vice Chancellor, wrote again to the Dean. This email, also included in this report (please see Appendix C), states that "[i]n light of the attendance of community groups/members of the public at the above event", the University had sought "guidance" which recommended that another group (whose name is redacted, but which appears from the email to be Kirklees Prevent) "should be approached again to attend". The email notes: "The rationale behind this is that whilst the academic community are fully adept in critical thinking and providing an appropriate response to vigorous debate, it is less certain how members of the public may respond to such a debate *and there is the potential for strong opposing views, or legitimate concerns to be raised*" (emphasis added). The email also suggests the event be recorded so that there would be an "independent record" "if there is any subsequent controversy". The email also states there should be a "strong Chair" who

“would need to intervene and respond appropriately to any expression contrary to ‘British Values’” and that this was being mentioned “for completeness” in light of the “*emphasis that BIS [the government department of Business, Innovation and Skills] placed on this role*” (emphasis added).

David Miller was informed on 6 July 2016 that the conference had been cancelled.³⁵⁴ This strongly suggests that the cancellation was related at least in part to the three conditions identified in the 6 July 2016 email from the University Secretary. In response to a Justice Initiative inquiry, a University official stated: “The conference in question was cancelled by the academic member of staff who had been organising it and I am not in a position to comment on the reasons for his doing so. The organiser and his colleagues had been supported through the University’s Freedom of Speech and External Speakers Policy (which can be consulted at <http://www.hud.ac.uk/services/vco/policiesandprocedures/#f>) and all appropriate steps had been taken to ensure that academic freedom and freedom of speech had been protected in the context of UK law”.

Not all of the facts relating to why the conference was cancelled are available. However, the records received under the Freedom of Information Act strongly suggest that the cancellation was likely related to the University Secretary’s concerns about the views “espoused” by JUST on its website and the additional conditions proposed to address these concerns. A review of the JUST website reveals that the organisation advocates “promoting racial justice, civil liberties and human rights” and is critical of Prevent.³⁵⁵

Significantly, in her 22 June 2016 email to the Dean, the University Secretary noted that the text advertising the conference stated that the conference had invited community groups such as JUST West Yorkshire and Kirklees Prevent. However, her concerns and recommendations for pre-vetting were directed only at JUST, and not at Kirklees Prevent. Moreover, the 6 July 2016 email from the University Secretary suggests that invitations to the conference be re-issued to Kirklees Prevent, even though they had previously declined to attend. With just days to go before the conference, that email assumed that Kirklees Prevent did not need to be vetted in a manner that was being recommended for JUST.

If the event was cancelled because the organiser could not meet the University’s conditions so that it could be “entirely convinced” that JUST West Yorkshire’s “extremist views” could be “fully mitigated”, this raises concerns about a possible violation of the Education Act (1986) because the cancellation “den[ied] use of ... [university] premises” on a “ground connected” with the “beliefs or views” of an individual or “policies or objectives” of a body. This case also raises questions about whether the conditions in the University Secretary’s 6 July 2016 email collectively constituted, contrary to article 10 of the European Convention, a disproportionate interference with the invited speakers’ right of free speech as well as the right of the conference attendees to receive information from the speakers.

More generally, this case raises questions about whether conferences relating to Islamophobia in particular are receiving heightened scrutiny under Prevent. The 20 June 2016 email from the University Secretary states, in relevant part: “It is difficult to clarify exactly

what types of expressions would need to be closed down quickly Whilst the programme for the academic conference may not of itself be a concern under the Freedom of Speech policy, *there is a risk that given the topics to be discussed, it may attract attendees which hold extremist views ...*" (emphasis added).

The case also raises questions about whether there is particular pressure to counter criticisms of government policy. The guidance appended to the University Secretary's 20 June 2016 email notes that *"if the only view presented during the conference is that government policy is 'stigmatising' Muslim communities and it isn't acknowledged that other viewpoints exist then this would pose a problem under the University's Freedom of Speech policy"* (emphasis added). It appears that the policy treats the view that government policy is stigmatising Muslim communities as an "extremist" one.

The University Secretary's insistence that the chair of the conference "would need to intervene and respond appropriately to any expression contrary to "British Values"" is also troubling, particularly in light of the lack of clarity as to the definition of "British values". Finally, this case provides a clear example of how the multiple layers of time-consuming procedures under Prevent could be daunting to an organiser, and could potentially deter future conferences relating to Islamophobia.

CASE STUDY 13

Cambridge College actions lead to Islam in Europe debate being cancelled³⁵⁶

This case raises concerns about possible infringements on the freedom of speech under Prevent in the context of a debate on Islam organised by the Cambridge University Islamic Society.

In early 2016, a team within the Cambridge University Islamic Society decided to organise a debate on Islam in Europe, to be held on 16 February 2016. In January 2016, the organisers applied to book a room for the debate at two different Cambridge colleges, College 1 and College 2, in case one of the venues was unavailable. They had four confirmed speakers, one of whom was an alumnus of College 1. Nasir, a student at College 1, filled out the relevant information, including the names of the four speakers, on College 1's website for booking events.

On 2 February 2016, College 1's administration informed Nasir by email that his requested had been approved. A fellow student had handled the inquiries at College 2, and even spoken with porters from that college, but then cancelled when College 1 agreed to host the event.

About a week before the conference, Nasir got an email from a professor at College 1, asking if they could meet. When they met on 9 February 2016, the professor told Nasir

that College 2 had contacted College 1 regarding the event to be held the following week and the professor wanted to talk with Nasir about it. The professor said that a new law required colleges and universities to be more careful about the platforms they give to speakers. Nasir understood the “new law” to be the Prevent statutory duty.

The professor said there was concern that one of the invited speakers was sympathetic to ISIS, and that the senior tutor had been consulted on this matter. Nasir recounted to the Justice Initiative that the professor effectively told him: “If one of the speakers were to say something troublesome at the event, then the college would get into trouble with the government. And because you are booking the event, you would be responsible”.

Although the professor did not specifically mention the particular speaker at issue, the student knew which one he was probably referring to because he had previously seen a July 2015 news report in *The Telegraph* attacking that speaker – Abdullah al Andalusi – for holding extremist views.³⁵⁷ Al Andalusi is a frequent speaker on issues related to Islam, who has appeared on a wide range of media outlets in the UK and internationally. The article popped up prominently on doing a quick online search of the speaker. Nasir also knew there were other reports describing how *The Telegraph* had misrepresented al Andalusi’s views, including a refutation written by al Andalusi himself, but a quick Google search would not reveal these reports as prominently as *The Telegraph* piece.³⁵⁸ Nasir surmised that College 1 had probably done a hasty search on al Andalusi, seen the *Telegraph* article, because it was the first article that popped up, and decided he presented a problem under Prevent.

Nasir told the professor that if College 1 did not want the problem speaker to be at the debate, Nasir could disinvite him, but that Nasir did not want the debate to be cancelled. The professor responded ambiguously, saying that that maybe if the speaker were disinvited, the debate could go ahead. The professor did not attempt to explore ways in which any “extremism” in the speaker’s views might have been mitigated while allowing him to speak.

Soon after that conversation, one of the organisers from the Cambridge University Islamic Society wrote to al Andalusi to disinvite him from the debate. Following the disinvitation, one of the other invited speakers, who knew al Andalusi, declined to speak at the event. A third speaker wrote to the Islamic Society saying she had concerns and wanted to speak with the event organiser. Having effectively lost three of its four speakers, the Islamic Society cancelled the event.

Nasir told the Justice Initiative that cancelling such events “stops free discussion in a neutral environment where views can be opposed. This leads to conversations about such topics being held underground, where there is less of an opposing view, and this can feed extremism”. This incident has had a chilling effect on free speech at Cambridge University. According to Nasir, this incident made the Islamic society even more reluctant to organise events on the subject of Islam and politics. In general, he said, it was much more difficult to organise events on this kind of subject because it is “so easy these days for Muslims to be labelled as ‘extremists’” and “because the speakers will always be vetted”. He also noted that

this environment also created “some self-regulation of what content to put on the Islamic society’s blog because of concerns that anything written could lead to trouble”.

This incident also made Nasir consider his professor’s perception of him. At one point after this incident, when the professor became aware that Nasir was writing a paper on Islamic anti-imperialism, the professor asked Nasir if he would be able to be “unbiased” in researching this topic. Nasir told the Justice Initiative: “I felt the attempt to organise the debate coloured his view of me”. The climate of fear at the university appears to have pervaded academic research. At the end of May 2016, Nasir’s supervisor was giving him a reading list for his coursework and gave him topics – including the Ayatollah in Iran, Osama Bin Laden, and Hezbollah – to look up. The supervisor told Nasir: “Don’t search the names I gave you on Google. Be intelligent with the names. Don’t raise any alarm bells”. Nasir looked at his supervisor, confused. Moments later, on reflection, he understood that this was a “hint to be a bit more careful”, and not to “give the impression that you are up to no good”.

More generally, Nasir told the Justice Initiative that some of his Muslim friends at Cambridge University say that they feel “very uncomfortable speaking in supervisions because they could be reported for anything ... that fear is always there”.

This case study raises concerns about the violation of article 10 rights on the part of the debate’s speakers’ right to free speech and the audience’s right to receive information. College 1’s intervention a week before the conference indicating that the debate could not go forward as long as al Andalusí was a featured speaker raises questions about a possible disproportionate interference with these rights. The College appears not to have conducted sufficient research on al Andalusí before summarily concluding that he held “extremist” views. In any event, even if there were valid concerns about his views, the College could have explored methods to mitigate those views short of requiring him to be dropped as a speaker. By denying use of university premises on a ground connected with al Andalusí’s alleged beliefs, this case also raises concerns of a breach of section 43 of the Education (No. 2) Act.

CASE STUDY 14

Student targeted for reading course book³⁵⁹

It appears from this case that merely reading course material related to terrorism can lead to a student being targeted under Prevent.

Mohammed Umar Farooq is a 32 year-old student at the University of Staffordshire. He is pursuing a Master’s degree in Terrorism and Security Studies. On the evening of 23 March 2015, Mohammed was sitting in the University library, reading a book required by his course. The book was “Terrorism Studies: A Reader”, edited by John Horgan and Kurt Braddock. He had been sitting there for about ten minutes, when two women sat down near him and started to talk with him. It emerged from the conversation that both women were studying law. One

of the women – Woman A – also worked at the university and the other – Woman B – was a magistrate. The magistrate asked Mohammed what he was reading. He told them about the book. They asked what he was studying. He responded that he was studying terrorism and security. At this point, Mohammed noted Woman A gave him “a very strange look”. Mohammed thought little of it and the conversation continued.

They talked about his course and the fact that Mohammed had lived in Saudi Arabia, and then discussed that country’s laws and reputation for women’s rights. The two women asked Mohammed about ISIS, about the three girls from Bethnal Green in London who went to Syria, his views on Sharia law, and his views on homosexuality.

Then the two women left and Mohammed said goodbye. He was still reading in the library when Darren, a University security guard, came into the library. The guard, who knew Mohammed, told him that a lady had come to the security office and said: “There is a man, who is Asian, and with a beard, who is not a student and is reading a book on terrorism”. She told the security guard to go and “check [Mohammed] out as she suspect[ed] that [he was] a radical terrorist”.

Mohammed was shocked and upset at Woman A’s “lack of acceptance and tolerance of other faiths and races”. He later observed: “She was fully aware that I am student and that I study terrorism. During our discussion we even spoke about my reason for my study and how I believe that my course is important to stop and keep our country safe, and how I am third generation British and proud of my identity and country. So how she came to the conclusion that I am a radical terrorist reading books in the library I don’t know”.

On 25 March 2015, Mohammed went to the University security office to ask about the complaints procedure. The security guards informed him that Woman A had come in to see them the same morning and asked them for his name and his student number. They informed her that they had known Mohammed for five years, that he was third generation British, and that they had never had an issue with him. She insisted on taking his details. She said: “You can never be safe given the current climate with his kind. You don’t know who is living next to you until the media find out. Third generation British doesn’t mean anything”.

That day, Mohammed wrote an email to University officials to complain about the woman’s conduct. The University reviewed Mohammed’s complaint under its complaints procedure and concluded that it could not find any grounds to support allegations of racism or discrimination. It also recommended mediation between Woman A and Mohammed, which he agreed to. In the mediation, he asked her: “What was it that I said that led you to think I was a terrorist”? She responded that she had a duty of care, and that she found the things that he was saying to be “radical”. The conversation did not go well; she left crying.

Eventually, Woman A wrote an apology to Mohammed. The University also apologised to Mohammed. In a June 2015 letter to Mohammed, the University regretted the distress caused to him. It also noted that the Counterterrorism and Security Act 2015 imposed “a duty on the University to have due regard to the need to prevent individuals from being

drawn into terrorism". The letter added that "[t]his is a very broad duty, devoid of detail" that was "underpinned" by statutory guidance that contains "insufficient detail to provide clear practical direction".³⁶⁰ The letter noted that in practice, "particularly in the absence of extensive experience in dealing with such sensitive matters", it could be a "significant challenge" to distinguish "between the intellectual pursuit of radical ideas and radicalisation itself".³⁶¹

But the apologies could not ameliorate Mohammed's suffering. The accusation of terrorism and its stigmatising effect devastated Mohammed. The incident made him question his being British and left him feeling depressed, alienated, and unable to concentrate.

On 17 November 2015, Mohammed spoke of his experience before the Home Affairs Select Committee. Asked by the Committee Chair if someone else in his situation might have been radicalised by what he went through, Mohammed said: "Yes, I would say, if there wasn't somebody who was as focused and being able to deduce from my experience ... what has happened to me, although its ruined me in a way, it's also quite nice to know that we live in a society where people will look at me and there are lessons learned from what has happened to me. That's what I hold on to, otherwise there is a potential that what you are referring to could happen. And that is what scares me".³⁶²

In comments to the press in relation to this case, Noel Morrison, the academic registrar and director of student experience at Staffordshire University, said that he was "very sorry that a misjudged situation has impacted on this student. We do, however, have the right policies and procedures in place and are confident that the situation was investigated and concluded appropriately".³⁶³

This incident raises serious concerns about the violation of Mohammed's rights under article 14 combined with article 8 of the European Convention, as well as under the Equality Act. It appears that had he not been Muslim, it is unlikely that he would have been targeted under Prevent in this manner. His rights under article 8 were arguably undermined by the university complaints' officer's intrusive questioning of his political and religious beliefs. More generally, this incident shows how Prevent can be counterproductive and cause significant, lasting damage. It caused Mohammed to question his Britishness. He has observed that had he not been as focused as he was, the incident could have "radicalised" him.

Finally, it appears that Mohammed is not the only student to experience such treatment. Similar human rights concerns are raised with respect to another incident in the University of East Anglia in which a politics student was visited at home and questioned by counterterrorism police for reading course materials associated with ISIS and al-Qaeda.³⁶⁴

Birkbeck College Islamophobia conference cancelled³⁶⁵

This case suggests that Prevent may have played a role in the cancellation of a conference on Islamophobia. The Islamic Human Rights Commission (IHRC) decided to organise a conference on Islamophobia to be held in London on 12 December 2014. According to Razia, an IHRC representative: “We started planning the conference six months beforehand. A lot of work was being done”.

IHRC picked Birkbeck College, part of the University of London, as the venue for the conference. Birkbeck agreed to host the conference and Razia worked for about a month with a particular person at Birkbeck to prepare for the conference.

On 7 December 2014, Razia received an email from a South London anti-fascist group saying that, according to social media, a far-right group, Britain First, might attend the conference and try to cause disruption. The anti-fascist group mentioned that this sort of talk on social media happened all the time and, most often, groups that reportedly intend to cause disruption do not turn up at the event at issue.

On 10 December 2014, two days before the conference, Razia and her colleague went to Birkbeck for a site visit, to check if everything was in order. Razia recalled: “When we went to Birkbeck, about three Birkbeck officials put me and my colleague in a room for a meeting. We were taken by surprise. We weren’t well-versed on how to deal with these officials. There were four people in the room other than us. One of them was a Prevent officer, from the local council”.

The Birkbeck officials told Razia and her colleagues that they wanted to meet because the Metropolitan Police had been in contact with Birkbeck regarding concerns that “Britain First” and “Casuals United” (another far-right group) were planning to disrupt the conference.

Razia told the Justice Initiative: “My colleague and I were surprised. We didn’t know how to respond, firstly because we weren’t expecting a Prevent officer to be present and secondly, we were also surprised that the Metropolitan police had contacted Birkbeck without contacting IHRC.... They didn’t explain why the Prevent officer from Camden council was there”.

As Razia recalls, the far right groups had set up a Facebook event page indicating their intent to disrupt this conference. The South London anti-fascist group had emailed her to say that in response to the far right demonstration, a counterdemonstration had been planned by a society from the School of Oriental and African Studies (SOAS).

She observed: “The problem at the meeting was that the Birkbeck staff seemed to be more concerned about the SOAS counter-demonstrators, whom they referred to as ‘left-wing extremists’ than the far right threat. The Birkbeck officials said the SOAS group was notorious for being a “bit ferocious” in their demonstrations. The officials said they were worried that

the SOAS group would become violent. According to Razia, IHRC offered to pay for their security for the event, but Birkbeck wanted their own security officers.

On 10 December 2014, two days before the conference, Birkbeck announced it was cancelling the event due to concerns about safety. IHRC complained to Birkbeck that cancelling at the last minute was unacceptable, especially because so much time and money had been spent on planning the conference. According to Razia, “We also told Birkbeck that cancellation of the event itself was a victory for the far right”.

Eventually, IHRC managed to find a gallery space in Central London for the event. The Islamophobia conference “passed off peacefully and successfully”.³⁶⁶

While it is not possible to conclusively state that Prevent obligations caused the conference to be cancelled, the Prevent officer’s presence at meetings relating to the conference raises serious questions about the role of Prevent in the cancellation. Relatedly, there are questions about whether safety may be used as a pretext for cancelling controversial events. Lord Ken Macdonald, former Director of Public Prosecutions and Warden of Wadham College, Oxford, observed in relation to another university’s cancellation on safety grounds of a conference on international law and the state of Israel: “I do not believe anyone at [that university] was under any security threat It was the easiest way out to say there was a security threat”.³⁶⁷ He added that he was “very, very suspicious [when] organisers [say] they cannot guarantee the safety of their guests”. Cancelling a conference on such grounds, he observed, amounted to a “heckler’s veto”.³⁶⁸

It is notable that like the conference cancelled at Huddersfield University, this one was also about Islamophobia. The cancellation raises concerns about possible violations of article 10 of the European Convention, both on the part of the conference speakers’ right to free speech and the audience’s right to receive information. Significantly, there are serious questions about whether the interference with these rights was “prescribed by law”, that is, accessible and sufficiently clear and precise to be “foreseeable” in its application. Birkbeck and the Metropolitan Police did not provide IHRC with sufficient notice of their concerns. Nor did they engage in effective consultation with IHRC about these concerns. There was also insufficient disclosure of Prevent’s role in the cancellation of the conference. Finally, Birkbeck’s failure to sufficiently explain why they had no reasonable way, other than cancelling the event, to ensure the safety of conference participants is particularly concerning in light of the positive obligation under Article 10 to protect freedom of expression. There is also a concern as to whether Birkbeck and the Metropolitan police took “reasonably practicable” steps to ensure freedom of speech, as required by section 43 of the Education (no 2) Act.

C. Health

CASE STUDY 16

Patient quizzed about political views by general practitioner³⁶⁹

This case raises questions about the role of medical professionals under Prevent and, in particular, as to whether Prevent may undermine doctor-patient relationships. It also suggests that the Channel programme generates considerable fear (including of continued surveillance) in its targets.

In May 2014, Abdul, who was 17 at the time, went to see his General Practitioner (GP) about a problem with his leg. Abdul said: “When I got there, the doctor was very friendly, very smiley with me”. At first, the doctor and Abdul made small talk. Five minutes later, while checking Abdul’s blood pressure, the doctor asked: “What are your political views”? Abdul told the Justice Initiative: “For a second, I froze because a Muslim doesn’t even share political views with friends, so why would I share my political views with him”? Abdul responded that he didn’t really have any political views and asked the doctor what he meant. The doctor then asked Abdul: “Are you left wing or right wing”? Abdul dodged the question and left soon after. Asked by the Justice Initiative if he thought the doctor was asking him these questions under Prevent, Abdul responded: “Why else would he be asking me about my political views”?

About a year later, in May or June 2015, Abdul’s mother came into his room and said: “Get ready, the police are outside waiting for you”. Abdul dressed and opened the door. There were two police officers, who asked if they could come inside. Abdul said they could not, and asked them what the problem was. They said that there was no problem, and that they just wanted to talk.

Abdul’s father runs a charity for humanitarian relief in connection with which he has been to Syria on a number of occasions. The police officers told Abdul: “We know your father has been to Syria a few times, we are from the Channel programme”. The police officers told Abdul: “We really, really care about you”. Abdul thought this was strange because he did not know them well enough for them to care about him. They told him that the Channel programme was a voluntary programme and asked him if he would like to join it. Abdul said he did not want to join Channel, and made it clear that he wished to be left alone. Abdul told the Justice Initiative: “They seemed to know a lot about me. This kind of thing can easily make someone go crazy”.

In September 2015, having finished college, Abdul started a new job. In about October of that year, while he was at work, he got a phone call on his private number. The voice at the other end said “Good afternoon, Abdul. This is PC [xx] calling from the [xx] police station”. The private constable told Abdul: “We know about your views on Channel, from our colleague [xx]. We want to meet up with you. Will you come to police station”? Abdul asked why they needed to talk with him, they told him that there were young people being radicalised in the

area, and that they thought he could help “safeguard” the local area. Abdul said he was not interested. He surmised that the police wanted to recruit him to work with Prevent.

He told the Justice Initiative: “[Prevent] is such a good tactic to silence people. Because I am silenced now. I have loads of friends who don’t even know about this. It leaves a stain on your life--if you tell someone about it, they will be suspicious that you must have been involved in something”. He added that Prevent may be counterproductive, noting “Prevent can channel energy in the wrong way by harassing people”.

This case study – the doctor’s questions as well as the continued monitoring of Abdul – raises concerns about the violation of Abdul’s right to private life under Article 8 of the European Convention. It shows that even after someone has refused to enter the Channel programme, they may be made to feel like they are under police surveillance. More generally, it shows how Prevent (including Channel), although it claims to be “pre-criminal” and concerned with “safeguarding”, makes its targets feel like criminals even when they have done nothing wrong.

CASE STUDY 17

Nurse targeted after showing religious inclinations³⁷⁰

This case study is another example of Prevent’s appearing to target individuals who display signs of increased religiosity. Nazia is an auxiliary nurse who had been working in the haematology and bone marrow transplant ward in a Birmingham NHS hospital since about March 2014.

In 2015, Nazia turned 27 and began thinking more about what she was doing with her life. In about June or July 2015, Nazia started becoming more focused on her Muslim faith, searching for something that would bring her peace and contentment. Towards the end of July 2015, she began wearing a headscarf at work. Nazia said she was barraged with questions from the hospital staff as well as the patients about why she was wearing the scarf.

On 17 August 2015, Nazia got a letter from work stating that a Human Resources meeting had been scheduled with the safeguarding lead nurse and the associate director nurse of the relevant division.

On the morning of 19 August, Nazia went to the meeting. There were two people there, one of whom introduced herself as the safeguarding lead nurse; she introduced the other person to Nazia as the associate director nurse. There was also a third woman there who was initially not introduced to Nazia. The safeguarding lead nurse asked Nazia: “Do you know what Prevent is”? Nazia responded that she did not know exactly what it was. The safeguarding nurse said that Prevent was “like safeguarding on a terrorism scale” and that it was routine procedure for an officer to be present.

The safeguarding nurse then introduced the third person in the room as a counter-terrorism police officer. The police officer took notes throughout the meeting. The safeguarding

lead nurse started asking Nazia intrusive questions, including about the headscarf and black abaya (a loose robe worn by some Muslim women) that she was wearing. The safeguarding nurse asked Nazia who lived at home with her. Nazia said she lived with her sister and mother, who suffered from depression. The safeguarding nurse continued to ask “nitty gritty” questions about Nazia’s life. Nazia felt that this interrogation was intended to find information that linked her to terrorist activity, and see if she was being influenced by others or exerting influence upon others.

The safeguarding nurse indicated that she was “concerned” about certain allegations that had been made against Nazia by her colleagues. During the course of the conversation, Nazia inferred that the allegations were that Nazia empathised with those were behind the 2015 terrorist attacks in Tunisia, that she wanted to go to Syria, and that she supported ISIS. Sometimes addressed as “allegations” and sometimes as “concern”, the safeguarding nurse asked “Why are colleagues saying this?”

Nazia could not understand why her colleagues were saying such things about her. She told the safeguarding nurse that she had nothing to do with violence, that she was not into politics, and did not follow the news. Nazia couldn’t be sure, but her guess was that her manager, who did not know Nazia well, had issued a complaint against her to Prevent. Previously, when her manager had pushed Nazia for her views on the terrorist attacks in Tunisia, Nazia had responded that the attacks in Tunisia had nothing to do with Islam, because real Muslims could not think of doing such deeds, especially during Ramadan, which is when the attacks happened.

Nazia also explained to the safeguarding nurse that she had planned to go to Tanzania, not Syria, through a charity called “Islamic Help”. With respect to the allegation that she supported ISIS, Nazia told the nurse that she didn’t know much about ISIS. Among the proliferation of articles and photos floating around on Facebook, she might have shared or liked the famous picture of ISIS members praying in different directions. Nazia thought the picture clearly showed that the ISIS members were not real Muslims. She told the Justice Initiative: “If you claim to be a Muslim, you certainly know which way Mecca is in order to face during prayer”.

But the personal questions continued. The safeguarding nurse asked Nazia about how she spent her time, who she talked with, and who was in her social circle. Nazia started to cry.

Nazia told the Justice Initiative: “I told her it is my choice to wear my scarf, it’s my own decision”. Nazia said they also wanted to discuss her praying – the safeguarding nurse asked whether Nazia prayed at work or at the faith centre. Nazia responded that she prayed on break and she made sure there was no work outstanding when she did.

Eventually, the police officer said she had no concerns and gave Nazia her card, saying Nazia should contact her if she needed support. Nazia took her card but didn’t contact her.

The meeting left Nazia feeling distraught. She had already been feeling unwell when she was interrogated under Prevent. She had to take a month of sick leave because she felt

so awful. Her health deteriorated; she suffered heart palpitations and breathing problems. Just as she was preparing to return to work, around mid-day on 16 September 2015, two counterterrorism police officers, whom Nazia had never seen before, came to her house. They said they were from the counterterrorism unit, Prevent. Nazia protested that the officer who interviewed her earlier had told her that she had no concerns about Nazia. The officers responded that it didn't work like that. They said "we have to go through your case file".

Nazia had had enough. On 8 September 2015, she submitted her 4 week notice to her manager. She was polite in the notice because she knew it would go in her file. She said she wanted to leave because of personal circumstances.

Because of the way she was treated, Nazia gave up her full time permanent job, one that she loved. To make ends meet, she had to work with the hospital on a temporary basis while she looked for another job.

Nazia feels she was discriminated against on religious grounds. She said: "I think I was treated in this way because I am a Muslim. In my ward there are only 3 or 4 colleagues who are Muslim, I was the only one who was open about being religious and they saw the transition in me".

She thinks Prevent is counterproductive. She told the Justice Initiative: "It could have gone the opposite way if I wasn't thinking straight, if I were the type who was being brainwashed. The way they went about it, it could have made me do exactly what they told me not to do. I associate with Prevent negatively, it is not helpful at all".

This case raises concerns about the violation of Nazia's rights under Article 14 combined with article 8 of the European Convention as well as under the Equality Act (through direct discrimination). Had Nazia not been Muslim, it is unlikely that she would have been treated in this manner under Prevent. The intrusive questioning by the authorities and the police appearing at her home implicate her right to privacy under article 8. Like the preceding cases, this case also shows that while authorities acting under Prevent talk about being motivated by "concern" for the person they target, the person who is unfairly targeted perceives the authorities' actions as extremely intrusive and discriminatory, based on crude stereotypes of Muslims. More generally, this case demonstrates the counterproductive effects of Prevent. As Nazia indicated, Prevent may do more to alienate people than to help them.

VII. Effectiveness of the Prevent Strategy

The government's most recent annual report on CONTEST states that “[s]uccess in Channel is when, following the assessment and a programme of support if necessary, there are no remaining concerns that the individual will be drawn into terrorism. The vast majority of cases achieve a successful outcome”.³⁷¹ But the strategy does not explain whether and how it determines that the Prevent strategy was the reason that the individual was not “drawn into terrorism”.

Another metric for evaluating the Prevent strategy is whether it is preventing people from traveling to Iraq and Syria to fight with Daesh. In 2015, Baroness Elizabeth Manningham Buller, a former director general of MI5 who held that office when the July 2005 London bombings occurred, observed that “Prevent [was] clearly not working” on account of the large number – 600 – “dangerous extremists who are British citizens ha[d] fought in Syria”. She added: “If Prevent had been working for the past 10 years, we might not have seen so many going”.³⁷² The government's most recent annual report on CONTEST notes that since the start of the conflict in Iraq and Syria, a total of 850 persons of “national security concern” had travelled there from the UK.³⁷³ It adds that “more than 150 attempted journeys to the conflict area were disrupted in 2015”, but does not say how many of those thwarted journeys were on account of the Prevent strategy.³⁷⁴

The high rate of erroneous referrals to the Channel programme raises serious questions about whether the significant financial and human resources devoted to Prevent are yielding commensurate gains. According to data disclosed by the National Police Chiefs Council, between April 2007 and 31 March 2014, the total number of Channel referrals was 3,934, of which only about 20% were assessed by a multi-agency

panel to be vulnerable to being drawn towards terrorism so as to receive support through the Channel process.³⁷⁵ The government's annual report on CONTEST adds that "during 2015, there were *several thousand* referrals to Channel" around 15% of which were linked to far right extremism, and around 70% linked to Islamist-related extremism"; but that of those referred, only "*several hundred*" were provided with support in 2015.³⁷⁶ Assuming that "several" is used similarly in the two contexts, this suggests that the number of individuals who were wrongly referred to Channel was significant in 2015.

Sir Peter Fahy, former Chief Constable of Greater Manchester who was the National Policing lead for Prevent from 2010 until November 2015, told the Justice Initiative he did believe that Prevent has been effective, and that he did not think that the 80% figure was "too high" "as long as the vulnerable [were] being identified".³⁷⁷ He added: "I fully accept there are dangers of people's rights being violated and of people being wrongly labelled, in the same way that safeguarding means that people may get wrongly labelled – this is hugely regrettable but inevitable if you are putting the safety of a child, for instance, as more important than other considerations".³⁷⁸

But the dichotomy between security and rights is a false one, especially so in the context of Prevent. As Professor Louise Richardson, Vice Chancellor of Oxford University, and an expert in the study of terrorism aptly stated in her testimony before Parliament's Joint Committee on Human Rights: "The best intelligence on the people trying to do us harm comes from the communities in which they recruit.... So if members of that entire group feel that they are being singled out, that they are suspect and that they are not trusted, they are not going to assist us in identifying the people who really want to do us harm".³⁷⁹

Viewed in this context, an 80% error rate in Channel could generate a significant sense of grievance that in turn could compromise the ability of law enforcement to gather intelligence to thwart terrorist attacks. The 2011 Prevent strategy noted that successful Prevent work depended on "developing a sense of belonging to this country and on a perception of the importance and legitimacy of integration".³⁸⁰ The interviews and case studies in this report suggest that Prevent is eroding this sense of belonging, particularly amongst Muslims erroneously targeted under Prevent. Notably, in his 2016 testimony before Parliament's Home Affairs Select Committee, the independent reviewer of terrorism legislation, David Anderson Q.C. observed that "Prevent has become a more significant source of grievance in affected communities than the police and ministerial powers (extended arrest and detention powers, port powers, passport removal, TPIMs with relocation) that are exercised under the Pursue strand of the CONTEST strategy".³⁸¹

The case studies in this report show that being wrongly targeted under Prevent has led Muslims who had previously never questioned being British to question their place in society.³⁸² Adults wrongfully targeted under Prevent have told the Justice Initiative that had they been different, their experience of Prevent could have led them *towards* ter-

rorism.³⁸³ Notably, the Channel “Vulnerability Assessment Framework” (VAF), assesses “vulnerability to being drawn into terrorism” based on, *inter alia*, an individual’s “need for identity, meaning and belonging”; and “Them and Us” thinking.³⁸⁴ The case studies and interviews conducted for this report demonstrate that Prevent itself is generating a “Them and Us” thinking. This in turn creates an environment of reluctance to share intelligence about future attacks with the police.

Dal Babu, a former Chief Superintendent for the Metropolitan police told the Justice Initiative: “Prevent is counterproductive because you need a good relationship with the community for people to come forward with intelligence. If the community doesn’t trust law enforcement, they will be reluctant to share information vital for countering terrorism”.³⁸⁵ Not surprisingly, in December 2015, the *Times* reported that less than a tenth of tip-offs to Prevent came from within Muslim communities.³⁸⁶ Empirical studies demonstrate that the perceived fairness in police tactics (procedural justice) is a significant predictor of cooperation in counterterrorism by British Muslims.³⁸⁷ Particularly in light of such evidence, any serious assessment of Prevent’s effectiveness should attempt to measure not only whether it has prevented individuals from being drawn into terrorism but also its unintended consequences, including the degree of anger and alienation it has caused.

In sum, the evidence and analysis in this report strongly suggests that Prevent is counterproductive. Erroneous referrals and human rights violations under Prevent will, in the long run, significantly undermine effectiveness. As Sir David Omand, the architect of the original version of Prevent, observed: “The key issue is, do most people in the community accept [Prevent] as protective of their rights? If the community sees it as a problem, then you have a problem”.³⁸⁸

VIII. Prevent in International Perspective

Over the last decade, counterterrorism efforts around the world have witnessed a paradigm shift as governments increasingly adopt programmes directed at countering “radicalisation” or “extremism” in its violent and non-violent forms.³⁸⁹ The theory underlying these programmes is that by intervening early and “upstream” on an individual’s path to “radicalisation”, governments can prevent that individual from becoming a terrorist.

This paradigm shift was led by the United Kingdom. In 2003, when it launched Prevent, the UK government was among the first in the world to adopt a formal programme aimed at preventing terrorism by tackling “radicalisation”. Today, there is a proliferation of such international, regional, and national initiatives around the world, known variously as “countering violent extremism” (CVE), “preventing violent extremism” (PVE) or “counter-radicalisation” or “de-radicalisation” programmes.³⁹⁰

In January 2016, the United Nations Secretary-General issued his Plan of Action to Prevent Violent Extremism.³⁹¹ In December 2015, the Organization for Security and Cooperation in Europe (OSCE) adopted a Ministerial Declaration on Preventing and Countering Violent Extremism and Radicalization that Lead to Terrorism.³⁹² Since 2005, the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism has provided guidance through joint standards and measures that aim at preventing terrorist radicalisation and recruitment.³⁹³ The European Council has established an EU-wide Radicalisation Awareness Network, which connects key groups of people involved in countering violent radicalisation across the EU.³⁹⁴

Other national initiatives include France’s new action plan aimed at fighting against radicalisation and terrorism (Plan d’action contre la radicalisation et le ter-

rorisme (PART))³⁹⁵; the Netherlands' comprehensive action programme to combat jihadism³⁹⁶; Australia's Building Community Resilience programme³⁹⁷ replaced by the Living Safe Together programme³⁹⁸; the United States' Strategic Implementation Plan for Empowering Local Partners to Prevent Violent Extremism³⁹⁹; Nigeria's Countering Violent Extremism Programme led by the National Security Advisor⁴⁰⁰; Norway's Action Plan Against Radicalisation and Violent Extremism⁴⁰¹; and Saudi Arabia's Prevention, Rehabilitation and After-Care (PRAC) approach.⁴⁰²

The precise contents of these programmes are far from clear, and many include elements of counter-radicalisation (targeting individuals who have not committed criminal/terrorists offences) and "de-radicalisation" (targeting individuals who have already committed criminal/terrorist acts). The concepts of "radicalisation" and "extremism", whether violent or non-violent, remain "elusive", with no universally accepted definitions.⁴⁰³

As described above, the UK targets violent and non-violent extremism as part of "terrorism" and defines "extremism" as "vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs".⁴⁰⁴ The U.S. defines "violent extremists" as "individuals who support or commit ideologically-motivated violence to further political goals".⁴⁰⁵ Sweden uses the term "extremism" "to describe movements, ideologies or people who do not accept a democratic social system"; a "violence promoting extremist" is one "deemed repeatedly to have displayed behaviour that does not just accept the use of violence but also supports or exercises ideologically motivated violence to promote something".⁴⁰⁶ The Australian Government defines violent extremism as "the use or support of violence to achieve ideological, religious or political goals"⁴⁰⁷; and Norway describes "violent extremism" as "activities of persons and groups that are willing to use violence in order to achieve political, ideological or religious goals"⁴⁰⁸.

Some CVE programmes provide no definition of relevant terms. The U.N. Secretary-General's Plan of Action to Prevent Violent Extremism contains more than 70 recommendations for national, regional and international action, but fails to define "violent extremism".⁴⁰⁹ The OSCE Ministerial Declaration on Preventing and Counteracting Violent Extremism and Radicalization that Lead to Terrorism did not define "violent extremism" or "radicalisation".⁴¹⁰ Similarly, the European Union Strategy for Combating Radicalisation and Recruitment to Terrorism does not appear to define "radicalisation" or "violent extremism".⁴¹¹

The UN special rapporteur on counterterrorism and human rights has observed that "[many programmes directed at radicalisation are based on a simplistic understanding of the process as a fixed trajectory to violent extremism with identifiable markers along the way States have tended to focus on those that are most appealing to them, shying away from the more complex issues, including political issues such as foreign policy and transnational conflicts".⁴¹² He added that in light of "the absence of a clear definition of

violent extremism” and “broad national definitions” of “violent extremism”⁴¹³ the use of that term to adopt new strategies may have “a serious impact on human rights” that prove more dangerous than strategies based on the term “terrorism”.⁴¹⁴ Despite the potential for adverse impact of CVE programmes “on a number of rights, including the right to freedom of thought, religion, privacy and non-discrimination”, the U.N. Special Rapporteur notes that “[i]ndependent evaluations of the programmes’ effectiveness is scarce, largely due to a lack of transparency in their implementation”.⁴¹⁵

Governments vary on whether they expressly target non-violent “extremism” or do so implicitly. Regardless, notions of “extremism” underlying CVE strategies remain extremely broad and susceptible to human rights violations. The Danish action plan on radicalisation and extremism expressly targets “extremism” while defining the term to include “simplistic views of the world and of “the enemy”, in which particular groups or aspects of society are seen as a threat”; “intolerance and lack of respect for other people’s views, freedom and rights”; “rejection of fundamental democratic values and norms, or non-acceptance of democratic decision-making processes; and use of illegal and possibly violent methods to achieve political/religious ideological goals”.⁴¹⁶

In contrast to these programmes, in August 2011, the White House released its national CVE strategy – Empowering Local Partners to Prevent *Violent* Extremism in the United States.⁴¹⁷ While the content of the strategy and its implementation are far from transparent, its goal is “preventing violent extremists and their supporters from inspiring, radicalizing, financing or recruiting individuals or groups in the United States to commit acts of violence”.⁴¹⁸ In 2014, three U.S. cities – Minneapolis, Greater Boston, and Los Angeles – launched pilot CVE programmes.⁴¹⁹

Unlike the UK, the US does not expressly target non-violent extremism, focusing its stated aim solely as that of preventing “violent extremism”.⁴²⁰ However, like the UK Prevent strategy, the US CVE programme has been criticised by civil society organisations for being “based on discredited and unscientific theories positing a progression from religious or political beliefs to violence ... [and for] targeting people for monitoring based on their beliefs or ideologies”.⁴²¹

It appears that the Prevent strategy has influenced other governments’ CVE initiatives. For example, like the Prevent strategy, US CVE programmes seek to enlist health and education professionals to counter “radicalisation”.⁴²² The Federal Bureau of Investigation (FBI), drawing on the UK model of Prevent, reportedly plans to set up “Shared Responsibility Committees” – consisting of social service workers, teachers, mental health professionals, religious figures, and others – to identify and intercept young people on the path towards “radicalisation”.⁴²³ Like the factors and indicators of radicalisation employed in the Channel programme, leaked National Counterterrorism Center guidelines appear to instruct educators and social workers to monitor and evaluate students on a five-point rating scale according to factors like “perceived sense of

being treated unjustly”, “expressions of hopelessness, futility”, and “connection to group identity (race, nationality, religion, ethnicity)”.⁴²⁴ In Minneapolis, school staff have said they would “identity issues and disaffection – root causes of radicalization”⁴²⁵; similarly, the Boston pilot programme has proposed a plan to introduce “multidisciplinary teams” consisting of social workers, psychiatrists, medical, and school staff, among others, to conduct interventions.⁴²⁶ However, unlike the U.K., the US does not impose a statutory obligation on professionals to comply with CVE efforts.

While the U.K. appears to be the only country thus far to have imposed a statutory duty on such professionals to prevent individuals from being drawn into terrorism, as noted in a recent editorial by Baroness Warsi and others, “a growing number of governments – in Austria, Spain, Switzerland, France and Denmark for example – have asked schools to take a more active role in preventing future attacks”.⁴²⁷

Australia’s CVE programme, launched as “Building Community Resilience” in 2010, also has been influenced by the UK Prevent strategy.⁴²⁸ The focus of the programme was primarily to address cognitive radicalisation by building resilience at the community level.⁴²⁹ Following a change in government and subsequent review, it was concluded that the initial range of activities missed the mark and did not respond adequately to the emerging threat.⁴³⁰ In 2014, the “Building Community Resilience” programme was replaced with the “Living Safe Together” initiative. This initiative is based on three core pillars of activity: (i) tailored intervention programmes to connect at-risk individuals with a range of services to help them disengage from violence; (ii) education and engagement activities to build resilience to violent extremism through well-informed and equipped families, communities, and local institutions; and (iii) engagement in the online environment. The key focus of the initiative is on diverting individuals from violent extremism.⁴³¹

More recently, France is reported to be “exploring” the UK’s Prevent strategy as it attempts to counter “radicalisation”.⁴³² Recent reports suggest that individuals who have “never been convicted for acts linked to radicalisation” may be referred by “concerned teachers” to “voluntarily” live for ten months in a “de-radicalisation” centre.⁴³³ Similar to the Prevent strategy’s promotion of British values, France’s efforts have included training school staff to teach the “values of the Republic”.⁴³⁴ The French education minister has said: “Schools and heads of schools have to be able to detect the early signs, the precursor signs of radicalisation in their pupils.... Handbooks have been made and given to heads to help them detect those signs and when they do they are given to the police and to specialised social services”.⁴³⁵ This resembles the Prevent strategy’s risk assessment and reporting requirements in schools.

In light of the influence of Prevent beyond the UK’s borders, the analysis in this report is relevant not only for the UK, but for other governments adopting similar programmes.

IX. Conclusion

This report presents legal analysis and case studies demonstrating that the Prevent strategy creates a systemic risk of human rights violations. The case studies also indicate that the Prevent duty creates the risk of securitising relationships between teachers and students, and between doctors and their patients, thereby undermining trust critical for the effective functioning of these sectors. Moreover, there are serious concerns that the Prevent strategy is counterproductive because its erroneous targeting of individuals who are nowhere near being drawn into terrorism may make them *more* susceptible to that path. Prevent is also causing some wrongly targeted British Muslims to question their place in British society and may engender the very “Them and Us” mentality that Prevent treats as an “indicator” of vulnerability to terrorism. More generally, there are serious concerns that the perception of unfairness associated with Prevent will undermine the ability of law enforcement officials to obtain intelligence to prevent future terrorist acts. This analysis is relevant not only for the UK, but also for other countries which already have adopted elements of the Prevent strategy or are looking to adopt them in the future.

Accordingly, this report recommends, *inter alia*, that the Prevent duty should be repealed with respect to the health and education sectors. There should be an independent public inquiry – with civil society participation – into the Prevent strategy and associated rights violations as well as a formal and independent complaints mechanism through which individuals whose rights have been violated by the Prevent strategy can seek and obtain prompt and meaningful remedies. In addition, the government should publicly disclose data relating to the total number of Prevent referrals, including a breakdown of those referrals, as well as any evidence underpinning the Extremism Risk Guidance (ERG) 22+. In light of particular concerns about the impact of Prevent on chil-

dren, the report recommends that the Children's Commissioners for England, Wales, and Scotland conduct an assessment of the impact of Prevent on children, including but not limited to whether the best interests of the child are a primary consideration in Prevent-related actions. Finally, the health and education professional associations should also conduct impact assessments of Prevent, draw attention to their particularised problems with the strategy, and advocate for reform.

X. Appendices

Appendix A: Questionnaire from Case Study 1

Thank you for participating in this survey, your participation is both valued and important. These questions are not designed to test you, but are to help us understand the effectiveness of this workshop so that we can improve the workshop. Your responses will remain anonymous and confidential.

What is your gender: Male Female

What is your age: _____ Have you attended the workshop yet? Yes

1. Please tell us your opinion on the following statements:

	Strongly agree	Agree	Not sure	Disagree	Strongly disagree
The UK is a good place to live for me and my family	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I personally feel part of society	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I would do what a grown-up told me to do, even if it seemed odd to me	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I think most people respect my race or religion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
People from a different race, religion or community are just as good as people like me	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
People should be free to say what they like, even if it offends others	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It is important to question what your friends tell you	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If someone was making fun of my community, I would try to make them stop – even if it required raising my voice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It doesn't matter if you are rich or poor, everyone should have the opportunity to succeed in life	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
It would bother me if a family of a different race or religion moved next door	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Women are just as good as men at work	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
When resolving problems, it is ok to raise your voice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
There are basically two kinds of people in the world, good and bad	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

I will apply to go to university to do a degree	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I will get into university if I were to apply	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
I don't really think much about what I might be doing in a few years' time	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In the future I will just wait and see where I end up	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

2. When you have finished Year 11 at school, what do you want to do next?

- Stay in full-time education Leave full-time education Leave full-time education but return later

3. Do you have any ideas about what sort of job you want after you've finished full-time education?

- Yes No

4. Thinking about how people from different ethnic and religious groups mix in Britain today, do you think that they...

- Should mix less Mix enough Should mix more

5. Please consider the following story and answer the question about it.

John robs a bank and steals £2000, but instead of keeping the money for himself, he spends it on a life-saving drug for his wife who is dying of a rare cancer. Do you think what John did was right or wrong?

- Absolutely right Maybe right I don't know Maybe wrong Absolutely wrong

6. How much do you trust people from the these groups:

	Trust	Trust a bit	Not sure	Distrust a bit	Distrust
People of my race or religion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
People of another race or religion	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
School teacher	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Police officer	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Journalists	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
UK Government	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

7. How interesting did you find this workshop? (please tick not applicable if you have not yet attended)

- Not at all interesting
- A bit interesting
- Interesting
- Very interesting
- Not applicable

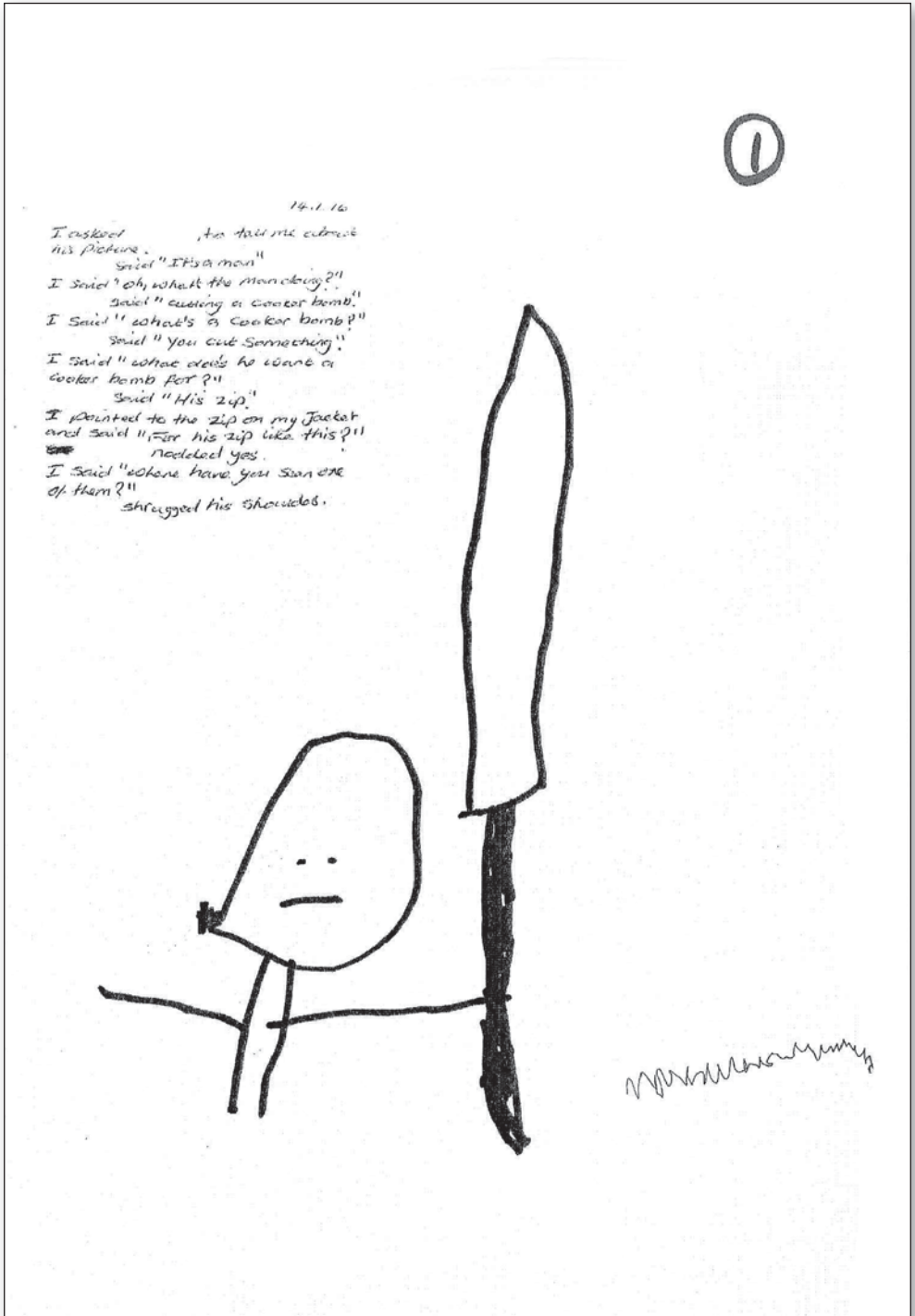
8. What is your ethnic group? (optional)

- White
- Mixed
- Asian
- Black
- Other _____

9. What is your religion? (optional)

- No religion
- Sikh
- Christian
- Hindu
- Jewish
- Other _____
- Muslim
- Buddhist

Appendix B: Drawing from Case Study 4



Appendix C: Email from Case Study 12

[REDACTED]

From: [REDACTED]
Sent: 06 July 2016 09:33
To: [REDACTED]
Cc: [REDACTED]
Subject: Re: Racism and Islamophobia
Attachments: image001.gif; image002.gif; image003.gif

Importance: High

Dear [REDACTED]

In light of the attendance of community groups/members of the public at the above event, we have sought guidance from [REDACTED] and please find a summary of the advice received below:

1. [REDACTED] should be approached again, to make sure that they understand that the event is not being attended exclusively by members of the academic community and that both community groups and members of the public are attending this event and to check whether they were still unable to attend. In particular, the organisers should make sure that [REDACTED] is aware of the specific Community Groups that have been invited to attend and [REDACTED]

The rationale behind this is, that whilst the academic community are fully adept in critical thinking and providing an appropriate response to vigorous debate, it is less certain how members of the public may respond to such a debate and there is the potential for strong opposing views, or legitimate concerns to be raised.

2. That the event is recorded, so that if there is any subsequent controversy we have an independent record.
3. The need for a strong Chair, who understands the make-up of the audience and the potential challenges this brings, was also emphasised; and that they would need to intervene and respond appropriately to any expression contrary to 'British Values' – you have already confirmed your discussions and confidence in [REDACTED] so apologies for repeating here – but given the emphasis BIS placed on this role, I thought I should mention for completeness.

Please could you ask the organisers to approach their contact at Kirklees Prevent and let me know the outcome before lunch time tomorrow? I would be grateful if you would also confirm that the event will be recorded.

Best wishes,

[REDACTED]

From: [REDACTED]
Sent: 05 July 2016 11:28
To: [REDACTED]
Cc: [REDACTED]
Subject: RE: Racism and Islamophobia

Thanks [REDACTED] the clarification on the involvement/'participation' of Just West Yorkshire, is of particular importance given the views espoused on their website.

Best wishes,

Endnotes

1. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, Annual Report for 2015, July 2016, para 2.37, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539683/55469_Cm_9310_Web_Accessible_vo.11.pdf.
2. NPCC, National Channel Referral Figures, <http://www.npcc.police.uk/FreedomofInformation/NationalChannelReferralFigures.aspx>.
3. The Prevent statutory duty took effect on 25 March 2015 for Scotland and 1 July 2015 for schools in England and Wales; and on 18 September 2015 for further and higher education institutions. See <https://www.gov.uk/government/publications/prevent-duty-guidance>.
4. Case studies 10, 14, and 15.
5. Case studies 11 and 16.
6. Interview with mother of four year-old child targeted under Prevent, Luton, 18 April 2016 (Case study 4).
7. Interview with nurse targeted under Prevent, Birmingham, 21 April 2016 (Case study 17).
8. Prevent strategy, June 2011, para 3.8.
9. Counterterrorism and Security Act, section 26(1).
10. Revised Prevent Duty Guidance for England and Wales, 16 July 2015; Revised Prevent Duty Guidance for Scotland, 16 July 2015.
11. Prevent Strategy, June 2011, p. 107; Revised Prevent Duty Guidance for England and Wales, 16 July 2015, para 7; Revised Prevent Duty Guidance for Scotland, 16 July 2015, para 5. (Emphasis added).
12. Thorbjørn Jagland, Sayeeda Warsi and Francesco Ragazzi, How to talk about terrorism, 2 September 2016, <http://www.politico.eu/article/teaching-young-europeans-how-to-talk-about-terrorism-schools-major-role>; Richard Vaughan, France looks to UK Prevent strategy in battle to tackle extremism among pupils, 25 January 2016, <https://www.tes.com/news/school-news/break>

ing-news/france-looks-uk-prevent-strategy-battle-tackle-extremism-among-pupils; Commonwealth of Massachusetts Executive Office of Health and Human Services, Enhancing Resilience to Violent Extremism in Massachusetts through a Continuum of Prevention and Intervention Strategies, Request for Information, 11 March 2016, p. 6 <https://www.commbuys.com/bs0/external/bidDetail.sdo?docId=BD-16-1039-EHS01-EHS02-0000007502&external=true&parentUrl=bid>.

13. Lord Ken Macdonald, video of speech regarding Prevent in the Academy, 10 February 2016, <https://www.wadham.ox.ac.uk/news/2016/february/prevent-in-the-academy> (approx 16.39 until 17.20). Emphasis in original.

14. Andrew Gilligan, Hizb ut Tahrir is not a gateway to terrorism, claims Whitehall report, *The Telegraph*, 25 July 2010; Matthew Weaver, Cameron's anti-terror strategy is 'barking up wrong tree', says expert, *The Guardian*, 20 July 2015; Marc Sageman (2014) "The Stagnation in Terrorism Research, Terrorism and Political Violence", 2014, p. 568–9.

15. See, e.g., Revised Prevent Duty Guidance for England and Wales, 16 July 2015, para 26 ("Where a specified body is not complying with the duty, the Prevent Oversight Board may recommend that the Secretary of State use the power of direction under section 30 of the Act"); *ibid*, para 72 ("Maintained schools are subject to intervention, and academies and free schools may be subject to termination of their funding agreement, if they are judged by Ofsted to require significant improvement or special measures").

16. House of Commons, Home Affairs Committee, Radicalisation, the Counternarrative and radicalisation tipping point, 19 July 2016, para 56, <http://www.publications.parliament.uk/pa/cm201617/cmselect/cmhaff/135/135.pdf> (recommending "that the Government abandon ... the now toxic name 'Prevent' for the strategy and rename ... it with the more inclusive title of 'Engage'").

17. Revised Prevent Duty Guidance for England and Wales, 16 July 2015, paras 66–68 (schools), paras 77–80 (schools); Prevent Duty Guidance for higher education institutions in England and Wales, paras 19–23; Prevent Duty Guidance for further education institutions in England and Wales, para 21.

18. NPCC, National Channel Referral Figures, <http://www.npcc.police.uk/FreedomofInformation/NationalChannelReferralFigures.aspx> (supplying data from April 2007 until 21 March 2014).

19. Case studies 2, 5, and 11.

20. Case studies 5, 10, 11.

21. Case studies 12, 13, 15.

22. Case studies 12, 13, 15.

23. Case studies 5, 11, 13.

24. Interview with teacher, West Midlands, 26 February 2016 (Case study 7).

25. Interview with Simon Cole, QPM, Chief Constable of Leicestershire Police and NPCC Lead for Prevent, 2 September 2016; interview with Sir Peter Fahy, former Chief Constable of Greater Manchester Police and NPCC Lead for Prevent, Cheadle Hulme, 12 July 2016.

26. From 83 Islamophobia-related crimes to 161. Metropolitan Police, Crime Figures, http://www.met.police.uk/crimefigures/textonly_month.htm.

27. Case studies 1–11, 14, 16, 17.
28. Case studies 9, 17.
29. Case studies 7, 9, 11, 14, 16, 17.
30. Case study 1.
31. Case studies 1, 3–5, 7–11.
32. Revised Prevent Duty Guidance for England and Wales, 16 July 2015, para 5; Revised Prevent Duty Guidance for England and Wales, 16 July 2015, para 4.
33. Sections 11(2)(a) & 28(2)(a) of the Children Act of 2004; see also section 1 of the Children Act of 1989.
34. See *ZH (Tanzania)* [2011] UKSC 4.
35. Case study 4
36. *L.H. v. Latvia*, ECtHR, Judgement of 29 July 2014, paras 56, 59.
37. See, e.g., Case studies 3, 4, 5, 17.
38. See, e.g., Case studies 14, 17.
39. NPCC, National Channel Referral Figures, <http://www.npcc.police.uk/FreedomOfInformation/NationalChannelReferralFigures.aspx> (supplying data from April 2007 until 21 March 2014).
40. Aziz Huq, Tom Tyler and Stephen Schulhofer, Mechanisms for Eliciting Cooperation in Counterterrorism Policing: Evidence from the United Kingdom, *Journal of Empirical Legal Studies*, Vol. 8, Issue 4, December 2011 (empirical study demonstrating that the perceived fairness in police tactics (procedural justice) is a significant predictor of cooperation in counterterrorism by British Muslims).
41. Interview with Sir David Omand, London, 30 March 2016.
42. 7 July London bombings: What happened that day?, 3 July 2015, <http://www.bbc.com/news/uk-33253598>.
43. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2016, para 1.3 https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/539683/55469_Cm_9310_Web_Accessible_vo.11.pdf.
44. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2016, para 1.3.
45. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2016, para 2.35.
46. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2016, para 1.8.
47. Prevent Strategy, June 2011, para 7.8 ("Although this strategy does not directly apply in Northern Ireland, many of the principles can be applied to Northern Ireland-related terrorism").
48. HM Government, CONTEST: The United Kingdom's Strategy for Countering Terrorism, July 2016, para 1.8.

49. 7 July London bombings: What happened that day?, 3 July 2015, <http://www.bbc.com/news/uk-33253598>.
50. Countering International Terrorism: The United Kingdom's Strategy (2006), https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/272320/6888.pdf.
51. Countering International Terrorism: The United Kingdom's Strategy, (2006), para 5.
52. Countering International Terrorism: The United Kingdom's Strategy, (2006), para 5.
53. Countering International Terrorism: The United Kingdom's Strategy, (2006), para 6.
54. Interview with Sir David Omand, London, 30 March 2016.
55. Interview with Sir David Omand, London, 30 March 2016.
56. Interview with Sir David Omand, London, 30 March 2016.
57. Interview with Sir David Omand, London, 30 March 2016.
58. Channel Duty Guidance, 2015, para 14, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/425189/Channel_Duty_Guidance_April_2015.pdf.
59. See, e.g., Arun Kundnani, Spooked, How not to Prevent Violent Extremism, 2009, p. 34.
60. Pursue Prevent Protect Prepare: The United Kingdom's Strategy for Countering International Terrorism, 2009, p. 15, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/228644/7547.pdf.
61. Pursue Prevent Protect Prepare: The United Kingdom's Strategy for Countering International Terrorism, 2009, p. 14.
62. Pursue Prevent Protect Prepare: The United Kingdom's Strategy for Countering International Terrorism, 2009, p. 14.
63. Pursue Prevent Protect Prepare: The United Kingdom's Strategy for Countering International Terrorism, 2009, p. 11.
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266. *Kokkinakis v. Greece*, ECtHR, Judgement of 25 May 1993, para 19.
267. *Pichon and Sajous v. France*, ECtHR, Judgement of 2 October 2001, para
268. *Svyato-Mykhaylivska Parafiya, v. Ukraine*, ECtHR, Judgement of 14 June 2007, para, 115, 116; *Manoussakis v. Greece*, ECtHR, Judgement of 26 September 1996, para 44.
269. Case studies 9, 17.
270. ECHR, art. 8.
271. ICCPR, art. 17.
272. CRC, art. 16.

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274. Handbook on European Data Protection law, p.18, http://www.echr.coe.int/Documents/Handbook_data_protection_ENG.pdf.
275. *Pretty v U.K.*, ECtHR, Judgement of 29 April 2002, para 61.
276. *S. and Marper v. the United Kingdom*, ECtHR (GC), Judgement of 4 December 2008, para 66.
277. *Popovski v. Former Yugoslav Republic of Macedonia*, ECtHR, Judgement of 31 October 2013, para 88.
278. *Popovski v. Former Yugoslav Republic of Macedonia*, ECtHR, Judgement of 31 October 2013, para 88.
279. *Amann v. Switzerland*, ECtHR [GC], Judgement of 16 February 2000, paras 46, 50, 55, *Olsson v. Sweden* (no. 1), ECtHR, Judgement of 24 March 1988, para 67.
280. *Marckx v. Belgium*, ECtHR, Judgement of 13 June 1979, para 31.
281. *S. and Marper v. the United Kingdom*, ECtHR (GC), Judgement of 4 December 2008, para 103.
282. *L.H. v. Latvia*, ECtHR, Judgement of 29 July 2014, paras 56, 59 (finding a violation of Article 8 where the applicable law governing disclosures was ‘not formulated with sufficient precision’ and did not afford “adequate legal protection against arbitrariness”. “Neither did it indicate with sufficient clarity the scope of discretion conferred on the competent authorities and the manner of its exercise”).
283. See *Folgerø and Others v. Norway*, ECtHR [GC], Judgement of 29 June 2007, para 98.
284. *Olsson v. Sweden*, ECtHR, Judgement of 24 March 1998, para 61.
285. ECHR, Protocol 1, art. 2. When the UK ratified the European Convention and the First Protocol, it entered a reservation with respect to this provision, stating that it is accepted “only in so far as it is compatible with the provision of efficient instruction and training and the avoidance of unreasonable public expenditure”.
286. *Case relating to certain aspects of the laws on the use of languages in education in Belgium v. Belgium*, (no. 2) ECtHR, Judgement of 26 July 1968, p. 28.
287. *Case relating to certain aspects of the laws on the use of languages in education in Belgium v. Belgium*, (no. 2) ECtHR, Judgement of 26 July 1968, p. 28.
288. *Leyla Şahin v. Turkey*, ECtHR [GC], Judgement of 10 November 2005, para 154
289. See *Folgerø and Others v. Norway*, ECtHR [GC], Judgement of 29 June 2007, paras 95–100 (refusal to grant the applicant parents full exemption from ‘Christianity, religion and philosophy’ classes for their children in State primary schools violated article 2 of Protocol No. 1).
290. Section 29 Equality Act.
291. Part 6 Equality Act.
292. Part 5 Equality Act.

293. See Section 26 Equality Act for the definition of harassment.
294. Channel panel guidance paragraph 43.
295. “Sensitive information” for the purposes of the CTSA is information held by an intelligence service; obtained from or held on behalf of an intelligence service; derived from information obtained from or held on behalf of an intelligence service; or relating to an intelligence service: section 38(5) CTSA. It therefore has a different meaning from sensitive data under the DPA.
296. The Henry Jackson Society’s report *Preventing Prevent* (2015) observes at page 48, for example, that Student Unions have been concerned about the general lack of safeguards around the implementation of Prevent. See also <https://www.theguardian.com/uk-news/2015/sep/23/prevent-counter-terrorism-strategy-schools-demonising-muslim-children>.
297. Prevent Duty Guidance for Higher Education in England and Wales, para 11 (emphasis added).
298. Joint Committee on Human Rights, Counter Extremism, 20 July 2015, para 62, <http://www.publications.parliament.uk/pa/jt201617/jtselect/jtrights/105/105.pdf>.
299. Section 175 (2), (3), Education Act of 2002.
300. Sections 11(2)(a), 28(2)(a) of the Children Act of 2004.
301. Pursuant to section 1 Care Act 2014.
302. Section 42(1) Care Act 2014.
303. Section 5 of the Adult Support and Protection (Scotland) Act 2007 creates a similar duty for Scotland.
304. Section 127 Social Services and Well Being (Wales) Act 2014.
305. As noted above, pursuant to the Terrorism Act of 2000, “terrorism” is defined as the “use or threat of action designed to influence the government ... or intimidate the public ... for the purpose of advancing a political, religious, racial or ideological cause”, that: involves serious violence against a person; involves serious damage to property; endangers a person’s life, other than that of the person committing the action; creates a serious risk to the health or safety of the public or a section of the public, or is designed seriously to interfere with or seriously to disrupt an electronic system. Terrorism Act 2000, section 1. Courts have recognised the breadth of this definition. For example, in *R v F* [2007] QB 960, for example, the Court of Appeal held that the definition of “terrorism” included acts aimed at overthrowing an authoritarian regime, since “the legislation does not exempt, nor make an exception, nor create a defence for, nor exculpate what some would describe as terrorism in a just cause. Such a concept is foreign to the 2000 Act. Terrorism is terrorism, whatever the motives of the perpetrators”. *R v Gul* [2014] AC 1260, paras 36-37, 61-63; *R (on the application of David Miranda) v Secretary of State for the Home Department and others* [2016] EWCA Civ 6 at para 54.
306. Terrorism Act of 2000, section 38B.
307. David Anderson Q.C., Independent Reviewer of Terrorism Legislation, *The Terrorism Acts in 2014*, para 1.8(d); Home Office, Serious Crime Act 2015, Fact sheet: Extending extra-territorial jurisdiction to sections 5 and 6 of the Terrorism Act 2006, March 2015, https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/428117/Fact_sheet_-_ETJ_sections_5_and_6_-_Act_for_gov_uk_.pdf.

308. Crown Prosecution Service, Inchoate offenses, http://www.cps.gov.uk/legal/h_to_k/inchoate_offences/#P16_311 (defining inchoate offences as “instances where a substantive offence may not have been completed but nevertheless an offence of a different kind has been committed because of the actions or agreements in preparation for the substantive offence”).

309. See generally, Katya Sugman Stubbs and Francesca Galli, Inchoate Offences, in Galli and Weyembergh (ed) *EU Counterterrorism Offences* (2012), pp. 298–300.

310. David Anderson, Independent Reviewer of Terrorism Legislation, Oral Evidence before the Joint Committee on Human Rights, 9 March 2016, <http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/human-rights-committee/countering-extremism/oral/30366.html>.

311. This case study is based on a 7 July 2016 interview with a source possessing first-hand knowledge of the facts.

312. This case study is based on a 22 July 2016 interview with a Governor of a primary school in Lancashire who was called in to address the dinner lady’s appeal. At his request for anonymity, he is referred to in this report as Mr. G.

313. This case study is based on a 26 February 2016 interview with the child’s father, Mr. M., in the West Midlands, and an account of events recorded in writing by him and his wife soon after the incident at issue occurred.

314. This case study is based on an 18 April 2016 interview in Luton with the mother of the child at issue in this case. At her request for anonymity, a fictional name is used for her in this report.

315. Letter from Nursery Manager dated 10 February 2016 on file with the Justice Initiative.

316. Ben Quinn, Nursery ‘raised fears of radicalisation over boy’s cucumber drawing’, *The Guardian*, 11 March 2016.

317. Lydia Willgress, “Nursery tries to send Asian boy aged FOUR on a ‘deradicalisation’ programme after he drew a picture of a large knife chopping a cucumber – and staff thought he called the fruit a ‘cooker bomb’”, *The Daily Mail*, 11 March 2016, <http://www.dailymail.co.uk/news/article-3487947/Boy-4-referred-social-services-mispronouncing-cucumber-like-cooker-bomb-drawing-man-large-knife-chopping-one.html>.

318. This case study is based on a 24 March 2016 Interview with the child’s father in Manchester. In light of his request for anonymity, fictional names have been used in this report for the father and his son.

319. This case study is based on a 19 July 2016 interview in the West Midlands with the parent at issue. In light of his request for anonymity, his name has been changed to a fictional one for this report.

320. Professional Association for Childcare and Early Years, “British values and the Prevent duty,” <https://www.pacey.org.uk/working-in-childcare/spotlight-on/british-values/> (accessed 21 September 2016).

321. See *Folgerø and Others v. Norway*, ECtHR [GC], Judgement of 29 June 2007, paras 95–100 (refusal to grant the applicant parents full exemption from ‘Christianity, religion and philosophy’ classes for their children in State primary schools violated article 2 of Protocol No. 1).

322. This case study is based on a 26 February 2016 interview in the West Midlands with a teacher who had first-hand knowledge of this case. At his request for anonymity, a fictional name has been used instead of his real name in this report.

323. A fictional name is used for the boy in this report.

324. This case study is based on an 18 July 2016 interview with the mother of the 14 year-old boy in England. To comply with her request for anonymity, her name has been changed in this report.

325. This case study is based on a 28 March 2015 interview in the West Midlands with a man who was witness to how Prevent was applied to the 17 year-old. At his request for anonymity, the man's name has been replaced by a fictional one.

326. A fictional name is used for the boy in this report.

327. This case study is based on an 8 March 2016 interview in London with the child's mother, Ifhat Shaheen. It is supplemented by the child's account of what happened that was put in writing soon after the incident in question occurred, as well as legal documents in the case and documents from legal proceedings.

328. Email from French teacher, 15 May 2015, Document 1 attached to the School's Pre-action Protocol Letter of Response, 27 July 2015.

329. School's Pre-action Protocol Letter of Response, 27 July 2015.

330. Letter from head teacher to Mr. and Ms. Smith, 19 June 2015, attached as Document 10 to School's Pre-action Protocol Letter of Response, 27 July 2015.

331. Summary grounds of the Head teacher and Governors of the Central Foundation Boys' School Second Interested Party, 22 September 2015, para 9.

332. On 29 October 2015, the Administrative Court denied A. permission to apply for judicial review, *inter alia*, on the grounds that his application was directed at a defendant – the Department of Education – who “ha[d] made no material decision in the events at issue”, and because it was directed to the existence of a March 2015 Prevent Guidance “rather than any challenge to the way the claimant was treated in May 2015”. The Court did not, therefore, reach the merits of whether the claimant was the subject of direct discrimination, i.e. whether the school would have subjected the child to this treatment had he not been Muslim, the issue that is addressed in this case study. Addressing the claimant's indirect discrimination claim, the Court held that in a context where there was concern about the “effect of the propaganda activity of extremists who [were] purportedly Islamic of faith” it was not unlawful for the school to have a strategy that was more likely to be directed at Muslim children. Administrative Court decision, 29 October 2015.

333. Summary grounds of school's head teachers and governors, 22 September 2015, para 18.

334. This case study is based on an interview of Rahmaan Mohammadi on 6 March 2016.

335. <http://www.foa.org.uk/about-us/>.

336. Luton school denies referring student to anti-terror police for wearing Free Palestine badge, 18 February 2016, <http://www.luton-dunstable.co.uk/luton-school-denies-referring-student-anti-terror/story-28762208-detail/story.html>.

337. PM's Extremism Taskforce: tackling extremism in universities and colleges top of the agenda, 17 September 2015, <https://www.gov.uk/government/news/pms-extremism-taskforce-tackling-extremism-in-universities-and-colleges-top-of-the-agenda>.

338. PM's Extremism Taskforce: tackling extremism in universities and colleges top of the agenda, 17 September 2015.
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340. Sarah Cassidy & Jonathan Owen, Soas hits back at David Cameron's accusations that it played host to 'hate preachers', *The Independent*, 17 September 2015, <http://www.independent.co.uk/news/education/education-news/soas-hits-back-at-david-camerons-accusations-that-it-played-host-to-hate-preachers-10506676.html>.
341. Interview with Julius Weinberg, Kingston, 24 July 2016.
342. <http://www.independent.co.uk/news/education/education-news/soas-hits-back-at-david-camerons-accusations-that-it-played-host-to-hate-preachers-10506676.html>.
343. See Our Projects, <http://henryjacksonsociety.org/people/who-we-are/>.
344. Interview with Julius Weinberg, Kingston, 24 July 2016.
345. In legal proceedings brought on behalf of Salman Butt, it emerged that the Home Office disclosed in response to Salman Butt's subject access request that Extremism Analysis Unit analysts had "researched and collated" information about the public statements made by Mr. Butt "partly using work produced by researchers employed by the Henry Jackson Society. *R. v. Secy of State for the Home Department*, Index to Claimant's Detailed Statement of Facts and Grounds, para 47 (litigation brought before the high court on behalf of Salman Butt by Bindmans LLP).
346. Interview with student at London university, London, 14 June 2016.
347. Interview with Martyn Rush, 7 September 2016.
348. Conference flier on file with the Open Society Justice Initiative.
349. Interview with David Miller, 4 August 2016.
350. The Information Request was filed with the University of Huddersfield by David Miller, Professor of Sociology at the University of Bath, on 15 July 2016. The University disclosed some of the requested records on 15 August 2016.
351. JUST is also a grantee of the Open Society Foundations, of which the Open Society Justice Initiative is part.
352. Secure Societies is an organisation that seeks to protect freedom and security of Europe and its citizens. See <https://ec.europa.eu/programmes/horizon2020/en/h2020-section/secure-societies-%E2%80%93-protecting-freedom-and-security-europe-and-its-citizens>.
353. Email from Dean to University Secretary, 5 July 2016.
354. Interview with David Miller, 4 August 2016.
355. <http://justwestyorkshire.org.uk/> (visited 18 August 2016). The site states in part, "In an era where the Community Cohesion and Prevent agendas have become the key paradigms of government policy and the Race and Institutional Racism agendas have been rolled back by the State, the adverse impact on Black and minority ethnic people has been unprecedented".
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361. University letter shared with the Justice Initiative.

362. Recording of Testimony before Home Affairs Committee, 17 November 2015, <http://www.parliamentlive.tv/Event/Index/6e728aa2-f55c-4297-bc79-adceadd1e695> (at approx 17.30).

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Since the London bombings of July 7, 2005, the threat of terrorist violence in the United Kingdom has not abated. In the face of increased public fears about homegrown terrorism, the UK government has responded with a counter-extremism strategy known as Prevent.

From its inception in 2003, the scope of the Prevent strategy has repeatedly been expanded, and its obligations enhanced. In 2015, the strategy imposed a legal duty on schools, colleges, universities, and health bodies to pay “due regard to the need to prevent people from being drawn into terrorism”—effectively requiring teachers, doctors, nurses, and other caregivers to report to the authorities any students and patients seen to be at risk of “extremism”.

Eroding Trust assesses the human rights impact of the United Kingdom’s current Prevent strategy in the health and education sectors. Through legal analysis and case studies, the report concludes that Prevent is flawed in both its design and application. Drawing on extensive interviews in towns and cities across Britain, it argues that Prevent is potentially undermining the battle against terrorism—by fueling distrust and feelings of alienation in Britain’s Muslim communities.