

Response to consultation: *Prevent Duty Guidance for Scotland*

Glasgow University Students' Representative Council is an independent, student-led organisation, recognised as the sole legal representative body for students at The University of Glasgow. The University has a large and diverse student population, with an increasing number of international students studying at Glasgow, given the apparent focus of the consultation on Muslims and Islamic extremism, we felt it important to respond to ensure that the views and rights of all students are heard and respected.

The first point of note is the difficulty that we, as a student representative body, have had in finding out about and responding to this consultation. Factors include the shortness of the consultation period which started on 17th December 2014 and ends on 30th January 2015. Given the intervening Christmas holiday, the consultation period is inadequate and gives every appearance of being rushed through. In addition the consultation document does not appear to be publicly available on the Scottish Government website consultations list. We therefore have concerns about the transparency and validity of the consultation process and the likelihood that not all parties affected by the proposals will have had sufficient opportunity to make their views known.

We are also concerned with the focus of the consultation on Muslims living & studying in Scotland and the implied link between prayer/faith activity and radicalisation/extremism activity. We believe strongly that all students who chose to study in Scotland have the right to do so safe in the knowledge that their human rights, freedom of expression and right to religious belief will be protected by law¹.

On a general point of principle, we are opposed to the *Prevent* strategy being put on a statutory footing in the Higher Education sector, and in consequence "embroiling professionals such as lecturers and teachers in counter-terror policing – risking mistrust and alienation"². We believe there is a real danger that Universities will come to be viewed as agents of Government and that the relationship with the student body could be significantly damaged as a result. This is even more of a risk for organisations such as the Students' Representative Council which is a student-led organisation, constituted to represent and uphold the rights and interests of students.

We note the discussion in the House of Lords on 28th January 2015 and would wish to echo in particular the concerns raised around: defining what is being asked for under the new duty; the evidence-base for the new duty; resourcing issues for compliance; difficulty for staff in understanding what is expected even after training; and lack of clarity on the consequences of not "having due regard" to the duty.

We offer the following comments in respect of the draft Guidance for Scotland.

Capabilities (paragraphs 17 – 19)

The guidance is insufficiently detailed with regard to who is envisaged as 'front-line staff'. In and around a higher education institution this could comprise any or all of student services staff, student-facing administrative staff, lecturers, tutors, graduate teaching assistants, laboratory and other technical staff, security, catering and janitorial staff, staff of the student representative body and other student-led organisations. The University of Glasgow itself employs over 6000 staff. The Students' Representative Council and other student bodies are separate legal organisations with their own staff.

¹ <http://www.equalityhumanrights.com/your-rights/equal-rights/religion-and-belief>

² <https://www.liberty-human-rights.org.uk/campaigning/other-campaigns/unsafe-unfair>

The guidance is also insufficient in that it fails to define how staff are expected to make judgements on who is deemed to be at risk of “being exploited by radicalising influences” and how this is expected to interact with other basic human rights such as respect for private/family life, freedom of expression and freedom of association³. We question whether it is realistic or fair to put University, SRC and other student-led body staff into the position of having to make such judgements. We have concerns about how subjectivity, prejudice, unconscious bias and cultural misunderstandings may feed into any judgements made and the resulting validity of those judgements. We also have concerns as to the confusion imposing this duty on staff may have given the existing expectation that they will report anyone they believe to be participating in extremist activities to the police.

The expectation that the University would be able to ensure that the enormous number of staff involved all undergo training is unrealistic and renders this part of the duty unworkable. As the SRC is an independent body, the University does not have the power to impose training upon its staff. In addition the SRC has at present over 265 affiliated clubs & societies which are each a separate legal entity encompassing roughly 12,000 students over which the University does not have the power to impose training, this is before the issue of ensuring compliance with the duty by each of these bodies is even considered.

Sharing information (paragraphs 20-21)

As the guidance notes, individuals who are already suspected of being involved in terrorist-related activity should be referred to the police. By elimination, this leaves as the focus of this strategy people who are not suspected of being involved in such activity. How is the “professional judgement” in paragraph 20 come by? As stated earlier, we question whether it is realistic or fair to put University, SRC and other student-led body staff into the position of having to make such judgements.

Monitoring (paragraph 22)

Once again, the guidance is insufficiently detailed on the point of record-keeping, what information is expected to be held, by whom, for how long and who will have access to this data.

Higher Education (paragraph 49 onwards)

Paragraph 49 refers to the HE sector as “one of our most important arenas for challenging extremist views and ideologies”. There is no definition here of what constitutes an “extremist view” and the danger is that non-violent extremism, which is not unlawful, may be conflated with terrorism, which is the purported subject of this new duty.

Under the Further and Higher Education (Scotland) Act 2005⁴, a fundable body must have regard to the desirability of ensuring academic freedom, which includes freedom (within the law) to hold and express opinion; question and test established ideas and received wisdom and present controversial or unpopular points of view. It is not clear how institutions are expected to manage potential conflicts between this provision and the new duty.

Whilst we welcome the statement that large new burdens for institutions are not envisaged (paragraph 51), we do not see how it can be otherwise, given the previously stated expectation of ensuring that hundreds, if not thousands, of staff are appropriately trained to the standard of being able to make a “professional judgement” about whether a person is at risk of being drawn into terrorism.

³ http://www.echr.coe.int/Documents/Convention_ENG.pdf

⁴ <http://www.legislation.gov.uk/asp/2005/6/section/26>

Paragraph 59 lays out the expectation that student unions and societies work closely with the institution and co-operate with the institution's policies on *Prevent*. As an independent representative body we have a duty to uphold students' rights and interests. We are highly concerned that this section seeks to fetter our discretion to disagree with and challenge our institution's policies if the situation arose where we did not believe that a policy, or the implementation of a policy, was in the best interests of our members.

Speakers and Events (paragraph 61 onwards)

We note that the Scottish guidance in this section appears slightly less onerous than the English guidance which is welcome. However we would still regard the provision in paragraph 63 (that institutions assess risk for any planned events) to be unrealistic in relation to every event held by a student club or society, student union, or other student-led body, in addition to all other planned events held in the institution. This responsibility cannot be allowed to fall on the SRC either, partly for reasons of trust and relationships with the wider student body, and vitally also because we simply do not have anywhere near the resources that would be required for this task.

In addition, the statement that "There should be a mechanism in place for managing incidents or instances where off-campus" (paragraph 63) is completely unworkable as the University has no jurisdiction over events off-campus. However, comparing this with the English guidance we wonder whether this is simply a drafting error and should in fact mirror the English guidance, which states "There should be a mechanism in place for managing incidents or instances where off-campus events of concern are promoted on campus". This of course would raise its own problems, namely how the University would manage to have oversight of everything being promoted on campus – the widespread use of social media by students being one major factor in this. Once again the responsibility for this cannot be left to the SRC, for the reasons noted in the previous paragraph. It is also arguable that the University would also lack the required resources to monitor social media alone for this type of activity.

Welfare and Pastoral Care (paragraphs 68 – 69)

Whilst of course the University and SRC do work closely together at present to provide pastoral care, advice, information and welfare services to students, it is not clear from the guidance what type of provision is envisaged in the context of the *Prevent* strategy.

Paragraph 69 seems out of place and strikes a jarring note. Its presence in this guidance appears to clearly link terrorism with prayer and faith activity. The Scottish Preventing Violent Extremism Unit (SPVEU) have argued that there is a clear distinction between *Prevent* and broader race/faith equality⁵. The inclusion of this paragraph here seems to blur that distinction which is not helpful. This paragraph would be better suited to an Equality, Diversity and Inclusion guidance document, perhaps as part of the Public Sector Equality Duty.

With that in mind, there is a lack of information on how the new duty is expected to interact with the Public Sector Equality Duty – although the Equality Duty is mentioned in passing at paragraph 29, much more could be said, particularly in relation to the impact this new duty is likely to have on the general duty to eliminate discrimination, ensure equality of opportunity and foster good relations between different groups⁶.

⁵ http://www.sipr.ac.uk/conference2008/Programme_%20and_%20Abstracts.pdf

⁶ <http://www.legislation.gov.uk/ukpga/2010/15/section/149>