

## Counter-Terrorism and Security Act 2015 and the Prevent Duty Guidance

The University and College Union (UCU) is the largest trade union and professional association for academics, lecturers, trainers, researchers and academic-related staff working in further and higher education throughout the UK.

UCU raised a number of **concerns** about the government's Counter-Terrorism and Security Bill before it became an Act of Parliament. In particular, our members were concerned about part 5, which places a new duty on universities and colleges to "have due regard to the need to prevent people from being drawn into terrorism".

### Our main areas of concern were:

- Shifting duties from co-operation to co-option risked undermining the academic freedom of institutions and the trust relationship between academic staff and their students
- The legislation provides the Home Secretary with wide-ranging new powers with no judicial oversight or scrutiny
- There is a lack of clarity on the proposed new legal duties of affected organisations
- Clarification is needed on how the new duty is expected to be monitored or enforced within institutions
- The measures risk imposing a significant additional administrative burden on staff and their institutions.

Before it was passed into law, the bill was amended to include protections for academic freedom and freedom of speech. It was also agreed that the revised Prevent Duty Guidance would be subject to affirmative resolution procedure.

### Amended guidance: key changes

On 12 March the Government published the **updated guidance** for both England/Wales and Scotland; the principles are similar in both.

### External speakers

Most notably, the section on managing and accessing external speakers and events on and off campus included in the draft guidance has been omitted from the amended version. It should be noted however, that the documents state "further guidance issued on the management of external speakers and events" will be issued. Until this happens (likely in the next Parliament) it will be difficult to assess the full impact on universities.

### Monitoring bodies

The Higher Education Funding Council for England and Wales (HEFCE) was proposed in the draft guidance as the body that would monitor how institutions were complying with the prevent duty. The revised guidance refers only to the future appointment of "an appropriate body", although it is expected that HEFCE is still the preferred body to take on this role.

We would again echo previous concerns raised about HEFCE's ability to regulate institutions with which it has no formal funding relationship, and will await further clarification on this aspect of the guidance.

In Scotland, the guidance implies that the monitoring will be carried out by national Prevent and CONTEST governance structures (and Education Scotland college inspection teams for further education), although there is a suggestion that there may also be a role for other, unnamed organisations.

## **Conclusion**

There was widespread disquiet across the academic community during the Act's progress and we reiterate this union's view that draconian crackdowns on the rights of academics and students will not achieve the intended aims.

One of the purposes of post-compulsory education is to foster critical thinking in staff, students and society more widely. Our universities and colleges are and must remain centres for debate and open discussion, where received wisdom can be challenged and controversial ideas put forward in the spirit of academic endeavour.

Peers from across the political divide outlined the genuine concerns of those in the sector, and many echoed the view of Baroness Helena Kennedy QC, when she said that the "complaints and anxieties of the many academics as well as others in the academic world who have expressed concern are not trivial; they are being expressed for a reason. That is one reason why our institutions of higher and further education are respected around the world. We have to be the protectors of this".

UCU was therefore heartened that the government recognised the strength of feeling both in Parliament and the sector, tabling amendments to the legislation around freedom of speech and academic freedom.

However much the government has been pushed to move on the issue, though, it is still that case that colleges and universities are left in a difficult position. The politicisation of the lawful expression of views is both counter-productive and unnecessary. We will be looking to advise on any further guidance and identify any potential conflicts between different statutory duties.