

Counter-Terrorism and Security Bill: Committee Stage

12 December 2014

Summary

This briefing covers provisions in the Counter-Terrorism and Security Bill that relate to new statutory duties on universities (and other specified organisations) to have 'due regard to the need to prevent people from being drawn into terrorism', and to co-operate with local panels established to support those vulnerable to being drawn into terrorism.

Universities UK is concerned at the lack of scrutiny and oversight of the powers given to the Home Secretary by the Bill as it currently stands to issue guidance and potentially give direction to universities, and asks MPs to support amendments that would increase such scrutiny and oversight, including Amendment 20.

Background

1. Universities and their representative bodies have been engaged with Prevent as one element of broader work to ensure that universities remain safe places of study. Universities UK, for example, hosts www.safecampuscommunities.ac.uk which includes case studies and guidance for universities on issues relevant to countering terrorism and violent extremism.
2. Universities vary considerably in size, location, demographics of student body, and mission. What is appropriate for one may not be so for another.
3. Similarly, what is appropriate or possible in schools or colleges may not be so in a university setting. Universities are large communities of independent adult learners, most of whom live off campus and will have links to the local community which are not mediated by the university.
4. Universities have a particular duty and mission to promote freedom of speech and academic freedom, including a legal duty under the Education (No 2) Act 1986 to ensure that use of university premises is not denied to any person or group on the basis of their 'beliefs or views'.

Measures in the Bill

Statutory duty to prevent people from being drawn into terrorism

5. Clause 21 (in the Bill as introduced) introduces a new statutory duty on universities, among other authorities specified in Schedule 3 of the Bill, to 'have due regard to the need to prevent people from being drawn into terrorism'.
6. The Bill permits the Home Secretary to publish guidance, which universities must have regard to in carrying out their statutory duty under Clause 21.
7. Before publishing the guidance, the Home Secretary must consult with the Scottish and Welsh Ministers, and other persons she deems appropriate. This consultation must also occur when there are substantial revisions to the guidance.
8. The Bill also gives the Home Secretary the power to direct institutions in the performance of this duty, if he/she is satisfied that they have failed to discharge it.

Co-operation with local panels to support those vulnerable to being drawn into terrorism

9. The Bill also requires the establishment by local authorities of panels to assess the risk of particular individuals being drawn into terrorism, and if necessary to prepare a plan to provide support to the individual so as to reduce that risk and arrange for this support to be provided.
10. Universities and other institutions specified in Schedule 3 will be under a statutory duty to co-operate 'so far as appropriate and reasonably practicable' with these panels. The Home Secretary will issue statutory guidance which universities would need to have regard to in fulfilling this duty of co-operation.

Questions and concerns about the Bill

11. Universities UK is concerned about the lack of oversight and scrutiny of the powers given to the Home Secretary by the Bill, and is also seeking clarification about how the duty will be monitored and enforced in practice.

Statutory duty under Clause 21, and associated guidance

12. The guidance on universities' performance of their statutory duty under Clause 21 can be issued (and in the future revised) with no parliamentary scrutiny or consultation with the sector.
13. Universities UK asks MPs to support amendments that would require any such guidance be subject to parliamentary scrutiny, including Amendment 20 tabled by the Opposition front bench. Amendment 20 would require a statutory instrument (subject to the affirmative procedure) to be passed for the guidance (or any revision of it) to take effect. Universities UK is also seeking reassurances that any substantive revisions of the guidance would be subject to consultation with the sector and its representative bodies.
14. The Bill does not make clear which bodies, if any, would have responsibility for monitoring institutions' performance of this duty, and what any monitoring regime would consist of. Clarification from the minister on this would be helpful.

Power to direct institutions in their performance of their duty under Clause 21

15. The Bill gives the Home Secretary the power to direct a university in their performance of their duty under Clause 21 if she is satisfied that it has failed to discharge this duty. Any direction under this power is potentially enforceable by court order.
16. Any use of this power would constitute a significant incursion into the running of an independent and autonomously governed institution. Universities UK would like to see a formal mechanism for any use of this power to be reported to parliament to allow for full consideration of the circumstances surrounding the use of the power.
17. Any such report should consider not only the narrow legality of the use of the power, but the extent to which its use on that occasion was consistent with maintaining the academic freedom, freedom of speech and autonomy of governance that is appropriate for a university setting.

Local panels to support those at risk of being drawn in to terrorism

18. The Home Secretary will issue guidance, and universities will be mandated to have regard to this guidance, in their co-operation with local panels. The nature of 'co-operation' required is not specified by the Bill, other than that it will include the sharing of some information.

19. Universities UK would like to see this guidance subject to parliamentary scrutiny.
20. Any such guidance would need to appreciate the particular freedoms of speech appropriate to an academic context. These allow students and staff to speak freely on controversial issues including terrorism (and even play 'devil's advocate'). These freedoms need to be maintained such that students and staff can have open discussions without fear of being referred to such panels, or feeling they have to refer others. In drafting the guidance, particular attention should be paid to the potential of a 'chilling effect' whereby academic staff are wary of discussing difficult or controversial issues with students.

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