

Independent Commission on Counter-Terrorism Law, Policy and Practice

This submission was made by the Child Rights International Network (CRIN), May 2023.

Introduction

1. Child Rights International Network (CRIN) works on human rights issues, with a focus on children's rights. We press for rights - not charity - and campaign for a genuine shift in how governments and societies view and treat children.
2. This submission is supplementary to our evidence submitted in December 2022. In that submission, we provide an update on how the Independent Review of the Prevent Strategy ("the Review"), published in February, has impacted the Prevent programme as it applies to children. For the sake of consistency with the previous submission, this submission also focuses primarily on the Independent Review's analysis of Prevent in the context of England and Wales.

The Independent Review's Analysis of Prevent

Children's Welfare and Best Interests

3. Our previous evidence highlighted that 'safeguarding' in the context of the Prevent duty does not meet international legal standards, particularly the principle that the best interests of the child shall be a primary consideration in all actions concerning children.¹ We highlighted case studies that demonstrate the prioritisation of policing and securitisation measures over children's wellbeing.
4. The Joint Committee on Human Rights has warned against the use of safeguarding in the context of "counter extremism", given '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.'²
5. Despite a theme within the Review considering the position of safeguarding in Prevent, there is no specific mention of the best interests of children, or their welfare and how this is accounted for in the implementation of the Prevent strategy. Instead, the Review reinforces the conflation of securitising measures and safeguarding principles for children by doubling down on its position for children. There is no consideration of how the Prevent Duty might be adverse to the best interests of children,³ or how to address the problems that come from the direct conflict between

¹ Convention on the Rights of the Child, Article 3(1).

² Joint Committee on Human Rights, *Counter Extremism*, 22 July 2016, <https://publications.parliament.uk/pa/jt201617/jtselect/jtrights/105/105.pdf> p. 5.

³ Child Rights International Network, *Preventing Safeguarding*, 2022, <https://home.crin.org/s/Preventing-Safeguarding-March-2022-CRIN-7a6j.pdf>, pp. 27. See also: Open Society Justice Initiative, *Eroding Trust*, https://www.justiceinitiative.org/uploads/f87bd3ad-50fb-42d0-95a8-54ba85dce818/eroding-trust-20161017_0.pdf pp. 74, Case Study 5.

safeguarding principles and those of the Prevent Duty, and the impact this has directly for children.⁴ Instead, the Independent Review concludes that the Prevent duty is well integrated into safeguarding practices and training, particularly in schools.⁵ CRIN does not believe this conclusion has been demonstrated by the analysis presented in the Review.

Discrimination

6. Our previous submission highlighted the disproportionate impact the Prevent strategy has on children of Asian ethnicity, Muslim children, children with mental health problems, and children with developmental disorders. We are concerned that the Independent Review risks exacerbating the discriminatory aspects of the policy by calling for a revised focus on “islamist threats”.
7. The Independent Review stated that the balance between cases of “islamist” extremism and “right wing” extremism in the Prevent system does not reflect the case work in other aspects of the Counter Terrorism system, which the Review says is primarily concerned with cases of “islamist” extremism.⁶
8. The Home Office has accepted these recommendations, and proposed to introduce a ‘security threat check’ tool which will aim to ensure that Prevent casework is “proportionate and consistent with the threat we face”.⁷ There is no mention of whether the data used to inform the security threat check, which will be gathered from the “Joint Terrorism Analysis Centre, Counter Terrorism Policing, Home Office Analysts, the Commission for Countering Extremism, the Department for Levelling Up, Housing and Communities, and counter-terrorism local profiles”, will be shared publicly.⁸ We note that the statistics quoted in the Review that are used to support assertions about the seriousness of the “islamist terror threat” are not referenced, so cannot be verified.⁹ This raises serious questions about opportunities for oversight of such programmes.
9. The Review considers the fact that there have been declining numbers of referrals to Prevent for “islamist extremism” over recent years.¹⁰ It submits that several factors

⁴ Open Society Justice Initiative, *Eroding Trust*, https://www.justiceinitiative.org/uploads/f87bd3ad-50fb-42d0-95a8-54ba85dce818/eroding-trust-20161017_0.pdf pp. 69.

⁵ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 1.3.

⁶ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 4.36.

⁷ HM Government, *The Response to the Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134828/The_response_to_the_Independent_Review_of_Prevent.pdf, pp. 16.

⁸ *ibid.*

⁹ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 3.10.

¹⁰ *ibid.*, paras. 4.34-4.35.

could have caused this, such as a lack of understanding of what “islamist extremism” might look like, fears of being racist, and “anti-Prevent” advocacy.”¹¹ The Review concludes that if this factor were addressed, the referrals to Prevent would be a more accurate reflection of the terrorism threat picture.

10. However, our analysis of the available statistics from Prevent suggests the opposite. Since the introduction of the Prevent Duty, the proportion of initial referrals made for people below the age of 20 under Prevent which are then continued through the process to be adopted as Channel cases is higher in the context of “right-wing extremism” than “islamist extremism”.¹² This would suggest that for young people, right-wing motivations are more prevalent than other forms of “extremism”. There is also conflicting evidence that suggests “right wing extremism” is of increasing significance in the UK, particularly for young people.¹³
11. Regardless, singling out a particular religious group for greater scrutiny under the Prevent Duty is not compatible with principles of non-discrimination, nor the recommendations that have been made by the Committee on the Rights of the Child concerning the Prevent strategy, to ensure that Muslim children are not stigmatised.¹⁴ The negative impacts of this revised focus on “islamist extremism”, exacerbated by the lack of definition of “extremism” risks incorrectly labelling many practising Muslim children and families as having “extremist” views, bringing them into the Prevent system unnecessarily.¹⁵

Privacy and freedom of expression, assembly, and religion

12. Our previous submission recognised the issues that arose from the Prevent Strategy’s approach to monitoring the *lawful* behaviour of children which was leading to a chilling effect on their rights to freedom of expression, assembly, and religion for children who are concerned about being referred, as well as those already in the Prevent system.
13. There is significant emphasis placed on targeting ideology throughout the Independent Review. The Review recommends revising the first objective of the Prevent duty to ensure it is ‘tackling the ideological causes of terrorism.’¹⁶ Within the revised focus on ideology, the Review proposes measures such as ‘disruption

¹¹ibid, para. 4.38.

¹² Analysis conducted using data from: Home Office, *Individuals referred to and supported through Prevent programme statistics*, <https://www.gov.uk/government/collections/individuals-referred-to-and-supported-through-the-prevent-programme-statistics>.

¹³ BBC News, *Fastest-growing UK terror threat “from far right”*, 19 September 2019 <https://www.bbc.com/news/uk-49753325>.

¹⁴ Committee on the Rights of the Child, Concluding observations on the fifth periodic report of the United Kingdom of Great Britain and Northern Ireland, CRC/C/GBR/CO/5, paras. 20-22.

¹⁵ Open Society Justice Initiative, *Eroding Trust*, https://www.justiceinitiative.org/uploads/f87bd3ad-50fb-42d0-95a8-54ba85dce818/eroding-trust-20161017_0.pdf pp. 35.

¹⁶ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 3.39.

units',¹⁷ which will monitor individuals, including children, that fall below the ideological threshold used in the Prevent duty but might pose a risk of radicalising others.

14. The Home Office has committed to updating all Prevent Duty guidance and legislation to ensure that the first objective of Prevent is tackling the ideological causes of terrorism.¹⁸ The Home Office also plans to provide further training to those under the Prevent duty, on the “ideological nature of terrorism”.¹⁹
15. These findings reinforce the negative consequences of the Prevent duty on the rights to privacy and freedom of expression, assembly, and religion, by justifying monitoring of lawful activities. The chilling effect this kind of monitoring can have on children’s ability to access their rights to freedom of religion and expression is evidenced by our case studies.²⁰ For example, our research in 2022 addressed the case of a 12-year-old child referred to Prevent. Upon the referral and an announced visit from a Prevent officer and social worker, the family was encouraged to allow the Prevent officer to interview the child without his parents present. The child described the interview as intimidating and harassing, with the officer making several comments about how the comments allegedly made by the child could threaten their future education and career. In the Prevent officer’s comments, they undermined the relevance of the Quran and warned the child to not speak everything that may be on their mind.²¹
16. The impact of this kind of monitoring and intervention is also exacerbated by the lack of clarity about what is meant by “extremism” and “islamist extremism”. The Review itself offers no definition of these terms. This lack of clarity can mean that lawful activity is being monitored unnecessarily, and lead to children feeling unable to express their religious beliefs or other views.²²
17. The only references in the Review to how the Prevent duty might infringe on these rights, or how they ought to be protected, was evidence collected regarding “allegations that Prevent stifles freedom of expression form a significant element of extremist narratives about the strategy”.²³ This aspect of the Review does not

¹⁷ *ibid*, para. 3.111.

¹⁸ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, p. 158.

¹⁹ HM Government, *The Response to the Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134828/The_response_to_the_Independent_Review_of_Prevent.pdf, p. 10.

²⁰ See e.g. ‘Case Study A’ Child Rights International Network, *Preventing Safeguarding*, 2022, <https://home.crin.org/s/Preventing-Safeguarding-March-2022-CRIN-7a6j.pdf>.

²¹ *Ibid*, p.19.

²² Open Society Justice Initiative, *Eroding Trust*, https://www.justiceinitiative.org/uploads/f87bd3ad-50fb-42d0-95a8-54ba85dce818/eroding-trust-20161017_0.pdf p. 83.

²³ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 6.236.

address how to ensure that any interference with freedom of expression might be necessary and proportionate in line with a human rights-based analysis.

Data and Privacy

18. The Independent Review does very little to clarify the position of the right to privacy in the context of data, despite the several issues that need to be addressed.²⁴
19. The Review considers criticisms of the six-year retention period for all referral data, including that of children, especially for cases that require ‘no further action.’²⁵ The Review recommends that this period be reduced to three years,²⁶ and the Home Office has committed to reviewing data retention processes in collaboration with Counter Terrorism Policing, but there is no formal commitment to ensuring that this period is reduced.
20. CRIN believes this change represents an improvement, but from the Review’s recommendations and the Government response, there is no proper analysis of how data protection laws and principles apply with regard to Prevent. It remains unclear exactly what information is stored, which authorities are able to access it, and on what legal basis.

Effectiveness at Preventing Recruitment

21. The Review concludes that Prevent is, on the whole, working effectively to prevent radicalisation and recruitment. The Review notes that Prevent is “especially effective in schools, where awareness of radicalisation risk has been successfully embedded within safeguarding work.”²⁷
22. There is no formal consideration of the impact of Prevent’s impact on children’s human rights at any stage of the Review. This undermines the validity of the conclusion that Prevent is an effective means of preventing “radicalisation”, given that there is no evaluation of the proportionality of the programme with regards to its interference with human rights.
23. The Review attributes a lack of effectiveness of Prevent to misconceptions and ‘anti-Prevent stories’,²⁸ rather than appropriately evaluating the wealth of evidence available, which would suggest that Prevent is failing to be effective because of its

²⁴ Child Rights International Network, *Preventing Safeguarding*, 2022, <https://home.crin.org/s/Preventing-Safeguarding-March-2022-CRIN-7a6j.pdf>, pp. 37.

²⁵ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 4.70.

²⁶ *ibid*, para. 4.71.

²⁷ *ibid*, para. 1.3.

²⁸ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 6.259.

impact on relationships, and its potential to infringe on rights to privacy and freedom of expression and religion.²⁹

Monitoring, Oversight, Accountability, and Redress

24. We are concerned that neither the Review, nor the Home Office response, invites any independent oversight of the changes that have been proposed. Many of the changes appear to be planned to be implemented via secondary legislation and other policy guidance, which allows greater discretion and fewer opportunities for oversight.
25. Another key aspect of the Independent Review is its characterisation of criticisms of Prevent as “misinformation, disinformation and half-truths.”³⁰ The Review suggests that there has been a ‘concerted campaign’ to undermine Prevent which has “systematically used disinformation to play on sensitivities within minority communities.”³¹ There is also a concerning narrative that conflates criticism of Prevent with “Islamist extremism”, citing groups that have supposed connections with extremism.³²
26. CRIN is concerned with how the Review has chosen to address external analysis of Prevent. The position taken, which conflates many credible organisations and detailed analysis of the impact of Prevent as ‘misinformation’, unjustifiably undermines the experiences and testimonies of those who have experienced isolation and exclusion as a result of referral to the Prevent scheme. This dismisses legitimate forms of scrutiny from external experts in the civil society space.

²⁹ Child Rights International Network, Preventing Safeguarding, 2022, <https://home.crin.org/s/Preventing-Safeguarding-March-2022-CRIN-7a6j.pdf>.

³⁰ William Shawcross, *Independent Review of Prevent*, February 2023 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134986/Independent_Review_of_Prevent.pdf, para. 1.12.

³¹ *ibid*, para. 6.247.

³² *ibid*, para. 6.47.