The Prevent Duty: Arrangements for ensuring senior management oversight of UCL’s duty in having due regard to prevent people being drawn into terrorism.

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Executive Summary

As part of the Government’s strategy to reduce terrorism in the UK, the Counter-Terrorism and Security Act 2015 [CTSA] (the Act - http://www.legislation.gov.uk/ukpga/2015/6/contents ) introduced a package of measures aimed at countering the risk of terrorism and radicalisation. Part 5 of the Act deals with the risk of people being drawn into terrorism and introduced the statutory ‘Prevent’ duty for a range of public and other bodies. Relevant higher education bodies [RHEBs] became subject to the new ‘Prevent’ duty on 18 September 2015.

The statutory guidance makes it clear that all bodies will be expected to establish senior management oversight arrangements, carry out a ‘Prevent’ risk assessment, and develop an action plan covering staff training arrangements and a range of other topics in the guidance. The guidance specifically for the HE sector highlights a number of additional areas specific to RHEBs which need to be taken into account, such as policies and procedures for managing events on campus, arrangements for welfare and chaplaincy support, and policies relating to the use of IT equipment.

UCL Council, as UCL’s governing body, has the ultimate responsibility for ensuring that UCL meets its statutory duty under the Act.

The statutory function for monitoring compliance has been delegated to HEFCE who have proposed a risk-based and proportionate approach which is still (at the time of writing this paper) subject to confirmation. Key points to note, however, are an initial institutional self-assessment against the compliance framework in January 2016 followed by a more detailed review of relevant policies and procedures in Spring 2016. Thereafter an annual report will be required to demonstrate how an institution has actively delivered on the Prevent duty. All RHEBs will be expected to report any ‘serious’ incidents at any time.

This paper sets out the current arrangements for ensuring that UCL can demonstrate a high standard of active compliance, thereby fulfilling its statutory duty, whilst at the same time acknowledging the significant concerns that the HE sector, UCL and its members have with regard to the potential implications that the Duty may, or may be perceived, to carry with it.
Introduction and background

Prevent

The Government’s Prevent strategy is part of the UK’s wider anti-terrorism strategy (known as CONTEST) which was introduced in 2011 with the aim of reducing the threat to terrorism by stopping people becoming terrorists or supporting terrorism, through the following means:

1. To respond to the ideological challenge of terrorism and the threat from those who promote it.
2. Prevent people from being drawn into terrorism and to ensure that they are given appropriate advice and support.
3. Work with sectors and institutions where there are risks of radicalization that need to be addressed.

The Duty

Prior to the CTSA 2015 the key element of the Prevent strategy was to encourage Higher Education institutions informally to address the risks of radicalization. Part 5 of the CTSA 2015 now puts this element of the strategy on a statutory footing.

In this context preventing people being drawn into terrorism requires challenging extremist ideologies, with the definition of extremism given 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’. The guidance to the Duty states explicitly that ‘Prevent’ programmes must not involve covert activity.

Under the Duty guidance RHEBs will need to demonstrate awareness and understanding of the risk of radicalization in their institutions through the application of a risk-based approach which requires institutions to have policies and procedures that address the general expectations of the guidance and which are actively and robustly applied. In particular the policies and procedures will be expected to address the following topics:

- external speakers and events
- partnerships
- risk assessments
- action plan (to mitigate risks)
- staff training
- information sharing
- welfare and chaplaincy
- information technology
- student unions and societies
Monitoring Compliance

The body charged with responsibility for monitoring compliance on the part of RHEBs is HEFCE which has proposed a two-phased monitoring framework as follows:

Phase 1: A preliminary self-assessment to take place in January 2016 whereby an institution has to assess its own preparedness on a five-point scale the extent to which it has arrangements in place, including where necessary documented relevant policies and processes for each of the topics addressed in the statutory guidance.

In summary the five point scale is as follows:

A Polices and processes documented, reviewed and updated in the last three months, are active and fully satisfy the duty guidance.
B As per A above but approved in the last year and may satisfy the duty guidance.
C Have policies and processes but yet to be reviewed against the guidance.
D Policies and processes have been drafted but not approved
E Policies and processes not prepared yet

In Spring 2016 RHEBs will be required to submit to HEFCE the relevant policies and procedures referenced above, along with a ‘Prevent’ Risk assessment, an action plan in response to that risk assessment and a paper summarising the institution’s arrangements. Such arrangements should include, among other things, senior management oversight; engagement with/consulting students; training appropriate staff; information sharing agreements; and engaging with student unions.

Phase 2: Will comprise an annual report from the responsible authority (i.e. UCL Council) demonstrating both the continued effectiveness of its approach and active engagement in delivering the Prevent duty, together with the need to report on any significant developments. The annual report must also confirm that the institution has (i) had due regard to the need to prevent people being drawn into terrorism; (ii) has provided HEFCE with all required information about its implementation of the duty; and (iii) has reported all serious issues in relation to Prevent. A five-year detailed review is also proposed.

The Risks and Challenges of the Prevent Duty

At the beginning of 2015 and in response to the draft legislation RHEBs and other ‘specified’ bodies highlighted a number of significant risks that would be posed by the legislation. Although the Act has addressed some of these issues the ongoing risks, challenges and sensitivities posed by the Duty should not be underestimated and include:

1. The definition of extremism and the perception by staff and students that they may be reported or ‘criminalised’.
2. The potential for conflict between the statutory Duty and pre-existing obligations under existing primary legislation e.g. in respect of freedom of speech\(^1\), academic freedom\(^2\), data protection and the Human Rights Act.

3. The perceived ‘securitisation’ of the welfare and support services – the very services which vulnerable students rely on.

4. The nature and extent of staff training.

5. Possible non-cooperation.

There are also a number of concerns over the suggested compliance framework, including a challenging timescale and lack of detail in terms of training, information sharing and reporting of ‘serious’ concerns.

**Arrangements for Ensuring Compliance**

UCL’s approach to date has been to treat Prevent as essentially a matter of safeguarding which should be managed through existing policies and procedures, based on the principle of transparency, and guided by UCL’s traditional values/ethos of openness and inclusivity\(^3\) whilst working in partnership with the HE sector and UCL’s own members to establish good practice and a common approach.

In response to the draft legislation an internal network (the UCL Prevent Network) was set up comprising representatives from those areas of UCL likely to be impacted by the Duty (Appendix 1 refers). The terms of reference for the Network are at Appendix 2. UCL is also a member of the London Higher Education Prevent Network which was established following 2011 to offer informal support and guidance and to develop good practice among London-based HE institutions in response to the Government’s Prevent agenda.

In-keeping with HEFCE’s emphasis on a risk-based and proportionate approach requiring RHEBs to have policies and procedures that address the general expectation of the guidance, a UCL Prevent Action Plan template is being developed to identify both the policies and procedures under each of the specific topics listed above, along with the areas and/or owners responsible for their active and robust application.

The detailed Action Plan will be confirmed by the Network, following which a risk assessment will be undertaken by each risk owner to assess the level and likelihood of each risk in the context of the existing policies and level of compliance with the Duty, as well as any proposed actions to mitigate the risk and a completion date for doing so. Following completion of the local risk registers a strategic risk will be added to UCL’s strategic risk register. A copy of the draft Action Plan template is provided at Appendix 3.

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\(^1\) Education Act 1986

\(^2\) Education Reform Act 1988

\(^3\) Primacy will be given to fostering a positive cultural climate where all staff and students can flourish, where no-one will feel compelled to conceal or play down elements of their identity for fear of stigma. UCL will be a place where people can be authentic and their unique perspective, experiences and skills seen as a valuable asset to the institution (UCL’s Equalities and Diversity strategy 2015-2020).
In terms of timescales it is anticipated that the initial response to Phase 1 will be required by the end of January, with the submission of the relevant policies, procedures, institutional risk assessment and action plan by April 2016 and an expectation for all RHEBs to demonstrate full compliance by Summer 2016. As such, it is proposed to submit a further report to Council in Spring 2016 setting out UCL’s preparedness to fulfil the statutory guidance.

In discussing the current approach to the Duty UCL Council is asked to note the Conclusion of the Umar Farouk Abdulmutallab independent inquiry panel report of September 2010 (paragraph 60 refers): “We hope that these measures (to reinforce student support services), in combination, may reduce the future risk of students being radicalised and increase the university’s ability to identify any students in the process of radicalisation – but they will clearly not eliminate the risk of radicalisation of UCL students. We consider that is an unrealistic aim without changing UCL’s fundamental educational mission and character.”

There is also a perception among some UCL staff and student groups that the Act and/or the Duty gives RHEBs new or additional powers; this is not the case and it will be important to make this clear in any UCL approach along with the fact that any action must not be covert. There is also significant concern that the tone of the Guidance and accompanying government communications may give rise to an increase in Islamophobia. Again, it is important that any approach adopted by UCL is both in-keeping with UCL’s Equalities and Diversity policy and is seen to address extremism per se, and not particular groups.

It is therefore suggested that a statement to this effect, along with confirmation of the overall arrangements for ensuring that UCL fulfils its duty in having due regard to prevent people being drawn into terrorism, be made available on the UCL web site.

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