

11 July 2018

Dear colleague

## **Prevent monitoring under the Office for Students**

Further to our publication 'Monitoring of the Prevent duty: 2016-17 progress report and future development' (OfS 2018.27), I am writing with further information on how the Office for Students (OfS) will monitor relevant higher education bodies on their compliance with the Prevent duty under the Counter-terrorism and Security Act (2015).

As you know, the OfS became operational on 3 April 2018. We have drawn on HEFCE's experience in monitoring Prevent over the past three years to develop our approach to discharging our responsibility to provide assurance to government that higher education providers are complying with the Prevent duty.

Our consideration has predominantly been drawn from: HEFCE's experience in monitoring Prevent; the feedback we have received from the higher education sector, government and Prevent partners on approaches to implementation; the letter from the Secretary of State to the OfS delegating responsibility to it as monitor for the higher education sector; and the OfS's wider approach to regulating the sector in the student interest, including its emerging approach to student welfare and safeguarding.

To date, monitoring of the sector's compliance with the Prevent duty was carried out by HEFCE principally through desk-based exercises. These assessed how providers responded to the requirements of the Prevent statutory guidance by having appropriate policies and procedures in place to respond to the risk of radicalisation, and whether these policies were implemented appropriately. The work involved a detailed assessment of the relevant policies of each provider, predominantly carried out in 2016, and then through annual reporting exercises. This work showed a high level of compliance with the statutory duty.

## Moving to a strengthened risk-based approach

The Secretary of State's delegation letter to the OfS was clear in directing the OfS to move towards a more risk-based approach to monitoring. This aligns with the OfS's wider approach to regulation as described in our regulatory framework.

Throughout April and May 2018 we undertook initial soft consultation with a number of providers and representative bodies, around the overarching principles that will guide the OfS's approach to monitoring in the longer term. These were approved by our Board in late May, and state that our approach should be:

- **risk-based** – with a minimum baseline for those with a positive compliance history and more targeted, heightened engagement where concerns are identified
- **proportionate and contextual** – continuing to ensure providers' individual contexts are taken into account and there is not a 'one size fits all' approach, but one that continues to challenge providers to comply and assures government and the public
- **drawing on external sources of data, information and intelligence to assess risk** – using more formal information-sharing mechanisms amongst Prevent partners to assess and manage risk and target resources accordingly
- **engaging with students** – to test and corroborate their experiences and support the OfS's broader strategy in this area
- **focusing on co-regulation, with providers supported by appropriate regulatory levers** – supporting open, transparent and trusting relationships, but intervening where concerns identified
- **working collaboratively with providers** – building on strong established relationships, but with greater emphasis on engagement based on risk and thematic areas
- **driving continuous improvement** – continuing to facilitate the sharing of best evidence and approaches through thematic review, peer review workshops, and wider information, advice, and guidance.

These principles will translate into an updated, strengthened and more focused OfS Prevent monitoring framework, which we will publish early in the 2018-19 academic year and which will be effective from the point of publication. In anticipation of that monitoring framework, we are able to share the broad framework that will be implemented, which has evolved from the current version with which you are familiar.

## Core monitoring processes

Our core monitoring processes will involve:

- a. **Accountability and data returns for all relevant higher education bodies, consisting of:**
  - i. Declarations or an accountability statement from the governing body or proprietor that the provider has had due regard to the duty.

- ii. More detailed outcomes-based data returns, to include qualitative information via a short narrative summary (e.g. continuing to cover data on training, higher-risk external speakers and events, welfare referrals).
- b. **A programme of Prevent review meetings** to test and develop a richer picture of what active implementation looks like for individual providers. This will focus on:
  - i. Stress-testing core policies and procedures to review their effectiveness with providers considered to be at 'higher risk' of non-compliance as part of our heightened engagement approach
  - ii. Random sampling of all other providers to understand individual approaches to implementation, share best evidence and case studies and identify where further support may be required.
- c. **Ongoing reporting of serious incidents and material changes.**

## Transition arrangements for 2018-19

While we intend to introduce an updated monitoring framework in early autumn 2018, we expect 2018-19 to be a transition year for providers, as we recognise that they will need some further time to respond to our revised monitoring arrangements, and we will need to complete certain activities from the previous framework for our own assurance purposes. This transition year will entail the following phases.

### Monitoring outstanding feedback from 2016-17 annual reports

A number of providers received feedback from HEFCE and the OfS requesting further activity or information in certain areas of their implementation of the statutory duty. In some instances we requested information by a specific date, and in others for responses to be submitted in the next annual report. Given that annual reporting will not continue in future, there will be a 'window' in October when all relevant providers will be expected to submit information to the OfS. We will review this information to provide assurance that feedback has been acted on by providers. Should a provider not submit the required information, this will inform our ongoing risk assessment of the provider, which could in turn trigger heightened engagement and a Prevent review. We will write individually to providers with outstanding feedback shortly after publication of this letter, detailing the exact requirements of this exercise and how to submit information.

### December accountability return

**All providers will be required to submit an accountability return to the OfS in December.**

This includes those providers that previously would have submitted information to us in March. This will entail both the accountability statement and a data return covering the previous reporting period, i.e. academic year 2017-18. The data areas will be the same as the previous mandatory data returns required in the annual reports: **staff training, speakers and events, and welfare**. However, we are also currently exploring where we may wish to disaggregate data sets further, for example by comparing the number of staff receiving general welfare awareness-raising briefings or training with the number of staff having Prevent-specific training as part of the first return. Again, we will engage with providers about the feasibility of doing so over the course of the summer and provide further details in the monitoring framework.

Following the December submission, we will use the returns, alongside the other sources of evidence outlined above, to determine higher-risk providers, and select the first sample of other providers that will be subject to Prevent reviews from February 2019.

Both the serious incident and material changes processes will be fully effective from the point of publication, and should be reported to us on an ongoing basis.

More detailed information on elements of the revised monitoring framework can be found in the annex to this letter.

### **Indicative timeframe for revised monitoring**

<b>Date</b>	<b>Activity</b>
July to August 2018	Further development of updated monitoring framework, including soft consultation with providers.
September 2018	The OfS publishes updated monitoring framework for the higher education sector.
30 October 2018	All outstanding feedback from annual reports submitted to the OfS.
1 December 2018	Accountability submissions required from all providers.
February 2019	OfS feedback to providers; Prevent review programme in effect

As part of our further development of the updated monitoring framework, we are looking to engage with a number of providers through further soft consultation over the summer. If you are interested in participating, or if you have any further queries relating to this letter, please contact your named Prevent Adviser.

Yours sincerely

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## **Annex: Further information on revised framework**

### **Accountability and data return**

The annual reporting exercise will be replaced by a more data-driven accountability return that providers will need to submit. The data return will cover core areas of implementation of the statutory duty. We will also consider how to move closer to data being returned to the OfS in real time in future, in line with other monitoring arrangements in the public sector. This could mean that beyond 2018-19 we expect providers to submit several data returns to the OfS over the course of a year.

We will also expect providers to submit an accountability statement from governing bodies or proprietors, confirming that they have been assured that the organisation is discharging due regard to Prevent as the legally accountable body under the Counter-terrorism and Security Act (2015). This information will provide the OfS with baseline assurance and evidence to inform our wider risk assessment of a provider of giving due regard to Prevent, and in turn, what action the OfS would take as a result to resolve prima facie compliance concerns. However, we would not form judgements on compliance as a result of the information presented in the accountability return itself, beyond whether a provider is complying with the exercise. This means that there will no longer be a process of providers providing us with a report reflecting on their implementation of the statutory duty over the previous reporting period, and an assessment of this information from OfS officers leading to a judgement on compliance.

### **Prevent reviews and other assessment processes**

The OfS will continue to need to have insight into how a provider is implementing the duty beyond data returns, both in terms of assessing compliance and active implementation, and to collect examples of effective practice to drive continuous improvement in the sector. This means that the OfS will use Prevent reviews more systematically and widely under the evolved framework, not only encompassing cases where we have concerns triggered by particular circumstances, but also through use of random sampling. Introducing sampling (as set out in the Regulatory framework) will provide us with assurance of the effectiveness of our ongoing monitoring approach, incentivise providers to continue to comply with Prevent, and enable understanding of sectoral practice. We will ensure that our methodology for sampling ensures that the set of providers reviewed in any given period remains representative of the sector as a whole. As the principal evidence-gathering mechanism we would form judgements on compliance on the conclusion of a Prevent review. We expect that the ongoing programme of Prevent reviews will be introduced from February 2019.

We will work with providers over the course of summer 2018 as part of a soft consultation on the detail of our evolved approach, and provide further details in the monitoring framework.

The reporting of serious incidents and changes in circumstance will continue unchanged. However, we expect providers to report these to the OfS in real time rather than through a separate submission (e.g. accountability returns). Indeed, where we subsequently find a

provider not to have done this, this would inform our risk assessment of the provider and could lead to heightened engagement from the OfS, including a Prevent review.

Any provider new to our monitoring will continue to be required to undergo a baseline assessment of whether its policies and processes meet the requirements of the statutory Prevent guidance. Further information and guidance on all these processes will be given in the updated framework.

### **Assessing risk and working with Prevent partners as monitor**

We will assess providers against the risk of not demonstrating due regard, and this will inform our engagement with them. Providers assessed at higher risk of non-compliance with the duty will be subject to heightened engagement from the OfS compared with providers assessed as lower risk.

Our assessment of provider risk will draw from the following sources of evidence:

- d. Provider track record in previous assessments – we will consider the conclusions drawn from assessment processes from the previous HEFCE frameworks and the updated OfS framework, from the past three years.
- e. Information, evidence and judgements drawn from the assessment processes in the updated framework. For example we would use evidence from the accountability returns, material changes and serious incident processes to assess risk.
- f. Pertinent information relating to a provider's compliance with ongoing conditions of registration, particularly around management and governance conditions.
- g. Information from wider Prevent partners. Given that Prevent operates in a multi-agency environment, we will use evidence and information from statutory bodies and other partners working in Prevent. This is likely to include Home Office information, such as counterterrorism local profiles and Prevent Priority Area information, and third party reporting from other statutory bodies and partners, including Prevent co-ordinators.

Decisions to trigger heightened engagement with providers will be made clear to them including the rationale for reaching a conclusion, unless there is a clear security-related or data protection reason not to do so. Again, judgements or conclusions around compliance will ordinarily be drawn after a period of heightened engagement with a provider.

### **Broader engagement with providers and students on Prevent**

We want to continue having open, transparent and trusting relationships with providers, giving them the tools to implement the duty effectively while intervening only where concerns are identified, and in a timely manner. As part of this, the OfS will continue to collaborate and offer information, advice and guidance to providers in promoting compliance with the Prevent duty. We are, however, considering how the Prevent team will engage with individual providers in the longer term, given that established providers are experienced in implementing the statutory duty since its introduction in 2015 and the need for our approach to engagement to be broadly consistent with the OfS's wider approach as a regulator. Similarly, and following on from our 'What works' programme this spring, we are considering how student engagement will inform

our monitoring of the higher education sector. We will communicate our approach to engagement in the updated monitoring framework in September, but in the meantime, providers will continue to have their named Prevent Adviser.