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BRIEFING PAPER

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Returning terrorist fighters

By Joanna Dawson

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Summary

The question of how to deal with returning terrorist fighters has been pertinent since ISIS declared the creation of a so-called Caliphate in Syria in 2014 and encouraged supporters to travel to the region. It relates not only to those involved in active combat, but also to non-combatants who may have provided other forms of support or assistance to proscribed organisations.

In February 2015 three schoolgirls from East London were reported to have run away from home to join so-called Islamic State (ISIS) in Syria. They included 15-year-old Shamima Begum, who was interviewed by the *Times* in a refugee camp in Syria in February 2019. In the interview she revealed she was nine months pregnant and expressed a wish to return to the UK, despite apparently having no initial regrets about travelling to Syria. She has since given birth and is thought to be living in the al-Hawl refugee camp in north-eastern Syria. In early March it was reported that her baby had died.

The Government estimates that approximately 900 people have travelled to Syria and Iraq to join terrorist groups, of which approximately 40% have returned.

The territory controlled by ISIS in Syria and Iraq has shrunk since 2014 as a result of military efforts by an international coalition of forces. The territory, once roughly the size of the UK, but is now almost eliminated. As a result, it has been suggested that more people may now seek to return.

Alex Younger, Chief of MI6, recently expressed concern about the threat to public safety posed by such individuals. He reportedly said British nationals had a right to return, but that ensuring they do not pose a threat to the public would require a significant level of resource.

Under the *British Nationality Act 1981* the Home Secretary can deprive a person of their British citizenship if they are convinced that it is "conducive to the public good" provided that they would not be made stateless. The Home Secretary can also deprive a person of their citizenship obtained through naturalisation, if they have conducted themselves, "in a manner which is seriously prejudicial to the vital interests of the [UK]", and there are reasonable grounds to believe they could become a national of another country.

It has been reported that the Home Office believes that Ms Begum is entitled to Bangladeshi citizenship as a result of her heritage.

The Home Secretary has declined to comment on the case specifically, but her family have now released correspondence from the Home Office indicating that the Home Secretary has made a decision to remove her citizenship. The letter states that she has the right to appeal against this decision to the Special Immigration Appeal Commission.

An alternative option would be to issue a temporary exclusion order (TEO). TEOs were introduced by the *Counter-Terrorism and Security Act 2015* and enable the Home Secretary to prevent a person who is suspected of having been involved in terrorism-related activity outside the UK from returning to the UK, unless they accept certain specified conditions.

In addition to using TEOs, the Government has said repeatedly that it would seek to prosecute anyone who has travelled abroad to engage in terrorism related activity. There are a number of terrorist offences that might be relevant, including belonging to a proscribed organisation, or attendance at a place used for terrorism training. However, there may be difficulties in obtaining evidence of conduct that has taken place abroad, in

territory without a functioning criminal justice system that UK authorities could cooperate with.

The *Counter-Terrorism and Border Security Act 2019* introduced a new offence of "entering or remaining in a designated area" aimed at addressing this difficulty. The new offence would apply to those simply travelling to certain designated parts of the world, without the need to provide evidence of terrorism-related activity whilst there.

Where there is insufficient evidence to bring a prosecution, another option would be to use 'terrorism prevention and investigation measures' (TPIMs). TPIMs are measures imposed on individuals by the Home Secretary which aim to disrupt suspected terrorist activity and to facilitate investigations. They can include overnight residence requirements, electronic tagging, and restrictions on communication and association.

1. Background

According to the Government's counter-terrorism strategy CONTEST, in 2014 ISIS[1] exploited the political instability in Syria to occupy territory and proclaim a so-called Caliphate. In doing so it "mobilised a new movement of terrorists globally to join the group or act in its name".

Like Al Qa'ida, ISIS is ideologically founded on Salafi-Jihadism, characterised by a rejection of democracy, personal liberty and human rights, and a commitment to restoring a "Caliphate" and imposing strict sharia law.[2]

The initial state-building narrative persuaded thousands of people from around the world to travel to Syria. The Government estimates that around 900 people "of national security concern" from the UK have travelled to join ISIS, of which approximately 20% have been killed overseas.[3]

As a result of military action by a global coalition led by the Syrian Democratic Forces (SDF) and including the UK, much of the territory formerly occupied by ISIS has now been eroded. Many ISIS fighters and their families have consequently surrendered and are in SDF controlled refugee camps in Syria.[4]

Since 2014 around 40% of those who travelled to join ISIS have returned to the UK. According to the Government the majority did so in the earlier stages of the conflict and were investigated on their return.[5] The CONTEST strategy states that "many of the most dangerous individuals remain overseas" and that "[t]hese individuals remain a significant threat to the UK and our interests overseas"[6]. It sets out the Government's approach to dealing with returnees:

> 170 We use the full range of capabilities available to disrupt and manage the return of individuals from the conflict zone. Where appropriate, we will also use nationality and immigration powers to deprive individuals of their British citizenship and to exclude foreign nationals from the UK whose presence here would not be conducive to the public good. The Government introduced the Counter-Terrorism and Security Act in 2015 in response to the growing trend of UK nationals travelling overseas to engage in terrorism. Through this Act we introduced further measures that disrupt the ability of people to travel abroad, and to return to the UK, including the lawful temporary seizure of passports at the border, and the introduction of Temporary Exclusion Orders (TEOs). These powers support important police capabilities to manage the risk from potential travellers and are operationally vital.

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[1] Referred to in CONTEST as Daesh. Also known as ISIL, "Islamic State in Syria and the Levant"
[2] CONTEST: The United Kingdom's Strategy for Countering Terrorism, HMG, 2018, para 40
[3] Ibid, para 48
[4] 'Ministers urged to help UK families of foreign fighters in Syria', The Guardian, 12 March 2018
[5] CONTEST, para 48
[6] Para 168

> 171 Individuals who have travelled to the conflict zone must expect to be investigated by the police to determine if they have committed criminal offences and to ensure that they do not pose a threat to our national security. There have already been high profile prosecutions of individuals who have returned from the conflict zone. [7]

In response to a recent urgent question about Shamima Begum and the reported death of her child, the Home Secretary stated that any decision to deprive an individual who might be seeking to return from Syria of their citizenship would be based on advice and intelligence from the security services, counter-terrorism police, and specialist security and legal officials in the Home Office. He also confirmed that the UK is unable to provide support to British nationals in Syria as there is no UK Government consular presence there.[8]

7 Paras 170-171
8 HC Deb 11 March 2019, c45

2. Preventing return to the UK

The legal position with respect to members of proscribed organisations seeking to return to the UK will depend on their nationality and immigration status. The default position is that a British citizen has the right to enter the UK and to live and work in the UK. A child born to a British mother outside of the UK would normally be a British citizen too. However there are certain powers available to the Government to prevent return.

2.1 Deprivation of citizenship

The power to deprive individuals of their British citizenship has existed for several decades. It was rarely used for much of this period but a series of recent reforms have widened the circumstances in which the power may be exercised.[9] The Home Secretary recently confirmed that the power has been used approximately 150 times since 2010 for people linked to terrorism and serious crime.[10]

The power to deprive an individual of citizenship was first provided for by the *British Nationality Act 1948*. This was replicated in the *British Nationality Act 1981*, section 40(3) of which originally provided that the Secretary of State could deprive a person of their British citizenship if that person:

a. Had obtained their citizenship by fraud, false representation or concealment of a material fact; or

b. Had shown themselves to be "disloyal or disaffected towards Her Majesty"; or

c. Had unlawfully traded, assisted or communicated with the enemy during a war; or

d. Had received a prison sentence of twelve months or more within the previous five years and would not become stateless as a result.

The power only applied to those who acquired British citizenship by registration or naturalisation and where the Secretary of State was satisfied that it was not conducive to the public good that the person should continue to be a British citizen. It did however permit the exercise of the power in circumstances that could result in the individual being rendered stateless.

A Home Office letter to the Joint Committee on Human Rights in 2014 stated that between 1949 and 1973 there were 10 cases in which individuals had been made stateless.[11]

[9] For a detailed consideration of the development of the law, see Library Briefing Paper Deprivation of British citizenship and withdrawal of passport facilities
[10] HC Deb 20 February 2019, c1485
[11] Letter from James Brokenshire MP to Dr Hywel Francis, 20 February 2014

According to a 2002 Home Office white paper which proposed a number of reforms, at that point deprivation of citizenship powers had not been used since 1973.[12]

The *Nationality, Immigration and Asylum Act 2002* amended section 40 to provide that the Secretary of State could deprive a person of their citizenship if satisfied that they had done anything seriously prejudicial to the vital interests of the UK or a British overseas territory. It also removed the distinction between naturalised and non-naturalised British citizens, and provided that the power was not to be used if the Secretary of State was satisfied that to do so would make a person stateless. This brought the law in line with the Council of Europe's 1997 Convention on Nationality, which the Government at the time intended to ratify.[13] When the legislation was passing through parliament, Home Office Minister Lord Filkin gave a "categorical assurance" that the power would not be used as an alternative to prosecution where the Director of Public Prosecutions thought that there was sufficient evidence.

The *Immigration Asylum and Nationality Act 2006* replaced the "seriously prejudicial" test with one that required the Secretary of State to be satisfied that deprivation is conducive to the public good.[14] It remained the case that the power could not be used when the effect would be to make a person stateless.

The Immigration Act 2014 further amended section 40 of the BNA 1981 and this version remains in force.

This version continues to provide that a non-naturalised British citizen can only be deprived of their citizenship if it is conducive to the public good, and if doing so would not render them stateless.

However under subsection 40 (4A) a person who obtained their citizenship by naturalisation may be deprived of their citizenship if the Secretary of State is satisfied that they have conducted themselves in a manner which is seriously prejudicial to the vital interests of the UK, and has reasonable grounds for believing that the person is able to become a national of another country.

This change was prompted by the *al-Jedda case*, in which the Home Secretary failed in an attempt to deprive an Iraqi born naturalised British citizen of his British citizenship.[15]

The powers are subject to review, the first of which was conducted by David Anderson QC (now Lord Anderson) in 2016 in his capacity as the Independent Reviewer of Terrorism Legislation, covering the period from July 2014 to July 2015. Subsequent reviews are due to take place every three years. The position of Independent Reviewer is currently vacant.

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[12] Secure Borders, Safe Haven: Integration with Diversity in Modern Britain, Home Office, CM5387, 2002

[13] David Anderson QC, Citizenship removal resulting in statelessness, April 2016, para 2.11

[14] Section 56, amending BNA 1981 s40(2)

[15] Secretary of State v Al-Jedda [2013] UKSC 62.

Statelessness and international law

The Home Secretary has repeatedly made clear that the Government's position is that as a matter of international law it would not be possible to remove an individual's British citizenship unless the Home Secretary was satisfied on the basis of expert advice that that person would not be left stateless.[16]

In the context of the debate about Shamima Begum, the Home Secretary said:

> In every single situation, there is no question of making anyone stateless under any circumstances. Not only would making someone stateless be unlawful, it would be morally wrong, and that is not something that we would do. In any case, and certainly with any decision that I have made, I am perfectly comfortable that the analysis is done properly by expert legal advisers. I would not make such a decision unless I was absolutely confident on the statelessness issue.[17]

The two principal international Conventions that seek to avoid incidents of statelessness are the 1961 UN Convention on the Reduction of Statelessness and the Council of Europe's 1997 European Convention on Nationality.

The European Convention on Human Rights (ECHR) may not apply to those who are deprived of their citizenship outside of the territory of the UK. The ECHR applies to individuals within the jurisdiction of the UK. It may apply extraterritorially if the UK exercises "effective control" over an individual or territory.

2.2 Temporary exclusion orders

Section 2 of the *Counter-Terrorism and Security Act 2015* introduced "temporary exclusion orders" (TEOs) in order to improve the UK's ability to manage the return of foreign fighters. A TEO requirea the individual on whom it is imposed not to return to the UK unless their return is in accordance with a permit to return issued by the Secretary of State or it is the result of the individual's deportation to the United Kingdom.

A TEO can be imposed by the Secretary of State only when certain conditions are met, namely:

- The Secretary of State must reasonably suspect that the individual is or has been involved in terrorism-related activity outside the UK;
- The Secretary of State reasonably considers that it is necessary for purposes connected with protecting the public from a risk of terrorism;
- The Secretary of State must reasonably consider that the individual is outside the UK when the order is imposed;
- The individual must have the right of abode in the UK;

16 HC Deb 11 March 2019
17 HC Deb 20 February 2019, c1492

- A court must give permission for the imposition of a TEO unless the Secretary of State reasonably considers that the urgency of the case requires imposition without the permission of the court;
- While the TEO is in place, the Secretary of State must keep under review whether or not it remains necessary.[18]

Terrorism-related activity includes conduct that encourages the commission, preparation or instigation of acts of terrorism, and conduct that gives support or assistance to those involved in the commission of acts of terrorism.

A TEO would invalidate the individual's British passport and require them to apply for a permit to return to the UK. The permit would specify the time, manner, and location of the person's arrival in the UK, and could impose conditions such as a requirement to regularly report to a police station and to keep police informed of their whereabouts. It could also require them to attend a deradicalisation programme, or other appointments aimed at facilitating their reintegration into mainstream society, such as at Jobcentre Plus.

During parliamentary debates on the Bill, the Government was clear that the policy intention was, where appropriate, to enable people returning to the UK to be reintegrated into mainstream society, as "they can be very important elements in the prevention strategy aimed at those who might follow in their footsteps".[19]

Failure to comply with a condition is a criminal offence that carries a maximum sentence of five years in prison.

[18] Sections 2 to 15
[19] HL Deb 26 January 2019, c16

3. Terrorism Prevention and Investigation Measures

Another option would be to impose a 'terrorism prevention and investigation measures' notice. TPIMs were introduced under the *Terrorism Prevention and Investigation Measures Act 2011*, which came into force on 15 December 2011. The TPIMA was subsequently amended by the Counter-Terrorism and Security Act 2015.

A TPIM notice imposes restrictions on an individual in order to protect the public from a threat posed by a person suspected of terrorism-related activity. TPIMs are intrusive measures aimed at disrupting terrorism related activity and facilitating the investigation of such activity. They are intended to be used as an exceptional measure in cases where there is a terrorist threat but it is not possible to prosecute or deport the suspect.

TPIM notices can only be imposed in certain cases that meet the statutory conditions set out in the TPIMA.

The Act provides for measures to be imposed on an individual where the Secretary of State is satisfied, on the balance of probabilities, that the person is, or has been, involved in terrorism-related activity. There are five conditions ('Conditions A – E') that must be met before a TPIM notice can be imposed. These conditions are set out in section 3 of the Act:

> Conditions A to E
>
> (1) Condition A is that the Secretary of State is satisfied, on the balance of probabilities, that the individual is, or has been, involved in terrorism-related activity (the "relevant activity").
>
> (2) Condition B is that some or all of the relevant activity is new terrorism-related activity.
>
> (3) Condition C is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for terrorism prevention and investigation measures to be imposed on the individual.
>
> (4) Condition D is that the Secretary of State reasonably considers that it is necessary, for purposes connected with preventing or restricting the individual's involvement in terrorism-related activity, for the specified terrorism prevention and investigation measures to be imposed on the individual.
>
> (5) Condition E is that—
>
> (a) the court gives the Secretary of State permission under section 6, or
>
> (b) the Secretary of State reasonably considers that the urgency of the case requires terrorism prevention and investigation measures to be imposed without obtaining such permission.

In relation to Condition A, "terrorism-related activity" is defined in section 4 as:

a) the commission, preparation or instigation of acts of terrorism;
b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so;

c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so;

d) conduct which gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a).

In relation to Condition B, "new terrorism-related activity" is defined in section 3(6) as:

a) If no TPIM notice relating to the individual has ever been in force terrorism-related activity occurring at any time (whether before or after the coming into force of the Act);

b) If only one TPIM notice relating to the individual has ever been in force, terrorism-related activity occurring after that notice came into force; or

c) If two or more TPIM notices relating to the individual have been in force, terrorism-related activity occurring after such a notice came into force most recently.

Even where the above five conditions are met, a TPIM notice can only be imposed where prosecution or deportation (in the case of foreign nationals) is not considered possible.[20] Section 10 of the Act places a duty on the Secretary of State to consult on the prospects of prosecuting an individual before any measures can be imposed.

The list of measures that may be imposed by a TPIM include the following:

- Overnight residence requirement
- Travel restriction
- Exclusion areas (often tightly drawn, street by street)
- Movement restrictions
- Financial services measure
- Property measure ie limitations on items permitted to be in the possession of the TPIM subject
- Weapons/explosives prohibition (clearly necessary in every case)
- Electronic communications device restriction
- Association measure ie a list of persons whom the TPIM subject is forbidden from meeting or contacting in any way
- Work and study allowances or restriction
- Reporting measure ie to physically present oneself at a nominated police station on a frequency up to seven days a week
- Requirement to attend appointments when notified
- Requirement to submit to new photographs of the TPIM subject eg to monitor and protect against risk of absconsion
- Monitoring, to include the continual wearing of a GPS tag, usually an ankle tag

[20] Home Office Memorandum to the Home Affairs Committee, 'Post-Legislative Assessment of the Terrorism Prevention and Investigation Measures Act 2011', October 2016, p1, para 4

- Relocation up to 200 miles from the subject's ordinary home.

Section 19 of the Act requires the Secretary of State to report regularly to Parliament on the use of the powers. As of 31 August 2018 there were 6 TPIM notices in force, all of which were in respect of British citizens. Three individuals had been charged with breach of a TPIM notice and were awaiting trial.[21] The maximum sentence for breach of a TPIM measure is five years.

As Independent Reviewer of Terrorism Legislation, Max Hill QC reported on the use of TPIMs in his annual report on the Terrorism Acts in 2017, noting that the legislation had been thrown into relief during 2017 with the prospect of returnees following the fall of Mosul and Raqqa in the Iraq and Syria respectively. He observed that in most of the cases he had reviewed involved the imposition of all or almost all of the available measures.

He considered whether they led to successful outcomes:

> TPIMs, which have a maximum duration of 24 months, are variable in their outcome when measured on a scale from 'successful' to 'unsuccessful'. In some cases, the maintenance of a TPIM for one or two years (the maximum permitted by statute) demonstrates that the subject is moving away from a former violent extremist mindset. In these cases, a combination of removal from previous circles of influence and the personal support afforded by the package of TPIM measures produces positive results. In other cases however, there is evidence of the TPIM subject merely 'biding time', awaiting what they know to be the maximum duration of the TPIM, their pre-existing violent extremist mindset undimmed.[22]

He also noted the "obvious and considerable interference upon the ordinary life of a TPIM subject" and acknowledged that the regime had been controversial when introduced. However, he concluded that it continues to survive robust scrutiny as to the necessity and proportionality of the interferences with subjects' rights, and that TPIMs are "here to stay".[23]

21 HCWS1050, 31 October 2018
22 Max Hill QC, The Terrorism Acts in 2017, October 2018, para 5.13
23 Ibid, paras 5.32 & 5.43

4. Prosecution

The Government has said that it would seek to prosecute returnees whenever the evidence exists to make this possible. However only approximately 10% of those that have returned to far have been prosecuted. The Home Secretary has explained that this is in part due to the available offences and in part to do with the difficulties in obtaining evidence:

> I absolutely understand my hon. Friend's point. He has pointed out, quite correctly, the challenges of prosecution of foreign terrorist fighters who return to the UK. As we have heard from my right hon. Friend the Member for New Forest East (Dr Lewis), one challenge is having the right laws in place—we are making some changes to that—and another is collecting battlefield evidence. These individuals are returning from a war zone. Collecting evidence in the battlefield is incredibly difficult, but we have done, and continue to do, a lot of work through the MOD and with our defence allies and Five Eyes partners to try collect more such evidence, so that we can use it in the courts for more successful prosecutions.[24]

4.1 Existing offences

Depending on the nature of their conduct while abroad, returning members of proscribed organisations could be prosecuted for various offences, including:

- Membership of a Proscribed Organisation: Under section 11 of the *Terrorism Act 2000* (TA 2000) it is an offence to belong, or profess to belong, to a proscribed organisation in the UK or overseas.
- Preparation of terrorism acts: Returning foreign fighters have been prosecuted under section 5 of the *Terrorism Act 2006* (TA 2006) for engaging in preparation of terrorism acts. For those who attempted to travel but who did not actually depart the UK, 'preparation of terrorism' is the most frequent and serious charge.[25]
- Encouraging terrorism: it is an offence under section 1 TA 2006 to publish a statement that is likely to be understood as a direct or indirect encouragement to the commission, preparation or instigation of acts of terrorism or Convention offences
- Possessing terrorist material: it is an offence under section 57 TA 2000 to possess an article in circumstances which give rise to a reasonable suspicion that the possession is for a purpose connected with the commission, preparation or instigation of an act of terrorism.
- Funding terrorism: it is an offence under section 17 TA 2000 if a person (a) enters into or becomes concerned in an arrangement as a result of which money or other property is made available or is to be made available to another, and (b) knows or has reasonable

24 HC Deb 11 march 2019, c53
25 See Max Hill QC, The Terrorism Acts in 2017, October 2018, chapter 10

cause to suspect that it will or may be used for the purposes of terrorism.

4.2 Designated area offence

The *Counter-Terrorism and Border Security Act 2019* provided for a new offence of entering or remaining in a designated area. It inserted a new clause into the TA 2000 which would make it an offence for a UK national or resident to enter or remain in an area outside the UK that has been designated in regulations by the Secretary of State. There would be a grace period of one month for persons travelling to, or already present in, a designated area at the time the regulations designating the area come into force. There are various statutory exceptions, including being in a designated area for the purposes of providing humanitarian aid or carrying out work as a journalist.

The offence carries a maximum sentence of 10 years.

The test for designating an area for the purpose of the offence is that the Secretary of State is satisfied that the designation is necessary in order to protect the public from a risk of terrorism. According to the explanatory notes, such a risk may arise "if a conflict in a foreign country, potentially involving a proscribed terrorist organisation, acted as a draw to UK nationals or residents to travel to that country to take part in the conflict or otherwise support those engaged in the conflict".

The Home Secretary explained in a recent debate that this offence was introduced in order "to try to secure more tools with which to prosecute returning fighters".[26]

The provisions are not yet in force and when they are commenced will not apply retrospectively, so would only apply to those remaining in a designated area after that point.

4.3 Treason

In July 2018 Policy Exchange published a report,[27] authored by MPs Tom Tugendhat and Khalid Mahmood among others, proposing that parliament should enact a new offence of treason. The new offence would cover aiding a state or organisation that is attacking the UK or preparing to attack the UK or against which UK forces are engaged in armed conflict. It would apply to anyone in the UK, and to the actions of British citizens or settled non-citizens anywhere in the world.

The report argued that the 1351 Treason Act is now unworkable, having been overtaken by changes in modern social and political conditions, and that the law should recognise and reinforce "the duty of non-betrayal". It suggested at a minimum that the law be reformed to follow Australia and New Zealand in making it clear that it is unlawful to aid the enemy either in an international armed conflict or in a non-international armed conflict.

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26 HC Deb 11 March 2019 c51

27 Aiding the enemy: How and why to restore the law of treason, Policy Exchange, 2018

The report argued that existing terrorism legislation is not an adequate substitute for a workable law of treason because it fails to recognise the wrongfulness of betrayal or the continuing danger posed to British citizens by those who use membership of British society to assist groups that plan to attack the UK. It also argued that sentences for terrorism offences for those who travel to join terrorist groups are inadequate.

In the House of Commons on 25 February 2019, Tom Tugendhat asked the Home Secretary whether he would look at how people who join terrorist groups could be charged with treason. Sajid Javid responded

> He has also raised the issue of further potential powers, including in relation to treason. I am taking these issues very seriously. We are looking at this, and I would be happy to meet him and discuss this further.[28]

In a subsequent debate he responded to a similar question saying "I agree with my right hon. Friend that it is time to look at the laws on treason, and to modernise them."[29]

However, in response to a question about whether the Government intended to update the 1351 Act in the House of Lords, Baroness Williams said

> My Lords, to prosecute terrorists for treason risks giving their actions a political status or glamour that they do not deserve, rather than treating them as merely criminals. The Government have just passed the Counter-Terrorism and Border Security Act, which updates terrorism offences and introduces new powers to reflect the threat we face today from foreign terrorist fighters. This will provide the police and the intelligence services with the powers they need to protect the public.[30]

28 HC Deb 25 February 2019, c 4
29 HC Deb 11 March 2019, c51
30 HL Deb, 21 February 2019, c 2367

5. Reintegration and rehabilitation

A new part of the Government's Prevent strategy is the Desistance and Disengagement Programme (DPP). The 2018 CONTEST Strategy explains that a pilot project has focused on returning fighters:

> The programme has been running in pilot through 2017, focusing on people subject to court approved conditions, including all terrorism and terrorism-related offenders on probation licence, as well as those on Terrorism Prevention and Investigation Measures (TPIMs) and those who have returned from conflict zones in Syria or Iraq and are subject to Temporary Exclusion Orders (TEOs). Where mandated for individuals subject to TEOs, TPIMs or probation requirements, non-compliance could lead to the possibility of being charged for breach of conditions or being recalled to prison.
>
> 130 The DDP reflects increasing collaboration across different elements of the counter-terrorism system, notably Prevent and Pursue. Through the DDP, we provide a range of intensive tailored interventions and practical support, designed to tackle the drivers of radicalisation around universal needs for identity, self-esteem, meaning and purpose; as well as to address personal grievances that the extremist narrative has exacerbated. Support could include mentoring, psychological support, theological and ideological advice. We are working with academics to inform development of the DDP.[31]

CONTEST also provides an illustrative example of how the mother of a young child seeking to return to the UK from ISIS-held territory might be treated:

> [T]he Home Secretary and a judge approve the use of a Temporary Exclusion Order (TEO) to manage her return to the UK. The TEO allows us to specify the route of return to the UK and to impose obligations upon the individual once they return to help protect members of the public from a risk of terrorism.
>
> The mother and her child are subsequently deported to the UK from Turkey via the route specified by the TEO. On arrival in the UK the police launch an investigation into the woman's activities in Syria to determine whether any crimes have been committed. If there is evidence that a crime has been committed then the mother will be charged and the Crown Prosecution Service will conduct criminal proceedings. If there is no evidence of criminality, the mother is assisted in reintegrating into society, for example, by requiring her to attend a series of sessions with a specially trained de-radicalisation mentor. In the meantime the mother is also obliged – as part of her TEO – to report regularly to a police station and to notify the Home Office of any change of address. The local authority is involved to ensure that the child is not at immediate risk and appropriate measures are put in place to help safeguard the child's welfare.[32]

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31 CONTEST Strategy, 2018, paras 129-130
32 Ibid, para 171

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