

Office for  
Students



# Prevent duty: Framework for monitoring in higher education in England

2018-19 onwards

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# Summary

## Purpose

1. This monitoring framework sets out how the Office for Students (OfS) will monitor providers' implementation of the statutory 'Prevent duty' in the higher education sector in England. Relevant higher education bodies (RHEBs)<sup>1</sup> will need to follow this framework to demonstrate due regard to the duty. This includes all providers that register with the OfS, among others (see paragraph 4). The framework also sets out how we will monitor at a sector level and drive continuous improvement through facilitating the sharing of experience and effective practice.
2. Under the Counter-Terrorism and Security Act 2015 (CTSA), RHEBs must have due regard to the need to prevent people from being drawn into terrorism (the Prevent duty). The OfS is responsible for monitoring whether RHEBs are demonstrating due regard to the Prevent duty. Responsibility for ensuring compliance with the legal duty sits with the governing body or proprietor of the RHEB. By 'proprietor' we mean the individual or individuals with strategic oversight of an RHEB's activities, including ultimate responsibility for its financial management.
3. This framework was issued on 12 September 2018 and should be read in conjunction with the 'Supplementary information note' available on the OfS webpages ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)). It supersedes the former Higher Education Funding Council for England's (HEFCE's) 'Framework for the monitoring of the Prevent duty in higher education in England: 2017 onwards' (HEFCE 2017/10). A high-level summary of the monitoring approach to date can be found in paragraphs 29 to 31.

## Key points

4. This framework is for:
  - Prevent leads, senior management and governing bodies of OfS-funded higher education institutions
  - Prevent leads, senior management, governing bodies and proprietors of other RHEBs in England, specifically:
    - providers that are registered categories with the OfS
    - providers that are not registered but have more than 250 higher education students
    - providers that are designated for student support by the Secretary of State (e.g. for the purposes of 'teach out')
    - the autonomous colleges, schools and halls of the Universities of Cambridge, Durham and Oxford.

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<sup>1</sup> RHEBs are those providers that are subject to Prevent duty monitoring by the OfS, as set out in the Counter-Terrorism and Security Act 2015 Section 26(1) at [www.legislation.gov.uk/ukpga/2015/6/contents/enacted](http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted). Further information is also given in paragraph 23.

5. To be assessed as ‘having due regard’ for the Prevent duty, all RHEBs must have robust policies and processes in place which respond to the Prevent statutory guidance, and must demonstrate that they are actively implementing these policies.

## Monitoring requirements

6. This framework is the fourth iteration since the Prevent duty came into force. While building on the Prevent monitoring framework that was established by HEFCE, **the OfS has moved to a strengthened, more evidence-based and risk-based approach**. The Prevent statutory guidance will continue to provide the foundations for the OfS’s approach to monitoring implementation of the duty, and therefore our expectations on how providers will need to demonstrate due regard to the duty will not differ from the previous expectations under HEFCE.
7. All RHEBs will need to submit an accountability and data return to the OfS. We expect this to be on an annual basis. This includes those providers that previously would have submitted information to us in March. This will include the following:
  - a. Signed declarations and an explanatory accountability statement from the governing body or proprietor, as the legally accountable entities under the CTSA, confirming that the provider has had due regard to the duty.
  - b. Outcomes-based data returns supported by a short qualitative narrative covering core areas of the statutory duty, such as staff training, welfare concerns, and external speakers and events.
8. The OfS will use Prevent review meetings (PRMs) more systematically and more widely than HEFCE as the primary way of gaining assurance of each provider’s implementation of the duty. They will be used to supply insight into how a provider is implementing the duty beyond the accountability and data return, encompassing not only where we have concerns triggered by particular circumstances, but also through use of random sampling to identify effective practice. The programme of PRMs will cover:
  - providers considered to be at ‘higher risk’ of non-compliance as part of our heightened engagement approach or who have recently had substantial material changes of circumstance or significant potential serious incidents causing concern where we have determined we require further follow-up
  - new entrants to the sector to test a baseline of compliance
  - within each year, a random representative sample of other RHEBs.
9. Providers will also need to report to the OfS as soon as possible:
  - any material changes to policies which HEFCE or the OfS have previously assessed (such as a significant change to an information technology policy as it relates to Prevent)
  - any significant changes of circumstance impacting on the provider’s Prevent responsibilities (such as a change in Prevent lead)
  - any serious Prevent-related incidents, as outlined in paragraphs 64 to 73.

## Outcomes

10. Providers will be assessed as having 'due regard' to the duty if they satisfactorily demonstrate that they both:
- have appropriate policies and processes in place in response to the Prevent statutory guidance
  - are following these policies and processes in practice.

## Engagement

11. The OfS engagement strategy with providers is risk-based, and contact is targeted according to individual provider context and need. Providers assessed to be at higher risk of not demonstrating due regard to the duty will be subject to heightened engagement from the OfS compared with providers assessed as lower risk. Only providers assessed as being higher risk will be assigned a named single point of contact in the OfS Prevent team.

## Reporting on monitoring and compliance outcomes

12. The OfS will report on a periodic basis to the Department for Education and will publish relevant information and data; this may include aggregate figures on compliance across the sector, sector-level feedback on the monitoring process, and highlighting effective practice and areas for further consideration by all providers. We may also share relevant information and data on individual providers' implementation of the duty with government and other key Prevent partners on a need to know basis where necessary, including where a provider has been found not to be demonstrating due regard to the duty.

## Driving continuous improvement

13. As part of the OfS's role as monitor for Prevent, we are keen to ensure that alongside the formal processes to monitor providers' ongoing due regard to the Prevent duty, we promote an environment of continuous improvement. The OfS's approach will be to focus on demand and to provide information and guidance in response to issues as they emerge, as well as anticipating potential issues and offering resources for providers to help mitigate potential risks on compliance at sector level. We anticipate an ongoing programme of OfS work to include a 'What works' programme to share effective practice, guidance and advice documents, anonymised case reviews to share learnings from serious incidents or material changes, and thematic reviews or 'deep dives' in areas where the OfS identifies a need for more assurance from the sector.
14. We remain committed to evaluating the effectiveness of this monitoring framework and of the OfS's role as monitor and will work in consultation with government, the sector, sector representatives and students, to ensure it remains fit for purpose.

## **Further information**

15. Further information is available through the OfS website at [www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/).
16. Support and guidance can also be accessed through the network of Department for Education Further Education and Higher Education Prevent Coordinators. Details of the Coordinators can be found at [www.safecampuscommunities.ac.uk/guidance/regional-coordinators](http://www.safecampuscommunities.ac.uk/guidance/regional-coordinators).

## **Action required**

17. This framework should be followed by relevant higher education bodies from its date of issue on 12 September 2018 onwards in order to demonstrate due regard to the duty.

# Background

18. Since September 2015, all 'relevant higher education bodies' (RHEBs) have been subject under the Counter-Terrorism and Security Act 2015 (CTSA) to a statutory duty to have 'due regard to the need to prevent people from being drawn into terrorism', referred to as 'the Prevent duty' (or simply 'the duty' within this document)<sup>2</sup>. In fulfilling this duty, they must have particular regard to their existing duties to ensure freedom of speech and consider academic freedom. The OfS is responsible for monitoring this duty in the higher education sector in England.
19. In 2015 the government appointed the Higher Education Funding Council for England (HEFCE) to monitor implementation of the duty across the higher education sector in England, and this role was formally delegated to the Office for Students (OfS) when it became operational on 3 April<sup>3</sup>. Alternative arrangements apply in Wales and Scotland. The Office for Standards in Education, Children's Services and Skills (Ofsted) is responsible for monitoring implementation of the duty at further education colleges, including in relation to any higher education provision they offer.
20. This framework is the fourth iteration since the Prevent duty came into force. While building on the Prevent monitoring framework that was established by HEFCE, **the OfS has moved to a strengthened, more evidence-based and risk-based approach**. By doing so we aim to reduce burden where possible, while providing a robust level of assurance where there are concerns. In undertaking our role, we will have regard to our duties and powers set out in both the CTSA and the Higher Education and Research Act 2017 (HERA). In adhering to the requirements of the statutory guidance, our expectations in relation to what providers need to do to demonstrate due regard will not differ under this new framework; but given the high level of compliance shown by the sector a more targeted and responsive approach is appropriate. We will be maintaining key elements of the current approach, including a focus on proportionality and context, supporting continuous improvement, student engagement and working collaboratively with the sector and other partners to support open, transparent and trusting relationships. Please see paragraphs 29 to 31 for a high-level summary of the monitoring approach to date.
21. **This framework applies from September 2018 onwards and supersedes all previous versions**<sup>4</sup>. It has been developed and informed by informal consultation with representatives from across the higher education sector, representative bodies and government.
22. The terms 'provider' and 'RHEB' are used interchangeably throughout this document to refer to all higher education providers that are subject to the duty.

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<sup>2</sup> The Counter-Terrorism and Security Act 2015 Section 26(1) at [www.legislation.gov.uk/ukpga/2015/6/contents/enacted](http://www.legislation.gov.uk/ukpga/2015/6/contents/enacted).

<sup>3</sup> See the delegation letter from the Secretary of State for Education, available at [www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/).

<sup>4</sup> Previous versions include 'The Prevent duty: Monitoring framework for the higher education sector' (HEFCE 2015/32), updated in 2016 (HEFCE 2016/24), and 'Framework for the monitoring of the Prevent duty in higher education in England: 2017 onwards' (HEFCE 2017/10).

## Which higher education providers are subject to monitoring by the OfS?

23. RHEBs that were subject to the duty before April 2018 must continue to meet the monitoring requirements during the academic year 2018-19, which has been identified as a transition year. All other providers not currently subject to monitoring that register with the OfS become subject to the same requirement at the point of registration. This is because the definition of a 'qualifying institution' or a 'relevant higher education body' (as defined in the statutory guidance) that is subject to monitoring relating to the Prevent duty (set out in section 11 of the Higher Education Act 2004) has been revised to 'an institution in England which is a registered higher education provider' (as defined under section 89 of HERA).

Under the OfS, RHEBs are defined as:

- providers that are registered with the OfS<sup>5</sup>
- providers that are not registered but have more than 250 higher education students<sup>6</sup>
- providers that are designated for student support by the Secretary of State (e.g. for the purposes of 'teach out')
- all the autonomous colleges, schools and halls of the Universities of Cambridge, Durham and Oxford.

24. In addition, the OfS has a wide power to request information from unregistered providers for the purpose of performing its functions, under section 62 of HERA, and may exercise this discretion from time to time. This is discussed further in paragraph 92.

### Collaborative partnerships

25. Our approach to how we monitor collaborative partnerships will not differ from HEFCE's. Where students are registered with a higher education provider but delivery of courses is subcontracted to another provider (in what are sometimes called 'franchise arrangements'), the higher education provider has responsibility for ensuring arrangements are in place for its registered students. This includes cases where higher education providers have relationships with pathway providers, such as embedded campuses, and where students are registered with the higher education provider. Evidently, if a provider that was previously in a franchise arrangement decides to register with the OfS then they will be subject to the duty and the monitoring requirements directly. There may be exceptions to this, particularly where a pathway provider registers its own students and they are taught on a higher education programme, or where a provider is part of a partnership of 'connected institutions' and relevant policies and procedures are shared across a number of providers. We will deal with such cases on a case-by-case basis and in discussion with the Department for Education (DfE) as

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<sup>5</sup> This excludes further education colleges, which will continue to be monitored by Ofsted.

<sup>6</sup> We define higher education students as those studying on a course that leads to a recognised higher education award in Schedule 6 of the Education Reform Act (1988)



appropriate. Further information and guidance is available on our website ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)).

26. Further details on how we will monitor new entrants registering with the OfS and those exiting the higher education sector are set out at **Annex A** and **Annex B** respectively.

## Section 1: Monitoring: a risk-based approach

27. The OfS has powers to require actions of a provider both under the CTSA and HERA. The OfS's role and the associated responsibilities for Prevent were delegated to us under the legislative framework of the CTSA. Therefore our powers under it are distinct from the OfS regulatory framework. However, the powers and general duties set out in the HERA upon which the OfS has been established – and which will shape our regulatory approach – will apply. This might include using our powers under HERA to require a provider to submit specific information to enable the OfS to perform its monitoring function effectively, or to impose sanctions where a judgement is made that providers are not demonstrating due regard and this indicates a wider breach of one or more registration conditions. This will require us to ensure that information is shared appropriately between the regulatory framework and the Prevent legislative framework, so that the two regulatory activities do not operate in isolation. For example, our risk assessment of providers relating to Prevent will take account of registration conditions, in particular the public interest principles relating to management and governance and freedom of speech, and vice versa.
28. The OfS's role as Prevent monitor forms a core component of its wider remit to support and champion the wellbeing of students, ensuring that they have the ability and recourse to have a positive higher education experience and achieve successful outcomes. Indeed, the same vulnerabilities that may be exploited for the purpose of drawing people into terrorism can manifest themselves through broader welfare and safeguarding concerns, so a holistic and integrated approach is key. This will be achieved primarily through regulation at a sector level and working collaboratively with partners and experts to shine a spotlight on issues, identify gaps in evidence, co-produce and share evidence, and champion examples of effective and innovative practice which can be demonstrated to have the biggest impact on students. This builds on the successful programme of work undertaken to date outside the formal monitoring processes to promote an environment of continuous improvement across all parts of the sector in relation to Prevent, and to support the development and sharing of effective practice among practitioners. This will continue to be a core focus of the OfS's role as Prevent monitor. Advance HE has also produced a guide to safeguarding which governing bodies and proprietors may wish to take into account when considering approaches to welfare and safeguarding<sup>7</sup>.

### Monitoring approach to date

29. To demonstrate that they have 'due regard' to the Prevent duty, RHEBs need to:
- have robust and appropriate policies and processes in place, responding to the Prevent duty statutory guidance
  - show that they are actively implementing and following these policies in practice.
30. To date, RHEBs' compliance with the duty has been assessed through two distinct phases of work: an **initial assessment of detailed evidence** to demonstrate that properly thought-through policies and processes are in place, followed by an **ongoing annual reporting**

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<sup>7</sup> 'Getting to Grips with Safeguarding' is available at <https://www.lfhe.ac.uk/en/research-resources/publications-hub/getting-to-grips.cfm>.

**exercise** consisting of a retrospective annual report covering the previous year's activity to demonstrate that those policies and procedures are being implemented and that they are being properly followed and applied. This was supplemented by risk-based PRMs where significant concerns were raised.

31. This work showed a high level of compliance with the statutory duty. Further details on the monitoring requirements and assessment process are set out in the 'Framework for the monitoring of the Prevent duty in higher education in England: 2017 onwards' (HEFCE 2017/10), as well as analysis of outcomes from the initial assessment phase and the subsequent cycle of annual reports for activity in 2015-16 are available on the archived HEFCE website<sup>8</sup>. Analysis of annual report outcomes in 2016-17 are available on our website ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)).

## Principles of a risk-based monitoring approach

32. 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; this includes being increasingly student-focused, outcomes-driven and with a focus on co-regulation. We will also have regard to our general duties as set out in section 2 of HERA which include protecting institutional autonomy and adopting best regulatory practice so that activities are transparent, accountable, proportionate and consistent, and targeted only where action is required.
33. The Prevent statutory guidance will continue to provide the foundations for the OfS's approach to monitoring implementation of the duty, and therefore our expectations on how providers will need to demonstrate due regard to the duty will not differ to HEFCE's expectations. However, rather than using a primarily desk-based cyclical exercise, this framework will enable a strengthened, evidence-based and targeted approach which will be driven by an assessment of risk. There will be an ongoing focus on proportionality and context, supporting continuous improvement at a sector level, student engagement, and working collaboratively with the sector and other partners.
34. The OfS has identified the following overarching principles that will underpin a strengthened and more focused approach to Prevent monitoring in the longer term:

- **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

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<sup>8</sup> Our previous monitoring framework is available at <http://webarchive.nationalarchives.gov.uk/20180319114924/http://www.hefce.ac.uk/pubs/year/2017/201710/>. The analysis report covering the initial assessment is available at <http://webarchive.nationalarchives.gov.uk/20180319114332/http://www.hefce.ac.uk/pubs/year/2017/201701/>, and the analysis of annual reports in 2015-16 is available at <http://webarchive.nationalarchives.gov.uk/20180319122845/http://www.hefce.ac.uk/pubs/year/2017/201711/>.

- **drawing on external sources of data, information and intelligence to assess risk** – using more formal information-sharing mechanisms among 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 are 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.

35. Ongoing monitoring under the OfS will continue to be focused not only on whether providers have the right policies and processes in place, but primarily on evidence of active and effective implementation. The new approach will be more targeted and responsive than HEFCE's approach, with face to face Prevent review meetings being used more systematically to supplement the desk-based exercise, and heightened engagement for those providers assessed to be at higher risk of non-compliance with the duty.

## **2018-19 as a transition year**

36. The academic year 2018-19 will be treated as a transition year in recognition that providers will need further time to respond to the OfS's revised monitoring arrangements, and to manage both new providers becoming subject to monitoring and those leaving the higher education sector. We also intend to use this period to test and evaluate the effectiveness of our evolved approach to monitoring through consultation with the sector and representative bodies, and to ensure that it provides the necessary level of assurance to government. Further information on the reporting requirements for this year will be made available on our website and communicated to Prevent leads.

## Section 2: What will RHEBs need to do to comply?

37. The CTSA places two duties on 'specified authorities' or RHEBs:

- a. To have 'due regard to the need to prevent people from being drawn into terrorism' (the Prevent duty) section 26(1).
- b. To 'give to the monitoring authority any information that the monitoring authority may require for the purposes of monitoring that body's performance in discharging [the Prevent duty] as required by section 32(2).

38. The core mechanisms by which the OfS will continue to seek assurance from governing bodies or proprietors, supported by appropriate evidence, that providers have continued to have 'due regard' to the Prevent duty are set out in paragraphs 39 to 41.

### Core monitoring mechanisms

39. There are four core mechanisms by which we monitor providers:

- **accountability and data returns**
- **programme of Prevent review meetings**
- **reporting of serious incidents and material changes**
- **thematic review and supporting continuous improvement.**

40. The rest of this section sets out the evidence the OfS intends to collect for each element of the monitoring process, the ways in which this will be assessed, and the possible outcomes.

41. Monitoring requirements for new entrants to the sector will be different for existing providers, because we will need to ensure that they meet a baseline requirement before they can become subject to ongoing monitoring. Further information is set out in paragraphs 79 to 80.

### Accountability and data returns

**All RHEBs will be required to submit an accountability and data return to the OfS. We expect this to be on an annual basis. This includes those providers that previously would have submitted information to us in March.**

42. The HEFCE annual reporting exercise will be replaced by a more data-driven accountability return. This will include the following:

- a. Signed declarations and an explanatory accountability statement from the governing body or proprietor, as the legally accountable entities under the CTSA, confirming that the provider has had due regard to the duty.

- b. Outcomes-based data returns supported by a short qualitative narrative covering core areas of the statutory duty such as staff training, welfare concerns, and external speakers and events.
43. Data will cover the core areas of implementation of the Prevent statutory duty to provide a snapshot of implementation for individual providers. This will build on the data collected to date through annual reports, but will aim to be more granular in order to accurately capture more meaningful contextual data. For example, we may choose to disaggregate training data to better understand what types of training (induction, refresher, or wider awareness raising) is being delivered.
44. Specific reporting requirements will be communicated in advance of each submission, with sufficient lead time for providers to prepare their returns. The OfS may ask for data and information on specific areas of practice where we have concerns across the sector, or focus on particular themes where we are keen to gather evidence and examples of good practice to inform effective delivery of the duty. Each dataset will be accompanied by clear definitions of what is required and a rationale for how the data will be used to inform our monitoring.
45. This data and supporting evidence will provide the OfS with baseline assurance and evidence that will help to inform our wider risk assessment of whether provider is giving due regard to Prevent. We will not make judgements on compliance from the data returns alone; however they will be used to inform our ongoing monitoring at an individual institutional level – for example, if significant outliers suggest issues that need further investigation, or if data raises further questions about the operation of particular policies. We will take into account each provider’s context, scale and complexity to make proportionate decisions. Relevant information and data will also be shared with government and other key Prevent partners on a need to know basis as necessary to inform its understanding of how the sector is actively implementing the Prevent duty. Data will be published only at an aggregated sector level, along with contextual background (but ensuring that individual providers are not identifiable).
46. While recognising lead times for data collection, the OfS may require Prevent data to be returned more frequently than annually, to ensure that our monitoring is responsive to more real-time issues around compliance. While we aim to have a consistent approach across providers, we may choose to make specific requirements for individual providers where we identify concerns around compliance. However, any decision taken would be mindful of proportionality to ensure that monitoring continues to be risk-based and targeted.
47. We will not accept any personal information about particular individuals or groups, nor would we expect data to be presented in a way which enables individuals to be identified. Any returns including this kind of information will be sent back to the provider in line with our responsibilities under the General Data Protection Regulation.

### **Declarations from the governing body or proprietor**

48. Governing bodies and proprietors should have considered appropriate information and supporting evidence demonstrating that the provider has continued to have ‘due regard’ to the duty over the past year. The Committee of University Chairs has produced a practice note which governing bodies and proprietors may wish to take into account when considering such

assurances from management<sup>9</sup>. The chair of the governing body (or of the trustees) or the proprietor is required to provide the following declarations to be included in the accountability return:

‘Throughout the year and up to the date of approval, [provider name]:

- has had due regard to the need to prevent people being drawn into terrorism (the Prevent duty)
- has provided to the OfS all required information about its implementation of the Prevent duty
- has reported to the OfS in a timely way all serious issues related to the Prevent duty, or now attaches any reports that should have been made, with an explanation of why they were not submitted
- has reviewed, and where necessary, updated its Prevent risk assessment and action plan.’

49. Governing bodies should seek assurance that the provider has reviewed its Prevent risk assessment for the year ahead and updated its action plan to address any issues identified. We would expect risk assessments to be reviewed and, where necessary, refreshed annually as well as to focus on where and how people might be at ongoing risk of being drawn into terrorism, and the effectiveness of the mitigations which are in place. We would also expect governing bodies to be appraised of any serious Prevent-related incidents reported to the OfS, and to be assured appropriate steps are being taken to address any concerns. Governing bodies should familiarise themselves with the OfS’s expectations regarding the Prevent duty, including associated provider behaviours. Support will be available through the DfE Further and Higher Education Regional Prevent Coordinators. Training resources for staff are also available online on the Safe Campus Communities website at [www.safecampuscommunities.ac.uk](http://www.safecampuscommunities.ac.uk).

50. The signed declarations will be accompanied by an accountability statement which will include a free text box with prompts for the governing body or proprietor to provide additional assurance. As the word count will be limited, we would expect a short summary about how the signatory has satisfied themselves in relation to completion of the declaration statements and oversight of the implementation of the duty.

## **Programme of Prevent review meetings**

51. The OfS will use Prevent review meetings (PRMs) more systematically and more widely than HEFCE as the primary way of gaining assurance of individual providers’ implementation of the duty. They will be used to supply insight into how a provider is implementing the duty beyond data returns, encompassing not only where we have concerns triggered by particular circumstances, but also through use of random sampling to identify effective practice.

52. PRMs will be a key mechanism in how the OfS gains assurance of the implementation of the duty. They are therefore intended to:

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<sup>9</sup> ‘Illustrative practice note 2: Counter-terrorism and Prevent agenda’ is available online at [www.universitychairs.ac.uk/publications/](http://www.universitychairs.ac.uk/publications/).

- a. **Provide assurance of the implementation of the duty at specific providers**, through stress-testing core policies and procedures to review their effectiveness
- b. **Provide sector-level assurance**, by enabling us to identify individual approaches to implementation, share best evidence and case studies, and identify areas where further support may be required.

## Components of Prevent review meetings

53. A programme of PRMs will be carried out on the following:

- a. Providers considered to be at 'higher risk' as part of our heightened engagement approach, or who have recently had substantial material changes of circumstance or significant potential serious incidents causing concern where we have determined we require further follow-up.
- b. New entrants to the sector to test a baseline of compliance, typically one year after they have entered.
- c. Within each year, a random representative sample of other RHEBs.

54. There will be no set number of RHEBs to be considered at 'higher risk', rather it will be those where we consider a PRM to be necessary or beneficial for gaining assurance. It is expected that new RHEBs will undergo a 'detailed assessment' of core policies and procedures, as per the previous monitoring framework, within approximately six months of entering the higher education sector, followed by a PRM within the first year of becoming subject to the duty. Further details on the requirements are set out in Figure 1. The representative sample will be chosen randomly but weighted to reflect the diversity of the sector, in terms of geography, size, governance structure and specialism of provider.

## PRM methodology

55. Providers will be given limited notice of a PRM, which will strike a balance between providing sufficient time to prepare and ensuring this is an accurate test of compliance. This will also help to avoid complacency.

56. Providers will be invited to agree the proposed meeting agenda, and will be asked to submit certain information to the OfS prior to the meeting. This information will vary depending on the focus of the PRM, but may include: Prevent risk assessments and action plans; a self-assessment exercise; any key Prevent-related policies that have been changed since last submitted to the OfS; other documents such as minutes from working groups or governing bodies; or risk assessments of specific events.

57. The meeting will include the provider's Prevent lead and any other members of staff who play a key role in the implementation of the duty, such as welfare leads or members of Prevent steering groups. Dependent upon the context of the provider, we may request other members of staff and representatives of the governing body or the student body, for example the students' union, or to be present.



58. The meeting itself will cover each of the key areas of the duty, using various methods to gain assurance:
- a. In-depth explanations of how policies and processes interact in practice.
  - b. Stress-testing policies and processes using hypothetical scenarios.
  - c. Case studies.
  - d. Illustrative examples of policies and processes being developed within the past year.
59. As well as providing assurance, the meetings will also provide the following information to support our sector-level work:
- a. Evidence of effective practice.
  - b. How policies and processes have been developed in response to the context of the provider.
  - c. Sector-wide developments affecting the implementation of the duty.
  - d. Areas providers have found challenging, where greater guidance may be beneficial.

### **Outcomes and follow-up activity**

60. The PRMs are intended to be able to give an appropriate level of assurance to the OfS without further evidence being needed. We will make a judgement on the provider's compliance with the duty following the meeting, and will provide a report detailing how we have gained assurance against each element of the duty. The report will highlight areas of good practice, and may suggest areas where providers could make their implementation more effective.
61. Where we identify 'further action needed', the provider will be given a timeframe within which we expect them to complete these actions to be seen to be demonstrating due regard. The usual timeframe is within four months of receiving the outcome, though there may be exceptions in individual circumstances.
62. Where the PRM has led to a change in the risk category of the provider this will also be explained, with a justification for this. Where a 'low risk' provider has been deemed to be at high risk, due to a number of significant further actions being required, it is expected that this will lead to a further PRM within a set timescale.
63. We will publish further guidance on the requirements of the PRMs over the autumn 2018 and make this available on the OfS website.

## **Reporting of potential serious events and material changes**

### **Potential serious incidents**

64. All RHEBs should contact the OfS to discuss any serious incidents related to their Prevent duty responsibilities at the point of identification.

65. It is for providers to determine what constitutes a serious Prevent-related incident which should be reported to the OfS, but we would expect this to include any incidents or developments which:
- have led to the review and substantive revision of Prevent-related policies
  - have caused reputational harm or harm to staff or students
  - could be reasonably perceived as being related to Prevent.
66. We would not expect this to cover business as usual (for example, straightforward Channel referrals or informal contact with the police or local Prevent partners). Full guidance is available via our website ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)) and provides further information on reportable incidents, the methods for reporting and full detail on how information may be shared.
67. We may also be notified of concerns from third parties that an RHEB is not fulfilling its Prevent duty in some way. This could be from individuals, media reports or other organisations involved in the delivery of Prevent.
68. In all cases, we would expect to discuss the incident with the provider to ascertain the cause and nature of the incident and then agree any formal reporting mechanisms.
69. Providers should note that reporting an incident to the OfS is not a substitute for reporting it to the police or other authority – for example, if criminality is suspected.

### **Process for reporting potential serious incidents**

70. Providers should contact the OfS Prevent team as per the process set out in the guidance on the OfS website at the time that a potential serious incident is identified<sup>10</sup>. The OfS would expect to discuss the incident with the provider to ascertain the cause and nature of the incident. Where necessary and appropriate, we will work with partners to better understand the incident and the appropriateness of the provider's response. We will then agree next steps with the provider on a case-by-case basis, which may include a Prevent review meeting and any other formal reporting requirements. This will inform our assessment of whether or not the provider appears to have followed its policies and processes appropriately in the circumstances, and if it has learned and applied any lessons as a result.
71. An incident is not in itself a sign that a provider is not exercising 'due regard' to the duty, but the management or outcome of an incident may inform our assessment of risk. For example, the response to the incident may demonstrate effective governance and reporting structures are in place and that policies and procedures are being followed actively.
72. However where the OfS identifies concerns around risk management, that a provider is failing to formally report incidents or that there have been a repeated number of incidents, it is likely to inform our risk assessment, and may ultimately result in a change in our judgement of compliance. Each notification is reviewed on a case-by-case basis.

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<sup>10</sup> Please see paragraph 66 for how to access full guidance, including methods for reporting potential serious incidents.

73. The OfS may also report the outcome of serious incident reports to the government as necessary and appropriate, in the context of our role as monitor for the Prevent duty.

### **Material changes**

74. The OfS also expects RHEBs to notify us in a timely manner of any material changes which affect the way in which they are delivering their responsibilities under the duty.

75. There are five categories of material change which we would expect providers to report to the OfS:

- a. Significant changes to policies or processes relating to the Prevent duty as previously assessed by the OfS (for example, a significantly changed welfare or information technology policy, or a major revision to a process for managing external speakers and events).
- b. Changes of responsibility for Prevent (for example, appointing a new Prevent lead).
- c. Changes of control (for example, new governance structures which change the oversight of the Prevent duty).
- d. Changes to location (including addition of a new campus).
- e. Changes to teaching provision (for example from online to face-to-face provision, any changes to curriculum that may have an impact on Prevent-related policies, such as security-sensitive research policies for example, or significant changes to partnership arrangements, e.g. subcontractual teaching arrangements, that may impact upon Prevent-related considerations).

### **Process for reporting material changes**

76. As in the process for reporting serious incidents, providers should contact the OfS Prevent team as soon as possible to notify them of a material change. They should provide an explanation of the change and its likely impact on the way in which the provider will deliver its responsibilities under the Prevent duty.

77. Providers should report Prevent-related changes in circumstances as stated in the guidance on our website ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)), and OfS staff will share such information internally to avoid additional burden for providers<sup>11</sup>.

78. Where there has been a major change to a policy or process which relates to Prevent, providers should explain this to the OfS Prevent team as part of the change of circumstances process, and also submit to the OfS a revised copy of the relevant documentation to ensure that we have the most up to date set of information. We will reassess the changes to ensure that the policy or process still meets the requirements of the statutory guidance. Where

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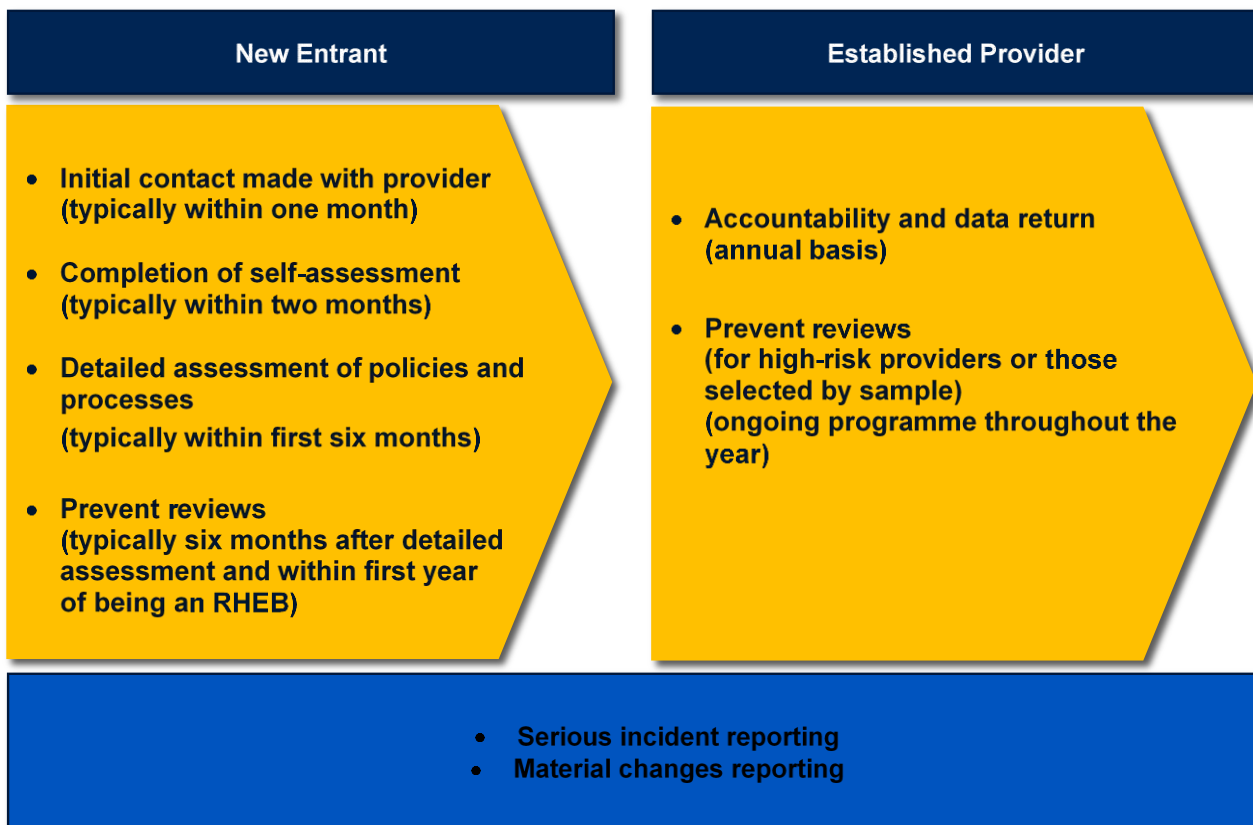
<sup>11</sup> Providers registered with the OfS should refer to the section on 'Reportable events' on page 128 of 'Securing student success: Regulatory framework for higher education in England' ([www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/](http://www.officeforstudents.org.uk/publications/securing-student-success-regulatory-framework-for-higher-education-in-england/)).

significant concerns are raised by substantial changes to Prevent policies at the provider or other material changes of circumstance, this may impact on our understanding of provider risk. The OfS may decide that the change should trigger a face-to-face PRM to gain further information from the provider and this could ultimately result in a change in judgement if concerns are not resolved. In general, this would only happen when all other routes for obtaining further information have been exhausted.

## Monitoring of new entrant and established providers

79. In applying a risk-based approach, OfS monitoring will differ on whether a provider is a new entrant or established from a Prevent perspective. We will have processes in place to ensure that newly registered providers with the OfS are identified and are given appropriate advice and guidance to bring them up to speed on the requirements of the duty as quickly as possible. Our approach for new entrant providers will be to establish a baseline of compliance. This will mean that they will be required to undergo a detailed assessment of policies and processes in line with our initial assessment phase under previous monitoring frameworks, and then will be required to have a PRM as a means to test that those policies are being implemented appropriately. Providers re-entering Prevent monitoring as an RHEB after a period of absence will be risk-assessed and their previous compliance history at the point of exit will be taken in to consideration. Once the baseline has been established, a provider would be expected to embed Prevent in their routine activity and would be subject to processes such as submitting an accountability return.
80. We will also re-run on an annual basis our exercise to identify any providers that newly fall into the bracket of 250 higher education students, but are not registered or designated for student support for the purposes of 'teach out' for example. We will work closely with the Department for Education to ensure our approaches for identifying such providers are aligned. **Annex A** outlines the process for providers entering the regulated higher education sector. **Annex B** sets out how we will deal with providers leaving the regulated higher education sector and Prevent monitoring.

**Figure 1: Monitoring processes by provider type**



# Section 3: Assessment of risk and compliance

## OfS expectations

81. Providers are expected to meet the requirements of the Prevent statutory guidance, both higher education sector specific and general, and this is the basis for OfS monitoring of the duty (<https://www.gov.uk/government/publications/prevent-duty-guidance>). Further details about our expectations of how providers will need to demonstrate due regard to the duty are set out in the 'Supplementary information note' available on our website ([www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)).

## Reaching judgements

82. Table 1 sets out the different compliance judgements that we will make in undertaking our monitoring role.

**Table 1: Outcome decisions**

| Is the provider demonstrating <b>due regard</b> to the need to prevent people being drawn into terrorism?  |   |  |
|--|---|--|
| <b>Demonstrates due regard:</b> <ul style="list-style-type: none"><li>• policies and processes <b>satisfy</b> the requirements of the statutory guidance</li><li><b>and</b></li><li>• there is <b>sufficient evidence</b> of active implementation (taking into account the provider's context).</li></ul> | <b>Further action(s) needed:</b> <ul style="list-style-type: none"><li>• policies and processes <b>need improvement</b> to satisfy requirements</li><li><b>or</b></li><li>• <b>further action</b> is needed to demonstrate active implementation.</li></ul> | <b>Does not demonstrate due regard:</b> <ul style="list-style-type: none"><li>• policies and processes <b>do not satisfy</b> requirements</li><li><b>or</b></li><li>• there is <b>inadequate or no evidence</b> of active implementation</li><li><b>or</b></li><li>• there is <b>significant evidence</b> of non-implementation of policies and processes.</li></ul> |

83. An assessment of a provider's compliance will be based on all of the OfS's core monitoring processes i.e. accountability returns, Prevent review meetings, serious incidents, and material changes (which factor in partner information) in order to make an assessment of compliance in full. An assessment of compliance is a continuous process, but our assumption is that a provider is compliant with the duty (i.e. demonstrates due regard) until we have sufficient evidence it is not.

84. An assessment and judgement on compliance with the duty will normally happen as a result of a PRM. However, the OfS will make a judgement around compliance if a provider fails to engage or comply with a core monitoring process, for example if a provider refuses to submit an accountability statement or data under the accountability return. Similarly, we may choose

to make a judgement where a provider has had a number of serious incidents which has shown the provider to not act appropriately, or had undertaken appropriate actions in response to incidents, or where a provider has reported material changes that demonstrate that further actions are needed to demonstrate due regard.

85. Where we judge that further actions are needed by a provider to demonstrate due regard, the OfS will issue the provider with an action plan detailing the specific actions required to provide us with assurance that it is demonstrating due regard. We will normally expect the provider to complete the action plan within three months of receiving its original outcome from us, though this may differ depending on the circumstance of the compliance concern. Where a provider does not provide that assurance through the action plan this would formally trigger our non-compliance process detailed in paragraphs 89 to 94.

## **Assessment of risk**

86. In addition to making formal judgements on compliance in relation to specific monitoring activity, the OfS will operate a separate but related process for assessing risk to inform our wider understanding of a provider's context and its approach to implementation of the duty, and how we will engage with it. In assessing risk we will continue to adhere to the requirements of the statutory guidance and to maintain a focus on proportionality and context when making decisions.
87. When assessing provider risk the OfS will draw on a range of sources of evidence, including: a provider's Prevent monitoring compliance history, the OfS Prevent monitoring processes, information from a provider's compliance with ongoing conditions of registration, and information from Prevent partners more generally. This may include situations where, because of their context, individual providers require additional partner engagement, for example because they face greater local challenges. Providers assessed to be 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.
88. A change in OfS provider risk status will not necessarily result in a change to our compliance judgement for a provider; rather it may inform how we direct our engagement and monitoring activity in relation to a provider. Compliance judgements will always be based on our core monitoring processes, including accountability and data returns, Prevent review meetings, potential serious incidents, and material changes.

## **Non-compliance**

89. In undertaking our role as Prevent monitoring authority we may determine that an RHEB is not having 'due regard to the need to prevent people from being drawn into terrorism' (the Prevent duty) as set out in section 26(1) of CTSA. The CTSA also places a general duty on 'specified authorities', i.e. RHEBs, to 'give to the monitoring authority any information that the monitoring authority may require for the purposes of monitoring that body's performance in discharging [the Prevent duty] as required by section 32(2). While refusal to provide such information would not constitute a breach of the Prevent duty in itself, the absence of information and the necessary assurances to positively demonstrate that the provider has had due regard to the Prevent duty could result in the OfS making a judgement of non-compliance.

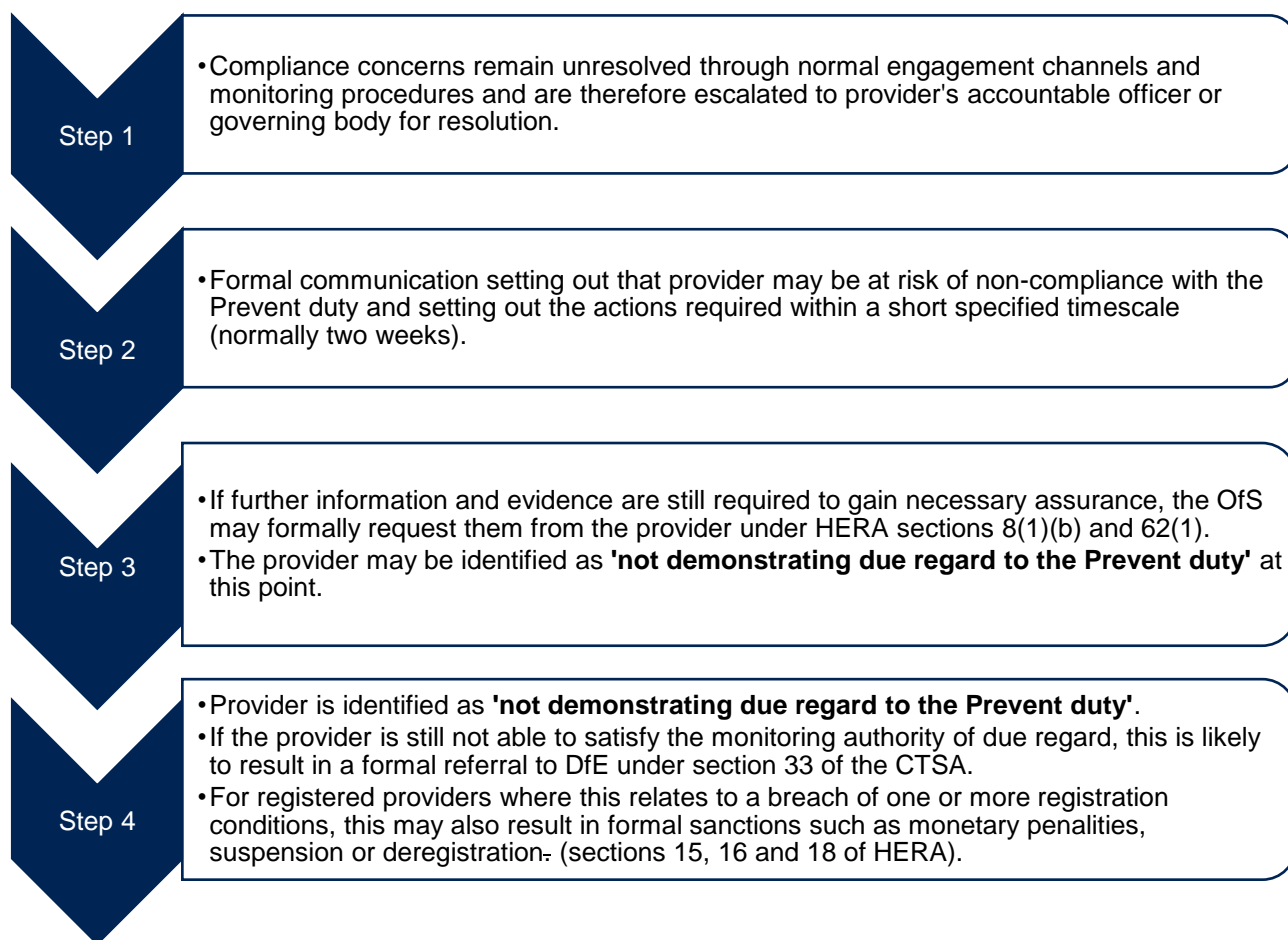
90. We may reach a judgement of non-compliance through a range of our monitoring and assessment processes including Prevent review meetings; serious incident processes; and broader engagement activity. Non-compliance judgements may be made in isolation to our wider monitoring processes. This means that an RHEB may have been judged as 'demonstrating due regard' to the Prevent duty but may still fail to comply with our monitoring requirements. For example, a provider is initially judged as demonstrating due regard following a recent Prevent review meeting but then a Prevent-related serious incident triggers significant concerns about core policies and procedures in relation to safeguarding of students. Such a circumstance may lead us to a judgement of non-compliance which would trigger the escalatory steps set out in paragraphs 91 to 94.

## **Escalatory steps**

91. Where we are not satisfied that an RHEB is demonstrating 'due regard' to the Prevent duty this is likely to trigger a series of escalatory steps being taken as part of our non-compliance process. In the first instance – and particularly where there is a lack of cooperation on behalf of the RHEB to provide the monitoring authority with the necessary information and assurances – we may escalate the matter to the accountable officer or governing body of the provider. We may also write to the provider setting out the information and evidence we need within a specified timescale, likely to be two weeks. If we then conclude that the RHEB's response has been inadequate, in any area of this monitoring framework, and the RHEB does not agree to take further action, we will consider whether it is non-compliant.
92. We will decide on what action and escalatory route to take on a case-by-case basis, taking into account the individual circumstances of the provider and any wider information and intelligence we may have, such as from the OfS's wider risk monitoring processes. This might include compelling an RHEB to provide us with specific information and evidence, where we believe this is necessary for us to perform our function as the Prevent monitoring authority, using our information gathering powers under HERA section 8(1)(b) and section 62(1). If we are still not satisfied that the provider is demonstrating due regard, we may then make a referral to the DfE, under section 33 of the CTSA, for it to consider whether further formal action is needed. If we refer a provider to the DfE, after we determine it is not demonstrating due regard to the Prevent duty, the DfE may, in turn, refer the issue to the Home Office Prevent Oversight Board. If they deem it appropriate or necessary, the Home Secretary has the power to issue directions under section 30 of the CTSA.
93. For registered providers, non-compliance with our monitoring authority requirements in respect of Prevent could also indicate wider regulatory failure with the provider's conditions of registration e.g. public interest governance conditions (section 13(1)(b) HERA). Where it was determined that there was a breach of one of these conditions, this could also result in the imposition of formal sanctions such as monetary penalties, suspension or deregistration (sections 15, 16 and 18 of HERA).
94. As stated above, we will make a decision on the escalatory steps and the powers and sanctions that might be applied on a case-by-case basis. Figure 2 sets out an illustrative example of the escalatory steps that may be taken. It should be noted however that, depending on the individual circumstances, there may be instances where these steps are not followed sequentially or certain steps are expedited.



**Figure 2: Illustrative escalatory process**



## Engagement

95. The OfS engagement strategy with providers is risk-based, and contact is targeted according to individual provider context and need. Providers assessed to be at higher risk of not demonstrating due regard to the duty will be subject to heightened engagement from the OfS compared with providers assessed as lower risk. This shift in our engagement strategy aligns with the new values and approach of the OfS, including being increasingly student-focused, evidence-based and outcomes-driven.
96. The OfS will continue to routinely engage with providers to review specific areas of Prevent-related practice across the sector and to promote the sharing of effective practice. It is likely that this engagement will primarily take place at a regional and sector level, and will consist of a mixture of representation at regional forums, workshops, surgeries, bulletins, written guidance and other opportunities identified for communication with the sector at large.
97. Engagement with low and medium risk providers outside of OfS routine engagement at regional and sector level will be minimal. These providers will no longer have a named single point of contact in the OfS Prevent Team.
98. Providers identified by the OfS as high risk will be subject to heightened engagement. In addition to more proactive engagement by the OfS this is likely to include the provider being assigned a named single point of contact in the OfS Prevent team. Resolution of identified compliance concerns will involve a period of heightened engagement and the use of other core

monitoring processes as appropriate. Where it is not possible to resolve concerns it may result in a judgement that the provider is not demonstrating due regard.

99. There may also be a need for the OfS to temporarily engage more actively with a provider as part of our wider monitoring processes, to inform our understanding of risk or for compliance purposes. This could be in relation to a core Prevent process, such as a potential serious incident or change of circumstances, or selection for a Prevent review meeting as part of the annual random sample. Where we are unable to resolve any identified concerns and we hold relevant evidence, a provider may be identified as 'high risk' as a result of engagement activity. This in turn may lead to heightened engagement and an assessment of compliance being made through our core processes.
100. All significant heightened engagement contact by the OfS with a provider will result in a formal written record which will be shared with the provider. There may also be a need for a formal action plan capturing expectations about the resolution of any identified concerns to be agreed.

## Information sharing

101. There is a need to obtain information and evidence from a range of sources, such as to inform and corroborate the OfS's understanding of risk at both sector and provider level to enable the efficient performance of the OfS Prevent monitoring function. In particular information sharing will ensure that we have sufficient evidence to reach proportionate, accurate, reliable and evidence-based judgements about risk at both individual provider and sector-wide level.
102. The OfS may also choose to provide information to others, including for example the Charity Commission, the Higher Education Funding Council for Wales or the government, for the purposes of the performance of the OfS Prevent monitoring function. For this reason complete confidentiality between providers and the OfS cannot be guaranteed. However, information will only be shared where necessary and appropriate on a need to know basis and would occur only where there is a clear purpose, such as informing policy development or a view of sector risk. This will rely on formalised, well defined and streamlined information sharing mechanisms and supportive structures, in accordance with legislation and wider OfS considerations.
103. The OfS will also continue to work in partnership with DfE and the network of further education and higher education Prevent coordinators, and will share information as necessary and appropriate. Whereas the OfS Prevent team will focus on the delivery of the monitoring function in terms of assessment and assurance, DfE Prevent coordinators will continue to offer practical help and advice to providers. Further guidance on role clarification can be found in our 'Supplementary information note' (available at [www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/](http://www.officeforstudents.org.uk/advice-and-guidance/regulation/counter-terrorism-the-prevent-duty/)).
104. Information about compliance will be disclosed by the OfS to DfE as appropriate through the formal non-compliance process if compliance concerns cannot be resolved through other means.

## Reporting

105. Periodically the OfS will report on monitoring and compliance outcomes to the DfE. Such reports will include the number of providers that we deem to be demonstrating, or not demonstrating, due regard to the duty, and will include our broad analysis of practice relating to the implementation of Prevent across the sector. We may also report on an ad hoc basis, including where a provider has been found not to be demonstrating due regard to the duty following the procedures outlined.
106. The OfS intends to publish relevant information and data periodically, which may include aggregate figures on compliance across the sector, sector-level feedback on the monitoring process, highlighting good practice and areas for further consideration by all providers. Such reports would also examine any particular themes on which we may have asked all providers to give us information in their accountability and data returns.

## Section 4: Driving continuous improvement

107. In our delegation letter, the Secretary of State identified that one of the core roles for the OfS in monitoring the sector should be to promote continuous improvement from providers on their implementation of the Prevent duty. The OfS will carry out this role through sector-level monitoring, principally around knowledge exchange –sharing best evidence, case studies of successes and failures, etc., through an ongoing programme of information, advice, guidance and training.
108. The OfS's approach will be to focus on demand and to provide information and guidance in response to issues as they emerge, as well as anticipating potential issues and offering resources for providers to help mitigate potential risks on compliance at sector level. We anticipate an ongoing programme of work will include:
- a. **'What works' programme:** A programme of sharing best evidence and successes on Prevent by providers. This would include a combination of workshops and digital outputs such as case studies.
  - b. **Guidance and advice documents:** To offer support both at provider and sector level, the OfS will produce guides on both general and specific areas of implementing Prevent in the higher education sector. For example, a 'road map' for new entrant providers in meeting the requirements of the duty.
  - c. **Case reviews:** Sharing anonymised examples of implementation to share learnings from situations and scenarios arising from serious incidents or material changes in circumstance in particular, but also from our output from our programme of PRMs.
  - d. **Thematic reviews:** 'Deep dives' in areas where the OfS identifies a need for more assurance from the sector on its approach to a particular requirement of the duty. For example, a review of training delivered at providers to ensure this has been effective.
109. While the OfS will ensure that support for workshops and physical events continues, we will also provide an expanded digital output in support of continuous improvement.

### Evaluating our role

110. We remain committed to evaluating the effectiveness of this monitoring framework and of the OfS's role as monitor. We will undertake an evaluation of our new framework in consultation with government, the sector and sector representatives in autumn 2019. We will also continue to keep our role under review to ensure our monitoring framework remains fit for purpose within the broader Prevent agenda. This may in time result in changes to the monitoring framework for future years; we will of course give providers sufficient notice of any changes which affect them.

# Annex A: Providers entering the regulated higher education sector

1. This annex applies to providers entering the regulated higher education sector and becoming a new relevant higher education body (RHEB) under the terms of the Counter-Terrorism and Security Act 2015. Providers that are already classified as an RHEB and are already subject to Prevent monitoring are established providers, so the information in this annex does not apply.

## New providers

2. Providers delivering higher education courses do not automatically become subject to the Prevent duty. When providers formally meet at least one of the following criteria they will be classified as an RHEB under the terms of the Counter-Terrorism and Security Act 2015, and will immediately need to comply with the duty. This applies to providers that:
  - a. Register with the OfS and were not previously subject to monitoring of the Prevent duty
  - b. Become an autonomous college, school or hall of the Universities of Cambridge, Oxford or Durham.
  - c. Are teaching 250 or more students, by headcount, on higher education courses, and are not on the OfS Register.
3. In many cases where a provider leaves the regulated higher education sector, it will continue to be classified as an RHEB and therefore be subject to the Prevent duty by virtue of continuing to meet the student number threshold during market exit. In these instances, the OfS will continue to monitor the provider for Prevent purposes until such time as it has confirmed to us that it no longer meets the threshold.

## Exceptions

4. To keep regulatory burden to a proportionate level, some providers that meet one of the criteria listed in paragraph 2 will not be monitored by the OfS for the purposes of the Prevent duty. These exceptions apply to:
  - a. Providers that do not meet any of the criteria and operate in a subcontractual teaching arrangement or 'franchise' with another provider. In this case, the registering institution (or 'franchiser') will have responsibility for ensuring that appropriate policies and processes relating to Prevent are in place for students taught through such arrangements.
  - b. Providers that qualify as RHEBs for the purposes of Prevent but are already monitored by another designated authority. This mainly applies to publicly funded colleges that are funded by the OfS where the Office for Standards in Education, acting as monitor for the further education sector, carries out this duty. In these instances, the OfS will liaise with the relevant monitor to ensure that these providers are continuing to give regard to the duty.

## Entry to Prevent monitoring under the OfS and establishing a compliance baseline

5. As noted in paragraph 2, Prevent becomes a statutory duty for a provider once it becomes classified as an RHEB. The OfS will begin monitoring the provider formally at this point and will write to it within **one month** of it qualifying as RHEB, and will provide:
  - details of other local Prevent partners that are able to support an RHEB in responding to its statutory duty
  - a 'road map' of information and guidance on how to comply with the Prevent duty
  - information on the requirements of establishing a baseline of compliance with the duty.
6. New entrant providers will be required to undertake an **initial self-assessment** against the main elements of the Prevent statutory guidance. This should be completed and submitted **within two months** of the start of OfS monitoring. After reviewing this information, the OfS will engage with the provider to give further information and advice on satisfying the requirements of the statutory guidance as necessary.
7. Having developed its response to the duty in more detail, the provider will be expected to submit **detailed evidence within six months** of OfS monitoring. The submission should provide information on how the provider's policies, procedures and arrangements follow the requirements of the Prevent statutory guidance.
8. Guidance for completing both the self-assessment (including a template) and the detailed evidence will be sent to and discussed with, all new providers as part of our initial engagement.

### Outcomes

9. The OfS will assess the evidence against the statutory guidance, and give feedback to the provider stating that it:
  - **satisfies** the OfS that it has given regard to the statutory guidance
  - **needs improvement** to satisfy the OfS that it has given regard to the guidance
  - **does not satisfy** the OfS that it has given regard to the statutory guidance.
10. A **does not satisfy** judgement will lead to the OfS initiating its non-compliance process.
11. A **needs improvement** judgement will result in the OfS issuing the provider with an action plan detailing the activities required to satisfy us that it is meeting the requirements of the statutory guidance. We would normally expect the provider to have completed the action plan within **four months** of it receiving its original outcome from us. Where the provider has provided sufficient assurance we will update our judgement that the provider satisfies us. Equally, if the provider does not provide sufficient assurance then we are likely to conclude the provider does not satisfy the requirements of the guidance, and in response the OfS initiates its non-compliance process.
12. All providers will be subject to a PRM within one year of becoming an RHEB. Where providers have satisfied us that they are giving regard to the statutory guidance this meeting is likely to be within six months of assessment. In cases where a provider is found to be needing

improvement the PRM may form part of the action planning process to test that the provider has been implementing its policies and processes appropriately. Again we will judge whether the provider: **demonstrates due regard, further action is needed**, or the provider **does not demonstrate due regard**. Where further actions are required the provider will be issued with an action plan to complete within three months. If a provider does not demonstrate due regard, the OfS will initiate its non-compliance process.

13. Once all of this activity has been completed the OfS will determine that the baseline has been completed and the provider can transition into monitoring for established providers.

## Annex B: Leaving the regulated higher education sector and Prevent monitoring

1. Some providers may cease being subject to the Prevent duty by virtue of no longer meeting the definition of a relevant higher education body (RHEB) under the Counter-Terrorism and Security Act 2015. A provider will cease to be classified as an RHEB for the purposes of the Prevent duty where it teaches fewer than 250 students (headcount) on higher education courses, and ceases to:
  - be registered by the OfS (and is not designated for student support by the Secretary of State such as for the purposes of ‘teach out’)
  - be an autonomous college, school or hall of either the University of Cambridge, Durham or Oxford.
2. In many cases where a provider leaves the regulated higher education sector, it will continue to be classified as an RHEB and therefore subject to the Prevent duty, for example by virtue of continuing to meet the student number threshold. In addition, if a provider be deregistered the OfS may also put in place transitional arrangements during market exit, in particular to protect the interests of students; this means that they would continue to be treated as a registered higher education provider (as set out in section 18(6) HERA). This might for example include a provider being designated for student support for the purposes of ‘teach out’<sup>12</sup>. In these instances, the OfS will continue to monitor the provider for Prevent purposes until the provider confirms to us that it no longer meets the threshold.
3. In cases where a provider merges with another provider which is classified as an RHEB, we will monitor the successor provider unless it is already under the purview of another designated monitoring authority.
4. Where an RHEB ceases to operate altogether, its requirement to comply with the duty will cease once it has been confirmed that the provider has been legally dissolved.
5. Where an OfS-funded provider transitions out of the higher education sector, the OfS will liaise with the new monitoring authority. This will be Ofsted for transfers into the publicly funded further education sector, and the Department of Education’s further education monitoring team for transfers into the private sector. This may include sharing information collected by the OfS through our role in monitoring the provider.
6. Where a provider ceases to be classified as an RHEB but has already submitted information to be assessed by the OfS, this process will be completed and an outcome provided. Depending on the point of the year at which a provider ceases to be classified as an RHEB, if it have not already submitted information, the OfS will require assurance that the provider has demonstrated due regard to the duty up until the point of exit. This is to provide continuity if the

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<sup>12</sup> ‘Teach out’ refers to provision whereby a provider’s existing students can continue to access student support, where the quality and standards of the provider’s provision are adequate, and it is in the students’ interest to remain at the provider. The provider would be required to meet its continuing obligations to its students for the ordinary duration of (or until withdrawal from) their course.



provider becomes reclassified as an RHEB at a later point. Only following the completion of such activity will the OfS's engagement with the provider cease.

7. Table B1 lays out the new Prevent monitoring responsibilities in the case of various types of exit from the regulated higher education sector.
8. The information set out in this annex relates only to the circumstances where a provider ceases to be a RHEB with respect of the Prevent duty. The Office for Students will have in place processes for managing with a provider its exit and the wider implications of such, and the provider should comply with those arrangements when made.

**Table B1: Provider exits and changes in Prevent monitor**

| <b>Provider exit type</b>                                   | <b>New monitor</b>   |
|---|--|
| Provider moves to publicly funded further education sector  | Ofsted   |
| Provider moves to privately funded further education sector | Department for Education (private further education providers)   |
| Provider acquired by further education provider             | Ofsted (for publicly funded further education colleges) or the Department for Education (private further education colleges) |
| Provider acquired by higher education provider              | OfS  |
| Provider dissolves and ceases to operate                    | No monitor   |

# List of abbreviations

|               |   |
|---------------|---|
| <b>CTSA</b>   | Counter-Terrorism and Security Act 2015                           |
| <b>DfE</b>    | Department for Education  |
| <b>HEFCE</b>  | Higher Education Funding Council for England                      |
| <b>HERA</b>   | Higher Education and Research Act                                 |
| <b>OfS</b>    | Office for Students   |
| <b>Ofsted</b> | Office for Standards in Education, Children's Services and Skills |
| <b>PRM</b>    | Prevent review meeting  |
| <b>RHEB</b>   | Relevant higher education body                                    |



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