

How does PREVENT affect your institution?

There is no singular way in which the Prevent duty is implemented, but the government's statutory *Prevent duty guidance*¹ and case studies² provide a baseline to understanding how it may affect your institution.

PREVENT is often embedded within the day-to-day operation of your institution. In building your campaigns it is good to know what the specific situation is on your campus so that you can tailor your activities around your reality.

The Prevent duty

- Section 26(1) of the **Counter-Terrorism and Security Act 2015** outlined the **Prevent duty** that '**Specified authorities**' – such as colleges and universities - are legally bound to.

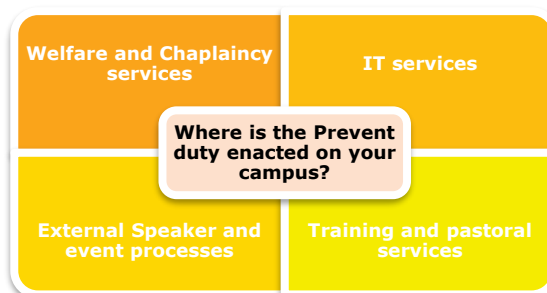
- The Prevent duty means a specified authority: *"[Must], in the exercise of its functions, have **due regard** to the need to prevent people from being drawn into terrorism."*

- '**Due regard**' is defined as *"An appropriate amount of weight on the need to prevent people being drawn into terrorism when [colleges and universities] consider all the other factors relevant to how they carry out their usual functions"*

- **Further Education (FE)** specified authorities include FE Colleges, Sixth Form colleges and Independent training providers.
- **Higher Education (HE)** specified authorities include public universities, and privately funded higher education institutions.
- In both, it is the **governing bodies** of these institutions that is ultimately responsible for implementing the duty.

Implementing the Prevent duty

- Statutory guidance on implementing the Prevent duty was published in 2015.
- The guidance outlines core aspects of implementing the Prevent duty.
- It is not an exhaustive list, so each educational institution will implement it their own ways.
- **The principle is that the duty will be diffused and embedded throughout the everyday functions of the institutions.**
- In **Further Education**, compliance with the Prevent duty is monitored by **Ofsted**.
- In **Higher Education**, compliance is monitored by the **Office for Students (OfS)**.
- As established in the ruling in *Butt v Secretary of State for the Home Department 2017*, "institutions are responsible for their own decisions, including those related to external speakers on campus." Institutions may be able to prioritise compliance with Freedom of Speech duties over the guidance.³



¹ <https://www.gov.uk/government/publications/prevent-duty-guidance>

² <http://www.hefce.ac.uk/reg/prevent/hub/>

³ <https://www.nusconnect.org.uk/articles/nus-responds-to-judicial-review-into-prevent-duty>

What does the Prevent duty mean for our institutions

- **Partnership**
With local/regional PREVENT co-ordinators and police, including processes for information sharing agreements on students.
- **Staff training**
In PREVENT (usually **WRAP** – Workshop for Raising Awareness of PREVENT training).
- **Risk assessments**
Assessing the risk of 'radicalisation' within their institutions. These are incorporated into policies on equality & diversity, health & safety, and the physical management of estates.
- **Welfare support/Safeguarding**
Welfare services e.g. mental health are often a key point in identifying referrals to PREVENT. Established 'Safeguarding' processes have been appropriated for PREVENT purposes.
- **IT policies**
The use of filtering and/or monitoring software on institution computers and web networks.
- **Faith facilities/prayer rooms**
Develop and publish plans for management of prayer room facilities (e.g. establishing oversight committees, swipe access).
- **Students' unions and societies**
Agreements usually established between SUs and institutions over procedures for managing external speakers and events held by societies.

Differences between FE and HE

- The guidance for FE and HE generally reflect one another, with some exceptions.
- The main differences are:
 - For HE, institutions are reminded of the need to balance pre-existing duties of **Academic Freedom**, alongside the Prevent duty.
 - For HE, there are specific references of the role of external speakers and Student Unions.
 - For FE, institutions are expected to promote '**British Values**' (England & Wales only).
 - Although not stated, student unions in FE are usually not independent bodies from their institutions as in most HE – and so they may be expected to comply with the duty.
- **Guidance for HE is considered slightly more 'soft-touch' than that for FE.**

What does the Prevent duty look like in practice

- PREVENT has been implemented in most education institutions since it was first introduced for them in 2011.
- So in many cases, the introduction of the Prevent duty meant further cementing or augmenting already-existing PREVENT policy.
- The Prevent duty guidance sets a baseline for implementation but not any 'upper limit', leaving this to interpretation. It is very possible that institutions will overreach in implementation.
- Common changes or policies that institutions may introduce to comply with the duty include:
 - Changes to external speaker policies
 - Changes to ICT and internet usage policies – including monitoring and blocking programs
 - Changes to access or usage of library facilities
 - Introduction of stricter 'attendance monitoring' policies, including digital logging
 - Swipe card access to prayer spaces
 - Securitisation of prayer spaces generally (e.g. monitoring, restricted access)
- It is important to remember that these may not always be introduced under the banner of 'PREVENT', because of how diffusely it is implemented.

Notable examples of implementation

Kings College London: Notified email system users that activity may be monitored and recorded

London Metropolitan: Installed web monitoring and filtering – repeated attempts to access blocked sites would be flagged up

Sunderland: Introduced website blocking, with authorised access of blocked sites logged and recorded

London South Bank: Trained cleaning, catering and security staff on spotting radicalisation

Many institutions have made their external speaker policies more rigorous and demanding, with more hoops for organisers to jump through when hosting events.



Student Unions: What are your obligations

- Colleges and universities are legally required to enact the Prevent duty.
- Many Students' Unions are not required to enact it, eg because they are charities. If you are informed otherwise regarding your union please seek independent advice.
- Exceptions to this may include those FE unions that do not exist as autonomous entities from their colleges.
- Charities are bound to their own obligations as outlined by the Charity Commission in their *Compliance Toolkit*. These obligations cover the use of charities for 'promoting terrorism'.
- Nonetheless: this will not stop external pressure to help enact the Prevent duty, including from the Charity Commission and perhaps from your own institutions.
- These may include pressures to accept funds to implement "interfaith activities", extra monitoring of certain clubs and societies and changes to your unions' external speaker approval system, as well as the threat of investigation by the Charity Commission.
- In the cases where an SU is physically located as part of their institution's property, it may be binding on them to honour their parent institutions' policies on use of their grounds (including policy on hosting speakers and events).
- This extends insofar as the requirement to honour those institutions' processes for organising and approving events and other such use of their grounds.
- This means that an SU cannot 'go renegade' and ignore their university's speaker approval policy, for example.

How might your institution try to impose the Prevent duty with regards to the SU?

- Whilst in most cases the Prevent duty does not apply to Student Unions, parent institutions will most likely put try to 'pass on' the Prevent duty to SUs via some of the following means:

Provisions in the SU's constitution requiring the trustees to comply with university ordinances and governance frameworks, including its Freedom of Speech code of practice (and thus, complying with whatever PREVENT measures are imposed through those).

Indirectly, via regulations and ordinances governing the conduct of students, which may regulate the conduct of student union members.

Agreements between the parent institution and SU, such as a Memorandum of Understanding, or conditions attached to the SU's block funding grant, or in any lease agreement for the use of university premises by the SU.

Employment contracts and related employment policies and procedures applying to any staff employed both by the parent institution and the student union (or employed by the parent institution and seconded to the union).

Where SU staff are employed both by the parent institution and the SU (or employed by the parent institution and seconded to the SU) they may be required under the terms of their employment contract to assist the institution in implementing the Prevent duty.

(Source: Bates Wells Braithwaite solicitors)

