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Dear Sir/ Madam,

Re: Request for Formal Review of Response to **FOI 48090**; response received 14th June 2018

I am requesting a formal review of the refusal to disclose information in relation to my request (HO Reference Number FOI: 48090; response received 14th June 2018) for information concerning the Prevent Oversight Board.

I originally asked:

1. Who are the members of the Prevent Oversight Board (both government and independent members are indicated in [2011 Prevent Strategy](#) and in [Baroness Williams' Answer to Lord Carlile's Written Question](#) in the House of Lords in January 2017)?
2. What is the mandate of the Prevent Oversight Board?
3. Do all sectors subject to Prevent report to the Board- Education, Higher Education, NHS, Police, Parole, Local Communities and Justice?
4. In what form do the relevant sectors report to the Board?
5. How often do they report?
6. What are the follow up actions from reporting?
7. What are the Terms of Reference for the Board and are these ever reviewed?
8. Has [section 30 of the Counter Terrorism and Security Act 2015](#) ever been used or used following a Prevent Oversight Board recommendation?
9. If yes, what was the outcome?
10. Does the Board produce any reports (confidential or public)?

Summarising your responses to these questions (the full response appended to this letter), I am seeking an independent internal review of your handling of my request for the reasons I have provided for each question.



Question 1: Membership of the Prevent Oversight Board

You have confirmed that the Home Office holds information on the members of the Board but have asserted the disclosure is exempt under *section 24(1) FOI 2000 matters relating to National security*. You have used the public interest test and you have provided reasoning in your annex.

- a. Is there a relevant ministerial certificate (per section 24(3) FOI 2000) in relation to this assertion? If there is, I would like sight of it.
- b. Nevertheless, as it is clear from the limited public information available (see [here](#), [here](#), and [paragraph 25 of the Revised Prevent Duty Guidance: for England and Wales](#), published 2015) that several members of this board are Government Ministers it does not follow that public knowledge of the membership of the board could “result in the release of sensitive information regarding the delivery of Prevent across the country.” If, according to this logic national security could be affected by knowing which Government Ministers were in charge of national security then large parts of government machinery would be undertaken by publicly nameless persons which is an affront to both the principles of democracy and the value of public accountability.
- c. In terms of the independent membership of the Board, it is similarly unclear how indicating which persons have been appointed to a key central government oversight committee can provide fair or objective analysis if they are publicly unknown. Since the Prevent duty covers a range of sectors from policing, health, education, higher education, and care then ensuring that there is public confidence that those responsible for oversight of the fulfilling of the Prevent duty have relevant and appropriate expertise in these areas is tremendously important.
- d. The public interest test under section 24 appears to have been applied generically not considering the particular question ‘*is withholding information on the members of the board reasonably necessary for national security?*’. Indeed, I think it likely that irrelevant factors have been applied. The reference to the “priorities, delivery and capabilities of sectors subject to Prevent” as a factor relevant to whether the membership of an oversight board should be known is misplaced. Oversight is not and should not be collapsed into operational decision-making or planning in public administration. The role of oversight is to ensure that public administration conforms to acceptable legal and political standards. Knowledge of who undertakes this role need not reveal details of “priorities, delivery and capabilities” in relation to the overall Prevent duty. In matter of fact, it would rather be up to the Board to



take responsibility for ensuring that such information is protected. Information the members of the Board cannot be folded into information on operational and decision-making factors the Board considers.

Question 2: The mandate of the Prevent Oversight Board

You have confirmed that the Home Office holds information on the mandate of the Prevent Oversight Board but have asserted the disclosure is exempt under section 21(2)(a) that information may only be “reasonably accessible to the applicant even though it is accessible only on payment”. You have then further directed me to [Baroness Williams’ Answer to Lord Carile’s Written Question in the House of Lords in January 2017](#)) - which I had noted in my original request.

- a. Baroness Williams’ answer does not outline the mandate of the Prevent Oversight Board, rather it merely states the broad function of the Board. A mandate in this context is an official order and explains the authority under which such a committee operates and would provide the formal Terms of Reference of the Board. I copy Baroness Williams’ the statement in full here for clarity:

“The Prevent Oversight Board provides scrutiny and independent oversight to the Prevent Programme. It is chaired by the Home Secretary, and membership includes Secretaries of State responsible for the relevant sectors within which Prevent operates including Education, Health, Local Communities and Justice. The Prevent Oversight Board also includes a number of independent members.

Following consideration of the evolving threat and the growing focus on Prevent, the Home Secretary’s decision in September last year to chair the Prevent Oversight Board recognises its essential and ongoing role in driving delivery and scrutinising the Prevent programme to ensure it continues to effectively safeguard people vulnerable to radicalisation.” (Baroness Williams of Trafford Answered on: 18 January 2017, HL4388)

- b. Further, the exemption applied cannot be correct since the question was tabled in the House of Lords and as the formal record of Parliamentary business Hansard is a publicly available document and therefore has no requirement for payment of this information. Nor, can the more appropriate exemption section 21(2)(b) be applied since I had already referred to this information in my initial enquiry and did not need its existence to be noted. Again, the statement does not in fact explain the mandate of the Prevent Oversight Board.
- c. I also note that the link provided in your response was broken.



Question 3: Sector by Sector Reporting Requirements to Prevent Oversight Board

You have confirmed that the Home Office holds information on whether all sectors subject to Prevent report to the Board but have asserted the disclosure is exempt under section 35(1)(a) the formulation or development of government policy and stated that the public interest test for this exemption is explained in the Annex provided.

- a. The Annex provided makes no reference to question 3 at all. The other explanations are linked in the Annex to every other question I initially raised.
- b. While this could be an unintended error and it is possible that the reasoning provided under section 35(1)(a) covers question 3, it is unclear that the application of the reasoning for this exemption is adequate.
- c. The question concerned whether all relevant sectors report to the Prevent Board. It cannot reasonably be considered that the answer to such a question concerns the formulation or development of government policy. The Prevent duty is not merely a matter of policy but one of law under Part 5 of the Counter Terrorism and Security Act 2015. The Home Office's responsibility to undertake oversight of all sectors in a comprehensive, fair, and reasonable manner is, therefore, a matter of legal compliance not policy. The imposition of a legal duty is redundant if the reporting structure is opaque and asymmetrical.

Questions 4 and 5: Form and Frequency of Sector by Sector Prevent duty reporting

In relation to my questions 4 and 5 you have confirmed that the Home Office holds information on whether all sectors subject to Prevent report to the Board but have asserted the disclosure is exempt under section 35(1)(a) the formulation or development of government policy.

- a. The outline of the public interest test applied provided in the annex to your response states that there are "a number of significant public interest considerations, which favour the non- disclosure of the information covered by this exemption." However, only two considerations are provided. First, that disclosure would affect the development of government policy and second, that disclosure would "hinder" the ability to respond to changing circumstances.
- b. It is manifestly unclear how knowledge of the form of reporting could affect the development of government policy. The claim that public knowledge of the *form* of reporting has a material influence on public decision-making is an egregious extension of the principle of confidentiality. Merely knowing how reporting takes places cannot inhibit policy development. The reasoning applied is thus



unwarranted. The distinction between statistical, detailed inspection reports, generalised inspection reports, and summarised reporting is key to the public understanding of the Government's views the Prevent duty. Disclosing the *form* and *frequency* of the reports is different from requesting the *content* of the reports. I have not asked for the contents of the reports or any subsequent policy discussions in response to them. Further, I *did not* request a breakdown of reporting in terms of region, location, or priority. The request sought to understand whether the different general sectors (education, higher education, health, police, parole, local authorities and justice) reported in the same form.

- c. Since, under section 32 of the Counter Terrorism and Security Act 2015 the Secretary of State has delegated monitoring authority to the Office for Students (formerly HEFCE), it is reasonable to ask if the form of reporting by the other sectors named in the general Prevent guidance (issued under section 29 of the CTSA 2015) varies. That is to say, does the reporting of the Health sector, the Education sector (through the nominated monitor OFsted), the police, local government and parole services differ in form. As the revised Prevent guidance breaks down the duty into such "sector specific" guidance and provides details for "Monitoring and Enforcement" separately for each of these sectors this a reasonable question to ask. For reference: The [2015 Revised Prevent Guidance](#) outlines the monitoring and enforcement is undertaken: from within the Home Office for the local authorities (paragraphs 52-56); by Ofsted for schools and registered childcare providers (paragraphs 72-26); by Monitor for the NHS (paragraphs 96-98); by HM Inspector of Prisons and HM Inspector of Probation for Prisons and Probation (paragraphs 132-136); and by the Police and Crime Commissioners and HM Inspector of Constabulary for the police (paragraphs 145-146).

Question 6: Follow up actions from Reporting to the Prevent Oversight Board?

I accept the reasoning supplied for Question 6.

Question 7: Prevent Oversight Board Terms of Reference

You have confirmed that the Home Office holds information on the Terms of Reference for the Board and whether these are ever reviewed but have asserted that the disclosure is exempt under section 35(1)(a) the formulation or development of government policy.

- a. Terms of Reference enable the public to understand the structure and purpose of a Board or Committee such as the Prevent Oversight Board. Much like an account of



the mandate, Terms of Reference provide the public with a means through which to understand and evaluate the actions of the Board and the Home Office. Your assertion that disclosing the Terms of Reference or whether Terms of Reference are reviewed would impede the ability to formulate or develop government policy in a “free and frank” or “candid” manner is implausible. Public access to Terms of Reference would not alter the ability of the Board to hold free and frank discussions or to assess the range of options and discuss relevant matters thoroughly. The Terms of Reference would not in themselves disclose the content of such discussions.

- b. The assertion in the Annex that disclosure of the Terms of Reference would “hinder the board’s opportunity to thoroughly review their approaches, and could allow for a picture to be developed detailing the delivery and capabilities of sectors subject to the Prevent Duty” paradoxically indicates that terms of reference are in fact reviewed, and by the sounds of it regularly. Quite how then, the reasoning that releasing the Terms of Reference would prevent such reviewing is manifestly incongruous with the very reasoning supplied.

Question 8: Use of Section 30 of the CTSA 2015

You have neither confirmed nor denied that the Home Office holds information on the use of section 30 of the CTSA 2015 on the basis of section 24(1) FOI 2000 (national security).

- a. Is there a relevant ministerial certificate (per section 24(3) FOI 2000) in relation to this assertion? If there is, I would like sight of it.
- b. It is highly improbable that releasing information on the use of section 30 or lack thereof is pertinent or ‘reasonably necessary’ to the purpose of national security. Again, I have not requested details of where, how, or when it was used, merely whether or not it has been used.

Question 9: Outcomes of Section 30 use

I accept the reasoning supplied for Question 9.

Question 10: Prevent Oversight Board Reports

You have confirmed that the Home Office holds information on whether the Prevent Oversight Board produces reports (confidential or public), but that the answer is exempt on the basis of section 24(1) national security.



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- a. Again, it is highly improbable that public knowledge that the Board produces reports would be 'reasonably necessary' for the purpose of national security. If the Board exists (see Baroness Williams' written answer and previous 2011 iteration of the Prevent Strategy), then it stands to reason that it produces reports. I have *not* requested access to the report, in full or in summary. I have merely requested to know whether such reports are produced.

I hope that you will be able to review the reasons provided in your response quickly and to approach the review with a clearer sense of logic and reason.

Yours Sincerely,

A handwritten signature in black ink, consisting of a series of loops and a long horizontal stroke extending to the right.

Dr Lydia Morgan