

Joint Committee on Human Rights

Oral evidence: [[Legislative Scrutiny: Counter Extremism Bill](#)], HC [647]

Wednesday 4 May 2016

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Members present: [Ms Harriet Harman (Chair); Fiona Bruce; Ms Karen Buck; Baroness Hamwee; Baroness Buscombe; Lord Henley; Baroness Lawrence of Clarendon; Jeremy Lefroy; Baroness Prosser; Amanda Solloway; and Lord Woolf]

Questions 29-44

Witness[es]: **Professor Louise Richardson**, Vice Chancellor, University of Oxford, **Christine Abbott**, University Secretary and Director of Operations, Birmingham City University, **Karon McCarthy**, Prevent Officer and Assistant Principal at Chobham Academy, and **Dr Jessie Blackburn**, Kingston University

Q29 The Chair: Welcome. Please take a seat. I am afraid that we might be disrupted by a vote in the House of Commons, which would be very annoying, so please forgive us if the bells start ringing and we have to go off.

As you know, we are a Joint Committee of the House of Lords and the House of Commons, so we are cross-party. Some of us are Lords and Baronesses and some of us are MPs. Thank you very much for coming to answer our questions. As you know, we are concerned with the countering extremism Bill that is in the pipeline. We are concerned about freedom of expression and freedom of belief. We are concerned about freedom from discrimination. We are also interested in hearing about the experiences that you have had, separately in your different spheres, and about how you anticipate their working—extremely well or not extremely well—with the proposed banning orders, closure orders and extremist disruption orders. We are going to ask questions specifically about schools, out-of-school settings and universities, so we will drill down: Committee members have different questions on each of those sections. Perhaps each of you could give us a very brief scene-setting introduction about the forthcoming legislation. Perhaps we might start chronologically with Chobham. We will do brief introductions.

Karon McCarthy: Good afternoon. I am Karon McCarthy, assistant principal for Chobham, but I represent the Harris Federation, which runs a large number of academies across London. I am the safeguarding and Prevent officer within that school, and I advise across the federation on safeguarding matters that arise, from primary through secondary and sixth form.

The Chair: What do you think generally about what is upcoming?

Karon McCarthy: I was having this conversation outside. I think the argument is that we have plenty to deal with in schools. We are very lucky that a lot of the issues that could come through this can be covered under safeguarding. So we have a lot of scope within the legislation that we already have in the school setting: the Prevent duty, and so on, is ample for what we need. I have not come across a situation in which we have had to think of other options; the legislation that is available is more than adequate, as far as I am concerned.

The Chair: Who wants to talk about out-of-school settings?

Karon McCarthy: I would just add that, again, this concerns safeguarding. I know that there has been some debate about whether it should be related to extremism or just safeguarding as a rule. There is an argument that, where children are congregated to be educated or for whatever reason, that should be looked at and they should be subject to the same protection constraints that are on schools and other bodies that educate children. The question is when it becomes an art, a sport or actual education: it is very difficult to gauge whether that is viable without starting to draw down on small numbers of children who meet. But there is an argument that children need to be protected from all sorts of issues, as opposed to just extremism.

Q30 The Chair: When it comes to safeguarding, everybody is familiar with the concept of safeguarding from physical harm and sexual abuse. The definitions are pretty clear about what you have to safeguard against. How easy is it to move that safeguarding concept to safeguarding against extremism?

Karon McCarthy: I think the concept of safeguarding includes well-being; it is about the children being able to live and develop appropriately. So as well as physical harm and other kinds of harm that we probably all know from times gone by, it is also about well-being now. The focus is very much on whether a child can live their life fully with the best experiences and the best social interactions. There is an argument about the well-being side of things as well as physical harm et cetera; it is all about their well-being, and their emotional state is really important.

The Chair: Okay. Does anybody else want to come in?

Christine Abbott: I am Christine Abbott from Birmingham City University. I am also the Prevent lead for the Registrars Group nationally. From the university perspective, we would couch our duty in the context of a duty of care to all students, and in particular the duty to support students who are vulnerable for whatever reason. So students will present with vulnerability because they have difficulties academically, financially, socially or emotionally. We would use whatever mechanisms we have, including personal tutors and welfare counselling systems, to support those students. It is an extension, if you like, of the safeguarding approach. Generally speaking, universities have sought to embed their duty under Prevent within support for vulnerable students of all sorts.

The Chair: So that is a positive duty of the kind that Karon was talking about—a positive duty to promote well-being. We are not talking about sanctions at this point.

Christine Abbott: Yes, that is right.

Professor Louise Richardson: My name is Louise Richardson. I am a political scientist. I have been writing, teaching and publishing on terrorism for about 20 years. I am also Vice-Chancellor of the University of Oxford.

It is difficult to opine on legislation that we have not seen yet. I suppose my best advice would be: do not legislate. Too often, counterterrorist legislation is cast in security terms, or sometimes military terms, and has unintended negative consequences. That is my view of the Prevent legislation. The reason for this is that the legislation does not take account of the intangibles, including civil societies and the effect on particular communities. In the case of Prevent, if the legislation emerges as we anticipate it will, it will accentuate the negative impacts of the Prevent legislation by making particular cohorts of our students—and of our society more broadly, but my interest is in students—feel that they are suspect. In counterterrorist terms, the best intelligence on the people trying to do us harm comes from the communities in which they recruit. So it is imperative for us as a society that we retain the loyalty of those communities. If we do not, they are never going to turn over the people in their midst who are trying to recruit to terrorist groups, for example. So if members of that entire group feel that they are being singled out, that they are suspect and that they are not trusted, they are not going to assist us in identifying the people who really want to do us harm.

The Chair: Jessie, do you want to add anything?

Dr Jessie Blackburn: I will just say that my name is Jessie Blackburn and I am a lecturer in politics at Kingston University. My research is in antiterrorism laws in general, so perhaps I will be able to offer answers to more specific questions—and I apologise that I am slightly losing my voice.

The Chair: Poor you. Please have some water. Unless anybody has any specific questions, let us crack on with Karon.

Q31 Lord Woolf: I wanted to ask one question of the Vice-Chancellor. You talked about communities that are going to be a target for those who want to influence in an adverse way members of those communities. Do you see universities, and Oxford in particular, as such a target?

Professor Louise Richardson: Absolutely not; I think that we are very low risk in this regard. But I still do not want our Muslim students feeling nervous about availing themselves of the welfare facilities that we have for fear that they might be singled out, and I do not want members any particular student group feeling that they are in any way more suspect or are deemed to be less loyal than members of any other group of our students. But, no, I do not think that we have any risk—well, there is never zero risk, but we have very low risk.

Lord Woolf: So very low risk: 5,000:1?

Professor Louise Richardson: Those were the odds against Leicester, were they not?

The Chair: So principally you are talking about the right not to be discriminated against. You think that it potentially treads over the line that gives them the right not to be discriminated against.

Professor Louise Richardson: I was not thinking about it in terms of rights—but, Indeed, one could. We have a great deal of empirical evidence of other countries countering terrorism. Terrorism is not a military problem; terrorists are invariably outmanned and outgunned by the states they oppose. So it is not simply a military problem; it has to be seen in its political and social context, too. Time after time, very small groups of terrorists manage to last for a very long time. The case of Northern Ireland will be familiar to you. How did they survive for so long? They survived for so long because they operated in a community that was complicit: a community that did not approve of the atrocities they committed but did consider their goals to be legitimate and so was not prepared to hand them over to the authorities. We do not want to replicate that—certainly not in our universities but not in our broader society, either.

The Chair: Fiona, do you want to ask your no-platforming question?

Q32 Fiona Bruce: Good afternoon. Could you comment on whether university authorities are doing enough—I know that Oxford has—to challenge the no-platforming policy? It has raised concerns regarding restricting freedom of expression.

Professor Louise Richardson: My position on this is that any effort to infringe freedom of expression should be opposed, whether it comes from what I take to be the well-intentioned but misguided Prevent counterterrorism policy or from student unions that do not want to hear views that they find objectionable. A university has to be a place where the right to express objectionable views is protected. I regret that the NUS has taken the position that it has and I oppose it.

Fiona Bruce: Perhaps Ms Abbott has a comment on whether university authorities more widely should have challenged this—and at an earlier stage.

Christine Abbott: Generally speaking, university authorities will tend to engage very productively with their student unions at a local level. Clearly there are sometimes exceptions, but broadly speaking there is good engagement and collaboration. You ask whether university authorities should do more. Sometimes what gets lost in that discussion is the fact that it is student unions that have a no-platform policy, and of course they are separate legal entities from universities. Sometimes what you see as positions that are being taken nationally are not reflected locally: the co-operation locally within individual institutions can be a lot better. I think that the students themselves—dare I say it?—sometimes get a bit muddled about no-platforming, safeguarding and so forth. But we have to remember that overall this is not a new issue. Students have tended for a long time—certainly during my time as a student—to demonstrate and express themselves about all sorts of issues. We might support or not how they choose to do it. Generally speaking, university authorities would not support any idea that people should be prevented from speaking and would seek to work with their student unions to get an accommodation on things like that. But we can perhaps, if I may say so, exaggerate some of what goes on in student unions, because this is

practising for real life. Real life is messy and they are learning about democracy in a way that I suspect a lot of us actually did when we were students.

The Chair: Right, we will swerve back to schools at this point with Karen.

Q33 Ms Karen Buck: Thank you very much. This is probably for Karon, although other people may have a view on it. For me, from the written evidence that went to the Home Affairs Select Committee, we understood that in the cases of four out of five of the young people who were referred to Channel, the investigations were dropped. I am not clear whether that is a reasonable rate, given that all this will be an imprecise process. Is it reasonable to have that kind of proportion of cases that might warrant further investigation?

As a secondary question in a wider context, what impact does this have on the pupils themselves? Do we get a sense of how Prevent and referrals to Channel ripple out into the wider pupil community?

Karon McCarthy: It is still relatively new in some senses. To go back to your first point about four out of five cases being dropped, that might be people being a bit too enthusiastic and feeling very scared that if they do not report something, which is now a duty, they will somehow fall foul of the law. For a lot of staff, that is very concerning. The argument can be that one in five was of concern, but there has been a lot of discussion about the need to be more perceptive and discerning about who is causing concern. That is a lack of knowledge and experience among staff who do not deal with it on a daily basis. Teachers do not tend to have that kind of interaction very often. We have a very high Muslim cohort in our school. We are really all about discussion, so in our school we do not have lots of issues on this level. For example, a child would have been given a job to create a piece of writing in English. They are allowed to use emotive language and there is no boundary on what they are allowed to say. Some things that come out of that can be concerning. A teacher may bring that along and say, “Look, this is what this child has written. I am concerned”. A child might say something like “Death to the British” at some point. If you drill down and interrogate that and have conversations with the child and the parents, you will find that a lot of those issues are not concerning in terms of extremism; they are just children expressing their creativity. If I am honest, I think it is a lack of knowledge between staff and a fear that, “You must do this, and if you let anything slip it will come back to you”. That is really concerning for staff. That is the biggest issue: frightening a number of people.

Ms Karen Buck: Does that suggest that the safeguarding approach—we have a protocol that schools will use—is not cutting it in terms of where people’s concerns are? It would seem that if you have that many people who are being referred and you have a safeguarding protocol, one or the other is not working properly.

Karon McCarthy: We do not have those numbers in our federation, particularly in the academy I work in. We are very clear about discussing those issues. Over time, staff have been told specifically, “This is Prevent. This is safeguarding”. The argument is that it is all safeguarding, but within that you have issues such as FGM, forced marriage and Prevent—all those things. The staff need to be trained better on the fact that Prevent is simply safeguarding. At the moment, it feels very political and exciting and something that people have to talk about. That is the issue. It needs to be brought back to reality and it needs to be understood that very few things need to be reported

on a daily basis. That high number would concern me, and it is down to a lack of experience among staff; they are very nervous.

Ms Karen Buck: Just picking up on the point about nervousness—perhaps others might have a view on this—is there a sense, because it is reported and we hear stories and anecdotes, that teachers are anxious about initiating discussions about controversial issues, whether that is the Middle East or domestic terrorism: that there are things that they veer away from doing because of the anxiety that it will open up conversations that then generate worries that may have to be referred?

Karon McCarthy: In a previous Committee session somebody mentioned that there was a teacher who was concerned about having a discussion with children that ordinarily they would have because they were fearful that another member of staff might walk past, hear them, think that it was not appropriate in this day and age and report them. The argument, which we promote in our academies, is that if something happens of a terrorist nature, we first educate our staff about the background if they are unaware of it, so we have an assembly first thing with staff, and then we ask them to discuss it with the children and have an open forum so that children can talk about things that in some schools may get closed down because staff are concerned. It is the same with all other equality issues. It is simply about allowing children to have that conversation and being confident as a member of staff that you know whether something is not appropriate and whether you need to be more equal and think about everybody else and their thoughts. The argument is that staff need to have an understanding of the issues but allow dialogue. That is the biggest issue in education that gets closed a lot.

Q34 Ms Karen Buck: So we can agree that it sounds as if there is very good practice in your academy chain, but we have agreed that part of this issue involves training and teachers being robust enough to know when to intervene and when not to. If the Government go ahead with fresh legislation—we know that they are grappling with issues of definition—to what extent is that likely to make this task harder? Have any of you thought about how there could be more rigorous guidance for teachers, particularly with this more generalised definition that we are talking about that would give people comfort in knowing how to proceed?

Karon McCarthy: I do not know whether it will give comfort or whether it will add to the issues that we are already experiencing. Teachers already feel that there are a lot of things that they are responsible for. I do not know how you can clearly define anything in this realm, if I am honest. It is about common sense, judgment and experience. It is about confidence in your systems. If there are other things telling teachers, “This is what you now must do”, I do not think that is possible. It is a very theoretical problem at the moment. It is very hard to define extremism, and it is very subjective. I do not know whether it is possible to define it clearly. The comfort for teachers is having confidence in the systems. Should they have concerns, they should know that they can talk to somebody who knows more than they do. They should have a system whereby they can go and get that advice. That is the biggest thing—that those structures are in place for those questions.

Ms Karen Buck: David Anderson said that there is a crisis of confidence in the way Prevent is being handled, which is not the best context in which to move forward and widen it up. Do other people on the panel think that is true, and what does that tell us?

Christine Abbott: I think there is a lot of nervousness. The number of referrals, for me in a university context, could be for a couple of reasons. First, we are talking about grey judgments here, not the absolute extremes of black and white. Because the risks of getting it wrong are so great, there is a temptation to err on the side of caution and to refer. I suspect that that has a lot to do with why there are a number of referrals that then get pushed back—because the consequences of not referring in a case where one should are so great.

I also feel that more legislation is not what we need. To the best of my knowledge, we do not understand what makes one person have outlandish and extreme views when they are young and then become a pillar of society, while another person can be exposed to those same things and go on to become a terrorist. We need to understand those things better, but in the context in which we do not and where both institutions and individuals can be heavily criticised, be it in the media or by some form of regulatory body, if they get those judgments wrong, those are the things that drive the sort of behaviours that we see. I know that universities are concerned that more legislation will simply make things more complicated and worse.

Professor Louise Richardson: Perhaps I could weigh in on the definitional point. The definitions that are currently employed are deeply problematic. The guidance in the Prevent legislation defines non-violent extremism as “vocal or active opposition to fundamental British values, including democracy, the rule of law, individual liberty and mutual respect and tolerance of different faiths and beliefs”. Now, if our university were to refer everyone, we would have to burn all our books by Plato and refer half our philosophy department who question these matters. This is deeply problematic and undermines confidence in the entire enterprise. It seems to me that we are already bound to prevent unlawful speech, and I think that that is the only speech that universities should prevent.

Dr Jessie Blackburn: I would just add that the conceptual clarity point is quite important, given the number of people engaged in Prevent activities. If we are talking about every lecturer in every university in the country, my idea of what constitutes the rule of law could be quite similar to someone else’s idea of what constitutes the rule of law, but there could also be quite large divergences. So you are asking an awful lot of people to have very similar understandings of very unclear concepts so that we can ensure that students do not engage in speech that contravenes this. That is very difficult.

The Chair: Fiona, do you want to go on to out-of-school settings? I do not know who you would like to address your question to.

Q35 Fiona Bruce: I will address it to the panel at large and invite any of them to respond. The Government recently held a consultation in which they proposed that out-of-school settings such as clubs, sports groups and church groups would have to register with the state if they teach children for more than, say, six hours in any one week, with sanctions for failing to register, including potentially the premises being closed down. There would also be the potential of Ofsted inspections. Do you believe that such a proposal is necessary and proportionate, or are existing safeguarding DBS checks and planning laws sufficient?

Karon McCarthy: I find the figure of six hours quite odd. I looked through lots of information about this and they were unsure where to draw the line. One hour? Two hours? Six hours is a very arbitrary figure, and it is very hard to know why five hours would not cause harm whereas six hours would. That is the first issue. How will it be overseen and policed? How is that going to happen? We are already struggling for volunteers because of the scrutiny already put on you and the suggestion that, if you are working with children, you have to jump through a lot of hoops. There is an argument that safeguarding comes first, so those things have to happen.

My argument would be: how would this be inspected and managed? I do not know whether it would be entirely possible. What would the implications be if something should happen and a group had not registered? That would be seen as negative. “Why had you not registered?” There will obviously be a suspicion as to why that group had not registered. Then there is the closing down of premises. I do not know whether that will drive things further underground, as opposed to letting the community keep things very above board, and whether, if there are concerns, they can be reported through the natural safeguarding routes. I am not sure how that will be dealt with.

Fiona Bruce: Thank you very much. That was a very comprehensive reply. Professor Julian Rivers came to give evidence and expressed concern that the proposal for registration, in particular of religious groups, could contravene the European Convention on Human Rights, particularly in so far as restricting the freedom of exercise of religion, and possibly also freedom of expression. Could you comment on that, and perhaps link it to the concerns that Professor Richardson expressed about the lack of a clear definition of non-violent extremism—whether there is not perhaps a risk, if this is implemented, of us almost inserting a fear into those who want to discuss matters of faith and belief with young people about whether they can do so freely or whether they will be subject to the kinds of inspections that I have referred to?

Professor Louise Richardson: I have no expertise beyond universities, and these are pre-university questions, so I will defer to my colleagues.

Christine Abbott: Similarly, I have no experience in the school sector, but I will draw a parallel. The risk in all this is that we drive debate underground in one way or another, be that into quiet corners that are in no way regulated in the physical space or in the virtual space of social media, because there are influences on young people, be they university students or school-age students, that are outside the control of institutions. I do not speak from expertise on the out-of-school environment, but if the university is anything to go by, if we suppress open dialogue and debate in our institutions, the risk is that it will go elsewhere in ways that are out of sight, uncontrollable and potentially much more risky.

Dr Jessie Blackburn: I think there is a concern about discrimination in how the policy might be implemented in practice. If all religious hubs, for example, are required to register but the counterextremism strategy, as we know, focuses on Islamic extremism and right-wing extremism—extreme right-wing violence—if only Islamic institutions are targeted for failing to register, there may be a concern about discrimination or a lack of proportionality.

Karon McCarthy: In Newham recently—I will not go into detail, obviously—the community reported concerns about a school that was being held on Saturday, so this

was other members of the local neighbourhood who were concerned about what was going on there. It was meant to be teaching just English, maths and science, but it turned out that there were some conversations with children in Arabic and their religious views were discussed at points. The community approached us because it is our venue that gets hired out over weekends; schools now do that to get funding. We discussed this with the people who were taking the sessions. They were wonderful. They said, “Of course, absolutely. Apologies. It’s just that we’re in the neighbourhood, we’ve got a lot of Muslim children, and it’s something we slipped into”. They have stepped back and are ensuring that their work is purely English, maths and science, which is what they advertise.

As I was saying, if the community is strong and does not feel that it is being targeted, it will do a lot of the work that we want it to do anyway, because it knows what is right and wrong, too. What would the purpose be of these out-of-school inspections? Would they be purely for safeguarding on a general level, because I do not think anybody would have an issue with that? Who would not want children to be safeguarded? It all depends on whether it is purely about extremism.

Fiona Bruce: Are you saying, therefore, that the current legislation, which covers safeguarding, and DBS checks are sufficient, and that moving beyond that is disproportionate?

Karon McCarthy: I think it would cause more harm than good. Our communities are crucial. The community in which we work is, as I say, very highly populated with Muslims, and the relationship is wonderful. They will come to the school and discuss things. Suddenly being given more legislation and having to jump through more hoops would take away the engagement and cohesion that the school has with them. That is the whole point: the school is supposed to be the heart of the community. If we as a school were to be responsible for assisting with that legislation, it would be concerning. I think the community would start to feel that it was being targeted for all the wrong reasons. Nobody is ever going to argue about safeguarding; it is non-negotiable. But you have to be careful that it does not bleed into other things and become something that is against particular parts of the community.

Q36 The Chair: Following on from the definition that Louise read out about the rule of law, I have a general free-speech question for you all. Would it be all right to say, “All judges in this country are racist and discriminate against black people, and the judges in this country are Islamophobic in the way they apply the law”? Should that be allowed as free speech, or does it contravene support for the rule of law?

Professor Louise Richardson: I have no hesitation in saying that any lawful speech should be allowed, and unless new legislators deem that to be unlawful—I do not think you currently do—I would defend the right of anybody to assert it at a university. I would be one of the first people to be there to disagree with them, but that is the role of universities; it is fundamental to what we do that ideas, even objectionable ones, can be expressed in an environment in which they can be challenged. We, as educators, have an obligation to demonstrate to our students how you respond to views that you find objectionable. We can model to them how to respond with reason to a view like that. Somebody engaging in an argument like that would insist on evidence, and the person making that claim would be required to present evidence or their argument would be eviscerated. That is how you counter objectionable speech, so I would certainly not disallow that view.

Q37 Jeremy Lefroy: Thank you very much, and I apologise for being late; I had a meeting with a Minister. Am I allowed to go back to something Fiona said?

The Chair: Yes.

Jeremy Lefroy: I very much see that, in out-of-school settings, what used to be the CRB system and is now the DBS is the way to go—I have been involved in work with young people through church and have been through that process myself—but these systems are very much self-regulated, from what I have seen. Are they strong enough? Would we be able to say, “Actually, we don’t need this kind of out-of-school inspection because we have the CRB/DBS system”? From your experience, do you think that somebody would be able to come back at us and say, “That’s self-regulation and we don’t think it’s strong enough”?

Karon McCarthy: The argument is that it does the basics: it makes sure that there is no concern about the history of the people who are being employed or who are doing the job, but that does not mean that there will not be concern in future, so obviously that is the issue.

Jeremy Lefroy: Yes.

Karon McCarthy: Again, generally in my experience, things that are not going well get reported very quickly by students, parents or other people who are concerned, so I cannot imagine what any other legislation would bring to that scenario. With the best will in the world, if there are inspections and people know about them, that will not prevent things happening. I do not know what the odds are of things being caught by those inspections. An open dialogue in the community, which I keep coming back to, is huge; it educates them, it lets people talk to each other, and communities will tell you more. As Professor Richardson said, this is about your community telling you what is going on as opposed to the Government coming in and trying to find out what is going on.

Jeremy Lefroy: So to somebody who might say—and to some extent I am playing devil’s advocate here—that the CRB/DBS system is almost hermetically sealed because, apart from the initial checks, which obviously then have to be updated periodically, there is nobody coming in from outside to check that it is not simply a case of everybody keeping quiet about everything that is going on, you would say that actually the community challenge is what makes it work and that you think that is sufficiently robust without there being some kind of outside person looking in other than the regular update of the checks themselves.

Karon McCarthy: I think we all know that people can say what they need to say to convince anybody of anything, and people can be fooled very easily, with the best intentions. If there are things going on that people know are not going to be liked or that break the law, they will do everything they can to hide what they are doing, should there be an inspection. I think the argument is that if people are allowed to be free in what they are doing, within reason, if there are any issues, those issues will be raised. I am not saying that the community is perfect—I do not think anyone’s community is perfect—but if we continue to work with our communities and let them know that we are not trying to suppress them even further, my argument would definitely be that the community is far more powerful than the Government coming in

and trying to find things. You might get lucky, but it is very unlikely. Your community is more likely to say, “This doesn’t feel correct. This doesn’t feel right”, and have that conversation. That has been my experience; there have been a couple of incidents, and that is what has happened—the community has approached the school with concerns about out-of-school settings that we have in our neighbourhood.

Jeremy Lefroy: Professor Richardson, I absolutely agree with what you say about freedom of speech, but you also made an extremely important point about the setting. It is one thing to have freedom of speech in an open setting; it is very different in an intimidating setting where there are a lot of people who are all of the same view, somebody says something and somebody else would like to get up and challenge them but the setting is incredibly intimidating for them. How can universities ensure that that does not happen, that you do not get a situation where there is no discourse because people feel frightened? They have the freedom to say something, but they feel too scared to say it because of the intimidating nature of the setting.

Q38 The Chair: Can I follow up the same line? Does that also mean that you think it is okay to have a certain level of free speech about the rule of law and whether judges are Islamophobic in universities, but you would not think it okay to have the same discourse in an out-of-school setting? Are you saying that freedom of speech should be allowed more in settings for adults and where it is openly challenged, but that it needs to go by the board in settings for children?

Professor Louise Richardson: I am studiously trying to avoid commenting on an area that I really have no expertise in. I am happy to talk about universities, and when it comes to the Prevent legislation I think that universities are unlike any other category of public body precisely because of—and deepest thanks to the House of Lords, which insisted on and passed—the amendment to the counterterrorism Bill that imposed on universities a statutory obligation to ensure that freedom of speech within the law is secured for members of universities and their visitors. I do not want to talk about schools and out-of-school settings—

The Chair: What about Jeremy’s point?

Professor Louise Richardson: Jeremy’s point is a fair one. It is the commitment of those of us who run universities to ensure that every argument that is asserted is challenged and that there is an opportunity to challenge it. We currently exercise, and certainly have exercised, that responsibility when we know that a speaker is coming to impose some sort of constraints on the size of the room and all that. I think most of us would insist on counter-points of view being expressed at a meeting and on not having a situation where somebody felt that they could not possibly object. If universities function as we should, nobody should ever find themselves in that situation.

Jeremy Lefroy: I remember—obviously it was a very tense time—when the previous University Minister, David Willetts, now Lord Willetts, went to Cambridge University in 2011, I think, and was unable to speak. He was not allowed to speak. I am not saying that the university prevented him from speaking, but the situation did not allow him to. Knowing Mr Willetts, now Lord Willetts, I am sure he would have done so in whatever circumstances, but I think he was advised by the university authorities not to. That, to me, was a clear example of a university not providing an environment in which a senior politician could explain the

rationale for a policy that he himself had been responsible for introducing and that was clearly not particularly popular there. Nevertheless, it was a clear example of where a university should allow rational dialogue but where Cambridge University did not.

Professor Louise Richardson: I think you would be hard-pressed to find any university leader who would defend that. But then the question becomes: do you legislate for extreme examples like that? What kind of legislation could you pass that would ensure that that did not happen without having a chilling effect on the vast majority of things that take place in universities? I am not going to defend everything that takes place in universities; I am not going to pretend that there have not been situations of no-platforming by both right and left, but we, as universities, have to try to ensure that they never happen, while allowing for the fact that occasionally they will.

Lord Woolf: Do you think that in the proper administration of a university you have ample powers to do that without the need for legislation?

Professor Louise Richardson: Absolutely.

Q39 Baroness Buscombe: Dare I say, with all due respect to David Willetts, that I would not have a problem with him having a hard time. Indeed, I had a very hard time when I was chairing an Oxford Union debate on animal rights. I could not get a word in edgeways to referee with Heather Mills in the firing of the shots, as it were, in relation to animal rights. It ended up in a bit of a riot, actually, but I am all for that personally.

However, my concern, and my question, is really: should we be hoping that, whatever legislation comes forward, it can in some way—I do not want to use the word “discriminate”—express a kind of differentiation in maturity? As a governor of a free school, a primary school, the sensitivity with which those in charge of safeguarding approach the whole issue of Prevent will naturally be, or common sense would say is, very different when dealing with 5, 6 and 7 year-olds than when dealing perhaps with 16 to 18 year-olds and certainly with university students. I am just trying to think of a way through this, because we do not want to be too hard-nosed about this and too “This is right and this is wrong”. I think we are all pulling faces here because we are finding this really quite difficult. I think everybody is, and that is the problem with legislating: it is quite subjective. Would you agree?

Karon McCarthy: It is the same in schools, and to a certain extent in universities; that is where people should say what they have brought from home, because a lot of children, particularly the young ones, are very influenced by their parents and their families. If we did not allow that kind of conversation to happen in school, where else would they learn that an approach was very narrow-minded—on anything: homophobia, sexism, gender, all those things. Students may say the most ridiculous things in a classroom. You take a moment to pause and ask whether that child really just said that, but if that child has no other frame of reference and thinks that that is the way the world is, it is our job in education to educate them. Other children will jump up and down and tell them that it is not okay to say something, because our children are fantastic in society nowadays; they have such good awareness of what is okay and of equality, because it has been drilled into them from a very young age. Within education, absolutely, children should be allowed to say things. If they have been educated and continue to say those things and to show very narrow viewpoints on whatever issue, we would have to look at other ways of dealing with that, such as

through parents, but in the first instance anybody should be able to say anything, because it is a safe environment and, within reason, we can educate them. That is the whole point. That is really important.

Q40 Baroness Prosser: It seems to me, from what each of you has said, that the whole thing is like walking on eggshells, that it is really tricky. Circumstances arise that have to be dealt with by way of common sense as well as by broad understanding. Trying to legislate around that fragile network is clearly hugely difficult. I wonder, therefore, whether any of the university people feel that lessons can be learned from the experience of schools thus far. Clearly, schools have more of a grip on this, having had to deal with it. They are obviously different institutions; older young people probably need to be dealt with in different ways. Can any lessons be learned, apart from saying, “Don’t do it, Mr Government”?

Christine Abbott: I think we would look to share experience and good practice wherever we see it, and if there are things that we can learn from schools and universities, or indeed from further education colleges to universities and vice versa, I am sure we would do so. We have local networks of educational institutions that share good practice, so there are vehicles to do that. There is a fundamental difference in that university students are adults and you have to treat them as adults and to discuss the issues in a more sophisticated way than one, rightly, does at school. On Mr Lefroy’s comment, it would probably be naive to think that any university administration could prevent David Willetts, or anyone else, from being harangued. There is a limit to what we can ensure in every situation.

Jeremy Lefroy: I, like Baroness Buscombe, have no problem with him being harangued at all. The fact is that he was not able even to speak; the whole meeting was prevented from happening, which was the big issue for me.

Christine Abbott: I do not know the circumstances, so I am not going to comment. I am sure university administrators want to ensure that there is an open, even dialogue and debate in the way Professor Richardson has described. A number of institutions, including our own, have developed quite detailed value statements for our students, which are all about, “You come to university. We expect you to have an inquiring mind, to learn, to critique, to challenge and to be tolerant of others’ views”. We try to instil that in them all the way through their academic work and their non-academic work. Of course there will be pockets where that does not work, but that is what we try to set as our ethos.

The debates do go a bit awry more in the setting of the students’ unions, because debates can be quite chaotic. You have students chairing meetings who are not necessarily very experienced in doing that. So, again, a lot of universities are seeking to work with their student unions to train the conveners of their student societies in how to chair a meeting properly and how to ensure that voices are heard. These are all things that we can seek to do, but we must recognise that with a student community of 20,000 or 30,000, or whatever, we cannot ensure that it they always do.

The Chair: Oliver, do you want to take us on to the potential forthcoming Bill?

Q41 Lord Henley: I do, although quite a lot of what I wanted to ask has already been dealt with. As you know, the Government have proposals to bring forward a new counterextremism Bill. Karon McCarthy said very early on that the available legislation was adequate. Professor Richardson gave the wonderful advice that I have heard on many occasions: “My best advice

is ‘Don’t legislate’”. As someone who has legislated for 38 years, I would say, “Hear, hear to that”, on a great many subjects. Christine Abbott said that more legislation is not what we need. But, as we know, the Government in the Queen’s Speech last year said that there would be a new counterextremism Bill. Do any of you have anything further to add to that, and what further definitions might be needed? Jessie Blackbourn, you are the only one who has not yet pronounced specifically on this subject. Perhaps you could start and others can then throw in their views.

Dr Jessie Blackbourn: To echo the panel, I am not convinced either that an additional Bill is necessary. My main concern is the distance between the harm that might be caused by certain actions and the potential penalties that will apply. On the proscription of terrorist organisations, for example, very real harm could come out of organisations that intend to commit, prepare for or incite terrorism, and the proscription may be a proportional penalty for the harm, but banning organisations that engage in extremist speech where there is no incitement to cause harm, no incitement to cause violence, seems to be taking things a step too far.

The same may be the case with extremist disruption orders that are similar to the current TPIMs—the terrorism prevention and investigation measures—and to control orders before them. The terrorism measures have very severe restrictions on liberty, on rights to associate with people, on the use of communications and so on, but that is because there is intelligence that the people subject to TPIMs have engaged in terrorism-related behaviour. Engaging in extremist speech is a very different type of harm, in my opinion, when it is not connected to engaging in violent activity. We need to think very seriously about what restrictions, duties and obligations may come under these types of orders.

Q42 The Chair: Can I go back to the question of safeguarding, I guess not for university students, because I do not suppose that we use the concept of safeguarding in quite the same way, although you have the pastoral thing? Safeguarding has a particular statutory footing. With FGM, we know what we are talking about. The same is true of forced marriage, sexual and physical abuse, and neglect. Some of these concepts are newer than others, such as FGM and forced marriage, but we are all relatively clear about them. If you are beating someone, subjecting them to FGM or neglecting them, the framework for dealing with that is the criminal law. The penalties are criminal-law penalties—prosecution, conviction, sentencing—and there are civil-law issues such as taking children into care. That is what I think most of feel we understand by safeguarding.

How do the constructs of supporting the rule of law, supporting democracy and supporting non-discrimination—all those British values—fit into safeguarding? Lots of people have given evidence that it should all be about safeguarding, and I do not know what they are talking about, because it seems to me that it puts together things that are really very different; some have clear definitions and a clear framework of civil and criminal law, and others are a bit airy-fairy. I am sure that many times in my youth I would have been regarded as in breach of support of the rule of law because I was challenging what the law thought it was doing at the time. You talked about this when discussing the safeguarding concept.

Karon McCarthy: I would argue that safeguarding is about preventing a child from coming to harm. If a child is being radicalised, is being exposed to extremism, they are coming to harm. The question is how they have got to that point. We all know that

extremism and radicalisation come through vulnerability, through a child feeling disengaged, disenchanted, with their life, their surroundings, their family, their friends, the school; it is a very “them and us” approach.

We had a particularly serious case that was very black and white and that clearly went into the realms of criminal law. There are others that are a bit more concerning. We had a young man some time back who was becoming introverted. He was very outgoing at the beginning, very open and very engaged with staff, students, friends, family. He started very slowly but very noticeably to become very introverted. He got to the point where he started to refuse to come to school. Mum was very supportive when we had a conversation about it. She said that he spent all his time on media on his phone. I was very open with mum and told her our big concerns. I asked about his social group and what kind of social time he had with anybody. She said that he had none; he had become very remote and very isolated. The conversation about safeguarding is therefore about how that child has been allowed to get to that stage. As parents we all know teenage moments, but when your child has got to the point where they are completely cut off from everybody else, there is an argument that your job is to protect your child and to ensure that they are engaging in education, social activities, after-school clubs. Do they have a good friendship group?

In the argument about safeguarding, the question is: how has that child been allowed to get to the point where they are completely isolated from society? It is, as you say, a very airy-fairy concept, it is very difficult to pin down, but I would always link it to safeguarding, because somebody somewhere has allowed that child to become vulnerable. To prove that is easier said than done, but the conversations are very clear as a parent, as a carer, as a school. If we ever see a child on their own in the dining room or anywhere else, we always have a conversation with that child and bring them into groups where we can. You will always get people who like being alone, and they love that isolation, but you can generally tell the difference between a student who likes their own company because they are very introverted and a student who is struggling with their position in society. We have that luxury with safeguarding, because it comes under safeguarding, because that child is not developing appropriately as a child should. It is affecting their well-being. Generally, children who are open to extremism and at risk of radicalisation are not particularly happy. I know that is a very sweeping statement to make.

The Chair: So the sanctions are—?

Karon McCarthy: If we have concerns, they are discussed. Newham is one of the priority boroughs in the country, for obvious reasons—we have a very mixed community—and the Prevent lead there is very good. If we ever have concerns about a child whose behaviour we are slightly worried about—or parents; sometimes you meet parents whose views are very limited, very narrow and occasionally perhaps very offensive—we will contact the Prevent team and say, “Look, we’ve got this situation. What do you think we should do in this case?” I would never decide that a child had been exposed to extremism or radicalisation. That is their job. My job is to bring it to their attention. In fairness, they have been balanced in their responses. They have said, “Have you seen these kinds of behaviours? If not, this is what we would advise you to do: meet the parents, get them engaged in after-school clubs, get them more involved with the teaching staff, get their academic behaviour back on track”.

Where there are issues, we very rarely use sanctions; we communicate first. As I said, there was a case in another academy that was very clear. The police informed us that

this child had been involved in very clear extremism behaviour, and that was a very different thing. We see and identify those things first from a safeguarding point of view: is the child successful and happy and growing as they should? That is what we use as our gauge. Does that answer your question?

The Chair: It does a little. I still have concerns about the definitions. I can see the process, but not the extent to which the definitions are shared.

Q43 Baroness Hamwee: My question follows on from this, and it is about the school student who becomes the university student. It is a difficult transition for many anyway, and I think there are privacy issues here with regard to the introverted student, the student who does not spend a lot of time at debates, student meetings and so on but is sitting alone in his bedroom with a computer. How do you deal with that? It is a pastoral issue, but it might also be a privacy issue.

Can I tack on to that a question about how you promote the policies, codes of practice and so on, and to whom are they promoted? I looked this morning to see what was published on websites. I found the Oxford ones easily. I expected to find similar things on the Kingston website, knowing about Julius Weinberg's role. As I say, to whom are they promoted, and how?

The Chair: There is a vote in the House of Lords. Lords Members ought to vote very quickly. There will be a Commons vote after this, too, so we will suspend the session until such time as we are not voting. I do beg your pardon.

The Committee suspended for a Division in the House of Lords.

Q44 The Chair: We are quorate again. Could our panel answer Fiona's point? We are back on the record, so perhaps you could explain the question in your answer. We might get that in before the next vote.

Professor Louise Richardson: If I can recapitulate the question, it was: how can you have different definitions of freedom of speech? How can one thing be protected in a university and not in a church? I am very sympathetic to what is behind the question. I was making the point simply that legally universities are deemed to be different from other public bodies, because Section 31 of the Counter-Terrorism and Security Act requires universities to have special regard to their pre-existing statutory obligations under Section 43(1) of the education Act to ensure that freedom of speech within the law is secured for all its members and visiting speakers. Personally, I think one should be free to say what one chooses in a university, a church, a town hall and so on.

Jeremy Lefroy: Chairman, there is a Division in the House of Commons

The Chair: I am sorry, but we now have another Division in the Commons. That means another 15 minutes. You have been incredibly helpful to us. We know you now and we know where you are, so we can pursue you with further questions on these very difficult constructs, not least when the Bill appears. You have been extremely helpful. Thank you very much indeed.