



# Counter-Terrorism and Border Security Bill 2018

## Sentencing Fact Sheet

### What are we going to do?

- The Bill will increase the maximum penalty for a number of terrorism offences.
- The Bill will also bring further terrorism offences within the scope of the Extended Determinate Sentence (EDS) and Sentences for Offenders of Particular Concern (SOPC) in England and Wales and the equivalent extended sentences in Scotland and Northern Ireland.
- This will ensure that convicted terrorists are no longer automatically released from prison half way through their sentence if they pose a risk to the public, and that they can be subject to extended periods of supervision upon their release.

### Key quote

*“The modern terrorist threat involves simple planning and preparation, with easy access to weaponry and materials. Offences previously viewed as outlying are in fact indicative of preliminary behaviour of an intent to commit acts of terrorism. It is important for these terrorist related offences to have much longer sentences proportionate to the gravity of the crimes committed and the threat to the public”*

**Assistant Commissioner Neil Basu,  
National Lead for Counter Terrorism  
Policing**

### How are we going to do it?

The Bill will increase the maximum penalty available for those convicted of the terrorism offences below. Not only will this give the courts powers to reflect the serious nature of these offences, but it will help to disrupt terrorist plots and networks:

- Collection of information useful to a terrorist (section 58 of the Terrorism Act 2000 (the 2000 Act)) – increase from 10 years to 15 years.
- Publishing information about members of the armed forces, intelligence services or police (section 58A of the 2000 Act) – increase from 10 to 15 years
- Encouragement of terrorism (section 1 of the Terrorism Act 2006 (the 2006 Act)) – increase from 7 years to 15 years.
- Dissemination of terrorist publications (section 2 of the 2006 Act) – increase from 7 years to 15 years.

The Bill will extend EDS and SOPC to cover the further terrorism offences listed below, so that offenders are not released automatically half way through their sentence if they continue to pose a risk, and that they can be subject to an extended licence period of up to eight years, during which they can be recalled to prison if they breach their licence conditions:

- Membership of a proscribed organisation (section 11 of the 2000 Act);
- Inviting support for a proscribed organisation (section 12 of the 2000 Act);
- Collection of information useful to a terrorist (section 58 of the 2000 Act);
- Publishing information about members of the armed forces etc (section 58A of the 2000 Act);
- Encouragement of terrorism (section 1 of the 2006 Act);
- Dissemination of terrorist publications (section 2 of the 2006 Act); and
- Attendance at a place used for terrorism training (section 8 of the 2006 Act).



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### Background

- The maximum penalties for a number of terrorism offences were established in the Terrorism Acts of 2000 and 2006. The terrorist threat has since changed, with individuals engaging in such conduct now likely to pose an increased risk of moving quickly on to attack planning, given the rapid trajectory of radicalisation now being observed. Increased maximum penalties better reflect the increased risk and the seriousness of these offences. It will continue to be for judges to decide what sentence is appropriate in the particular circumstances of individual cases, within the available range and in line with applicable sentencing guidelines.
- Under the Criminal Justice Act 2003, if an offender commits certain serious offences and is judged to be 'dangerous', they can receive an EDS, which means that the prisoner must serve at least two-thirds of their sentence, with release in the final third at the discretion of the Parole Board, and automatic release at the end of the custodial term. When released, the offender must serve the remainder of their sentence (if any) on licence, plus an extended period subsequently on licence.
- Extended sentences are provided for in Scotland by the Criminal Procedure (Scotland) Act 1995, and in Northern Ireland by the Criminal Justice (Northern Ireland) Order 2008. To ensure consistency across the UK, the Bill will amend these pieces of legislation to include terrorism offences in the lists of offences for which an extended sentence may be applied.
- For certain offences, if an offender is not 'dangerous' and does not receive a life sentence or EDS, the court must impose a SOPC. This means that release is not automatic at the halfway point of the sentence but is at the discretion of the Parole Board, and if not released at the half way point the offender may remain in custody until the end of their sentence before being released. On release the offender will always serve a minimum of 12 months on licence.
- Currently only terrorism offences which involve weapons or violence, or are linked to the commission of an actual act of terrorism, can result in an EDS or SOPC. There is no equivalent to the SOPC in Scotland or Northern Ireland.

### Are these changes proportionate?

- Yes – terrorism offences are particularly serious, and the increase in maximum penalties for certain offences as well as the changes to EDS and SOPC reflect the nature and scale of the threat posed by terrorism. We have seen a shift to

individuals quickly progressing from less serious terrorism offences to carrying out low-sophistication attacks, so it is important that the police are able to intervene early to prevent these attacks from happening.



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### Why is new legislation being introduced now?

- Radicalisation and terrorist activity is constantly evolving. This legislation is in response to the developing threat landscape, and it is right that we keep our counter-terrorism framework under review so that it can respond effectively to emerging trends in the terrorism threat. In particular, we have seen individuals progressing rapidly from preparatory offences which have in the past been considered much less serious to actual attacks.

### How will you decide when to release a terrorist offender?

- The decision to release an offender subject to these extended sentences will be made by the independent Parole Board; prisoners will not be automatically released at the halfway point of their sentence. Prisoners will not be detained for longer than the length of their sentence, but following release will always be subject to a meaningful period on licence.

### Are any terrorism offences already subject to EDS and SOPC sentences?

- Yes – the Criminal Justice and Courts Act 2015 added a number of terrorism and terrorism-related offences to those which could be subject to these provisions. This Bill will ensure wider coverage of terrorism offences by these provisions.

### Didn't the Sentencing Council just publish new guidelines on sentencing for terrorism offences?

- Yes, the Sentencing Council published its guidelines for terrorism offences on 28 March 2018. These guidelines are based on the current maximum sentence length, as the lengths proposed in the Bill are yet to be approved by Parliament. The Government will keep the Council informed of the progress of the Bill through Parliament.

### Why don't offenders spend the whole of their sentence in prison?

- Requiring a proportion of the overall sentence to be served in custody followed by a period on licence was first introduced in 1967, and is an approach which has been maintained by successive governments since. Release on licence also ensures that offenders can be monitored in the community and if necessary recalled to custody.

### Will these measures apply across the United Kingdom?

- The expansion of EDS and SOPC apply to England and Wales only. The Bill makes similar changes to analogous extended sentences in Scotland and Northern Ireland.

#### Key facts

- In the year ending 31 December 2017, 77 individuals were convicted of terrorism or terrorism-related offences