

A Plaid Cymru Response to the Government Documents Possible Measures for Inclusion in a Future Counter Terrorism Bill and Options for Pre-Charge Detention in Complex Terrorist Cases

Plaid Cymru welcomes the Government's commitment to consensus and we look forward to working with the Government to develop adequate, balanced and proportional measures to counter the risks posed to the public. We also welcome the proposed extra resources for the Police and other services involved in counter-terrorism operations. It is essential that these services are properly funded to carry out these important duties.

Pre-charge detention

We strongly disagree that it is necessary to legislate now in order that terrorist suspects may in future be detained for longer than 28 days without charge. Any further extension of the period for which terrorist suspects can be held without charge time must be questionable under the provisions of Article 5(3) of the ECHR. This allows that a person who is arrested or detained must be brought before a court and either tried or bailed within a reasonable time. **If at some point in the future it appears that it has become reasonable for terrorist suspects to be detained for such lengths of time without charge, the Government should consider legislation and other options available at that stage. We call the attention of the Government to the compromise options suggested by the civil rights organisation Liberty** in their November 2005 response to the Home Affairs Committee call for evidence over the planned extensions to the 28 day limit¹.

¹ <http://www.liberty-human-rights.org.uk/pdfs/policy06/hac-terrorism-detention-powers.PDF>
p.6

Intercept Evidence

Plaid Cymru **welcomes the Government's review of the bar on the use of intercept evidence** in court. We **support the removal of the bar** as we believe this may also help to reduce the need for extended pre-charge detention. Many other countries have considered this issue, and have found ways to reduce the concerns around the use of intercept evidence to an acceptable level.

Information Sharing

We support moves to ensure that volunteer or unpaid workers in Finance departments, such as those of a charity, are covered by the provisions of the Terrorism Act 2000. This act requires the disclosure of any suspicious financial activity. **We agree that the intelligence and security agencies should be given appropriate data-sharing powers to use in the interest of National Security.** We also **welcome the clarity that will result from putting the police counter terrorism database on a statutory footing.** However, we would caution that **care must be taken in drawing up the guidelines for the use of these powers** to ensure the data are correctly used, and that innocent persons on police DNA databases (who have been arrested for a recordable offence but not charged) are protected.

Post Charge Questioning

Post charge questioning may be beneficial, particularly as **an alternative to further extensions to pre charge detention.** It will be necessary to ensure that suspects have the **same protections they are afforded pre-charge by PACE** guidelines, and have **adequate access to legal representation.** Plaid Cymru shares the concern of Liberty that an **automatic adverse assumption drawn from an unwillingness or inability to answer questions prejudices the assumption of innocence.**

Enhanced Sentencing

We agree in principal that **the gravity of terror - related offences may warrant a more stringent punishment** than similar offences committed for purposes other than terrorism. However, we share the concerns of Liberty that this **should only apply where an intention can be shown** on the part of the defendant that **the offence be committed for the purposes of terrorism.**

We also **agree with the proposal made by Liberty that schedule 15 of the Criminal Justice Act 2003 might be amended to cover offences under the Terrorism Acts of 2000 and 2006.** This existing provision requires indefinite imprisonment for public protection and a mandatory licence period on release of at least 10 years. This would achieve the aims of supervising and monitoring ex-offenders on release, without the need to introduce new legislation imposing notification requirements similar to those in existence for sex offenders.

We feel **it is reasonable to allow courts to make orders for the forfeiture of assets following a conviction for any terrorist offence.** However, we feel that with the current exception of terrorist financial offences, that such an order should only be made where appropriate, and the needs of any dependants of the offender should be taken into account. For example, the discussion paper mentions the forfeiture of a house or flat that has been used for terrorist offences. **In the case where the property is also the primary residence of an offender's partner, children or other dependants, the court must be able to take this into consideration.**

Other Measures

We agree that it may on occasion be necessary to remove and search a vehicle, although we are concerned that any powers to examine and particularly to remove documents must be very carefully constructed. We are pleased to see that the Government rightly notes that appropriate safeguards will be necessary to protect legally privileged information². We agree that greater clarity will result from following the recommendation of Lord Carlile to explicitly include acts motivated by racial or ethnic causes in the definition of Terrorism. We share the Government's concern for the security of locations that may be targeted by terrorists, such as key gas sites. We are concerned that the Police and any other agencies involved must be provided with sufficient resources to carry out this important work.

² <http://security.homeoffice.gov.uk/news-publications/publication-search/counter-terrorism-bill-2007/ct-bill-consultation.pdf?view=Binary>, p.19