

Office for
Students



Prevent-related serious incident guidance note

For providers subject to the duty

Enquiries to prevent@officeforstudents.org.uk

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Introduction

1. 'Prevent duty: Framework for monitoring in higher education in England 2018-19 onwards' (OfS 2018.35) outlines a strengthened, more evidence-based and risk-based approach to monitoring compliance with the Prevent duty¹.
2. OfS 2018.35 states that it is for relevant higher education bodies (RHEBs)² to determine what constitutes a Prevent-related serious incident which should be reported to the Office for Students (OfS). RHEBs are referred to as 'higher education providers' or 'providers' in this guidance note.
3. The purpose of this process is for providers to provide a robust level of assurance that risks have been mitigated where appropriate, when concerns related to Prevent have been identified.
4. We expect a provider's response to a serious incident to reflect its own assessment of the risk that this incident could result or may have resulted in an individual being drawn into terrorism. We also expect the response to:
 - be proportionate and timely
 - incorporate learning, where relevant and appropriate, into related policies and practices
 - provide evidence of how relevant changes to policy and procedure have been communicated to staff and students.
5. Failure to demonstrate an appropriate response to a serious incident will inform our assessment of risk at provider level and could inform a compliance judgement.
6. This guidance note may be revised periodically to ensure it remains responsive and fit for purpose.

Reporting requirements

7. This guidance note should be read in conjunction with OfS 2018.35, the OfS framework for monitoring Prevent. All providers must treat the content of this note as a formal requirement.
8. This note clarifies for providers the principles that should be considered when reporting a Prevent-related serious incident to the OfS and the associated reporting requirements. This includes **what, when and how to report** to the OfS. It also illustrates how we will **share information** and how we **work with partners** in response to a Prevent-related serious incident report.

¹ Available at www.officeforstudents.org.uk/publications/prevent-duty-framework-for-monitoring-in-higher-education-in-england-2018-19-onwards/.

² RHEBs are those providers that are subject to Prevent duty monitoring by the OfS, as set out in the Counter-Terrorism and Security Act 2015 Section 26(1) at www.legislation.gov.uk/ukpga/2015/6/contents/enacted.

What to report

9. OfS 2018.35 requires providers to identify whether an incident is Prevent-related and reportable to the OfS as monitor. We expect a provider to report to the OfS any incidents or developments which:
 - have led to the review and substantive revision of Prevent-related policies
 - have caused reputational harm or harm to staff and students
 - could be reasonably perceived as being related to Prevent.
10. We have provided some examples at Annex A which illustrate how a serious incident may be linked to a provider's responsibilities under Prevent, and why the provider should notify the OfS under this process.
11. If, following review of this guidance, it remains unclear as to whether there is a need to formally report a Prevent-related serious incident to the OfS, further advice should be obtained from the OfS Prevent team or from the Department for Education's (DfE's) regional Further Education and Higher Education Prevent Coordinators.
12. All providers should note that as monitor, the OfS does not require personal data to carry out its function, and therefore this information should not be shared when reporting a serious incident to the OfS.

What not to report

13. We do not expect a provider to report 'business as usual' events linked to responsibilities under Prevent, for example, formal Channel referrals, or informal contact with the police or local Prevent partners.

When to report

14. We would expect providers to report an actual or suspected Prevent-related incident promptly. OfS 2018.35 states that providers should contact the OfS at the time when a potential serious incident is identified, and by no later than five days after the incident occurring or being identified. The same timescale will apply to reporting Prevent-related serious incidents. In the case of 'near misses', this should be as soon as it is deemed that a potential incident would have impacted on Prevent duty implementation had it progressed to its conclusion. The definition of a 'near miss' is provided in Annex A.
15. Failure to report an incident within the required timescale may lead to the initiation of a non-compliance process as outlined in OfS 2018.35, which could include escalation to senior management or a Prevent review meeting.

How to report

16. From 1 January 2022, registered providers should submit all actual or potential Prevent-related serious incidents as a reportable event, online via the OfS portal. Non-registered providers should continue to report serious incidents to the OfS either:

- by email at prevent@officeforstudents.org.uk
- by phone on 0117 9317150.

Actions you should take

17. Where an actual or potential Prevent-related serious incident is identified, providers should take immediate action to mitigate further risks and to limit further damage. Reporting an incident to the OfS is not a substitute for reporting to the police or other authority in a timely manner– for example, in an emergency or if criminality is suspected.

18. Providers may wish to consider the questions in the table below when notifying the OfS of a Prevent-related serious incident.

Table 1: Identifying a Prevent-related serious incident

Identification	<ul style="list-style-type: none">• When did you become aware?• How did you become aware?
Communication	<ul style="list-style-type: none">• Who have you shared this information with at your institution and externally?• Who else needs to be informed?• Who is the point of contact at your institution?• What are your media handling lines, if appropriate and necessary?• Which senior leaders are aware of the incident? Have you shared this information with the board or with the proprietor?
Action	<ul style="list-style-type: none">• What immediate action has been taken?• What action do you intend to take, and when, to prevent further occurrences? What actions are short-term and which are longer-term (e.g. an internal or independent review, updates to related policies, training)?• When do you intend to conclude activity related to the incident?

Third party reporting

19. We may also be notified of concerns from third parties that a provider is not fulfilling its Prevent duties in some way. This could include reporting from individuals, stakeholders, Prevent partners or other organisations involved in the delivery of Prevent. This may also include media reporting where there may be evidence to suggest that a provider is not complying with the statutory guidance.

Next steps

What to expect

20. Each Prevent-related serious incident report received by the OfS is reviewed and managed on a case-by-case basis. A flowchart illustrating this process can be found at Annex B.
21. If a provider notifies the OfS of a Prevent-related serious incident, or we receive a third party report, the steps detailed in paragraphs 20 and 22 to 30 will apply. Providers should note that this is not an exhaustive or sequential list.
22. A named member of the OfS Prevent Team will be assigned as a point of contact to a provider when a Prevent-related serious incident is reported. They will discuss the incident in greater detail with the affected provider to ensure we have an accurate understanding of the circumstances and response at an early stage. Providers may wish to consider the areas highlighted in Table 1 in preparation for this discussion.
23. Where necessary and appropriate, we will work with Prevent partners to better understand the incident. This may involve sharing sensitive information with key partners on a need-to-know basis to inform and corroborate the OfS's understanding of provider risk and to enable the efficient performance of the OfS Prevent monitoring function. This will rely on formalised, well defined and streamlined information-sharing mechanisms and supportive structures, in accordance with legislation and wider OfS considerations.
24. We will clearly communicate the following to the provider in writing:
 - any other formal reporting requirements including timescales for actions
 - any action that we deem necessary for it to take to mitigate the risk of similar incidents.
25. It may not be possible to conclude an assessment fully at the point of notification as, for example, a provider may need to conduct internal or independent reviews, or may need to allow for criminal investigation. Where it is not possible to make a full assessment, a provider will need to communicate when it will be able to do so and commit fully to providing the required information.
26. Once we have gathered the necessary information, we will review the incident and take a judgement regarding the appropriateness of the response. The response to an incident may, for example, demonstrate that effective governance and reporting structures are in place and that policies and procedures are being followed actively, or may identify concerns that a provider is failing to comply with the statutory guidance.
27. It may be necessary to escalate an incident to senior managers at the institution, for example to the chair of the board of governors or to the proprietor, or with Prevent partners, for example the DfE, if a provider fails to address or resolve concerns sufficiently.

Sharing information

28. As outlined in paragraph 23, there may be a need to share information and evidence relating to Prevent-related serious incidents where necessary and appropriate. For this reason, complete confidentiality between the OfS and a provider cannot be guaranteed. We are also required to provide formal updates at sector level to the OfS board, the DfE and the Charity Commission.
29. Further details about how the OfS will share information as part of its Prevent monitoring activity can be found in OfS 2018.35.
30. The OfS will communicate the outcome from the report, including whether:
- a. There has been any change to a provider's risk assessment.
 - b. The provider will be subject to heightened engagement.
 - c. It will be necessary to undertake further action, which may include:
 - i. Escalation to the accountable officer or governing body.
 - ii. A request to provide information under the Higher Education Research Act.
 - iii. Referral to the DfE.

Annual accountability and data return

31. All providers will need to provide a signed declaration and an explanatory accountability note from the governing body confirming that the provider has had due regard to the duty. Prevent-related serious incident reporting to the OfS **must** be captured within this document.

Further information

The Office for Students

32. See the following regulatory advice for further guidance:
- Regulatory advice 16: Reportable events – Guidance for registered providers (OfS 2021.44)³ **Applies from 1 January 2022.**
33. All queries relating to other reportable events should be directed to regulation@officeforstudents.org.uk.
34. The OfS provides further detail on information for students and staff about complaints with links to the Office of the Independent Adjudicator (OIA) for Higher Education and others⁴.

³ See www.officeforstudents.org.uk/publications/regulatory-advice-16-reportable-events/.

⁴ Available at www.officeforstudents.org.uk/contact/notifications-and-complaints/complaints-by-students-or-staff/.

Charity Commission

35. The Charity Commission has developed guidance for charity trustees about serious incidents⁵.

Higher Education Funding Council for Wales

36. The Higher Education Funding Council for Wales has provided guidance for serious incident reporting for Welsh providers⁶.

⁵ Available at <https://www.gov.uk/guidance/how-to-report-a-serious-incident-in-your-charity>.

⁶ Available at https://www.hefcw.ac.uk/working_with_he_providers/institutional_assurance/the_prevent_duty.aspx

Annex A: Examples of serious incident reporting

1. We have seen an increase in the number of reports under the serious incident process which link to an incident or incidents of hate crime, harm, arrests and charges, failure of Prevent-related policies, or near misses. This annex intends to clarify principles for reporting incidents.
2. A provider should:
 - a. Review each incident and all information on a case-by-case basis
 - b. Once it has reviewed all the available information, consider whether the incident is, or may be reasonably perceived to be, related to Prevent functions
 - c. Determine immediate steps to address identified concerns, and consider what longer-term action may be required
 - d. Engage internal and external partners as necessary and appropriate.
3. If there is evidence to suggest that the incident may be related to the provider's statutory duty to prevent people from being drawn into terrorism, the incident **must** be reported to the Office for Students (OfS).
4. Providers should note that we will only initiate the serious incident process once a criminal investigation has concluded. This does not negate the need for providers to notify the OfS of an arrest or charge if they believe there is a Prevent-related risk.
5. If a provider makes a decision to report an incident, or if it does not report an incident and the OfS Prevent team receives separate information suggesting that a incident is linked to the provider's responsibilities under Prevent, the Prevent team will initiate the serious incident process:
 - a. To better understand the provider's response
 - b. To make a judgement on the appropriateness of the response.
6. In Table 2, 'the serious incident process' refers to that described in paragraphs 20 to 30. The examples given are not exhaustive.

Table 2: Examples of serious incident reporting

Hate crime
<ol style="list-style-type: none">1. In each instance a provider will review an incident and make an evidence-based judgement informed by its understanding of risk.2. Some providers will report hate crime incidents that they judge to be linked to their statutory duty in relation to Prevent.3. Generally speaking, isolated incidents of hate crime would not be considered to be Prevent-related by the OfS unless there were evidence to the contrary. Where a pattern of hate crime incidents could indicate broader risks, providers should consider whether this could constitute a Prevent-related serious incident.

4. For example, as a result of engagement with partners, some providers could raise concerns that an incident of hate crime may not be isolated and could be linked to broader risks.
5. Similarly, some providers may only report incidents when they have identified a pattern; for example, if the incidents appear to be aimed at one group specifically.
6. However, it is up to a provider to make a judgement whether the evidence available to it suggests any links to its responsibilities under Prevent, and therefore whether a Prevent-related serious incident should be reported to the OfS.
7. A provider should consider whether the hate crime incidents suggest the possibility that they are symptomatic of a wider environment that risks drawing people into terrorism.

Arrests and charges

1. If a provider is aware of arrests or charges which are, or may be reasonably perceived to be, indicative of Prevent-related risk, it must take a decision whether this should be reported to the OfS as a Prevent-related serious incident.
2. In each case, the provider will review the available information and make an evidence-based judgement as to whether an arrest or charge could suggest increased risk of people at the provider being drawn into terrorism.
3. While some providers will be informed of an arrest or charge, and may be involved in active investigations, other providers may be unaware of such activity.
4. When considering whether it is necessary and appropriate to report an arrest or charge to the OfS as a Prevent-related serious incident, providers may wish to consider, for example, whether the incident will impact directly on others at the setting, or suggests weaknesses in related policies and practices which may increase the risk of people being drawn into terrorism.
5. There is no requirement to report an arrest or charge as a Prevent-related serious incident if an informed decision has been made that it poses no significant change to the risk of people being drawn into terrorism.

Harm

1. 'Prevent duty: Framework for monitoring in higher education in England 2018-19 onwards' (OFS 2018.35) states that we would expect a provider to notify the OfS of any incidents that have caused reputational harm or harm to staff and students which can be linked to its responsibilities under Prevent.
2. When reviewing an incident and the available evidence, the provider must make a judgement whether the incident has caused or has the potential to cause reputational harm to the provider, the sector or the OfS's ability to carry out its function as monitor.
3. A provider will need to consider whether the incident could undermine any assurances it is able to offer to demonstrate compliance with the statutory duty.
4. The provider will also need to consider separately whether the incident has resulted or could result in any significant harm to staff or students.

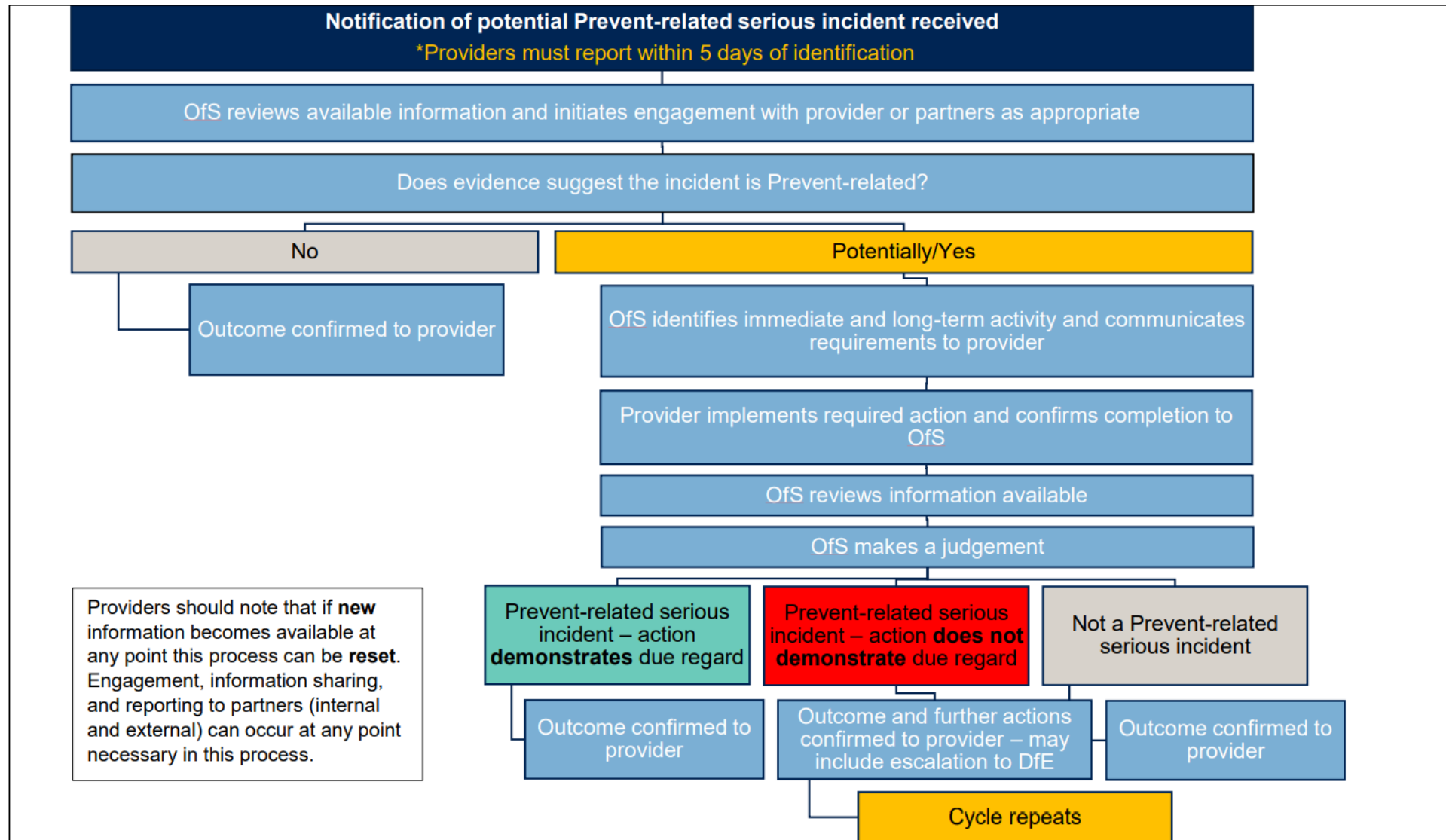
Failure of Prevent-related policies and processes

1. In each instance a provider will review the incident and consider whether there are any immediate steps that need to be taken to address any weaknesses or gaps. The provider will also need to identify what long-term actions will need to be taken.
2. All Prevent-related policy or process failings should be reported to the OfS.

Near misses

1. A 'near miss' may be an event resulting in no or minimal impact that can help identify and mitigate potential problems and systemic risks in Prevent duty implementation.
Example: A review of welfare processes uncovers a failure of internal information sharing that could result in a concern not being raised or escalated appropriately.
2. The identification of a 'near miss' should result in a provider taking action to address any identified Prevent-related concerns before they become a serious incident.
Example: A provider has discovered that not all members of staff have completed relevant training and that some are unfamiliar with the referral route. Subsequently, the provider identifies all members of staff yet to complete relevant training, issues a communication to highlight what to do if there is a concern, and issues a deadline for when the training must be completed.
3. If a provider has decided that a 'near miss' event may conceivably be Prevent-related and could impact on its ability to demonstrate due regard to the duty, the provider **must** report this to the OfS.
Example: The provider identifies a concern with a welfare referral pathway which is also used for Prevent-related concerns.
4. A provider should consider how the learning experience has informed the development of related policies and processes to reduce or eliminate the likelihood of future incidents.
Example: Having identified and addressed a concern with a welfare referral pathway which is also used for Prevent-related concerns, the provider subsequently reviews and updates all related policies, including all Prevent-related policies and practices.

Annex B: OfS response to a serious incident report





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