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8th April 2021

Dear Jonathan,

The Terrorism Acts in 2019

I was very interested to read your annual report on the operation of the Terrorism Acts in 2019, following its recent publication.

I am grateful to you for your engagement with the Crown Office and Procurator Fiscal Service in the preparation of the report, and for your careful consideration of the distinct criminal justice system which pertains in Scotland and of the operation of anti-terrorism legislation in this jurisdiction.

I note that you make two recommendations which are relevant to me, as Lord Advocate and head of the system for the investigation and prosecution of crime in Scotland. I have considered these recommendations carefully and my response is as follows.

Recommendation 11.8 (Terrorism Trials and Sentences):

I agree that it is important to assess the effect and value of changes to the terrorism legislation and I understand that the official statistics do not always provide a comprehensive picture of convictions, as in multi-offence cases only the 'principal offence' is recorded. I note that you recommend that the Home Secretary should invite the Director of Public Prosecutions (in England and Wales), the Director of Public Prosecutions (in Northern Ireland), and the Lord Advocate (in Scotland) to ensure that their prosecution services make a record of whether amended or new offences are charged for a period of 5 years from the relevant amending or creating legislation. I am happy to confirm to you that I have already instructed the Crown Office and Procurator Fiscal Service to make a record of the prosecutions that are brought in Scotland in respect of such offences.



Recommendation 11.13 (Scotland):

I recognise the importance of having in place detailed and specific rules, which are legally enforceable and publicly available, to govern the detention of individuals under the terrorism legislation and to ensure that the rights of individuals are safeguarded. I welcome your analysis of this matter, and your recommendation that I issue a Code of Practice on the detention of individuals detained under section 41 and Schedule 8 of the Terrorism Act 2000. Following sight of your draft recommendation, I confirmed that I would accept this recommendation and I instructed work to commence immediately to draft the Code of Practice. I am pleased to advise that this work is now well-progressed, and it is anticipated that the Code of Practice will be published in mid-2021. I would propose to consult you on its terms.

I would like to take this opportunity to thank you again for the important work you are undertaking in reviewing the operation of the terrorism legislation.

I will be publishing this response on the Crown Office and Procurator Fiscal Service website.

Yours sincerely

Rt. HON W. JAMES WOLFFE, QC
LORD ADVOCATE