



Neutral Citation Number: [2019] EWHC 2583 (Admin)

Case No: PTA/7/2018

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 4 October 2019

Before :

THE HON MR JUSTICE SUPPERSTONE

Between :

**THE SECRETARY OF STATE FOR
THE HOME DEPARTMENT**

Applicant

- and -

QT

Respondent

Cathryn McGahey QC and Nicholas Chapman
(instructed by **Government Legal Department**) for the **Applicant**
Henry Blaxland QC and Alex Gask (instructed by **Birnberg Peirce Ltd**) for the **Respondent**
Stephen Cragg QC and Jennifer Carter-Manning
(instructed by **Special Advocates Support Office**) for the **Respondent**

Hearing dates: 24-27 June 2019

APPROVED JUDGMENT
(REDACTED VERSION)

NOTE FROM THE JUDGE: This is the redacted judgment for publication. Where sections of the judgment have been gisted, the gist appears in italics, underlined and in square brackets below.

The Hon Mr Justice Supperstone :

Introduction

1. By notice filed on 27 July 2018, the Secretary of State for the Home Department (“the Secretary of State”) applied for (i) permission to impose terrorism prevention and investigation measures (“TPIM”) on the Respondent (“QT”), (ii) permission to withhold closed material from QT under section 6 of the Terrorism Prevention and Investigation Measures Act 2011 (“the 2011 Act”), because it would not be in the public interest for that material to be disclosed, and (iii) an order requiring the anonymity of the Respondent. Permission to impose the TPIM and permission to withhold closed material was granted, and the anonymity order was made, on 30 July 2018. The TPIM notice was served on QT on 1 August 2018.
2. The TPIM notice, addressed to the Respondent, states that the Secretary of State imposes specified TPIM on him. The basis for this decision is set out in the notice in terms which track the relevant statutory provisions (see paragraph 8 below). It is the Secretary of State’s case that QT has been involved in terrorism-related activity (“TRA”), as defined in the 2011 Act.
3. The measures contained in the Schedule to the TPIM notice were in respect of the following: overnight residence; travel; exclusion; movement directions; financial services; property; weapons and explosives; electronic communication device; association; work or studies; reporting; appointments; photography; and monitoring.
4. On 28 February 2019 QT was arrested for eight alleged breaches of his TPIM notice. He was remanded in custody. On 11 March 2019 the Secretary of State revoked the TPIM notice, on the basis that his incarceration alone was sufficient to mitigate the risk that QT posed of TRA. On 15 March 2019 QT pleaded guilty to all eight counts, and was sentenced to sixteen months’ imprisonment. He is currently due to be released on licence in October 2019. When he is released from prison, the Secretary of State will consider whether his circumstances at that time justify the revival of the TPIM notice.
5. This is my OPEN judgment on the review of the TPIM, pursuant to section 9 of the 2011 Act. Part of the hearing was open, part was closed.
6. QT, who has made a witness statement, exercised his right not to attend the hearing, and accordingly did not give evidence. He was represented by Mr Henry Blaxland QC and Mr Alex Gask. The Secretary of State was represented by Ms Cathryn McGahey QC and Mr Nicholas Chapman. Mr Stephen Cragg QC and Ms Jennifer Carter-Manning acted as special advocates (SAs). I heard oral evidence in OPEN and CLOSED from MM, a witness from the Security Service, and from Ms Rebecca

Harvey, Head of TPIM and the Passport Seizure Team in the Office for Security and Counter Terrorism at the Home Office.

The statutory framework

The imposition of a TPIM

7. TPIMs were introduced by the 2011 Act. Section 2(1) of the 2011 Act gives the Secretary of State power to issue a notice imposing a TPIM on a person if five conditions are met. Section 2 provides, insofar as is material, as follows:

“2. Imposition of terrorism prevention and investigation measures

(1) The Secretary of State may by notice (a ‘TPIM notice’) impose specified terrorism prevention and investigation measures on an individual if conditions A to E in section 3 are met.

(2) In this Act ‘*terrorism prevention and investigation measures*’ means requirements, restrictions and other provision which may be made in relation to an individual by virtue of Schedule 1 (terrorism prevention and investigation measures). ...”

8. Section 3 of the 2011 Act sets out five conditions that must be met before TPIM measures may be imposed:

“3. Conditions A to E

(1) Condition A is that the Secretary of State is satisfied, on the balance of probabilities, that the individual is, or has been, involved in terrorism-related activity (the ‘relevant activity’).

(2) Condition B is that some or all of the relevant activity is new terrorism-related activity.

(3) Condition C is that the Secretary of State reasonably considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, for terrorism prevention and investigation measures to be imposed on the individual.

(4) Condition D is that the Secretary of State reasonably considers that it is necessary, for purposes connected with preventing or restricting the individual’s involvement in terrorism-related activity, for the specified terrorism prevention and investigation measures to be imposed on the individual.

(5) Condition E is that-

(a) the court gives the Secretary of State permission under section 6, or

(b) the Secretary of State reasonably considers that the urgency of the case requires terrorism prevention and investigation measures to be imposed without obtaining such permission.

(6) In this section ‘*new terrorism-related activity*’ means-

(i) if no TPIM notice relating to the individual has ever been in force, terrorism-related activity occurring at any time (whether before or after the coming into force of this Act); ...”

9. “*Terrorism-related activity*” as used in section 3 is defined in section 4 as follows:

“4. Involvement in terrorism-related activity

(1) For the purposes of this Act, involvement in terrorism-related activity is any one or more of the following-

(a) the commission, preparation or instigation of acts of terrorism;

(b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so;

(c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so;

(d) conduct which gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraph (a);

and for the purposes of this Act it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.

(2) For the purposes of this Act, it is immaterial whether an individual’s involvement in terrorism-related activity occurs before or after the coming into force of this Act.”

10. Section 30(1) of the 2011 Act defines “*terrorism*” by reference to sections 1(1)-(4) of the Terrorism Act 2000 (“the 2000 Act”) which provides as follows:

“1. Terrorism: interpretation

(1) In this Act ‘terrorism’ means the use or threat of action where-

(a) the action falls within subsection (2),

(b) the use or threat is designed to influence the government or an international governmental organisation or to intimidate the public or a section of the public, and

(c) the use or threat is made for the purpose of advancing a political, religious, racial or ideological cause.

(2) Action falls within this subsection if it-

(a) involves serious violence against a person,

(b) involves serious damage to property,

(c) endangers a person's life, other than that of the person committing the action,

(d) creates a serious risk to the health or safety of the public or a section of the public, or

(e) is designed seriously to interfere with or seriously to disrupt an electronic system.

(3) The use or threat of action falling within subsection (2) which involves the use of firearms or explosives is terrorism whether or not subsection (1)(b) is satisfied.

(4) In this section-

(a) 'action' includes action outside the United Kingdom,

(b) a reference to any person or to property is a reference to any person, or to property, wherever situated,

(c) a reference to the public includes a reference to the public of a country other than the United Kingdom, and

(d) 'the government' means the government of the United Kingdom, of a part of the United Kingdom or of a country other than the United Kingdom."

The availability of prosecution

11. Section 10(1) of the 2011 Act requires the Secretary of State to consult with the chief officer of the appropriate police force as to "whether there is evidence available that could realistically be used for the purposes of prosecuting the individual for an offence relating to terrorism" (s.10(2)). The chief officer must therefore consult the relevant prosecuting authority before responding to the Secretary of State (s.10(6)). Under s.10(5) the chief officer must also "secure that the investigation of the individual's conduct, with a view to a prosecution of the individual for an offence relating to terrorism, is kept under review throughout the period the TPIM notice is in force", and report on that review to the Secretary of State.

Ongoing review

12. Section 11 of the 2011 Act provides as follows:

"11. Review of ongoing necessity

During the period that a TPIM notice is in force, the Secretary of State must keep under review whether conditions C and D are met."

Revocation and revival

13. Section 13 of the 2011 Act provides, where relevant:

"13. Revocation and revival of TPIM notices

(1) The Secretary of State may by notice (a ‘revocation notice’) revoke a TPIM notice at any time.

(2) The revocation of a TPIM notice takes effect when the revocation notice is served or, if different, at the time specified for this purpose in the revocation notice.

...

(6) The Secretary of State may, by notice (a ‘revival notice’) at any time revive a TPIM notice which-

...

(b) has been revoked,

if conditions A, C and D are met.

...

(9) A TPIM notice which is revived-

(a) comes back into force when the revival notice is served or, if later, at the time specified for this purpose in the revival notice; ...”

The role of the court in a review under section 9

14. Section 9 provides, insofar as is material:

“9. Review hearing

(1) On a review hearing held in compliance with directions under section 8(4), the function of the court is to review the decisions of the Secretary of State that the relevant conditions were met and continue to be met.

(2) In doing so, the court must apply the principles applicable on an application for judicial review.

...

(5) The court has the following powers (and only those powers) on a review hearing-

(a) power to quash the TPIM notice;

(b) power to quash measures specified in the TPIM notice;

(c) power to give directions to the Secretary of State for, or in relation to-

(i) the revocation of the TPIM notice, or

(ii) the variation of measures specified in the TPIM notice.

(6) If the court does not exercise any of its powers under subsection (5), the court must decide that the TPIM notice is to continue in force.

(7) If the court exercises a power under subsection (5)(b) or (c)(ii), the court must decide that the TPIM notice is to continue in force subject to that exercise of that power.

(8) In this section ‘*relevant conditions*’ means-

(a) condition A;

(b) condition B;

(c) condition C; and

(d) condition D.”

The background

15. QT is a ..., born in London. He was a ... In his (unsigned) witness statement dated 6 December 2018 he says that he ... in 2010 because of his faith ... promotes and advertises alcohol and gambling which are contradictory to [his] faith”. He says that he continues to ... as a hobby.
16. He is estranged from ...
17. ... on QT was arrested again on ... due to his links to the attempt of two other persons, ... and ..., to smuggle themselves out of the UK. ... [He was subsequently tried for terrorism and related offences.]:
 - i) ...
 - ii) ...
 - iii) ...
 - iv) ...
 - v) ...
18. On ... and QT were acquitted of all allegations against them other than in respect of Count 4 against QT, where the jury was unable to reach a verdict.
19. In ... QT was remanded in custody and charged with two counts of fraud and one count of battery. He was acquitted of the battery charge, but convicted of both counts of fraud ... for which he was receiving housing benefit. On ... he was sentenced to a 10-month custodial sentence. For part of this sentence it is noted that he and ...were in the same prison.
20. On ... QT was charged with one count of encouraging the commission or preparation of acts of terrorism, contrary to s.1 of the 2006 Act in relation to a video he uploaded

to YouTube in ... entitled ... in which he was accused of On ... he was acquitted of this charge and released from HMP

The Secretary of State's case

21. It is the Secretary of State's case that QT has been involved in TRA, and that restrictions on his conduct, in the form of a TPIM notice, were (until revocation of the TPIM notice on 11 March 2019) necessary to prevent such activity.
22. It is the Secretary of State's case that QT is associated with ALM, an Islamist extremist organisation which was founded in the UK by Omar Bakri Mohammed ("OBM") in 1996.
23. QT denies that he is a member of ALM, although he admits having contact with individuals alleged by the Secretary of State to be ALM members.
24. However, as Ms Cathryn McGahey QC, for the Secretary of State, submits, the essential questions for the court are not whether QT is or has been a member of ALM, or what the precise status of ALM is at the moment, but whether QT has been involved in TRA and whether the TPIM imposed by the Secretary of State was necessary.
25. The Secretary of State's OPEN case against QT is set out in the following statements and their exhibits:
 - i) The Security Service statement on the threat posed by ALM dated 26 April 2019 ("the Security Service statement");
 - ii) The first amended OPEN national security statement on behalf of the Secretary of State dated 26 April 2019 ("NSS1");
 - iii) The second OPEN national security statement on behalf of the Secretary of State, dated 26 April 2019 ("NSS2");
 - iv) Witness statements of Rebecca Harvey dated 3 August 2018 and 16 May 2019.
26. The Secretary of State alleges that QT:
 - i) has attempted to travel to IS territory in the past, retains the capacity to do so and may retain the wish to do so;
 - ii) is a long-standing member of ALM, and through his membership and support of ALM has taken action for the benefit of ALM; and
 - iii) encourages the commission or preparation of acts of terrorism.

Evidence on behalf of the Secretary of State

27. MM, a member of the Security Service, gave evidence in the OPEN and CLOSED parts of the hearing. In OPEN, he said that the Security Service statement on the threat posed by ALM was made by him. He also contributed to NSS1 and NSS2, in respect of which he gave evidence. Where the statements contain assertions of fact,

he believes them to be true. Where they contain assessments, he said that they are assessments with which he agrees.

(A) The Security Service statement

28. The aim of ALM was, and remains, the establishment of an Islamic *caliphate* ruled by *sharia*. OBM publicly disbanded ALM in 2004, but it re-emerged under the name Al Ghurabaa/The Saved Sect.
29. On 12 August 2005 OBM was excluded from the UK. Thereafter, Anjem Choudary became the leader of ALM in the UK and OBM became ALM's worldwide and spiritual leader.
30. In July 2006 Al Ghurabaa/The Saved Sect was designated a proscribed organisation for the purposes of section 3 of the 2000 Act. In January 2010 the government laid Orders stating that ALM, Islam4UK, Call to Submission, Islamic Path and London School of Sharia should be treated as alternative names for the organisation and were therefore proscribed. Subsequently Muslims Against Crusades, Need for Khilafah, The Sharia Project and Islamic Dawah Association were also proscribed as further alternative names.
31. Hereafter "ALM" will be used to describe the group.
32. On 29 June 2014 Islamic State ("IS") declared that a *caliphate* had been established in the areas under its control in Syria and Iraq. IS uses violence and extortion to dominate territories under its control and encourages attacks overseas (para 28). ALM has pledged allegiance to IS, its leader Al-Baghdadi and the *caliphate* (para 28).
33. In August 2015, Anjem Choudary and Mizanur Rahman were charged with support for the Islamic State of Iraq and the Levant ("ISIL"). In December 2016 both were found guilty and sentenced to five and a half years' imprisonment. They were released on licence conditions in October 2018.
34. In 2016, TPIMs were imposed on ALM senior leadership figures, IM, JM, LG and LF. In 2018 TPIMs were imposed on ALM members JD, HB and HC (in addition to QT).
35. Under the heading "C. Threat posed by ALM and impact of disruptions", paragraphs 20 and 21 of the Security Service statement read:

"20. We assess that, notwithstanding the disruptive actions taken against the group, ALM continue to exist as a functioning organisation and a threat to national security. ALM, either as a group or through the actions of individual members, primarily engage in the radicalisation of others and creating a permissive environment for followers of its ideology to carry out Islamist extremist activities. As such we assess ALM members pose a threat to the national security of the UK and are known to participate in activities which include:

- support of the planning, and carrying out, of terrorist attacks in the UK, as well as carrying out such attacks themselves;
- encouraging or undertaking travel to join the Islamic State overseas to participate in Islamist extremist activities;
- raising funds which are provided to individuals or groups carrying out Islamist extremist activity;
- exhibiting the glorification of terrorism; and
- rejection of the Covenant of Security.

21. Membership of ALM is identifiable through engaging in one or more of the following activities:

- associating with known ALM leaders;
- attending ALM meetings;
- using social media, communication applications and online fora administered by ALM members in which group members and activity are discussed and organised;
- producing, sharing, uploading, participating in, or being featured in, videos, photos, or media articles posted which include known ALM members, or rhetoric in support of the group; and
- attendance at *da'wah* stalls alongside known ALM members, and which are used for radicalisation purposes.”

36. Paragraph 25 of the Security Service statement states that it is assessed that the purpose of *da'wah*, as hosted by ALM members (ALM *da'wah*) is not to immediately and openly radicalise individuals who do not have an Islamist extremist mind-set, but that it is used as a tool in order to speak with individuals – Muslim or not – who may be susceptible to proselytization from the group, in order to begin the process of radicalisation. Paragraph 27 continues:

“Radicalisation is not a discrete, one-time activity, but a path along which an individual progresses. In this – the pathway to Islamist extremism – engagement with ALM *da'wah* serves as an early indicator for the group to gauge an individual’s interest, susceptibility, and to begin a conversation before further interaction in different environments in which they expose the individual to more and more extreme views and indoctrination.”

37. Although IS has now lost control of significant amounts of territory in Syria and Iraq the Security Service observes that the group are operating more as a covert terrorist

network in this region, and continue to encourage and claim responsibility for attacks in Europe and IS maintains a presence in many other areas of the world, including Yemen, Egypt and Libya (para 28).

38. The Security Service assesses that the radicalising activities of ALM members have contributed to some individuals aspiring to carry out terrorist attacks in the UK. Examples of individuals who have been influenced, encouraged or given tacit approval by ALM members to engage in attack planning include ..., who pleaded guilty in August 2018 to preparing to commit an IS-inspired vehicular terrorist attack and was subsequently sentenced to life imprisonment with a minimum term of fifteen years (para 32). MM said:

“The charisma that we see, the way he [QT] delivers his speeches, and ..., and ..., assists with his ability to make an impression on those vulnerable individuals... QT admits to having met with ..., who pleaded guilty to planning a terrorist attack. It is individuals such as that who we assess are likely to be aware of QT as result of his ... and demonstrates the impact and risk.” (Agreed transcript of evidence)

39. MM said that the core of the security service concern and the national security risk is that QT uses ... social media, in addition to sermons and speeches delivered in person, to encourage impressionable individuals to adopt an Islamist extremist mindset, and through that he has encouraged the commission of terrorist attacks. The need for the TPIM is to mitigate the risk that his rhetoric encourages others to engage in TRA. However, this is not the sole reason for the need for the TPIM; it is one of the reasons.

(B) The First OPEN National Security Statement (NSS1)

40. The core allegations against QT in relation to Condition A (Involvement in terrorism-related activity) are set out in section B of NSS1 in the following terms:

A. Aspiration to travel overseas to join IS and engage in terrorism-related activity

We assess that [QT] attempted to travel to ISIL- controlled territory in order to join the Islamic State of Iraq and Levant (ISIL) in late ... We assess that [QT] may maintain an intention to travel overseas to join the Islamic State (IS).

B. Action taken for the benefit of a proscribed organisation, namely ALM, and support of others taking action for the benefit of that organisation

[QT] is a long-standing member of the proscribed group known as Al-Muhajiroun (ALM), which has pledged its allegiance to IS, Abu Bakr Al-Baghdadi and its self-declared caliphate.

C. Giving encouragement to the commission or preparation of acts of terrorism

[QT] is a ... and we assess that he influences others to engage in, maintain and deepen their involvement in terrorism-related activity using public forums, both in person and online. [QT] ... posts videos on social media, which largely espouse Islamist extremist rhetoric and are supportive of IS and its actions. We assess that [QT]'s rhetoric has the effect of giving encouragement to acts of terrorism.”

Core Allegation A

41.

[Two associates of QT attempted to leave the country. The Security Service assesses that they had been intending to engage in terrorist activity, and that QT had earlier intended to go with them but may have been prevented by health issues from doing so. The police found false identity documents in QT's name.]

42. In his defence statement at his trial QT admitted that he did try to obtain a false identity document enabling him to fly to Turkey. He stated that “he was impelled to do so as a result of hearing that otherwise serious physical harm, ... would occur” (see para 79 below). ... The Security Service assessed that, while QT may have had some concerns for the ..., this was not his primary reason for seeking to obtain false documents and travel to Turkey (para 12).

43. It is assessed that QT is supportive of IS and may maintain an intent to travel overseas to join IS and engage in terrorism-related activity notwithstanding the Secretary of State's refusal to grant him a passport in ... The Security Service assesses that QT has used ... as a platform to broadcast his support for IS, encourage his audience to travel overseas to join IS and express his desire to travel overseas to join IS (para 14).

44. The Security Service's assessment that QT may maintain an intent to travel overseas to join IS and engage in terrorism-related activity is supported by the following evidence:

i) On ... QT uploaded a video to YouTube entitled ... On the video QT states that if he had his passport he would travel to Aleppo, Syria. QT also makes reference to the ... entitled It is noted that QT ... that ... however, given his rhetoric in support of IS and his encouragement for individuals to engage in terrorism-related activity, the Security Service continue to assess that his intention to travel to Syria was to join IS and engage in terrorism-related activities on their behalf, and that he was using ostensibly humanitarian reasons to travel to disguise his real intentions.

ii) On ..., QT uploaded a video to YouTube entitled ... in which he states that QT further states that Muslims facing oppression should “... . As QT has previously stated that he wants to travel to Syria, and the Security Service's assessment was that he planned to travel to ISIL-controlled territory in ..., the Security Service continues to assess that QT is referring to ISIL-controlled territory rather than another Muslim country.

- iii) On ..., QT uploaded a video to YouTube entitled ... in which he states that for Muslims living amongst *kafir* The Security Service assess ... is a reference to ISIL-controlled territory.
- iv) The Security Service notes that as at the date of NSS1 IS had lost control of significant amounts of territory in Syria and Iraq and the group are operating more as a covert terrorist network in the region (see para 37 above). As part of this network the Security Service assesses that IS maintains a significant covert presence in Syria and Iraq, as well as a presence in many other areas of the world, including Yemen, Egypt and Libya, through its affiliate branches and associated networks. It is further assessed that, whilst it is currently difficult for individuals to join IS in Syria or Iraq due to the current military situation in this region, several UK-based individuals retain the aspiration to travel overseas to join IS and that it remains possible for individuals to join IS in Syria and Iraq. It is assessed that, despite the loss of territory in IS' self-declared caliphate, QT may maintain an intent to travel overseas to join IS.

Core Allegation B

45. The Security Service assess that QT is a long-standing member of ALM and that, as a result of his membership and activities, he has a wide range of associates across the group, including senior leadership figures.

46. It is assessed that prior to September 2014 QT was an ALM member and attended events organised by them. These included his attendance at a protest by Muslims Against Crusades (“MAC”) outside the [REDACTED] in London on [REDACTED] on [REDACTED] he spoke at a demonstration outside the [REDACTED] in London entitled [REDACTED] and on 4 August 2014 QT described Choudary as [REDACTED]. Following his arrest on [REDACTED] QT was interviewed over a number of days. He answered questions regarding his association with, and his support for, ALM and IS. He confirmed that he had attended various ALM demonstrations and had attended a [REDACTED] in Wales in 2014, which it was assessed was an ALM event.

47. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[At his trial, QT's defence was that he had an innocent explanation for his activities. He maintained that he did not support IS or its use of violence. He accepted that he had sought to obtain false documents but said that he had done so for reasons unrelated to terrorist activity.]

- 48. Notwithstanding QT's defence and the jury's verdict the Security Service continues to rely on the assessments outlined within NSS1.
- 49. It is assessed that QT's involvement with ALM diminished between [REDACTED] and [REDACTED] due to police action against him and senior ALM figures (see para 18).
- 50. Following his acquittal it is assessed that QT re-engaged with ALM. On [REDACTED] he attended a *da'wah* event in Stratford, London, along with a senior ALM leadership figure.
- 51. [REDACTED] his wife moved to [REDACTED] It is assessed that it is likely that this move resulted in QT travelling from London to [REDACTED] regularly and reduced his attendance at ALM events in London, but that he was still a member of ALM during this period and that his travel to [REDACTED] was motivated by his family circumstances. It is further assessed that the cumulative civil and criminal disruptions of ALM members in 2016 had an effect on the group.
- 52. It is assessed that QT's regular travel to [REDACTED] reduced his involvement with ALM in London, but that he is part of a group of Islamist extremist associates based in [REDACTED] who may be supporters of IS. In [REDACTED] he attended [REDACTED]. Until [REDACTED] the Imam at this mosque was [REDACTED] who was on that date arrested for delivering sermons the purpose of which was to encourage support for IS, and directly or indirectly encouraging or otherwise inducing members of the public to prepare or instigate acts of terrorism. On [REDACTED] On [REDACTED] he was sentenced to 6 years and 6 months' imprisonment. It is assessed that QT's attendance at this mosque indicates that he has associates in [REDACTED] who may be supportive of IS and have an Islamist extremist mind-set. It is further assessed that QT attended this mosque as the congregation may have a similar Islamist extremist mind-set to himself.

53. On 3 June 2017 Khuram Butt and two others conducted a terrorist attack on London Bridge. Butt had previously been a member of ALM. It is assessed that the most recent Islamist extremist terrorist attacks in the UK had the potential to increase QT's involvement with ALM.
54. The Security Service assessed that QT might continue to associate with ALM members following his release from prison on [REDACTED] (para 28).

Core Allegation C

55. QT is a [REDACTED] speaker and the Security Service assess that he uses public forums, both in person and online, to encourage "impressionable individuals" to adopt his Islamist extremist mind-set. It is assessed that he appeals to people's emotions by focussing on showing anger towards the British government and the treatment of Muslims in the UK in order to achieve a radicalising impact. It is further assessed that he uses online platforms to disseminate his Islamist extremist views to a wider audience, with the intention of radicalising more people.
56. The Security Service assess that QT "through his activities, has encouraged the commission and preparation of terrorist acts – whether in the UK, Syria or elsewhere. The Islamist extremist messages delivered by him and others like him [REDACTED] risk radicalising vulnerable individuals and encouraging them to commit or prepare acts of terrorism".
57. As for online activity, he is active on social media and [REDACTED]. He [REDACTED] posts videos on YouTube, typically uploading [REDACTED]
58. The Security Service give [REDACTED] examples of QT's videos espousing Islamist extremist rhetoric and being supportive of IS and its actions. They include the following:
- i) In [REDACTED], QT uploaded a video on YouTube entitled [REDACTED]. The poem included lyrics such as, [REDACTED]. It is assessed that this is a reference to a suicide vest and the conducting of martyrdom attacks. It is further assessed that QT is advocating suicide attacks to his viewers which could influence them to engage in violent terrorism-related activity.
- ii) In [REDACTED] QT uploaded a video to YouTube entitled [REDACTED] (see para 47(iv) above). It is assessed that QT is trying to justify this act of terrorism, and encourage support for IS.
- [REDACTED]

[REDACTED]

iv) In [REDACTED] QT uploaded [REDACTED] to YouTube, entitled [REDACTED] and [REDACTED]. During these videos QT attempts to justify the [REDACTED] stating that if the attack was inspired by IS it was because of western foreign policy, [REDACTED]. It is assessed that this attempted justification is indicative of QT's support for, and his encouragement of others to engage in, terrorism-related activities.

v) On [REDACTED] QT uploaded a video to Facebook and Instagram entitled [REDACTED]. In this video QT discussed the phrase [REDACTED]. He stated that he thought that keeping your enemies close was a bad idea and ended the video by stating [REDACTED]. The Security Service note that [REDACTED] and [REDACTED] that [REDACTED]. It is assessed that some members of QT's audience would have understood QT's comment as justifying engaging in violence.

59. Paragraph 34 of NSS1 reads:

“We assess that a significant proportion of the people who watch [QT's] videos on social media are likely to be young, impressionable and vulnerable individuals who are looking for guidance on how they should act. We assess that [QT] deliberately avoids explicit support for IS in his videos but the message and rhetoric that he espouses promotes an Islamist extremist ideology which encourages support for IS. In several videos, [QT] states that he does not 'condemn or condone any acts of terrorism'. We assess that [QT], and some of his audience, would understand statements like these to be misdirections necessary to avoid prosecution rather than a true reflection of [QT's] ideology to be taken literally. We further assess that it is very likely that some of the viewers would be influenced by his words to lend active support and use violence in support of terrorist organisations such as IS. We assess that [QT] is likely aware that he has a radicalising influence over a significant portion of his viewers.”

60. As for offline activity, QT has uploaded a number of videos [REDACTED] in which he delivers sermons to a live audience, which the Security Service assesses are Islamist extremist in nature. Police information indicates that these sermons are given at the [REDACTED] in [REDACTED]. Between the arrest of [REDACTED] and QT's remand in custody in [REDACTED] QT took on a more active role at the mosque by delivering sermons more frequently. It is assessed that he has uploaded some of these sermons to YouTube to disseminate his Islamist extremist views to a wider audience, with the intention of radicalising more people.

61. In [REDACTED] QT uploaded a video to YouTube entitled [REDACTED] in which he delivers a sermon to a group of people. In this sermon QT states that [REDACTED] He also expresses his support of martyrdom, referring to it as [REDACTED] and stating that [REDACTED] QT asks [REDACTED] As this sermon was given [REDACTED] after the London Bridge attack, it is assessed that QT is supportive of that attack and that he is seeking to promote actions like the London Bridge attack amongst the congregation.
62. It is further assessed that QT uses *da'wah* stalls to encourage impressionable individuals to adopt his Islamist extremist mind-set. It is noted that *da'wah* stalls can be a legitimate way of spreading the message of Islam and encouraging individuals to convert to Islam. However, the Security Service assessed that QT's intention is to use *da'wah* stalls to recruit individuals to ALM and convert them to ALM's extreme view of Islam.

Condition C: Necessity of the TPIM

63. The Security Service assesses that QT is an Islamist extremist who has been involved in terrorism-related activity and that a TPIM is necessary to protect the public from a risk of terrorism. In section C of NSS1 the Security Service explain why they consider the TPIM is necessary. It is assessed that a TPIM with relocation provides the best chance of a long-term disruption of QT's Islamist extremist activities, and that the imposition of a TPIM notice will reduce his ability to engage with ALM and attend ALM events in London and around the UK; mitigate his ability to act upon his aspiration to travel overseas to join IS; mitigate his ability to encourage individuals to engage in the preparation or commission of acts of terrorism, both online and in person; and reduce his ability to engage in terrorism-related activity.

Condition D: Recommendation of measures for the TPIM notice

64. Section D of NSS1 sets out the Security Service's recommendations as to the measures to be imposed on QT and the justification for them.

(C) The Second OPEN National Security Statement (NSS2)

65. This statement is served in response to the evidence contained in the Respondent's witness statement, and sets out additional material to update and support NSS1. The Secretary of State continues to rely on assessments made in that statement, and continues to rely on the necessity case for the TPIM outlined at section C of NSS1.

(D) Witness Statements of Ms Rebecca Harvey

66. Ms Rebecca Harvey gave evidence. She confirmed the truth of her three witness statements. By the time she gave her oral evidence QT had been imprisoned and the TPIM had been revoked (see para 4 above). In her first witness statement dated 3 August 2018 relating to the Secretary of State's application under section 6 of the 2011 Act for permission to impose terrorism prevention and investigation measures on QT, she explained (1) the reasons for imposing such measures, (2) the measures to

be imposed, (3) consultation on prospects of prosecution, and (4) reasons for seeking anonymity.

67. In relation to consultation on prospects of prosecution Ms Harvey stated that in accordance with section 10 of the 2011 Act, before applying for permission, the Secretary of State had consulted the Chief Officer of the appropriate police force about whether there was evidence available that could realistically be used for the purpose of prosecuting QT for an offence relating to terrorism. The Metropolitan Police Service wrote to the Home Office on 17 July 2018, as requested by s.10(6) of the 2011 Act, confirming that the Metropolitan Police Service's Counter Terrorism Command, SO15, had reviewed the material held by police and had concluded that there was no admissible evidence that could realistically be used to prosecute QT for an offence relating to terrorism. The police had confirmed the prospect of prosecuting QT for an offence relating to terrorism would be kept under review by the police in accordance with s.10(5) of the 2011 Act.
68. Ms Harvey's second witness statement dated 16 May 2019 was made for the purposes of proceedings under s.9 arising from the making of the TPIM notice. The statement covers the procedures in place for consultation and review of the TPIM notice with the police and Security Service, and the way with which requests to vary or clarify aspects of the TPIM notice had been dealt.
69. The TPIM Liaison Group (TLG) had advised the Home Office that it remained the case that there was no prospect of a prosecution of QT for a terrorism-related offence. All the parties involved in the TPIM Review Groups (TRGs) on 14 September and 10 December 2018 concluded that the TPIM measures remained necessary and proportionate.
70. The property in which QT resided in the new location was a three bedroom house, which was selected to accommodate QT's ex-wife and children, should they have chosen to relocate with or visit him. By the date of this statement, QT's children had visited him at the property on two occasions.
71. Ms Harvey acknowledged the imposition of the TPIM would have had some impact on QT's family, but she was satisfied that the measures were necessary and proportionate to the risk to national security posed by QT. The Home Office had not received any request to vary QT's measures in relation to family or children.
72. In conclusion Ms Harvey stated that the Home Office had also kept QT's position under review. Having done so, the Home Office maintained that the TPIM was a necessary and proportionate response to the national security risk posed by QT. (In her third witness statement, Ms Harvey provided clarification of the notifications, pursuant to the association measure, that QT had given to the Home Office of his intention to meet with individuals inside or outside his residence).

QT's Evidence

73. QT did not give evidence. In his witness statement (written before his latest incarceration, see para 4 above), QT sets out the impact of the TPIM measures on him. He says that the biggest impact the TPIM is having on him is missing out on vital years of his children's lives, and losing his house. His [REDACTED] oldest daughters

live with their mothers in London and his youngest [REDACTED] children live with his present wife in [REDACTED]. He says that as a result of living in his new location he is currently at risk of losing his [REDACTED] flat [REDACTED]. The Home Office have refused to cover the cost of his rent in London, and he says that it is imperative that he starts earning an income as soon as possible in order to cover his rent and prevent him from becoming homeless at the end of the TPIM.

74. The TPIM notice specifies that he must reside at a house in X, a city in another part of the country. The residence requirement means because of the distance between him and his family it is very difficult for his family to visit him. As a result he has been without his family in his new location except for his mother, who has visited him twice. He has never been to X before, which is very different from London, and he feels extremely isolated being on his own. He cannot even go to the local mosque [REDACTED].
75. The notice requires him to report in person to the local police station three days a week and to report to his police contact by telephone four times a week between certain hours. He finds this to be “a huge interference with [his] life”.
76. The notice outlines the conditions of his association measure. They make life in X difficult. He says that he has “had to entirely begin a new life and cannot even use [his] own name”.
77. The notice requires that he attend appointments with persons specified by the Home Office. Accordingly he sees his mentor for two hours on both a Monday and Tuesday, and his probation officer for two hours on a Friday. He says that he has a good working relationship with his mentor and a really good relationship with his probation officer.
78. In his witness statement QT also deals with the national security case that has been served on him. He says (at para 30) that:

“Whilst I have had contact with individuals now said by SSHD to be members of ALM I am not and have never been a member (let alone a senior member) of ALM or any proscribed organisation. I think for myself, I am my own man.”
79. At paragraphs 37-43 of his statement he summarises his defence at his trial following his arrest on [REDACTED]. He says that he did not believe the authorities could help him [REDACTED] back to the UK. His intention was therefore to go to Turkey to get his daughter – however due to the fact that he had bail conditions restricting him from leaving the country or applying for any travel documentation, passport or tickets, he sought to get a false passport. On [REDACTED] he was arrested before he could travel to [REDACTED].
80. [REDACTED] speeches that he had made [REDACTED]. He says that these speeches [REDACTED]. He gave evidence about them and “explained that it was an expression of [his] view on world affairs and on issues affecting Muslims”.

81. He says that the way the prosecution has been summarised in NSS1 (see para 47 above) “does not even begin to properly recount the evidence that was before the court in this case, and it certainly does not explain the proper context of [his] defence, the emotional impact on [him] and [his] family (or the evidence which was produced to support it), or why [he] was acquitted of the charges against [him]”.

82.

[REDACTED]

[REDACTED]

[REDACTED]

83. He states that in early 2017 when he was considering what work he wanted to do he met with Khuram Butt at his gym in Ilford. In May 2017 he contacted him again when he was ready to start to work, and Butt gave him details of the manager of the gym and said it was best if he raised it through him, which he did. QT states that a few days later he saw that Butt was involved in the London Bridge attack. He states: “I would like to make it absolutely clear that I knew nothing about this attack, and only learned of it on the news”.

84.

[REDACTED]. After his release from prison in [REDACTED] and until he was served with a TPIM two months later on [REDACTED] *[two months later]* he only put one video on his [REDACTED]. He says, [REDACTED]. I wanted to give my view on events which as I saw as affecting the world”.

85.

In relation to the video that he put on Facebook in which he uses the phrase [REDACTED] he says [REDACTED]. He says that neither this video nor the video to do with an interview that he gave on [REDACTED] in his view encouraged terrorism in any way.

86. In conclusion QT states (at para 63):

“The authorities have been aware of me for many years. I do not believe that I have broken the law, and my motivation has always been to speak out about things which I disagree with, and engage debate. This is the reason I post [REDACTED] online, and took part in a [REDACTED]. I have been doing these activities for years. I struggle to understand why, now the SSHD thinks it necessary to put a TPIM on me.”

87. In his second witness statement dated 14 June 2019 Mr Jack Dahisen, QT’s solicitor, addresses the phrase [REDACTED] that QT used in the video uploaded onto Facebook and Instagram on [REDACTED]. Mr Dahisen states (at para 5):

“Far from being a violent call to arms as is proposed by the SSHD, the findings of my research evidence how widely this phrase is used in common parlance to describe a vast range of situations, expressions and emotions as is illustrated below [in paragraphs 6-8 of his witness statement].”

The Parties’ Submissions and Discussion

The general approach

88. There is no issue between the parties as to the approach to be adopted by the Court on this review:

- i) In the ordinary case the court must assess the situation as it stands at the date of the hearing as well as when the Secretary of State made her decisions. However, the Secretary of State revoked the TPIM notice on 11 March 2019. In these circumstances the function of the court is to review the decision of the Secretary of State that the relevant conditions were met and continued to be met up to the time at which the revocation notice took effect on 11 March 2019.
- ii) The court is required to perform a review of the Secretary of State’s decision to impose a TPIM notice. The intensity of the review differs according to the relevant condition under review (*Secretary of State for the Home Department v LG IM and JM* [2017] EWHC 1529 (Admin) at paras 34-52). When considering condition A the court is required to consider whether the Secretary of State was and continued to be satisfied that QT was or had been involved in TRA and whether on the balance of probabilities the court is also satisfied of that fact. The Secretary of State accepts, for the purposes of these proceedings, that the same considerations apply to a review of Condition B.
- iii) Different principles apply to Conditions C and D. The relevant question is whether, on conventional public law grounds, the Secretary of State was entitled to consider that the measures were necessary and proportionate in pursuit of the lawful statutory objective, and the Secretary of State is entitled to due deference as primary and expert decision maker assigned to the task by Parliament (*LG, IM and JM* at paras 45-52). There are, however, limits to the deference to be shown (see *CF v Secretary of State for the Home Department* [2013] EWHC 843 (Admin), per Wilkie J at para 26).
- iv) In *MB v Secretary of State for the Home Department* [2006] EWCA Civ 1140, the Court of Appeal addressed the issue of “necessity” and held as follows:

“**63.** Whether it is necessary to impose any particular obligation on an individual in order to protect the public from the risk of terrorism involves the customary test of proportionality. The object of the obligations is to control the activities of the individual so as to reduce the risk that he will take part in any terrorism-related activity. The obligations that it is necessary to impose

may depend upon the nature of the involvement in terrorism-related activities of which he is suspected. They may also depend upon the resources available to the Secretary of State and the demands on those resources. They may depend on arrangements that are in place, or that can be put in place, for surveillance.”

89. The Secretary of State assessed that the TPIM notice was necessary at the outset and maintained that view throughout reviews. He accepts that the QT’s current imprisonment has now provided a sufficient safeguard and that further TPIM measures are not necessary at the present time. He will consider whether revival of the TPIM notice is necessary in accordance with the circumstances existing on QT’s release from custody (see para 4 above).

Condition A: involvement in terrorism related activity

Core Allegation A: Overseas Travel

90. Mr Blaxland submits that the high point of the Secretary of State’s case is the evidence on which the [REDACTED] prosecution was based. He submits that the court should respect the verdict of the jury, based no doubt on what the prosecution conceded to be the Respondent’s genuine concern for the [REDACTED]. Even if the court were to conclude, contrary to the jury’s verdict, that QT [REDACTED] there is, Mr Blaxland submits, no evidential basis for a conclusion that this [REDACTED]. If he intended to travel to commit acts of terrorism, Mr Blaxland observes, he is hardly likely to have [REDACTED]. In any event an intention to travel to IS-controlled territory does not, Mr Blaxland submits, amount to TRA, which requires “conduct”, and thus cannot fulfil the requirements of condition A. Further, Mr Blaxland submits since the decline of the IS caliphate the attraction of travelling to join an underground terrorist organisation in the Middle East, let alone the practicality of achieving this, is diminished, he suggests, almost to vanishing point.
91. The Secretary of State does not dispute that QT had [REDACTED], however, he assesses that this concern was not the primary purpose for his planned travel. QT applied for his passport on 29 July 2014 within a month of Al Baghdadi declaring the existence of a caliphate. [REDACTED]. QT has never given another explanation for wishing to have a passport.
92. In further support of the Secretary of State’s assessment that his [REDACTED] was not the primary purpose for his planned travel to Turkey, the Secretary of State points to QT’s association with [REDACTED] and [REDACTED], both of whom are assessed as having been attempting to leave the UK in order to travel to IS-controlled territory; and the fact that QT [REDACTED] [*had health issues at the time*] that they were attempting to leave, providing an obvious explanation for his not having accompanied them.
93. As for the Secretary of State’s assessment that QT may maintain an intention to travel overseas to join IS, the Secretary of State continues to rely on QT’s statement in [REDACTED] that he wished to travel to Syria. QT did not say

that he wished to go to Syria to join IS, but he is clearly careful not to state expressly that he intends to go to Syria, or any other country, in order to conduct jihad (see his video entitled [REDACTED], uploaded onto YouTube on [REDACTED] where QT stated he would be a fool if he went back to prison and gave [REDACTED] enough [REDACTED].

94. QT told his intervention provider at their first meeting on 9 October 2018 that “if he had his passport back he would leave the UK as soon as possible to live elsewhere”; and at their second meeting on 16 October 2018 he said that he would like to live in [REDACTED], but then went on to say that he would like to go to Aleppo.
95. The Secretary of State acknowledges that QT has said that he wishes to travel for humanitarian reasons in order to help oppressed Muslims, clear up dead bodies and stop the spread of disease. However, the Secretary of State does not accept that this would be QT’s purpose for travel. QT does not claim to have any qualifications or skills that would be of value in a humanitarian role. Further, I agree with Ms McGahey that his videos do not reflect a wish to travel in order to conduct humanitarian work. A number of videos support Ms McGahey’s submission:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Core Allegation B: Action taken for the benefit of a proscribed organisation, namely ALM, and support of others taking action for the benefit of that organisation.

96. Mr Blaxland submits that the burden of the evidence is to the effect that, although QT has some links to those within the ALM tradition, he is a maverick who does his own thing. As he said to the intervention provider, he has always been a loner and people let you down in life; he finds it hard to be a team player and stopped attending demonstrations because he felt let down.
97. Mr Blaxland accepts that there is evidence that QT has attended a limited number of events at which others associated with ALM have been present, but he suggests that this is hardly surprising given that he shares the radical Salafist interpretation of Islam espoused by those alleged to be part of the ALM tradition. Association on its own does not amount to conduct for the benefit of the group.
98. Mr Blaxland suggests that the sole specific allegation of conduct for the benefit of ALM attributed to QT is the uploading of videos espousing “Islamist extremist rhetoric”, but this, in effect, is identical to core allegation C.
99. Since August 2014, almost five years ago, the Secretary of State, Mr Blaxland submits, is able to point to little to establish QT’s support for ALM, other than attendance at a *da’wah* stall in Stratford in December 2015 and another in April 2017. However the Secretary of State does not suggest that these *da’wah* stalls are unlawful, and there is no evidence to show that the *da’wah* stalls that QT attended were promoting ALM or ALM’s extremist views of Islam.
100. The Secretary of State does not accept that QT is or was a loner and maverick who wanted to put forward his own narrative. Ms McGahey submits that the narrative in the videos is similar to that of other Islamist extremists who promote violence in the cause of IS, including senior ALM leadership figures (see, for example, the sentencing remarks of Holroyde J (as he then was) in *R v Choudary and Rahman* on 6 September 2016 at the Central Criminal Court in which the judge summarised the content of lectures given by the defendants).

101. Further, the evidence of witness MM was that QT fulfilled at least four of the five criteria identified by the Security Service as evidence of ALM membership. These criteria are set out at para 35 above. The first criterion is association with known ALM leaders. The Secretary of State relies on QT's association with [REDACTED] and others. The second criterion is attendance at ALM meetings. QT attended demonstrations attended by ALM leaders, and the [REDACTED] in south Wales (see para 46 above). The fourth criterion is the participation in videos which promote ALM rhetoric, and there is [REDACTED] evidence of QT's production and broadcast of such videos. The fifth criterion is attendance at ALM *da'wah* stalls. He attended *da'wah* stalls in 2015 (with a senior ALM leadership figure) and in 2017. The evidence of MM in relation to the third criterion, namely the use of social media and other applications to discuss and organise ALM activities, is that QT was generally too security conscious to take part, and so this was the most difficult aspect of ALM membership for the Secretary of State to prove.
102. Ms McGahey submits, on the basis of this evidence, that QT has been an active participant in ALM events, and has had a key role in ALM.
103. Further, QT has delivered sermons at the [REDACTED], uploading more to YouTube after the arrest of [REDACTED] (for offences relating to [REDACTED]), encouraging others to engage in acts of terrorism, than before.
104. Ms McGahey also points to the [REDACTED] videos created by QT in which he has encouraged others to undertake activities that would further the aims of ALM, in particular the carrying out of attacks (see paras 58 and 95 above).

Core Allegation C: Giving encouragement to the commission or preparation of acts of terrorism

105. Mr Blaxland submits that this allegation raises in acute form the question of whether the imposition of a TPIM violates QT's rights under Articles 9 and 10 ECHR.
106. Mr Blaxland refers to the decision of the ECtHR in *Handyside v UK* where at paragraph 49 in its judgment the court referred to the importance of the right to freedom of expression in the following well-known passage:

“The Court’s supervisory functions oblige it to pay the utmost attention to the principles characterising a ‘democratic society’. Freedom of expression constitutes one of the essential foundations of such a society, one of the basic conditions for its progress and for the development of every man. Subject to Article 10(2) it is applicable not only to ‘information’ or ‘ideas’ that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb the State or any sector of the population. Such are the demands of that pluralism, tolerance and broadmindedness without which there is no ‘democratic society’. This means amongst other things, that every ‘formality’, ‘condition’, ‘restriction’ or ‘penalty’ imposed in this sphere must be proportionate to the legitimate aim pursued.”

107. QT is a Salafist. Many of the views held by Salafist Muslims are, Mr Blaxland observes, shocking and offensive to those who do not subscribe to their literalist interpretation of the Qu'ran. The Secretary of State assesses Salafism to be extremist but those views are held by millions of Muslims around the world. Accordingly the proselytization of Salafist views cannot on its own amount to encouragement to commit acts of terrorism. Mr Blaxland submits that therefore the only question is whether the context in which the words are used amounts to such encouragement. Mr Blaxland accepts that QT's failure to condemn the murder of Lee Rigby is likely to shock most members of the public, and his repeated assertion that he neither condones nor condemns terrorism may be said to be offensive. However, whilst coming close to the line, Mr Blaxland submits that the evidence demonstrates that QT has remained the right side of the line. His focus is on what he alleges to be the causes of terrorism. None of what he has said amounts to encouragement to acts of terrorism.
108. Mr Blaxland submits that if it is not possible to bring a successful prosecution in respect of public statements then the court should not be satisfied either that the material amounts to TRA or that there is a necessity to impose a TPIM. To hold otherwise, he submits, would constitute a disproportionate interference with an individual's rights to freedom of expression and religion. The only substantial evidential basis for the necessity for TPIM in the present case, Mr Blaxland submits, is QT's public speeches. However, the criminal law provides strict and clearly defined limits on the exercise of freedom of speech in the context of encouragement to commit acts of terrorism. If there is sufficient evidence on which to base a criminal prosecution then QT should be charged; if not, then there can be no necessity for a TPIM, which disproportionately interferes with his Convention rights.
109. In support of this allegation, the Secretary of State relies principally on two forms of activity. First, the creation and uploading onto the Internet of videos encouraging others to take terrorist action; and second, the giving of sermons at [REDACTED].
110. The Secretary of State assesses that QT's target audience is likely to be young, vulnerable and impressionable, and that such an audience would (i) receive the key message of encouragement to violence in the cause of Islam, and (ii) recognise that QT, in saying repeatedly in his videos that he did not condemn or condone terrorism, was making such statements insincerely and to avoid prosecution.
111. The Secretary of State also relies on QT's participation in *da'wah* stalls. *Da'wah* is not assessed to be a means of immediate recruitment of individuals to carry out terror attacks, but a means of identifying those who may be susceptible to radicalisation, and at an early stage of engagement with them (see para 36 above).
112. The Secretary of State submits that QT's videos which encourage and glorify violence and the cause of Islamist extremism do not attract the protection of Articles 9 or 10. In making this submission the Secretary of State relies on Article 17 ECHR which provides:

“Nothing in [the] Convention may be interpreted as implying for any State, group or person any right to engage in any activity or perform any act aimed at the destruction of any of the rights and freedoms set forth herein or at their limitation to a greater extent than is provided for in the Convention.”

Alternatively, even if QT's videos attract the protection of Articles 9 and 10, Ms McGahey submits that interference through the TPIM provisions with his right to express views that encourage others to commit acts of terrorism is clearly proportionate to the legitimate aim of preventing such encouragement.

113. I accept Ms McGahey's submission that the consideration of "encouragement" by Holroyde J in the course of his sentencing remarks in *R v Choudary and Raman*, albeit when dealing with criminal offences, is relevant in the TPIM context. The judge stated:

"Thirdly, it is necessary for me to consider not only any harm which you actually caused but also the harm which your offences were intended to cause or might foreseeably have caused. In this regard, it is relevant to consider the sort of persons who were likely to view your broadcasts and listen to your words. Some, no doubt, would approach them with an open mind and form a considered opinion as to the merits of what you said. It was however in my view very likely that a significant proportion of those who would listen to your words would be impressionable persons who were looking to you for guidance as to how they should act, and who would be ready to do what you said was necessary or appropriate. Furthermore, when you were delivering your lectures you could have no control over the way in which those who were influenced by you would choose to show their support for ISIS. You may not have specifically invited acts of violence, and there was no evidence that any specific person was encouraged by what you said to commit a specific act: but it was in my view very likely that some of your followers would be influenced by your words. You said nothing to limit the ways in which you were inviting support for ISIS to be shown. You said nothing to condemn any aspect of what ISIS was doing at the time. In that way you indirectly encouraged violent terrorist activity. ..."

114. I agree with Ms McGahey's submission that Mr Blaxland's contention that if it is not possible to bring a prosecution there should be no TPIM ignores that "the opportunity for closed material procedure, the different standard of proof and the different rules as to admissibility of evidence, all mark out these TPIM proceedings as distinct from prosecution in the criminal courts" (*LG, IM and JM* per Nicol J at para 56).
115. Notwithstanding his defence [REDACTED] and the jury's verdict, the Security Service continue to rely on the assessments outlined within this NSS1. The Secretary of State does not accept that the OPEN evidence is the only evidence in the case, and that evidence is limited, in practical terms, to evidence of QT's "public speeches".

The necessity of the TPIM and the measures under it

116. The OPEN reasons why the measures, collectively and individually, were considered necessary to mitigate the national security risk which QT was assessed to pose to the public are set out in detail in Sections C and D of the NSS1. That evidence explaining the necessity of the measures was not challenged in OPEN.
117. The Secretary of State submits that all of the measures imposed under the TPIM notice were necessary for the reasons set out at paragraph 63 above.

The proportionality assessment

118. Mr Blaxland sets out at paragraphs 110-140 of his skeleton argument dated 14 June 2019 his submissions on the impact of the individual measures for the purposes of the proportionality assessment.
119. Mr Blaxland makes two general points. First he asks the court to consider not only whether the extensive measures are excessive because they duplicate the protections claimed (multiple measures are justified by the risk of absconding, for example), but also whether they are disproportionate because by placing so many intricate hurdles before QT they effectively “set him up to fail”. Second, the Secretary of State has recognised the TPIM’s potential to make QT “angry and more radical” and to result in “a further entrenching of his Islamist extremist views” (NSS1, para 63). This, Mr Blaxland submits, would render the TPIM counter-productive.
120. In relation to individual measures which had been imposed, Mr Blaxland makes the following points:
- i) *Relocation*: the overnight residence measure (ORM) and the travel restriction measure together amount to a mandatory relocation which, he submits, were unnecessary and disproportionate. QT addresses the way in which this measure affected him in paras 5-13 of his witness statement. Weighed against the impact of these measures on QT, Mr Blaxland submits that their impact on any risk he posed was minimal. Insofar as relocation was assessed as necessary to prevent contact with Islamist extremists it was suggested that such an aim could have been more effectively and proportionately achieved with association restrictions.
 - ii) *Exclusion measure*: this purports to criminalise QT for, for example, entering a “drop off point” that is “adjacent” to a railway station. There was considerable scope for such a restriction to be breached unintentionally and/or unknowingly.
 - iii) *Financial services measure*: it was oppressive for QT to be restricted from withdrawing more than £75 in any one week.
 - iv) *Property measure*: the restriction on transfers in excess of £50 was excessive.
 - v) *Weapons and explosives measure*: QT had no intention of possessing weapons or explosives.
 - vi) *Association measure*: QT was content to make no contact with individuals identified by the Secretary of State or with any person who he knew or believed had been in HMP ██████, or arrested/detained for a terrorist offence; similarly, he did not dispute the prohibition on communicating with persons outside the UK. However he did challenge the measure prohibiting him from meeting any other person without prior notification to the Home Office. He addressed this in his statement at paras 17-20. Further, Mr Blaxland submits it is unrealistic to suggest there was a risk of terrorism justifying a major disruption to QT’s private life arising from chance encounters between him and other members of the public.

- vii) *Reporting measure*: QT would struggle to hold down any normal employment or other engagement if he was required to visit a police station in the middle of the afternoon three days per week.

Conclusion on Conditions A-D

- 121. Condition A: I am satisfied that the Secretary of State was and continued to be satisfied that QT was or had been involved in terrorism-related activity (TRA), and I am also satisfied of that fact. It is in my judgment clear from the evidence that QT attempted to travel to IS territory in [REDACTED] to participate in terrorism-related activity, and that he maintained an intent to travel overseas to join IS and engage in terrorism-related activity in the future. While QT may have had some concerns for the [REDACTED], I am satisfied this was not his primary reason for seeking to travel to Turkey in [REDACTED]. I am also satisfied that the evidence (see paras 44 and 95 above) shows he may maintain an intent to travel overseas to join IS and engage in terrorism related activity (Core allegation A).
- 122. The evidence plainly shows that QT is a long-standing member of ALM and that, as a result of his membership and activities, he has a wide range of associates across the group, including senior leadership figures. The Secretary of State was entitled, on the evidence, to be satisfied, as I am, that the aim of ALM was, and remains, the establishment of an Islamic caliphate ruled by sharia, and that QT has taken action for the benefit of ALM. (Core allegation B).
- 123. I am also satisfied from the evidence that the Secretary of State is entitled to consider, as I do, that QT has given encouragement to the commission or preparation of acts of terrorism. He has done so as a [REDACTED], using public forums, both in person and online, to influence others to engage in, maintain and deepen their involvement in terrorism related activity. There are [REDACTED] examples of QT's videos espousing Islamist extremist rhetoric and being supportive of IS and its actions (see para 58 above). The Secretary of State was, in my view, entitled, on the evidence, to accept the assessment of the Security Service that "a significant proportion of the people who watch [QT's] video's on social media are likely to be young, impressionable and vulnerable individuals" and that "it is very likely that some of the viewers would be influenced by his words to lend acts of support and use violence in support of terrorist organisations such as IS". The assessment that QT "is likely aware that he has radicalising influence over a significant proportion of his viewers" is, in my judgment, fully justified on the evidence (see para 59 above).
- 124. In my judgment the Secretary of State has made out his full case on Condition A in respect of the three core allegations.
- 125. Condition B: No TPIM notice relating to the Claimant has previously been in force. Section 3(6) of the 2011 Act defines "new terrorism related activity" as terrorism related activity occurring at any time. Having regard to the findings I have made in relation to Condition A I am satisfied that Condition B is also met.
- 126. Condition C: I have no doubt that the Secretary of State was entitled, on the evidence (see para 63 above), to consider that a TPIM was, at all material times, necessary for purposes connected with protecting members of the public from a risk of terrorism.

In reaching this conclusion I have considered the nature and extent of the activity in which QT has been involved.

127. Condition D: I am further satisfied that the Secretary of State was entitled, on the evidence, to consider that all the measures imposed under the TPIM notice were necessary and proportionate. They were designed to prevent QT from associating with other ALM members and sympathisers, from disseminating extremist views, from attempting to leave the UK and to limit his ability to engage in TRA. Some of the measures (e.g. reporting requirements, monitoring, financial services measure etc.) exist, inevitably, for the purpose of ensuring, insofar as is possible, compliance with other conditions of the TPIM, and for the effective management of the TPIM. The weapons and explosives measure was considered necessary to reduce the risk that QT would conduct and facilitate a terrorist attack in the UK.
128. In this case the Secretary of State considered that QT represented a real risk of TRA and that the measures, collectively and individually, were necessary to minimise that risk. The consequences of TRA, should it come about, were plainly exceptionally serious. I am not persuaded that the interference with QT's rights in this case outweigh the legitimate aim in protecting the public.
129. My conclusions are reinforced by the CLOSED evidence.

Conclusion

130. For the reasons I have given in this OPEN judgment, and those given in the CLOSED judgment, I am satisfied that the Secretary of State was and continued to be entitled, and correct to decide, that Condition A was satisfied. The Secretary of State was and continued to be entitled to decide that Conditions C and D were satisfied.
131. I am satisfied that the TPIM that was imposed on the Claimant was and remained lawful until the time it was revoked by the Secretary of State on 11 March 2019. Accordingly, the TPIM notice is upheld.
- 132.