



Home Office

**Draft Code of Practice
for examining officers under
Schedule 7 to the Terrorism Act 2000**

This is a working draft for illustrative purposes and is without prejudice to the draft required by the 2000 Act to be published and laid before Parliament before being issued, subject to affirmative resolution of both Houses.

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General

1. This code of practice applies to the exercise by examining and review officers of their functions under the Terrorism Act 2000 (“the Act”), as amended by the Anti-social Behaviour, Crime and Policing Act 2014.
2. The term “examining officer” for the purpose of this code has the same meaning as in paragraph 1(1) of Schedule 7 to the Act (“the Schedule”), i.e. a constable; or an immigration officer or customs officer designated for the purpose of the Schedule by the Secretary of State and the Commissioners of Her Majesty’s Revenue and Customs. The code only applies to police, designated immigration or customs officers when they are exercising their functions as examining officers under the Act and not in any other circumstances, for example where someone is questioned under the Immigration Act 1971 or the Customs and Excise Management Act 1979.
3. The “review officer” will carry out a periodic review of a person’s detention under Schedule 7. “Review officer” means an officer, senior to the examining officer, who has not been directly involved in questioning the detained person.
4. The powers and procedures in this Code must be used fairly, responsibly, with respect for the people to whom they apply and without unlawful discrimination. The Equality Act 2010 makes it unlawful for police officers to discriminate against, harass or victimise any person on the grounds of the ‘protected characteristics’ of age, disability, gender reassignment, race, religion or belief, sex and sexual orientation, marriage and civil partnership, pregnancy and maternity when using their powers. When police forces are carrying out their functions, they also have a duty to have regard to the need to eliminate unlawful discrimination, harassment and victimisation and to take steps to foster good relations.
5. For the purposes of this code:
 - “Port” and “border area” have the same meaning as in the Schedule;
 - Common Travel Area (“CTA”) has the same meaning as in section 1(3) of the Immigration Act 1971;
 - a child means anyone who appears to be under the age of 18 in the absence of clear evidence that he/she is older. In Scotland, a child means anyone under the age of 16 except where that person is between 16 and 18 and is the subject of a supervision requirement imposed by a Children’s hearing; or a person whose case has been referred to a children’s hearing in relation to a corresponding order made by a court in England, Wales or Northern Ireland.
6. The code should be available at all police stations for consultation by the police and members of the public. It must also be available at police offices at ports or in the border area where the powers are, or are likely to be used. The code should also form part of the published departmental instructions/guidance for immigration officers and customs officers.
7. An Examining Officer must exercise the powers conferred by the Schedule in accordance with this code of practice. The code is admissible in evidence in civil and criminal proceedings and will be taken into account by a court or tribunal in any case where it is considered relevant.

Training and use of the power

Police Officers

8. The powers contained in Schedule 7 may only be used by police officers who have been assessed by their Chief Officer as having successfully undertaken training to a national standard in the use of the powers¹. Prior to successful completion of their training, an examining officer may use the powers on a provisional basis for no longer than 6 months while waiting for, or during, the period of training. During a period of provisional use the officer should be overseen by a fully trained examining officer. Chief Officers will reassess whether an officer has undergone refresher training and should retain their use of the power on a biennial basis so that a high level of expertise is maintained.

9. Review officers, i.e. those who will review the period of an individual's detention will also be assessed by their Chief Officer as having successfully undertaken training to a national standard. Review officers should also be reassessed on a biennial basis.

Immigration and customs officers

10. An immigration or customs officer should only exercise the functions under the Act exceptionally when **one or both** of the following apply;

- i. a police officer is not readily available;
- ii. or if specifically requested to do so by a police officer of the rank of sergeant or above.

10b. Such officers shall be designated by the Director General of Border Force after they have received appropriate training. The DG of Border Force will reassess whether an immigration or customs officer should retain their designated status on a biennial basis so that a high level of expertise is maintained.

11. In all cases where an Immigration or Customs Officer exercises power under Schedule 7 and it is reasonably practicable, the authority of a Chief Immigration Officer in the case of an immigration officer, or in the case of a customs officer, a Higher Officer or above, should be obtained before exercising the power. Where it is not reasonably practicable to achieve prior authority, the Chief Immigration Officer or the Customs Higher Officer or above should be notified of the exercise of the power as soon as possible after it has begun. Examinations carried out by Border Force officers will also be subject to supervisory reviews.

Use of the power in emergencies

¹ Further details of the training an examining or reviewing officer is expected to attend is detailed in National Approved Learning Pathway as agreed by ACPO and Police Service of Scotland [or their successors]

12. The powers may also be used by any constable, immigration officer or customs officer where a senior officer², believes that this is necessary due to an exceptional urgent operational need. In such circumstances, officers **must** receive a briefing³ on the powers prior to deployment and their exercise of the powers must be supervised by a fully trained examining officer. Examples of where the criteria to define 'urgent operational need' could be met are the aftermath of a terrorist attack or during a very high threat.

Scope of the Examination Powers

13. The power to examine someone under the Schedule applies:
- i. to a person on a ship, aircraft or international train which has arrived at any place in Great Britain or Northern Ireland (whether from within or outside Great Britain or Northern Ireland) (see paragraph 2(3) of the Schedule);⁴
 - ii. where the examining officer *believes* that a person's presence at the port or in the border area (in Northern Ireland) is connected with his entering or leaving Great Britain or Northern Ireland or his travelling by air within Great Britain or within Northern Ireland (see paragraph 2(2) of the Schedule);

"Belief" should be justifiable and much will depend on the individual circumstances. For example the following may be indicators that a person can be examined under the Schedule:

- the presence of a member of the public in a controlled, international or Common Travel Area arrivals or departure area or common departure lounge at a port;
- where someone is waiting to be, is being, or has been checked in for a flight or ferry to or from Great Britain or Northern Ireland:

14. The examples given above are not intended as an exhaustive list. Presence alone however may not be sufficient without other indicators of travel.

Exercise of Examination Powers and Selection Criteria

15. The purpose of questioning and use of associated powers is to allow for the determination of whether a person appears to be someone who is or has been concerned in the commission, preparation or instigation of acts of terrorism as defined in section 1 of the Act. The determination can be made subsequent to the conclusion of the examination. The powers, which are additional to the powers of arrest under the Act, must not be used for any other purpose.

16. An examining officer may question a person whether or not he suspects that the person is or has been concerned in the commission, preparation or instigation of an act of

² Senior rank refers to Assistant Chief Constable, Deputy Chief Constable or Chief Constable.

³ A template for emergency briefing will be found in the National Approved Learning Pathway. The briefing may be carried out remotely when geographic distances make this a requirement.

⁴ The Channel Tunnel (International Arrangements) (Amendment) Order 2001 provides that examining officers can exercise Schedule 7 powers: (a) under paragraph 2(3) on an international train; and (b) under paragraph 2(2) at a railway station or other place where persons embark or disembark, or where goods are loaded on or from an international train service.

terrorism and may stop that person for the purposes of allowing a determination to be made as to whether this appears to be the case. Examining officers should make every reasonable effort to exercise the power in such a way as to minimise causing embarrassment or offence to a person who is being questioned. Examining officers must take into account that many people selected for examination using Schedule 7 powers will be entirely innocent of any unlawful activity. The powers must be used proportionately, reasonably, with respect and without unlawful discrimination. All persons being stopped and questioned by examining officers must be treated in a respectful and courteous manner.

17. The powers must be exercised in a manner that does not unfairly discriminate against anyone on the grounds of age, race, colour, religion, creed, gender or sexual orientation. To do so would be unlawful. Examining officers must take particular care to ensure that the selection of persons for examination is not solely based on their perceived ethnic background or religion.

18. Although the exercise of Schedule 7 powers is not based on an examining officer having any suspicion against any individual, the powers should not be used arbitrarily. An examining officer's decision to exercise their Schedule 7 powers at ports must be based on the threat posed by the various terrorist groups, networks and individuals active in and outside the United Kingdom. When deciding whether to exercise their Schedule 7 powers, examining officers should base their decisions on a number of considerations, including factors such as but not exclusively:

- known and suspected sources of terrorism;
- Individuals or groups whose current or past involvement in acts or threats of terrorism is known or suspected and supporters or sponsors of such activity who are known or suspected;
- Any information on the origins and/or location of terrorist groups;
- Possible current, emerging and future terrorist activity;
- The means of travel (and documentation) that a group or individuals involved in terrorist activity could use;
- Emerging local trends or patterns of travel through specific ports or in the wider vicinity that may be linked to terrorist activity.
- Observation of an individual's behaviour.

Examination Period

19. Schedule 7 powers are to be used solely for the purpose of allowing for the determination of whether the person examined appears to be, or to have been, concerned in the commission, preparation or instigation of acts of terrorism. The powers must not be used to stop and question persons for any other purpose. An examination begins after a person has been stopped and screening questions have been asked or the person or vehicle is directed to another place for examination.

20. An examination must cease and the individual must be informed that it has ended once an officer has completed his part in the determination of whether the person examined appears to be, or to have been, concerned in the commission, preparation or instigation of

acts of terrorism. Unless the examining officer arrests the person using powers under the Act, a person being examined under Schedule 7 is not cautioned.

21. The screening process may include examination of travel and identification documents. Before asking screening questions the officer should introduce him or herself and offer a brief verbal explanation of why questions are being asked. Screening may consist of some basic questions such as name, destination, origin or reason for travel. Where a person is being asked screening questions by an examining officer who is not a police officer (i.e. a customs or immigration officer) and it appears necessary to begin an examination of that person, the examining officer should refer him/her to a an examining officer who is a police officer at the port, in the border area or a police station at the earliest opportunity. The examining officer who is not a police officer should agree the time and date of the commencement of the examination with the examining officer who is a police officer receiving the person and both should keep a record of that time and date.

22. At the start of the examination the examining officer is required to explain to the person concerned verbally or in writing, that they are being examined under Schedule 7 of the Terrorism Act 2000 and that the officer has the power to detain that person where one or more of the criteria for detention are met.

23. The examining officer will keep the length of examination to the minimum that is necessary to allow a determination of whether the person is involved in the commission, preparation or instigation of acts of terrorism. Any person who is examined for more than one hour must be detained at the hour point. Any period of examination, including detention, must not exceed six hours.

24. The examining officer must consider the person's welfare and make arrangements to ensure that they have the opportunity to have refreshments and breaks at regular intervals. Access to a healthcare professional should be provided when necessary. Where practicable, provision should be made to allow for the practice of religious observance.

25. If the person being examined does not appear to understand what is being said to them, or if the examining officer doubts the person's ability to understand English, every reasonable effort should be made to communicate with them so as to ensure that the person comprehends what is required of them. Where practicable this should be done using someone who can act as an interpreter.

26. When the examination reaches the one hour point the individual must be detained under the Act and provided with the rights that this affords. It is possible for the examining officer to detain the person before the examination reaches the one hour point. However, it is expected that most examinations of duration of less than one hour will be conducted without the need to detain the person. See paragraph 30 for further guidance on detention.

Duties under examination

27. The examining officer should advise the person that he/she has a duty to answer questions and give the officer any information in his/her possession which the officer requests for the purposes of the examination (refer to paragraph 15). If appropriate the examining officer will inform the person that failing to comply is a criminal offence under section 18 of the Act.

Rights under examination

28. Should a person being **examined** at a port, who has **not been detained**, request to consult a solicitor, the examining officer should where possible allow the person to consult unless there is a good reason for not doing so. When consultation with a solicitor is granted, for a person who is being examined but not detained, it will not be at public expense and the examination will not be delayed for this purpose.

29. Should a person being **examined** at a port, who has **not been detained**, request to have a person advised of their examination, the examining officer should where possible allow this unless there is a good reason for not doing so.

Detention

30. An examining officer must detain a person one hour after the examination begun, or before if appropriate, to continue to examine him/her for the purpose set out in paragraph 15 above. Where the person is not detained at this point, they must be allowed to leave. An examining officer may detain an individual earlier in the examination if considered necessary to do so. A Notice of Detention (TACT form as set out at annex A) must be served by the examining officer on the person and its contents verbally explained.

Prior to one hour an examining officer should detain a person being examined if;

- he/she refuses to co-operate with any lawful obligation and/or
- he/she insists on leaving or otherwise attempts to frustrate or obstruct the examination,
- reasonable force is required to complete a search,
- it is necessary to conduct a strip search,
- to facilitate relocation of the examination from a port location to a police station
- for any other reason the examining officer considers it necessary to detain the person in order to complete the examination process.

31. Detention may be short lived so may not necessitate taking the person to a police station. An examining officer may consider relocation from a port location to a police station or any other place where their presence is necessary if:

- the port location is unsuitable for continued examination, e.g. due to a lack of facilities, such as refreshments, toilets, or some other welfare consideration,
- to gain access to facilities or equipment not available at the port, and/or
- the examining officer considers it appropriate to relocate for safety reasons.

32. Where a person is detained under Schedule 7, the examining officer will inform the detained person that;

- he/she is not under arrest or caution, but
- that he/she is being detained under paragraph 6 of Schedule 7 of the Terrorism Act 2000;
- the purpose of the examination is to allow the determination of whether the detained person appears to be, or have been, concerned in the commission, preparation or instigation of acts of terrorism,
- this does not necessarily mean that the examining officer suspects the detained person to be involved in terrorism,
- The examining officer should inform the person of their duties and rights,
- The individual should be given a TACT form which will explain their duties and rights and the introductory leaflet if this was not already given at the start of the examination.

Duties under Detention

33. The examining officer should advise the detained person that he/she has a duty to answer questions and give the officer any information in his/her possession which the officer requests for the purposes of the examination (refer to paragraph 15). If appropriate the examining officer will inform the person that failing to comply is a criminal offence under section 18 of the Act.

Rights under Detention

34. Any person who is detained is entitled:

- To consult a solicitor in private (this may be at public expense subject to a merits test). Under certain exceptional circumstances⁵ this right can be delayed under schedule 8 with the authority of a Superintendent
- To have a friend, relative or other person known to them who is likely to take an interest in their welfare informed as soon as is reasonably practicable that he/she is being examined. (This entitlement will be at public expense.) Under exceptional circumstances this right can be delayed under schedule 8 with the authority of a Superintendent.

35. The form which a consultation may take is at the discretion of the examining officer. Due to practical considerations (i.e. the time taken for a solicitor to travel to a port and access restricted areas), it is expected that consultation with a solicitor at a port will normally be by private telephone conversation and where possible the person must be provided with a private room in which to make this call. If the examining officer decides that it is

⁵ See PACE Code H: The Detention, treatment and questioning by police of persons in police detention under Section 41 of and Schedule 7 to the Terrorism Act 2000, section 6 for detail.

appropriate, e.g. when interpreter services are required, when the solicitor can access the port in a timely fashion, or if the individual has a hearing impairment, the consultation may be with the solicitor in person or by text or email.

35b Reasonable time should be given for the individual to consult their solicitor privately by phone. Any delay to the examination whilst waiting for legal advice is permitted at the discretion of the examining officer. If the individual's solicitor is not available the person will be offered consultation with the duty solicitor instead. The exercise of associated Schedule 7 powers, i.e. searches or document checks, may be undertaken while waiting for a solicitor to arrive. If the examination is not delayed pending legal advice the examining officer should record the rationale behind this decision.

35c. If necessary the examining officer should verbally explain, and/or provide a guidance leaflet, to the solicitor to explain the power.

Children and other vulnerable people

36. Special care should be taken when considering whether to question someone, where it is evident that the person is a child. A child travelling with a parent or guardian or responsible person over 18 (for example a teacher, social worker, or group leader where the child is part of an organised party) should be examined in their presence.

37. A child/young person aged under 18 travelling alone should not normally be examined in detail unless an adult is present. Where such a child is travelling with a friend or relative who is 18 or over, the examining officer should consider allowing that person to be present during any routine examinations unless that person is thought to be exerting influence or pressure which could be detrimental or is otherwise obstructive to the child's interest or the purpose of the examination. If a more detailed examination is considered necessary it should only take place in the presence of a parent, a guardian, or (if the child is in care) a representative of the care authority or voluntary organisation, a social worker, or an adult who is not a police officer or employed by the police (nor a Border force officer or employee nor other relevant border enforcement officer) and who has been appointed to represent the child's interests. The term 'in care' is used in this code to cover all cases in which a child is 'looked after' by a local authority under the terms of the Children Act 1989, the Children (Northern Ireland) Order 1995 or is subject to a supervision order under the Children (Scotland) Act 1995.

38. Examining officers should bear in mind that children can be easily intimidated when examined especially if they are travelling alone but, equally, that they can be vulnerable to exploitation by adults wishing to further terrorist aims. Examining officers are not therefore precluded from examining children but should do so only where absolutely necessary, for example where it is believed that the child may be involved in some way, wittingly or otherwise, in the commission, preparation or instigation of any act of terrorism and the examining officer believes it is necessary in the child's best interests or in the interests of the public to speak to him/her.

39. These principles apply to other vulnerable people such as those who have a mental disorder. 'Mental disorder' is a generic term which has the meaning given to it in Section 1(2) of the Mental Health Act 1983 as amended by the Mental Health Act 2007, that is, any

disorder or disability of mind, which includes reference to 'mental disorder' as defined in Article 3(1) of the Mental Health (NI) Order 1986 as 'a state of arrested or incomplete development of mind which includes significant impairment and social functioning'.

Reviews of Detention

40. An individual who has been detained for examination under Schedule 7 must have their detention periodically reviewed by a review officer who is;

- not directly involved in the questioning of the individual,
- of at least one rank higher than the examining officer directly involved in the examination,
- a police officer who has been trained to a nationally recognised standard in the use of Schedule 7.
- The reviewing officer may have been involved in the initial screening questions, carrying out background checks or in supervising the direction of the examination. The reviewing officer may speak to the individual during the examination if necessary, for example in the case of a complaint.

41. The review officer will satisfy him/herself that;

- the [continued] detention is necessary to allow for the determination of whether the person appears to be a person who is or has been involved in the commission, preparation or instigation of acts of terrorism;
- the examination is being conducted diligently and expeditiously;
- the person is aware of their duties and rights;
- reasonable steps have been taken to satisfy the welfare needs of the person.

42. If there is no access to a review officer at the port the review may be carried out remotely. The first review will take place not more than one hour from the start of detention. The second review will take place no more than two hours after the first review. The reviewing officer who carries out the first review may also carry out subsequent reviews.

43. Records of the review will be kept at the port or police station for reference purposes in the event of a complaint or query.

Records of Examinations

44. Records of all examinations should be kept locally for statistical query or reference purposes in the event of a complaint. In addition a record of the number of all examinations and detentions should be held centrally for statistical purposes. The centrally held record should include the self declared ethnicity of the person examined if given, the total duration of the examination, and if relevant the point of detention. Records of the reviews of detention by the review officer should also be kept according to guidance. Records of the examination, or reviews of the examination, will not be given to the individual or his representative or solicitor but will be kept for police reference purposes.

Audio Recording

45. Where a person is detained at a police station in England, Wales or Scotland then any interview must be video recorded with sound⁶. If video recording facilities are not available the interview will be audio recorded. The Code of Practice for the video recording with sound of interviews under the Terrorism Act 2000 should be referred to when the detention is carried out at a Police Station.

46. Examining officers should consider whether to audio record at a port where recording facilities are available at the port. Where audio recording of an interview does not take place, the examining officer should record the reason why this is the case. The examining officer will bear in mind the preference of the individual and availability of audio facilities.. Consent to record will be obtained in writing in the notice of detention. The officer should explain that the recording is not evidential but will be used for reference in the case of a complaint.

47. Any audio recordings that are made are for police purposes and can be used as a reference in the case of a complaint. The senior ports officer must make arrangements for the recording to be held securely and according with MOPI guidelines. Recordings will be destroyed six years after the date of the interview unless subject to a complaint investigation or civil proceedings.

Establishing identity

48. Once a person has been detained an examining officer can take steps which are reasonably necessary to identify them. It is expected that methods of verifying identification such as photography or measuring will be used. This will not include fingerprints or the taking of biometric samples.

The taking of samples⁷ including fingerprints

49. Under paragraphs 10 to 15 of Schedule 8 (in England and Wales) and 20 in Scotland, a constable has the power to take fingerprints or non-intimate samples (i.e. DNA mouth swab) from a person **who has been detained** providing the following criteria are met;

- i. The taking of fingerprints is for the sole purpose of **determining identity or whether the person is involved in the commission, preparation or instigation of acts of terrorism.**

⁶ Code of Practice for the Video Recording with Sound of Interviews of Persons Detained under Section 41 of, or Schedule 7 to, the Terrorism Act 2000 and Post Charge Questioning of Persons Authorised under Sections 22 or 23 of the Counter-Terrorism Act 2008.

⁷ Biometric materials can include; **DNA sample** - any material that has come from a human body and consists of or includes human cells; **DNA profile** - any information derived from a DNA sample, or **Fingerprints** - a record (in any form and produced by any method) of the skin pattern and other physical characteristics or features of a person's fingers or either of a person's palms.

- ii. The taking of non-intimate samples is for the sole purpose of **determining whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism.**
- iii. If the person has provided their consent in writing fingerprints and/or non-intimate samples can be taken either at a port or police station.
- iv. In England, Wales and Northern Ireland if the detained person does not consent, then fingerprints/or and non-intimate samples can only be taken at a police station with the authority of a police officer of at least the rank of superintendent. If this authority is given verbally then it should be confirmed in writing as soon as is reasonably practicable.
- v. In Scotland under the Criminal Procedure Scotland Act 1995 section 18 a constable may take fingerprints and non-intimate, samples at a police station without consent ,as long as he is satisfied that it is necessary to determine whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism.
- vi. Fingerprints and/or non-intimate samples can be taken compulsorily by a police officer below the rank of superintendent without authorisation when the person is detained at a police station and has been convicted previously of a recordable offence under Schedule 8 para 10(4)(b) of TACT 2000. This only applies in relation to non-intimate samples when the person was convicted of the offence on or after 10 April 1995 (or 29 July 1996 in Northern Ireland).

50. Samples must be destroyed in compliance with the requirements of Para 14 of Schedule 8 to the Act (as inserted by the Protection of Freedoms Act 2012).

There is no power to take intimate samples⁸ under Schedule 7 whether by consent or otherwise.

Production of information

51. The examining officer should specify, in accordance with paragraph 5 of Schedule 7, the kind of information which he expects the person concerned to produce.

52. The examining officer should give the person concerned a reasonable opportunity to produce information, documents or evidence of identity (see paras xx to xx below); and should bear in mind that people travelling to and from Northern Ireland, any place in Great Britain or Northern Ireland (whether from within or outside Great Britain or Northern Ireland) and within the Common Travel Area may not be carrying a passport. An examining officer may nonetheless inspect a passport if one is carried by the person concerned. An examining officer may use electronic equipment in order to identify persons and property. Production of information, documents or evidence of identity on request does not preclude searches as set out in paragraph 47 of the code.

Searches

⁸ As per definition by section 65 of the Police and Criminal Evidence Act 1984 (Part V).

53. An examining officer may search a person who is being questioned for the purpose set out in paragraph 15 above, and their belongings, including baggage. He may also under paragraph 10 of the Act ask another officer to carry out a search on his behalf. As under paragraph 16 of this Code every reasonable effort should be made to reduce to a minimum the potential embarrassment or offence that may be caused to a person being searched. A baggage search does not have to be carried out by someone of the same sex, but whenever reasonably possible should be if an objection is raised. If it is not practicable to do so, the examining officer should note the objection in the officer's official notebook but may proceed with the search.

54. Section 115 gives effect to Schedule 14 (which makes provision for the use of reasonable force by an "examining officer" for the purpose of exercising a power conferred on him by Schedule 7 apart from the power to question someone under paragraphs 2 and 3 of the Schedule). Where an examining officer exercises powers of search in a port or border area under Schedule 7 of this Act there is no requirement for any notice of search to be provided regarding the search of that person, their vehicle or belongings or any boat, aircraft or train.

55. Only officers who have been trained to exercise search functions should carry out searches under Schedule 7.

56. A personal search should only be carried out by someone of the same sex. This is a requirement under paragraph 8(3) of the Schedule.

57. The examining officer should bear in mind that the power must not be used for any purpose other than to determine whether the person appears to be someone who is, or has been, concerned in the commission, preparation or instigation of acts of terrorism. This does not, however, necessarily preclude a search being carried out under other powers (for example where the examining officer is a constable and has other powers by virtue of common law or other statute).

58. When a search of a person is carried out the examining officer should, if not uniformed, show a warrant card or similar evidence of his/her authority but need not give his/her name.

59. If requested, the examining officer should nonetheless provide sufficient information to the person (or his/her representative), such as an identification number and location which would enable the officer to be identified in the event of any query or complaint.

Strip Search

60. A strip search is a search involving the removal of an article of clothing which is being worn on the trunk and is next to the skin or underclothing. This power does not permit an intimate search to be undertaken (searching a person's body orifice other than the mouth). Strip searches should not be undertaken routinely. An examining officer may conduct a strip search only where the following criteria are met:

- the person has been detained – at either a port or police station.

- the examining officer has reasonable grounds to suspect that a person is concealing something which may be evidence that the person is or has been, concerned in the commission, preparation or instigation of acts of terrorism.
- The search is authorised by an officer of at least one rank or grade higher than the examining officer and who has not been directly involved in questioning the person.

When necessary, for example when there is a risk of serious harm to the person or others or there is reason to believe that evidence is in imminent danger of being destroyed, a strip search may be carried out under other powers.

61. The authorising officer must be satisfied that the examining officer has reasonable grounds to suspect that a person is concealing something which will assist in determining whether he is, or has been, concerned in the commission, preparation or instigation of acts of terrorism. The authorising officer should also be satisfied that the procedures listed below at Para 62 are in place.

62. The following procedures should be observed when strip searches are conducted:

- i. an officer carrying out a strip search must be of the same sex as the person searched;
- ii. the search should take place in an area where the person being searched cannot be seen by anyone who does not need to be present, nor by a member of the opposite sex (except an appropriate adult whose presence has been specifically requested by the person being searched);
- iii. except in cases of urgency, where there is a risk of serious harm to the person being searched or to others or whenever a strip search involves exposure of intimate parts of the body, there should be at least two people present other than the person being searched, and if the search is of a child or a mentally disordered person, one of the people should be an appropriate adult. Except in urgent cases as above, a search of a child may take place in the absence of the appropriate adult only if the child signifies, in the presence of the appropriate adult, that he/she prefers the search to be done in the appropriate adult's absence and the appropriate adult agrees. A record should be made of the child's decision and signed by the appropriate adult. The presence of more than two people, other than an appropriate adult, should be permitted only in the most exceptional circumstances;
- iv. The search should be conducted with the proper regard to the sensitivity and vulnerability of the person concerned in these circumstances and, every reasonable effort should be made to secure the person's co-operation and minimise embarrassment. Persons who are searched should not normally be required to have all their clothes removed at the same time, for example, a person should be allowed to put on their upper garments before removing lower garments before further clothing is removed:
- v. Where necessary to assist the search, the person may be required to hold his/her arms in the air or to stand with his/her legs apart and to bend forward so that a visual examination may be made of the genital and anal areas, provided that no physical contact is made with any body orifice;
- vi. If, during the search, articles are found, the person should be asked to hand them over;

vii. A strip search should be conducted as quickly as possible and the person allowed to dress as soon as the procedure is complete.

63. A record should be made of a strip search, including the reason why it was considered necessary to undertake it, those present and the outcome of the search. The above provisions also apply to any person authorised under paragraph 10 of the Schedule by an examining officer to carry out a search on the officer's behalf.

Property

64. Under Paragraph 11 of Schedule 7 an examining officer may seize and retain for the purpose of the examination (refer to Para 15) anything produced during an examination or found during a search for a period of up to seven days beginning with the day on which the examination commences. If anything is found which in the opinion of the examining officer may be needed for use in criminal proceedings or which he believes may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971, it may be detained for as long as is necessary.

Examining, copying and retaining information from electronic devices

65. Information requested by an examining officer may include electronic devices, data and passwords to those electronic devices and data. Where the information is located elsewhere, for example on another server, and is accessed via a mobile phone or internet connection, further warrant or other authority would be required.

66. The power for examining officers to examine and detain property includes mobile phones and/or other electronic devices. The decision on whether or not to use this power is at the discretion of the examining officer. However, this power should not be used routinely but only when the examining officer considers it to be necessary and proportionate. The examining officer should inform the person that their electronic media is being examined.

67. The copy of information obtained under a search under para 5d or 8 may be retained for as long as is necessary for the purpose of determining whether a person appears to be someone who is, or has been, involved in the commission, instigation or preparation of acts of terrorism, or while it may be needed for use as evidence in criminal proceedings or in connection with deportation proceedings. The maximum period of retention of this data is 6 years unless it is currently in use in criminal proceedings⁹.

Landing/embarkation Cards

⁹ The collection, storage, retention and deletion of electronic material will comply with Management of Police Information (MOPI) and Data Protection Act (DPA) guidance.

68. The examining officer may require a person to complete a landing/embarkation card whether or not the officer suspects the person is or has been concerned in the commission, preparation or instigation of acts of terrorism. The examining officer should bear in mind that, as with questioning, embarrassment or offence can easily be caused to people who have no terrorist connections and who may feel victimised. The principles referred to in paragraph 16 above therefore also apply when an examining officer requires the completion and handing over of a card.

69. Paragraph 68 applies only if an order under paragraph 16 of the Schedule is in force requiring a person (on request by an examining officer) to complete or hand to the officer a landing or embarkation card. The cards referred to under paragraph 16 of Schedule 7 requires persons, if so required by an examining officer, to provide such information, and in such form as set out in The Terrorism Act 2000 (Carding) Order 2001 (Statutory Instrument 2001 No. 426). The cards shall be produced and paid for by the police, not the aviation/maritime industry. Landing cards issued under the Immigration Act 1971 are not acceptable substitutes and should not be used.

Duties and Rights

70. The duties and rights of a person subject to examination/detention must be displayed prominently in a place where the person will be able to read them. If the examining officer doubts the person's ability to understand English, every reasonable effort shall be made to communicate the relevant information, where practicable using someone who can act as an interpreter. Media explaining Schedule 7 powers should be visible in the port.

Complaints

71. Complaints about the conduct of examining officers or treatment of an individual during an examination should be directed to:

The Chief Officer of the force responsible for the port/airport where the person has been examined/detained where the examining officer is a police officer.

Or where the examining officer is an immigration or customs officer;
Border Force Complaints Team
Building 25, Priory Court, St Johns Road, Dover, Kent, CT17 9SH

Notice of Detention under Schedule 7 to the Terrorism Act 2000

To.....

You have been detained under paragraph 6 of Schedule 7 to the Terrorism Act 2000, so that an Examining Officer may exercise his power under paragraph 2 of that Schedule to determine whether you appear to be a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism. You are not under caution or arrest but should the circumstances change you will be notified.

Your duties

Whilst being questioned you must:

- (a) Give the examining officer all the information in your possession which the officer requests;
- (b) Give the examining officer, if he so requests, a valid passport or another document with a photograph which establishes your identity;
- (c) Declare whether you have with you any documents of a kind specified by the examining officer and, if he so requests, give them to him.
- (d) Give the examining officer, on request, any document which he has with him and which is of a kind specified by the officer.

You may be asked, or have been asked to complete and hand to the officer an arrival or embarkation card. If so, you have a duty to comply with that request. If you deliberately fail to comply with any of these duties, you could be prosecuted under paragraph 18(1) of Schedule 7 to the Terrorism Act 2000.

Do you want someone informed?

You may, if you wish, at public expense, have a friend, a relative or a person who is known to you, or is likely to take an interest in your welfare, informed that you are being detained here. *NB. Under paragraph 8 of Schedule 8 to the Terrorism Act 2000, or paragraph 16 of Schedule 8 in Scotland, an officer of at least the rank of Superintendent may delay this right.*

Do you want to contact a solicitor?

You may consult privately with a solicitor. If you do not wish to do so now, you may do so later and at any time while you are detained. Any delay to the examination will be at the discretion of the examining officer. *NB. Under paragraph 8 of Schedule 8 to the Terrorism Act 2000, or paragraph 16 of Schedule 8 in Scotland, an officer of at least the rank of Superintendent may delay this right.*

If you do not have details of a solicitor details of an independent solicitor can be supplied to you. Consultation with a solicitor may be at Public Expense, your entitlement to which will be assessed by the solicitor you contact.

Notice of Detention

Served on Day: date: at: hours

By (Warrant No):.....

Witnesses by (Warrant No):

.....

Signature of detained person:

.....

Do you consent for the interview to be recorded (this is for reference purpose, e.g. in the case of a complaint, and is not evidential)?

Signature of detained person:

.....

Witnessed by: (interpreter/App.Adult/Solicitor):

.....

DRAFT