



Home Office

Draft Code of Practice for Officers exercising functions under Schedule 1 of the Counter-Terrorism and Security Act 2015 in connection with seizing and retaining travel documents

February 2015

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Presented to Parliament pursuant to paragraph 19(2) of Schedule 1 to
the Counter-Terrorism and Security Act 2015

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Introduction

1. This code of practice is issued under paragraph 18 of Schedule 1 to the Counter-Terrorism and Security Act 2015 (referred to hereafter in this code as “Schedule 1”). It includes:
 - i. the procedure under which the Secretary of State may designate immigration officers and customs officials (“Border Force officers”) to exercise functions under Schedule 1;
 - ii. the training to be undertaken by persons who are to exercise powers under Schedule 1;
 - iii. the exercise by police, and Border Force officers of their functions under Schedule 1;
 - iv. the information to be provided to a person subject to the exercise of powers under Schedule 1 and when and how that information should be provided; and
 - v. the process for reviewing the decision to authorise retention of travel documents¹ within 72 hours of the taking of the documents.
2. The code applies to police constables and Border Force officers only when they are exercising their functions under Schedule 1. When this Code refers to an officer of higher rank, this includes an officer duly authorised in an acting capacity to perform the functions of the higher rank.
3. Schedule 1 provides a power to allow for the taking and retention of travel documents for a period of up to 14 days where a person is at a port or the Northern Irish border area and the police officer reasonably suspects that the person is there:
 - i. with the intention of leaving Great Britain or the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom; or
 - ii. has arrived in Great Britain or Northern Ireland with the intention of leaving again soon for the purpose of involvement in terrorism-related activity outside the United Kingdom.

For the purposes of this code of practice, the above is referred to as “the test”.

4. The ‘border area’ refers to a place within Northern Ireland that is no more than one mile from the border between Northern Ireland and the Republic of Ireland. The test means that the power may be exercised where a person travels within the United Kingdom between Great Britain and Northern Ireland for the purpose of involvement in terrorism outside the United Kingdom, but not where a person is travelling between Northern Ireland and Great Britain.
5. Under Schedule 1, the 14 day retention period begins at 00.00 hours on the day after the documents were first taken, e.g. if the documents were retained at 22.00 on Monday, the retention period starts from 00.00 on Tuesday and would end a fortnight later at 23.59 Monday. A senior police officer of at least the rank of superintendent may apply to a court to extend the retention period beyond 14 days if more time is required to investigate the case or consider further disruptive action (this is referred to as the “14 day retention period”). A court cannot extend the retention period by more than 30 days, beginning at the next 00.00 hours the day after the documents were first taken (this is referred to as “the 30 day retention period”).

¹ Definition of travel documents can be found at paragraph 33.

6. Unless travel documents need to be retained for use in criminal or deportation proceedings, they must be returned, as soon as possible, if any of the following circumstances occur (whichever comes first):
 - i. if the statutory test to retain travel documents is no longer met;
 - ii. if an authorising officer has declined to authorise retention of the travel documents;
 - iii. where consideration of further disruptive activity has been completed and no further action taken;
 - iv. if the 14 day retention period has ended and a court has not extended it.

7. Unless travel documents need to be retained for use in criminal or deportation proceedings then where a court has extended the period of retention of travel documents, the documents must be returned:
 - i. if the statutory test to retain travel documents is no longer met;
 - ii. where consideration of further disruptive activity has been completed and no further action taken;
 - iii. at the end of the extended period of retention set by the court, if no further extension up to 30 days has been granted;
 - iv. at the end of the 30 day period.

Key roles

8. **A police constable** may determine whether the test to exercise the power is met and exercise the power to search, take, inspect and retain documents.

A police constable may:

- i. require a person to hand over all travel documents in his or her possession;
 - ii. search for travel documents relating to the person and to take possession of any they find;
 - iii. inspect any travel documents relating to the person; and
 - iv. where authorisation is obtained, retain travel documents for up to 14 days.

9. In order to retain travel documents for a period of up to 14 days, the police constable must seek the authority of an **'authorising officer'**. An 'authorising officer' means a senior police officer of at least the rank of superintendent. The authorising officer must be satisfied that the test has been met. If the authorising officer does not give authorisation to retain the documents, then they must be returned to the person as soon as reasonably practicable. This procedure is referred to in this code as "authorisation". A decision on authorisation must be provided in writing or verbally as soon as is reasonably practicable. If provided verbally it should be recorded in writing as soon as is reasonably practicable.

10. Border Force officers may also exercise powers under this Schedule. The scope of a Border Force officer's powers will depend on whether he or she has been certified by the Secretary of State to perform specific powers under the Act's Schedule. Border Force officers have three possible roles:
 - i. designated Border Force officer;
 - ii. accredited Border Force officer; or
 - iii. a Border Force officer that is neither designated nor accredited.

11. **A designated Border Force officer** is one who has been designated by the Secretary of State to exercise powers under Schedule 1 where directed to do so by a police officer. Designated Border Force officers are not entitled to determine whether the test has been met. Designated Border Force Officers are entitled to exercise powers under this Schedule **only** where directed to do so by a police constable. The police constable is responsible for determining whether the test is met and for seeking authorisation. Where a designated Border Force officer has been given a direction they must, where possible, comply with that direction. A designated Border Force officer should pass travel documents to a police constable as soon as reasonably practicable.
12. A police constable may, therefore, if satisfied that the test is met, direct a designated Border Force officer to exercise powers under this Schedule. A police constable may direct a designated Border Force officer to:
- require a person to hand over all travel documents in his or her possession;
 - search for travel documents relating to the person and to take possession of any they find;
 - inspect any travel documents relating to the person; and
 - retain travel documents relating to the person while a police constable seeks authorisation and, where authorisation is obtained, pass the travel documents to a police constable.
13. Schedule 1 also makes provision for the Secretary of State to designate Border Force officers as “accredited” Border Force officers. Accredited Border Force officers are entitled both to determine whether the test is met and to exercise the powers under Schedule 1. At present the Secretary of State has not designated any Border Force officers as accredited officers. The Secretary of State will not designate Border Force officers to be accredited without first having revised this Code of Practice. This Code therefore makes no provision about the exercise of powers under Schedule 1 by accredited Border Force officers.
14. There may be occasions where a Border Force officer (whether designated or not) has a concern that an individual at port may be travelling for terrorism-related purposes. If so, the Border Force officer should refer their concern to the police in the usual way.
15. If through the course of routine immigration duties the Border Force officer is already in lawful possession of travel documents, Schedule 1 entitles the Border Force officer to retain them while the concern is referred to the police. This referral may result in a police constable giving direction to a designated Border Force officer at port to exercise the power under Schedule 1 or directing a Border Force officer already in possession of documents who is not designated to pass the documents to a police constable. In summary, any Border Force officer who is neither designated nor accredited may on direction by a police constable:
- retain any travel documents that have lawfully come into their possession whilst they seek advice from a police constable;
 - pass any travel documents that have lawfully come into their possession to a police constable.
16. Within 72 hours of a travel document first coming into the possession of a police constable or a designated Border Force officer and where retention of the travel document under Schedule 1 has been authorised, a reviewing officer must carry out a review of the decision by the authorising officer to authorise the retention of the documents. The term ‘**reviewing officer**’ means a senior police officer of at least the rank of chief superintendent and of at least as high a rank as the authorising officer for the particular case under consideration. The reviewing officer should be outside the chain of command of the authorising officer and,

where practicable, a regional counter-terrorism lead. The review must commence *before* the 72 hour period has lapsed, beginning from the time at which the travel documents first came into possession of a constable or Border Force officer (even if taken under a power other than Schedule 1, thus it is crucial that the time at which the documents were first taken is recorded). The reviewing officer must write to the Chief Officer of the force to which the police constable retaining the documents belongs (or is on secondment to) in order to advise of their findings. The Chief Officer must consider those findings and take whatever action is appropriate.

17. Under Schedule 1, there is no power to detain a person whose travel documents have been seized and retained. These powers are not intended to be used as a long-term disruption tool but as a means to take immediate action to disrupt travel where it is assessed that the purpose of the travel is involvement in terrorism-related activity outside the United Kingdom. Exercise of this power allows consideration of whether other long-term disruption action would be appropriate.
18. Once the power has been exercised, if investigations conclude that the person was not intending to leave Great Britain or the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, travel documents must be returned to the person at the earliest opportunity.

Use of the power when individuals are arriving in Great Britain or Northern Ireland

19. If an individual is arriving in Great Britain or Northern Ireland, the power may be used if a constable reasonably suspects that the person will leave soon for the purpose of involvement in terrorism related activity outside of the United Kingdom. In determining 'soon' the police constable should assess whether the individual will remain in Great Britain or Northern Ireland for a sufficient period to allow for alternative disruptive action to be taken in relation to them without the need to seize and retain their travel documents. If the individual will remain in Great Britain or Northern Ireland for a sufficient period, Schedule 1 must not be used.

Legal status of this code of practice

20. Police Constables (of any rank) and Border Force officers (whether designated or otherwise) must exercise any functions conferred upon them by Schedule 1 in accordance with this code of practice. This code of practice is admissible in evidence in civil and criminal proceedings and may be taken into account by a court or tribunal in any case where it is considered relevant.
21. This code of practice must be available at police offices at ports, and Border Force offices as appropriate, where the power is, or is likely to be, used. The code must form part of the published departmental instructions/guidance for Border Force officers. The code should also be accessible to members of the public on the websites of the relevant agencies, including the police, the Home Office and Border Force.

Scope of the power

Reasonable suspicion

22. The power to seize and retain travel documents at a port or border area may be exercised if the test is met. The test uses the evidential standard of 'reasonable suspicion' which is used in relation to many other police powers. What constitutes reasonable grounds for suspicion will depend on the circumstances in each individual case. There must be an objective basis for the constable's state of mind based on facts. Such information must be specific to the personal conduct of the person. It can include observation of the behaviour of the person; information obtained from any other source; or a combination of these. Reasonable suspicion cannot be formed on the basis of assumptions about the attitudes, beliefs or behaviour of persons who belong to particular groups or categories of people. To exercise powers under Schedule 1 on this basis would be discriminatory.
23. There are two probable scenarios where a potential case for exercise of Schedule 1 may be identified:
- i. information is provided to the police before or when a person arrives at a port; or
 - ii. at port, on the basis of observation of behaviour, information obtained from any other source, or a combination of these.

Applicability

24. Schedule 1 powers can be exercised in respect of any person at a port or the border area between Northern Ireland and the Republic of Ireland, of any age, of any nationality, and whether or not they are resident in the United Kingdom.
25. The power to seize and retain travel documents can play an important role in the detection and prevention of terrorism, and using the power fairly makes it more effective. The power contained in Schedule 1 must be used fairly and proportionately, with respect for the person to whom the power has been applied. The power must be exercised in accordance with the prescribed procedures and without discrimination. A failure to use the power in the proper manner may reduce its effectiveness.
26. The Equality Act 2010² makes it unlawful for officers to discriminate against, harass or victimise any person on the grounds of the protected characteristics of: age, disability, gender reassignment, race (including colour, nationality, ethnic or national origin), religion or belief, sex and sexual orientation, marriage and civil partnership, and pregnancy and maternity when using their powers. Police officers and Border Force officers must bear in mind when exercising functions or powers under Schedule 1 that under section 149 of the Equality Act 2010, they are under a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity between people who share a protected characteristic and people who do not share it; and to take steps to foster good relations between those persons.

² <http://www.legislation.gov.uk/ukpga/2010/15/contents>

Children

27. Special care must be taken when considering exercising the power where it is evident that the person is a child. For the purposes of this Code, a child means anyone who appears to be under the age of 18 in the absence of clear evidence that he or she is older.
28. Border Force has a duty of care under Section 55 of the Borders, Citizenship and Immigration Act 2009³ to safeguard and promote the welfare of all children and young people as part of its work. This duty extends to any child which Border Force encounters arriving or leaving the United Kingdom.
29. Therefore, when dealing with cases involving children (whether in family groups or unaccompanied), police constables, or designated Border Force officers, must be aware of the necessity to safeguard a child's safety and welfare. This also means being alert to potential indicators of abuse or neglect and to the risks which abusers may pose to children.
30. Officers exercising powers under Schedule 1 must bear in mind that children can be easily intimidated especially if they are travelling alone but, equally, that they can be vulnerable to exploitation by adults wishing to further terrorist aims. While officers are not precluded from seizing and/or retaining travel documents from children, in doing so they must have due regard to the vulnerability of the child.
31. Where a police constable or Border Force officer exercises powers under Schedule 1, the following points must be considered:
 - i. If it is proposed to search the child and the child is travelling with a responsible adult, the child must be searched in the presence of that responsible adult, unless that person is thought to be exerting influence or pressure which could be detrimental to the child's interest or is obstructive, or the child objects to the presence of this individual.
 - ii. If the constable or Border Force officer decides to search the child in the absence of the responsible adult with whom that child is travelling then:
 - the reasons for taking that decision must be recorded in writing;
 - two officers of the same sex as the child should, where reasonably practicable, be present during the search.
 - iii. If the child is travelling unaccompanied, the officer:
 - must attempt to contact the child's parent or legal guardian; if they cannot be contacted, the officer must assess the child's safety and welfare and consider, if necessary, the provisions of legislation such as Section 46⁴ of the Children Act 1989; and
 - where the officer has child protection concerns, referral should be made to the appropriate police unit and/or the appropriate locality's Children's Services (or equivalent) It is routine for both police and Border Force officers to make referrals to local authority Children's Services (or equivalent) where child protection issues are identified and where appropriate Children's Services (or equivalent) will assume responsibility for the welfare of the child.

3 <http://www.legislation.gov.uk/ukpga/2009/11/section/55>

4 <http://www.legislation.gov.uk/ukpga/1989/41/section/46>

Location

32. The power can be exercised when the person is present at a port or in the border area between Northern Ireland and the Republic of Ireland. This includes:
- i. an airport;
 - ii. a sea port;
 - iii. a hoverport;
 - iv. a heliport;
 - v. a railway station where passenger trains depart for, or arrive from, places outside the United Kingdom; or
 - vi. any other place at which a person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving Great Britain or Northern Ireland.

A place is in the 'border area' if it is in Northern Ireland and not more than one mile from the border between Northern Ireland and the Republic of Ireland.

Travel documents

33. Under the power contained in Schedule 1, a travel document means anything that is, or appears to be:
- i. a passport; or
 - ii. a ticket or other document that permits a person to make a journey by any means, from a place within Great Britain to a place outside Great Britain, or from a place within Northern Ireland to a place outside the United Kingdom.

This means that a boarding pass or ticket permitting travel from Great Britain to Northern Ireland is 'a travel document' for the purpose of Schedule 1 and, where the test is met, can be taken and retained. However any other ticket permitting travel within the United Kingdom cannot (including a ticket permitting travel from Northern Ireland to Great Britain).

A passport means:

- i. a United Kingdom passport;
- ii. a passport issued by, or on behalf of, the authorities of a country or territory outside the United Kingdom, or by, or on behalf of, an international organisation; or
- iii. a document that can be used (in some or all circumstances) instead of a passport, such as an identity card.

Criminal offence

34. Under this power it is a criminal offence for a person to:
- i. refuse to hand over all travel documents in their possession without reasonable excuse to do so; or
 - ii. intentionally obstruct or seek to frustrate a search.

A person guilty of either or both of these offences is liable to imprisonment for a term not exceeding six months, or to a fine, which in Scotland or Northern Ireland may not exceed level 5 on the standard scale, or to both. In England and Wales, the fine may not exceed

level 5 on the standard scale until such times as 85(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 comes into force. A designated Border Force officer exercising this power has the same powers of arrest without warrant as a police constable in relation to these offences.

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Exercising the power

Police training

35. Before the power comes into force, a briefing package will be rolled out to constables located at ports, to officers of the rank of superintendent and higher who will act as authorising officers and to chief superintendents and higher who act as reviewing officers. This will provide guidance on the use of the power and their functions under Schedule 1.
36. Training on the exercise of the power will form part of the College of Policing's National Policing Curriculum for officers that work at ports and will be delivered to new and existing constables located at port as part of their rolling training programme. Officers of the rank of superintendent and higher who will act as authorising officers and officers of the rank of chief superintendents and higher who act as reviewing officers, will receive guidance in the use of the power and their functions.

Directing Border Force officers

37. In the majority of cases, it is expected that the power will be exercised by the police. However where a police constable is satisfied that the test is met, he or she has a discretion to direct a designated Border Force officer to exercise powers under Schedule 1 or to direct any other Border Force officer to retain a travel document (which they are already in lawful possession of) in order to pass it to a police constable as soon as reasonably practicable.
38. The discretion to direct may be useful, for example, where the police constable has received information which gives grounds to suspect that a person is en route to a particular port where there is no police presence, with the intention of leaving the United Kingdom for the purpose of involvement in terrorism-related activity. In these circumstances, the police constable should contact Border Force at the port in question and explain that the test in Schedule 1 may be met should the person arrive at the port. The Border Force officer should make contact with the police in the event that the person arrives at port. The police constable may then make a determination as to whether the test is met on the basis of both the prior information and any additional information offered by the Border Force officer, for example, confirmation that the person is at the port.
39. Examples of scenarios in which a police officer may exercise their power to direct a designated Border Force officer include when:
 - i. a constable determines that the test is met but may not be available at a port to exercise the power;
 - ii. a constable determines that the test is met on the basis of information (such as following a conversation with Border Force officers or other law enforcement officers at port) but it is not reasonably practicable for the police to exercise the power themselves, for example, because there is no police presence at the port.

40. A police constable may direct a designated Border Force officer verbally or in writing, but the details of the direction must be recorded in writing both by the directing constable and by the receiving Border Force officer.

Border Force training, designation and accreditation processes

41. The Secretary of State has the power to designate Border Force officers for the purpose of exercising functions under Schedule 1. A 'designated officer' may exercise powers under Schedule 1 where directed by a police officer to do so. 'Designated' Border Force officers will have completed the required training in the exercise of the power and received confirmation of their designated status. Designated Border Force officers will at all times require police direction to exercise the power. Border Force officers that are chosen to be part of the 'designated' cohort will also receive the required level of personal safety training before they are able to exercise the powers of a 'designated' officer. All Border Force staff will receive awareness training in relation to the general functions under Schedule 1 consisting of operational instructions and guidance.
42. When a Border Force officer has undertaken the training programme, it is expected that they will be suitably prepared to exercise the power. At this point, the officer will receive a letter of designation from a senior manager on behalf of the Secretary of State (usually the relevant Border Force Assistant Director) which will confirm their designation.
43. Accredited Border Force officers are entitled both to determine whether the test is met and to exercise the powers under Schedule 1. At present the Secretary of State has not designated any Border Force officers as accredited officers. The Secretary of State will not designate Border Force officers to be accredited without first having revised this code of practice.

Applying the powers

Terrorism-related activity

44. Schedule 1 powers may only be exercised where a police constable is satisfied that a person is at a port and has reasonable grounds to suspect that the person is there with the intention of travelling for the purpose of involvement in terrorism-related activity outside the United Kingdom. Under the power, terrorism-related activity is any one or more of the following:
- i. the commission, preparation or instigation of acts of terrorism;
 - ii. conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
 - iii. conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
 - iv. conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in the commission, preparation, or instigation of acts of terrorism.

Searches

45. Where the test is met, a police constable or a designated Border Force officer (on the direction of a police constable) may search a person for travel documents relating to that person. Police constables and designated Border Force officers have the power to search:
- i. a person;
 - ii. anything that person has with him or her; and
 - iii. any vehicle in which the officer believes the person to have been travelling or to be about to travel.

To enable a search under this power a police constable or designated Border Force officer may:

- i. stop a person or vehicle for the purpose of exercising the power;
 - ii. if necessary, use reasonable force for the purpose of exercising the power;
 - iii. authorise a person to carry out a search on the officer's behalf.
46. Every reasonable effort must be made to minimise potential embarrassment or offence that may be caused to a person being searched. A search of a person shall be carried out by a police constable or a designated Border Force officer or another person authorised to do so on their behalf. A person authorised to carry out a search on behalf of a police constable or a designated Border Force officer shall be of the same sex as the person searched.
47. A baggage search need not be carried out by a person of the same sex, but where that is requested or where an objection is raised to the search being conducted by a person of the opposite sex, the search should be conducted by a person of the same sex where that is reasonably practicable. If it is not reasonably practicable, the police constable or designated Border Force officer should record the objection in writing, but may proceed with the search.

48. Searches under these powers do not preclude a search being carried out under other powers if appropriate, for example where a constable has other powers by virtue of common law or other statute.
49. When a search of a person is carried out the police constable or designated Border Force officer must, if not uniformed, show a warrant card or similar evidence of his or her authority, but need not give his or her name. If requested, the police constable or designated Border Force officer must provide sufficient information to the person or his or 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.

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Retention of travel documents

50. Travel documents may be retained for up to 14 days for the purpose of disrupting an individual's ability to leave the United Kingdom while investigations are undertaken into whether it is appropriate to take further disruptive action against the individual.
51. Travel documents may continue to be retained:
 - i. while the Secretary of State considers whether to exercise the Royal Prerogative to cancel the person's passport;
 - ii. while consideration is given to charging the person with an offence;
 - iii. while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Secretary of State for purposes connected with protecting members of the public from a risk of terrorism; or
 - iv. while steps are taken to carry out any of these measures.

Temporary support arrangements

52. This power can be used against any person of any nationality. The person does not need to be resident in the United Kingdom.
53. Retaining the passport (and other travel documents, if applicable) of a person who is not resident in the United Kingdom will have the effect of preventing the individual from returning to their country of residence for up to 14 days (or potentially up to 30 days if the retention period is extended by a court). The power to retain travel documents of persons not resident in the United Kingdom must be exercised only where there are compelling reasons to do so. This is because the exercise of the power in relation to persons not resident in the United Kingdom is likely to have a significantly greater impact upon that person's freedoms than if that person were resident in the United Kingdom. Accordingly for the exercise of the power to be proportionate in these circumstances, the police officer must be able to demonstrate that there are particularly compelling reasons for exercising it.
54. An individual who is not resident in the United Kingdom may not have sufficient means to provide for basic living costs for themselves or their dependents while their travel documents are being retained. In this situation, the Home Office may provide a basic level of support to the person. Where appropriate this may include accommodation or subsistence in the form of vouchers or a pre-paid card. Temporary support arrangements may also be extended to travel companions of a person whose travel documents are being retained, if necessary. In all cases relating to people who do not reside in the United Kingdom, a police constable or designated Border Force officer should assess the person's needs at port.
55. Where the power to retain the passport is exercised against a non-United Kingdom resident, a police constable or designated Border Force officer must inform the person that if they do not have the means to cover basic living costs for the duration of the retention period, the Home Office may provide for basic accommodation and living costs via a third party accommodation provider. If this is claimed, the officer should refer to operational guidance to assess their needs.

If satisfied, the constable or designated Border Force officer exercising the power should telephone the accommodation provider. The accommodation provider will arrange a place for the person, and if necessary his/her travel companions, to stay and arrange for the person to be transported from the port to this accommodation. Individuals should be informed that the Home Office will not reimburse individuals who choose to make alternative arrangements for their accommodation and living arrangements. Individuals should be informed that if they change their mind or run out of funds after leaving the port, they should contact the police constable identified on the notice served on them at port. In such cases, the police constable should refer the case to the accommodation provider and instruct the provider to arrange basic accommodation and to arrange for the person to be transported to the accommodation.

Immigration status

56. Where authorisation is obtained for retention of travel documents belonging to a person who is a foreign national, the officer exercising the power must inform the person that their presence in the United Kingdom is lawful whilst their documents are being retained. Individuals who do not have leave to remain in the UK will be expected to take all reasonable steps to leave the UK once their travel documents are returned. If the foreign national has leave to remain in the UK, he or she would remain on those leave conditions unless/until they are altered under immigration powers. This information should form part of the notice that is served in writing to the individual at port, as described at paragraph 73 of the code.
57. If the exercise of this power means that travel companions are also unable to leave the United Kingdom during the retention period, Border Force and UK Visas and Immigration may use pre-existing immigration powers to permit entry or leave to remain in the United Kingdom, if required. Applications for leave or entry should be considered on a case-by-cases basis.

72 hour review of authorisation

58. Within 72 hours of travel documents being seized and retained, beginning from the time at which the travel documents first came into possession of the officer (including any time during which the travel document may have been held under a power other than Schedule 1) a reviewing officer must consider whether the decision to authorise the retention of the documents was flawed. The reviewing officer must be a senior police officer of at least the rank of chief superintendent and of at least as high a rank as the authorising officer in the case under review. The reviewing officer should be outside the chain of command of the authorising officer and, where practicable, a regional counter-terrorism lead. All relevant papers and records held by any officer exercising functions under Schedule 1 must be made available to the reviewing officer for the purposes of their review.
59. The findings of the review must be communicated in writing to the Chief Officer of the force to which the officer exercising powers under Schedule 1 belongs (or is on secondment to). The Chief Officer who receives the reviewing officer's letter must consider it and take whatever action he or she deems appropriate.
60. All 72 hour review letters should be copied to the National Policing Lead for Counter-Terrorism for their information. This code does not make provision to cover the situation where the test was determined by an accredited Border Force officer. This is because none have been accredited and before accreditation, the Secretary of State will revise this Code to make appropriate provision. However, if designated Border Force officers were involved in the incident, the reviewing officer should consider whether their chain of command should also be involved in this correspondence, for information.

Application to a court for an extension of the 14 day retention period

61. If it is assessed that additional time is required to investigate whether it is appropriate to take alternative disruptive measures against a person, a police officer of at least the rank of superintendent may apply to a court for an extension of the retention period beyond the 14 day period. As described in Schedule 1, a judicial authority means a District Judge (Magistrates Court) (England and Wales), the Sheriff (Scotland) or a County Court Judge or District Judge (Magistrates Court) (Northern Ireland). The court cannot grant an extension that exceeds the 30 day retention period. Any application must be made before the end of the initial 14 day retention period. An application will only be heard if reasonable efforts have been made to notify the person to whom the application relates of the time when the application was made and of the date, time and location of the hearing. Any individual may qualify for civil legal aid for these proceedings, subject to satisfying statutory means and merits tests.
62. At a hearing, the court will neither examine the merits of the exercise of the power nor review the officer's decision to exercise it. The court will instead consider whether persons responsible for considering the possibility of taking additional disruptive action (and taking steps in relation to that) have been acting diligently and expeditiously in the investigation. If the court concludes that they have been, then it must grant an extension. Any extension granted by a court cannot extend the retention period beyond the 30 day period. If the court grants an extension for a period ending before the end of the 30 day period the police may make one further application to extend the retention period but not beyond the 30 day retention limit.
63. The person to whom the application relates must be given the opportunity to make oral or written representations to the court in relation to the application. He or she is entitled to be legally represented at the hearing. An adjournment may be granted by the court to enable the person to obtain legal representation. The adjournment must be to a date before the end of the 30 day period, and the retention of the travel documents must also be extended until the date of the hearing.
64. Using the power at paragraph 10 of the Act, a court may exercise its discretion to exclude the person to whom the application relates and their legal representative from any part of the court hearing. Any application to invite the court to exclude must be made to the court only where it is considered that disclosure of matters referred to in that part of the hearing to the person or his legal representatives would damage national security. In addition, the police may apply to a court for an order to withhold specified information from the individual or their legal representative. To make this order, the court must be satisfied that there are reasonable grounds for believing that if the specified information were disclosed:
 - i. evidence of an offence under the Terrorism Act 2000⁵ would be interfered with or harmed;
 - ii. the recovery of property obtained as a result of an offence under the Terrorism Act 2000 would be hindered;
 - iii. the recovery of property in respect of which a forfeiture order could be made under the Terrorism Act 2000 would be hindered;
 - iv. the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted;
 - v. the prevention of an act of terrorism would be made more difficult as a result of a person being alerted;
 - vi. the gathering of information about the commission, preparation or instigation of an act of terrorism would be interfered with;
 - vii. a person would be interfered with or physically injured; or
 - viii. national security would be put at risk.

⁵ <http://www.legislation.gov.uk/ukpga/2000/11/contents>

65. Where an application is made to withhold such information from the person, the court must exclude the person and his legal representatives from the hearing of that application.
66. If the court does not grant an extension of the retention period, the travel documents must be returned no later than the expiry of the retention period.

Restrictions on repeated use of the powers against the same person

67. If the power is exercised against the same person more than twice in any six month period, on the third occasion (and on any subsequent occasion in a rolling six month period), then the initial retention period is limited to five days, instead of 14 days, beginning from 00.00 hours on the day after the travel documents were taken. To extend retention beyond this period, a senior police officer of at least the rank of superintendent must apply to the court under the same procedure as that outlined above. A further extension (of up to 30 days) may only be granted where the court is satisfied that the relevant persons are acting diligently and expeditiously in relation to the matters referred to at paragraph 51 of the code and there are circumstances justifying the further use of the power in relation to the same person.
68. The power is not meant to be used as a long term disruption tool but as a means to enable the police to take immediate action to disrupt travel while investigations are undertaken into whether an alternative longer term disruptive action would be appropriate. It would therefore be highly unusual for the power to be exercised in such quick succession against the same individual in a six month period. There must be exceptional circumstances justifying the further use of this power in relation to the same person.

Notification requirements

69. A police constable or designated Border Force officer exercising a power to take possession of travel documents or to search for travel documents must inform the person subject to the exercise of those powers that:
 - i. the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom; and
 - ii. the police constable or designated Border Force officer is therefore entitled under Schedule 1 of the Counter Terrorism and Security Act to exercise the power to take possession of these documents.
70. A police constable or designated Border Force officer is entitled to retain travel documents that have come into their possession under Schedule 1 while an application for authorisation is considered by a senior officer. Where the officer is retaining the documents pending authorisation, and the officer does not expect the authorisation to be dealt with immediately, the officer must additionally inform the person that:
 - i. the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purposes of involvement in terrorism-related activity outside the United Kingdom (if the person has not already been informed of this during exercise of powers referred to above); and
 - ii. the police constable or designated Border Force officer is therefore entitled under Schedule 1 of the Counter-Terrorism and Security Act to retain the document while the matter is considered by a senior police officer (authorising officer).

71. A Border Force officer (whether designated or not) may be directed by a police constable to pass travel documents which are already lawfully in their possession to a police constable. The Border Force officer must tell the person that their travel documents have been passed to the police because the person is suspected of intending to leave Great Britain (or the United Kingdom) for the purpose of involvement in terrorism-related activity outside the United Kingdom, and that the police are holding their documents whilst consideration is given to whether they should be retained. This does not apply if the Border Force officer expects the police to deal with the application for authorisation immediately.
72. Where authorisation is granted, the constable or designated Border Force officer must inform the person that authorisation from a senior police officer has been given to retain their travel documents and that this means that the travel documents may be retained for up to 14 days while any of the following takes place:
- i. while the Secretary of State considers whether to exercise the Royal Prerogative to cancel the person's passport (in the case of a British passport);
 - ii. while consideration is given to charging the person with an offence;
 - iii. while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Secretary of State for purposes connected with protecting members of the public from a risk of terrorism; or
 - iv. while steps are taken to carry out any of these measures.

The individual must also be informed that the travel document can not be retained beyond 14 days, beginning 00.00 the day after the document is seized, unless the retention period is extended by a court, in which case it cannot be retained for more than 30 days in total; and that the travel documents must be returned once the 14 day period (or extended period) expires, or if the above conditions no longer apply, whichever comes first.

Written notification

73. Where authorisation has been granted by an authorising officer, the police constable or designated Border Force officer in possession of the travel documents must issue a written notice at port informing the individual that his or her travel documents are being retained under Paragraph 5 of Schedule 1 of the Counter Terrorism and Security Act 2015. The notice should:
- i. provide a case reference number;
 - ii. state the date and time at when the documents first came into possession of the officer (whether or not by means of exercise of Schedule 1 powers);
 - iii. inform the person that their travel documents are being retained under Paragraph 5 of Schedule 1 to the Counter-Terrorism and Security Act 2015;
 - iv. inform the person that if he or she is a foreign national who requires leave to enter or remain in the United Kingdom and is already in possession of valid leave that:
 - he or she would remain on those leave conditions unless/until action is taken to review that leave status under immigration law.
 - or
 - that if he or she is a foreign national who requires leave to enter or remain in the United Kingdom and does not have leave or their leave expires within the next 30 days that he or she will be deemed to be not unlawfully in the UK during the retention period;
 - v. provide contact details to enable the individual to contact the police regarding the retention of their travel documents;

- vi. advise that the documents may be retained by the police for up to 14 days (or 30 days if extended by a court) and that the retention period begins at 00.00 on the day after the day on which documents are seized;
- vii. explain that the person's documents will be securely stored;
- viii. inform the person that, where the police are in possession of their address, they will, if appropriate, return the documents to them by secure post, or advise of how to make alternative arrangements to collect the travel documents;
- ix. provide information about where a person can access this Code of Practice;
- x. provide information about how an individual can make a complaint;
- xi. confirm that the individual has a right to legal representation at any court hearing to extend the period of retention;
- xii. inform the person that they may write to the police at a given address to request reasons for the retention of their travel documents and the police must provide a response within 42 days. This notice should inform the person that they will not be provided with any information that might prejudice national security; and
- xiii. invite the person to notify the police of their place of residence or the contact details of their solicitor so that they can be notified if an application to extend the retention period is made.

For the purpose of this code of practice a suggested pro-forma notice can be found at Annex A.

- 74. If a person's travel documents are returned within 14 days from the day after they were retained, an accompanying notice will be issued with the travel documents by the police reminding the individual that he or she may formally request reasons as to why their travel documents were seized and retained. If a formal request is received, as full a response as possible (consistent with protecting national security and other data protection considerations) must be provided within 42 days.
- 75. If an application is made to a court to extend the retention period of the travel documents, a notice must be issued by the police to the person concerned informing him or her of the application to extend the retention period. While the court hearing will not examine the merits of the exercise of this power nor review the officer's decision to exercise it, this notice should inform the individual of the reasons why their travel documents were seized and retained as fully as possible without prejudicing national security (and consistent with other data protection considerations). This will enable a person to understand why they are under investigation and in turn to consider whether their case is being considered diligently and expeditiously. The notice should also inform the individual of the time on which the application to the court was made and the time and location of the hearing. It must confirm their right to make written or oral representations to the court and that they may qualify for civil legal aid for these proceedings, subject to satisfying statutory means and merits tests.

Written disclosure

- 76. A police constable exercising the power to retain documents under Schedule 1 must, if requested, provide the person subject to the exercise of this power with written reasons for its exercise in his/her case. The reasons must be as full as possible but without prejudicing national security. Accordingly, the police constable must very carefully consider the level of detail provided in consultation with information owners. A case-by-case assessment should take place to consider what information can be disclosed to an individual without damaging national security.
- 77. A summary of all notification requirements can be found at Annex D.

Monitoring of the use of the power

78. The police must monitor the use of this power and should consider in particular whether there is any evidence that it is being exercised on the basis of stereotyped images or inappropriate generalisations. Consideration should be given to whether the records reveal any trends or patterns which give cause for concern, and if so take appropriate action to address this. Monitoring records should, where possible, include:

- i. Age;
- ii. Disability;
- iii. Gender;
- iv. Race;
- v. Religion and Beliefs; and
- vi. Sexuality.

79. The operation of this power will be subject to review by the Independent Reviewer of Terrorism Legislation, as specified in the Counter-Terrorism and Security Act 2015. In addition the Home Office will report annually on the use of this power.

Return of travel documents

80. The individual should have been informed at the point of retention that their travel documents will be returned by secure post (if appropriate). If alternative arrangements are necessary, the individual should be informed of these arrangements as required.

Complaints

Complaints about the Police

81. Complaints about the conduct of police constables exercising powers under Schedule 1 should be directed to the police force of the area where the retention of the travel document took place.
82. Police force websites include information about how to complain. Alternatively an individual may complain in person at a police station. A complaint may also be submitted to the Independent Police Complaints Commission (IPCC) or relevant independent police complaint bodies (see below).
83. If an individual is dissatisfied with the outcome of the complaint, they may request a review of how their complaint was handled. This could be undertaken by either the relevant police force or the relevant independent police complaints body. Notification of the outcome of any initial complaint to a police force should include information about how to request a review of the decision and the time limits involved.

Independent Police Complaint Bodies

- Independent Police Complaints Commission for England and Wales
Address: PO Box 473, Sale, M33 0BW
Phone: 0300 020 0096 (Hours of Operation: 09:00-17:00)
Email: www.ipcc.gov.uk/page/contact
- The Police Investigations and Review Commissioner for Scotland
Address: Hamilton House, Hamilton Business Park, Caird Park, Hamilton ML3 0QA
Phone: 01698 542900 (Hours of Operation: 09:00-16:45)
Email: enquiries@pirc.gsi.gov.uk
- The Police Ombudsman for Northern Ireland
Address: New Cathedral Buildings, Writers' Square, 11 Church Street, Belfast, BT1 1PG
Phone: 0845 601 2931 or 028 9082 8600 or 028 9082 8756
Email: info@policeombudsman.org

Complaints about Border Force

84. Complaints about the conduct of Border Force officers exercising the power should be sent to Border Force Complaints and Correspondence Team:
 - Border Force Complaints and Correspondence Team
Address: Lunar House, 11th Floor Long Corridor, 40 Wellesley Road, Croydon CR9 2BY
Email: complaints&compliments@homeoffice.gsi.gov.uk

If an individual is not satisfied with the response, he or she can request that a complaints manager reviews the handling of their complaint. This is done by writing to:

- Border Force Complaints and Correspondence Team
Address: Building 25, Priory Court, St Johns Road, Dover Kent CT17 9SH

Alternatively, complaints against a Border Force officer can be made to the IPCC:

- Independent Police Complaints Commission for England and Wales
Address: PO Box 473, Sale, M33 0BW
Phone: 0300 020 0096 (Hours of Operation: 09:00-17:00)
Email: www.ipcc.gov.uk/page/contact

Notification of the outcome of any complaint must include information about how to appeal the decision and any time limits involved.

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Annex A – Retention of travel document example notice

Travel Document Retention Notice

Schedule 1 to the Counter-Terrorism and Security Act 2015

THIS NOTICE DOES NOT PROVIDE ANY AUTHORITY TO TRAVEL

CASE REFERENCE NUMBER:

PERSONAL DETAILS

SURNAME:

FORENAME(S):

DATE OF BIRTH:

PLACE OF BIRTH:

ADDRESS (IF KNOWN):

CONTACT PHONE NUMBER:

NATIONALITY:

IMMIGRATION STATUS:

CASE DETAILS

PASSPORT NO./OTHER DOCUMENT REFERENCE NO.:

ID NUMBER OF OFFICER WHO TOOK DOCUMENT:

ID NUMBER OF AUTHORISING OFFICER:

POLICE CONTACT – POSTAL ADDRESS/EMAIL/TELEPHONE:

LOCATION WHERE DOCUMENT TAKEN:

DATE DOCUMENT TAKEN:

TIME DOCUMENT TAKEN:

TIME OF AUTHORISATION:

This notice has been issued following the authorisation under Schedule 1 of the Counter-Terrorism and Security Act 2015 (“Schedule 1”) of the retention of travel documents belonging to the above named person under paragraph 4 of Schedule 1. Paragraph 2 of Schedule 1 applies in the case of a person at a port in Great Britain or Northern Ireland (or in the Northern Irish border area) if a constable has reasonable grounds to suspect that the person:

Please tick

- Is there with the intention of leaving the United Kingdom (or Great Britain as the case may be) for the purpose of involvement in terrorism-related activity outside the United Kingdom, or
- has arrived in Great Britain or Northern Ireland with the intention of leaving it soon for that purpose.

Your travel documents are being retained under paragraph 5 Schedule 1. A senior police officer has authorised the retention of your travel documents for a period of up to 14 days beginning from the time of 00.00 hours the day after the taking of your documents. The senior police officer is satisfied that you were at a port in Great Britain or Northern Ireland (or in Northern Ireland, the border area) and there are reasonable grounds to suspect that you were there with the intention of leaving the United Kingdom (or Great Britain as the case may be) for the purpose of involvement in terrorism-related activity outside the United Kingdom or that you have arrived in Great Britain or Northern Ireland (or in Northern Ireland, the border area) with the intention of leaving the United Kingdom (or Great Britain as the case may be) soon for that purpose.

The following documents have been seized (*list items*):

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Involvement in terrorism-related activity is defined as:

- a) the commission, preparation or instigation of acts of terrorism;
- b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
- c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
- d) conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in the commission, preparation, or instigation of acts of terrorism.

It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.

The documents can be retained by the police for up to 14 days from the beginning of the day after the day on which the documents were taken. (i.e. from 00:00 hours on the day after the documents were seized). You may write to the police at the address provided in this notice to request reasons for the retention of your travel documents. A response will be issued within 42 days of receipt of the request. You will not be provided with any information that might prejudice national security.

An application may be made to a court by the police to extend the period during which your travel document are retained up to 30 days in total. If this happens, you will be notified of the time the application was made and of the time and place of the hearing. You will be also be notified that you will be given the opportunity to make representations to the court regarding the matter. You may wish to consult a solicitor privately, whether in person or by telephone. You may qualify for civil legal aid for these proceedings, subject to satisfying statutory means and merits tests. Your solicitor can advise you on how to make an application for civil legal aid within your jurisdiction.

All documents must be returned once the 14 day period expires (or 30 days if this period is extended by a court) or earlier if the reasons for retaining your travel documents no longer apply, unless the travel documents are retained under any other power or where they are needed for criminal or deportation proceedings.

If you already have leave to remain in the United Kingdom, you will remain on these leave conditions. If you do not have leave to remain in the United Kingdom, or where your leave may expire during the period of retention of your passport, your presence in the United Kingdom will be deemed to be lawful for the duration of the retention of your passport.

Your travel documents will be stored securely in line with police handling processes and you will be contacted to arrange the secure return of your documents as required. You should provide contact details of your place of residence or contact details of your solicitor so that we can contact you.

The code of practice which regulates the use of these powers can be accessed at: www.tinyurl.com/hopublications. Alternatively, you may request a copy from the port at which the power was exercised.

If you require further information about the exercise of Schedule 1 powers in relation to your travel documents, or if you wish to make further representations about the seizure and retention of your travel documents, please refer to the contact information listed on the first page of this document.

If you do not have the means to cover basic living costs for the duration of the retention period, the Home Office may provide for basic accommodation and living costs. If this is the case you should tell the person issuing you with this notice. Your case will be referred to an accommodation provider who may then be instructed to find basic accommodation and to arrange for you to be transported from the port to this accommodation. The Home Office will not reimburse you if you choose to make alternative arrangements for your accommodation and living arrangements. If you do not wish to ask for Home Office-provided arrangements but subsequently change your mind, you should refer to the contact information listed on the first page of this document.

Complaints

Complaints about the conduct of police constables during the seizure and retention of travel documents should be directed to the relevant police force of the area where your documents were taken. Police force websites include information about how to complain or you may complain in person at a police station. If you are unhappy or dissatisfied with the outcome of any complaint you may request that the relevant police force review how the complaint was handled.

Any complaints about the conduct of a Border Force officer during the exercise of Schedule 1 powers should be sent in writing to:

Border Force Complaints and Correspondence Team
Address: Lunar House, 11th Floor Long Corridor, 40 Wellesley Road, Croydon CR9 2BY
Email: complaints&compliments@homeoffice.gsi.gov.uk

If you are not satisfied with the response you receive you can request a review of the handling of the complaint. You can do this by contacting:

Border Force Complaints and Correspondence Team
Address: Building 25, Priory Court, St Johns Road, Dover Kent CT17 9SH

Annex B – Travel Document Retention – Notice of Application to Extend the Retention Period

Schedule 1 to the Counter-Terrorism and Security Act 2015

THIS NOTICE DOES NOT PROVIDE ANY AUTHORITY TO TRAVEL

This notice has been issued following the retention of travel documents belonging to you, under Schedule 1 to the Counter-Terrorism and Security Act 2015 (“Schedule 1”). It gives notice that an application has been made to a court to extend the period during which police may retain travel documents currently held under Schedule 1.

CASE REFERENCE NUMBER:

PERSONAL DETAILS

SURNAME:

FORENAME(S):

DATE OF BIRTH:

PLACE OF BIRTH:

ADDRESS:

PASSPORT NO.:

NATIONALITY:

IMMIGRATION STATUS:

CASE DETAILS

ID NUMBER OF OFFICER THAT TOOK DOCUMENTS:

ID NUMBER OF AUTHORISING OFFICER:

POLICE CONTACT – POSTAL ADDRESS/EMAIL/TELEPHONE:

LOCATION DOCUMENTS TAKEN:

DATE DOCUMENTS TAKEN:

TIME DOCUMENTS TAKEN:

TIME OF AUTHORISATION:

PERIOD OF EXTENSION SOUGHT:

Your travel documents were retained on the above date after a senior police officer gave authorisation for your documents to be retained for up to 14 days. That senior officer was satisfied that you were at a port in Great Britain or Northern Ireland (or in Northern Ireland, the border area) and there are reasonable grounds to suspect that you were there with the intention of leaving the United Kingdom (or Great Britain as the case may be) for the purpose of involvement in terrorism-related activity outside the United Kingdom or that you had arrived in Great Britain or Northern Ireland (or in Northern Ireland, the border area) with the intention of leaving the United Kingdom (or Great Britain as the case may be) soon for that purpose.

Enclosed with this notice is a summary of the reasons for retaining your travel documents. We have provided as much information as possible without prejudicing national security. The court hearing will not examine the merits of the exercise of this power nor review the officer's decision to exercise it. This information is only provided to help you or your legal representative consider whether your case is being considered diligently and expeditiously.

The following documents were seized (*list items*):

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.

Involvement in terrorism-related activity is defined as:

- a) the commission, preparation or instigation of acts of terrorism;
- b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so;
- c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so;
- d) conduct that gives support or assistance to individuals who are known or believed by the person concerned to be involved in the commission, preparation, or instigation of acts of terrorism.

It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.

The police have applied to extend the retention period for your travel documents. The court cannot extend the total period of retention beyond 30 days beginning from 00.00 hours on the day after the taking of your documents. If the court grants an extension for a period which is less than the 30 day limit, the police may make one further application to extend the retention period up to the 30 day limit.

Any extension granted by a court must not extend the retention period beyond 30 days in total.

You are entitled to make oral or written representations to the court in relation to the application and to be legally represented at the hearing. If required, an adjournment must be granted by the court to enable you to obtain legal representation. The adjournment must be to a date before the end of the 30 day period, and the retention of the travel documents must also be extended until that date.

A court can exclude you or your legal representative from any part of the court hearing on application. In addition, the police may apply for an order to withhold specified information from you or your legal representative. To make this order, the court must be satisfied that there are reasonable grounds for believing that if the specified information were disclosed:

- a) evidence of an offence under the Terrorism Act 2000⁶ would be interfered with or harmed;
- b) the recovery of property obtained as a result of an offence under the Terrorism Act 2000 would be hindered;
- c) the recovery of property in respect of which a forfeiture order could be made under the Terrorism Act 2000 would be hindered;
- d) the apprehension, prosecution or conviction of a person who is suspected of being a terrorist would be made more difficult as a result of the person being alerted;
- e) the prevention of an act of terrorism would be made more difficult as a result of a person being alerted;
- f) the gathering of information about the commission, preparation or instigating of an act of terrorism would be interfered with; or
- g) a person would be interfered with or physically injured, or
- h) national security would be put at risk.

You will be notified if any such exclusions apply to this court hearing and the date, time and location of the court hearing once this is confirmed.

You may wish to consult a solicitor privately, whether in person or by telephone. You may qualify for civil legal aid for these proceedings, subject to satisfying statutory means and merits tests. Your solicitor can advise you on how to make an application for civil legal aid within your jurisdiction.

If you require further information about the exercise of Schedule 1 powers in relation to your travel documents or about this application to extend the retention period of your travel documents please refer to the contact information provided on the first page of this notice.

⁶ <http://www.legislation.gov.uk/ukpga/2000/11/contents>

Annex C – Glossary of key terms

14 day period	The 14 day period starts from the next 00.00 hours the day after the taking of the travel documents e.g. if the documents were retained at 22.00 on Monday, the retention period starts from 00.00 on Tuesday and would end a fortnight later on 23.59 Monday.
30 day period	The 30 day period starts the next 00.00 hours the day after the taking of the travel documents.
Accredited Border Force officer	A Border Force officer empowered by the Secretary of State to exercise the power without the need for police direction. No Border Force officers have been empowered to be accredited and so Border Force officers cannot presently determine whether the test to exercise the power is met.
Authorising officer	A police officer of at least the rank of superintendent who must authorise the retention of travel documents.
Border area	A place in Northern Ireland that is no more than one mile from the border between Northern Ireland and the Republic of Ireland.
Border Force officer	An immigration officer or a customs official.
Constable	A police officer of any rank.
Designated Border Force officer	A Border Force officer who has been designated to exercise the power by the Secretary of State, but only on direction from a police constable.
Involvement in terrorism-related activity	<p>Involvement in terrorism-related activity is any one or more of the following:</p> <ul style="list-style-type: none"> a) the commission, preparation or instigation of acts of terrorism; b) conduct that facilitates the commission, preparation or instigation of such acts, or is intended to do so; c) conduct that gives encouragement to the commission, preparation or instigation of such acts, or is intended to do so; d) conduct that gives support or encouragement to individuals who are known or believed by the person concerned to be involved in conduct falling within paragraph a). <p>It is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism in general.</p>
Judicial Authority	A Judicial Authority means a District Judge (Magistrates Court) (England and Wales), the Sheriff (Scotland) or a County Court Judge or District Judge (Magistrates Court) (Northern Ireland). In their respective courts the judicial authority will preside over applications to extend travel document retention periods.
Passport	A United Kingdom passport or a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or a document that can be used (in some or all circumstances) instead of a passport.
Port	An airport; a sea port; a hoverport; a heliport; a railway station where passenger trains depart for, or arrive from places outside the United Kingdom; or any other place at which the person is able, or attempting, to get on or off any craft, vessel or vehicle in connection with entering or leaving the United Kingdom.
Reviewing officer	A senior police officer of at least the rank of Chief Superintendent and of at least the same rank as the authorising officer who took the decision in the case, who will review the decision to authorise retention of documents within 72 hours.
Senior police officer	A police officer of at least the rank of Superintendent.
Travel documents	A passport or a document that can be used instead of a passport or a ticket that permits a person to make a journey by any means from a place within Great Britain to a place outside Great Britain or from a place within Northern Ireland to a place outside the United Kingdom i.e. a ticket permitting travel outside the United Kingdom or from Great Britain to Northern Ireland (but not from Northern Ireland to Great Britain).

Annex D – Notification points

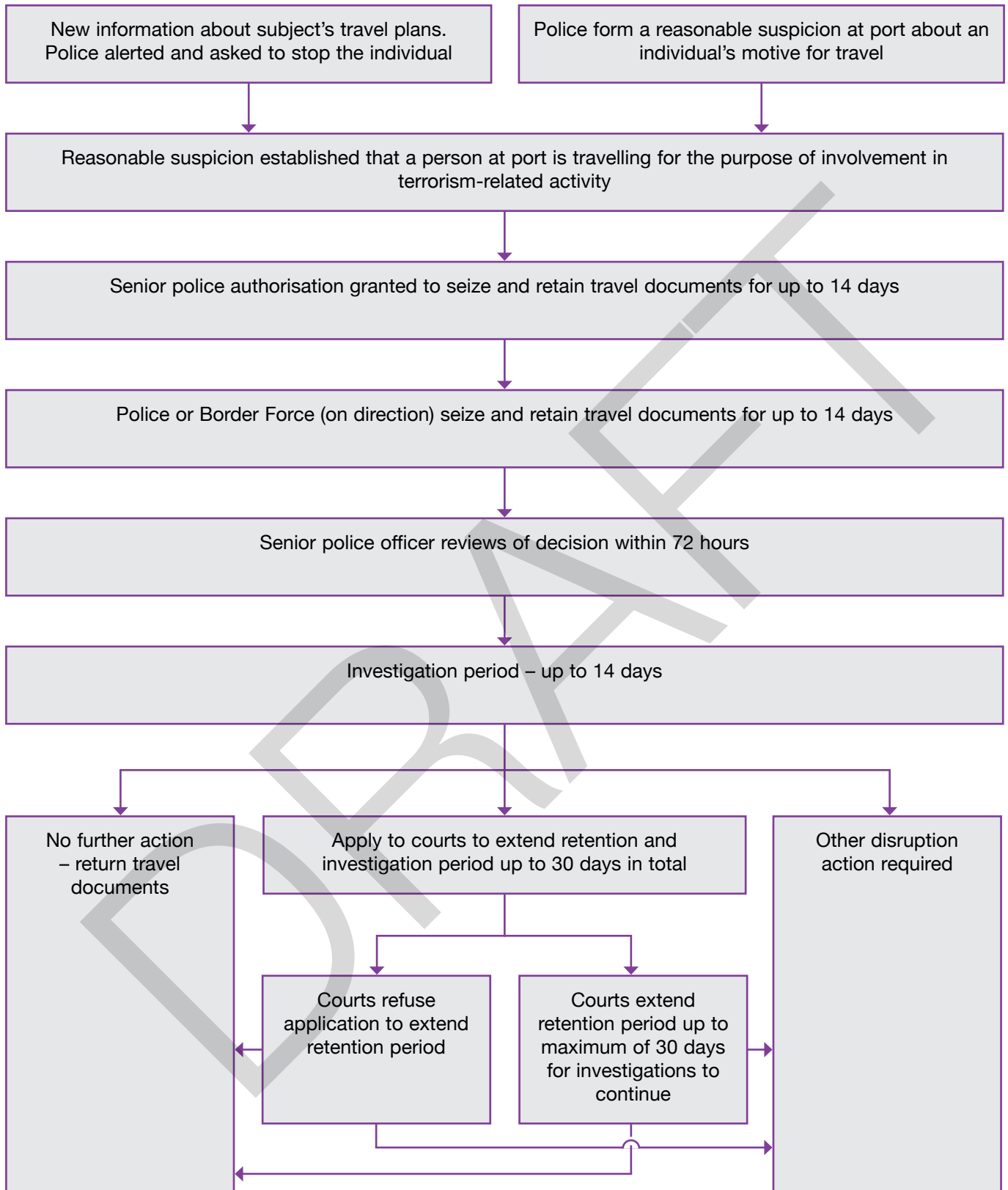
WHEN	INFORMATION PROVIDED	HOW
<p>At port or in the Northern Ireland border area when a police constable or designated Border Force officer is requiring a person to hand over all travel documents or need to search for travel documents relating to that person.</p>	<ul style="list-style-type: none"> i. That the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purpose of involvement in terrorism-related activity outside the United Kingdom, and ii. That the police constable or designated Border Force officer is therefore entitled under Schedule 1 to the Counter Terrorism and Security Act 2015 to exercise the power to take possession of these documents. 	<p>Verbally</p>
<p>At port or in the Northern Ireland border area where the officer is in possession of travel documents pending authorisation to retain, and the officer does not expect the authorisation to be dealt with immediately.</p>	<ul style="list-style-type: none"> i. That the person is suspected of intending to leave Great Britain or (as the case may be) the United Kingdom for the purposes of involvement in terrorism-related activity outside the United Kingdom (if the person has not already been informed of this), and ii. That the police constable or designated Border Force officer is therefore entitled under Schedule 1 to the Counter-Terrorism and Security Act 2015 to retain the document while the matter is considered by a senior police officer (authorising officer). 	<p>Verbally</p>
<p>Following authorisation to retain travel documents at port or in the Northern Ireland border area.</p>	<p>The constable or designated Border Force officer must inform the person that authorisation from a senior police officer has been given to retain their travel documents and that this means that the travel documents may be retained for up to 14 days while any of the following takes place:</p> <ul style="list-style-type: none"> i. while the Secretary of State considers whether to exercise the Royal Prerogative to cancel the person's passport (in the case of a British passport); ii. while consideration is given to charging the person with an offence; iii. while consideration is given to making the person subject to any order or measure to be made or imposed by a court, or by the Secretary of State for purposes connected with protecting members of the public from a risk of terrorism; or iv. while steps are taken to carry out any of these measures. <p>The individual must also be informed that the travel document can not be retained beyond 14 days, beginning 00.00 the day after the document is seized, unless the retention period is extended by a court, in which case it cannot be retained for more than 30 days in total; and that the travel documents must be returned once the 14 day period (or extended period) expires, or if the above conditions no longer apply, whichever comes first.</p>	<p>Verbally</p>

WHEN	INFORMATION PROVIDED	HOW
<p>At port or in the Northern Ireland border area once authorisation has been granted and travel documents seized and in police/Border Force possession</p>	<p>A written notice at port informing the individual that his or her travel documents are being retained under Paragraph 5 of Schedule 1 to the Counter Terrorism and Security Act 2015. The notice should:</p> <ol style="list-style-type: none"> i. provide a case reference number; ii. state the date and time at when the documents first came into possession of the officer (whether or not by means of exercise of Schedule 1 powers); iii. inform the person that their travel documents are being retained under Paragraph 5 of Schedule 1 to the Counter-Terrorism and Security Act 2015; iv. inform the person that if he or she is a foreign national who requires leave to enter or remain in the United Kingdom and is already in possession of valid leave that: <ul style="list-style-type: none"> • he or she would remain on those leave conditions unless/until action is taken to review that leave status under immigration law. • That if he or she is a foreign national who requires leave to enter or remain in the United Kingdom and does not have leave or their leave expires within the next 30 days that he or she will be deemed to be not unlawfully in the UK during the retention period; v. provide contact details to enable the individual to contact the police regarding the retention of their travel documents; vi. advise that the documents may be retained by the police for up to 14 days (or 30 if extended by a court) and that the retention period begins at 00.00 on the day after the day on which documents are seized; vii. explain that the documents will be securely stored; viii. inform the person that, where the police are in possession of their address, they will, if appropriate, return the documents to them by secure post, or advise of how to make alternative arrangements to collect the travel documents; ix. provide information about where a person can access this Code of Practice; x. provide information about how an individual can make a complaint; xi. confirm that the individual has a right to legal representation at any court hearing to extend the period of retention; xii. inform the person that they may write to the police at a given address to request reasons for the retention of their travel documents and the police must provide a response within 42 days. This notice should inform the person that they will not be provided with any information that might prejudice national security; and xiii. invite the person to notify the police of their place of residence or the contact details of their solicitor so that they can be notified if an application for further extension of the documents' retention is made. 	<p>Written</p>

WHEN	INFORMATION PROVIDED	HOW
When travel documents are returned within 14 days.	A notice will be issued with the travel documents by the police reminding the individual that he or she may formally request reasons as to why their travel documents were seized and retained. If a formal request is received, as full a response as possible (consistent with protecting national security and other data protection considerations) must be provided within 42 days.	Written
When an application is made to a court to extend the retention period of the travel documents.	A notice must be issued by the police to the person concerned informing him or her of the application to extend the retention period. This notice should inform the individual of the reasons why their travel documents were seized and retained as fully as possible without prejudicing national security (and consistent with other data protection considerations).	Written
On request	The person may write to the police to request reasons for the retention of their travel documents. The police must provide a response within 42 days. This notice should inform the person that they will not be provided with any information that might prejudice national security.	Written

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Annex E – Process chart





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