



Home Office

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

June 2014

archived

ISBN 978-1-4741-0649-8



9 781474 106498

archived

This document was withdrawn on 8 April 2016.

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

archived

Presented to Parliament pursuant to paragraph 7(2) of Schedule 14 to the Terrorism Act 2000

June 2014



© Crown copyright 2014

You may re-use this information (excluding logos) free of charge in any format or medium, under the terms of the Open Government Licence v.2. To view this licence visit www.nationalarchives.gov.uk/doc/open-government-licence/version/2/ or email PSI@nationalarchives.gsi.gov.uk Where third party material has been identified, permission from the respective copyright holder must be sought.

This publication is available at www.gov.uk/government/publications

Borders and Aviation Security Unit,
Home Office,
Fifth Floor,
Fry Building,
2 Marsham Street,
London, SW1P 4DF
020 7035 0653 or 020 7 035 5626
Schedule7Review@homeoffice.x.gsi.gov.uk

Print ISBN 9781474106498

Web ISBN 9781474106504

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

ID 10061401 06/14 40985

Printed on paper containing 75% recycled fibre content minimum

Contents

General

Training and use of the powers

Police officers

Immigration and customs officers

Use of the power in emergencies

Who can be examined

Purpose and exercise of examination powers

Selection criteria

Identifying persons for examination

Screening questions

Examination period

Duties under examination

Production of information

Searches

Property

Rights under examination

Records of examinations

Detention

Duties of the person being examined when under detention

Rights of the person being examined when under detention

Children and other vulnerable people

Strip Search

Reviews of Detention

Audio recording

Establishing Identity

Non-intimate samples and fingerprints

Landing/Embarkation cards

Complaints

Annex A Notice of detention under Schedule 7 to the Terrorism Act 2000

This document was withdrawn on 8 April 2016.

Annex B Training and Accreditation of Examining officers and Review officers under
Schedule 7 to the Terrorism Act 2000

Archived

General

1. This code of practice is issued under paragraph 6 of Schedule 14 to the Terrorism Act 2000 (“the Act”). It applies to: (i) the exercise by examining officers of their functions under Schedule 7 to the Act; (ii) the exercise by review officers of their functions under Schedule 8 to the Act in relation to detentions under Schedule 7; (iii) the training and procedure for designation (where appropriate) of examining officers; and (iv) the training of review officers. This code takes account of amendments to Schedules 7, 8 and 14 to the Terrorism Act 2000 made by the Anti-social Behaviour, Crime and Policing Act 2014 (“the ASBCP Act”).

2. The term “examining officer¹” for the purpose of this code has the same meaning as in paragraph 1(1) of Schedule 7, i.e. a constable; or an immigration officer or customs officer designated for the purpose of Schedule 7 by the Secretary of State (and, in the case of a customs officer, the Commissioners of Her Majesty’s Revenue and Customs), such officer having been accredited as having successfully completed training in the use of the Schedule 7 powers. The code only applies to police officers and 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 they may be questioning a person under the Immigration Act 1971 or the Customs and Excise Management Act 1979.

3. This code contains provisions concerning reviews of detention under Schedule 7 (see paragraphs 59-65). The review of detention provisions have been inserted into Schedule 8 of the Act by the ASBCP Act but are yet to be brought into force. **The provisions of the code concerning review of detention should not be applied until the relevant provisions of the ASBCP Act are in force.** Those provisions will require that the “review officer²” must carry out a periodic review where a person has been detained under Schedule 7 within the first hour of detention. “Review officer” means an officer, at least one rank higher to the examining officer, who has not been directly involved in questioning the detained person. In all cases (except for emergencies), review officers must have been accredited as having successfully completed training in the exercise of review officer functions in relation to Schedule 7 detention.

4. The powers contained in Schedule 7 to which this code relates must be used fairly and responsibly, with respect for the people to whom the powers have been applied. The powers must be exercised in accordance with the prescribed procedures and without unlawful discrimination. The Equality Act 2010 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. Under the Equality Act 2010, section 149, when public authorities, like examining officers and review officers, are exercising their functions they have 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. A failure to use the powers in the proper manner may reduce their effectiveness. Stop and search can play an important role in the detection and

¹ For further information please see Annex B.

² For further information please see Annex B.

prevention of terrorism, and using the powers fairly makes them more effective. Examining officers must be aware of the potential disruption to travel that examination may give rise to and should seek to minimise such disruption wherever possible

5. For the purposes of this code:

- “Port” and “border area” have the same meaning as in Schedule 7; and
- Common travel area has the same meaning as in section 1(3) of the Immigration Act 1971.

6. The code must 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 must form part of the published departmental instructions/guidance for immigration officers and customs 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, the Association of Chief Police Officers and Police Scotland (or their successors).

7. An examining officer must exercise the powers conferred by Schedule 7 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 powers

Police officers

8. The powers contained in Schedule 7 may only be used by police officers who have been accredited by their chief officer as having met a national standard³ in the use of the powers. While awaiting accreditation, an unaccredited police officer must not use Schedule 7 powers unless they are supervised by an accredited examining officer. Chief officers must reassess whether an officer should retain his or her accreditation on a biennial basis so that a high level of expertise is maintained.

9. In order to act as review officers (i.e. those officers who will review whether there is a case for continuing an individual's detention under Schedule 7) police officers must have been assessed by their chief officer as having successfully undertaken training in the exercise of the Schedule 7 powers and the Schedule 8 review functions to a national standard. Police officers who have been accredited as being able to exercise review officer functions must be reassessed on a biennial basis.

Immigration and customs officers

10. An immigration or customs officer must only exercise functions under Schedule 7 exceptionally, and only if the officer has been designated by the Secretary of State (and, in the case of customs officers, by the Commissioners of Customs and Excise), as required by

³ Further details of the training that an examining (or reviewing officer) is expected to undertake, as agreed by the Association of Chief Police Officers and the Police Service of Scotland (or their successors) can be found at Annex B.

Schedule 7. To be designated, customs officers must have undertaken training in the use of the Schedule 7 powers and have been accredited by the Director General (DG) of Border Force after they have met the required standard. The DG of Border Force must reassess whether an immigration or customs officer should retain their accredited status on a biennial basis.

11. Before an accredited immigration officer or a customs officer is put forward for designation, the chief officer of the police force area where the immigration or customs officer will operate must have been consulted on both the training regime and the proposal to accredit. The immigration or customs officer, unless there are exceptional circumstances, must only exercise examining powers when one or both of the following apply:

- A police officer is not readily available; and/or
- If specifically requested to do so by a police officer of the rank of sergeant or above.

12. In all cases where an immigration or customs officer exercises any examining officer power under Schedule 7, 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 must be obtained before exercising the power, if it is reasonably practicable to obtain that authority. Where it is not reasonably practicable to obtain prior authority, the chief immigration officer or the customs higher officer or above must be notified of the exercise of the power as soon as possible after it has begun. Detentions carried out by immigration or customs officers are also subject to reviews. (See paragraphs 59-65 of this code).

13. In order to act as review officers, customs and immigration officers must have been assessed by their Director General of Border Force or Commissioner of Customs and Exercise as having successfully undertaken training in the exercise of the Schedule 7 powers/Schedule 8 review functions to a national standard. Customs and immigration officers who have been accredited as being able to exercise Schedule 8 review officer functions must be reassessed on a biennial basis.

Use of the power in emergencies

14. The powers may also be used by any constable where a senior police officer⁴ believes that this is necessary due to an exceptional urgent operational need. The constable may be given temporary permission to act as an examining officer for the duration of the emergency and may do so without having obtained the necessary accreditation, whether or not they are awaiting accreditation. In such circumstances, officers must receive a briefing⁵ on the powers prior to deployment and their exercise of the powers must be supervised by an accredited examining officer. This can be done remotely. 'Urgent operational need' might arise during a period of heightened threat in accordance with the UK terrorism threat level⁶ of 'critical' or in the aftermath of a terrorist attack. A heightened period of threat may mean that accredited police officers are otherwise occupied, and the relevant Association of Chief Police Officer-ranked authorising officer may need to deploy non-accredited police officers as examining officers. Additionally, the relevant Association of Chief Police Officer-ranked authorising officer should document the reasons for deploying non-accredited police officers.

⁴ Officers of the Association of Chief Police Officer ranks and the Police Service of Scotland (or their successors).

⁵ A template for emergency briefing is owned by the Association of Chief Police Officers (or their successors).

⁶ For further information on the UK terrorism threat levels, please see: <https://www.gov.uk/terrorism-national-emergency>

Who can be examined?

15. The power to examine someone under Schedule 7 may be exercised:

- In respect of 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 Schedule 7⁷; and/or
- Where a person is at a port or in the border area (in Northern Ireland) and the examining officer *believes* that a person's presence 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 Schedule 7.

"Belief" must be justifiable and much will depend on the individual circumstances. For example, the following factors, if present in a particular case, may support a belief for the purposes of paragraph 2(2) of Schedule 7:

- 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. Presence in such areas alone, however, may not be sufficient to form the basis of a belief without other indicators suggesting the person's presence is connected with his or her travel; and/or
- 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.

The examples given above are not intended as an exhaustive list.

Purpose and exercise of examination powers

16. The examining officer may only stop and question a person for the purpose of allowing a determination of whether that person appears to be someone who is or who has been concerned in the commission, preparation or instigation of acts of "terrorism" as defined in section 1 of the Act. The examination powers are additional to the powers of arrest under the Act and must not be used for any other purpose. If a person is stopped and questioned, this may inconvenience their ongoing travel arrangements. In most cases the examining officers will try to assist with alternative travel arrangements.

17. An examining officer may stop and question a person whether or not the officer has grounds to suspect that the person is someone who appears to be a person who is or has been concerned in terrorism. Examining officers must 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. All persons being stopped and questioned by examining officers must be treated in a respectful and courteous manner.

18. Schedule 7 powers must be exercised in a manner which is proportionate and which does not discriminate against anyone on the grounds of age, race (including colour, nationality, ethnic or national origin), religion or belief, gender or sexual orientation. To do so

⁷ 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.

would be unlawful. Examining officers must take particular care to ensure that the selection of persons for examination is not solely based on their background or religion.

Selection Criteria

19. Although the selection of a person for examination is not conditional upon the examining officer having grounds to suspect that person of being concerned in terrorism, the decision to select a person for examination must not be arbitrary. An examining officer's decision to select a person for examination must be informed by the threat from terrorism to the United Kingdom and its interests posed by the various terrorist groups, networks and individuals active in, and outside the United Kingdom. A person's ethnic background or religion must not be used alone or in combination with each other as the sole reason for selecting the person for examination. When deciding whether to select a person for examination, examining officers must take into account considerations that relate to the threat of terrorism, 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; and/or
- Observation of an individual's behaviour.

Identifying persons for examination

Screening questions

20. In order to inform a decision on whether to select a person for examination under Schedule 7, an officer (who need not be the officer who might later conduct any examination) may find it helpful to approach a person and ask some basic screening questions. It will not always be possible for an officer working at a port to know the identity, provenance or destination of a passenger until they have stopped and questioned them. Screening questions are not asked under powers in Schedule 7. Officers may approach persons and ask screening questions of them in the ordinary course of their duties. There is no compulsion on any person to answer screening questions and the person will not commit an offence by not answering screening questions or otherwise engaging with the police in this process. Screening questioning may not be needed for every examination, but initial screening questions and the inspection of travel documents may be useful to enable the officer to determine whether or not to select a person for examination under Schedule 7. Initial screening questions may include, but are not limited to, those that seek to establish the identity, destination and provenance of the subject, details of their method of travel and the purpose of their travel. There is no requirement for officers to make a record of a

screening encounter unless the person is subsequently selected for Schedule 7 examination. The screening process will, in most cases, last only a few minutes but if this period is significantly longer, the examining officer should record the time screening began and the reason for the extended screening period. If screening is conducted by an immigration or customs officer who is not a designated and accredited examining officer, or a police officer who is not an accredited examining officer, and they consider that an examination under Schedule 7 is appropriate, they must notify an examining officer of this at the earliest opportunity.

Examination period

21. The examining officer must notify an individual when they are being selected for examination. An examination begins after a person has been stopped and questions other than screening questions, if necessary, are asked, or the person or vehicle is directed to another place for examination. But, to avoid passenger or traffic congestion, a person or vehicle may be directed to another nearby place for screening questions. This does not constitute the beginning of an examination.

22. An examining officer should bear in mind that the person being examined, while they may not be obviously vulnerable (for which see paragraphs 51-54), may be unaware of the Schedule 7 powers, may be distressed by references to terrorism, may be from a different country or may be a non-English speaker. Examinations should be conducted in a manner which minimises the potential for individuals to become unnecessarily alarmed or distressed by the encounter. At the start of the examination the examining officer is required to explain to the person, verbally or in writing, that they are being examined under Schedule 7 to the Terrorism Act 2000 and that the officer has the power to detain that person for the purpose of conducting the examination (see paragraph 46 of this code for the types of reasons that might cause an officer to detain a person). If a person is detained they will be given a Notice of Detention under Schedule 7 to the Terrorism Act 2000 (a TACT form, as set out at Annex A), which explains a person's duties and rights. The examining officer must explain to the individual their role; the fact that the individual is being examined under Schedule 7 to the Terrorism Act 2000, which is part of counter-terrorism policing at the port/UK border; that this does not mean that they are suspected of being involved in terrorism; that the reason for the examination is to determine whether or not they are concerned in the commission, preparation or instigation of acts of terrorism. If requested, the examining officer must provide sufficient information, such as an identification number and location, to the person or his or her representative to enable the officer to be identified in the event of any query or complaint. The examining officer will set out how the examination will be conducted and must provide a Schedule 7 Public Information leaflet⁸. The Public Information Leaflet is available in multiple languages, and outlines the purpose and provisions of Schedule 7, obligations under Schedule 7, key points of the Code of Practice including an individual's rights and relevant contact details (including those needed to provide feedback or make a complaint).

23. Where Schedule 7 powers are exercised regularly, the duties and rights of a person subject to examination must be displayed prominently in a place where the person will be

⁸ The Public Information leaflet is owned by the Association of Chief Police Officers (or their successors).

able to read them. If the examining officer doubts the person's ability to understand English, every reasonable effort must be made to communicate the relevant information where practicable using someone who can act as an interpreter (see paragraph 27 of this code). Media explaining Schedule 7 powers must also be visible in the port.

24. An examining officer must cease an examination and inform the person being examined accordingly when the examining officer is satisfied that sufficient information has been obtained to allow a determination to be made as to whether the person appears to be or to have been concerned in the commission, preparation or instigation of acts of terrorism, or where the officer has concluded that further examination would not assist in making such a determination. The examining officer does not need to administer a caution to a person being examined under Schedule 7⁹. If it is apparent that the examining officer has to deal with the person in relation to a criminal matter in which a caution may be required this should be administered outside of Schedule 7.

25. Where an officer intends to examine a person for longer than an hour, then the examining officer must detain that person before the expiry of one hour from the start of the examination. When a period of one hour has elapsed since the commencement of the examination, then the examination must cease, unless the person has been detained under paragraph 6 of Schedule 7. Any examination of a person beyond one hour, where the power to detain has not been exercised will be unlawful. See paragraphs 45-50 of this code for further guidance on detention. Any period of examination, including detention, must not exceed six hours from the commencement of the examination.

26. 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 if necessary, as determined by the examining officer. Where reasonably practicable, provision should be made to allow for the practice of religious observance.

27. If the examining officer is unable to communicate effectively with the person being examined either because the person has a hearing or speech impediment or because they do not understand English, then the examining officer must make all reasonable effort to obtain the assistance of another person who is able to communicate effectively with the person being examined. For example, Border Force interpreters can be used to communicate effectively with a person. A police officer, immigration officer, customs officer or Border Force interpreter must never be used as an interpreter to facilitate communication between the person being examined and a solicitor. Where communication with a solicitor is necessary then an interpreter must be provided at public expense and all reasonable steps must be taken to make the person being examined understand that interpretation and translation will be provided at public expense.

28. If it is not possible to obtain the assistance of someone who can act as an interpreter, the examining officer must not interview the person. However, the examining officer may continue to use other Schedule 7 powers (for example, the search power under paragraph 8 of Schedule 7).

⁹ This is because cautions are required where someone is arrested on the basis of reasonable suspicion, whereas an examination under paragraph 2(1) of Schedule 7 can be undertaken whether or not the examining officer has grounds for suspecting a person is concerned in terrorism or any other offence.

Duties under examination

29. The examining officer must inform the person being examined that Schedule 7 places them under a duty to answer questions and to give the officer any information in his or her possession which the officer requests for the purposes of the examination (see paragraph 5 of Schedule 7). The examining officer may, if appropriate, inform the person that wilfully failing to comply with a duty that is imposed on the person under Schedule 7, or wilfully contravening a prohibition contained in Schedule 7, or wilfully obstructing, or seeking to frustrate a search or examination under Schedule 7, is a criminal offence under paragraph 18 of Schedule 7 to the Terrorism Act 2000.

Production of information

30. Where the examining officer chooses to request information or documents (including a passport or other document used to establish identity) under paragraph 5 of Schedule 7, he or she must specify the kind of information or document which must be produced. The examining officer must give the person concerned a reasonable opportunity within the period of examination to produce the information or documents requested.

31. People travelling to or from Great Britain or Northern Ireland from another place in the common travel area, or by air or ship within Great Britain or by air or ship within Northern Ireland (whether from within or outside Great Britain or Northern Ireland) may not be carrying a passport. In such a case, an examining officer may request the person to provide any other document which has been used to establish their identity. Production of information, documents or evidence of identity under paragraph 5 of Schedule 7 is separate from the power of search contained in paragraphs 7, 8 and 9 of Schedule 7.

32. An examining officer may use electronic equipment in order to examine persons and property.

Searches

33. Under paragraph 8 of Schedule 7, an examining officer may search a person and anything they have with them, where that thing is on a ship, aircraft or international train service or where the examining officer reasonably believes that thing has been or is about to be on a ship, aircraft or international train service, for the purpose of determining whether the person is or has been concerned in the commission, preparation or instigation of acts of terrorism¹⁰. This includes baggage or any other personal items such as mobile electronic devices. An examining officer may, under paragraph 10 of Schedule 7, authorise another person to carry out a search on their behalf. Every reasonable effort must be made to minimise potential embarrassment or offence that may be caused to a person being searched. 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 examining officer

¹⁰ Examining officers are also permitted to: search anything belonging to the person which is, has been, or is about to be, on a ship or aircraft; search an aircraft for anything belonging to the person; and search a vehicle which is, or which the officer reasonably believes has been, or is about to be, on a ship or an aircraft. Where an officer questions a person in the border area in Northern Ireland he may also search a vehicle, anything in or on a vehicle, and anything which he reasonably believes has been, or is about to be, in or on a vehicle.

should record the objection, but may proceed with the search. A search of a person under paragraph 8 of Schedule 7 must only be carried out by a person of the same sex.

34. An examining officer may use reasonable force for the purpose of exercising a power under Schedule 7 (with the exception of the power to question someone under paragraphs 2 and 3 of the Schedule¹¹). Reasonable force may be used to conduct a search where that is necessary and proportionate. Where an examining officer exercises powers of search in a port or border area under Schedule 7 there is no requirement for any notice of search to be provided regarding the search of a person, property, or vehicles.

35. An examining officer may only search a person or anything they have with them 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, preclude a search being carried out under other powers if appropriate, for example where the examining officer is a constable and has other powers by virtue of common law or other statute.

36. When a search of a person is carried out the examining 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.

37. If requested, the examining 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.

Property

38. An examining officer may detain any document (including electronic documents) given to the officer in accordance with paragraph 5(d) of Schedule 7, anything searched or found during a search under paragraph 8, or anything examined under paragraph 9. This power may be exercised for the purpose of examining the detained thing, for a period of up to seven days beginning with the day on which the detained thing was first detained. This power may also be exercised while the examining officer believes that the detained thing may be needed for use as evidence in criminal proceedings or in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971. The thing may be detained for these purposes for as long as the examining officer believes it is needed for these purposes. If the examining officer detains any document or thing beyond the conclusion of the examination of that person, he/she must inform the person of the power under which their property is being detained.

39. Information requested by an examining officer under paragraph 5(a) may include electronic data stored on electronic devices, and passwords to those electronic devices. Schedule 7 does not give the examining officer the power to access information that is stored remotely (i.e. not on the device in the officer's possession, for example on another server), and the examining officer must not access such information or data – to do so would be unlawful. In the event that access to such material is considered necessary, the examining officer should seek authority to use alternative statutory powers, for example the Regulation of Investigatory Powers Act 2000.

¹¹ Section 114(2) of the Act.

40. The examining officer may copy any information obtained under paragraph 5; searched or found on a search under paragraph 8; or anything examined under paragraph 9 including electronic data (although examining officers should not copy information which they have reasonable grounds for believing is subject to legal privilege, as defined in section 10 of the Police and Criminal Evidence Act 1984). The copies may be retained for so long as is necessary for the purpose of determining whether a person is concerned in the commission, preparation or instigation of acts of terrorism; or while the officer believes that they may be needed for use as evidence in criminal proceedings or in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971. Copies of information obtained during an examination must be managed in compliance with the requirements of Management of Police Information guidance.

Rights under examination

41. Should a person being examined at a port, who has not been detained, request to consult a solicitor, the examining officer may grant this at his or her discretion. Where reasonably practicable, a consultation should be allowed. When consultation is allowed it should be allowed to be conducted in private. The person must be informed that consultation will not be at public expense. The examining officer must postpone questioning the person pending the private consultation taking place unless the examining officer considers that postponing the questioning would prejudice the purpose of the examination. Requests for consultation, the response, and if applicable, the reason for refusal must be recorded.

42. Should a person being examined at a port, who has not been detained, request to have a named person informed of their examination and whereabouts, the examining officer may grant that request at his or her discretion. Where reasonably practicable, the request should be granted. The named person should be a friend, relative or a person known to them who is likely to take an interest in their welfare. Where the request is granted, the named person should be informed as soon as reasonably practicable. If the named person cannot be contacted, further attempts may be made at the examining officer's discretion. A request to have a named person informed of a person's examination and their whereabouts; the response, and if applicable, the reason for refusal must be recorded.

Records of examinations

43. Records of all examinations and detentions must be kept for statistical or reference purposes in the event of a complaint. Statistical records must include the self declared ethnicity of the person examined, if given; the total duration of the examination; and, if relevant, the time of detention.

44. Records of the examination and reviews of detention by the review officer must also be kept in accordance with the Management of Police Information guidance. Records of the examination, including records of reviews of detention, will not be given to the individual or their solicitor at the time of the examination but will be managed in accordance with police information management and Data Protection principles.

Detention

45. An examining officer may exercise the power under paragraph 6 of Schedule 7 to detain a person being examined at any point during the examination where the examining officer considers it is appropriate to do so. In order to continue an examination beyond one hour from the commencement of the examination, the examining officer must detain the person before the expiry of that first hour of the examination.

46. An examining officer may consider it appropriate to detain a person being examined for the types of reasons described below:

- The person refuses to co-operate with any legal obligation;
- The person insists on leaving or otherwise attempts to frustrate or obstruct the examination;
- It is necessary to complete a search (including a strip search) under paragraph 8 of Schedule 7;
- To facilitate relocation of the examination from a port location to another place, because there would be more suitable facilities at that place; and/or
- Detention is an option (during the first hour of examination) to compel the person to remain with the examining officer to continue to question and/or search during the examination process.

The above list of reasons is illustrative only, not exhaustive.

47. Where a person is detained under Schedule 7, the examining officer must:

- Inform the person that he or she is not under arrest or caution, but that he or she is being detained under paragraph 6 of Schedule 7 to the Terrorism Act 2000;
- Inform the person that the purpose of the detention is to facilitate his or her examination for the purpose explained at the outset of the examination;
- Explain that the person is under particular duties and that he or she has particular rights (see paragraphs 29 and 41-42 of this code for further information); and
- Give them a Notice of Detention under Schedule 7 to the Terrorism Act 2000 (a TACT form, as set out at Annex A), which explains a person's duties and rights.

48. Detention does not necessitate taking the person to another place. An examining officer may consider relocation from a port location to a police station or any other place where the person's presence is considered necessary if:

- The port location is unsuitable for continued examination i.e. due to a lack of facilities, such as refreshments, toilets, or for some other welfare consideration;
- To gain access to facilities or equipment not available at the initial port i.e. interpretation and translation services, video/audio recording, biometric sampling equipment; and/or
- The examining officer considers it appropriate to relocate for safety reasons.

The above list of reasons is illustrative only, but not exhaustive.

Duties of the person being examined when under detention

49. The examining officer must advise the detained person that he, or she continues to be under a duty to answer questions and give the officer any information in his or her possession which the officer requests for the purposes of the examination (please see paragraph 29 of this code). The examining officer must inform the person that wilfully failing to comply with a duty imposed by Schedule 7, or wilfully contravening a prohibition contained in Schedule 7, or wilfully obstructing, or seeking to frustrate a search or examination under Schedule 7, is a criminal offence under paragraph 18 of Schedule 7 to the Terrorism Act 2000.

Rights of the person being examined when under detention

50. Any person who is detained is entitled to:

- a. Consult a solicitor in private (whether in person or by telephone or any other reasonable way that the person wants to carry out that consultation) at any time if he or she so requests, which may be at public expense¹². The examining officer must postpone questioning the person until he or she has consulted a solicitor in private (or no longer wishes to do so), unless the examining officer reasonably believes that postponing questioning until then would be likely to prejudice the purpose of the examination. If the examining officer decides not to postpone questioning the reasons must be recorded. An example of circumstances in which an examining officer may decide not to postpone questioning of the person is where the person insists on consulting with a particular solicitor who will not be available to consult with the person within a reasonable time period whether in person, on the telephone or by other means without prejudicing the purpose of the examination.

A detained person is entitled to consult privately with a solicitor *in person* unless the examining officer reasonably believes that the time it would take to consult a solicitor in person would be likely to prejudice the purpose of the examination. For example, if the detained person's solicitor of choice is a number of hours away and unable to get to the police station or port in sufficient time to allow the examination to proceed. Where the examining officer refuses to allow a person to consult with a particular solicitor in person, he or she must make a written record of their reasons for doing so. The examining officer must inform the detained person that he or she may consult with their solicitor by another mode, for example, private telephone conversation.

Where consultation in person between the detained person and a particular solicitor is refused, and the person elects to consult in another way, for example by telephone, the examining officer must facilitate this, unless they reasonably believe that doing so would be likely to prejudice the purpose of the examination. For example, the person may not phone the solicitor multiple times, or extend the duration of a call beyond a reasonable time if it appears that the purpose of the examination is likely to be prejudiced. In such circumstances, if the examining officer reasonably believes that the delay caused by requesting multiple phone calls will

¹² This includes UK and non-UK Nationals.

prejudice the purpose of the examination, for example by leaving insufficient time to interview the person properly, the questioning may proceed.

Where the person specifies that he or she wants to consult a particular solicitor, and that solicitor will not be available within a reasonable period of time by any means (personal, telephone or other means) the examining officer must advise the person of the duty solicitor scheme.

The person may choose to be accompanied by a solicitor during questioning, whether the consultation is or has been in person or by way of a telephone call. If the detained person expresses a wish for a solicitor to be present during questioning, the examining officer must facilitate this unless the officer reasonably believes that doing so would be likely to prejudice the purpose of the examination, for example by causing unreasonable delay to the process of examination.

The examining officer must explain the Schedule 7 powers to the solicitor and the obligations the person is under. The solicitor can also be provided with the Public Information leaflet. Under certain exceptional circumstances¹³ the entitlement to consult a solicitor can be delayed under paragraph 8 of Schedule 8 with the authority of a Superintendent.

b. 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 or she is being detained. Under certain exceptional circumstances this right can be delayed under paragraph 8 of Schedule 8 with the authority of a Superintendent, for example, if the Superintendent has reasonable grounds for believing that informing that person may lead to alerting a person, thereby making it more difficult to prevent an act of terrorism.

c. Obtain consular access, upon request, where the individual is a citizen of an independent Commonwealth country or a national of a foreign country. The detained person must be informed of this right as soon as reasonably practicable. Should the detained person request that his or her High Commission, Embassy or Consulate be told of his or her whereabouts and the ground for his or her detention, the request will be acted upon as soon as reasonably practicable. The exercise of this right must not be interfered with. A detained person who is a citizen of a country with which a bilateral consular convention or agreement¹⁴ is in force requiring notification of their detention, must be informed that notification of their detention will be sent to the appropriate High Commission, Embassy or Consulate as soon as practicable, whether he or she request it or not. Consular officers may, if the person being examined and who is detained agrees, visit the person being detained to talk with the person and, if required, arrange legal advice.

¹³ See the Police and Criminal Evidence Act 1984 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 - 'Right to Legal Advice'.

¹⁴ Consular Convention or Agreement: <https://gov.uk/government/publications/table-of-consular-conventions-and-mandatory-notification-obligations> and <https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>.

Children and other vulnerable people

51. Special care must be taken when considering whether to examine someone, where it is evident that the person is a child¹⁵.

52. Examining officers must 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 precluded from examining or detaining children but must do so only where they consider it to be absolutely necessary, for the purpose of allowing a determination to be made as to whether the child may be involved in some way, wittingly or otherwise, in the commission, preparation or instigation of any act of terrorism. The examining officer must consider it necessary for the best interest of the child or in the interests of the public to question that child.

53. A child travelling alone must not be examined in the absence of a responsible adult (for example a parent, guardian, teacher or social worker) unless there are exceptional reasons for conducting the examination without a responsible adult present. If there are such reasons, the examining officer must record these in writing. A child travelling with a responsible adult over 18 must be examined 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 to the achievement of the purpose of the examination or the child objects to the presence of this individual. If the examining officer decides to examine the child in the absence of the responsible adult with whom that child is travelling, the reasons for taking that decision must be recorded. If an examination under detention is considered necessary it must 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 nor an immigration or customs officer nor any other relevant border enforcement officer nor any person employed by those organisations, 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's Act 1989, the Children (Northern Ireland) Order 1995 or the Children (Scotland) Act 1995. If the adult present during the interview feels the need to consult a solicitor on the child's behalf they can do so.

54. 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 (in Northern Ireland, the relevant definition of "mental disorder" is contained in article 3(1) of the Mental Health (Northern Ireland) Order 1986 and contains reference to "mental handicap", which is defined as "a state of arrested or incomplete development of mind which includes significant impairment of intelligence and social functioning").

¹⁵ 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. 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.

Strip Search

55. A strip search is a search involving the removal of more than outer clothing. This search power does not extend to requiring a person to undergo an intimate search (searching a person's body orifice other than the mouth). Strip searches must not be undertaken routinely and can only be conducted when a person has been detained. A strip search at a port or police station may only take place where an examining officer has reasonable grounds to suspect that a person has concealed something which may be evidence that the person is a person who appears to be or to have been concerned in the commission, preparation or instigation of acts of terrorism. The search must be authorised by an officer of at least one rank higher than the examining officer and who has not been directly involved in the questioning of the person.

56. Strip searches may also be conducted under other powers where appropriate, for example where there is a risk of serious harm to a person or there is reason to believe that evidence of an offence is in imminent danger of being destroyed.

57. The following procedures must be observed when strip searches are conducted:

- An officer carrying out a strip search must be of the same sex as the person searched;
- The search must 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);
- Except in cases of urgency, where the examining officer believes 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 must be at least two people present other than the person being searched, and if the search is of a child or a person who has a mental disorder (as defined in relevant legislation referred to in paragraph 54), a responsible adult must also be present;
- Except in urgent cases as above, a search of a child may take place in the absence of the responsible adult or with a different responsible adult present, only if the child signifies in the presence of the responsible adult that he or she prefers the search to be done either in the responsible adult's absence, or in the presence of a different responsible adult, provided that the responsible adult whose presence is not wanted agrees to be absent (and the responsible adult who is asked to attend agrees). A record must be made of the child's decision and signed by the responsible adult. The presence of more than two people, other than a responsible adult must be permitted only in the most exceptional circumstances;
- The search must be conducted with the proper regard to the sensitivity and vulnerability of the person concerned in these circumstances, and every reasonable effort must be made to secure the person's co-operation and minimise embarrassment. Persons who are searched must not, in the absence of exceptional circumstances, 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;
- Where necessary to assist the search, the person may be required to hold his or her arms in the air or to stand with his or her legs apart and to bend forward so that a

visual examinations may be made of the genital and anal areas, provided that no physical contact is made with any body orifice;

- If, during the search, articles are found, the person may be asked to hand them over; and
- A strip search must be conducted as quickly as possible and the person allowed to dress as soon as the procedure is complete.

58. A record must be made of a strip search, including those present, the identity of the examining officer and the authorising officer, why it was considered necessary and the outcome of the search. The above provisions also apply to any person authorised under paragraph 10 of Schedule 7 by an examining officer to carry out a search on the officer's behalf.

Reviews of Detention

There is no requirement to follow Paragraphs 59 to 65 until paragraphs 20K(1)-(7) to 20N of Schedule 8 to the Terrorism Act 2000 come into force.

59. An individual who has been detained for examination under Schedule 7 must have his or her continued detention reviewed before the end of the period of one hour from the start of the detention. Subsequent reviews of detention must take place at intervals of no more than two hours from the conclusion of the previous review. The reviewing officer who carries out the first review may also carry out subsequent reviews.

60. The review officer must:

- Be accredited to a nationally recognised standard¹⁶;
- Not be directly involved in the questioning of the individual. The review officer may have been involved in the initial screening questions, carrying out background checks or in supervising the examining officer but will not be involved in the questioning. The review officer may speak to the individual during the period of the examination, for example where the person wishes to make representations; and
- Be of at least one rank higher than the examining officer. 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.

61. The review officer must consider whether:

- The continued detention is necessary to enable the examining officer to obtain sufficient information for the purpose of allowing a determination to be made as to 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 being examined is aware of his or her duties and rights under paragraphs 6 and 7, or 16, of Schedule 8, and if any rights have been requested to be exercised, the degree to which those requests have been satisfied (or otherwise); and
- Reasonable steps have been taken to satisfy the welfare needs of the person.

¹⁶ For further information please see Annex B.

62. A review may be carried out in person or remotely at the discretion of the review officer. The review officer must give the detained person or their solicitor an opportunity to make representations. The review officer is required to inform the detained person of the result of the review.

63. There is no requirement to conduct a review of detention where the period of detention lasts less than one hour (this does not include the time under examination prior to detention). A further review of detention must take place before the end of a period of two hours from the conclusion of the first review. Subsequent reviews of detention must take place at intervals of no more than two hours from the conclusion of the previous review.

64. A review officer carrying out a review must make a written record of the outcome of the review, including, where applicable:

- The fact that the officer is satisfied that continued detention is necessary for the purposes of exercising a power under paragraph 2 or 3 of Schedule 7;
- The fact that the detained person has been informed of any rights under paragraphs 6 or 7 (or 16 if the detention is in Scotland) of Schedule 8¹⁷ which have not yet been exercised, and if the exercise of any of those rights is being delayed in accordance with paragraphs 7A(3), 7A(6) or paragraph 8 of Schedule 8;
- Where exercise of a right under paragraph 6 or 7 of Schedule 8 is being delayed, whether the reason(s) for the delay continue to apply; and
- If the review officer is of the opinion that the reason(s) have ceased to apply, he or she must inform the officer who authorised the delay of that opinion, unless the review officer was that officer. The officer who authorised the delay, or another officer of at least the rank of Superintendent, must then review the need for the delay to continue.

65. Records of reviews must be made by the review officer as soon as reasonably practicable. Records of reviews must be kept with other records of the examination at the port or police station for police reference purposes in the event of a complaint or query.

Audio Recording

There is no requirement to follow Paragraphs 66-68 until 1st April 2015.

66. Where a person is detained under Schedule 7 at a police station in England, Wales or Scotland then the interview must be conducted in accordance with the Code of Practice for the video recording with sound of interviews under the Act.

67. Where a person is detained at a port, and suitable audio recording facilities are readily available, the examining officer must record the questioning, unless the person willingly expresses a wish not to have it recorded. Where such audio recording facilities are available but recording of an interview does not take place, the examining officer must record the reason why. Any such audio recordings made are not evidential but are for police reference purposes, for instance in the case of a complaint, and this must be explained to the person.

¹⁷ The rights to inform another person of the detention and to consult a solicitor.

68. Forces must make arrangements for the recording to be held securely and managed in accordance with the Management of Police Information guidance.

Establishing identity

69. Once a person has been detained an examining officer can take any steps which are reasonably necessary for photographing, measuring or identifying the detained person without the need for the person's consent, but this does not include the taking of fingerprints, intimate samples or non-intimate samples. Methods of verifying identity, which do not require consent, may involve the use of reasonable force if necessary and appropriate, and include examining any marks, scars, tattoos or other physical features which may assist in establishing the identity of that person. This may include verifying that a person is not a particular person.

Non-intimate samples and fingerprints

70. There is no power to take intimate samples¹⁸ under Schedule 7 whether by consent or otherwise. Under paragraphs 10 to 13 and 15 of Schedule 8, for detained persons in England, Wales or Northern Ireland, and under paragraph 20 for detained persons in Scotland, a constable has the power to take fingerprints or non-intimate samples e.g. a DNA mouth swab, from a person who has been detained, providing that:

- The taking of fingerprints is necessary in the opinion of the examining officer to facilitate the ascertainment of that person's identity; and that person has refused to identify himself or herself or the examining officer has reasonable grounds for suspecting that that person is not who they claim to be, or for the purposes of assisting in a determination of whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism;
- The taking of non-intimate samples is for the sole purpose of assisting in a determination of whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism;
- 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;
- Where a person has been convicted of a recordable offence (defined in paragraph 15(3) of Schedule 8), fingerprints and/or non-intimate samples can be taken either at a port or police station without the need for the person's authorisation, provided where a non-intimate sample is to be taken, the conviction was on or after 10th April 1995 (or 29th July 1996 in Northern Ireland);
- In England, Wales and Northern Ireland if the detained person does not provide consent in writing, and has not been convicted of a recordable offence, fingerprints and/or non-intimate samples can only be taken if the person is detained at a police station and the taking of the fingerprints or sample is authorised by a police officer of at least the rank of superintendent. If this authority is given verbally, then it must be confirmed in writing as soon as is reasonably practicable; and
- In Scotland, under section 18 of the Criminal Procedure (Scotland) Act 1995, a constable may take fingerprints and non-intimate samples at a police station without

¹⁸ As defined by section 65 of the Police and Criminal Evidence Act 1984 (Part V).

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. The examining officer may also take fingerprints if he or she is satisfied that the fingerprints of that person will facilitate the ascertainment of that person's identity; and that person has refused to identify himself or herself or the examining officer has reasonable grounds for suspecting that the person is not who they claim to be.

71. Samples must be managed in compliance with the requirements of paragraph 20A to 20J of Schedule 8.

Landing/Embarkation cards

72. 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.

Complaints

73. Complaints about the conduct of examining officers or treatment of an individual during an examination must 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 the Independent Police Complaints Commission for England and Wales
Address: The Independent Police Complaints Commission,
PO Box 473, Sale, M33 0BW
Phone: 0300 020 0096 (09:00-17:00)
Email: www.ipcc.gov.uk/page/contact

Or the Police Investigations and Review Commissioner for Scotland
Address: Hamilton House, Hamilton Business Park, Caird Park, HAMILTON
ML3 0QA
Phone: 01698 542900 (09:00-16:45)
Email: enquiries@ipcc.gsi.gov.uk

Or the Police Ombudsman for Northern Ireland
Address: The Police Ombudsman Office, New Cathedral Buildings, Writers' Square,
11 Church Street, Belfast, BT1 1PG
Phone: 0845 601 2931 or 028 9082 8600 028 9082 8756,
Email: info@policeombudsman.org

Or where the examining officer is an immigration or customs officer:

Address: Border Force Complaints and Correspondence Team,
Lunar House, 11th Floor Long Corridor, 40 Wellesley Road, Croydon CR9 2BY

This document was withdrawn on 8 April 2016.

Phone:

Email: complaints&compliments@homeoffice.gsi.gov.uk

Or the Independent Police Complaints Commission for England and Wales

Address: The Independent Police Complaints Commission,

PO Box 473, Sale, M33 0BW

Phone: 0300 020 0096 (09:00-17:00)

Email: www.ipcc.gov.uk/page/contact

Archived

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 ("Schedule 7"), so that an Examining Officer may exercise his power under paragraph 2 or 3 of that Schedule for the purpose either of determining whether you appear to be a person who is or has been concerned in the commission, preparation or instigation of acts of terrorism or for the purpose of determining whether your presence in the border area is connected with your entering or leaving Northern Ireland. You will not be examined under this power for more than 6 hours beginning with the time you were first questioned under Schedule 7. You are not under criminal investigation and are not under arrest on suspicion of having committed an offence. For this reason you are not being issued with a caution and you do not have the right to remain silent. Should the circumstances change during the course of the examination you will be notified.

Your duties

Whilst being examined you must:

- a) Answer questions put to you by the examining officer;
- b) Give the examining officer any information in your possession which the officer requests;
- c) Give the examining officer on request either a valid passport which includes a photograph, or another document which establishes your identity;
- d) Declare whether you have with you documents of a kind specified by the examining officer;
- e) Give the examining officer on request any document which you have with you and is of a kind specified by the officer;
- f) Complete and hand to the officer an arrival or embarkation card if you have been required to do so;
- g) Co-operate with any search of your person or property; and/or
- h) Co-operate in the provision of fingerprints or non-intimate biometric samples should that be requested by the examining officer.

If you wilfully fail to comply with any of these duties, or willingly obstruct or seek to frustrate search or examination conducted under Schedule 7, you could be prosecuted under paragraph 18 of Schedule 7.

Your rights:

Do you want someone informed?

You may, if you wish, have a friend, a relative or a person who is known to you, or who is likely to take an interest in your welfare, informed that you are being detained. *In certain circumstances, 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 consult a solicitor?

You may wish to consult a solicitor privately, whether in person or by telephone. This may be at public expense. You may not be questioned until you have consulted a solicitor (or you no longer wish to do so) unless the examining officer reasonably believes that postponing questioning would be likely to prejudice the determination of the matters to be established by the examination. If you do not wish to consult a solicitor now, you may do so later and at any time while you are detained. *In certain circumstances, 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.

Do you want to contact your Consul?

If you are detained and a citizen of an independent Commonwealth country or a national of a foreign country you may request access to your Consul. If you do request that your High Commission, Embassy or Consulate be told of your whereabouts and the ground for your detention, the request will be acted upon as soon as practicable. The exercise of this right may not be interfered with.

Additionally, if you are a citizen of a country with which the United Kingdom has a bilateral consular convention or agreement in force requiring notification of the detention of its citizens, notification of your detention will be sent to the appropriate High Commission, Embassy or Consulate as soon as practicable, whether you request it or not.

Consular officers may, if you agree, visit you to talk with you, and if required, arrange legal advice. Such legal advice will take place out of the hearing of a police officer.

Notice of Detention

Served on Day: date: at: hours

By (Warrant No):.....

Witnessed by (Warrant No):
.....

Signature of detained person:
.....

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

Training and Accreditation of examining officers and review officers under Schedules 7 and 8 to the Terrorism Act 2000

ACCREDITATION OF EXAMINING OFFICERS

Requirement for Code of Practice

The Secretary of State is required to issue a Code of Practice about training to be undertaken by constables, immigration officers and customs officers who are to act as examining officers or exercise other functions under Schedule 7 and the procedure for making designations under paragraph 1(1)(b) and (c) of Schedule 7. This annex satisfies that requirement.

The code must make provision for consultation with the relevant chief officer of police¹⁹ before designations are made under paragraph 1(1)(b) or (c) of Schedule 7.

Requirement for training and accreditation

Any police, customs or immigration officer who is to use Schedule 7 powers unsupervised must have received training and accreditation in the exercise of those functions.

Training and accreditation standards

Training standards will be set by the Association of Chief Police Officers (ACPO) (or their successors) and the training programme will be accredited by the College of Policing.

The training and accreditation of examining officers must be a national programme delivered at a local level by a force or a group of regional forces. This approach gives individual forces or regional areas the responsibility and flexibility to deliver training and accreditation to suit their local needs, although the core elements of competence to practice as an examining officer will be a mandatory requirement.

Training and accreditation for an examining officer

All examining officers must undertake a nationally approved programme, which must include a period of training and a pass/fail examination. On successful completion of the training and examination, officers must be accredited by their relevant chief officer, Director General or Commissioner (as appropriate).

¹⁹ Relevant chief officer of police means

(a) in England and Wales, the chief officer of police for the police area in which the persons designated would act as examining officers,

(b) in Scotland, the Chief Constable of the Police Service for Scotland, and

(c) in Northern Ireland, the Chief Constable of the Police Service for Northern Ireland.

Accreditation of police officers as examining officers

There are two routes by which police officers will attain accreditation as examining officers:

- 1) Officers already acting as examining officers prior to 1st April 2015 must attend an approved training course followed by a pass/fail multiple choice examination within two years of that date. This process will be incorporated into the regular two-year cycle of ports refresher training. Therefore all incumbent officers will be accredited by 31st March 2017;
- 2) Officers posted to ports on or after 1st April 2015 must be trained as part of the ports induction process with an approved training input followed by a pass/fail multiple choice examination.

Therefore, by 31st March 2017 any police officer acting as an examining officer will be accredited by their chief officer having received the appropriate training and passing an examination.

Accreditation of customs and immigration Officers as examining officers

An accredited customs officer may not act as an examining officer unless that officer has been designated by the Commissioners of Her Majesty's Revenue and Customs.

An accredited immigration officer may not act as an examining officer unless that officer has been designated by the Secretary of State.

Such accreditation will be similar to that used for accrediting police officers as examining officers and will include a period of training followed by a pass/fail examination. The chief officer of the police force area where the immigration or customs officer will operate must have been consulted and in agreement with the process used for testing competency and the proposal to accredit.

Designation of customs and immigration Officers as examining officers

An immigration or customs officer can only exercise functions under Schedule 7 where the officer has been designated by the Secretary of State (or, in the case of customs officers, by the Commissioners of Customs and Excise), as required by Schedule 7.

Before considering whether to designate immigration officers or customs officers, the Secretary of State or Commissioners (respectively) must consult the Chief Officer of the police area in which it is proposed to designate Immigration or Customs Officers to be examining officers.

The purpose of the consultation is for the Home Secretary or Commissioners to ascertain whether in the view of the Chief Constable there are exceptional circumstances which necessitate the urgent deployment of immigration or customs officers to be examining officers at ports in their area.

The Home Secretary or Commissioners may exercise their discretion to designate immigration or customs officers where they believe that there is an urgent need for customs

and immigration officers to act as examining officers because there is an exceptional threat level to the public which requires additional resourcing beyond that which can be provided by the police acting alone.

The Home Secretary or Commissioners will only designate, customs officers where they have successfully undertaken training in the use of the Schedule 7 powers and been accredited by the Director General (DG) of Border Force.

The Home Secretary or Commissioners will notify the Director General of Border Force of the name and employee number of each individual Immigration or Customs Officer who has been designated.

Two year cycle of accreditation

To continue to use the Schedule 7 powers, examining officers must be re-accredited at least every two years. The re-accreditation process will consist of a refresher course followed by a pass/fail multiple choice examination. If an individual fails the examination they will not be able to act as an examining officer until they have successfully completed the re-accreditation process. The scope for re-training and testing will be as agreed between ACPO and appropriate stakeholders.

Assessment of ongoing competence

Ongoing competence in the use of Schedule 7 powers will be assessed during the two year period following accreditation at a force level through local staff management and performance monitoring processes. Any necessary remedial action will be taken in line with individual force policy and procedure.

ACPO will issue advice to forces on methods of assessing on-going competence for the examining officer role. This will include an option for the withdrawal of accreditation where an officer's performance in the role does not meet the desired standard.

ACCREDITATION OF REVIEW OFFICERS

Requirement for Code of Practice

The Secretary of State is required to issue a Code of Practice about the provision of training to be undertaken by persons who are to act as review officers. This annex satisfies that requirement.

Requirement for training and accreditation

Accredited review officers are required to periodically review the need for continued detention of people detained under Schedule 7. Training will only be provided to appropriate supervisory police officers, including those likely to perform the role in an acting capacity.

Training and accreditation standards

Training standards will be set by the Association of Chief Police Officers (ACPO) (or their successors) and the training programme will be accredited by the College of Policing.

The training and accreditation of review officers will be a national programme delivered at a local level by a force or a group of regional forces. This approach gives individual forces or regional areas the responsibility and flexibility to deliver training and accreditation to suit their local needs, although the core elements of competence to practice as a review officer will be a mandatory requirement.

Training and accreditation for a review officer

All review officers will undertake a nationally approved programme, which will include a period of training and a pass/fail examination. On successful completion of the training and examination, officers will be accredited by their appropriate chief officer.

Accreditation of review officers

The accreditation training and testing programme will be delivered nationally in time for commencement of the requirement to undertake reviews from 1st April 2015.

Two year cycle of accreditation

To continue to act as review officers, officers must be re-accredited at least every two years. The re-accreditation process will consist of a refresher course followed by a pass/fail multiple choice examination. If an individual fails the examination they will not be able to act as a review officer until they have successfully completed the re-accreditation process. The scope for re-training and testing will be as agreed between ACPO and appropriate stakeholders.

Assessment of ongoing competence

Ongoing competence in the role of review officer will be assessed during the two year period following accreditation at a force level through local staff management and performance monitoring processes. Any necessary remedial action will be taken in line with individual force policy and procedure.

ACPO will issue advice to forces on methods of assessing on-going competence for the review officer role. This will include an option for the withdrawal of accreditation where an officer's performance in the role does not meet the desired standard.

This document was withdrawn on 8 April 2016.

archived

This document was withdrawn on 8 April 2016.

archived