



Home Office

Examining Officers and Review Officers under Schedule 7 to the Terrorism Act 2000

Draft Code of Practice



June 2020



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Draft Code of Practice

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

June 2020



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PART 1 LANDING CARD

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1. Introduction

General

1. Schedule 7 to the Terrorism Act 2000 (“Schedule 7”), allows an examining officer to stop, question, search and detain a person at a port or the border area in Northern Ireland for the purpose of determining whether the person appears to be someone who is, or has been, involved in the commission, preparation or instigation of acts of terrorism. It also allows for the examination of goods for the purpose of determining whether they have been used in the commission, preparation or instigation of the acts of terrorism.
2. This Code of Practice is issued under paragraph 6 of Schedule 14 to the Act. It applies to: (i) the exercise by examining officers of their functions under Schedule 7; (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.
3. This Code, which replaces the code dated March 2015, takes account of amendments made to Schedules 7 and 8 to the Terrorism Act 2000 made by the Counter-Terrorism and Border Security Act 2019.
4. The term “examining officer”¹ 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). Any such officer will have 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 Schedule 3 to the Counter-Terrorism and Border Security Act 2019, the Police and Criminal Evidence Act 1984, Immigration Act 1971 or the Customs and Excise Management Act 1979).
5. This Code contains provisions concerning reviews of detention under Schedule 7 (see section 4). Those provisions require that the “review officer”² must carry out a periodic review where a person has been detained under Schedule 7. “Review officer” means an officer, at least one rank higher to the examining officer, who has not been directly involved in

¹ For further information please see Annex B.

² For further information please see Annex B.

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.

6. The powers contained in Schedule 7 to which this Code relates must be used fairly and responsibly in accordance with the prescribed procedures and with respect for the people to whom the powers have been applied. They must be exercised in accordance with the Human Rights Act 1998 and with respect for the European Convention on Human Rights. Where this Code directs that an examining officer must undertake a duty or obligation in the exercise of their powers under Schedule 7, the officer will abide by that direction as far as reasonably practicable.
7. When using Schedule 7 powers, the Equality Act 2010 prohibits officers from unlawfully discriminating against, harassing or victimising 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.
8. Under section 149 of the Equality Act 2010, public authorities have a duty to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between people who share a protected characteristic and people who do not share it; and foster good relations between those persons.
9. 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 National Police Chiefs' Council (NPCC) Police Service of Scotland and the Police Service of Northern Ireland (or their successors).
10. 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

11. The powers contained in Schedule 7 may only be used by police officers who have been accredited by their Chief Officer³ as having met a national standard⁴ 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.
12. In order to act as review officers (i.e. those officers who will review whether it is necessary to continue a person's detention under Schedule 7) police officers must have been assessed by their Chief Officer as having successfully undertaken training in the exercise

³ References in this Code to "Chief Officer" are to a chief constable of a police force in England and Wales, the Chief Constable of the Police Service of Scotland, the Chief Constable of the Police Service of Northern Ireland and the Commissioners of the Metropolitan Police and City of London Police.

⁴ Further details of the training that an examining (or reviewing officer) is expected to undertake, as agreed by the National Police Chiefs' Council and Police Service of Scotland and Police Service of Northern Ireland (or their successors) can be found at Annex B.

of the Schedule 7 powers (including the 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

13. 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 Her Majesty's Revenue and Customs), as an examining officer for the purposes of Schedule 7. The Chief Officer of the police force area where the immigration or customs officer will operate must have been consulted and be in agreement with the proposal to accredit and the process for ensuring ongoing competence to practice.

14. Immigration and 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.

15. The accredited immigration or customs officer must only exercise Schedule 7 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.

16. In all cases where an immigration or customs officer exercises any examining officer power under Schedule 7,⁵ the authority of a chief immigration officer (in the case of an immigration officer), or a higher officer (in the case of a customs 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.

17. In order to act as review officers, immigration and customs officers must have been assessed by the DG of Border Force or the Commissioner of Her Majesty's Revenue and Customs as having successfully undertaken training in the exercise of the Schedule 7 powers/ Schedule 8 review functions to a national standard. Immigration and customs 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

18. The powers may also be used by any constable who has not been accredited where a police officer of at least the rank of Commander or Assistant Chief Constable⁶ 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, whether or not they are awaiting accreditation. In such circumstances, officers must receive a briefing⁷ 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.

⁵ Unless an examining officer has authorised a person to carry out on the officer's behalf a search or examination under any of paragraphs 7 to 9 of Schedule 7, and that person is an immigration or customs officer. See paragraph 10 of Schedule 7.

⁶ Officers of the National Police Chiefs' Council, Police Service of Scotland and Police Service of Northern Ireland (or their successors).

⁷ A template for emergency briefing is owned by the National Police Chiefs' Council (or their successors).

19. 'Urgent operational need' might arise during a period of heightened threat in accordance with the UK terrorism threat level.⁸ For example, where there is credible intelligence to indicate that acts of terrorism would result in the death or significant injury of persons within the United Kingdom or in the immediate aftermath of a terrorist attack. A heightened period of threat may mean that accredited police officers are otherwise occupied, and the relevant Chief Officer may need to deploy non-accredited police officers as examining officers. Additionally, the relevant Chief Officer should document the reasons for deploying non-accredited police officers.

Law enforcement engagement with the public

20. During the ordinary course of their duties, law enforcement officers, including officers working at UK ports, international railway stations or in the border area in Northern Ireland, may engage with members of the public. Whether or not officers will engage with the public in the course of their duties will depend on the circumstances.

21. Law enforcement officers may converse with members of the public to establish certain information which could include, but is not limited to, asking questions and conducting checks to establish their identity,⁹ provenance, or destination. Officers may use these interactions to assist in making a decision on whether to select a person for examination under Schedule 7 and it is not necessary to commence a Schedule 7 examination to engage with a person or conduct checks for this purpose. Doing so will not constitute an examination and there is no legal duty of members of the public to cooperate. There is no requirement for officers to make a record of this form of encounter with the public.

22. Where an officer requires a person to answer questions for the purpose of determining whether they appear to be someone who is, or has been, concerned in the commission, preparation or instigation of acts of terrorism, this will constitute the beginning of a Schedule 7 examination.

⁸ For further information on the UK terrorism threat levels, please see:

<https://www.gov.uk/terrorism-national-emergency>

⁹ Powers are available under Schedule 8 to the Anti-Social Behaviour, Crime and Policing Act 2014 for a constable to require, search for, take possession of and inspect all travel documents in a person's possession in order to establish the validity of those documents. These powers should only be used for the purpose of confirming the validity of travel documents.

2. Identifying persons for examination

Who can be examined?

23. 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 Terrorism Act 2000 or for the purpose of determining whether a person’s presence in the border area is connected with the person’s entry into, or departure, from, Northern Ireland. An examining officer may stop and question a person whether or not there are grounds for suspecting that the person is or has been concerned in terrorism.

24. The examination powers are additional to the powers of arrest available to police officers under separate legislation and must not be used for any other purpose¹⁰. 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 and in accordance with the Human Rights Act 1998 and with respect for the European Convention on Human Rights. Examining officers must be aware of the potential disruption to travel to which an examination may give rise, (for example, the disruption to a person’s travel plans where selection for examination has occurred prior to embarkation at a UK port) and should seek to minimise such disruption wherever practicable.

25. Schedule 7 powers must be exercised in a manner which is proportionate to the legitimate aim and which does not unlawfully discriminate against anyone on the grounds of age, race (including colour, nationality, ethnic or national origin), religion or belief, gender or sexual orientation. Examining officers must take particular care to ensure that “protected characteristics”¹¹ (whether separately or together) are not used as criteria for selection except to the extent that they are used in association with considerations that relate to the threat from terrorism.

26. If a person is stopped and questioned, this may inconvenience their ongoing travel arrangements. Where appropriate the examining officers will try to assist with seeking advice from transport operators on options for alternative travel arrangements. An examining officer, however, will not be able to guarantee or book alternative travel for that person.

¹⁰ Detention powers under Schedule 7 and reasons for detaining a person are explained in Section 4.

¹¹ Protected characteristics as defined in the Equalities Act 2010 and set out in paragraph 7 of this Code of Practice.

Where Schedule 7 powers can be exercised

27. The power to examine someone under Schedule 7 may be exercised in respect of a person only if either of the following conditions is met:

- The person is 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 7;¹²
- The person is at a port or in the border area in Northern Ireland and the examining officer believes that a person's presence there is connected with person's entry or departure from Great Britain or Northern Ireland or the person's travel by air within Great Britain or within Northern Ireland. See paragraph 2(2) of Schedule 7.

28. The examining officer's 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 the person in a controlled 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.

Selection Criteria

29. Although the selection of a person for examination is not conditional upon the examining officer having grounds to suspect that person of being engaged 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.

30. It is not appropriate for race, ethnic background, religion and/or other "protected characteristics" (whether separately or together) to be used as criteria for selection except to the extent that they are used in association with considerations that relate to the threat from terrorism. Considerations that relate to the threat from terrorism include factors such as, but not exclusively:

- Known and suspected sources of terrorism;
- Persons, organisations 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 persons involved in terrorist activity could use;

¹² The Channel Tunnel (International Arrangements) Order 1993 provides that examining officers can exercise Schedule 7 powers in a railway station or other place where persons embark or disembark, or goods are loaded or unloaded, on or from a through train or shuttle train and in the tunnel system.

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- Patterns of travel through specific ports or in the wider vicinity that may be linked to terrorist activity; or appear unusual for the intended destination;
- Observation of a person's behaviour; and/or
- Referrals made to examining officers by other security, transport or enforcement bodies.

3. Examination of Persons

Commencing an examination

31. The examining officer must not exercise examination powers under Schedule 7 with respect to any person unless that person has been notified that an examination has commenced.
32. In notifying the person of their examination under Schedule 7, an examining officer may direct the person or vehicle to a nearby place for this purpose.
33. At the start of the examination the examining officer must 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 77 of this Code for the types of reasons that might cause an officer to detain a person).

Conducting an examination

34. The examining officer must explain their role to the person and that Schedule 7 is a part of counter-terrorism policing at the port/UK border, but that this does not mean that they are suspected of being involved in terrorism. The purpose of the examination is to determine whether the person appears to be someone who is or who has been 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.
35. The examining officer will explain how the examination will be conducted and must offer a Schedule 7 Public Information Leaflet.¹³ The Public Information Leaflet is available in multiple languages, and outlines the purpose and provisions of Schedule 7, duties 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).
36. Where Schedule 7 powers are exercised regularly, the duties and rights of a person subject to examination must be displayed prominently, alongside an explanation of the powers, in a place where the person will be able to read them. If the examining officer

¹³ The Public Information Leaflet is owned by the National Police Chiefs' Council (or their successors).

doubts the person's ability to understand English, every reasonable effort should be made to communicate the relevant information, where practicable using someone who can act as an interpreter (see paragraph 49-51 of this Code).

37. 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 of the person would not assist in making such a determination.

38. It is important to note that the examining officer does not need to administer a caution to a person being examined under Schedule 7. Questioning that does require a caution (e.g. where a person is being questioned in relation to suspected involvement in an offence) should be dealt with outside of the Schedule 7 examination process.

39. Where an officer decides it is necessary to examine a person for longer than an hour, then questioning under paragraph 2 and 3 of Schedule 7 may only continue beyond the hour point if the person has been detained under paragraph 6 of Schedule 7. Any period of examination, including detention, must not exceed six hours from the commencement of the examination.

40. If after (or during the course of) examining a person under paragraph 2 or 3 of Schedule 7 the examining officer decides to examine the person under Schedule 3 to the Counter-Terrorism and Border Security Act 2019 for counter-hostile activity purposes, the officer must explain to the person that they are no longer being examined under Schedule 7 and are now instead being examined under Schedule 3 (at which point the officer must adhere to the Schedule 3 Code of Practice). In such circumstances, the time spent in examination under paragraph 2 or 3 of Schedule 7 is to be included in calculating the 6 hour period with respect to any subsequent examination that takes place under paragraph 1 or 2 of Schedule 3.

41. The reverse is true where an examining officer decides after (or during the course of) examining a person under Schedule 3 to the Counter-Terrorism and Border Security Act 2019 to examine the person under Schedule 7 to the Terrorism Act 2000. In such circumstances, the time spent in examination under paragraph 1 or 2 of Schedule 3 is to be included in calculating the 6 hour period with respect to any subsequent examination that takes place under paragraph 2 or 3 of Schedule 7. Examination under either Schedule 7 or Schedule 3, or a combination of both, must not exceed a period of 6 hours.

Duties under examination

42. 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 imposed under 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. An examining officer may not ask a question under paragraph 2 or 3 of Schedule 7 where they have reasonable grounds to believe that the answer to the question would require a person to disclose or confirm the identity of a source of journalistic information or disclose information subject to legal privilege. An examining officer may only ask such a question with prior independent or judicial authorisation, or (in urgent cases) immediate after-the-event authorisation.

43. The examining officer should also, if appropriate, inform the person that any answer or information that the person provides orally in response to a question asked during the examination cannot be used as evidence in criminal proceedings. The person should also be informed that this will not be the case where the person is prosecuted for wilfully failing to comply with a duty imposed under or by virtue of Schedule 7, for obstructing or seeking to frustrate a search or examination under Schedule 7, or where they are prosecuted for perjury. The person should be informed that it will be possible for oral answers given in response to questions put to the person in a Schedule 7 examination to be used as evidence in a situation where the person has been prosecuted for an offence other than those already mentioned where, in giving evidence, they make a statement that is inconsistent with that oral answer or information given. In such a situation, the person's statement can only be used where they or their lawyer first adduces it as evidence, or asks a question relating to it, in their defence.

Rights under examination

44. A person who is being examined at a port, but not detained, is not entitled to consult a solicitor. Should the person request to do so, the examining officer may grant this at his or her discretion. Where reasonably practicable, a consultation should be allowed. When a consultation is allowed, it should be allowed to be conducted in private. The person must be informed that any consultation will not be at public expense. Requests for consultation, the response and, if applicable, the reason for refusal must be recorded in writing.

45. A person who is being examined at a port, but not detained, is not entitled to have a named person informed of their examination and whereabouts. Should the person request to inform a named person, 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 the examinee 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 in recorded writing.

Welfare considerations during examination

46. An examining officer should bear in mind that the person being examined, while they may not be obviously vulnerable (for which see from paragraph 101 of this Code), 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.

47. If the person being examined is travelling with any other person who may be vulnerable (including children) and there is no other responsible adult present, the examining officer must make suitable arrangements to ensure the wellbeing of the vulnerable person. The examining officer should inform the person being examined of these arrangements before continuing with the examination.

48. 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, where this will not jeopardise the purpose of the examination.

49. 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.

50. 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.

51. 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).

Production of information

52. 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. Information requested by an examining officer under paragraph 5(a) may include passwords to electronic devices. An examining officer may not, however, compel a person to disclose or confirm the identity of a source of journalistic information or disclose information subject to legal privilege without prior or immediate after-the-event independent or judicial authorisation (see paragraph 42 of this Code). The examining officer should give the person concerned a reasonable opportunity within the period of examination to produce the information or documents requested.

53. 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 can be used to establish their identity. Production of information, documents or evidence of identity under paragraph 5 of Schedule 7 is separate from the powers of search and examination contained in paragraphs 7, 8 and 9 of Schedule 7.

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

Searches

55. Under paragraph 8 of Schedule 7, an examining officer may search a person questioned under paragraph 2 and anything they have with them, or which belongs to them, for the purpose of determining whether the person appears to be someone who is or has been concerned in the commission, preparation or instigation of acts of terrorism (see paragraph 67 on how 'protected material' should be treated by officers). This includes baggage or any other personal items such as mobile electronic devices, whether found on the person or on a ship, aircraft or international train service, or where the examining officer reasonably believes

that the thing has been or is about to be on a ship, aircraft or international train service.¹⁴ An examining officer may, under paragraph 10 of Schedule 7, authorise another person to carry out a search on their behalf.

56. 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 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.

57. All searches and procedures must be carried out with courtesy, consideration and respect. Officers should show sensitivity when dealing with transgender individuals (including transsexual and transvestite persons). In such cases, officers should follow the relevant guidance.

58. The power to search anything which the person has with them includes the power to search electronic devices, such as mobile phones. The person must provide access to any electronic device to allow for a search to be undertaken, including where access to a device requires the person to unlock a device through application of their thumb or finger, or any other form of access control (e.g. voice or face recognition). Searching such a device may result in information being accessed which is stored other than on the device itself. However, the power to search does not include the power to use information obtained from such a device (or information requested under paragraph 5(a)) to access information using a device that is not the subject of a search under paragraph 8 (for example, the officer may access emails using an application on the phone being searched, but may not obtain the email username and password and log onto the email account from another computer). Nor can the power to search electronic devices be used to intercept communications in the course of their transmission, within the meaning in the Investigatory Powers Act 2016, other than where the obtaining of stored communications is authorised by section 6(1)(c)(ii) of that Act.

59. 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. A search must be limited to what is necessary for that purpose. 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.

60. An examining officer may use reasonable force for the purpose of exercising a search power under Schedule 7. Reasonable force¹⁵ may be used to conduct a search where that is necessary and proportionate. Where an examining officer exercises powers of search under Schedule 7 there is no requirement for any notice of search to be provided regarding the search of a person, property or vehicles.

¹⁴ 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.

¹⁵ See paragraph 3 of Schedule 14 to the Terrorism Act 2000. Reasonable force must not be used when questioning a person under paragraph 2 of Schedule 7.

61. 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.

62. 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.

Retention of property

63. An examining officer may retain anything (including electronic devices) which is given to the officer in accordance with paragraph 5(d) of Schedule 7; which is searched or found during a search under paragraph 8; or which is examined under paragraph 9. The officer may retain the thing under paragraph 11(2):

- a. For the purpose of examining the detained thing, for a period not exceeding 7 days beginning with the day on which the retention commences,
- b. While the examining officer believes that it may be needed for use as evidence in criminal proceedings, or
- c. While the officer believes that it may be needed in connection with a decision of the Secretary of State whether to make a deportation order under the Immigration Act 1971.

64. The powers to retain property must be exercised in a manner which is proportionate to the legitimate aim. The thing may be retained for as long as the examining officer believes it is needed for these purposes (although not beyond 7 days if the thing is retained only under paragraph 11(2)(a))¹⁶. If the examining officer retains anything beyond the conclusion of the examination of that person, he/she must inform the person of the power under which their property is being retained. In such circumstances, the examining officer should ask the person how they would prefer to be contacted regarding the status or return of their property.

Making copies of information

65. An examining officer who is a constable may copy anything obtained under paragraph 5, searched or found on a search under paragraph 8, or anything examined under paragraph 9 and this includes making copies of electronic data. The copies may be retained under paragraph 11A(3):

- a. For so long as is necessary for the purpose of determining whether a person is or has been involved in the commission, preparation or instigation of acts of terrorism,
- b. While the examining officer believes that it may be needed for use as evidence in criminal proceedings, or
- c. While the officer believes that a copy may be needed in connection with a decision by the Secretary of State whether to make a deportation order under the Immigration Act 1971.

66. The powers to copy must be exercised in a manner which is proportionate to the legitimate aim. Copies of information obtained during an examination must be managed in compliance with the requirements of Management of Police Information guidance, General Data Protection Regulation provisions and the Data Protection Act 2018.

¹⁶ It is important to note that where an examining officer has retained a thing under 11(2)(b) or (c), examination of the thing is permitted in order to fulfil the purpose of the retention.

Treatment of ‘protected material’

67. In exercising the powers in paragraphs 11 (detention of property) and 11A (power to make and retain copies), examining officers must ensure that all material which is likely to be “protected material”¹⁷ is treated with care to minimise the risk that it is seen by the examining officer or any other officer involved in an examination under Schedule 7. In the absence of any power other than Schedule 7 (such as Schedule 5 to the Terrorism Act 2000), material cannot be examined where the officer has reasonable grounds for believing it to be protected material. The officer may, however, examine any non-protected material, subject to the conditions of the following paragraphs.

68. If before an examining officer examines or copies an article, the officer has reasonable grounds for believing that the article consists of or includes protected material, the officer must only proceed to examine the article or make the copy if the protected material is capable of being separated from non-protected material. If the officer has developed such reasonable grounds during the process of examining the article or copy, the officer must cease examining the article or copy and may only subsequently continue to examine the article or copy if the non-protected material has been separated from the protected material. Save as to any other power applying which permits retention, where it is assessed that protected material within an article or copy cannot be separated from non-protected material the article must be returned to the person from whom it was taken, and any copies of the article must be destroyed.

69. The examining officer should consider whether it is reasonably practicable for the protected material to be separated at the time and place of the Schedule 7 examination. This can be done either using the sifting and independent review process described below, or in any other manner designed to prevent the examining officer or any other officer involved in an examination under Schedule 7 from accessing the protected material. If this is not reasonably practicable at the time and place of the Schedule 7 examination, the officer may retain the article or copy in accordance with paragraph 11 or 11A, as applicable, and during the retention period the sifting and independent review process in relation to an article or copy must be carried out. The sifting and independent review process requires the following steps to be taken:

- a. In the case of electronic devices, the article which likely contains protected material must be passed to a police digital forensic unit for copying (and any existing copy which an officer has come, during examination, to have reasonable grounds to believe contains protected material must be passed to that unit);
- b. The article and/or copy of the article must be stored securely (whether at the place of the Schedule 7 examination or elsewhere) and not examined by the examining officer or any other officer connected to the Schedule 7 examination, pending a sift for potentially protected material by a person independent of the Schedule 7 examination and subsequent review of that material by an independent counsel;

¹⁷ In this Code, “protected material” means:
“confidential journalistic information” within the meaning of section 264(6) and (7) of the Investigatory Powers Act 2016;
material which identifies or confirms a “source of journalistic information” within the meaning of section 263(1) of that Act;
“items subject to legal privilege” within the meaning of section 263(1) of that Act;
personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence (see the definition of “excluded material” in section 11(1)(a) of the Police and Criminal Evidence Act 1984); and
human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence (see section 11(1)(b) of that Act).

- c. The independent counsel must be engaged as soon as reasonably practicable for the purpose of reviewing the sifted material to identify which items of material the officer is authorised to examine;
- d. In cases where the material on the article or copy is electronic, voluminous and capable of being searched electronically, the person from whom the article has been taken (or from whose article a copy has been taken), or that person's legal representative, must be given the opportunity to provide search terms to be applied to identify potential protected material. The ultimate decision as to which search terms are applied shall be for the relevant police force. Those search terms must be applied by a member of the police digital forensic unit, who is independent of the Schedule 7 examination. The result of the search terms applied must be confined in a separate folder to which the examining officer and any other officer involved in the Schedule 7 examination do not have access. Any data which is not covered by the search terms can be provided to the examining officer for their review;
- e. Independent counsel will review the result of the sift which has been confined in the separate folder. Following the review by independent counsel, any material which is identified as protected material must be extracted from the non-protected material. Only the non-protected material will be made available to the examining officer;
- f. In the case of a copy of an article, the independent counsel must mark for destruction all items of copied material which the officer is not authorised to examine and the identified material must be destroyed without being examined. In the case of protected material comprised in an article, that material must be returned to the person from whom it was taken as soon as reasonably practicable. In the event the copy is seized under a separate power, it will not need to be destroyed or returned.

70. The Chief Officer of the force area where the Schedule 7 examination takes place shall be responsible for ensuring that arrangements are in place for secure storage of articles and copies pending independent counsel's review and that in the case of digital copies, the available technology does not allow for the retrieval of destroyed material.

71. Where an examining officer or any other officer involved in the Schedule 7 examination inadvertently sees protected material, measures must be put in place to ensure that the protected material is not taken account of, either in the course of making a determination under paragraph 2 or 3 of Schedule 7 or in any subsequent legal proceedings, or any executive action.

72. An examining officer may only retain an article, or make and retain a copy of an article, which the officer has reasonable grounds for believing it consists of or includes protected material if the officer considers it necessary and proportionate to do so in accordance with paragraphs 11(2)(a)-(c) or 11A(3)(a)-(c) and a sifting and independent review process, or any other process designed to prevent the examining officer or any other officer involved in an examination under Schedule 7 examining the protected material, is possible.

Confidential Business Material

73. If, before an examining officer examines or copies an article, or during the process of examining the article or copy, the examining officer has reasonable grounds for believing that the article or copy consists of or includes (or would consist of or include, were the copy to be made) confidential business material within the meaning of section 14(2) of the Police and Criminal Evidence Act 1984, the examining officer must obtain the authorisation of an officer of at least the rank of superintendent who has not been directly involved in the exercise of Schedule 7 powers to the article or copy's retention, examination and use. The authorising officer may give such an authorisation only if satisfied that arrangements are in place that are sufficient for ensuring that the material is retained securely, and the material will be used only

so far as necessary and proportionate in accordance with paragraphs 11(2)(a)-(c) or 11A(3) (a)-(c), as applicable. Where authorisation is not given, confidential business material must be treated as if it were protected material, and a separation and independent review process (or any other process designed to prevent the examining officer or any other officer involved in an examination under Schedule 7 examining the protected material) applied to separate out the confidential business material, if the examining officer considers it necessary and proportionate to examine non-confidential business material within the article or copy.

Records of examinations

74. Records of all examinations and detentions must be kept for statistical or reference purposes for as long as judicial challenge or a complaint about the use of the powers can be made. Records must include, as a minimum, the name of the person examined, the identification of officers using the powers, self-declared ethnicity of the person examined, if given, the total duration of the examination and, if relevant, the time of detention.

75. 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 person or their solicitor at the time of the examination but will be managed in accordance with Management of Police Information guidance, General Data Protection Regulation and the Data Protection Act 2018.

4. Detention

When can a person be detained under Schedule 7?

76. An examining officer may detain a person under paragraph 6 of Schedule 7, at any time, for the purpose of exercising examination powers under paragraph 2 and 3. (i.e. in order to determine whether the person appears to be, or to have been, involved in the commission, preparation or instigation of acts of terrorism and to question a person in the border area for the purpose of determining whether the person's presence there is connected with the person's entry into, or departure, from, Northern Ireland). In order to continue to question a person 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.

77. The power to detain must be exercised in a manner which is proportionate to the legitimate aim. The decision of an examining officer to detain a person will be made on a case by case basis, but may be made for the types of reasons described below:

- **The person refuses to co-operate with any legal obligation or insists on leaving.** For example, where the person obstructs or seeks to frustrate the examination.
- **The examining officer determines that he/she will need longer than one hour to complete the examination.** For example, where a more extensive search of a person's belongings is necessary, or where the services of an interpreter are required.
- **The examining officer deems it appropriate to exercise additional powers available through detention.** For example, to establish a person's identity or to assist in determining a person's involvement in terrorism through the taking of fingerprints and samples (paragraphs 10 and 20 of Schedule 8), or where it is necessary to carry out a strip search (paragraph 8(5) 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.**

The above list of reasons is illustrative only, not exhaustive. It is important to note that detention is an option at any time to compel the person to remain with the examining officer to question and/or search for the purposes of the examination process.

78. Where a person is detained under Schedule 7, at the start of the detention 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 paragraph 80 of this Code for further information); and
- Give them a Notice of Detention under Schedule 7 (as set out at Annex A), which explains a person's duties and rights.

79. 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 port i.e. interpretation and translation services, video/audio recording¹⁸, biometric sampling equipment; and/or
- The examining officer considers it appropriate to relocate for safety reasons.

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

Duties of the person being examined when under detention

80. 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 (see paragraph 42 regarding questioning that would require a person to disclose or confirm the identity of a source of journalistic information or disclose information subject to legal privilege). The examining officer must inform the person that wilfully failing to comply with a duty imposed by Schedule 7; wilfully contravening a prohibition imposed under or by virtue of the Schedule; or wilfully obstructing or seeking to frustrate a search or examination under the Schedule, is a criminal offence under paragraph 18.

81. The examining officer should, inform the person that any answer or information that the person provides orally in response to a question asked during the examination cannot be used as evidence in criminal proceedings. The person should also be informed that this will not be the case where the person is prosecuted for wilfully failing to comply with a duty imposed under or by virtue of Schedule 7; for wilfully contravening a prohibition imposed under or by virtue of the Schedule; for obstructing or seeking to frustrate, a search or examination under the Schedule; or where they are prosecuted for perjury.

82. The person should also be informed that it will be possible for oral answers given in response to questions put to the person in a Schedule 7 examination to be used as evidence in a situation where the person has been prosecuted for an offence other than those already mentioned where, in giving evidence, they make a statement that is inconsistent with that oral answer or information given. In such a situation, the person's statement can only be used where they or their lawyer first adduces it as evidence, or asks a question relating to it, in their defence.

¹⁸ The lack of availability of recording facilities should not be the sole reason for a relocation decision.

Rights of the person being examined when under detention

83. If during the course of examining a person who has been detained under paragraph 6 of Schedule 7, the examining officer decides to examine the person under Schedule 3 to the Counter-Terrorism and Border Security Act 2019 for counter-hostile activity purposes, the person must be detained under paragraph 4 of Schedule 3. The officer must explain to the person that they are no longer detained under Schedule 7 and are being detained under Schedule 3 (at which point the officer must adhere to the Schedule 3 Code of Practice).

84. The reverse is true where an examining officer decides, during the course of examining a person who has been detained under Schedule 3, to examine the person under Schedule 7. In such circumstances, the person will have the rights and entitlements of a person detained for the purposes of examination from the outset of the second detention, and any rights that have been exercised with respect to the first detention may continue to be exercised during the second detention.

Right to access a solicitor in private

85. Where a person is detained for the purpose of a Schedule 7 examination, that person is entitled to 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 will be at public expense through legal aid.¹⁹

86. **The examining officer must postpone questioning the person until he or she has consulted a solicitor in private (or has communicated that he or she 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. For example, 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. If the examining officer decides not to postpone questioning the reasons must be recorded.

87. **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.

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

¹⁹ This includes UK and non-UK Nationals.

89. 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.

90. 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.

91. 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.

England, Wales and Northern Ireland

92. In certain exceptional circumstances, the entitlement to consult a solicitor can be delayed under paragraph 8 of Schedule 8 (Terrorism Act 2000) with the authority of a superintendent or above. For example, where the officer has reasonable grounds to believe that the consultation would lead to (paragraph 8(4)):

- a. Interference with or harm to evidence of a serious offence;
- b. Interference with or physical injury to any person;
- c. The alerting of persons who are suspected of having committed a serious offence but who have not been arrested for it;
- d. The hindering of the recovery of property obtained as a result of a serious offence or in respect of which a forfeiture order could be made under section 23 or 23A;
- e. Interference with the gathering of information about the commission, preparation, or instigation of acts of terrorism;
- f. The alerting of a person and thereby making it more difficult to prevent an act of terrorism; and,
- g. The alerting of a person and thereby making it more difficult to secure a person's apprehension, prosecution or conviction in connection with the commission, preparation or instigation of an act of terrorism.

93. In such circumstances a police officer not below the rank of superintendent, may, if it appears to the officer to be necessary, direct (under paragraph 9 of Schedule 8) that the right may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction. The right may instead be exercised by consulting a different solicitor of the detained person's choosing. This may be where the directing officer has reasonable grounds to believe that the detainee will use the cover of confidentiality of conversations with a solicitor to pass on instructions or information to a third party, either wittingly or unwittingly.

Scotland

94. In certain exceptional circumstances, the entitlement to consult a solicitor in Scotland can be delayed under paragraph 16 of Schedule 8 (Terrorism Act 2000) with the authority of a superintendent or above. For example, where, in the officer's view, the delay is necessary on one of the following grounds (paragraph 17(3)):

- a. That it is in the interests of the investigation or prevention of crime;

- b. That it is in the interests of the apprehension, prosecution or conviction of offenders;
- c. That it will further the recovery of property obtained as a result of the commission of an offence or in respect of which a forfeiture order could be made under section 23 or 23A;
- d. That it will further the operation of Part 2 or 3 of the Proceeds of Crime Act 2002 or the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)) (confiscation of the proceeds of an offence);

95. In such exceptional circumstances a police officer not below the rank of superintendent, may, if it appears to the officer to be necessary, direct (under paragraph 17 of Schedule 8) that the right may not be exercised (or further exercised) by consulting the solicitor who attends for the purpose of the consultation or who would so attend but for the giving of the direction. The right may instead be exercised by consulting a different solicitor of the detained person's choosing. This may be where the directing officer has reasonable grounds to believe that the detainee will use the cover of confidentiality of conversations with a solicitor to pass on instructions or information to a third party, either wittingly or unwittingly.

Other rights under detention

96. **The detained person is entitled to have a friend, relative or other person known to them who is likely to take an interest in their welfare informed as soon as is reasonably practicable that he or she is being detained (paragraph 6 of Schedule 8, or paragraph 16 for Scotland).** Under certain exceptional circumstances this right can be delayed under paragraph 8 (or paragraph 16 for Scotland) of Schedule 8 with the authority of a police officer of at least the rank of superintendent, for example, if that officer has reasonable grounds for believing that informing that person will have any of the consequences referred to above.

97. **The detained person is entitled to 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 ground²⁰ 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.

98. Where the detained person is a citizen of a country with which a bilateral consular convention or agreement²¹ is in force requiring notification of their detention, the detained person 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, and such notification must be so given. If the detained person has dual or multiple nationalities, this will require both (or all) countries to be informed. Consular officers may, if the detained person agrees, visit the detained person and, if required, arrange legal advice.

99. Notwithstanding the provisions of consular conventions, if the detained person claims that they are a refugee or have applied, or intend to apply, for asylum status in the UK, the examining officer must ensure that UK Visas and Immigration (UKVI) is informed as soon as practicable. UKVI will then determine whether compliance with the relevant international obligations requires notification of the detention to be sent and will inform the examining officer as to what action is required.

²⁰ 'Ground' here refers to the power under which they are detained and the purpose of the power.

²¹ Consular Convention or Agreement: <https://www.gov.uk/government/publications/table-of-consular-conventions-and-mandatory-notification-obligations> and <https://www.gov.uk/government/publications/foreign-embassies-in-the-uk>.

Access to healthcare and the examination period

100. The examining officer must continue to consider the person's welfare in accordance with paragraph 46 of this Code. Where a person detained under paragraph 6 of Schedule 7 is removed to hospital because the person needs medical treatment, the period of travel to and from hospital and time spent in hospital is not to be included in calculating the 6 hour examination period. Any time, however, during which the person is being questioned under paragraph 2 or 3 in hospital, or on the way there or back is to be included in calculating the 6 hour examination period (see paragraph 6A3A of Schedule 7). Where a person is removed to hospital for medical treatment, the examining officer must make a written record, clearly indicating when the examination was postponed and restarted.

Children and other vulnerable people

101. Special care must be taken when considering whether to examine someone, where it is evident that the person is a child.²²

102. Examining officers must bear in mind that children can be easily intimidated when examined especially if they are travelling alone. It is also important to bear in mind that children can be vulnerable to exploitation by adults wishing to further aims relating to terrorism. 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 an 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.

103. A child travelling alone must not be questioned in the absence of a responsible adult (for example a parent, guardian, teacher or social worker) unless there are exceptional reasons. If there are such reasons, the examining officer must record these in writing.

104. A child travelling with a responsible adult over 18 must be questioned 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 question the child in the absence of the responsible adult with whom that child is travelling, the reasons for taking that decision must be recorded.

105. If questioning under detention is considered necessary, it must only take place in the presence of an adult who can represent the child's interests. This should be a parent, a guardian, or (if the child is in care) a representative of the care authority or voluntary organisation. In the absence of any of the above, a social worker, or an adult who is not a police, immigration, customs or border enforcement officer (or a person employed by those organisations), can act in this capacity. If the adult present during the questioning feels the need to consult a solicitor on the child's behalf they can do so.

106. The term 'in care' is used in this Code to cover all cases in which a child is 'looked after' by a local authority under the terms of the Children Act 1989, the Children (Northern Ireland) Order 1995 or the Children (Scotland) Act 1995.

107. 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 Scotland, the relevant definition of "mental disorder" is contained in section 328 of the Mental Health (Care and Treatment) (Scotland) Act 2003,

²² 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.

which is defined as “mental illness, personality disorder; or, learning disability”. 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”.

Strip Search

108. 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.

109. 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.

110. 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. For guidance on dealing with persons who are transgender (including transsexual or transvestite) see paragraph 57 of this Code;
- 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 an otherwise vulnerable person (as defined in relevant legislation referred to in paragraphs 101-107), a responsible adult must also be present;
- Except in urgent cases as above, a strip 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 any other responsible adult asked to attend. 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 and then remove 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 examination may be made of the genital and anal areas, provided that no physical contact is made with any bodily 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.

111. 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

112. A person 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.

113. Where a person detained under paragraph 6 of Schedule 7 is removed to hospital because he or she needs medical treatment and the detention clock has been paused under paragraph 6A(3A) of Schedule 7, the review clock will also pause. For the purposes of calculating when a review under paragraph 20K of Schedule 8 is required, any time during which the person is being questioned under paragraph 2 or 3 of Schedule 7 in hospital or on the way there or back is to be included. Any other time when the person is in hospital or on the way there or back is not to be included.

114. Where a person who was initially detained under paragraph 6 of Schedule 7 has been further detained under Schedule 3 to the Counter-Terrorism and Border Security Act 2019 for counter-hostile activity purposes, or vice versa, the review clock will continue to be calculated in accordance with the first detention.

115. The review officer must:

- Be accredited to a nationally recognised standard;²³
- Not be directly involved in the questioning of the individual. The review officer may have been involved in carrying out initial background checks or in supervising the examining officer but will not be involved in the questioning under examination. 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.

²³ For further information please see Annex B.

116. 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 concerned 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.

117. 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, but this should not be allowed to delay the review within the specified time limits. The review officer is required to inform the detained person of the result of the review. This should be done as soon as practicable but need not happen prior to end of the one hour period from the point of detention, or the subsequent two hour periods from the point of the previous review. The person must, however, be informed of the result of the review before the recommencement of any interview.

118. Where a review officer authorises continued detention, the officer must inform the detainee of any of the detainee's rights which have not yet been exercised. There is no requirement for the officer to inform the detainee of rights that have already been exercised or are in the process of being exercised.

119. There is no requirement to conduct a review of detention where the period of examination following 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.

120. 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 8²⁴ which have not yet been exercised, and if the exercise of any of those rights is being delayed in accordance with paragraphs 7A, 8, 16 and 16A of Schedule 8; and
- Where exercise of a right under paragraph 6, 7 or 16 of Schedule 8 is being delayed, whether the reason(s) for the delay continue to apply.

121. 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.

²⁴ The rights to inform another person of the detention and to consult a solicitor.

122. Records of reviews must be made by the review officer as soon as reasonably practicable and must be kept for statistical or reference purposes for as long as judicial challenge or a complaint about the use of the powers can be made.

Identity, biometrics and photographs

123. 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 photographing, measuring or identifying, which do not require consent, may involve the use of reasonable force if necessary and appropriate, and include photographing, measuring or 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

England, Wales and Northern Ireland

124. Under paragraphs 10 to 13 and 15 of Schedule 8 for persons detained at a port or a police station in England, Wales or Northern Ireland, fingerprints or non-intimate samples (e.g. a DNA mouth swab) may be taken by a constable:

- a. With the person's consent in writing; or
- b. Without the person's consent in writing if the person has been convicted of a recordable offence²⁵ and, where a non-intimate sample is to be taken, they were convicted of the offence on or after 10th April 1995 (or 29th July 1996 where the non-intimate sample is to be taken in Northern Ireland);

as long as the officer is satisfied that it is necessary to do so in order to assist in determining whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism or that it will assist in ascertaining the person's identity.

125. Fingerprints or non-intimate samples (e.g. a DNA mouth swab) may also be taken by a constable without the person's consent where they are detained at a police station and a police officer of at least the rank of superintendent authorises the fingerprints or sample to be taken.

126. Such authority can only be given if the authorising officer is satisfied that the taking of the fingerprints or sample is necessary to assist in determining whether the detained person appears to be someone who is or has been involved in the commission, preparation or instigation of acts of terrorism or, in the case of fingerprints only, that the fingerprints will assist in ascertaining the person's identity where the person has refused to identify themselves or where the officer has reasonable grounds for suspecting that that person is not who they claim to be. If this authority is given verbally it must be confirmed in writing as soon as is reasonably practicable.

127. The powers to take non-intimate samples and fingerprints must be exercised in a manner which is proportionate to the legitimate aim. Samples must be managed in compliance with the requirements of paragraph 20A to 20J of Schedule 8. There is no power to take intimate samples²⁶ under Schedule 7 whether by consent or otherwise.

²⁵ 'Conviction' in this case does not include cautions reprimands or warnings. 'Recordable Offence' means any offence punishable with imprisonment, as well as any specified offence listed in the Schedule of The National Police Records (Recordable Offences) Regulations 2000.

²⁶ As defined by section 65 of the Police and Criminal Evidence Act 1984.

Scotland

128. Under paragraph 20 of Schedule 8, for persons detained at a police station in Scotland, fingerprints or non-intimate samples (e.g. a DNA mouth swab) may be taken by a constable as long as he is satisfied that it is necessary to do so in order to assist in determining whether the person is or has been involved in the commission, preparation or instigation of acts of terrorism; or, in the case of fingerprints only, that the fingerprints will assist in ascertaining the person's identity where the person has refused to identify themselves or where the officer has reasonable grounds for suspecting that that person is not who they claim to be.

129. Samples must be managed in compliance with the requirements of paragraph 20A to 20J of Schedule 8. There is no power to take intimate samples under Schedule 7 whether by consent or otherwise.

Recording of interviews of persons detained under Schedule 7

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

131. Where a person is detained at a port, and suitable audio recording facilities are readily available, the examining officer must record the interview, unless the person willingly expresses a wish not to have it recorded. In such a situation, the recording of the interview will be at the examining officer's discretion. Where such audio recording facilities are available but recording of an interview does not take place, the examining officer must record the reason why.

132. Any such audio recordings are not made for evidential purposes but can be used for policing purposes, or in the case of a complaint, and this must be explained to the person.

133. Forces must make arrangements for the recording to be held securely for as long as judicial challenge or a complaint about the use of the power can be made and managed in accordance with the Management of Police Information guidance.

5. Examination of Goods

What goods can be examined?

134. An examining officer, or a person designated under paragraph 10 of Schedule 7, may only examine goods for the purpose of determining whether they have been used in the commission, preparation or instigation of acts of “terrorism” as defined in section 1 of the Terrorism Act 2000. The examination must not be undertaken for any other purpose.

135. “Goods” includes property of any description and containers. This includes both non-postal and postal items, whether unaccompanied or in the possession of a person.

Where Schedule 7 powers can be exercised in relation to goods

136. The power to examine goods under paragraph 9 of Schedule 7 may be exercised:

- In respect of goods which have arrived in or about to leave Great Britain or Northern Ireland on a ship, vehicle or international train.²⁷
- In respect of goods which have arrived at or are about to leave any place in Great Britain or Northern Ireland on an aircraft (whether the place they have come from or are going to is within or outside Great Britain or Northern Ireland).

137. Examination of goods may be carried out only:

- at a port;
- at premises operated by a sea cargo agent or an air cargo agent;
- at a temporary storage facility;
- at a location designated by the Secretary of State.

138. In order to determine whether to examine goods under paragraph 9, examining officers are permitted to:

- board a ship or aircraft;
- enter a vehicle;

²⁷ The Channel Tunnel (International Arrangements) Order 1993 provides that examining officers can exercise Schedule 7 powers in a railway station or other place where persons embark or disembark, or goods are loaded or unloaded, on or from a through train or shuttle train and in the tunnel system.

- enter premises operated by a sea cargo agent or an air cargo agent;
- enter a temporary storage facility; and
- enter a designated examination location.

Wherever possible, reasonable efforts should be made to obtain the permission of the owner or occupier before boarding and/or entering.

Selection Criteria

139. Although the selection of goods for examination is not conditional upon the examining officer having grounds to suspect that the goods have been used in the commission, preparation or instigation of acts of terrorism, the decision to select goods for examination must not be arbitrary. An examining officer's decision to select goods 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.

140. It is not appropriate for race, ethnic background, religion and/or other "protected characteristics" (whether separately or together) to be used as criteria for selection except to the extent that they are used in association with considerations that relate to the threat from terrorism. Considerations that relate to the threat from terrorism include factors such as, but not exclusively:

- Known and suspected sources of terrorism;
- Person's or groups whose current or past involvement in acts or threats of terrorism is known or suspected, and suspected or known supporters or sponsors of such activity 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 and documentation by which the goods have travelled and the route of travel that the goods have taken;
- Patterns of travel through specific ports or in the wider vicinity that may be linked to terrorist activity; or appear unusual for the intended destination;
- The physical appearance of the goods; and/or
- Referrals made to examining officers by other security, transport or enforcement bodies.

Examination

Conducting an examination

141. If goods that are selected for examination are unaccompanied, the examining officer must apply a notice to the outside of the goods, or enclose a notice within the goods, once the examination has been completed to indicate that the goods have been examined. The notice will identify the police force that has examined the goods, and will give a unique reference number for the examination. This must allow the identification of the examining officer who carried out the examination in the event of a query or complaint. The procedure for making a complaint about the examination of goods is the same as that relating to complaints about the examination of an individual, and is set out in section 7 of this Code.

142. After examining goods, an examining officer will also enclose a Goods Information Leaflet with the goods. The Goods Information Leaflet is available in multiple languages, and outlines the purpose and provisions of Schedule 7, obligations under Schedule 7, and relevant contact details (including those needed to provide feedback or make a complaint).

143. Examining officers must make every reasonable effort to exercise the power in such a way as to minimise causing embarrassment or offence to the sender or recipient of the goods or a person carrying the goods, and must not examine goods for longer than is necessary.

Treatment of 'protected material'

144. If before an examining officer examines or copies any goods, or during the course of such examination, the officer has reasonable grounds for believing that the goods consist of or include protected material, the examining officer must apply the same principles to the treatment of those items as outlined in Section 3 of this Code ('treatment of protected material').

Records of examinations

145. Records of all examinations of goods must be kept for statistical or reference purposes for as long as judicial challenge or a complaint about the use of the powers can be made. Records must include, as a minimum, the date, time and place of the examination, brief details of the item examined, the name of the person to whom the goods belong, any damage caused during the examination, and the identification number of the examining officer. Records of all examinations will be managed in accordance with Management of Police Information guidance, General Data Protection Regulation and the Data Protection Act 2018.

6. Carding

146. Under paragraph 16 of Schedule 7, an examining officer may require a person to complete and produce an embarkation or landing card,²⁸ containing such information as required by virtue of the Terrorism Act 2000 (Carding) Order 2001.

147. An examining officer may make the requirement at any time to a person who falls within paragraph 16(3) of Schedule 7.

148. The requirement to complete and produce a landing or embarkation card is independent from any other power exercised, or duty or obligation imposed, under Schedule 7, for example the power to question or examine a person under paragraph 2 of Schedule 7.

²⁸ See Annex C.

7. Complaints

Complaints about the conduct of examining officers, treatment of an individual during an examination, or by individuals who have sent or received goods which have been examined 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
- **Independent Office for Police Conduct**
Address: The Independent Office for Police Conduct
PO Box 473, Sale, M33 0BW
Phone: 0300 020 0096 (09:00-17:00)
Email: enquiries@policeconduct.gov.uk; or
- **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@pirc.gsi.gov.uk; or
- **Police Ombudsman for Northern Ireland**
Address: The Police Ombudsman Office, New Cathedral
Buildings, Writers' Square, 11 Church Street, Belfast, BT1 1PG
Phone: 03001232989
Email: complaints@policeombudsman.org; or
- **Where the examining officer is an immigration or customs officer:**
Address: Complaints Allocations Hub, Central point of receipt
7th Floor, Lunar House, 40 Wellesley Road,
Croydon CR9 2BY
Email: complaints@homeoffice.gov.uk

ANNEX A: 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”). This is so that an Examining Officer may exercise his or her powers under 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 (including the PINs and passcodes to any electronic devices in your possession);
- 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.

If you wilfully fail to comply with any of these duties, wilfully contravene a prohibition under or by virtue of Schedule 7 or wilfully obstruct or seek to frustrate a search or examination conducted under Schedule 7, you could be prosecuted for a criminal offence under paragraph 18.

During your detention, an examining officer can take any steps which are reasonably necessary for photographing, measuring or identifying you with or without your consent.

If you are detained in England, Wales and Northern Ireland, a police officer can also take your fingerprints and a non-intimate sample either with your consent or without it if you: (i) have been convicted of a previous recordable offence; or (ii) are detained at a police station and the taking has been authorised by a police officer of at least the rank of superintendent. If you are detained at a police station in Scotland, a police officer can take your fingerprints and a non-intimate sample, either with or without your consent.

Any answer or information that you provide orally in response to a question asked during the examination cannot be used as evidence in criminal proceedings. This, however, will not apply where you are prosecuted for wilfully failing to comply with a duty imposed by Schedule 7, willingly contravening a prohibition under or by virtue of the Schedule, or wilfully obstructing or seeking to frustrate a search or examination under the Schedule, or where you are prosecuted for perjury.

It will also be possible for oral answers given in response to questions put to you in a Schedule 7 examination to be used as evidence in a situation where you have been prosecuted for an offence other than those mentioned above where, in giving evidence, you make a statement that is inconsistent with that oral answer or information given. In such a situation, your statement can only be used as evidence where you or your lawyer first adduces it as evidence, or asks a question relating to it, in your defence.

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 the exercise of this right.***

Do you want to consult a solicitor?

You may wish to consult a solicitor privately, whether in person or by telephone. This will be at public expense subject to legal aid. You may not be questioned until you have consulted a solicitor (or have communicated that 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 a 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/Appropriate Adult/Solicitor):

.....

ANNEX B: 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

1. 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.
2. The code must make provisions for consultation with the relevant Chief Officer of police before designations are made under paragraph 1(1)(b) or (c) of Schedule 7.

Requirement for training and accreditation

3. Any police, immigration or customs officer who is to use Schedule 7 powers unsupervised must have received training and accreditation in the exercise of those functions.²⁹

Training and accreditation standards

4. Training standards and the accreditation programme will be set by and governed by the College of Policing on behalf of the National Police Chiefs' Council (NPCC) (or their successors).
5. 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

6. 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).

²⁹ See Section 1, paragraph 11 of this Code of Practice.

Accreditation of police officers as examining officers

7. The accreditation training and testing programme is periodically updated and delivered nationally.

Accreditation of immigration and custom officers as examining officers

8. A customs officer may not act as an examining officer unless that officer has been designated by both the Secretary of State and the Commissioners of Her Majesty's Revenue and Customs.

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

10. In order to exercise Schedule 7 powers, an immigration or customs officer must have been accredited, unless authorised by an examining officer to exercise powers under paragraphs 7-9 of Schedule 7. The process of attaining such accreditation will be similar to that 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 immigration and customs officers as examining officers

11. An immigration or customs officer can only exercise functions under Schedule 7 where the officer has been designated by the Secretary of State and the Commissioners of Her Majesty's Revenue and Customs, as required by Schedule 7.

12. Before considering whether to designate immigration or customs officers, the Secretary of State (or the Secretary of State and the Commissioners of Her Majesty's Revenue and Customs in relation to customs officers) must consult the Chief Officer of the police area in which it is proposed to designate immigration or customs officers to be examining officers.

13. The purpose of the consultation is for the Home Secretary (and the Commissioners as applicable) 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.

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

15. The Home Secretary and Commissioners will only designate immigration and 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.

16. The Home Secretary 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

17. 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 accreditation

process or unless supervised by an accredited examining officer for the purposes of paragraphs 7 to 9 of Schedule 7. The scope for re-training and testing will be as agreed between NPCC and appropriate stakeholders.

Assessment of ongoing competence

18. 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.

19. NPCC will issue advice to forces on methods of assessing on-going competence for the examining officer role. Local forces are responsible for ensuring that the performance of their officers continues to meet the standards set by the training and accreditation process. They are also responsible for ensuring remedial steps are taken to address the performance standards of any officer that is not meeting those standards.

ACCREDITATION OF REVIEW OFFICERS

Requirement for Code of Practice

20. 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

21. Review officers are required to periodically review the need for continued detention of people detained under Schedule 7. Only accredited review officers may perform this function. In order to be accredited, prospective review officers must receive training. Training will only be provided to appropriate supervisory police officers, including those likely to perform the role in an acting capacity³⁰.

Training and accreditation standards

22. Training standards will be set and governed by the College of Policing on behalf of NPCC (or their successors).

23. 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

24. 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.

³⁰ An officer in an acting role must be an accredited Examining Officer and accredited Review Officer. They must also hold a current OSPRE Part 1 / NPPF Step 2 qualification. The Review Officer must be one rank above the officer carrying out the Schedule 7 examination. The officer acting up will be in this rank for a specific period of time. If no such officer is available, then an alternative Review Officer would be sought from another location.

Accreditation of police officers as review officers

25. The accreditation training and testing programme is periodically updated and delivered nationally.

Designation and accreditation of immigration and customs officers as review officers

26. 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 Secretary of State and the Commissioners of Her Majesty's Revenue and Customs), as required by Schedule 7.

27. In order to be eligible for designation, a customs officer or immigration officer must have been accredited. The process of attaining such accreditation will be similar to that for accrediting police officers as review 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.

28. Before considering whether to designate immigration officers or customs officers, the Secretary of State (or the Secretary of State and Commissioners in the case of customs officers) must consult the Chief Officer of the police area in which it is proposed to designate immigration or customs officers to be review officers.

29. The Home Secretary and Commissioners will only designate immigration and 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.

30. The Home Secretary 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

31. 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 a review officer until they have successfully completed the re-accreditation process. The scope for re-training and testing will be as agreed between NPCC and appropriate stakeholders.

Assessment of ongoing competence

32. 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.

33. NPCC will issue advice to forces on methods of assessing on-going competence for the review officer role. Local forces are responsible for ensuring that the performance of their officers continues to meet the standards set by the training and accreditation process. They are also responsible for ensuring remedial steps are taken to address the performance standards of any officer that is not meeting those standards.

ANNEX C: Carding

PART 1 LANDING CARD

Please complete in BLOCK letters

Surname (Mr/Mrs/Miss*)

Maiden Name (if applicable).....

Forenames

Nationality/Citizenship*Date & Place of Birth.....

Home Address

Address Visiting

Purpose of Visit

Occupation.....Employer.....

DateSignature

**Delete as appropriate*

Note

Under paragraph 16 of Schedule 7 to the Terrorism Act 2000, if required to do so by an examining officer, you are required to complete this Landing Card and hand it to the officer. Under paragraph 18 of Schedule 7 it is an offence wilfully to fail to comply with this requirement.

PART 2 EMBARKATION CARD

Please complete in BLOCK letters

Surname (Mr/Mrs/Miss*)

Maiden Name (if applicable).....

Forenames

Nationality/Citizenship*Date & Place of Birth.....

Home Address

Address Visiting

Purpose of Visit

Occupation.....Employer.....

DateSignature

**Delete as appropriate*

Note

Under paragraph 16 of Schedule 7 to the Terrorism Act 2000, if required to do so by an examining officer, you are required to complete this Embarkation Card and hand it to the officer. Under paragraph 18 of Schedule 7 it is an offence wilfully to fail to comply with this requirement.

