



Home Office

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

**The Government Response  
February 2015**

## Overview of Consultation

Schedule 7 to the Terrorism Act 2000 ('Schedule 7') allows an examining officer to stop and question and, when necessary, detain and search, any individual travelling through a port, airport, international rail station or the border area to determine whether that person appears to be someone who is or has been concerned in the commission, preparation or instigation of acts of terrorism.

Schedule 7 also contains a power for examining officers to examine goods, which may only be exercised for the purpose of determining whether the goods have been used in the commission, preparation or instigation of acts of terrorism. Goods examinations under Schedule 7 have found items including birth certificates, passports, mobile phones, memory cards, and firearms being used in the commission, preparation and instigation of terrorism.

Schedule 7 is an important part of the UK's counter-terrorism strategy and key to the UK's border security arrangements. Examining people and goods at ports and the border area contributes daily to keeping the British public safe. Those engaged in terrorism travel to plan, finance, train for, and commit their attacks, and can send and receive goods which can be used for terrorist purposes.

The Government has an ongoing commitment to ensure that respect for individual freedoms is balanced against reducing the threat of terrorism to the public here, and to British interests overseas. Given the current threat from Syria and Iraq, the use of Schedule 7 powers has become even more important in protecting the public from the threat of terrorism.

The Counter-Terrorism and Security (CTS) Act 2015, which received Royal Assent on 12 February 2015 made changes to Schedule 7 and other relevant legislation to clarify the legal position relating to where goods may be examined and the examination of goods comprising postal items.

All officers who exercise functions under Schedule 7 must comply with the statutory Code of Practice for examining officers. Therefore, the existing Code of Practice had to be revised in order to reflect the changes made to the powers by the CTS Act 2015.

The consultation asked: How well, in your view, does the Code reflect:

- 1) The change to the legislation concerning the locations in which the examination of goods can take place under Schedule 7; and
- 2) The guidance for examining officers who undertake the examination of goods including the criteria for selecting items for examination, the conduct of goods examinations and the information to be provided to recipients of examined goods.

We also asked for views with regard to the Code provisions concerning the steps to be taken when a detained individual claims they are a refugee (or has applied, or intends to apply, for asylum status).

The public consultation was live between 18 December 2014 and 30 January 2015. Seven responses were received to the consultation; six of these responses were from the police.

# Summary of consultation responses

## Overall

The majority of respondents stated that the draft Code of Practice clearly reflects the legislative changes made in the CTS Act 2015:

*“The Code is well written and adds clarity to the use of the powers”.*

### 1) The locations in which the examination of goods can take place under Schedule 7

The majority of respondents stated that the draft Code of Practice clearly reflects the legislative changes made in the CTS Act 2015.

One respondent stated that the wording in the draft Code of Practice in paragraph 80 should more fully reflect the language in the CTS Act 2015 by inserting the word ‘only’ when stating the four types of locations where Schedule 7 goods examinations may take place. Accordingly, we have mirrored the language used in the CTS Act 2015 within the Code, by inserting the word ‘only’.

Another respondent also commented that paragraph 73 makes reference to goods which have arrived in or about to leave Great Britain or Northern Ireland on a ship or vehicle but that it does not mention trains, with the exception of the footnote on page 22. To make the locations in which the examination of goods can take place under Schedule 7 clearer we have now included a reference to the word ‘train’ in paragraph 73 alongside ship or vehicle.

### 2) The guidance for examining officers who undertake the examination of goods including the criteria for selecting items for examination, the conduct of goods examinations and the information to be provided to recipients of examined goods.

The majority of respondents stated that the draft Code of Practice clearly reflects the legislative changes made in the CTS Act 2015:

*“I feel that the new Code clarifies this point very well and clears up any ambiguities that currently exist when examining freight”.*

One respondent expressed concerns that there was no guidance relating to use of the Schedule 7 power in respect of journalistic material. This issue arose following the judicial review of the exercise of the powers under Schedule 7 in the examination of David Miranda at Heathrow Airport in August 2013. David Miranda had journalistic material in his possession. In this case, the High Court concluded that Mr Miranda’s examination was used for a lawful and proper purpose and was a proportionate measure in the circumstances. Although it is current practice for journalistic material not to be examined (unless considered to be proportionate), in response to this request and to add clarity, we have added this, by referring to “excluded material” in paragraphs 40 and 81 of the Code of Practice.

We also asked for views with regard to the Code provisions concerning the steps to be taken when a detained individual claims they are a refugee (or has applied, or intends to apply, for asylum status).

All respondents that responded to this question agreed that this change was clearly reflected in the draft Code of Practice:

*“The guidance is clear and precise; it gives clear direction to the examining officer as to the course of action to be taken and the department to be contacted under the above circumstances”*