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RESPONSE

TO DRAFT “CODE OF PRACTICE FOR VIDEO RECORDING WITH SOUND OF INTERVIEWS OF PERSONS DETAINED UNDER SECTION 41 OF, OR SCHEDULE 7 TO, THE TERRORISM ACT 2000 WHICH TAKES PLACE IN A POLICE STATION IN NORTHERN IRELAND”.

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1. I was appointed as Independent Reviewer of Terrorism Legislation on 23 May 2019.
2. The Code must be consistent with the primary legislation, and this response is without prejudice to my recommending changes to the primary legislation as Reviewer in due course.
3. [Paragraph 1.3] Reference should be made to the Code being available for consultation by Interpreters and Independent Custody Visitors.
4. [Paragraph 2.6] This paragraph applies both to individuals arrested under section 41 Terrorism Act 2000 and to those detained under Schedule 7 Terrorism Act 2000. It is inaccurate to describe an individual in the latter category as a “suspect” because the power to examine and detain may be exercised whether or not the officer has grounds for suspecting that the individual falls within section 40(1)(b) (see Schedule 7, paragraph 2(4)). The fact that a person may be examined without being a suspect is fundamental to the operation and lawfulness of the Schedule 7 regime. A suitable alternative term which is appropriate to both categories should be used (for example, “interviewee”). The same observation applies to the word “suspect” in paragraphs 3.2, 4.2, 4.11, 4.13, 4.20, 4F, 7.12(c), 7.12(d), 7A.
5. [Section 5 ‘After the Interview’, entire section including Notes for Guidance] The point of Schedule 7 examinations is that they may not be used in evidence against the individual (see paragraph 5A, inserted by the Counter-Terrorism and Border Security Act 2019) save in limited circumstances. It should therefore be specified that this Section, which concerns the evidential integrity of the interview, does not apply to examinations under Schedule 7.

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INDEPENDENT REVIEWER OF TERRORISM LEGISLATION

27 AUGUST 2019