## **ATC Counter-Terror Module 3: Schedule 7**

1. **What is Schedule 7 of the Terrorism Act 2000?**

As part of the Terrorism Act 2000, Schedule 7 grants power to an examining officer to question a person to determine whether they may be involved in terrorist-related activity.[[1]](#footnote-0)

It specifically grants examining officers to question suspects at UK ports/borders, such as seaports, airports, or the Northern Irish border. Examining officers are specially trained to stop, question, and, where necessary, detain individuals to determine if a person may be involved in the commission, preparation, or instigation of acts of terrorism.

[[2]](#footnote-1)

Schedule 7 is an instrumental part of the UK's border security arrangements. Counter-terrorism police mention that "the use of Schedule 7 powers to stop people has been instrumental in securing evidence to support the conviction of terrorists." [[3]](#footnote-2)

While the home office describes it as "a key part of the UK's border security arrangements, recent attempts to attack flights show that aviation remains a high priority target for terrorists."[[4]](#footnote-3)

It is important to note that if a person is stopped under these powers, it does not mean that they are a suspect of terrorist activities. The examination is to determine if they are a suspect.

### **How is Schedule 7 Enforced?**

Schedule 7 is a specific power used at ports; this means all UK seaports, airports, and the Northern Irish border.

Examining officers may be either a police officer or an immigration or customs officer specifically designated to carry out Schedule 7 stops. All examining officers are specially trained to carry out this provision; unaccredited officers may only be used under "urgent operational need".[[5]](#footnote-4)

Under this provision, officials do not need any reasonable cause or suspicion to stop you; counter-terror police mention that the decision to stop someone is based on "the threat posed by the various terrorist groups active in and outside the UK.”

This decision is based on factors such as “the origins and/or location of terrorist groups; current, emerging and future terrorist activity; the means of travel and documentation being used; patterns of travel; observation of a person’s behaviour; and/or referrals from other security, transport or enforcement bodies.”[[6]](#footnote-5)

Individuals who are stopped are legally obliged to answer all questions posed to them. Examining officers can search through their items and, when asked, must provide passports or other photographic IDs. Officers are also allowed to take fingerprints and photographs.[[7]](#footnote-6)

While a Schedule 7 stop can only last an hour, the examination can last for up to 6 hours if a person is detained. (Note that there is a difference between "stopped", "screened", "examined", and "detained")[[8]](#footnote-7)

### **What Happens During a Schedule 7 Stop?**

Typically, a Schedule 7 stop has the following three steps:

1. Screening/Questioning

o Involves simple questions regarding your identity and the reason for travelling

1. Examination (can take up to an hour)

o You may be made to undergo this process following screening to determine whether you are a suspect or not

o An examining officer will be gathering information on the person’s travel patterns, behaviour, information on the origins or location of terrorist groups, means of travel

o An examining officer may also use existing knowledge of terrorist organisations, emerging or future terrorist activity, and referrals made by other security, transport or enforcement bodies

o Those examining you must inform you that this is happening and give you an information leaflet

1. Detention (total time held, including examination, cannot exceed 6 hours)

o If it is felt necessary to question you for longer than an hour, they will extend to the third phase of detention.

o They must give you a "Notice of Detention."

Once an examining officer has gathered enough information to determine whether an individual is or has been involved in the commission, preparation or instigation of acts of terrorism, the stop will end in either arrest (if the person is found to be a suspect) or in the release of the individual.[[9]](#footnote-8)

**4. How do you Know if you Have Been Stopped?**

The most obvious indicator is that these powers are specific to location. If you are not at a UK port, sea or air, or a land border (such as the Northern Irish border), you have not been stopped under these provisions.

If you are going to be examined, the examining officer must notify you either verbally or in writing that they are examining you under the powers of Schedule 7. An examiner cannot exercise examination powers without so.[[10]](#footnote-9)

At the start of every examination, the person will be given a public information leaflet that explains the powers, the person's rights and entitlements, and their duties under the law. If the person is formally detained within the first hour, they will also be provided with a 'Notice of Detention' that reiterates their rights and legal obligations.[[11]](#footnote-10)

**5. What Can be Asked of Me, and How Much Can I Comply?**

* You may be asked for your passport, but this is only to identify you. Similarly, any other documents or information requested by the officer must be presented to them.[[12]](#footnote-11)
* Your passport cannot be seized under this provision, however, where there is reasonable ground, under the powers of Schedule 1 of the Counter Terrorism and Security Act 2015, your passport may be seized[[13]](#footnote-12)
* You must answer all questions put forward to you, and you do not have the right to remain silent.
* You must give the examining officer any information in your possession that the officer requests.
* You must declare and give any documents of a kind specified by the officer in your possession.
* You must complete and hand an arrival or embarkation card to the officer if you have been required to do so.
* An examining officer may search you and anything that belongs to you without a warrant, though you may ask to be searched by someone of the same gender.
* You must co-operate in the provision of fingerprints or non-intimate biometric samples should that be requested by the examining officer, such as DNA, fingerprints and photographs.
  + This is regardless of the outcome of the stop and interrogation.
  + Puts personal information on the same database of convicted terrorists.
  + The data of many innocent individuals are being retained.
* You do not have the right to information security.
  + All electronic material such as phones, tablets and laptops can be seized, replicated and examined without a warrant.
  + You may be required to hand over all passwords and encryption keys.

Failure to comply or willingly obstructing justice is an offence to these provisions, and you may be prosecuted under the Terrorism Act 2000

**6. What are my Rights?**

* If detained, you have the right to:
  + Inform 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[[14]](#footnote-13)
  + Consult a solicitor privately, whether in person or by telephone. This may be at public expense. You may not be questioned until you have consulted a solicitor (or you no longer wish to do so) unless the examining officer reasonably believes that postponing questioning would likely prejudice the determination of the matters to be established by the examination.
* However, if you are not detained, you are not entitled to the above provisions. However, an officer may grant you entitlement at their discretion.
* You do not need to answer questions about other individuals, as this falls outside of Schedule 7 screening powers.
* MI5 may be interested in talking to you; however, you are not legally obliged to answer them and can politely refuse
* If you are being searched, you have the right to be searched by a person of the same gender.

**7. How Successful is it?**

Derogations on Human Rights Act 1998 can be made in emergency cases that affect a country's safety and security, such as acts of terrorism and health crises. With this in mind, the power of Schedule 7 has been accused by many human rights experts of violating fundamental rights.[[15]](#footnote-14)

The power infringes upon digital privacy and the right to private life, among many other provisions. Still, it treats a person like a suspect despite explicitly mentioning that an individual is not a suspect.

The purpose of derogation is to protect the national interest in terms of safety and security. Given the lack of transparency from the Home Office, there is not enough data to prove the justification for such abusive measures, such as incriminations, or terror plots foiled. This raises compelling arguments regarding the existence and the future of this provision.

Counter-Terror police mention regarding the ‘success’ of Schedule 7:

*Schedule 7 activity at the UK's ports and borders has had a more considerable disruptive effect on the terrorist threat facing the country than any other aspect of counter-terrorism Policing. The powers are being used in an ever more targeted and effective way. Schedule 7 has featured and continues to feature in almost every prolonged, complex or high-risk Counter Terrorism investigation and prosecution undertaken in the UK.[[16]](#footnote-15)*

However, empirical evidence suggests otherwise…

Of the 419,000 people stopped under Schedule 7 since 2009, only 30 of them have been convicted.[[17]](#footnote-16)

Out of the 325 million passengers that transited ports in 2018, there were 11,891 Schedule 7 "stops" (note the use of the word "stops" rather than "examination") and 1,836 detentions.[[18]](#footnote-17)

Only three convictions were secured in the year ending March 2019 out of the 11,000 people stopped; overall, the conviction rate for Schedule 7 stops from 2010 to 2019 is 0.007%.[[19]](#footnote-18)

Compare that to the statistics for section 60 stop and search powers. In the year to March 2020, only 4% of stops resulted in an arrest.[[20]](#footnote-19)

In addition to this, further research has found damning evidence about the nature of the power, its application, and its counterproductive nature.[[21]](#footnote-20)

**8. Flaws within Schedule 7, Including their Islamophobic Nature**

**Transparency:**

One major issue that impacts data collection is the lack of transparency surrounding its use. For starters, the very fact that the Home Office did not release statistics on its use for the first eight years of its operation stands testament to this.[[22]](#footnote-21)

Statistics based on ethnicity were not released until a Freedom of Information request was made by FOSIS 11 years after its operation, and still, to this day, the Home Office refuses to grant FOI requests for statistics based on religion

Furthermore, the way that data is recorded regarding Schedule 7 makes it difficult to accurately assess how many people have been affected. Initial screenings are not always recorded, meaning that people who may have been "stopped" under the legislation may not be included in the official figures but may feel personally affected by it, particularly if they are regularly stopped when travelling.

**Islamophobia:**

The Equalities Act of 2010 ensures that the exercise of Schedule 7 must be done so without unlawfully discriminating against protected characteristics. The Schedule 7 Code of Practice states stopping someone under Schedule 7 based solely on a person’s ethnicity or perceived religion would be unlawful.[[23]](#footnote-22)

The publication by the Home Office of the ethnic breakdown statistics in 2011 only seems to reinforce discrimination claims, with 78% of those being detained under Schedule 7 coming from ethnic minorities in 2016 (in context, ethnic minorities make up a mere 14% of the British population). [[24]](#footnote-23)

In a survey carried out by CAGE, out of 201 people stopped, all but one were Muslim. According to a CAGE report, “this extreme disparity suggests racial profiling is systemic under Schedule 7.”[[25]](#footnote-24)

In 2014, a team of students at Cambridge University – named Operation Insight – found that 88% of its sample of those stopped under Schedule 7 at a particular airport were Muslim.

Former Independent reviewer for terrorism legislation, David Anderson QC, attempted to justify the disparity in his 2016 report by stating that “53-55% of those arrested, charged and convicted of terrorism-related offences in Great Britain in 2015 were of Asian appearance.” He went on to say that it is “unfortunate but not surprising that persons of Asian appearance made up [so high a proportion of those stopped under Schedule 7].”[[26]](#footnote-25)

Journalist Owen Jones called out Schedule 7, saying it “reeks of racism”, adding that “the disproportionate targeting of minority Britons is a form of state-sanctioned harassment that should concern us all.”[[27]](#footnote-26)

UK-based human rights lawyer Gareth Peirce has said: "Schedule 7 is an enormous blunderbuss that is overused, and the consequences of its overuse is that it is abusive".[[28]](#footnote-27)

**9. Case Studies**

**Aid Worker: "What is radicalisation: taking a tin of beans to feed someone?"[[29]](#footnote-28)**

An aid worker who had been stopped several times, the first time had been after returning from Turkey; ever since, any time he has returned from abroad, he has been stopped.

In this first instance, he had been stopped, questioned and searched without reason, simply indicating they had the right to do this.

He was questioned on political views and travel plans and then asked for DNA and photos, which he described as intimidating.

Another time, he was marched off a plane in front of everyone. During questioning, he asked what they were concerned about; the examining officer mentioned they were concerned about radicalisation.

**Mother Coming Back from Umrah: “They searched my [7-year-old] son’s hand luggage. I thought that was wrong.”[[30]](#footnote-29)**

A mother who returned from Umrah was stopped under Schedule 7 powers. When being led into a separate room, the examining officer asked if she had been stopped before, or knew about schedule 7, to which the mother responded, "Never in my life, I haven't done anything wrong." and that she had only heard a little about Schedule 7.

The examining officer took the mother's phone, demanding the password, swabs and fingerprints as the mother had been ill and not eaten on the plane.

She was asked about her opinions on the Westminster attack and the situation in Syria and Yemen. During questioning, she had a request for medication denied and felt dehydrated.

She then had her personal belongings searched, and then her sons, to which she mentioned, "They searched my son's hand luggage. I thought that was wrong."

At the end of the examination, the officer said, "I can see you have complied with the laws, so you won't get arrested." The examination lasted for about 4 hours.

**10. Impacts of Schedule 7 on the Muslim Community**

*The crux of the problem with Schedule 7 is its disregard for the norms of due process. Like many other counter-terrorism laws, the usual criminal law safeguards are discarded under Schedule 7, resulting in an unjust, draconian piece of legislation that is not only unsuitable for the purpose that it is supposedly billed for but which permits and justifies systematic abuses against individuals. (Cage)[[31]](#footnote-30)*

The clear discriminatory nature of Schedule 7, similarly to Prevent, ultimately separates an ethnic/religious group compared to the rest. As a result, it impacts Muslim communities negatively compared to other members of the public, resulting in its structurally Islamophobic nature. Some of the ways it affects Muslims are:

* **Psychological impacts on children:** Often, the stops themselves have lasting psychological effects on children.
* **The criminalisation of activists and aid workers:** Aid workers have been frequently stopped, while many who have been examined have also mentioned attempts of MI5 recruitment. It seems that if you are an aid worker, you are at risk of radicalisation.
* **Limitations on Freedom of Speech:** During an examination, officers sometimes ask unrelated politically ended questions to 'determine' if someone is radicalised, rather than the intended use of the stop, which should be to ascertain if the person wants to carry out an act of terrorism. Such questions not only fall outside of the remit of the examination but suggest reasons for suspicion simply based on your lawfully held political views.
* **Surveillance on Muslim communities:** The creation of a suspect community, where often officers examine individuals based on perceived Muslimness or ethnic background. The involvement of MI5 also leads individuals to believe they are being surveilled.
* **Distrust between Counter-Terror police and policies:** Muslims face an added barrier to fundamental liberties, such as the right of freedom of movement, and being able to travel without being hassled by the state, creating distrust between Muslim communities and the state.

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