

# PARLIAMENTARY DEBATES

HOUSE OF COMMONS  
OFFICIAL REPORT

Fourth Delegated Legislation Committee

DRAFT TERRORISM ACT 2000 (VIDEO  
RECORDING WITH SOUND OF INTERVIEWS  
AND ASSOCIATED CODE OF PRACTICE)  
(NORTHERN IRELAND) ORDER 2020

*Wednesday 1 July 2020*

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**The Committee consisted of the following Members:**

*Chair:* Ms KAREN BUCK

Ali, Rushanara ( <i>Bethnal Green and Bow</i> ) (Lab)	† Hughes, Eddie ( <i>Walsall North</i> ) (Con)
† Anderson, Lee ( <i>Ashfield</i> ) (Con)	† Jones, Ruth ( <i>Newport West</i> ) (Lab)
† Bacon, Gareth ( <i>Orpington</i> ) (Con)	† Mumby-Croft, Holly ( <i>Scunthorpe</i> ) (Con)
† Baker, Duncan ( <i>North Norfolk</i> ) (Con)	† Randall, Tom ( <i>Gedling</i> ) (Con)
Bryant, Chris ( <i>Rhondda</i> ) (Lab)	† Sunderland, James ( <i>Bracknell</i> ) (Con)
Byrne, Liam ( <i>Birmingham, Hodge Hill</i> ) (Lab)	† Walker, Mr Robin ( <i>Minister of State, Northern Ireland Office</i> )
† Colburn, Elliot ( <i>Carshalton and Wallington</i> ) (Con)	
† Dines, Miss Sarah ( <i>Derbyshire Dales</i> ) (Con)	
† Elmore, Chris ( <i>Ogmore</i> ) (Lab)	
† Haigh, Louise ( <i>Sheffield, Heeley</i> ) (Lab)	Yohanna Sallberg, <i>Committee Clerk</i>
Hillier, Meg ( <i>Hackney South and Shoreditch</i> ) (Lab/Co-op)	† <b>attended the Committee</b>

## Fourth Delegated Legislation Committee

Wednesday 1 July 2020

[Ms KAREN BUCK *in the Chair*]

### Draft Terrorism Act 2000 (Video Recording with Sound of Interviews and Associated Code of Practice) (Northern Ireland) Order 2020

9.25 am

**The Chair:** Before we start, I am double checking that everyone is sitting at a designated space. I think everyone is, but I may have to repeat myself if anyone else comes in. I remind Members that they can sit on the Government or Opposition sides. I ask Members to send their speaking notes to [hansardnotes@parliament.uk](mailto:hansardnotes@parliament.uk) to assist our *Hansard* reporters.

**The Minister of State, Northern Ireland Office (Mr Robin Walker):** I beg to move,

That the Cttee has considered the Draft Terrorism Act 2000 (Video Recording with Sound of Interviews and Associated Code of Practice) (Northern Ireland) Order 2020.

It is a pleasure to serve under your chairmanship, Ms Buck. The order puts into place a revised code of practice governing the recording with sound of interviews of persons detained at a police station in Northern Ireland under section 41 of, or schedule 7 to, the Terrorism Act 2000. A copy of the draft revised code of practice was laid before Parliament on 8 June 2020. The purpose of the code of practice is to provide protection to both the person being interviewed and the officers conducting the interview.

I begin by assuring hon. Members that the revisions will not change in any way the way in which interviews are conducted. The changes are uncontentious, relating mainly to technical matters intended to allow the Police Service of Northern Ireland to begin using digital recording technology in line with the practice commonly adopted in England, Wales and Scotland. The changes to the code of practice will impact how interviews are recorded and how recording is stored.

The code is being changed, first, to allow the Police Service of Northern Ireland to use modern digital recording technology. The current code of practice allows for the use of Super VHS tape, disc or any other format producing a record equal or superior to those. That is clearly outdated. The proposed update allows for recording media or a secure digital network to be used instead. That involves taking an original interview video recording and storing it instead as a digital multimedia file on a secure file server accredited by the national accreditor for police information systems. This revision will bring Northern Ireland into line with the technology used in the rest of the UK. It is worth noting that the Police Service of Northern Ireland already possesses the necessary technology and utilises it for other non-Terrorism Act interviews.

Secondly, the code of practice is being changed to shadow closely the equivalent code of practice for Great Britain. While that means some changes to language and format, the purpose and key content of the code remain the same. It is worth noting that the draft code does not exactly replicate the code in Great Britain, reflecting the devolution of police and justice functions in Northern Ireland and consequent differences of approach adopted in different jurisdictions. I draw hon. Members' attention to the fact that the code for Great Britain, for example, contains references to post-charge questioning provisions as set out in the Counter-Terrorism Act 2008, but the proposed code does not, because the 2008 Act stipulates that before its provisions on post-charge questioning can be commenced, police and criminal evidence codes must be amended to reflect how post-charge questioning should be dealt with and recorded. While the Home Office amended the PACE codes for Great Britain in 2012, that function in Northern Ireland falls to the devolved Department of Justice. To date, that has not been done, so it has not been possible to commence post-charge questioning provisions under TACT.

I reassure hon. Members that the Government ran a 12-week public consultation on proposed changes to the code of practice. We received six responses, all of which were in favour of the revisions. Three respondents suggested other slight amendments to the code, which were duly considered, and most were accepted. The full details of those suggestions were published in our consultation response document. The Police Service of Northern Ireland, in its response to the consultation, suggested the addition of remote monitoring to the code. Remote monitoring is routinely used in the TACT serious crime suite at Musgrave police station, which uses technology to enable the senior investigating officer, interview co-ordinator or any other person with justification to monitor the interview process from another room. As remote monitoring is routinely used in TACT interviews, the PSNI recommended including it in the code of practice.

I hope hon. Members agree that while the revisions are technical, they are important, aligning the code of practice used in Northern Ireland with that used in the rest of the UK. They allow the Police Service of Northern Ireland to use digital recording technology in terrorism interviews and future-proof the code.

9.30 am

**Louise Haigh (Sheffield, Heeley) (Lab):** It is a pleasure, Ms Buck, to serve under your chairmanship. I thank the Minister for his constructive approach and the helpful briefing that he and his office provided. As he has outlined, the amendments relate to technical matters. They are intended to allow the PSNI to use the latest digital recording and will bring Northern Ireland into line with the technology used in the rest of the UK. It is important that we continue to provide the tools necessary for the PSNI to do its job, and I want to place on the record my thanks to the Chief Constable and PSNI officers for the work that they have done, particularly during an extremely challenging period in Northern Ireland.

It is welcome that the Government have accepted the suggestions placed on record during the consultation and the response from the Independent Reviewer of

Terrorism Legislation, the Northern Ireland Human Rights Commission and the PSNI. We are happy to support the order today.

I want to press the Minister on a couple of issues, particularly on the implications that stem from the further digitisation of interviews under caution. Can he confirm the standard under which digital evidence must be stored, as there are clear implications for cyber-security and the effective storage of digital evidence? On interpreters, which the amended code of practice covers, in order to enable those being questioned to fully understand the updated code of practice—this was an issue raised by the Northern Ireland Human Rights Commission—what discussions has he held with the PSNI to ensure that it has sufficient resourcing so that the provision is made available and all those interviewed under caution are fully aware of their rights?

Given that maintenance of the old recordings was becoming difficult, as the explanatory memorandum makes plain, has the Minister been reassured that the existing evidence will remain technically viable? If not, what plans does the PSNI have to update and refresh the existing stock of evidence? That is important more broadly as the decay of existing records presents a significant challenge for legacy investigations, which are currently conducted by the legacy investigations branch, and the PSNI will clearly take another form when the Government introduce their new legacy proposals, as proposed in the ministerial statement on 18 March.

Many of the cases date back as much as four decades to the beginning of the troubles, and evidence currently held on VHS or tape will remain viable only for so long. However, the effort and manpower required to update and refresh the thousands of recordings that relate to legacy investigations will be substantial, as will the digitisation of evidence over the period of the troubles. The PSNI has estimated that this could cost many millions of pounds, so can the PSNI be reassured that Ministers will provide the resources necessary to undertake this mammoth task, which will be pivotal to the success of any legacy process? We simply cannot proceed with investigations over this period in any form if investigators do not have access to all relevant evidence.

There are implications not only for legacy investigations, but for legacy institutions, particularly the oral history archive, as laid out in the Stormont House agreement and underpinned by an international treaty signed with our partners to the Good Friday agreement, the Republic of Ireland. The proper archiving of the material is no small task, particularly for institutions such as the PSNI, and a concerted effort should be made to facilitate and enable the long-term preservation of any relevant material. This necessitates updating and aggregating the existing collection and proposing sensible workable accommodations with regard to the legal requirements of the deposit of collections. Can the Minister reassure us that the PSNI will get the support needed to undertake that work as well? It would be wrong to lose out on a

vital piece of evidence when an important historical record with its contemporaneous recordings begins to decay. I will not hold the Committee up any longer. We are happy to support the order.

9.33 am

**Mr Walker:** I welcome the hon. Lady to her place and echo her thanks to the PSNI and the Chief Constable for all the work that they have been doing during the recent difficult period and for the feedback that they gave us as part of the consultation for the review. She has raised some important issues. On the security of digital network interview records, there is detail in the code of practice, which I will briefly run through.

Section (g) states that interview record files must be “stored in read only format on non-removable storage devices, for example, hard disk drives, to ensure their integrity. The recordings are first saved locally to a secure non-removable device before being transferred to the remote network device. If for any reason the network connection fails, the recording remains on the local device and will be transferred when the network connections are restored...Access to interview recordings, including copying to removable media, must be strictly controlled and monitored to ensure that access is restricted to those who have been given specific permission to access for specified purposes when this is necessary. For example, police officers and...lawyers involved in the preparation of any prosecution case, persons interviewed if they have been charged or informed they may be prosecuted and their legal representatives.”

I hope that that provides some reassurance about the handling of the security risk .

On the issue of interpreters being included, the hon. Lady will recognise that that was a recommendation of the NIHRC. The PSNI was closely involved in the drafting and preparation of the measure as well as in responding to consultation. We put the issue of interpreters to it and it had no reservations about accepting it. It is likely that someone who would need help with interpreting the code would also need the help of an interpreter at interview, so no extra resource should be required.

As the hon. Lady said, the statutory instrument is largely technical. It is important for policing in Northern Ireland. She raised issues about legacy, including the oral history archive, which is part of our legacy proposals. As I think she will recognise, we will debate those issues another time, with other statutory instruments. It is right to focus on the purpose of the statutory instrument before the Committee, which relates to evidence taken from the point when it is passed. It is about evidence taken, and the recording of interviews, under the Terrorism Act, going forward from this point. I am glad that we seem all to agree that we should go ahead with that. I commend the order to the Committee and thank the hon. Lady for the constructive approach that she has taken.

*Question put and agreed to.*

9.36 am

*Committee rose.*





