

Written evidence submitted by CAGE (PCO0033)

1. CAGE is an independent advocacy organisation working to empower and support communities impacted by the War on Terror, and related 'counter-terror' policies in Britain and abroad.
2. A core part of CAGE's work involves providing casework support for clients directly affected by 'counter-terror' policies.
3. Successive British counter-terrorism legislation grants police and other officers powers that go well beyond those granted by PACE legislation, and our work includes challenging the abuses of power, lack of accountability and affront to the rule of law that flow from this.
4. In the course of our work we have engaged with and made complaints to the IOPC since its introduction including, but not limited to, complaints pertaining to those stopped at ports under Schedule 7 (Port and Border Controls) of the *Terrorism Act 2000*.

But we have not found the scope of IOPC's powers to be sufficient when seeking accountability, and have serious concerns whether it is fit for its purported role.

5. Schedule 7 allows for suspicionless stop, searches, interrogations and detention of individuals for up to 6 hours at air and seaports, for the purpose of determining if they have been 'concerned' in the 'commission, preparation or instigation of acts of terrorism'.
6. The powers that Schedule 7 grants examining officers diverge from stop and searches under PACE in the following ways. Under Schedule 7, examining officers are empowered to demand that individuals stopped must:
 - Answer all questions asked by the examining officer;
 - Submit to a search on one's person and/or luggage;
 - Provide biometric data including fingerprints and DNA;
 - Surrender any electronic devices and relevant passwords on one's person.

and refusal to do so can lead to arrest and a terror conviction.

7. Of the powers introduced by the Terrorism Act 2000, and all subsequent British counter-terror legislation, Schedule 7 is the most used power of all.

In the period between March 2010-2020 for which statistics on Examinations are available, 427,777 Schedule 7 Examinations were conducted.¹

This is without accounting pre-examination Screening stops which aren't included in the statistics, or for the first decade of its use for which statistics aren't available.

¹ Operation of police powers under the Terrorism Act 2000, financial year ending March 2020, *table S.03*;

Operation of police powers under the Terrorism Act 2000 and subsequent legislation: Arrests, outcomes and stops and searches Great Britain 2010/11, *table 2.04*.

<https://www.gov.uk/government/statistics/operation-of-police-powers-under-the-terrorism-act-2000-and-legislation-2010-to-2011>

8. Our clients have reported that questions pertaining to religion are being asked by officers, and testimonies from former examining officers suggests that stops are based on racial and religious profiling.

Ex-SO15 officer Kevin Maxwell, for example, stated that *“Black and Asian people were deliberately targeted on grounds of their race and colour”* for Schedule 7 stops during his time at Heathrow airport².

9. It is therefore vital that there are clear, robust and effective mechanisms for oversight and accountability for what is a vast policing power open to discriminatory use.
10. Between 2018/19 we assisted over 65 individuals interrogated under Schedule 7, and issued complaints spanning four different constabularies.
11. These complaints revolved largely around the following three issues:
 - That the nature of the questioning is highly intrusive and goes well beyond those necessary for determining whether a person has been concerned with terrorism.

This includes questions on their personal lives and political beliefs, as well as their religious practices - such as whether they pray, where they pray, what theological background they adhere to, and what they think about British domestic and foreign policy pertaining to Muslims.

- That our clients have been asked questions concerning other people, including colleagues, friends and family, in what attempts to be an intelligence gathering exercise, again going beyond the purpose of the stop: ‘fishing expeditions’.
 - That the Schedule 7 power itself allowed our clients to be interrogated without the need for reasonable suspicion of criminal activity, and what often seems based on a subjective or discriminatory assessment of them.
12. We did not find our complaints to have been engaged in good faith by those constabularies, nor responded to within the allotted time period.
 13. We understand the scope of the inquiry is in relation to complaints, and we are raising issues of Policy. However it is important to understand the symbiotic nature of how the Policy is being applied based on racial/religious grounds, and how we have found the IOPC to be ineffective in seeking resolution.
 14. When we issued 10 complaints to the IOPC in 2019, we were informed that the IOPC had previously *‘decided to end the requirement for forces to refer all complaints and conduct matters arising from the use of Schedule 7 powers, and to cease the automatic supervision of any cases where concerns were raised about the reasons for [stops]’*, and that this remained the case.

We were also told that *“[The IOPC] would therefore not be able to investigate the three issues raised in your letter at this time as we have no locus to do so.”* and

² Assheton R. (2020). *‘He looks like Bin Laden’: Ex-cop accuses UK police of racism over airport stops*. Middle East Eye. <https://www.middleeasteye.net/news/uk-police-accused-racism-black-asian-islamophobia>

elsewhere that *“the IOPC cannot become directly involved with your complaints unless they are referred to us by the police force concerned, or if we are named as the relevant review body (RRB) at the conclusion of any investigation of a complaint.”*

15. Complaints to the IOPC were then re-directed to the very police forces that had themselves failed to respond properly.

Therefore complaints are being treated in a circular manner and no degree of independent oversight is being applied. This breaches any fairness of due process as the police have decided that only certain parameters of complaints will be dealt with. How is this remotely logical when empirical evidence suggests other discriminatory factors are being applied regularly.

16. This conscious limiting of the IOPC’s jurisdiction to effectively an administrative one deeply concerns us - and allows police forces to continue operating on the basis of self-regulation that has failed impacted individuals time and time again.
17. As the Independent Reviewer of Terrorism Legislation, Jonathan Hall QC, mentioned in his report on the use of Terrorism Acts in 2018 *“It is difficult to get a larger sense of how many complaints are lodged because individual forces no longer refer Schedule 7 related complaints to the Independent Office of Police Complaints”*.³
18. This effectively amounts to an operational lacuna in the governance of Schedule 7 - allowing forces to regulate themselves and reducing the space for oversight and accountability.

In our experience the IOPC has done nothing to follow up with the relevant police forces independently to ensure they follow through with their outcome reports in a timely manner, or indeed at all.

Some of the complaints/appeals we have helped individuals with have now been in the process for around a year and a half.

19. This is a clear step backwards, and denies individuals like our clients any proper recourse. This only compounds our feelings that the IOPC does not, and cannot, fulfill its ostensible role as an independent body, and only offers the illusion of accountability.
20. Our experience with the IOPC with regards to Schedule 7 powers appears to echo the experiences of others who have sought to secure accountability through the IOPC and found it left wanting.

We note the call by campaigners against deaths in police custody who have called for the scrapping of the IOPC in its current form and the establishment of a *‘truly independent body that can conduct robust and transparent investigations into police involved with deaths.’*⁴

³ Hall, J. (2020). *The Terrorism Acts in 2018 Report of the Independent Reviewer Of Terrorism Legislation on the operation of the Terrorism Acts 2000 and 2006* (pg 103). <https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2020/03/Terrorism-Acts-in-2018-Report-1.pdf>

⁴ Taylor, D. (2020). *Racism campaigners call for police watchdog to be abolished*. The Guardian. <https://www.theguardian.com/uk-news/2020/jun/14/racism-campaigners-iopc-police-watchdog-abolished>

21. It is vital that a robust, independent body exists to offer real avenues of accountability for breaches and abuses of police power.

The IOPC, in our experience, has not served this purpose.

Any such body going forward must be able to:

- Deliver an independent means of holding police officers and forces to account;
- Exercise authority and scope over complaints referred to it, rather than simply being reduced to an administrative role
- End the process whereby forces effectively regulate themselves;
- Restore the requirement for forces to refer all complaints and conduct matters arising from the use of Schedule 7 powers to it.

September 2020