

## Independent Reviewer of Terrorism Legislation

<b>B a s i c</b>	<b>Web site</b>	<a href="https://terrorismlegislationreviewer.independent.gov.uk/">https://terrorismlegislationreviewer.independent.gov.uk/</a>
	<b>Geographical coverage</b>	England, Wales, Scotland and Northern Ireland
<b>C o n s t i t u t i o n a l A s p e c</b>	<b>Legal Framework/Basis</b>	<p>The role of Independent Reviewer of Terrorism Legislation was first put on a statutory basis in relation to control orders under the <a href="#">Prevention of Terrorism Act 2005</a>. This Act has been repealed and subsequently §36 of the Terrorism Act 2006 sets out the requirement to appoint an Independent Reviewer of Terrorism Legislation and details the powers and duties of the mandate-holder. (See: <a href="http://www.legislation.gov.uk/ukpga/2006/11/section/36">http://www.legislation.gov.uk/ukpga/2006/11/section/36</a>)</p> <p>In accordance with this provision the Independent Reviewer is mandated to undertake an annual review of the operation of the <a href="#">Terrorism Act 2000</a> and <a href="#">Part 1 of the Terrorism Act 2006</a> (although the obligation to review the Terrorism Act 2006 on an annual basis was removed with the entry into force of the <a href="#">Counter-Terrorism and Security Act 2015</a>. However the current mandate-holder has not altered established practice and has continued to review the Terrorism Act 2006 annually).</p> <p>The Terrorism Acts review covers:</p> <ul style="list-style-type: none"> <li>• definition of terrorism</li> <li>• proscribed organisations</li> <li>• terrorist property</li> <li>• terrorist investigations</li> <li>• arrest and detention</li> <li>• stop and search</li> <li>• port and border controls</li> <li>• terrorist offences</li> </ul> <p>In addition, since August 2012, the mandate of the Independent Reviewer has included a specific power to monitor the conditions of detention of persons detained for more than 48 hours under <a href="#">section 1 of the Terrorism Act 2000</a>.</p> <p>The Independent Reviews also has statutory powers to conduct a review of the operation of the <a href="#">Terrorism Prevention and Investigation Measures Act 2011</a> as required by section 20 of that Act; and a review of the <a href="#">Terrorist Asset-Freezing etc. Act 2010 (Part 1)</a> was required by section 31 of that Act. (Although these Acts state the reviews are to be conducted on an annual basis with the entry into force of the Counter-Terrorism and Security Act 2015 the Independent Reviewer now has more flexibility over the timing of these reviews and content of reports.)</p> <p>In accordance with <a href="#">section 44 of the Counter-Terrorism and Security Act 2015</a>, the functions of the Independent Reviewer were enlarged to enable reviews on the Anti-Terrorism Crime and Security Act 2001, the Counter-Terrorism Act 2008 and the Counter-Terrorism and Security Act 2015.</p> <p>The Independent Reviewer may also at the request of Ministers or on his own initiative conduct reviews and produce reports on specific issues. The Independent Reviewer is frequently called upon to give written and/or oral evidence to Parliamentary Committees.</p>

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	<p><b>Independence</b></p>	<p>The Independent Reviewer of Terrorism is appointed by the Secretary of State but is to operate independently of the government. The functional independence of the mandate is said to stem from three main concepts:</p> <ol style="list-style-type: none"> <li>1. complete independence from Government of the mandate-holder;</li> <li>2. unrestricted access to classified documents and national security personnel; and</li> <li>3. a statutory obligation on the Government to lay the Independent Reviewer’s reports before Parliament on receipt (§36.5 of the Terrorism Act 2006)</li> </ol> <p>(See §1.4 of the December 2016 <a href="#">Report of the Independent Reviewer of Terrorism Legislation</a>, David Anderson Q.C)</p>
	<p><b>Financial Independence</b></p>	<p>§36.6 of the Terrorism 2006 Act states that “The Secretary of State may, out of money provided by Parliament, pay a person appointed to carry out a review under this section, both his expenses and also such allowances as the Secretary of State determines.”</p> <p>The post is part-time and not pensionable. The Reviewer is paid for his/her time at a standard daily rate by the Home Office or, in relation to his/her asset-freezing work, the Treasury</p>
<p><b>M e m b e r s h i</b></p>	<p><b>Composition of body</b></p>	<p>The position is for a single mandate-holder. Administrative assistance is provided for the Independent Reviewer within the Office of Security and Counter-Terrorism, part of the Home Office. In addition “Special Advisers” have been appointed by the Independent Reviewer to provide research and project support. (See Section 4 Special Advisers at: <a href="https://terrorismlegislationreviewer.independent.gov.uk/about-me/">https://terrorismlegislationreviewer.independent.gov.uk/about-me/</a>)</p> <p>In accordance with §46 of the <a href="#">Counter-Terrorism and Security Act 2015</a>, a Privacy and Civil Liberties Board is to be established to assist the Independent Reviewer to carry out the enlarged responsibilities created by the same Act. However, as at 19 September 2018 the Regulations that would be necessary to establish that body have not been made. (See: <a href="https://terrorismlegislationreviewer.independent.gov.uk/about-me/">https://terrorismlegislationreviewer.independent.gov.uk/about-me/</a>)</p>
	<p><b>Appointment</b></p>	<p>In 2013, the post was classified as a “Public Appointment” and therefore must following the official <a href="#">Guidance for Public Appointments</a> to ensure that appointments are made following a fair, open and transparent process. This includes ensuring that public appointments are made on merit. In practice this means that the interview panel should provide Ministers with a choice of appointable candidates whose skills, experience and qualities meet the needs, as determined by the Minister, of the public body or statutory office in question.</p>
	<p><b>Expertise</b></p>	<p>Since the mandate was put on a Statutory basis in 2005 the mandate holders have been Queen’s Counsels (QCs) i.e. eminent barristers who have been become QCs as a mark of outstanding ability.</p>

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<b>Vi si ti n g M a n d a t</b>	<b>Places visited where deprivation of liberty could be exercised</b>	<p>The Independent Reviewer has a specific power to monitor the conditions of detention of persons detained for more than 48 hours under <a href="#">section 1 of the Terrorism Act 2000</a>.</p> <p>As at 19 September 2018 the role of the Independent Reviewer as a member of the UK NPM structure has not involved undertaking preventive visits to places of deprivation of liberty but to engage with the Independent Custody Visitors Association (ICVA), and other members of the UK NPM, Force Medical Examiners (FMEs, qualified doctors who attend upon detained persons in police custody suites), and the National Appropriate Adult Network (NAAN).</p> <p>The Independent Reviewer examines the custody visit reports and makes recommendations as necessary to bring practice in line with statutory and international law obligations.</p> <p>(See §6.31-6.45 January 2018 <a href="#">Report of the Independent Reviewer of Terrorism Legislation</a>, Max Hill QC.)</p>
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	<b>Frequency of visits</b>	N/A
	<b>Types of visits</b>	N/A
	<b>Private interviews</b>	<p>The Independent Reviewer can conduct interviews with individuals being held in custody under §1 of the Terrorism Act 2000, although these individuals are not obliged to consent to be interviewed. The Independent Reviewer can also interview law enforcement officials, including arresting officers.</p> <p>(See for example §§1.11-1.12 <a href="https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2018/03/IRTL-Westminster-Bridge-Attack-Report-March-2018..pdf">https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2018/03/IRTL-Westminster-Bridge-Attack-Report-March-2018..pdf</a>)</p>
	<b>Access to information</b>	<p>The Independent Reviewer receives daily updates and reports from the ICVA for each of the terrorism custody suites which happen to be open, and notifications of every Terrorism Act arrest, Warrant of Further Detention and/or charging decision or release without charge. (See §6.33 January 2018 <a href="#">Report of the Independent Reviewer of Terrorism Legislation</a>, Max Hill QC.)</p> <p>The Independent Reviewer can also have access to detailed written reports from law enforcement officials including Counter-terrorism Command. These reports will include information such as the police custody records and transcripts of police interviews. (See for example §§1.11 <a href="https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2018/03/IRTL-Westminster-Bridge-Attack-Report-March-2018..pdf">https://terrorismlegislationreviewer.independent.gov.uk/wp-content/uploads/2018/03/IRTL-Westminster-Bridge-Attack-Report-March-2018..pdf</a>)</p>

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	<b>Publication of findings after visits</b>	N/A
	<b>Coordination of visits</b>	N/A
<b>O t h e r A s p e c t s o f M a n d a t e</b>	<b>Recommendations and suggestions for amendments to legislation</b>	<p>In accordance with §36 of the Terrorism Act 2006 the Independent Reviewer has an express mandate to review and suggest amendments to the UK’s terrorism legislation including:</p> <ul style="list-style-type: none"> <li>• Terrorism Act 2000</li> <li>• Part 1 of the Anti-Terrorism, Crime and Security Act 2001;</li> <li>• Part 2 of the Anti-Terrorism, Crime and Security Act 2001 as it applies in cases where a use or threat of the action referred to in section 4(2) of that Act would constitute terrorism;</li> <li>• Part 1 of the Terrorism Act 2006</li> <li>• The Counter-Terrorism Act 2008;</li> <li>• Part 1 of the Counter-Terrorism and Security Act 2015.</li> </ul> <p>Recommendations for legislative amendment and reform are included in the reports compiled by the Independent Reviewer and upon receiving a report the Secretary of State must lay a copy of it before Parliament. (See §36.6 of the Terrorism Act 2006 and §44 of the Counter-Terrorism and Security Act 2015.)</p>
	<b>Preventive activities</b>	<p>The Independent Reviewer’s main preventive activities include examining and reporting on the operation of specific terrorism legislation in practice (see above) and the conditions of detention of persons held on suspicion of offences under §1 of the Terrorism Act 2000.</p>
<b>S t a n d a r d</b>	<b>Legal standards applied</b>	<p>The Independent Reviewer has a key role to play in reviewing the application of particular terrorism legislation in the UK. In addition the Independent Reviewer will review the application of the Police and Criminal Evidence Act (PACE). When considering the detention of persons for more than 48 hours under §1 of the Terrorism Act, the Independent Reviewer will review reports on conditions of detention prepared by other members of the UK NPM as well as the European Committee for the Prevention of Torture.</p>
<b>R e p o r t</b>	<b>Annual reports</b>	<p>In accordance with §36 of the Terrorism Act 2006 and §44 of the Counter-Terrorism and Security Act 2015 the Independent Reviewer has a statutory obligation to present annual reports on the operation of particular pieces of legislation relevant to their mandate (as detailed above.) Upon receiving a report the Secretary of State must lay a copy of it before Parliament. (See §36.6 of the Terrorism Act 2006 and §44 of the Counter-Terrorism and Security Act 2015.)</p>

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