

**SIXTH REPORT OF THE
INDEPENDENT REVIEWER
PURSUANT TO SECTION 14(3)
OF THE PREVENTION OF
TERRORISM ACT 2005**

LORD CARLILE OF BERRIEW Q.C.

3 FEBRUARY 2011

**SIXTH REPORT OF THE
INDEPENDENT REVIEWER
PURSUANT TO SECTION 14(3)
OF THE PREVENTION OF
TERRORISM ACT 2005**

LORD CARLILE OF BERRIEW Q.C.

3 FEBRUARY 2011

**Presented to Parliament pursuant to section 14(6)
of the Prevention of Terrorism Act 2005**

© **Crown copyright 2011**

You may re-use this information (not including logos) free of charge in any format or medium, under the terms of the Open Government Licence. To view this licence, visit <http://www.nationalarchives.gov.uk/doc/open-government-licence/> or write to the Information Policy Team, The National Archives, Kew, London TW9 4DU, or e-mail: psi@nationalarchives.gsi.gov.uk.

Any enquiries regarding this publication should be sent to Office for Security and Counter-Terrorism, Home Office, 5th Floor South East, Peel Building, 2 Marsham Street, London, SW1P 4DF.

This publication is also available on <http://www.official-documents.gov.uk/>

ISBN: 978 0 10 851010 6

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID P002413024 02/11 8669 19585

Printed on paper containing 75% recycled fibre content minimum.

**SIXTH REPORT OF THE INDEPENDENT REVIEWER
PURSUANT TO SECTION 14(3) OF THE PREVENTION
OF TERRORISM ACT 2005**

SUMMARY OF KEY CONCLUSIONS

My main conclusions in this report are:

1. The control orders system, or an alternative system providing equivalent and proportionate public protection, remains necessary, but only for a small number of cases where robust information is available to the effect that the individual in question presents a considerable risk to national security, and conventional prosecution is not realistic.

2. The control orders system continued to function reasonably well in 2010, despite some challenging Court decisions and unremitting political controversy.

BACKGROUND TO THE REPORT

1. This report includes my annual review of the operation in 2010 of the control orders system. For ease of reference this report will follow the broad format of my first five reports on this subject, published in February 2006, 2007, 2008, 2009 and 2010 respectively.¹ During 2010 the Courts have been as active as they were in 2009 in their scrutiny of the powers in question. Paragraph 16 below contains a short digest of the principal judicial decisions and their implications.
2. This is my last report as Independent Reviewer of Terrorism Legislation. I shall be succeeded by the distinguished lawyer David Anderson QC. In giving him my good wishes, I express my appreciation to Ministers and especially the dedicated civil servants with whom I have worked on these difficult issues. I am grateful too to the many members of the public, MPs, Peers and others who have contributed to my processes. Some have been very supportive, others very challenging: all have been welcome interlocutors.
3. The effect of Court intervention in 2010 has brought the continued viability of control orders into sharp focus. Further, the change of government and the committed manifesto opposition of the Coalition parties to control orders has led to heavy scrutiny of the system. This has resulted in the Counter-Terrorism Review, published on the 26 January 2011, which proposes the abolition of control orders and their replacement with a new system.

¹ For all my reports see <http://webarchive.nationalarchives.gov.uk/20100418065544/http://security.homeoffice.gov.uk/news-publications/publication-search/legislation/prevention-terrorism-act-2005/independent-reviews/>

4. The legislative history of control orders began in 2005, when Parliament repealed the powers, provided by the *Anti-terrorism, Crime and Security Act 2001, Part 4* to detain foreign national terrorism suspects without charge. The repeal followed the decision of the House of Lords in *A (FC) and others (FC) (Appellants) v. Secretary of State for the Home Department (Respondent)*.² The powers contained in the 2001 Act had permitted the detention, subject to review and appeal, of foreign nationals who were suspected of being international terrorists. Those provisions were introduced immediately following the aircraft bombing of the World Trade Center in New York on the 11th September 2001.

5. Following the repeal of the 2001 Act detention powers, the *Prevention of Terrorism Act 2005 [PTA 2005/2005 Act]* replaced them with a system of control orders. *PTA 2005* came into force on Royal Assent, on the 11th March 2005. The Act remains in force having last been renewed on the 11th March 2010.³

6. The enactment of *PTA 2005* occurred before the London suicide bombings of the 7th July 2005 and the events of the 21st July 2005. In the years that have passed those events have been shown to have an international dimension, as part of a very large network of events caused by terrorist groups associated in violence in many countries. Since 2005 both the *Terrorism Act 2006 [2006 Act]*,⁴ and the *Counter-Terrorism Act 2008 [2008 Act]* have been passed. Each introduced new terrorism-related offences and made significant changes to other material provisions. Of particular note in the *2006 Act* were *section 1* (encouragement of terrorism), *section 2* (dissemination of terrorist publications), *section 5* (preparation of terrorist acts), and *section 6*

² [2004] UKHL 56

³ The Prevention of Terrorism Act 2005 (Continuance in force of sections 1 to 9) Order 2010: SI 2010 no 645

⁴ The current version of all statutes is now available via www.statutelaw.gov.uk

(training for terrorism). Those provisions have contributed to the charging of more individuals with terrorism-related criminal conduct. This trend is welcome and is rightly emphasised by politicians and campaigners – it is in the public interest for the conventional charge and trial process to be used whenever possible, rather than control orders. However, it is unrealistic in the extreme, and unhelpfully misleading, to suggest that post-charge questioning and/or the admission of intercept evidence would increase measurably the prospects of successful prosecution of individuals currently subject to control orders.

7. The *2008 Act* introduced changes that might increase the opportunity for the normal criminal process to be used against terrorism suspects. *Section 28* improves jurisdictional law, by permitting proceedings to take place in any part of the United Kingdom for terrorism offences committed in any other part of the UK. *Sections 30-33* require the Courts to treat a terrorism connection as an aggravating factor in the sentencing of persons convicted of a range of serious offences set out in *Schedule 2*, or of “any ancillary offence in relation to an offence specified in [the] Schedule”. To date there have been no cases in which these provisions have been used.

8. Other changes introduced by the *2008 Act* include *section 78*, which introduces into *PTA 2005* new *sections 7A, 7B and 7C*: these facilitate the searching of controlees’ premises with a view to securing compliance with control orders. *Sections 79-81* make procedural changes primarily resulting from experience of *PTA 2005* before the Courts. *Section 56* of the *Crime and Security Act 2010 [2010 Act]* added new *sections 7D and 7E* to the *2005 Act*, which provide powers of search of the controlled person and powers to retain and use things seized. They were introduced following

adverse court judgments on this point. The powers were not commenced, pending the outcome of the Counter-Terrorism Review.

9. A control order may be made against a person reasonably suspected of involvement in terrorism-related activity, whether a UK national or not, and whether the terrorist activity is domestic or international. The control order must also be considered necessary for purposes connected with protecting the public from a risk of terrorism. For brevity, such a person is described throughout this report as a controlee.
10. Pursuant to *section 14(3), (4) and (5) of the PTA 2005* I have the duty of reviewing the operation of the Act. I also have exercised certain other reviewing responsibilities.
11. As with all my reports as independent reviewer of terrorism legislation, I hope that this one can be understood by the general reader as well as those with a special interest.
12. Insofar as at any time I have not accepted the advice given by or to be inferred from others, the responsibility is mine and my gratitude for their contributions is undiminished. I am aware that some have held the view that I have been 'co-opted' into support of any measures proposed by government: that is not the case, and I would cite as an example my repeated opposition to the way in which *Terrorism Act 2000 section 44* stop and search has been utilised.

SUMMARY AND USE OF THE POWERS

13. There are 2 distinct species of control order - *derogating* and *non-derogating*.

A derogating order is one containing obligations incompatible with the right to liberty under *Article 5* of the *European Convention on Human Rights*. Non-derogating control orders can impose conditions short of a deprivation of liberty under *Article 5*. No derogation from *Article 5* has been made to date in relation to control orders. Only non-derogating control orders have therefore been made. I would have been extremely concerned had there been any derogating orders - I believe that the non-derogating type is sufficient for all eventualities that can reasonably be envisaged. Having now seen the Coalition's proposals for replacement of control orders, I am content that the possibility of making derogating orders is to be removed.

14. Control orders are intended to provide a combination of potential control measures. These should be matched to the circumstances of the particular case. The purpose of control orders is as part of the CONTEST strategy of the Government against terrorism. Delivery of the CONTEST strategy is organised around four key workstreams - PURSUE, PREVENT, PROTECT, PREPARE.⁵ The whole of the CONTEST strategy will be revised to reflect the outcomes of a number of reviews of different areas of counter-terrorism policy: I am the independent reviewer of the PREVENT part of the exercise.

⁵ See *The National Security Strategy of the United Kingdom* [Cm. 7291, 2008 and Cm. 7590, 2009]

15. Some key statistics [see Annex 1 to this Report] covering March 2005 to 10th December 2010 relating to non-derogating control orders will be of interest -

- In total, there have been 48 individuals who have ever been subject to a control order. (The total number of control orders made is higher as some individuals have had more than one order made against them.)
- As of 10 December 2010, there were 8 control orders in force, 4 fewer than a year earlier, and 7 fewer than in 2008. The new, Coalition Government has used the control orders system.
- Of the 40 other individuals who have been at some point - but are no longer - subject to a control order,
 - 10 were served with notices of intention to deport and either held in custody or granted bail. 6 of these have now been deported.
 - 12 individuals have had their control orders revoked (because the assessment of the necessity of the control order changed).
 - 4 individuals have not had their orders renewed as the assessment of the necessity of the control orders changed.

- 3 individuals had their orders revoked and not replaced as the Government concluded that the disclosure requirements required as a result of the decision of the House of Lords in *AF & Others* could not be met because of potential damage to the public interest.
- 1 individual absconded (in August 2006) after the Court of Appeal confirmed the quashing of his order - a new order had been made to serve on the individual but he absconded before it could be served. The new order was therefore never in operation.
- 2 individuals had their control orders quashed by the High Court. One of these was an individual who had absconded, but subsequently handed himself in to the police.
- 3 individuals had their control orders revoked on direction of the Court.
- 5 individuals' control orders expired, following their absconding from their control orders. These 5 individuals had absconded in, respectively, September 2006, January 2007, May 2007, May 2007 and June 2007. Control orders last for 12 months. Their control orders expired in, respectively, April 2007, December 2007, February 2008, February 2008 and August 2007. Nobody subject to a control order has absconded in the years 2008-10. There have been 7 control order absconds in total.

16. There was considerable Court activity during 2010, though rather less involving issues of principle than in 2009. The most important decisions are set out below.

Secretary of State for the Home Department v. AN (Handed down on 12 March 2010; reporting restrictions were imposed but have recently been lifted), [2010] EWHC 511 (Admin)

The court directed the Secretary of State to revoke the control order on the basis that the court considered the order was not necessary at the time it was made because AN was then in custody and, if released on bail, appropriate bail conditions to protect the public could then have been imposed. Therefore, in relation to the position at the time of the hearing, the court considered that the public would be protected either by AN being remanded in custody or by suitable bail terms being imposed in the criminal proceedings - and that therefore the control order was not necessary because there were already other protections in place.

[As a result, when scrutinising whether a control order continues to be necessary when there is a criminal process underway, the Home Secretary must give careful consideration to the court's findings in this case and previous relevant cases.]

Secretary of State for the Home Department v. BX, [2010] EWCA Civ 481

The Court of Appeal dismissed BX's appeal, holding that the High Court had reached a proper decision in concluding on the material that there were strong grounds for an urgent relocation and in setting early hearings for the disclosure process and for the appeal. The court found that (other than in a rare case not

so far identified) the proper and appropriate route of challenging a modification decision is by way of a statutory appeal under section 10(1) of the *2005 Act* and that interlocutory relief is available in such proceedings, where appropriate. The court also commented on the application of Article 6 in such proceedings and said that they 'would not expect the Secretary of State to be able to measure precisely the nature and degree of disclosure which she will have to consider after a fully argued disclosure hearing' but that the decision must be taken 'conscientiously with [her] likely disclosure obligations in mind'.

Secretary of State for the Home Department v. AY, [2010] EWHC 1860 (Admin)

This judgment related to substantive judicial review proceedings under section 3(10) of the *2005 Act*. The court upheld the control order on the basis that there were and remained reasonable grounds for suspecting that AY was involved in terrorism-related activity, that it was and remained necessary for a control order to be imposed on him for purposes connected with protecting the public from a risk of terrorism and that each of the obligations in the control order was and remained necessary for purposes connected with preventing or restricting his involvement in terrorism-related activity. The court also considered and rejected the argument that an unsuccessful prosecution for a terrorism-related offence precludes the Secretary of State from making a control order on essentially the same material as that relied upon by the prosecution at trial.

AN v Secretary of State for the Home Department, Secretary of State for the Home Department v AE and AF [2010] EWCA Civ 869

On 28 July 2010 the Court of Appeal dismissed the Secretary of State's appeal against the High Court's judgment of 18 January 2010 in relation to AE and AF and upheld AN's appeal against the High Court's judgment of 31 July 2009. The issue was what the appropriate remedy should be in control order cases where the Secretary of State elects not to make sufficient disclosure to comply with Article 6 of the ECHR. The Court of Appeal found that the appropriate remedy in these circumstances is for the control order to be quashed from the date it was made, not for it to be revoked with effect from a date after the control order was served on the individual as the Secretary of State had sought to argue. This judgment paves the way for AE, AF, AN, and others who can demonstrate that their control orders should also be quashed for the same reason, to make damages claims.

17. There were other Court decisions not relating to issues of major principle. I have not included these. All are reported (except where court imposed reporting restrictions are in place), and can be found on legal internet libraries, for example <http://www.bailii.org>.
18. Annex 2 to this review summarises the cases (anonymised) and obligations as of 10 December 2010. An 'X' in the Table indicates that the particular obligation applies to the individual concerned.

19. There are up to 25 types of measures which are currently in use. As of 10 December, the longest curfew in place was 14 hours, and the average curfew 11.9 hours (12.0 hours last year). The advice of the authorities is that there are considerable safety advantages from the requirement that the controlee should spend every night at a specified address, within hours which are clearly specified. This is the purpose of curfews, though there are evidence based advantages for the authorities in some cases if the curfewed hours are in blocks rather than merely overnight. However, in my view the new overnight obligation proposed in the Counter-Terrorism Review is sufficient to manage risk, with the Secretary of State (and subsequently the court) able to review, and if necessary increase or reduce the length of the overnight requirement to meet the merits of the individual case (including, as appropriate, any relevant work or social issues).
20. I have emphasised in my previous reports that the intention is that conditions imposed under a control order should be specific and tailored to the individual. The aim is to secure the safety of the public by the minimum measures needed to ensure effective disruption and prevention of terrorist activity. Again I have discussed this with officials on several occasions during the year. I have continued to attend meetings of the Control Order Review Group [CORG]. CORG is a multi-disciplinary group (involving police, security services and other officials) in which every control order is discussed in detail.
21. Each control order is intended to provide what are perceived to be the controls needed to protect national security, having regard to what is known about the individual and his/her connections, and the risks he/she is thought to present. I have the impression that some believe there may be real doubt as to whether the

small number of controlees do in fact present a danger to national security. I would emphasise that control orders are only imposed and confirmed when the Secretary of State has concluded, and the Courts have confirmed, that there are reasonable grounds for it within the statutory test defined.

22. The Home Secretary must normally apply to the courts for permission to impose a control order before it is made based on an assessment of the available intelligence information. If the court allows the order to be made, the case is automatically referred to the court for a full judicial review of the Home Secretary's decision which will consider the necessity of the order and its obligations both at the time it was made and at the time of the review.
23. In emergency cases the Home Secretary may impose an urgent order, which must then be reviewed by the court within 7 days in the same way that the court would review a non-urgent control order before it is made. At this initial review the court decides whether the decision of the Home Secretary was obviously flawed.
24. At the full judicial review (which takes place automatically in every case) the court decides whether the person involved poses a threat to the safety and security of the general public and may consider the case in open and if necessary also in closed session. Where national security requires a closed session in the absence of the controlee and his chosen legal advisers, a trained and security-cleared independent lawyer described as a Special Advocate represents the interests of the controlee in the closed sessions. Special advocates have been appointed where required in all cases to date.

25. Non-derogating control orders are limited to 12 months' duration. If the Home Secretary wishes to renew a control order there is no automatic referral to a full judicial review, but the individual can apply to the court for a further judicial review if he/she wishes.
26. An individual control order and its obligations can be challenged, but the system as a whole has been held to be lawful. There was in 2006 a fundamental challenge to the compatibility of the legislation with the European Convention on Human Rights.⁶ This was unsuccessful.
27. Controlees are usually granted anonymity by the courts. Anonymity is of advantage both to the controlee and to the Government. In particular, for the controlee it avoids publicity that might lead to harassment of the individual and his/her family in the community where they live, or that might prejudice a fair trial if criminal charges are later brought.
28. The threshold for a non-derogating control order is *reasonable grounds to suspect*. Many have argued at the very least for the threshold to be raised to *reasonable grounds for belief*. There is a real difference between these two thresholds – see, for example, the judgment of Lord Justice Beldam in *R v Elizabeth Forsyth* [1997] 2 Cr.App.R 299; and the speech of Lord Brown of Eaton-under-Heywood in *R v Saik* [2006] UKHL 18 at paragraphs 104-120.

⁶ See, in addition to *AF & Others* [2009] UKHL 28 the judgment of the Court of Appeal, consisting of the Lord Chief Justice, the Master of the Rolls and the President of the Queen's Bench Division in *Secretary of State for the Home Department v MB* [2006] EWCA Civ 1140; on appeal from Sullivan J at [2006] EWHC 1000 (Admin); upheld on this point by the House of Lords [2007] UKHL 46.

29. In my view every one of the control orders confirmed by the Courts since the system was introduced has at least satisfied the standard of *reasonable grounds for belief*, and in most cases by some distance the full civil standard of *balance of probabilities*.
30. The Counter-Terrorism Review proposes the raising of the standard of proof to *reasonable grounds for belief*. As will be clear from the above, I support this change. In my judgment it will make no material difference to the existing controls.

CONTROL ORDERS DURING 2010

31. The current and historical position is summarised in the key statistics given in paragraph 15 above and in Annex 1. The matrix of obligations is in Annex 2.

32. Annex 3 describes the three sets of charges for breaches of control orders during 2010. Two are still awaiting trial. The one individual whose breach case has been determined pleaded guilty to 6 counts involving breach of curfew and visiting prohibited premises. He received a sentence of 15 months' imprisonment, which he had served on remand by the time he was sentenced.

33. There have been other breaches of control orders that have not been made the subject of criminal charges. Most of these are in themselves of minor significance, e.g. a few minutes' lateness in reporting; although the cumulative effect of such breaches may be regarded as serious. Some have been passed over because of family exigencies or emergencies which had given rise to the breach, where it has been assessed that there was a reasonable excuse for the breach.

34. The Counter-Terrorism Review has considered the application of electronic monitoring technology. I believe that all improvements to the available technology should be examined: although tagging is physically intrusive as a sort of permanent electronic handcuff, if in the future improved technology provides for effective monitoring it may enable other restrictions to be eased.

35. Last year I described a complaint by controlees that they claimed to have no personal point of contact for emergencies. This was not accepted as a fair criticism by the police or officials in the Home Office. However, attention has been given to the issue. Given that some controlees have been moved compulsorily to neighbourhoods where they are unknown and have no family contacts, this emergency contact system should be as personal in its approach as possible. In the current system or any that replaces it, the fact that the State is permitted to impose restrictions on individuals who have not been convicted in a criminal court should be reciprocated by a careful pastoral care approach.
36. Given the intention following the Counter-Terrorism Review that there should no longer be a power to compel a controlee to relocate, the pastoral problems should diminish.
37. Some apparent breaches still occur because the tagging and contact equipment and service fail. This is very rare and for the most part, the devices are more reliable than in the past with recent improvements introduced. Prosecutions are not pursued where incidents are not considered as breaches, for example due to technical problems with the equipment.
38. Breach proceedings are subject to the usual prosecution procedures and standards applied by the Crown Prosecution Service. The standard of proof required is the ordinary criminal standard, namely proof beyond reasonable doubt. Annexes 4-7 contain anonymised examples of the schedules of obligations for existing control orders. I draw particular attention to Annex 6. The overriding objective of this lighter touch type of order is to prevent the controlee from travel abroad for terrorism-related purposes.

39. Absconding by persons who are or predictably are about to be controlees is an embarrassment to the system. The viability of enforcement must always be considered when a control order is under consideration. It is to be noted that there have been no absconds since June 2007: since that time increased vigilance has been applied in the light of previous experience, and absconds are much less likely. It is not a fair criticism to use those absconds of some years ago as evidence against the current viability of the system.
40. Enforcement of control orders is resource-intensive for the police, and affects the several police forces with controlees resident in their areas. They are not necessarily in the Metropolitan Police area.

THE MERITS OF CONTROL ORDERS AND POSSIBLE ALTERNATIVES

41. In my report on the control order system in the year 2009 I suggested that the real issues about control orders are summarised in the following questions:

- Are control orders or something like them necessary?

- If so, are they fair?

- Are they effective?

- Are they enforceable?

- Is there a better alternative?

42. Once again I emphasise that nobody, least of all those who have to administer and enforce them, likes control orders. In every case alternatives are sought if available.

43. The continuing relatively small number of control orders, set alongside the vastly greater number of known terrorism suspects, confirms that the Home Secretary remains rightly reluctant to expand their use; and that they are reserved for very troubling cases.

44. Given that there has been a change of government since my last report, and a vast amount of debate about whether control orders should be continued, I do not propose this year to tabulate the arguments for and against. It is a matter of record that the Conservative party expressed strong reservations about control orders prior to the election, with some senior figures going further. In their manifesto the Liberal Democrats undertook to abolish control orders.
45. It is uncontradicted that the manifestos of the political parties then in opposition were written without detailed knowledge of the evidence base for control orders, generally and in relation to individuals. In my view this is regrettable, and should be remedied in the present system and any legislative replacement. Whether it needs to be included in the legislation or (probably) not, for the future I recommend that one or two senior spokespersons for at least the official Opposition should be 'DV' vetted (developed vetted): the purpose of this would be that, whilst respecting confidentiality and national security, they should be able to give informed advice to their shadow colleagues on the merits of the legislation.
46. I do not regard briefings on Privy Council terms to be a satisfactory method for dealing with the need for the Opposition to be briefed adequately. DV vetting provides a sense of security for the relevant authorities, given the intensive and personal nature of the vetting process. It also facilitates greater contact between relevant officials and Opposition politicians: in my view this would improve not only knowledge levels, but also the quality of the debate. The independent reviewer could reasonably be expected to comment on the functionality of this revised information flow, given his necessary contact with the political parties.

47. I hope that the modest change suggested in the two preceding paragraphs would take some of the political steam out of what at times has been a poorly informed debate. A multi-partisan approach to counter-terrorism legislation would provide a stronger platform for focused debate. As the Counter-Terrorism Review demonstrates, all the main political parties now accept that a system is required to protect the public against a small and potentially very dangerous cohort of individuals, against whom a criminal prosecution cannot be brought on the evidence presently available.
48. Of course, in referring to the Counter-Terrorism Review I recognise that primary legislation will be required and will take some months to pass through Parliament. The legislative process may well lead to some changes from the current proposals. What follows necessarily is based on those proposals.
49. I recognise the political judgments leading to the decision that control orders are to be abolished and replaced, though I remain of the view that the current control orders system remains fair and safe, a proper reflection of the need for balance between the considerations of national security and the liberty of the individual.
50. The Counter-Terrorism Review makes available the following key elements:
1. Electronic tags
 2. Overnight stay requirements
 3. Restrictions on freedom to associate
 4. Some restrictions (but availability) on mobile telephony and internet
 5. Regular reporting to police
 6. Prohibited geographical areas

7. Prohibition on travel overseas
8. Some restrictions on transfer overseas of money and goods
9. Notification of employment/academic/training courses with power to object

If these are not available, then the new system will fail to protect the public against the dangers posed by the cohort of individuals concerned.

51. The minimum restrictions compatible with national security should be imposed in each case.
52. The proposed replacement system shares several characteristics with control orders (and would provide commensurate protection). There is an acceptable balance of risk against other considerations. It should be seen as adopting a new approach to public protection against terrorism. This will be emphasised by raising the threshold to *reasonable grounds to believe*.
53. I would expect the replacement system to be required for a narrower range of cases than now (though one cannot predict that there will be fewer cases: that depends on the emerging picture).
54. I have suggested before that, for the lighter touch cases (as in Annex 6) a system of Certificates Restricting Travel could usefully be introduced, with some elements similar to ASBOs (Anti-Social Behaviour Orders) available too. Though not contained as a separate category in the Counter-Terrorism Review, I believe this suggestion merits further consideration.

55. In the current system, and for its replacement, I remain of the opinion I have expressed before about duration. Therefore I agree with the intention expressed in the Counter-Terrorism Review that there should be a maximum duration of the intervention of two years, with a new one available after that time only if there is new evidence that the individual has continued to be engaged or has re-engaged in terrorism-related activities.
56. In addition, I suggest that the threshold for intervention after two years should be raised to *the balance of probabilities*.
57. I have reviewed the cases current as of 10 December 2010. For national security reasons I can give little detail in this report. However, the following can be published and may be of assistance.
58. Two of the controlees have been the subject of orders for more than 2 years. Substantial and continuing risk assessments have been carried out on both, which conclude that they continue to present actual or potential, and significant danger to national security and public safety. I agree with the assessment that the control order on each has substantially reduced the present danger that exceptionally they still present despite their having been subject to a control order for a significant period of time.
59. Unless replaced by some equally disruptive and practical system, in these cases the repeal of control orders would create a significantly increased level of public risk.

60. As reported last year, there are three broad groups, which I would summarise as portrayed by intelligence product to be:

- (a) very high risk, continuing and determined terrorists posing a real risk to national security and the public in the UK and abroad;
- (b) those already trained and wishing to travel abroad for further training and/or active terrorism;
- (c) those in relation to whom the principal information is that they wish to travel abroad for terrorist training.

61. I emphasise that control orders are a targeted tool of last resort, used to plug what is perceived to be a gap in the absence of viable alternatives.

62. **Prosecution** remains the preferred approach for dealing with suspected terrorists. There has been considerable success in prosecuting terrorists.

63. **Measures** have been introduced to improve the ability to prosecute. These have included new offences contained in the *2006 Act* (for example, preparation of acts of terrorism); and additional mechanisms such as post-charge questioning (not yet in force) pursuant to the *2008 Act*. Further, resources have been increased to enable more and better evidence-gathering (for example, the size of the Security Service doubled between 2001 and 2008).

64. I am satisfied that prosecution is pursued whenever there is a case satisfying the charging standards contained in the Code and policies of the Crown Prosecution Service. The CPS is assiduous in pursuing prosecutions where there is sufficient admissible evidence.

65. **Intercept evidence** has continued to be discussed widely, and has been the subject of a Privy Council review. That review has reconvened to assess the current potential for intercept as evidence. A Written Ministerial Statement to this effect was made in Parliament on the 26 January 2011.

66. As independent reviewer, I have said repeatedly that I welcome the admissibility of intercept if this can be achieved without (a) affecting national security, and (b) decreasing the effectiveness of the criminal trial process. I am however convinced that it is not the quick and easy solution that some have assumed and asserted.

67. On the 10th December 2009 the Rt. Hon Alan Johnson MP, then Home Secretary, made the following written statement to the House of Commons:

“The Secretary of State for the Home Department (Alan Johnson):

The Government have no higher duty than to protect the public. A critical tool in this is the warranted interception of communications that allows law enforcement and intelligence agencies to gather intelligence about those individuals who seek to do us harm.

Intercept material obtained under a RIPA warrant cannot currently be used as evidence in criminal trials. It has been, and remains, the Government’s objective to find a way to make this possible. In February 2008, the Prime Minister accepted the findings of a Privy Council review, chaired by Sir John Chilcot, which recommended that intercept should be admissible as evidence subject to meeting nine operational requirements, which the review judged to be necessary to protect the public and national security. He set in train the necessary implementation process and established an advisory

group, comprising the right hon. Sir John Chilcot, the right hon. Member for Berwick-upon-Tweed (Sir Alan Beith), the right hon. and learned Member for Folkestone and Hythe (Mr. Howard), and my right hon. and noble Friend Lord Archer of Sandwell, in order to help safeguard intelligence capability and protect the public.

In my written ministerial statement to the House of 16 July I provided an update on the progress of the implementation programme. I said that I would make a formal report to Parliament on the results and conclusions after end of the summer recess.

I am today publishing a Command Paper setting out the work programme's findings and conclusions. Copies will be available in the Vote Office. I am also placing in the Libraries of both Houses copies of a separate report to my right hon. Friend the Prime Minister by the advisory group. The Prime Minister and I are grateful to the advisory group for its work. I echo their recognition both of the complexity and sensitivity of the work programme and the commitment and thoroughness of officials in undertaking it.

Any implementation of intercept as evidence must, as set out in the original Privy Council review, ensure that trials continue to be fair and that the operational requirements to protect current capabilities are met. As noted in the advisory group's interim report to the Prime Minister, reported in my predecessor's written ministerial statement of 12 February and placed in the Libraries of both Houses, there is an intrinsic tension between these legal and operational requirements.

The work programme set out to develop a model for intercept as evidence that successfully reconciled these requirements, based on the approach recommended by the Privy Council review. This model has been subject to extensive practical testing,

with the close involvement of senior independent legal practitioners. This testing has demonstrated that the model, if fully funded, would be broadly consistent with the operational requirements. However, it would not be legally viable, in that it would not ensure continued fairness at court. This has been confirmed by a recent European Court of Human Rights case (Natunen v Finland). The result would be to damage rather than enhance our ability to bring terrorists and other serious criminals to justice.

These findings are disappointing. In the light of them, the Government conclude, as does the advisory group, that the model does not represent a viable basis for implementation. However, the Government also share the advisory group's view that the potential gains from a workable intercept as evidence regime justifies further work. We therefore welcome the group's suggestion of three areas of analysis, beyond the scope of the original work programme, intended to establish whether the problems identified are capable of being resolved. These areas are to examine:

Further enhancing the judicial oversight available.

Full retention of intercept material alongside alternative review requirements.

Advances in technology which might make full retention and review more manageable.

The Government agree with the advisory group that while continuing to seek innovative and imaginative approaches, these should not be at the cost of the operational requirements, and hence national security or public protection. I am grateful for the

advisory group's agreement to continue in its current invaluable role and for agreeing to be similarly engaged on interception related matters that have arisen in the context of the Coroners and Justice Bill.

The Government will report the results of this activity to Parliament before the Easter recess."

68. In the light of that statement, and following further consideration, no progress has been made as yet towards intercept evidence becoming available in terrorism trials. The announcement of the 26 January 2011 may hasten the process.

69. Outside commentators have made comparisons with other jurisdictions where intercept is admissible. These comparisons are poorly informed and misleading. In our adversarial legal system the requirements of disclosure of material by the prosecution to the defence (there being no equivalent requirements on the defence) are far more demanding and revealing than in the jurisdiction of any comparable country. For example, in France a great deal of material is seen by the *juge d'instruction* but not disclosed to the defence, because of the inquisitorial nature of the criminal process there. We already disclose more than in other countries.

70. Other difficulties can be found in the huge resource problems implicit in the Home Secretary's statement above, and in the fact that in some countries the amount of potentially valuable intercept carried out on terrorist suspects is curtailed by the prospect of having to record and transcribe many thousands of calls/pages in every case. In addition, it is estimated that there is an opportunity cost if far more extensive surveillance etc. has to be deployed. Other targets would not be covered:

this could result in an increased risk to the public from those individuals. This is a point repeatedly made by senior police and intelligence services officials.

71. Intercept material remains important, as Mr Johnson said in his statement. Inculpatory intercept is followed up generally by the pursuit of admissible physical evidence, which generally is far more compelling than guarded remarks in telephone conversations.
72. It is unlikely that the admissibility before the jury of intercept would have led to the prosecution of any controlees since control orders were introduced in 2005.
73. Interception is a critical intelligence tool. It facilitates the targeted collection of evidence, which is often used in trials.
74. The intelligence dividend depends upon the secrecy of sources. It depends too on the secrecy of the diverse techniques used to obtain intercept.
75. The review described in Mr Johnson's statement above refers to a review of nine current or former control order cases by independent senior counsel. The review concluded that intercept as evidence would not have resulted in a criminal prosecution being brought in any of the cases studied.
76. I have suggested that a category of intercept cases could be devised. If in an inquiry it became clear that material of real evidential value in the courtroom could be made available without damaging national security, in such a case the Attorney General or the Director of Public Prosecutions could designate it an 'intercept case'.

From that time onwards it would be known by those carrying out the inquiry that intercept material might have to be disclosed if it satisfied the legal requirements for disclosure, and that it could be used as evidence. The case might then take on the characteristics of an FBI 'sting' operation, of which there are many examples. This approach might be extended to other serious crime. I believe that a system of this kind would be manageable, and might prove successful. I have been told that there is some doubt as to whether such a category of cases would be compliant with *ECHR Article 6*: I am wholly unpersuaded by that doubt.

77. **Deportation** is an important consideration in relation to terrorism suspects who are also foreign nationals. However, deportation is not possible in all cases. An individual may only be deported if their removal is compatible with this country's international treaty obligations. *ECHR Article 3* prohibits the deportation, removal or extradition of an individual if there are substantial grounds for believing that there is a real risk that they will be tortured or subjected to inhuman or degrading treatment or punishment on return.

78. The Government has taken two main approaches to this matter. In the majority of recent national security deportations they have negotiated framework deportation with assurances (DWA) arrangements, as they are called. These are monitored carefully. DWAs exist with Algeria, Jordan, Ethiopia, Libya and Lebanon. The Lebanon agreement has not been used, and it is accepted that it might need re-negotiation if it were to be used, in the light of political developments there. The Libya DWA is on hold following an adverse Court of Appeal judgment in 2008. So far as Jordan is concerned, the publicised case of Abu Qatada is subject to an application to the European Court of Human Rights [ECtHR], with judgment expected in 2011

following a hearing on the 14th December 2010. The negotiation of DWAs is a time-consuming process, requiring assurances that are public, credible and reliable. Even where successfully agreed, there is no guarantee that the Courts will accept them, given the relatively low legal threshold required for an individual to avoid deportation. This has happened with Libya, as described above.

79. The Government sought by intervention in the ECtHR to argue that (a) where a person seeks to resist removal on the grounds of risk of ill-treatment in their home country, this may be balanced against the threat they pose to national security if they remain; and (b) where the person poses a risk to national security, this has an impact on the standard to which he must establish a risk of ill-treatment - he should at least be required to show that it is more likely than not that he would be subject to ill-treatment contrary to *Article 3*. The ECtHR rejected both arguments. This leaves the UK reliant on DWA arrangements. The effect is to make the UK a safe haven for some individuals whose determination is to damage the UK and its citizens, hardly a satisfactory situation save for the purist.
80. I support the proposals in the Counter-Terrorism Review that the Government should pursue deportation arrangements with more countries. I support very strongly efforts to pursue verifiable assurances for named individuals, in relation to countries with which there is no generic agreement.
81. In addition, I suggest that my successor should be commissioned to provide an annual independent report on deportations in terrorism cases, and the monitoring/verification of their situation after deportation.

82. **Where neither prosecution nor deportation is possible**, control orders are intended to plug the gap, subject to the judicially supervised system of law applied to them.
83. Other non-prosecution executive actions are available. Asset freezing may be imposed. The law on terrorist asset freezing has been subject to recent change. The *Terrorist Asset-Freezing etc Act 2010* received the Royal Assent on 16 December 2010 and will be subject to independent review.
84. Deprivation of British citizenship is available, and can be combined with deportation and exclusion, to enable certain dual nationals to be excluded from the UK. This applies to a limited number of people, and involves a drastic measure.
85. It is sometimes said that the authorities have a panoply of effective means of enforcement of surveillance of suspects, irrespective of control orders.
86. All forms of surveillance involve considerable human resources. Observation of individuals generally requires a 24 hour presence of many officers, observing, logging, and recording images. This is especially true of physical watching and following. There can be high risk and, inevitably, extraordinary expense.

THE IMMEDIATE FUTURE OF CONTROL ORDERS

87 At the time of writing it seems certain that control orders will be abolished. Having given it careful consideration, the Government has judged it necessary for control orders to be replaced by another system so far as is judged necessary by the Government. I am working on the assumption that the Counter-Terrorism Review will provide at least a strong framework for the eventual legislation - though of course the legislation is a matter for Parliament and inevitably will be examined closely during the legislative process in both Houses.

88. The introduction of and procedure for new legislation is likely to take some months. Certainly it would be advisable for the legislation to be considered in the normal way, not as an emergency.

89. Therefore the immediate question is whether control orders should continue until the enactment of fresh legislation. Given the factors outlined above, it is my view and advice that abandoning the control orders system now would have a damaging effect on national security. Of course, on their own control orders are not a failsafe or foolproof mechanism for full disruption of suspected terrorists. Further, because they are a resource-intensive tool for all involved in their management, self-evidently they cannot be used to manage the risk posed by all non-prosecutable suspected terrorists against whom there is robust intelligence.

90. For now, control orders remain a necessity for a small number of cases, in the absence of a viable alternative for those few instances. These are the cases where, as now, the Secretary of State:

- (a) has reasonable grounds for suspecting that the individual is or has been involved in terrorism; and
- (b) considers that it is necessary, for purposes connected with protecting members of the public from the risk of terrorism, to make a control order imposing obligations on that individual.⁷

91. I should emphasise that I have considered the effects of the Court decisions on disclosure. I do not agree that their effect is to make control orders or any replacement system impossible. There are and will be a small number of cases where the potential harm to national security will mean that there can be no control order because requisite disclosure cannot be achieved without disproportionate damage to national security. This is a familiar problem in relation to prosecutions. For example, in Northern Ireland some cases have not been prosecuted because of the risk of such damage. This is a balancing exercise for the executive in each case.

92. For most cases, and especially new ones, it should be possible to provide sufficient disclosure to comply with legal requirements, without damaging the public interest.

⁷ Prevention of Terrorism Act 2005, section 2(1)

93. Control orders and other non-prosecution disruptions are regarded by the relevant authorities as cumulative in effect. I agree that the existence of the orders plays a significant part in hardening the environment and making it more difficult for terrorists to undertake terrorism-related activity. The orders contribute to a tougher environment for putative terrorists. Even a reduced number of control orders, if against critical police/Security Service targets, could still be of major operational benefit.
94. In stark terms, the potential cost of losing control orders now is that the UK would be more vulnerable to a successful terrorist attack.

COMMUNITY ENGAGEMENT

95. The Government is devoting significant and increasing resources to building community awareness, and to countering radicalisation. As mentioned above, the PREVENT strand of the CONTEST strategy is being re-examined and revised separately, with my involvement as independent reviewer of the process.

96. It is important to remember that there is ample evidence of co-operation between the authorities and affected and concerned communities, whose compliance with the law is often an example to others. Emphatically, terrorism is far from solely an issue affecting Muslims, and should not be seen as such; and one should remember that all British Muslims (apart from a very small number of individuals) are vehemently opposed to terrorism as a political or religious activity.

INFORMATION FROM CONTROLEES AND OTHERS

97. Whenever controlees are willing to discuss their own position and concerns, appropriately knowledgeable and qualified persons should be made available to them. Wherever possible, credit should be given for co-operation.
98. In addition, every facility should be provided for families and friends to raise with the authorities concerns about their nearest and dearest, and they should be dealt with sensitively and securely. All who are opposed to terrorism must be able to feel that a contribution towards disruption and detection will be dealt with the utmost discretion. Where the disruption contributes materially to a genuine decision by the individual to abandon any terrorist aims and activities, the authorities should always be prepared to consider leniency.

CONTROL ORDER POWERS AND OBLIGATIONS

99. By *PTA 2005 Section 1* the power to make a non-derogating control order is vested in the Secretary of State; and to make a derogating order in the court on the application of the Secretary of State. The obligations placed on the controlee are those

“... necessary for purposes connected with preventing or restricting involvement by that individual in terrorism-related activity.”

100. *Section 1(4)* contains a non-exhaustive menu of potential obligations up to and including full-time house arrest. Such 24 hour house arrest, and indeed any curfew of greater than 16 hours, would involve derogation. The subsection includes a prohibition on the possession of specified articles, and on the use of specified services and facilities: these provisions are used in many cases to prohibit the use of the internet and to restrict access to mobile telephones.

101. Following court judgments in 2009, there is no personal search obligation included in or permitted under *section 1*. This is an anomaly that has the potential for absurd consequences, and should be avoided in the replacement system.

102. Following a clarificatory amendment inserted by the 2008 Act, *“involvement in terrorism-related activity”* is defined by section 1(9) as

“any one or more of the following-

(a) the commission, preparation or instigation of acts of terrorism;

(b) conduct which facilitates the commission, preparation or instigation of such acts, or which is intended to do so;

(c) conduct which gives encouragement to the commission, preparation or instigation of such acts, or which is intended to do so;

(d) conduct which gives support or assistance to individuals who are known or believed by the individual concerned to be involved in conduct falling within paragraphs (a) to (c);

and for the purposes of this subsection it is immaterial whether the acts of terrorism in question are specific acts of terrorism or acts of terrorism generally.”

103. *Section 2 of the 2005 Act sets out the basis upon which the Secretary of State may make a non-derogating control order. Section 2(1) requires that s/he*

“(a) has reasonable grounds for suspecting that the individual is or has been involved in terrorism-related activity; and

(b) considers that it is necessary, for purposes connected with protecting members of the public from a risk of terrorism, to make a control order imposing obligations on that individual.”

104. *Non-derogating orders are made for 12 months, and are renewable pursuant to section 2(6) if “necessary for purposes connected with protecting members of the public from a risk of terrorism” and “preventing or restricting involvement by that person in terrorism-related activity”.*

105. *As part of my function as independent reviewer, my task is to replicate exactly the position of the Home Secretary at the initiation of a control order. I call for and am given access to the same files as were placed before the Secretary of State when s/*

he was asked to determine whether a control order should be made. These files include detailed summaries of evidence and intelligence material, as well as the draft Order and obligations. The summaries describe not only the activities alleged against the individual and the sources of information, but also the context of those activities in a wider and very complex terrorism picture. I review every case in this way. Of course, this is not the procedure followed in the courtroom, where the evidence is subject to examination and cross-examination. It will be appreciated that sometimes the evidence is materially different by the time it is looked at by a Court, owing to the passage of time or other factors.

106. A great deal of the information is derived from intelligence. International co-operation between intelligence agencies has been very effective in the protection of the British public, and is absolutely essential. The quantity of intelligence material available has increased considerably as the police and the Security Service have developed their capacity to investigate and deal with terrorism. The sources and content of intelligence in most instances demand careful protection in the public interest. The techniques of gathering intelligence, and the range of opportunities available, are wide and certainly in need of secrecy. Human sources place themselves at risk - not least, the significant number of persons who offer unsolicited information out of disapproval of conduct and events at which they may have been and might continue to be present.

107. I would have reached the same decision as the Secretary of State in each case in which a control order was made during 2010, so far as the actual making of the order is concerned. Measuring the proportionality of the obligations is a difficult task, and inevitably the Courts will sometimes have to resolve conflict between, on

the one hand, a naturally cautious security establishment and, on the other hand, the public policy imperative of as little State control as possible of unconvicted persons. I can confirm that the CORG discusses the extent of obligations in every case, and that changes have been made to meet circumstances including the personal and family situation of the controlee and family members.

108. Like her predecessor, the present Home Secretary and her Ministers ask questions. They do not act as mere ciphers when the papers are placed before them. The process is rigorous and structured in an appropriate way, so that the decisions are definitely those of the Home Secretary. Other Ministers have been consulted about control orders on occasions since the Coalition took office.

109. I make no apology for repeating that, as in previous years, the input of officials is enormous. A permanent team dedicates its whole time to control orders.

110. I am sure that Ministers would join me in praising the extraordinary efforts made by officials in relation to the Counter-Terrorism Review, especially in the difficult task of devising the replacement system outlined in the Counter-Terrorism Review.

111. The cases decided in 2009 and 2010 have demonstrated that the key to judging the restrictions imposed by a control order is proportionality, together with the ramifications of disclosure compliant with the decision of the House of Lords in *AF & Others*. In each case the restrictions must be proportionate to the risk to national security presented by the controlee, taking into account as appropriate the controlee's personal circumstances including health. The minimum obligations consistent with public safety provide the only acceptable basis for control orders.

112. Officials and representatives involved in managing control orders meet regularly in the CORG to monitor each case, with a view to advising on a continuing basis as to whether the order should continue and how it should be administered. Included in those considerations must be the effect on the families of controlees, especially any children living with them. The CORG is now a matter of public knowledge, and its activities have been scrutinized by the High Court. I have attended some of its meetings, as an observer. I have been able to contribute when matters of principle and relevance to the review process have arisen. CORG includes officials from the Home Office, police and Security Service. They consider each control order in detail, and discuss the proportionality and necessity of the order and its obligations. One of the matters always discussed is the potential for bringing the order to an end, and the necessity of the obligations imposed on each controlee.

113. I presume and expect that a committee similar to CORG will operate in the replacement system.

114. The terms of reference of the CORG are as follows:

The purpose of the Group is:

1. To bring together the departments and agencies involved in making, maintaining and monitoring control orders on a quarterly basis to keep all the orders under frequent, formal and audited review.

2. To ensure that the control order itself remains necessary as well as ensuring that the obligations in each control order are necessary and proportionate. This includes consideration of whether the obligations as a whole and individually:
 - a. Are effectively disrupting the terrorism-related behaviours of and risk posed by the individual?
 - b. Are still necessary to manage the risk?
 - c. Need to be amended or added to in order to address new or emerging risks?
3. To monitor the impact of the control order on the individual, including on their mental health and physical well-being, as well as the impact on the individual's family and consider whether the obligations as a whole and/or individually require modification as a result.
4. To keep the prospect of prosecution under review, including for breach of the order.
5. To consider whether there are other options for managing or reducing the risk posed by individuals subject to control orders.

115. I can report, as before, that the work of CORG is well-organised and methodical.

I am in no doubt that Ministers and officials have a genuine interest in seeing each control order brought to an end as long as the national interest can be protected. As in previous reviews, I am concerned about the ending, or endgame, of each control order. There has to be an end of the order at some point, in every case.

As stated above, some of the controlees have already been the subject of their orders for a considerable time. Their orders cannot be continued indefinitely - that was never intended and probably would not be permitted by the courts. I am satisfied that in every case there is an ongoing search for a strategy for the ending of the order.

COURT SUPERVISION

116. A system of law for the supervision by the court of non-derogating control orders is provided by *section 3*. The section has been amended by the *2008 Act*. In every case there must be an application to the court for permission, in non-urgent cases to make the control order, and in urgent cases for the confirmation of the order. The language of *section 3(3)* makes it clear that the order will subsist unless the decision is “*obviously flawed*”. In each case the Administrative Court subsequently undertakes a full judicial review under *section 3(10)* which will hear all the evidence and consider whether the decision to make the control order was flawed. Following the Court of Appeal judgment in *Secretary of State for the Home Department v MB [2006] EWCA Civ 1140*, in order to review the decision of the Secretary of State, the Court is required itself to decide whether the acts relied upon by the Secretary of State amount to reasonable grounds for suspecting that the subject of the control order is or has been involved in terrorism-related activity. In addition, while paying a degree of deference to the Secretary of State’s decisions, the Court must give intense scrutiny to the necessity for each of the obligations imposed on an individual under a control order. Where the original decision was not flawed, the Court is also required to consider whether or not the control order continues to be necessary at the time of the hearing. As can be seen above, this review procedure has proved effective.

117. At the *section 3(10)* judicial review hearing the Court has the power pursuant to *section 3(12)* to quash the order, to quash one or more obligations imposed by the order, or to give directions to the Secretary of State for the revocation of the order or for the modification of the obligations imposed by the order.

118. *Section 3* requires directions hearings for non-urgent control orders to begin as soon as reasonably practicable after the order is made. The *2008 Act* amended section 3(7) and added a new *section 3(7A)*: this clarifies the arrangements for the controlee to make representations to the court.

119. *Section 4* provides the powers of the courts to make derogating control orders; *section 5* deals with issues of arrest and detention pending derogating control orders; and *section 6* provides for their duration. As no derogating control orders have been made to date, again I remain unable to report on the operation of the derogation provisions. Given the restrictive nature of non-derogating orders, and the reverberations that derogation would cause, I hold as strongly as before to my often expressed hope that no derogating orders will ever be required. Plainly, the moment one was made it would require intensive review of every step in the statutory procedure and of its effect on the controlee.

120. This year I have received no complaints from controlees or the lawyers instructed by them to the effect that the court procedures are not working satisfactorily. Controlees and former controlees to whom I have spoken have emphasised strongly the points put on their behalf to the Courts about the disruption of their private and family lives.

SPECIAL ADVOCATES

121. I have continued to receive representations from the special advocates [SAs] about their role in control order cases. The pool has been enlarged, and currently there are nearly 70 special advocates, all experienced and highly competent lawyers. They have had an effect on the outcome of cases, and in all cases have been of great assistance to the Court. Their use has been studied, with favourable comment, by other jurisdictions. They are all developed vetted, and examine closed material in relation to the person in whose interest they are instructed. The Special Advocates Support Office provides them with administrative services.

122. Following receipt of the closed evidence, the SA is prohibited from communicating with the person whose interests he/she has been appointed to represent or the representatives of the person, other than with the permission of the court. This permission is obtained by application, which is required to be on notice to the Secretary of State. The person whose interests the special advocate is representing can communicate through a legal representative in writing with the special advocate.⁸

123. The practical effect of this rule was explained by the nine SAs who submitted evidence to the House of Commons Constitutional Affairs Committee (CAC) in 2005, as follows:

“There is in fact no contact between the Special Advocates and the appellant’s chosen representatives in relation to the closed case... Under the SIAC (Procedure)

⁸ *SIAC (Procedure) Rules 2003 and Civil Procedure Rules CPR r. 76.25(2)*

Rules 2003, Special Advocates are permitted to communicate with the appellant and his representatives only before they are shown the closed material... Once the Special Advocates have seen the closed material, they are precluded by r.36(2) from discussing the case with any other person. Although SIAC itself has power under rule 36(4) to give directions authorizing communication in a particular case, this power is in practice almost never used, not least because any request for a direction authorizing communication must be notified to the Secretary of State. So, the Special Advocate can communicate with the appellant's lawyers only if the precise form of communication has been approved by his opponent in the proceedings. Such a requirement precludes communication even on matters of pure legal strategy (i.e. matters unrelated to the particular factual sensitivities of a case)."

124. The relationship between the Special Advocate and the appellant is therefore quite unlike that between the appellant and his open lawyers, in which communication is unconstrained, and protected by legal professional privilege and confidentiality. These features of the lawyer/client relationship are part of the fundamental constitutional right of access to a court, both in domestic law⁹ and under Article 6.¹⁰

125. The operation of the SA system in national security cases has been considered on three occasions by Parliamentary committees. The CAC in 2005 and the Joint Committee on Human Rights (JCHR) in 2007 and 2008 each identified the prohibition on communication as a problem with the system.

⁹ *R v Secretary of State for the Home Dept, ex p Daly* [2001] 2 AC 532.

¹⁰ *Campbell & Fell v United Kingdom* (1985) 7 EHRR 165, paras 111-113.

126. In 2007 the JCHR recommended:

“In our view, it is essential, if Special Advocates are to be able to perform their function, that there is greater opportunity than currently exists for communication between the Special Advocates and the controlled person. We were impressed by the preparedness of the Special Advocates to take responsibility for using their professional judgment to decide what they could and could not safely ask the controlled person after seeing the closed material. With appropriate guidance and safeguards, we think it is possible to relax the current prohibition whilst ensuring that sensitive national security information is not disclosed. We therefore recommend a relaxation of the current prohibition on any communication between the special advocate and the person concerned or their legal representative after the controlled person has seen the closed material.”

127. The JCHR returned to the topic in 2008, this time having heard evidence from Neil Garnham QC, another SA. The JCHR accepted Neil Garnham’s suggestion that SAs should have power to apply ex parte to a High Court judge for permission to ask questions of the controlled person, without being required to give notice to the Secretary of State.

128. In the event, none of these suggestions has been accepted. The position therefore remains that SAs can communicate with the controlled person after service of the closed material only with the permission of the court and that applications for permission must be made on notice to the Secretary of State. Such permission is very rarely sought.

129. The SAs continue to consider that a relaxation of the current rule prohibiting communication is necessary - or “essential” as the JCHR put it in 2007. They propose:

- (i) To allow communication on matters of pure legal strategy and procedural administration (i.e. matters unrelated to the particular factual sensitivities of a case). If necessary, it could be required that all such communications be in writing.
- (ii) To give SAs power to apply ex parte to a High Court Judge for permission to ask questions of the appellant, without being required to give notice to the Secretary of State. If the Judge considered that the proposed communication gave rise to any possible issue of national security, then it could be directed that the Secretary of State be put on notice of the communication, if the SA wished to pursue it, so as to enable any objection to be considered.

130. I remain broadly sympathetic to the complaints made by the SAs. I am fully aware of security concerns about modifying the system in the way they suggest. Those concerns are not about the SAs themselves, but about inadvertent leakage of sensitive material to controlees who may be extremely security-aware and adroit.

131. In the Counter-Terrorism Review the Government has promised some enhancements to the operation of the special advocate regime pending fuller consideration in the forthcoming Green Paper on the use of the intelligence services in judicial proceedings. I trust that the SAs will be consulted fully, and will provide their own considered response to the Green Paper.

MODIFICATION OF CONTROL ORDERS

132. *Section 7* provides for the modification, notification and proof of orders. By *section 7(1)* the controlee, on the basis of a change of circumstances affecting the order, may apply for revocation or modification of the obligations imposed by the order. If such an application is made, the Secretary of State has the statutory duty to consider it. By *section 7(2)* the Secretary of State has the power to revoke or modify the obligations of an order, save that he cannot up-rate it from a non-derogating to a derogating order.

133. *Section 7* allows too for applications to be made to the court for revocation or modification of control orders. I have received no representations to suggest that these provisions are defective or inefficient.

COMPLIANCE

134. The *2008 Act* added some new sections to the *2005 Act*. *Section 7A* provides the police with powers to enter and search premises connected with the controlee if there is reasonable suspicion that the controlee has absconded, in order to ascertain whether he has absconded and, if so, to assist in pursuit and arrest.

135. *Section 7B* permits forced entry by the police where there is reasonable suspicion that the controlee is not granting access to premises where at the time he is required to be situated under the order. This power is for the purpose of determining whether any of the obligations imposed by the control order have been contravened, and, if so, for material that may assist in the investigation of the contravention.

136. *Section 7C* allows for a warrant for entry and search to be issued at magistrates' court level for the purposes of determining whether the controlee is complying with the obligations of a control order. The bar for such warrants is quite high: by *subsection (5)* the warrant must be *necessary* for the purposes of determining whether the controlee is complying with the obligations imposed by or under the control order.

137. *Sections 10-13* of the *2008 Act* provide a power for a constable to require fingerprints and other non-intimate samples from a controlee. These provisions are not yet in force.

138. The recent provisions are a proportionate and necessary part of a workable control orders system, with a reasonable range of enforcement powers.

139. It is logical and necessary that powers of personal search be available. In the light of judicial decisions in 2009, I recommended that as a compliance tool and to ensure police and public safety, such powers should be added by legislative amendment, as soon as possible. *Section 56* of the *2010 Act* added new sections *7D* and *7E* to the *PTA 2005*. *Section 7D* adds a power to search controlees; *section 7E* deals with the retention and use of things seized. These sections have not yet been commenced, pending the outcome of the Government's Counter-Terrorism review.

CRIMINAL INVESTIGATIONS AFTER MAKING CONTROL ORDERS

140. *Section 8* arises from the important concern that individuals suspected of terrorism offences should be prosecuted and convicted wherever possible, rather than made subject to executive action restricting their liberty.

141. The *section* applies to a carefully drawn group of cases – those where the terrorism suspect may have committed an offence relating to terrorism, and the commission of that offence is being or would fall to be investigated by a police force. This is not as all embracing as it may seem at first glance, as it may exclude cases where on public interest grounds it had been pre-determined that there should be no investigation with a view to prosecution. However, as in previous years I am unaware of any cases where any such determination has been made.

142. *Section 8(2)* provides that, before a control order can be made or applied for, the Secretary of State must consult the chief officer of the police force for the material area *“about whether there is evidence available that could realistically be used for the purposes of a prosecution of the individual for an offence relating to terrorism.”*

143. If a control order is made, the chief officer of police has the obligation under *section 8(4)* to keep under review the possibility of an investigation and criminal prosecution. *Section 8(5)* contains an obligation (“must”) to consult the relevant prosecuting authority (in England and Wales the Director of Public Prosecutions) but, in relation to *section 8(4)* *“to the extent that he considers it appropriate to do so”*.

144. I have seen letters from chief officers of police in relation to each controllee certifying that there was no realistic prospect of prosecution. In 2006, 2007 and 2008 I urged that there should be more detail in those letters – for example, and if necessary in a closed version, an explanation of the sensitivity of material that could not be placed before a court of trial. The decision whether to prosecute should be taken following detailed and documented consultation in every case between the CPS, the police, and the Security Service, so that the Secretary of State can be satisfied that full consideration of the evidence and intelligence has occurred. The process is followed: I am satisfied that no control order has been made where a prosecution for a terrorism offence would have satisfied the CPS standards for the institution of a prosecution, in the period covered by this report.

145. The quality of the letters concerning possible prosecution continued to improve in 2009 and 2010, in the sense that some reasons are now given. As much detail as possible should be given to the Home Secretary in every case as to why additional investigation, or different forms of evidence gathering, would not enable a criminal prosecution to take place. It is a given that it would be far better for prosecutions to occur, of course provided they pass the usual threshold standards for prosecution (evidential and public interest, respectively) applied in all cases by the CPS.

OFFENCES

146. *Section 9* sets out the offence of contravention of a control order. Obstruction of a constable in the exercise of *sections 7A, 7B and 7C* is made an offence by *section 9(3A)*, added by the *2008 Act*.

147. Breach of any conditions without reasonable excuse is a criminal offence punishable on indictment by imprisonment of up to 5 years, or an unlimited fine.

148. As set out in Annex 3 breach charges relating to two individuals are pending at the time of writing. Since January 2007 on one occasion a sentence of 5 months' imprisonment was passed in breach proceedings. In July 2010 a controlee was sentenced to 15 months' imprisonment for breaches. Significant breaches should be regarded as serious criminal offences.

APPEALS AND OTHER PROCEEDINGS

149. *Sections 10 and 11* provide the system of appeals against control orders, control order court decisions and derogation matters.

150. *Section 10(4), (5) and (6)*, combined with subsequent case law, make it clear that the principles applicable in non-derogating control order appeals are a development of those applicable on an application for judicial review.

151. This means that such appeals are not analogous to a criminal trial. Control order cases are civil proceedings, in the form of administrative court hearings. In relation to the reasonable suspicion limb of the relevant statutory test, as noted above, the Court of Appeal's August 2006 decision in *MB* confirmed that *'the court must make up its own mind as to whether there are reasonable grounds for the necessary suspicion'*. In relation to the necessity limb of the test, the Court of Appeal concluded that while the court should pay 'a degree of deference' to the Secretary of State's decisions, it should give 'intense scrutiny' to the necessity of each obligation. The Court of Appeal also made clear that *'section 3(10) can and should be 'read down' so as to require the court to consider whether the decisions of the Secretary of State in relation to the control order are flawed as at the time of the court's determination'* [rather than *were flawed* at the time the order was made by the Secretary of State].

152. *Section 12* is a largely procedural provision dealing with appeals against convictions for breach of control orders before the quashing of the order or an obligation under it. Nothing complex has arisen as yet in relation to this section.

OTHER PROVISIONS

153. *Section 15* deals with interpretation; and *section 16* with necessary supplemental provisions. Neither of those sections has been the subject of any difficulty in 2010.

154. The *Schedule* to the *2005 Act*, with minor amendments under the *2008 Act*, mainly sets out the rule making powers. These have been exercised by the enactment of the *Civil Procedure (Amendment No 2) Rules 2005*.¹¹ These rules include the appointment and responsibilities of Special Advocates, and the difficult issue of hearings in the absence of the controlee and his own legal representatives; and disclosure, much debated in the courts. The rules of court continue to work reasonably well. Case management remains firm and flexible.

¹¹ SI 2005/656: in force 11th March 2005; also *Act of Sederunt (Rules of the Court of Session Amendment No 4)(Prevention of Terrorism Act 2005) 2005*, SSI 2005/153; and *Act of Sederunt (Rules of the Court of Session Amendment No 5)(Miscellaneous) 2005*, SSI 2005/193

DURATION OF CONTROL ORDER PROVISIONS, AND REVIEW

155. *Section 13(1)* limited the original duration of the control orders system to 12 months from the 11th March 2005, the date on which the Act was passed. Subject to certain consultation obligations set out in the section, it may be continued for a year at a time. An affirmative resolution of each House of Parliament is required before continuation can occur, save in restricted circumstances of emergency (when resolutions would be required within 40 days). The affirmative resolution procedure enables debate in both Houses of Parliament, and requires approval in both.

156. As required by *section 14(1)* the Secretary of State has reported every three months to Parliament about the exercise of the control order powers.

157. An increasing amount of information is now being provided in those quarterly statements; it is right that all possible information should be given, subject to considerations of national security and legitimate anonymity and personal confidentiality.

158. This report is my response to my duties under *section 14(3)* and *(4)*, namely to report on “*the operation of this Act*”. This duty of course will lapse with the current legislation. I trust that my successor as independent reviewer will have a commensurate duty under the replacement system.

159. I have the duty under *section 14(5)(b)* of reporting on the extent (if any) to which the Secretary of State has made use of his powers to make non-derogating orders in

urgent cases without the permission of the court. I am happy to report again that there were no such cases in 2010.

160. I have the additional duty, under *section 14(5)(a)*, to provide my opinion on the implications for the “*operation of this Act*” of any proposal made by the Secretary of State for the amendment of the law relating to terrorism. I have indicated above my generally favourable views on the proposals contained in the Counter-Terrorism Review, so far as it affects control orders.

ADDRESSES FOR COMMENTS AND REPRESENTATIONS

161. Any comments or representations about this report or the review process should be sent by email to carlilea@parliament.uk or in hard copy to Lord Carlile Q.C., House of Lords, London SW1A 0PW.

Alex Carlile

Lord Carlile of Berriew Q. C.

February 2011

ANNEX 1

CONTROL ORDERS KEY STATISTICS (ACCURATE AS OF 10 DECEMBER 2010)

- 8 people are currently subject to a control order.
- 48 people have ever been subject to a control order.
- 40 individuals had been at some point, but were no longer, subject to a control order. Of these:
 - 10 individuals were served with notices of intention to deport and either held in custody or granted bail. 6 have now been deported.
 - 4 individuals' orders were not renewed as the assessment of the necessity of the control orders had changed.
 - 12 individuals had their control orders revoked as the assessment of the necessity of the control order changed.
 - 3 individuals had their orders revoked as it was concluded that the disclosure of information required as a result of the House of Lords judgment in AF & Others could not be made because of the damage this would cause to the public interest.
 - 3 other individuals had their control orders revoked on direction of the court.
 - 2 individuals had their control order quashed by the High Court (one of whom was one of the individuals who absconded - he subsequently turned himself in to the police).
 - 1 individual absconded after the Court of Appeal confirmed the quashing of his order but before a new order could be served.
 - 5 individuals' orders expired after they absconded (control orders last for 12 months).
- There have been 7 control order absconds in total.

ANNEX 2 CURRENT CASES – 10 DECEMBER – 8 CASES

(NOT INCLUDING CONTINGENCY ORDERS)

	TAG	Residence/Curfew	Tel reporting	Visitors	Pre-arranged meeting	Prohibited associates	No contact with c/o	Permit police entry	24 hours powers	Comms	Specify mosque	Geographical area	UK Departure	Financial	Transfer of money/goods	Travel docs	Must not leave GB	International Ports	Daily to police station	Employment notification	No IT assistance	Must not lead prayers etc	Academic/training	Comms people outside UK	Entering prohibited places
	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
Case 1	X	8	X	X	X	X		X	X	X					X	X	X		X				X		
Case 2	X	14	X	X	X	X		X	X	X	X	X		X	X	X	X	X	X	X			X		
Case 3	X	12	X	X	X	X		X	X	X		X		X	X	X	X	X	X	X		X	X	X	X
Case 4	X	10	X		X	X		X	X	X		X		X	X	X	X	X	X	X			X	X	X
Case 5	X	12	X	X	X	X		X	X	X		X		X	X	X	X	X	X	X			X	X	X
Case 6	X	14	X		X	X		X	X	X	X	X		X	X	X	X	X	X	X		X	X	X	X
Case 7	X	13	X		X	X		X	X	X	X	X		X	X	X	X	X		X			X	X	X
Case 8	X	12	X	X	X	X		X	X	X		X		X	X	X	X	X	X	X		X	X	X	X

TOTAL (FOR 15 CURRENT CONTROL ORDERS)

	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25
TOTAL	8	8	8	5	8	8	0	8	8	8	3	7	0	7	7	8	8	8	6	8	0	3	8	6	6

Average Length of Curfew: 11.9 Hours

KEY:

- | | |
|---|--|
| <ol style="list-style-type: none"> 1. TAG 2. RESIDENCE SPECIFIED/CURFEW 3. REPORT DAILY (BY TELEPHONE) TO MONITORING COMPANY 4. RESTRICTED ENTRY OF VISITORS TO RESIDENCE
In all cases specified family members have unrestricted access to residence 5. PRE-ARRANGED MEETINGS OUTSIDE THE RESIDENCE REQUIRE APPROVAL 6. LIST OF PROHIBITED ASSOCIATES 7. NOT TO CONTACT SPECIFIED CONTROL ORDER INDIVIDUALS 8. PERMIT ENTRY TO POLICE OFFICERS 9. FIRST 24 HOURS TO SECURE COMPLIANCE 10. RESTRICTION ON COMMUNICATIONS EQUIPMENT IN THE RESIDENCE (VARIATIONS BETWEEN COMMS OBLIGATION) 11. ATTEND SPECIFIED MOSQUE/S 12. GEOGRAPHICAL RESTRICTIONS 13. NOTIFY HOME OFFICE OF INTENDED DEPARTURE FROM UK | <ol style="list-style-type: none"> 14. FINANCIAL OBLIGATIONS – HOLD ONLY ONE ACCOUNT 15. PRIOR APPROVAL FOR TRANSFER OF MONEY/ GOODS ABROAD (APART FROM PERSONAL LETTERS) 16. SURRENDER TRAVEL DOCUMENTS 17. MUST NOT LEAVE GREAT BRITAIN 18. PROHIBITION FROM ENTERING INTERNATIONAL PORT OR STATION 19. REPORT DAILY TO SPECIFIED POLICE STATION 20. NOTIFY HOME OFFICE OF EMPLOYMENT 21. MUST NOT PROVIDE IT RELATED TECHNICAL ADVICE/ASSISTANCE 22. NOT TO LEAD PRAYERS IN MOSQUE/OR ANYWHERE EXCEPT FOR OWN RESIDENCE 23. PRIOR APPROVAL FOR ACADEMIC STUDY AND TRAINING 24. CONTACTING INDIVIDUALS OUTSIDE THE UK REQUIRES HOME OFFICE APPROVAL 25. NOT TO ENTER PLACES THAT MAINLY PROVIDE INTERNET ACCESS, MONEY EXCHANGE, COMPUTERS |
|---|--|

ANNEX 3

BREACH CHARGES SINCE DECEMBER 2009

Cases	Obligation(s) breached	Charge(s)	Date of arrest	Date of charge	Status at present
Case A	Police station reporting, telephone monitoring company, curfew, possession of unauthorised mobile phone	Contravening his control order obligations.	13 April 2010	14 April 2010	Not guilty plea entered. Trial scheduled for 11 April 2011.
Case B	Possession of unauthorised mobile phones	Contravening his control order obligations.	1 February 2010	2 February 2010	Has requested the criminal trial is not heard until his appeal against the decision of the Admin Court to uphold his control order is heard.
Case C	Curfew, visiting prohibited premises	Contravening his control order obligations.	9 December 2009	10 December 2009	Trial 23 July 2010, guilty plea to 6 counts, received a 15 month custodial sentence. Due to time served released immediately.

ANNEX 4

Form: POT001 (schedule)

PREVENTION OF TERRORISM ACT 2005, SECTION 2

SCHEDULE

THIS SCHEDULE SETS OUT THE OBLIGATIONS IMPOSED ON:

XXXX

OBLIGATIONS

The following obligations form part of the control order and are imposed on you by virtue of section 1(3) of the Prevention of Terrorism Act 2005:

Upon service of the control order and thereafter for the duration of this control order:

- 1) You shall permit yourself to be fitted with and shall thereafter at all times wear an electronic monitoring tag (“the tag”). You must not damage or tamper with the tag, the tag monitoring equipment and/or the telephone provided by the monitoring company (including the associated line).
- 2.1) Subject to obligations (2.2) and (2.3), you shall reside at XXXX (“the residence”) and shall remain in the residence at all times save for a period of 16 hours between 08:00 and 00:00 hours (midnight) or as specified in the directions given in writing referred to at obligation (12) below. “Residence”, in the case of a flat, encompasses only that flat and any private outside garden associated with it but, in particular, does not include any communal area either inside or outside to which any person not within the residence would have unrestricted access. “Residence”, in the case of a house, encompasses only the house and any private outside garden associated with it which can be accessed without passing through any communal area to which any person not within the residence would have unrestricted access.
- 2.2) In order to secure compliance with obligation (2.1) you shall comply with directions given in writing, by a police officer or other person authorised by the Secretary of State, relating to any occupancy rules associated with the residence.
- 2.3) On up to one occasion every four weeks, for the sole purpose of attending any public place of licensed entertainment, you are permitted to be outside of the residence between 08:00 and 04:00 hours subject to:

- (a) prior notification to the Home Office that you intend to go to a public place(s) of licensed entertainment and the name(s) and address(es) of that public place(s) of licensed entertainment by 17:00 hours on a working day so as to allow at least 24 hours notice;
 - (b) prior to visiting the place(s) identified under obligation (2.3)(a) you must receive notification from the Home Office that the notice required under obligation (2.3)(a) has been received; and
 - (c) if you no longer intend to visit the place(s) as notified under obligation (2.3)(a) you must inform the monitoring company by telephone (subject to obligation 7) as soon as practical, and in any event prior to the time that the visit as notified under obligation (2.3)(a) was due to take place.
- 3) Each day, you must report to the monitoring company (as notified to you):
- (a) via the dedicated line provided by the monitoring company on the first occasion you leave the residence and on the last occasion that you return to it; and,
 - (b) via the dedicated line provided by the monitoring company or on the mobile telephone permitted under obligation (7.1) once between 12:00 and 13:00 hours every day and once between 16:00 and 17:00 hours every day.

You are permitted to use the telephone provided to you by the monitoring company only for the purposes of complying with this obligation, or providing notification under obligations (2.3)(c) and (15.2)(d).

- 4.1) You shall not permit any person to enter the residence, save for:
- (a) your father, mother and siblings;
 - (b) your nominated legal representative as notified to the Home Office;
 - (c) members of the emergency services or healthcare or social work professionals who are operating in their professional capacity;
 - (d) any person aged 10 years and younger;
 - (e) any person required to be given access to the property under the occupancy rules and/or for the maintenance of the water, electricity, gas and/or telephone supply who are operating in their professional capacity; or
 - (f) any other individual with the prior agreement of the Home Office.
- 4.2) The Home Office may require you to supply such information about any such individual, as it may reasonably require, to enable any such individual to be

identified both for the purpose of giving or withholding approval and for the purpose of monitoring compliance with this obligation. The prior agreement of the Home Office shall not be required for subsequent visits by an agreed individual, but this does not prevent the Home Office withdrawing that agreement at any time and/or requiring the provision of further/updated photographic identity/ photograph and/or details of visitors that have already been approved.

- 4.3) Individuals listed under obligation (11) may not enter the residence at any time.
- 5) You shall not, outside of the residence:
- (a) meet any person by prior arrangement, other than:
 - (i) persons referred to in obligation (4.1)(a) to (d) above;
 - (ii) for health or welfare purposes at an establishment on a list provided to and agreed by the Home Office before your first visit;
 - (iii) for academic or training purposes at an establishment notified and agreed by the Home Office before your first attendance in accordance with obligation (13) below;
 - (iv) in working hours, for employment purposes (excluding prohibited associates listed at obligation 11);
 - (v) persons identified in a list provided to the Home Office and approved by the Home Office in writing within 7 days - this list must include employees of XXXX whom you wish to meet outside your scheduled working hours; or
 - (b) attend any pre-arranged meetings or gatherings (other than attending prayers at a mosque or work-related meetings as in 5(a)(iv)) above),

save with the prior agreement of the Home Office. For the avoidance of doubt, a meeting shall be deemed to take place outside of the residence if one or more parties to it are outside of the residence.

- 6.1) You must permit entry to your residence and/or any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in, to police officers and/or persons authorised by the Secretary of State and/or persons from the monitoring company, on production of identification, at any time to verify your presence at the residence and/or to ensure that you can comply and are complying with the obligations imposed by this control order. Such monitoring may include but is not limited to:

- (a) a search of the residence and/or you whilst you are in the residence and/or a search of any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in;
 - (b) removal of any item to ensure that it does not breach the obligations imposed by this control order;
 - (c) inspection/modification or removal for inspection/modification of any article to ensure that it does not breach the obligations imposed by this control order;
 - (d) permitting the installation of such equipment, in the residence, as may be considered necessary to ensure compliance with the obligations imposed by this control order; and
 - (e) the taking of your photograph.
- 6.2) You must, within seven days of notification of the imposition of this obligation, identify to the Home Office any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in, other than your residence as stated in obligation (2). If you subsequently obtain ownership, control, or any other interest in any building, land, vehicle or other place in the United Kingdom after the notification of the imposition of this obligation you must inform the Home Office of any such building, land, vehicle or other place within 3 days of your obtaining any such ownership, control or other interest.
- 7.1) Subject to obligations (7.2), (7.4) and (7.5) you shall not (whether directly or indirectly) use, have, acquire or keep (whether in or outside the residence) or bring or permit into the residence the following without the prior permission of the Home Office:
- (a) any equipment capable of connecting to the internet (either directly or indirectly);
 - (b) any computer/s or component/s thereof;
 - (c) any equipment and/or item/s that could be used to store digital data;
 - (d) any encryption software;
 - (e) any fixed line telephone/s and/or mobile telephone/s with the exception of one fixed line telephone in the residence and the dedicated line maintained by the monitoring company; one mobile telephone that is not capable of connecting to the internet; and one SIM card;
 - (f) SIM card/s (save for that referred to in obligation (7.1)(e) above);

(g) fax machine/s; and

(h) pager/s.

7.2) You may permit a third party to bring the following device(s) into your residence whilst you are in the residence:

(a) mobile telephone/s;

(b) SIM card/s; and

(c) pager/s.

7.3) In order to ensure your compliance with obligations (7.1) and (7.2), any of the devices/equipment referred to in obligations (7.1) and (7.2) must on request be delivered up to a person authorised by the Secretary of State for inspection (which may require removal) to ensure that it complies with the conditions in obligations (7.1) and (7.2).

And you must disclose to your designated police officer or person/s authorised by the Secretary of State:

(i) the number, make and model of any mobile telephone and/or the number of any SIM card permitted under obligation (7.1) in your possession, custody or control, as soon as reasonably practicable and in any event within 24 hours of the service of this notification;

(ii) the number, make and model of any replacement mobile telephone and/or the number of any replacement SIM card permitted under obligation (7.1) that comes into your possession, custody or control as soon as reasonably practicable and in any event within 24 hours of it coming into your possession.

7.4) The prohibition against permitting the devices/equipment mentioned at obligation (7.1) does not apply to such devices/equipment belonging to police officers; employees of the electronic monitoring company; any person required to be given access to the property under the occupancy rules and/or for the maintenance of the water, electricity, gas and/or telephone supply who are operating in their professional capacity; or members of the emergency services or healthcare or social work professionals who are operating in their professional capacity.

7.5) You are not permitted to make, directly or indirectly, any changes to the contract, number and/or telephone services associated with the one permitted fixed telephone line in your residence referred to in obligation (7.1) (e) unless you have

notified the Home Office in writing at least 7 days prior to any proposed change and you have received written approval to undertake the change.

- 8) You shall not apply for or have in your possession or available for your use any passport, identity card, travel document(s) or travel ticket which would enable you to travel outside Great Britain.
- 9) You are prohibited from entering or being present at any of the following:
 - (a) any part of an airport or sea port; or
 - (b) any part of a railway station that provides access to an international rail service

without prior permission from the Home Office.

For the avoidance of doubt, any part of an airport, seaport or railway station which provides access to an international rail service referred to in obligations (9) (a) and (b) includes but is not limited to:

- (i) any car park;
- (ii) arrival/departure lounge;
- (iii) collection/drop off point; and/or
- (iv) any building or place

which is located at or for which the primary purpose is to serve an airport, seaport or railway station which provides access to an international rail service.

- 10) You must not leave Great Britain.
- 11) You shall not associate or be party to any communications from or with, directly or indirectly at any time or in any way with the following individuals:

XXXX

XXXX

XXXX

- 12) In order to secure compliance with the obligations imposed by the control order, you shall comply with such other prohibitions or restrictions on your movement as may be required by directions given in writing at the time of service of the control order or a modification thereof by a police officer or other person authorised by the Secretary of State. Such prohibitions or restrictions shall cease to be effective 24 hours after the giving of the directions, or on earlier direction.

13.1) You must not commence any training course or academic study course provided by a third party, unless and until:

- (a) you have provided the Home Office with the following information at least 7 days prior to the commencement of the training course or academic study course:
 - (i) the name and address of your training course provider or academic study course provider;
 - (ii) the nature and location of your training course or academic study course;
 - (iii) if known, the dates on which you expect the training course or academic study course to commence and finish, and the schedule of the training course or academic study course;
- (b) you have received approval in writing from the Home Office for the training course or academic study course.

13.2) Where any approval referred to in obligation (13.1(b)) is subject to conditions, you must comply with these conditions.

13.3) Where you are already undertaking a training course or academic study course provided by a third party, you must provide the Home Office within 7 days of notification of the imposition of this obligation with the details required under obligation (13.1(a)). You must immediately cease your involvement in the training course or academic study course if you receive notification in writing from the Home Office to do so.

14.1) The Home Office will notify you in writing of areas of employment which are referred to in this obligation as “notified areas of employment”. You must not commence any employment in a notified area of employment unless and until:

- (a) you have provided the Home Office with:
 - (i) the name and address of your intended employer;
 - (ii) the nature and location of your work; and
 - (iii) if known, the date on which you expect the employment to commence;and
- (b) you have received approval in writing from the Home Office for the new employment.

14.2) Where any approval referred to in obligation (14.1(b)) above is subject to conditions, you must comply with those conditions.

14.3) In relation to any new employment which is not in a “notified area of employment” that you have applied for or have commenced since the notification of the imposition of this obligation, you must provide the Home Office with:

- (i) the name and address of your new or intended employer; and
- (ii) the nature and location of your work

within 7 days of your new employment commencing or, if earlier, within 7 days of your applying for the new employment.

14.4) You must notify the Home Office if you cease to be employed, within 3 days of ceasing to be employed.

15.1) Subject to obligation (15.2), you must not at any time enter xxxx (“your parents’ residence”). “Your parents’ residence” encompasses the house and any private outside garden and/or space associated with it.

15.2) You may enter your parents’ residence on up to four occasions each week, subject to:

- (a) written consent from your parents to, and their compliance with, the conditions given in writing at the time of the notification of the imposition of this control order. This consent must be provided in writing to the Home Office prior to you visiting your parents’ residence;
- (b) written notification to the Home Office by 5pm on a working day so as to allow at least 24 hours notice of any intended visit to your parents’ residence and the anticipated date, time and duration of the intended visit;
- (c) your receipt of confirmation from the Home Office that the notification required under obligation (15.2(b)) has been received; and,
- (d) should you no longer intend to visit your parents’ residence as notified under obligation (15.2(b)) you must inform the monitoring company by telephone (subject to obligation (7)) as soon as practical, and in any event prior to the time that the visit as notified under obligation (15.2(b)) was due to take place.

ANNEX 5

Form: POT001 (schedule)

PREVENTION OF TERRORISM ACT 2005, SECTION 2

SCHEDULE

THIS SCHEDULE SETS OUT THE OBLIGATIONS IMPOSED ON:

XXXX

OBLIGATIONS

The following obligations form part of the Control Order and are imposed on you by virtue of section 1(3) of the Prevention of Terrorism Act 2005.

Upon service of the control order and thereafter for the duration of this control order:

- 1) You shall permit yourself to be fitted with, and shall thereafter at all times wear an electronic monitoring tag (“the tag”). You must not damage or tamper with the tag, the tag monitoring equipment, and/or the telephone provided by the monitoring company (including the associated line).
- 2.1) You shall reside at XXXX (“the residence”). “Residence” encompasses only the house at this address and any private outside garden associated with it.
- 2.2) You shall remain in the residence at all times (“the curfew period”) save for a period of 10 hours between 8am and 6pm. This is subject to any directions given in writing referred to at obligation (8) below.
- 3.1) Each day, you must report to the monitoring company (as notified to you) via the telephone provided by the monitoring company:
 - (i) on the first occasion you leave the residence after a curfew period has ended; and
 - (ii) on the last occasion you return to it before a curfew period begins.

You may not use the telephone provided by the monitoring company only for any purposes other than complying with this obligation or as directed by the Home Office.

- 3.2) You must report in person to a designated police station (notified to you in writing by the police on the service of this order) each day, at a time and in a manner also to be so notified to you.

- 3.3) The Home Office will notify you in writing if the designated police station changes or if the time at which or manner in which you must report to that station changes. You must comply with any such new requirements.
- 4.1) You shall not permit any person to enter or remain in the residence whilst you are in the residence, save for:
- a) your wife and child, your wife's children, your parents, your wife's mother and your XXXX siblings;
 - b) your nominated legal representative as notified to the Home Office;
 - c) members of the emergency services or healthcare or social work professionals who are operating in their professional capacity;
 - d) any person aged 10 or under; and
 - e) any person (operating in their professional capacity) required to be given access to the property under the occupancy rules and/or for the maintenance of the water, electricity, gas and/or telephone supply.
 - f) any police officer or person authorised by the Home Office
 - g) an individual authorised by the Home Office in advance in accordance with obligation (4.3).
- 4.2) You shall not permit any of the individuals listed under obligation (6) to enter or remain in the residence at any time (including when you are not in the residence).
- 4.3) To seek authorisation for a person to visit the residence [while you are in the residence] as mentioned in obligation 4.1(g), you must supply such information about the individual that is considered necessary by the Home Office to confirm his or her identity and for the purpose of monitoring compliance with obligation 4.1 or this obligation. If such authorisation is made subject to conditions, you must comply with those conditions. If the Home Office agrees that an individual may visit the residence, the prior agreement of the Home Office shall not be required for subsequent visits by that individual, but the Home Office may withdraw its agreement at any time and/or require further/updated information about the individual (including updated photographic identity) and/or alter any conditions attached to the agreement.
- 5) You shall not, outside of the residence:
- (a) meet any person by prior arrangement, other than:

- (i) any person referred to in obligation (4.1)(a) to (d) above;
 - (ii) any person for health or welfare purposes at an establishment notified to and agreed by the Home Office before your first visit to it;
 - (iii) any person for academic or training purposes at an establishment notified to and agreed by the Home Office before your first attendance in accordance with obligation (17) below;
 - (iv) any person for employment purposes at a place of employment notified and agreed by the Home Office before your first visit in accordance with obligation (19) below; or
- (b) attend any pre-arranged meetings or gatherings (other than attending prayers at your permitted mosque), save with the prior agreement of the Home Office. You must supply such information as is considered necessary by the Home Office for it to consider any request for such agreement. If the agreement is made subject to conditions, you must comply with those conditions. For the avoidance of doubt, a meeting shall be deemed to take place outside of the residence if one or more parties to it are outside of the residence and a meeting comprises you meeting with one or more other individuals. The prior agreement of the Home Office does not prevent that agreement being withdrawn at any time or any conditions attached to it being altered.
- 6) You shall not, directly or indirectly at any time or in any way, associate with or have any communications from or with the following individuals:
- XXXX
- XXXX
- XXXX
- XXXX
- XXXX
- XXXX
- 7.1) You must, within seven days of service of this control order, provide the Home Office with details of any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in, other than the residence as stated in obligation (2). If, after service of this order, you subsequently obtain ownership, control, or any other interest in any building, land, vehicle or other place in the United Kingdom you must provide details of this to the Home Office within 2 working days of your obtaining any such interest.

- 7.2) You must permit any police officer, at any time, on production of their proof of identity, entry to the residence and/or any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in. You must allow a police officer to:
- a) search the residence or any other place mentioned above for the purpose of ascertaining whether obligations imposed by or under this control order have been, are being or are about to be contravened;
 - b) remove anything found in the residence or any other place mentioned above for the purpose mentioned in obligation (7.2(a)) or to secure that the control order is complied with;
 - c) subject anything so removed to tests or retain it for the duration of the control order;
 - d) modify (at any place) anything found in the residence or any other place mentioned above to ensure that it does not breach any of the obligations imposed by or under this control order;
 - e) install such equipment in the residence as may be considered necessary to ensure compliance with the obligations imposed by or under this control order;
 - f) take your photograph.
- 7.3) You must permit entry to the residence to persons authorised by the Secretary of State or persons from the monitoring company at any time on production of their proof of identity for the installation and maintenance of such equipment in the residence as may be considered necessary to ensure compliance with the obligations imposed by or under this control order.
- 8.1) You shall comply with such prohibitions or restrictions on your movement as may be required by directions given in writing at any time by a police officer or other person authorised by the Secretary of State. Such prohibitions or restrictions shall cease to be effective 24 hours after the giving of the directions, or on earlier direction.
- 8.2) Upon service of this order or any modification requiring your relocation to a new residence, you shall permit yourself to be escorted to the residence (either your current or new residence as the case may be) by a police officer and must comply with any directions given by a police officer in writing as part of this escort.

- 8.3) In order to secure compliance with obligation 2 you shall comply with directions given in writing, by a police officer or other person authorised by the Secretary of State, relating to any occupancy rules associated with the residence.
- 9.1) Subject to obligations (9.2) to (9.6), you shall not (whether directly or indirectly) use, have, acquire or keep (whether in or outside the residence) or bring or permit into the residence any of the following articles without the prior permission of the Home Office:
- a) any equipment capable of connecting to the internet (either directly or indirectly);
 - b) any computer/s or computer component/s;
 - c) any equipment and/or item/s that could be used to store digital data;
 - d) any encryption software;
 - e) any fixed line and/or mobile telephone/s with the exception of one fixed telephone line in the residence and the dedicated line maintained by the monitoring company; one mobile telephone that is not capable of connecting to the internet; and one SIM card which are subject to conditions;
 - f) SIM card/s save for that referred to in obligation 9(1)(e) above;
 - g) fax machine/s; and
 - h) pager/s.
- 9.2) You may permit a third party to bring the following device(s) into the residence whilst you are in the residence if the device(s) are switched off (where applicable) and not used at any time whilst you are in the residence and the third party agrees to make the device(s) available for inspection for the purposes of obligation (9.3) below:
- a) mobile telephone/s;
 - b) any equipment and/or item/s that could be used to store digital data;
 - c) SIM card/s;
 - d) portable gaming device/s; and
 - e) pager/s.
- 9.3) In order to ensure your compliance with obligations (9.1) and the conditions in (9.2), any of the articles referred to in obligations (9.1) and (9.2) must on request be delivered up to a person authorised by the Secretary of State or a police officer

for inspection (which may require removal) to ensure that it complies with the conditions in obligations (9.1) and (9.2). This will include the provision to the person authorised by the Secretary of State or to any police officer of any user names, passwords or pin codes required to unlock or activate any such article or function of such an article.

- 9.4) The prohibition against permitting the articles mentioned at obligation (9.1) into the residence (and the conditions in obligations (9.2) and (9.3)) does not apply to such devices/equipment belonging to police officers; employees of the electronic monitoring company; persons authorised by the Secretary of State; any person required to be given access to the property under the occupancy rules and/or for the maintenance of the water, electricity, gas and/or telephone supply who are operating in their professional capacity; or members of the emergency services or healthcare or social work professionals who are operating in their professional capacity.
- 9.5) You are not permitted to make, directly or indirectly, any changes to the contract, number and/or telephone services associated with the one permitted fixed telephone line in the residence referred to in obligation (9.1)(e) unless you have notified the Home Office in writing at least 7 days prior to any proposed change and you have written approval to undertake the change.
- 9.6) The prohibition against permitting the device(s)/equipment referred to at obligation (9.1) does not apply to mobile telephone/s and associated SIM card/s belonging to employees of [legal representatives] who are operating in their professional capacity.
- 9.7) You must disclose to your designated police officer or persons authorised by the Secretary of State:
 - i. the number, make, model and IMEI of any mobile telephone and/or the number of any SIM card permitted under obligation (9.1) in your possession, custody or control, as soon as reasonably practicable and in any event within 24 hours of the service of this order;
 - ii. the number, make, model and IMEI of any replacement mobile telephone and/or the number of any replacement SIM card permitted under obligation (9.1) that comes into your possession, custody or control as soon as reasonably practicable and in any event within 24 hours of it coming into your possession, custody or control.

- 10.1) Subject to obligation (10.2), you may attend one mosque of your choosing from those within your permitted area.
- 10.2) Before your first visit to any mosque that you wish to attend, you must obtain approval from the Home Office. The prior approval of the Home Office shall not be required for subsequent visits to that mosque.
- 11) You may not at any time leave the area marked on the attached map at Annex A (the width of the line itself is within the permitted area) without the consent of the Home Office. This area is bordered by in a clockwise direction XXXX.
- 12) You shall not have any interest in or use more than one financial account (your 'permitted account'). ('Financial account' includes bank accounts, building society accounts, savings accounts and store card accounts). Your permitted account must be held with a bank or other approved financial institution within the UK. The following information must be provided to the Secretary of State:
- a) statements in relation to the permitted account on a quarterly basis, to be provided within 7 days of their receipt.
- 13) You shall not transfer any money, or arrange for others to transfer, any money, or send any documents or goods to a destination outside the UK without the prior agreement of the Home Office.
- 14.1) Within 24 hours of service of this order, you must surrender your passport/s, identity card or any other travel document to a police officer or persons authorised by the Secretary of State.
- 14.2) You shall not apply for or have in your possession or available for your use any passport, identity card, travel document(s) or travel ticket which would enable you to travel outside Great Britain.
- 15) You must not leave Great Britain.
- 16) You are prohibited from entering or being present at any of the following:
- (a) any part of an airport or sea port; or
- (b) any part of a railway station that provides access to an international rail service
- without prior permission from the Home Office.
- For the avoidance of doubt; any part of an airport, seaport or railway station which provides access to an international rail service referred to in obligation (16)(a) and (b) includes but is not limited to:

- (i) any car park;
- (ii) arrival/departure lounge;
- (iii) collection/drop off point; and/or
- (iv) any building or place

which is located at or for which primary purpose is to serve an airport, seaport or railway station which provides access to an international rail service.

17.1) You must not commence any training course or academic study course provided by a third party, unless and until:

- a) you have provided the Home Office with the following information at least 14 days prior to the commencement of the training course or academic study course:
 - i) the name and address of your training course provider or academic study course provider;
 - ii) the nature and location of your training course or academic study course;
 - ii) if known, the date on which you expect the training course or academic study course to commence and the timing of the training course or academic study course;
- b) you have received approval in writing from the Home Office for the training course or academic study course.

17.2) Where any approval referred to in obligation (17.1(b)) is subject to conditions, you must comply with these conditions.

17.3) Where you are already undertaking a training course or academic study course provided by a third party, you must provide the Home Office within 7 days of notification of the imposition of this obligation with the details required under obligation (17.1)(a)). You must immediately cease your involvement in the training course or academic study course if you receive notification in writing from the Home Office to do so.

18.1) The Home Office will notify you in writing of areas of employment which are referred to in this obligation as “notified areas of employment”. You must not commence any employment in a notified area of employment unless and until:

- (a) you have provided the Home Office with:
 - (i) the name and address of your intended employer;

- (ii) the nature and location of your work; and
 - (iii) if known, the date on which you expect the employment to commence;
and
- (b) you have received approval in writing from the Home Office for the new employment (which may be subject to conditions, with which you must comply).

In this obligation, 'employment' includes all paid work, including self-employment [and all directorships whether paid or unpaid]; and 'employer' and 'employed' are construed accordingly (with 'employer' including any trading name or business).

18.2) Where, on service of this control order, you are already employed in a "notified area of employment", you must, if you receive notification in writing from the Home Office to do so, cease such employment immediately.

18.3) In relation to any new employment which is not in a "notified area of employment" that you have applied for or have commenced since the service of this control order, you must provide the Home Office with:

- (i) the name and address of your new or intended employer; and
- (ii) the nature and location of your work

within 7 days of your new employment commencing or, if earlier, within 7 days of your applying for the new employment.

18.4) If you cease to be employed, you must notify the Home Office within 2 working days of ceasing to be employed.

ANNEX 6

Form: POT001 (schedule)

PREVENTION OF TERRORISM ACT 2005, SECTION 2

SCHEDULE

THIS SCHEDULE SETS OUT THE OBLIGATIONS IMPOSED ON:

XXXX

OBLIGATIONS

The following obligations form part of the control order and are imposed on you by virtue of section 1(3) of the Prevention of Terrorism Act 2005:

Upon service of the control order and thereafter for the duration of this control order:

- 1) You shall continue to reside at XXXX (“the residence”). You shall also give the Home Office at least two working days notice, in writing, if you intend to stay overnight at any place other than the residence and such notice must specify the full address of that place and the length of time that you intend to stay at the alternative address.
- 2) You must report to xxxx Police Station each day between 11:00 and 12:00. If you wish to report to an alternative location and/or at an alternative time, the Home Office will consider such requests on a case by case basis.
- 3.1) Immediately following service of this order, you must surrender any passport/s, identity card or any other travel document in your possession to a police officer or persons authorised by the Secretary of State upon service of the control order.
- 3.2) You shall not apply for or have in your possession or available for your use any passport, identity card, travel document(s) or travel ticket which would enable you to travel outside Great Britain without prior permission from the Home Office.
- 3.3) You must not leave Great Britain without prior permission from the Home Office.
- 4) You are prohibited from entering or being present at any of the following:
 - a) any part of an airport or sea port; or
 - b) any part of a railway station that provides access to an international rail service

without prior permission from the Home Office.

For the avoidance of doubt, any part of an airport, seaport or railway station which provides access to an international rail service referred to in obligations 4(a) and (b) includes but is not limited to:

- (i) any car park;
- (ii) arrival/departure lounge;
- (iii) collection/drop off point; and/or
- (iv) any building or place

which is located at or for which the primary purpose is to serve an airport, seaport or railway station which provides access to an international rail service.

5) You shall not associate or be party to any communications from or with, directly or indirectly at any time or in any way with the following individuals:

- XXXX
- XXXX

without prior permission from the Home Office.

ANNEX 7

Form : POT001 (schedule)

PREVENTION OF TERRORISM ACT 2005, SECTION 2

SCHEDULE

THIS SCHEDULE SETS OUT THE OBLIGATIONS IMPOSED ON:

XXXX

OBLIGATIONS

The following obligations form part of the Control Order and are imposed on you by virtue of section 1(3) of the Prevention of Terrorism Act 2005.

Upon service of the control order and thereafter for the duration of this control order:

- 1) You shall permit yourself to be fitted with and shall thereafter at all times wear an electronic monitoring tag (“the tag”). You must not damage or tamper with the tag, the tag monitoring equipment and/or the telephone provided by the monitoring company (including the associated line).
- 2.1) You shall reside at XXXX (“the residence”). “Residence” encompasses only the flat at this address and does not include any private outside garden associated with it and, in particular, does not include any communal area either inside or outside the building in which the flat is located.
- 2.2) You shall remain in the residence at all times (“the curfew period”) save for a period of 12 hours between 08:00 and 20:00. This is subject to any directions given in writing referred to at obligation (8) below.
- 3.1) Each day, you must report to the monitoring company (as notified to you) via the telephone provided by the monitoring company:
 - (i) on the first occasion you leave the residence after a curfew period has ended; and
 - (iv) on the last occasion you return to the residence before a curfew period begins.

You may not use the telephone provided by the monitoring company for any purposes other than complying with this obligation or as directed by the Home Office.

- 3.2) You must report in person to a designated police station (notified to you in writing by the police on the service of this order) twice each day, at times and in a manner also to be so notified to you.
- 3.3) The Home Office will notify you in writing if the designated police station changes or if the time at which or manner in which you must report to that station changes. You must comply with any such new requirements.
- 4.1) You shall not permit any person to enter or remain in the residence while you are in the residence, save for:
 - (a) your wife and children;
 - (b) your nominated legal representative as notified to the Home Office;
 - (c) any person aged 10 or under;
 - (d) members of the emergency services or healthcare or social work professionals who are operating in their professional capacity;
 - (e) any person (operating in their professional capacity) required to be given access to the property for the maintenance of the water, electricity, gas and/or telephone supply;
 - (f) any police officer or person authorised by the Home Office;
 - (g) an individual authorised by the Home Office in advance in accordance with obligation (4.3) below.
- 4.2) You shall not permit any of the individuals listed under obligation (6.1) to enter or remain in the residence at any time.
- 4.3) To seek authorisation for a person to visit your residence while you are in the residence as mentioned in obligation 4.1(g), you must supply such information about the individual that is considered necessary by the Home Office to confirm his or her identity and for the purpose of monitoring compliance with obligation 4.1 or this obligation. If such authorisation is made subject to conditions, you must comply with those conditions. If the Home Office agrees that an individual may visit the residence, the prior agreement of the Home Office shall not be required for subsequent visits by that individual, but the Home Office may withdraw its agreement at any time and/or require further/updated information about the

individual (including updated photographic identity) and/or alter any conditions attached to the agreement.

5) You shall not, outside of the residence:

(a) meet any person by prior arrangement, other than:

- (i) any person referred to in obligation (4.1)(a) to (d);
- (ii) for health or welfare purposes at an establishment on a list provided to and agreed by the Home Office before your first visit;
- (iii) for academic or training purposes at an establishment notified and agreed by the Home Office before your first attendance in accordance with obligation (18) below;
- (iv) for employment purposes at a place of employment notified and agreed by the Home Office before your first visit in accordance with obligation (19) below;

(b) attend any pre-arranged meetings or gatherings (other than attending, but not leading, prayers at a mosque),

save with the prior agreement of the Home Office. You must supply such information as is considered necessary by the Home Office for it to consider any request for such agreement. If the agreement is made subject to conditions, you must comply with those conditions. For the avoidance of doubt, a meeting shall be deemed to take place outside of the residence if one or more parties to it are outside of the residence (and a meeting comprises you meeting with one or more other individuals). The prior agreement of the Home Office does not prevent that agreement being withdrawn at any time or any conditions attached to it being altered.

6.1) You shall not, directly or indirectly at any time or in any way, associate with or have any communications from or with the following individuals:

- XXXX

with that mode of communication; and the proposed date of the communication. If agreement is given subject to conditions, you must comply with those conditions.

- 6.3) The prior agreement of the Home Office shall not be required for subsequent communication by the same mode of communication to the same telephone number/postal address with the specified individual, but this does not prevent the Home Office withdrawing that agreement at any time or altering any conditions attached to it.
- 7.1) You must, within seven days of service of this control order, provide the Home Office with details of any building, land, vehicle, or other place in the United Kingdom that you own, control, or have any other interest in, other than your residence as stated in obligation (2). If, after service of this order, you subsequently obtain ownership, control, or any other interest in any building, land, vehicle or other place in the United Kingdom you must provide details of this to the Home Office within 2 working days of your obtaining any such interest.
- 7.2) You must permit any police officer, at any time, on production of their proof of identity, entry to your residence and/or any building, land, vehicle or other place in the United Kingdom that you own, control, or have any other interest in. You must allow a police officer to:
 - (a) search your residence or any other place mentioned above for the purpose of ascertaining whether obligations imposed by or under this control order have been, are being or are about to be contravened;
 - (b) remove anything found in your residence or any other place mentioned above for the purpose mentioned in obligation (7.2(a)) or to ensure that the control order is complied with;
 - (c) subject anything so removed to tests or retain it for the duration of the control order;
 - (d) modify (at any place) anything found in the residence or any other place mentioned above to ensure that it does not breach any of the obligations imposed by or under this control order;
 - (e) install such equipment in the residence as may be considered necessary to ensure compliance with the obligations imposed by or under this control order; and
 - (f) take your photograph.

- 7.3) You must permit entry to your residence to persons authorised by the Secretary of State or persons from the monitoring company at any time on production of their proof of identity for the installation and maintenance of such equipment in your residence as may be considered necessary to ensure compliance with the obligations imposed by or under this control order.
- 8.1) You shall comply with such prohibitions or restrictions on your movement as may be required by directions given in writing at any time by a police officer or other person authorised by the Home Office. Such prohibitions or restrictions shall cease to be effective 24 hours after the giving of the directions, or on earlier direction.
- 8.2) Upon service of this order or any modification requiring your relocation to a new residence, you shall permit yourself to be escorted to your residence (either your current or new residence as the case may be) by a police officer and must comply with any directions given by a police officer in writing as part of this escort.
- 9.1) Subject to obligations (9.2) to (9.6), you shall not (whether directly or indirectly) use, have, acquire or keep (whether in or outside the residence) or bring or permit into the residence any of the following articles without the prior permission of the Home Office:
- (a) any equipment capable of connecting to the internet (either directly or indirectly);
 - (b) any computer/s or component/s thereof;
 - (c) any equipment and/or item/s that could be used to store digital data;
 - (d) any encryption software;
 - (e) any fixed line telephone/s and/or mobile telephone/s with the exception of one fixed line telephone in the residence and the dedicated line maintained by the monitoring company; one mobile telephone that is not capable of connecting to the internet; and one SIM card;
 - (f) SIM card/s save for that referred to in obligation (9.1)(e) above;
 - (g) fax machine/s; and
 - (h) pager/s.
- 9.2) You may permit a third party to bring the following articles into your residence whilst you are in the residence if the article(s) are switched off (where applicable) and not used at any time whilst you are in the residence and the third party agrees to make the article(s) available for inspection for the purposes of obligation (9.3) below:

- a) mobile telephone/s;
- b) any equipment and/or item/s that could be used to store digital data;
- c) SIM card/s;
- d) portable gaming device/s; and
- e) pager/s.

9.3) In order to ensure your compliance with obligation (9.1) and the conditions in obligation (9.2), any of the articles referred to in obligations (9.1) and (9.2) must on request be delivered up to a person authorised by the Secretary of State or a police officer for inspection (which may require removal). This will include the provision to the person authorised by the Secretary of State or to any police officer of any user names, passwords or pin codes required to unlock or activate any such article or function of such an article.

9.4) The prohibition against permitting the articles mentioned in obligation (9.1) (and the provisions in obligations (9.2) and (9.3)) does not apply to such articles belonging to police officers; employees of the electronic monitoring company; persons authorised by the Home Office; any person required to be given access to the property for the maintenance of the water, electricity, gas and/or telephone supply who are operating in their professional capacity; or members of the emergency services or healthcare or social work professionals who are operating in their professional capacity.

9.5) You must disclose to a police officer or person/s authorised by the Home Office:

- i. the number, make, model and IMEI number of any mobile telephone and/or the number of any SIM card permitted under obligation (9.1) in your possession, custody or control, as soon as reasonably practicable and in any event within 24 hours of the service of this order;
- ii. the number, make, model and IMEI number of any replacement mobile telephone and/or the number of any replacement SIM card permitted under obligation (9.1) that comes into your possession, custody or control as soon as reasonably practicable and in any event within 24 hours of it coming into your possession, custody or control.

10.1) You may not at any time leave the area marked on the attached map at Annex A ('the permitted area') (the width of the line itself is within the permitted area) without the consent of the Home Office. This area is bordered by XXXX.

10.2) You are permitted to travel outside of your boundary along XXXX for the sole purpose of travelling between the two edges of your boundary (in either direction). You must travel directly between the two edges of your boundary without stopping or leaving XXXX at any time.

10.3) You are permitted to leave the permitted area for the sole purpose of visiting your son's nursery which is located on XXXX. You may only travel directly between the boundary of the permitted area and this location following the route outlined below:

- XXXX

11) You are prohibited from entering or being present at any of the following:

- (a) any café/shop or other premises which carries on any business (whether or not for profit or reward) of providing computers capable of connecting to the internet for use by customers or clients;
- (b) any shop or other premises which carries on any business that exclusively or mainly provides currency exchange and/or money transfer facilities whether domestic or international;
- (c) any shop or other premises which carries on any business that exclusively or mainly acts as a travel agency; and
- (d) any shop or other premises which carries on any business that exclusively or mainly provides rental or selling of computer or telecommunications hardware

without the prior permission of the Home Office.

12) You shall not have any interest in or use more than one account ("account" includes accounts in which you have an interest or over which you have an element of control and includes debit and credit cards and store cards). Such account must be held with a bank or other approved financial institution within the UK. The following information must be provided to the Home Office:

- (a) details of all accounts held at the time of service of this control order, within 2 days of such service;
- (b) closing statements relating to any accounts additional to the one permitted account, within 14 days of service of this control order;
- (c) details of a permitted account opened subsequent to the service of this control order, within 2 days of its opening; and

(d) statements of the permitted account on a monthly basis, to be provided within 7 days of their receipt.

13.1) You shall not transfer any money, or arrange for others to transfer any money, or send any documents or goods to a destination outside the UK (whether yourself or through an intermediary) without the prior agreement of the Home Office.

13.2) You are prohibited from possessing in excess of £150 in cash in any currency.

14.1) Immediately following service of this order, you must surrender your passport/s, identity card or any other travel document to a police officer or persons authorised by the Secretary of State.

14.2) You shall not, without the prior permission of the Home Office, apply for or have in your possession or available for your use any passport, identity card, travel document(s) or travel ticket which would enable you to travel outside Great Britain.

14.3) You shall not, without the prior permission of the Home Office, apply for or have in your possession or available for your use any travel ticket which would enable you to travel outside of your permitted area (as set out in obligation (10)).

15) You must not leave Great Britain.

16) You are prohibited from entering or being present at any of the following:

- a) any part of an airport or sea port; or
- b) any part of a railway station that provides access to an international rail service

without prior permission from the Home Office.

For the avoidance of doubt, any part of an airport, seaport or railway station which provides access to an international rail service referred to in obligation (16)(a) and (b) includes but is not limited to:

- (i) any car park;
- (ii) arrival/departure lounge;
- (iii) collection/drop off point; and/or
- (iv) any building or place

which is located at or for which the primary purpose is to serve an airport, seaport or railway station which provides access to an international rail service.

17.1) You must not commence any training course or academic study course provided by a third party, unless and until:

- a) you have provided the Home Office with the following information at least 14 days prior to the commencement of the training course or academic study course:
 - i) the name and address of your training course provider or academic study course provider;
 - ii) the nature and location of your training course or academic study course;
 - iii) if known, the date on which you expect the training course or academic study course to commence and the timing of the training course or academic study course;
- b) you have received approval in writing from the Home Office for the training course or academic study course.

17.2) Where any approval referred to in obligation (18.1(b)) is subject to conditions, you must comply with these conditions.

17.3) Where, on service of this control order, you are already undertaking a training course or academic study course provided by a third party, you must provide the Home Office, within 7 days of such service, with the details required under obligation (18.1 (a)) - with the actual date of commencement substituted for the expected date at 18.1(a)(iii). You must immediately cease your involvement in the training course or academic study course if you receive notification in writing from the Home Office to do so.

18.1) Within 7 days of service of this control order, you must provide the Home Office with confirmation that you are not employed, or the following details of any current employment (or employment you have applied for or are intending to commence):

- (a) the name and address of your employer; and
- (b) the nature and location of your work.

18.2) If any of the details provided under obligation (19.1) change, you must notify the Home Office of the new details within 2 working days of the change.

In this obligation, 'employment' includes all paid work, including self-employment and all directorships whether paid or unpaid; and 'employer' and 'employed' are construed accordingly (with 'employer' including any trading name or business).

18.3) The Home Office will notify you in writing of areas of employment which are referred to in this obligation as “notified areas of employment”. You must not commence any employment in a notified area of employment unless and until:

- (a) you have provided the Home Office with:
 - (i) the name and address of your intended employer;
 - (ii) the nature and location of your work; and
 - (iii) if known, the date on which you expect the employment to commence; and
- (b) you have received approval in writing from the Home Office for the new employment (which may be subject to conditions, with which you must comply).

18.4) Where, on service of this control order, you are already employed in a “notified area of employment”, you must, if you receive notification in writing from the Home Office to do so, cease such employment immediately. .

18.5) In relation to any new employment which is not in a “notified area of employment” that you have applied for or have commenced since the service of this order, you must provide the Home Office with:

- (i) the name and address of your new or intended employer; and
- (ii) the nature and location of your work

within 7 days of your new employment commencing or, if earlier, within 7 days of your applying for the new employment.

18.6) You must notify the Home Office if you cease to be employed, within 2 working days of ceasing to be employed.



information & publishing solutions

Published by TSO (The Stationery Office) and available from:

Online

www.tsoshop.co.uk

Mail, Telephone, Fax & E-mail

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Order through the Parliamentary Hotline Lo-Call 0845 7 023474

Fax orders: 0870 600 5533

E-mail: customer.services@tso.co.uk

Textphone: 0870 240 3701

The Parliamentary Bookshop

12 Bridge Street, Parliament Square

London SW1A 2JX

Telephone orders/General enquiries: 020 7219 3890

Fax orders: 020 7219 3866

Email: bookshop@parliament.uk

Internet: <http://www.bookshop.parliament.uk>

TSO@Blackwell and other Accredited Agents

Customers can also order publications from:

TSO Ireland

16 Arthur Street, Belfast BT1 4GD

Tel 028 9023 8451 Fax 028 9023 5401

ISBN 978-0-10-851010-6

