

The Rt Hon David Cameron MP
Prime Minister
10 Downing Street
London
SW1A 2AA

6 October 2010

Re: Consolidated Guidance to Intelligence Officers

As you will remember, I warmly welcomed your publication of this guidance and the accompanying announcement of a judge-led inquiry into these issues in July.

Although the guidance represents an important and extremely welcome step forward in openness and the protection of human rights I am writing to suggest two ways in which it can and should be further improved.

Ministerial consultation

The new guidance could create the impression that Ministerial authorisation grants some derogation from the requirement that officials obey the law.ⁱ

Ministerial approval does not relieve individual public officials of their legal duties in respect of torture. Ministerial approval should not be given where a serious risk of torture remains. The new guidance should state this clearly.ⁱⁱ

Rendition and unlawful detention

On this, the guidance is incomplete. Most of the protections that the guidance offers from torture should also apply to unlawful detention and rendition. It is true that the guidance and its annex refer to standards of detention, but this is far from adequate.

Clearer guidance is needed for officers. They should have clear procedures to follow in circumstances where they know or believe that a detainee is being held or transferred unlawfully. This will require additions to the table referred to at paragraph 11. A re-drafted version, with additions italicised, is attached.

I will be placing a copy of this letter in the public domain.

ANDREW TYRIE
Chairman, All Party Parliamentary Group on Extraordinary Rendition

Cc. Rt Hon Malcolm Rifkind MP, Chairman, Intelligence and Security Committee

ⁱ For example, paragraph 26 of the guidance states: "*If, despite any assurances obtained, personnel believe there is a serious risk of torture or cruel, inhuman or degrading treatment or punishment of an individual taking place, Ministers must be consulted.*"

ⁱⁱ For example, the 'Roles and responsibilities' section could be expanded to say: "*15. Ministerial approval does not relieve individual public officials of their legal duties in respect of torture. Ministerial approval should not be given where a serious risk of torture remains.*"

