



THE CABINET OFFICE
LONDON SW1A 2AS

From the National Security Adviser

25 November 2010

Dear Mr Tyne,

CONSOLIDATED GUIDANCE FOR INTELLIGENCE OFFICERS

Thank you for your letter to the Prime Minister of 6 October 2010, which has been passed to me for reply.

I am pleased to hear that you welcome the Government's publication of the "Consolidated Guidance to Intelligence Officers and Service Personnel on the Detention and Interviewing of Detainees Overseas, and on the Passing and Receipt of Intelligence Relating to Detainees".

The Government stands firmly against torture and cruel, inhuman and degrading treatment or punishment. We do not condone it, nor do we ask others to do it on our behalf. The Guidance makes clear that intelligence officers and service personnel at all times act in compliance with our domestic and international law obligations and our values as a nation.

The Guidance makes plain that in a situation where it is known or believed that torture will take place, officers must not proceed. The Guidance also makes clear that if officers are in any situation in which they are unsure about levels of risk, they should consult senior personnel and, if necessary, Ministers. Where difficult decisions are faced it is right that Ministers, who are accountable, should have the ultimate responsibility. Ministers take this responsibility extremely seriously.

Where the situation is less clear, where we cannot be certain but assess there to be a serious risk that a detainee will be tortured, the starting position is that we would not proceed with action. But, as I hope you understand, we cannot

preclude that in circumstances where the risks of inaction to national security are high, Ministers would want to consider all the facts of the case and all relevant legal considerations before taking a final decision.

The presumption against action will not be easily rebutted and there is no basis for assuming that it would in fact be overridden in any particular case. One example when the presumption might be rebutted is where there may be solid grounds for considering that the proposed action – for example, the engagement of UK personnel in an interview process – would itself mitigate the risk of torture or other mistreatment.

You suggest that the Guidance is “incomplete” as regards unlawful detention. We disagree. The annex to the Guidance covers the matter of unlawful detention exhaustively.

The Guidance is not and does not purport to be guidance to Ministers. It does not seek to regulate the details of how Ministers will respond in individual cases where consulted.

Our aim is to develop and promote human rights wherever we work, consistent with the lead the UK has taken in international efforts to eradicate torture. We attach great weight to our commitments in this regard. I hope the above will reassure you on the points you have raised regarding the Guidance.

Yours sincerely,
Peter Ricketts
Peter Ricketts

Andrew Tyrie MP
House of Commons
London
SW1A 0AA

Cc. Malcolm Rifkind MP
Chairman, Intelligence and Security Committee