

[REDACTED]

IPCO

Investigatory Powers
Commissioner's Office

PO Box 29105, London
SW1V 1ZU

Andrew Parker
Director General, MI5

8 May 2019

Dear Andrew,

DATA STORAGE AREAS IN [TECHNOLOGY ENVIRONMENTS]

On 3 May 2019, IPCO received a letter from [the Errors and Oversight team] setting out how MI5 intends, formally, to report errors under the IPA associated with the compliance problems in the [TE]. I welcome the clear approach set out in the letter as to how IPCO is to be kept updated, and, on the basis of the information with which I have been provided, I am content with the proposed approach.

The letter also contained a brief outline of two potential errors within [a second Technology Environment, the "TE2"], which are under investigation by MI5. These relate to the use of the [Area 1] and [Area 2] within [the TE2] for the storage and analysis of data, including warranted data. The letter suggests that MI5 may have had "some knowledge of compliance risk" associated with both storage areas since 2016.

IPCO inspectors were first made aware of MI5's investigation into potential compliance problems with [Area 1] and [Area 2] at the end of the first [TE] inspection on 18-22 March 2019. Having heard a brief verbal outline of MI5's investigation, which was then at an early stage, the inspection team recommended that MI5 write to IPCO as soon as possible setting out their assessment of the problem. The letter which IPCO has now received, six weeks after the first verbal update, outlines the problem in general terms but does not go into significant detail.

Unsurprisingly, I am concerned that these two potential errors, which seemingly indicate a similar set of underlying problems in [TE2] to those which we have been considering in [the TE], have surfaced in this way, on two counts.

First, it appears that MI5 has been aware of a "compliance risk" in [Area 1] and [Area 2] since 2016. I am concerned, therefore, that this information was not included in either the original briefing concerning [the TE] on 27 February 2019 or the full prose description setting out the nature of the problem dated 11 March 2019. I need an immediate briefing on this issue, supported by a prose description of the problem that is similar in layout to the one we helpfully received on 11 March 2019. This would best coincide with the meeting I have requested to discuss the extent to which MI5's Board understood and responded to the compliance risks in [the TE] as corporate knowledge of these evolved (please see my letter covering [the TE] inspection report of 26 April).

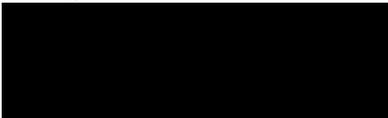
Second, to the extent that [Area 1] or [Area 2] contain warranted data, it would be helpful to understand whether MI5's use of either area is in breach of the IPA's safeguards. From the limited information so far provided it seems highly likely that this is the case, but I would welcome the earliest information on this point from MI5's perspective. If that assumption is correct, this raises the question as to whether MI5 has the capability to handle warranted data in an IPA-compliant fashion.

It follows that I would be grateful for an urgent briefing followed by a full written explanation of the [TE]-related compliance concerns. The further inspection that is scheduled for the [TE] is likely to need to include [Area 1] and [Area 2].

MI5 has deployed significant resources into identifying and mitigating compliance risks which have arisen in [the TE]. I am keenly aware that a full investigation of these two further compliance risks in [TE2] may therefore be challenging. Nevertheless, MI5's compliance with IPA safeguards, across its entire IT estate, is of critical importance to the ongoing approval of warantry. I would therefore welcome a response to this letter as soon as possible.

I am copying this letter to [REDACTED] in the Home Office.

Best wishes



The Rt. Hon. Lord Justice Fulford
The Investigatory Powers Commissioner

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