

[REDACTED]



Investigatory Powers  
Commissioner's Office

PO Box 29105, London  
SW1V 1ZU

Andrew Parker  
Director General, MI5

26 April 2019

Dear Andrew,

**IPCO Inspection Report: [TE] (follow-up)**

On 15-16 April, IPCO conducted a further inspection of aspects of the [TE], following up on our earlier inspection of 18-22 March. I enclose a copy of the report.

As you know, I determined on 5 April that MI5 had the capability, henceforth, to handle warranted data in a way which was compliant with the IPA. In making this decision, I relied on the mitigations set out by MI5 in what is now "Annex H" of the Judicial Commissioners' MI5 Handbook. The focus of this inspection was therefore to test the extent to which these mitigations had been implemented effectively.

I will not rehearse the findings of the inspection in detail here. I would, however, draw your attention to the highest priority recommendations, which are as follows:

- "Annex H" set out that, by 12 April, all business areas would have new processes in place, enabling [them to "account for the handling and management of warranted data"]. These processes had not all been implemented fully at the time of the inspection. In order to ensure MI5 complies with the IPA's safeguards, their implementation must be completed urgently.
- [REDACTED] Discussion of a practice giving rise to risks of non-compliance with the IPA's requirements on RRD which should be addressed urgently pending implementation of mitigation.
- The inspection team welcomed the opportunity to observe a user interview conducted by [a] team. As a result they have made a number of recommendations as to how [REDACTED] practice could be strengthened further.

As I noted in my decision of 5 April, this is a serious and inherently fragile situation. The future will entirely depend on compliance by MI5 with the legislation and the adequacy of the internal and external inspection regimes. IPCO will need to be reassured on a continuing basis that new warranted material is being handled lawfully. Whilst I am pleased to note the significant progress MI5 has made in mitigating the compliance risks posed by the [TE], much remains to be done

☎ 0207 389 8900

✉ info@ipco.gsi.gov.uk

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🌐 www.ipco.org.uk

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and further, detailed inspections are necessary before I can be assured sufficiently about the lawfulness of MI5's use of [TE] on an ongoing basis. As the report makes clear, we anticipate conducting a further inspection in May focused on the implementation of local processes to manage the handling of warranted data within [TE].

Separately, thank you for sending me a copy of your letter to the Home Secretary of 24 April, which, *inter alia*, sets out your position as to the extent to which MI5's Board understood and responded to the compliance risks in [the TE] as corporate knowledge of these evolved. I would welcome a discussion with you and/or members of your staff before I decide whether to add any further detail on this question for the Home Secretary and ultimately the Prime Minister – focusing in particular on the information which was available to the Board in January 2018 and to four of MI5's Directors in October 2017. There may be some additional remarks that I can properly make to set this in its proper context.

I do not underestimate the amount of resource and willpower MI5 has directed onto this problem and am very grateful to those leading the remediation work for finding time to update the inspection team on their progress to date.

Best wishes



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

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