INVESTIGATORY POWERS TRIBUNAL

REPORT

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Report of the Investigatory Powers Tribunal

This Report covers the period from 1st January 2011 to 31st December 2015 with additional significant cases decided in Spring 2016 and factual updates in Summer 2017

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Foreword from the President

I am pleased, as President of the Investigatory Powers Tribunal since September 2013, to introduce our first Report since 2010. In doing so, I pay tribute to my predecessor Sir John Mummery who retired in September 2013, and whose Vice-President I had the privilege to be since we were both appointed upon the introduction of the Tribunal in 2000.

Since the 2010 Report, the last two years in particular have seen considerable changes in the workload and the day-to-day working of the Tribunal. In part due to the recent well publicised and unauthorised Snowden disclosures and in part due to the greater interest in the Tribunal by Non-Governmental Organisations (NGOs) such as Liberty, Privacy International and Amnesty International, there have been far more claims relating to the Security and Intelligence Agencies (SIAs). These previously occupied a much smaller proportion of our time, although we have continued to receive complaints and claims in respect of law enforcement agencies and local and public authorities.

Apart from the content of our considerations, the other noticeable change is in the number of the Tribunal's public hearings. Although it is obviously essential for the Tribunal to carry out its work in private, where the material genuinely justifies the need to keep it confidential on grounds, among others, of national security, we have striven to hold hearings in public, wherever possible. These cover both interlocutory (preliminary) and full hearings.

All this means that a Report is now timely. I trust that this Report will not merely provide an up-to-date account of our work, but will increase the understanding of a Tribunal which has an important role to perform in the oversight of those privileged to exercise special investigatory powers, and to provide the public with a means of redress should those powers be exercised unlawfully.

During the last 18 months, a particularly important development in the Tribunal's work is that it has held a considerable number of *open hearings in public* ('open') and delivered eight reasoned judgments in open. This has been achieved not, I believe, at the expense of any risk to national security, but by so far as possible developing the device of hearing cases on the basis of 'assumed facts'. This means that without making any decision in the first instance as to whether the facts alleged by complainants are true, where appropriate the Tribunal invites the parties to formulate and agree issues of law for the Tribunal to decide *upon the assumption* that they are true This has enabled hearings to take place in public with full adversarial argument as to whether, assuming the facts, any such conduct as a claimant alleged to have occurred, by, for example, the SIAs, would have been lawful. Following this, *closed hearings may be held in private* ('closed'), when the legal conclusions of the Tribunal can be applied to the facts that it determines to be true.

In this respect we are in a better position even than the Commissioners, who have the right and duty to exercise far more sweeping investigations, but do not have the benefit of adversarial argument to resolve these issues. It also goes a long way to meeting what has been rightly been described by the Intelligence and Security Committee of Parliament (Report, 2015) as "the practical difficulties of making a case that will be heard in secret". In this respect I believe we are pioneers, and a number of other similar bodies in other countries have expressed interest in following our lead.

Part of what I believe to have been the successful operation of this approach has been the Tribunal's advantage of being able to call on the assistance of able and conscientious Counsel to the Tribunal. With their help we have been able to encourage Respondents such as the SIAs, to make open much of what had previously remained closed. In doing this the Tribunal adopts

a rigorous approach to the requirements and also the limits of Rule 6 of the Tribunal Rules, which stipulates that *"the Tribunal should carry out their functions in such a way as to secure that information is not disclosed to an extent or in a manner that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic wellbeing of the United Kingdom or the continued discharge of the functions of any of the intelligence services".*

This has led in a number of cases, referred to in Chapter 5, to the disclosure of rules and procedures under which the SIAs have operated, which were not previously in the public domain. Thus in the **Liberty/Privacy** cases, the **Lucas, Jones** case and the **Privacy/GreenNet** case, this has enabled the Tribunal to consider in open the lawfulness of those procedures in the light of domestic and European authority, and on the whole to endorse them, at least since the date when they were disclosed to the public. In the **Belhadj** case the result of that disclosure was an acceptance by the Government that existing procedures needed to be changed, since they had not complied with the European Convention of Human Rights.

I believe that the Tribunal's methods generally work well. I trust they have gained the confidence of those applying to us, and that they are recognised as fair and sensible by those organizations we investigate as a result of the applications made to us. It is of course worth emphasising that the Tribunal can only investigate complaints made to it. It does not have any kind of roving brief; but the fact that so many of our recent cases have been brought by NGO's, and on the basis of assumed facts, has meant that we have been able to give broad consideration to the questions brought before us: be they concerned with interception warrants under Section 8 of the Regulation of Investigatory Powers Act (RIPA), to computer exploitation or 'hacking', to questions of legal professional privilege, parliamentary immunity or to the police investigations into the event which came to be known as 'Plebgate'.

I also believe that the Tribunal now has public confidence, and has earned it. This has been in large part thanks to the hard work and conscientiousness of my fellow Tribunal Members, and of its staff. Some of these have departed during the past years, but I thank them all for their commitment to the Tribunal's work, and for their dedication to ensuring that those members of the public, or bodies, who apply to it are given the protection which our oversight is intended to secure.

Time does not stand still, and there are now publicised proposals for new legislation covering a number of difficult issues. We look forward as a Tribunal to continuing to perform our role in the light of what Parliament determines.

Sir Michael Burton,

President

Chapter 1. Overview, and background to the Tribunal

Overview

1.1 The Tribunal is an independent court. It decides complaints under the Investigatory Powers Act 2000 (RIPA) and claims under the Human Rights Act 1998 (HRA). These are allegations of unlawful intrusion by public bodies, including the Security and Intelligence Agencies (SIAs), the Police and local authorities: see Appendix A for a full list of the public bodies concerned. In simple terms, RIPA is the statute and main source of law that establishes and regulates the power of public bodies to intrude upon the privacy of members of the public; and it provides an avenue of complaint when unlawful conduct of this kind is believed to have taken place (for convenience, in this Report complaints and claims will be referred to as 'complaints').

These powers of intrusion may be summarised as follows:

* The interception of communications;
* The acquisition of communications data (e.g. billing data);
* Directed surveillance, which means covert surveillance in the course of a specific investigation or operation;
* Intrusive surveillance, which means covert surveillance carried out in relation to anything taking place on residential premises or in a private vehicle;
* The use of covert human intelligence sources (agents, informants, and undercover officers. A covert human intelligence source is known as a 'CHIS'.)

1.2 The Act provides that these powers may only be exercised if they are necessary, for example, in the interests of national security, for the purpose of preventing or detecting crime or disorder, in the interests of economic well being of the UK, or for the purpose of protecting public health. Moreover, before they can be exercised they must be assessed as proportionate to the action to be taken, and the following matters should have been clearly identified and in place:

* The purpose for which they may be used;
* Which authorities can use the powers;
* Who should authorise each use of the power;
* The use that can be made of the material gained;
* The availability of independent judicial oversight; and
* A means of redress for the individual who has been subject to the abuse of these powers.

1.3 The SIAs have other powers pursuant to Sections 5 and 7 of the Intelligence Services Act 1994, which can also be considered, investigated and ruled upon by the Tribunal, if complaint is made to it (see summary of the **GreenNet** judgment Chapter 5.13, below)

1.4 Acts of Parliament seek to achieve these supervisory aims with a substantial body of oversight. There are four key levels or pillars of oversight, of which the Tribunal is one:

1. Authorisations: Intrusive powers should only be exercised upon the authority of a warrant or an authorisation given by a "designated person" with authority to do so. Applications to use these powers must be scrutinised with great care, for they must be granted

only if the particular power sought is in all the circumstances: (a) lawfully available; (b) necessary; and (c) proportionate.

2. The Commissioners: The role of the Commissioners is to provide oversight of the way in which all public authorities in the United Kingdom carry out covert surveillance. They visit relevant public authorities, interview officers who authorize covert techniques, examine paperwork and give advice as to compliance with the law. These techniques are governed by Part III of the Police Act 1997 and Parts II and III of RIPA. There are three Commissioners, all of whom are, or have been, eminent and very senior judges.

* Interception of Communications Commissioner: responsible for keeping under review the interception of communications and the acquisition and disclosure of communications data by intelligence agencies, police forces and other public authorities. (Section 57 RIPA). The current Commissioner is the Rt. Hon. Sir Stanley Burnton.

* The Intelligence Services Commissioner: responsible for providing independent judicial oversight of the conduct of the SIAs (SIS, also known as MI6, Security Service (MI5), Government Communications Headquarters (GCHQ)) and the MOD (Section 59 RIPA). The current Commissioner is the Rt. Hon. Sir Mark Waller.

* Chief Surveillance Commissioner and Assistants: responsible for overseeing the conduct of covert surveillance and covert human intelligence sources by public authorities (other than the security services). (Police Act 1997 and Sections 62 and 63 RIPA). The current Chief Commissioner is the Rt. Hon. the Lord Judge.

3. Intelligence and Security Committee of Parliament. This is a statutory Committee (see Intelligence Services Act 1994 and Justice and Security Act 2013) comprising distinguished Parliamentarians who have further responsibility for the oversight of the SIAs (MI5, MI6, and GCHQ) and other parts of the UK intelligence community. These duties include overseeing their activities, policies, expenditure, administration and operations. This Committee is currently chaired by the Rt. Hon. Dominic Grieve QC MP.

4. The Investigatory Powers Tribunal (hereafter referred to as 'the Tribunal' or 'IPT') The Tribunal was established by RIPA (Sections 65-69) to consider, and if necessary, investigate, any complaints made by members of the public (including NGO's) who believe that they have been the victim of unlawful action under RIPA, or that their rights have been breached by any unlawful activity under RIPA or wider human rights infringements in breach of the Human Rights Act 1998. The Tribunal then decides if the complaint has been justified, making one of a number of possible Orders (see Chapter 4).

Background to the Tribunal

1.5 Section 65 of RIPA establishes a Tribunal which will investigate, subject to its jurisdiction and relevant procedures, complaints and Human Rights Act claims against any public authority with RIPA Powers in England and RIPSA Powers in Scotland. For Section 65, see Appendix B. In October 2000 the Tribunal (IPT) replaced the Interception of Communications Tribunal Service Tribunal, the Intelligence Services Tribunal and the complaints provision of Part III of the Police Act 1997 (concerning police interference with property). The Tribunal came into operation in October 2000 with the enactment of RIPA. At the same time its Rules were published. All conduct which was covered by past legislation, as well as some that was not, can now be investigated under RIPA.

1.6 The Tribunal is a statutory creation with limited jurisdiction, for its jurisdiction and powers are entirely governed by RIPA and the subordinate legislation made under it. These limitations are discussed in Chapter 2 under that heading. A summary list of public authorities with RIPA powers appears in [Appendix A] to this Report. In addition, the Tribunal is essentially reactive

as opposed to proactive, in that its powers derive from receiving a claim or complaint. It is a court and as with any court it can only consider the complaints that are brought before it. Once a complaint has been investigated, the Tribunal determines it by applying the same principles as a court on an application for judicial review.

1.7 Under Section 68 of RIPA, the Tribunal is entitled to determine its own procedures. The legislation that forms the basis of the Tribunal and the rules by which it operates (together with relevant internet links) are listed in Chapter 6. The main purpose of RIPA is to ensure that relevant investigatory powers, many of which represent significant intrusions into the private lives of citizens, are used in accordance with human rights laws.

Validation of IPT procedures

1.8 The Tribunal was established to ensure that the UK meets Article 13 of the European Convention on Human Rights (ECHR). This Article states:

"Everyone whose rights and freedoms as set forth in this Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

In the case of **Kennedy v The United Kingdom (2010) 29 BHRC 341 ECtHR,** the European Court of Human Rights in Strasburg held unanimously that there has been no violation of Article 13 of the Convention, saying:

> "Having regard to its conclusions in respect of Article 8 (*right to respect for family and private life*) and Article 6.1 (*right to a fair trial*) above, the Court considers that the IPT offered to the applicant an effective remedy insofar as his complaint was directed towards the alleged interception of his communications."

Chapter 2. How the Tribunal Works

2.1 The Tribunal as an independent court has a number of characteristics that distinguish it from other courts and tribunals. One of its unique characteristics as a court is that, where appropriate, it is able to follow through any questions which might arise, by ordering an investigation, with which the public body concerned is compelled to co-operate. Although it is called a Tribunal, the IPT is not part of 'Her Majesty's Courts and Tribunal Service'. In his 2001 Report of the Review of Tribunals (Paragraph 3.11) Sir Andrew Leggatt explained this, outlining some of the exceptional features of the Tribunal:

> "There is one exception among citizen and state tribunals. This Tribunal (IPT) is different from all others in that its concern is with security. For this reason it must remain separate from the rest and ought not to have any relationship with other tribunals. It is therefore wholly unsuitable both for inclusion in the Tribunals System and for administration by the Tribunals Service. So although the chairman [of the Tribunals system] is a Lord Justice of Appeal and would be the senior judge in the Tribunals System, he would not be in a position to take charge of it.
>
> The Tribunal's powers are primarily investigatory, even though it does also have an adjudicative role. Parliament has provided that there should be no appeal from the tribunal except as provided by the Secretary of State.
>
> Subject to tribunal rules made by the Secretary of State the Tribunal is entitled to determine its own procedure. We have accordingly come to the conclusion that this Tribunal should continue to stand alone; but there should apply to it such of our other recommendations as are relevant and not inconsistent with the statutory provisions relating to it."

2 2 Some further noteworthy characteristics of the Tribunal:

* The Tribunal can order, receive and consider evidence in a variety of forms, even if the evidence may be inadmissible in an ordinary court. This is what is meant by an investigation.

* The Tribunal is free of charge and the applicant does not have to hire a lawyer. Even if he/she loses the case, the Tribunal has never awarded costs to the public authority being complained about, and it is unlikely it would do so. Generally, the Tribunal will not make an order against a losing party for reimbursement of the costs incurred by the opposing party.

* The Tribunal can provide confidentiality to protect the claimant and the fact that he/she has made a complaint. It is anxious not to discourage people from coming forward to make a complaint, who might be apprehensive about possible repercussions.

* The Tribunal can also protect the identities of other people if harm is likely to be caused. It has done so, for instance, by giving anonymity to witnesses who would, for good reason, not in other circumstances give evidence.

* The Tribunal can review material that may not otherwise be searchable, and obtain evidence where the applicant acting alone could not. It is able to do this because it has the power to do so, and is required to keep from disclosure sensitive operational material given by the SIAs. It therefore has greater freedom to look at this kind of material than the ordinary courts

* The Tribunal adopts an inquisitorial process to investigate complaints in order to ascertain what has happened in a particular case. This is in contrast to the wholly adversarial approach followed in ordinary court proceedings.

* Like a court, the Tribunal has wide powers to make remedial orders and awards of compensation. For instance, it can stop activity, quash authorisations, order material to be destroyed and grant compensation to the extent necessary to give due satisfaction.

* Since the Tribunal is generally required to keep from disclosure sensitive operational material given by SIAs, the complainant may not be aware of what it has seen and will not be entitled to hear or see it, just as, unless a complainant consents, documents supplied by him or her to the Tribunal will not be disclosed (see Chapter 2.17-18 below)

* There is currently no domestic avenue of appeal or review against the Tribunal's decisions. (However, it is possible to challenge a ruling of the Tribunal by making an application to the European Court of Human Rights in Strasbourg).

Members (also see Report, Chapter 7)

2.3 The Tribunal's decision-makers and those with the power to order investigations are its Members. At present there are eight Members. They are all lawyers of experience and standing, presided over by the President or Vice-President, who are High Court Judges. The Members are assisted in their task by a Secretariat, whose duties include the preparation of files in respect of each complaint and carrying out essential administrative work.

Complaints which the Tribunal can consider

2.4 The Tribunal can consider any complaint by a person who believes that he or she:

* *Has been the victim of unlawful interference by public authorities using covert techniques regulated under RIPA.*

A complaint can be about any interference which the complainant believes has taken place against him, his property or communications. This includes interception, surveillance and interference with property. The public authorities include SIAs, military and law enforcement agencies as well as a range of Government Departments, regulators and local authorities; or

* *Has been the victim of a Human Rights violation*

Claims can relate to the use of covert techniques by intelligence, military and law enforcement agencies and to a wider range of human rights breaches believed to have been committed by the SIA's.

As stated above, the SIAs are: Secret Intelligence Service (or 'MI6') the Security Service (sometimes called 'MI5'), and GCHQ (the Government Communications Headquarters). 'Military' includes army, navy and air force, and law enforcement includes both national and territorial Police forces.

2.5 The first type of complaint (interference by public authorities) may also be made to the ordinary courts instead of the Tribunal, but the Tribunal has additional powers of investigation which a court does not have. In cases of Human Rights breaches involving the SIAs, the Tribunal is the only forum that can decide the complaint.

2.6 A decision that the Tribunal will not investigate a claim (see Chapter 4.1 below) will be made by two Members of the Tribunal. Once accepted, all complaints of whatever nature must always be considered and decided by at least two Members of the Tribunal. If difficult issues of law are involved the Tribunal will normally convene a panel of up to five Members.

Procedures to enhance open justice

2.7 The Closed Material Procedures have been introduced in the civil courts in order to handle civil cases where the Government may need to rely on sensitive material to justify an executive action. As a judicial body handling similarly sensitive material, the Tribunal's policies and procedures have been carefully developed and have evolved with the aim of balancing the principles of open justice for the complainant with a need to protect sensitive material. The approach of hearing a case on the basis of assumed facts has proved to be of great value.

2.8 *Assumed facts:* This means that, without making any finding on the substance of the complaint, where points of law arise the Tribunal may be prepared to *assume for the sake of argument* that the facts asserted by the claimant are true; and then, acting upon that assumption, decide whether they would constitute lawful or unlawful conduct. This has enabled hearings to take place in public with full adversarial argument as to whether the conduct alleged, if it had taken place, would have been lawful and proportionate. Exceptionally, and where necessary in the interests of public safety or national security, the Tribunal has sat in closed (private) hearings, with the assistance of Counsel to the Tribunal, to ensure that points of law or other matters advanced by the complainants are considered.

Open 'Inter-Partes' Hearings ('Open')

2.9 Accordingly, during the course of investigating a complaint which could theoretically involve undisclosed sensitive material the Tribunal may decide to hold an oral hearing to consider points of law, such as occurred in 2008 in the case of **Vincent Frank-Steiner v The Data Controller of SIS (IPT/06/81).** As has been mentioned such hearings may be held on the basis of assumed (or agreed) facts.

2.10 There has been an important development of the Tribunal's practices in this respect. The original Investigatory Powers Tribunal Rules 2000 (No.2665) provide that:

> * Rule 9(2): Although the Tribunal "shall be under no duty to hold oral hearings … they may do so in accordance with this rule".
>
> * Rule 9(6) of which was clear and unqualified in this context, and outlined that 'The Tribunal's proceedings, including any oral hearings, shall be conducted in private.'
>
> * Rule 6(2)(a) went even further, to say that the Tribunal may not even disclose to the Complainant or to any other person the fact that the Tribunal has held, or propose to hold, a separate oral hearing under rule 9(4). The fact of an oral hearing was to be kept private, even from the other party. The Tribunal were originally given very little discretion in the matter.

2.11 However, in **IPT/01/62 and IPT/01/77**, the Complainants asked the Tribunal to hold the hearing in public and the Tribunal considered this and other points of law point as a preliminary issue. In a public hearing on 22 January 2003, the Tribunal concluded that the public, as well as the parties to the complaint, have a right to know that there is a dispute about the interpretation and validity of the law. This was the first time the Tribunal sat in public, and it decided that, subject to the general duty imposed by Rule 6 (1) to prevent the disclosure of sensitive information, it can exercise its discretion in favour of holding an open hearing:

> "As no risk of prejudice to the NCND policy or to any other aspect of national security or the public interest is present, the Tribunal have decided to exercise their discretion

under Section 68(1) of RIPA to allow the hearing to be made public by means of the transcripts and also to make public the reasons for their rulings on the legal issues argued".

Commitment to Open Justice

2.12 Following this commitment to hold hearings in open when possible, the Tribunal has gone further and published its significant rulings on its website, providing that this runs no risk of disclosure of any information "to any extent, or in any manner that is contrary to or prejudicial" to the matters referred to in Section 69(6)(b) of RIPA and Rule 6(1) or to the NCND policy. Its reasoned judgments are all on the Tribunal's website (REF) and reported by the British and Irish Legal Information Institute (Bailii) with official citation numbers, and a number can also be found reported in the Law Reports

2.13 The Tribunal recognises the potential and sometimes highly sensitive conflict between the interests of complainants in securing all relevant information and, where they arise, concerns of national security and other public interests. A proper balance must be struck between them. It therefore remains within the power of the Tribunal to hold separate open and closed hearings, should the circumstances, including the nature of the material, require it to do so.

2.14 In the case of **Kennedy v The United Kingdom (2010) 29 BHRC 341 ECtHR (IPT/01/62)** these procedures, and in fact all the Tribunal's procedures, have been accepted by the European Court of Human Rights as ECHR-compliant

2.15 Finally, with regard to open hearings the Tribunal wishes to acknowledge the manner in which able solicitors and counsel on both sides, together with Counsel to the Tribunal, have conducted them. Their submissions of law, and the skill with which they have been argued and presented have been of the greatest assistance. Even if complainants have not been successful in securing the outcome they have sought they have on occasion – and without any compromise to national security – advanced the cause of transparency by achieving the open disclosure of practices which had hitherto been unknown.

Confidentiality

2.16 The matters which form the subject of complaints to the Tribunal often trigger statutory limitations which are placed upon the information that it may or may not disclose. These limitations may make it difficult to provide the reader with insight into the work of the Tribunal; but these restrictions enable the Tribunal to review highly sensitive material which cannot be in the public domain. Stringent confidentiality restrictions are set out in Section 69(6)(b) of RIPA which preclude disclosure by the Tribunal of sensitive information. Express restrictions on the disclosure of information to any third party are also contained in Rule 6. It is essential to gain an understanding of this Rule in order to appreciate the constraints under which the Tribunal operates. It would therefore be helpful for the reader to be aware of its main provisions.

"*Disclosure of Information.*

Rule 6–(1) The Tribunal shall carry out their functions in such a way as to secure that information is not disclosed to an extent, or in a manner, that is contrary to the public interest or prejudicial to national security, the prevention or detection of serious crime, the economic well-being of the United Kingdom or the continued discharge of the functions of any of the intelligence services.

(2) Without prejudice to this general duty, but subject to paragraphs (3) and (4), the Tribunal may not disclose to the complainant or to any other person:

(a) the fact that the Tribunal have held, or propose to hold, an oral hearing under rule 9(4);

(b) any information or document disclosed or provided to the Tribunal in the course of that hearing, or the identity of any witness at that hearing;

(c) any information or document otherwise disclosed or provided to the Tribunal by any person pursuant to Section 68(6) of the Act (or provided voluntarily by a person specified in Section 68(7));

(d) any information or opinion provided to the Tribunal by a Commissioner pursuant to Section 68(2) of the Act;

(e) the fact that any information, document, identity or opinion has been disclosed or provided in the circumstances mentioned in sub-paragraphs (b) to (d).

(3) The Tribunal may disclose anything described in paragraph (2) with the consent of:

(a) in the case of sub-paragraph (a), the person required to attend the hearing;

(b) in the case of sub-paragraphs (b) and (c), the witness in question or the person who disclosed or provided the information or document;

(c) in the case of sub-paragraph (d), the Commissioner in question and, to the extent that the information or opinion includes information provided to the Commissioner by another person, that other person;

(d) in the case of sub-paragraph (e), the person whose consent is required under this rule for disclosure of the information, document or opinion in question."

2.17 As stated, the Tribunal is therefore restricted in what it can disclose during the course of its investigations. The Rules state that no information or documents provided to the Tribunal, or the fact that they have been provided, can be disclosed. This is an essential component of the protection of the most secret of Government material. The Tribunal is therefore limited to giving assurance to complainants that an investigation is still ongoing.

2.18 To balance this, however, as we have mentioned, the same confidentiality restrictions also extend to complainants. During its inquiries, the Tribunal can only disclose the complainant's name, address, and date of birth to the organisation they are complaining about. It needs to disclose this information to enable record searches to be made to see if any information is held. The Tribunal needs the complainant's permission to disclose any further details regarding their complaint. The complainant can give this permission by ticking the relevant confidentiality box on the IPT complaints forms. Although complainants do not have to give this permission, the Tribunal Members may not be able to conduct as thorough an investigation as they would wish, if they do not consent to these details being disclosed.

2.19 Subject to this general duty, the Tribunal's commitment to open justice has been set out previously. Also, where the Tribunal makes a determination in favour of a complainant, it will (subject to the general duty imposed by Rule 6(1)) provide a summary of that determination to the complainant, including any findings of fact.

Neither Confirm nor Deny policy (NCND)

2.20 GCHQ has explained the policy as follows: **"**It has been the policy of successive UK Governments to neither confirm nor deny whether they are monitoring the activities of a particular group or individual, or hold information on a particular group or individual, or have had contact with a particular individual. Similarly, the long-standing policy of the UK Government is to neither confirm nor deny the truth of claims about the operational activities of the Intelligence Services, including their intelligence-gathering capabilities and techniques." This NCND response, where appropriate, is well established and lawful. Its legitimate purpose and value has been ratified by the Courts, and re-iterated by this Tribunal in the cases of **IPT/01/77 and IPT/06/81**

2.21 The justification for this policy is that if allegations of interception or surveillance are made, but not denied, then, in the absence of the NCND policy, it is likely to be inferred by a complainant that such acts are taking place. This is especially so if other complainants are being told that they have no cause for complaint, because no such acts are, or have been, taking place in relation to them. If criminals and terrorists became aware, or could infer the possibility, of covert activities, they are likely to adapt their behaviour accordingly. The likely outcome of this is that the all-important secrecy would be lost and with it the chance of obtaining valuable information needed in the public interest or in the interests of national security.

2.22 It is therefore not within the remit of the Tribunal to confirm or deny whether or not a warrant or authorisation has been issued against a member of the public, unless it is subsequently found to be unlawful. The purpose of the Tribunal is to ascertain whether legislation has been complied with and whether organisations have acted reasonably. If a complaint is upheld, the Tribunal may decide to disclose details of any conduct. If a complaint is not upheld, complainants will not be told whether or not any action has been taken against them.

Independence

2.23 Judicial independence is now officially enshrined in law under the Constitutional Reform Act 2005. No Government department, nor indeed any organisation, can intervene in a Tribunal investigation or influence its decisions.

2.24 If a complaint is within the jurisdiction of the Tribunal, then (subject to subsections 67(4) (if it is 'frivolous' or 'vexatious' – these are the words used by Parliament), subsection (5) (out of time) or other express determination by the Tribunal, it has a duty to investigate that complaint and, following that investigation, to decide it by applying the same principles as a court on an application for judicial review. The Tribunal President has ultimate responsibility for all decisions; he is not required to seek approval from anyone outside the Tribunal or from Government Ministers.

Effective investigation and administration of complaints

2.25 In the performance of its duties, and uniquely to any court or tribunal, the IPT is empowered to develop its own practices and procedures, and has done so based on the principles of open justice throughout its history.

2.26 The Tribunal regularly itself inspects confidential and secret files. It has the power, and has exercised it, to instruct (i) Counsel to the Tribunal – as an 'amicus curiae' – to advise the Tribunal; and, in appropriate circumstances, (ii) a Special Investigator to enquire into detailed facts and allegations and report to the Tribunal.

2.27 To assist in its investigation of complaints, RIPA stipulates that all organisations holding powers under the Act are required (by Section 68(6)) to provide any information requested by the Tribunal. The Tribunal can also demand clarification or explanation of the information provided. The Interception of Communications Commissioner, the Intelligence Services Commissioner and all Surveillance Commissioners must also give the Tribunal such assistance as the Tribunal may require in investigating and determining complaints. The Tribunal wishes to take this opportunity to thank the Commissioners for the assistance they have given. It is the experience of the Tribunal that it has received full and frank disclosure of relevant, often sensitive, material from those bodies of whom requests have been made. This is in no small part due to the strength of the procedures developed by the Tribunal to protect this material, and the confidence this inspires.

Human Rights Act Claims

2.28 Under RIPA, claims brought solely under the Human Rights Act are limited to the following organisations:

Any of the Intelligence Services (SIAs)

Any of Her Majesty's forces

Any UK police force

The National Crime Agency (NCA)

The Scottish Crime and Drug Enforcement Agency

The Commissioner for Her Majesty's Revenue and Customs

2.29 The Tribunal will consider if any of the above organisations has breached a complainant's human rights as a result of any conduct they may have carried out, which falls under the auspices of RIPA. In the case of **R (on the application of A) (Appellant) v B (Respondent) [2009] UKSC 12** the Supreme Court ruled that the Tribunal holds exclusive jurisdiction in Human Rights Act claims against the SIAs.

2.30 If a complainant's Human Rights claim relates to any other organisation, the Tribunal is not the appropriate place to make such a claim, and the complainant is advised to seek legal advice.

Interception

2.31 The Tribunal can consider complaints from anyone who thinks they may have been subject to interception by public authorities under RIPA.

2 32 The intentional interception of communications without lawful authority is a criminal offence and therefore a matter for the police and prosecuting authorities. For the information of the reader, under the RIPA 'Monetary Penalty Notice Regulations', which came into force on 16 Jun 2011, *unintentional* electronic interception, which does not relate to trying to put into effect an interception warrant, is now the domain of the Interception of Communications Commissioner. He alone can investigate a complaint, and if appropriate, exact a monetary penalty when this occurs.

Limitations

2.33 The Tribunal may investigate RIPA claims that fall within its jurisdiction, as outlined in this Report. It cannot, however, consider complaints against public authorities which are subject to other complaints mechanisms and oversight. The Tribunal cannot therefore consider complaints regarding the conduct of the Police or NCA which does not relate to activities referred to in the statute. These would be for the Independent Police Complaints Commission (in England and Wales), Police Ombudsman for Northern Ireland or Police Complaints Commissioner for Scotland.

2.34 The Tribunal has no jurisdiction to investigate complaints about private individuals or companies unless the complainant believes they are acting on behalf of an intelligence agency, law enforcement body or other public authority covered by RIPA.

Time Limit

2 35 The Tribunal is not obliged to investigate conduct which occurred more than one year prior to the submission of the complaint. If a complainant would like the Tribunal to consider a complaint of conduct that occurred outside this timescale, they must provide an explanation for the delay in submitting their complaint. The Tribunal can only consider such complaints if it considers it fair and reasonable to do so. It will therefore consider the explanation along with the details of the complaint, and make a decision on whether it should be accepted and investigated, and for what period

Employment Related Surveillance

2.36 In the case of **C v The Police (IPT/03/32)** the Tribunal determined that employers investigating members of their staff who were suspected of misconduct does not fall for it to consider, even if that employer has RIPA powers. The Tribunal cannot consider this type of complaint, but this does not mean that covert surveillance activities by employers is unregulated by law. If for example, someone who works in the private sector believes that he or she has been subjected to surveillance by a private investigator at the instigation of his or her employer, this is not something the Tribunal can consider; but if the conduct engages Article 8 (right to respect for private or family life), or breaches some other specific statutory requirement, common law or contract, it can be challenged in the ordinary courts.

Remedies

2.37 The Tribunal has at its disposal a range of possible remedies, as wide as those available to an ordinary court which is hearing and deciding an ordinary action for the infringement of private law rights. However, unlike Rule 10 of the Tribunal Procedure (First-Tier Tribunal) General Regulatory Chamber Rules 2009 (SI No.1976), there is no express power to award costs in Section 67(7) of RIPA, nor in the Rules. The Tribunal has only awarded costs on one occasion: see Chatwani & Others v the National Crime Agency in Chapter 5.

2.38 Apart from compensation, other orders that may be made by the Tribunal include—

* An order quashing or cancelling any warrant or authorisation; and

* An order requiring the destruction of any records of information which (i) have been obtained in exercise of any power conferred by a warrant or authorisation; or (ii) are held by any public authority in relation to any person.

Expenditure

2.39 The costs of the Tribunal are met by the Home Office, its sponsor Department which under RIPA is required to support its work, and the Foreign Office. The Tribunal is under an obligation to spend public money in line with procurement practice set out by the Cabinet Office. However, it is operationally independent, and it has been established with guarantees to ensure that it is a fully independent and impartial court. It is not answerable to Government or any Government Minister for any of the decisions it takes in the cases before it.

2.40 Members' fees, travel and subsistence vary from year to year. Members' terms and conditions state that their appointment is non-salaried and non-pensionable. A member of the Tribunal who is not a salaried judicial-holder will receive a daily fee equivalent to that paid to a Deputy High Court Judge. This is reviewed annually in line with the recommendations of the Senior Salaries Review Body for the Judiciary. Both the President and Vice President are serving High Court Judges and therefore receive no additional payment for their work on the Tribunal.

Flow chart

2.41 A summary of how the Tribunal handles complaints is set out in the flow chart below. There is in principle no set process, nor time limit, for responding to a particular complaint. This is because all cases vary in scope and detail and each one is dealt with on its own merits. The amount of time taken can also depend on the responses received to the Tribunal's enquiries, which may lead to more information being sought from the complainant, or the organisation which is the subject of the complaint. Complainants want to learn the outcomes of their complaints as quickly as possible, and the small Secretariat strives to achieve the highest standards of efficiency in administering them

THE COURSE OF AN APPLICATION TO THE TRIBUNAL

Do you want to make a complaint about the use by a public authority of covert techniques regulated by the Regulatory Powers Act 2000 ('RIPA')?

Do you want to make a claim under the Human Rights Act 1998 about breaches of human rights you believe have been committed by a UK intelligence, military or law enforcement agency?

Complete a T2 complaint form and send it either by post or electronically to the Tribunal Secretariat.

Complete a T1 claim form and send it either by post or electronically to the Tribunal Secretariat.

The Tribunal Secretariat will send you a written acknowledgement and case reference number.

If your complaint or claim falls within the Tribunal's jurisdiction, is in time and is not frivolous or vexatious, it will contact the organisation you have complained about and order it, as appropriate, to provide any information relevant to your complaint or claim. All organisations under the Tribunal's jurisdiction are required by law to provide this information.

Most of the Tribunal's determinations can be made on paper, but if it decides to hold an oral hearing which you should attend it will inform you.

If the Tribunal finds that there has been no relevant activity or that there has been activity but that the organisation has acted lawfully (for instance because it obtained the necessary authorisation and that its actions were necessary and proportionate) then it must issue a 'no determination' notice. It is not permitted to elaborate on this in its notification to you.

If the Tribunal finds that there has been activity in contravention of the relevant legislation or which is not necessary or proportionate, it will uphold your complaint or claim.

The Tribunal has wide powers to make remedial orders. It may order the ceasing of activity and destruction of records, quash any authorisation and award financial compensation.

If the Tribunal decides that your complaint or claim is:

- frivolous or vexatious,
  or
- out of time and that the 12 month time limit should not be extended,
  or
- outside its jurisdiction,

it will inform you accordingly.

There is no avenue of appeal against the Tribunal's decisions. If you want to take a human rights claim further, however, you can contact the European Court of Human Rights in Strasbourg. It is likely that you will have to show the court that you have first pursued your case through all the UK legal avenues open to you.

Chapter 3. Frequently Asked Questions

Does the Tribunal ever find in favour of complainants?

3.1 There is a common misconception in some parts of the media that the Tribunal is a 'star chamber' that always meets in secret and never rules in favour of complainants. This portrait implies that the Tribunal does not provide an effective control on RIPA powers or an effective remedy to complainants. The purpose of the preceding Chapter has been to outline how the Tribunal policies and procedures have developed to balance the need for transparency and open justice with the protection of sensitive material. In summary, the answer to the question posed above is that the Tribunal has upheld complaints against public authorities. During the period of this Report the Tribunal has for the first time, made a determination in favour of a Claimant in a case brought against one or all of the SIAs. Pursuant to Section 68 (5) RIPA the Tribunal wrote to the Prime Minister in July 2015 reporting its findings, giving a detailed explanation of its judgments in Liberty/Privacy and Belhadj & Others. Chapter 5 of the Report sets out summaries of these and other key cases ruled on by the Tribunal, some of which include rulings in favour of complainants. The remaining cases can be found on the 'IPT website': www.ipt-uk.com

Can I complain on someone's behalf?

3.2 Any complaint or claim must be brought by the person concerned (including any organisation and association or combination of persons). They may receive help in completing the form and it can be submitted by a representative. However, the Tribunal Rules require that the form and any additional statements must be signed by the complainant. The exception is signature by a parent or guardian in respect of a complaint by a child or vulnerable adult.

The Tribunal cannot accept single applications on behalf of more than one person. This is because it is required to make a determination in relation to each complaint falling within it's jurisdiction. It may find that conduct relates to one complainant but not others who are linked to that complaint and the final determination may be different.

How can I complain about surveillance or phone interception when the whole point of this kind of activity is that I do not know it is happening?

3.3 You are only required to *believe* that covert activity has taken place. You do not have to have evidence proving it in order to bring a case before the Tribunal, although it will help your case if you provide as much information as you can about the circumstances which lead you to the belief that covert action has been taken against you. The way the Tribunal is set up and the powers it has mean it is uniquely placed to facilitate the making and answering of a complaint. It is able to investigate, obtain and protect evidence on behalf of all parties to the complaint.

Will the Tribunal tell me if I have been under surveillance or my phone has been intercepted?

3.4 No. It is not the Tribunal's function to tell complainants whether their telephones have been tapped, or if they have been the subject of other activity. Its purpose is to ascertain whether legislation has been complied with and organisations have acted proportionately. If your complaint is upheld, the Tribunal may be able to disclose details of any unlawful conduct taken against you. If your complaint is not upheld, you will not be told whether any conduct has been taken against you.

Can I complain about the activities of individuals, private investigators or companies?

3.5 Under RIPA the Tribunal has no jurisdiction in these cases - unless the individuals, investigators or companies are tasked by a public authority covered by the RIPA regime. For instance, a local authority might contract out surveillance activities or ask individuals to carry

out surveillance on its behalf. In such a case the Tribunal will have jurisdiction to hear complaints.

Is there a time limit?

3.6 Yes. The Tribunal is not required to consider complaints made more than a year after the relevant activity took place. However, the Tribunal can and does exercise its discretion and extend this time if is it 'equitable' (fair), or reasonable in all the circumstances of the case.

Who actually makes the decisions in a case?

3.7 Decisions are made by a minimum of two Tribunal Members, who are required to be legally qualified as set out in RIPA.

The decisions they make include decisions whether applications are out of time, out of jurisdiction or frivolous or vexatious.

How are cases actually heard?

3.8 Within certain limits, the Tribunal can determine its own procedures. How it investigates and determines a complaint depends on the complaint before it. All determinations are made applying judicial review principles and most are made on paper without the need for oral hearings.

Is the Tribunal independent of Government?

3.9 Yes. The Tribunal is a fully independent and impartial court. No Government Department or public authority can intervene in a Tribunal investigation or influence its decisions. The Tribunal makes its determinations based entirely on the evidence before it and operates on the same principles as in judicial review cases.

How do I know the agency (SIA) will provide all information requested of it?

3.10 All public authorities investigated by the Tribunal are under a statutory obligation under RIPA Section 68(6) to provide the Tribunal with anything it requires in the course of its investigation. The Tribunal can demand clarification or explanation of any information provided, order an individual to give evidence in person, inspect an organisation's files, or take any other action it sees fit. The Tribunal can also require the various Commissioners who supervise the intelligence agencies and others to provide it with any assistance it requires for its investigations.

How long will I have to wait before the Tribunal makes its decision?

3.11 The Tribunal has no set time limit for responding to complaints or claims. This is because all cases vary in scope and detail, and each one is dealt with on its own merits. The amount of time taken can also depend on the responses received to the Tribunal's enquiries, which may lead to more information being sought from the complainant or the organisation complained about.

Will I be contacted by the organisation that is the subject of my complaint or claim?

3.12 All complaints and claims are dealt with through the Tribunal. The organisations that are the subject of a claim or complaint make all their responses directly to the Tribunal for its consideration. You will not be contacted by any organisation in relation to your complaint.

Will I receive information about the progress of my complaint/claim?

3.13 The Tribunal is restricted in what it can disclose during the investigation of a complaint or claim. The Tribunal Rules state that no information or documents provided to the Tribunal, nor the fact that any have been provided, can be disclosed. Until final determination, therefore,

the Tribunal can only inform you that an investigation is still ongoing. If the conduct you complain of is found to have occurred, and to have been unlawful, you will receive a determination in your favour. You will then receive as much information as can be supplied, without (where relevant) putting national security at risk (and see the case of Belhadj, Chapter 5.9 below).

Will making a complaint or claim to the Tribunal cost me anything?

3.14 No. The Tribunal's investigation of complaints and claims is free of charge. You do not need to hire a lawyer, but are at liberty to do so. However, if you decide to submit your complaint through a solicitor or other representative, the Tribunal will not normally refund any costs you may incur as a result. Legal aid is not available to fund any representation in the Tribunal.

Can I appeal the Tribunal's decision or ask for it to be reconsidered?

3.15 There is currently no domestic right of appeal from a decision of the Tribunal to any UK court. The only route of appeal is to the ECtHR. If, once your case has been decided, you are able to produce new evidence that was not previously submitted, then a new complaint must be made. In this event the Tribunal may require you to explain why this evidence was not available to you when you made your earlier complaint.

Can claimants visit the Tribunal's Offices or deliver material to the Tribunal in person?

3.16 No. For security reasons no such visits may take place, and all correspondence must be addressed to the Tribunal's P.O Box, 33220 London SW1H 9ZQ.

Chapter 4. Outcomes and Statistics

4.1 When a complaint has been made to the Tribunal there are seven possible outcomes:

Figure 1 Outcomes

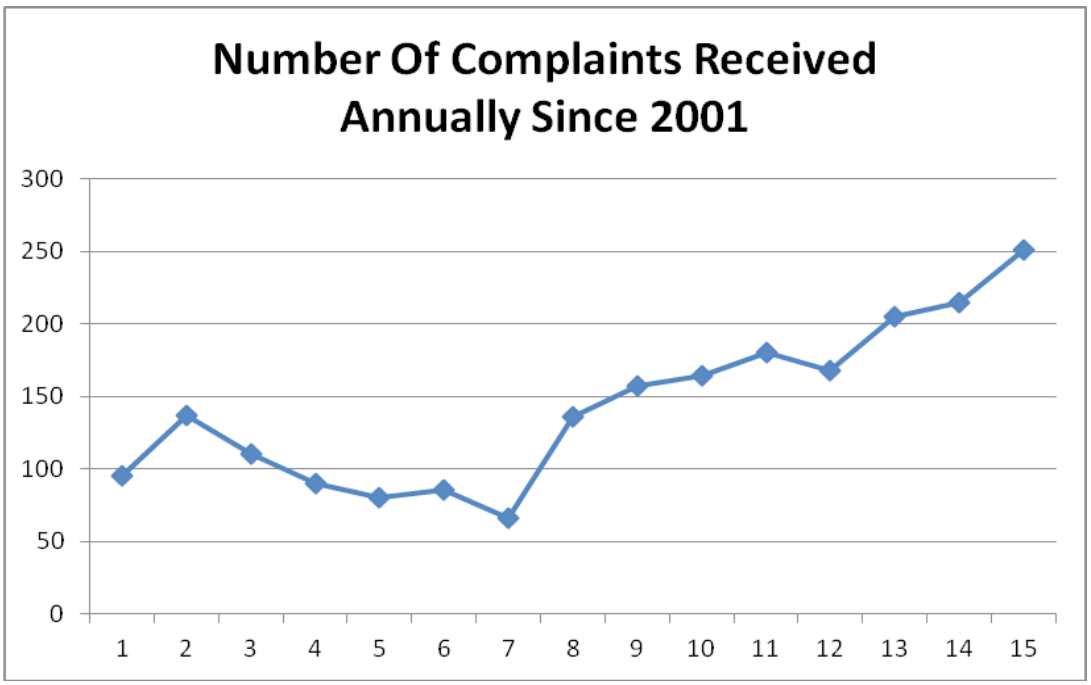
Decisions available to the Tribunal	
1	**No determination in favour of the complainant:** This means that after considering the case and requiring any necessary investigation, EITHER the Tribunal is satisfied that there has been no conduct in relation to the complainant by any relevant body which falls within the jurisdiction of the Tribunal, OR that there has been some official activity which is not in contravention of the Act, and cannot be criticised as disproportionate. The provisions of the Act do not allow the Tribunal to disclose whether or not complainants are, or have been, of interest to the SIAs or law enforcement agencies. Nor is the Tribunal permitted to disclose what evidence it has taken into account in considering the complaint.
2	**Out of Jurisdiction**: This ruling means that after careful consideration by at least two Members, the Tribunal has ruled that under Rule 13(3)(c) of the IPT Rules 2000, the Tribunal has no power to investigate the complaint.
3	**Out of Time**: In such cases after careful consideration by at least two Members the Tribunal rules that under Rule 13(3)(b) of the Investigatory Powers Tribunal Rules 2000, the complaint is out of time and the time limit should not be extended.
4	**Frivolous or vexatious**: The Tribunal concludes in such cases that the complaint is obviously unsustainable and/or that it is vexatious. A complaint is regarded as obviously unsustainable if it is so far-fetched or lacking in foundation as to justify this description. A complaint is regarded as vexatious if it is a repetition or repeated repetition of an earlier obviously unsustainable complaint by the same person, and thus falls within the provisions of Rule 13(3) (a), such that, pursuant to Section 67(4) of RIPA, the Tribunal has resolved to dismiss the claim.
5	**Case dismissed**: The Tribunal has resolved to dismiss the complaint, for example, due to a defect such as the failure by a complainant to sign the form or comply with a request for information (after due warning).
6	**CWC**: Complainant withdrew the complaint.
7	**The Tribunal has ruled in favour of the complainant.** In this event, it is open to the Tribunal to grant a remedy (as above). Sometimes the finding alone may be all that is necessary or appropriate.

Volume of Complaints

4.2 The numbers of complaints received by the Tribunal has increased steadily since its inception. The Tribunal can only consider and determine cases complainants choose to put before it, but there are a number of possible reasons for this increase. These are in part due to the Snowden leaks in 2013, but also to cases being brought by NGOs, more power being held by public authorities, amendments to RIPA that have widened the jurisdiction of the Tribunal and members of the public becoming increasingly aware of the Tribunal as a legal recourse. The combination of these factors has meant that the volume of complaints to the Tribunal has risen from 95 in its first year to over 250 in the last full year of this report.

4.3 For the purposes of this Chapter none of the complaints that are the direct result of the recent online Privacy International campaign in 2015 have been included. This is so that a better understanding of trends can be seen and years compared more appropriately. The Privacy International campaign has led to approximately 660 related individual complaints against the SIAs. These cases arise out of the judgments of the Tribunal in the Liberty/ Privacy cases Numbers 1 and 2 described in Chapter 5.7 and 5.8 below.

Figure 2 Complaints received



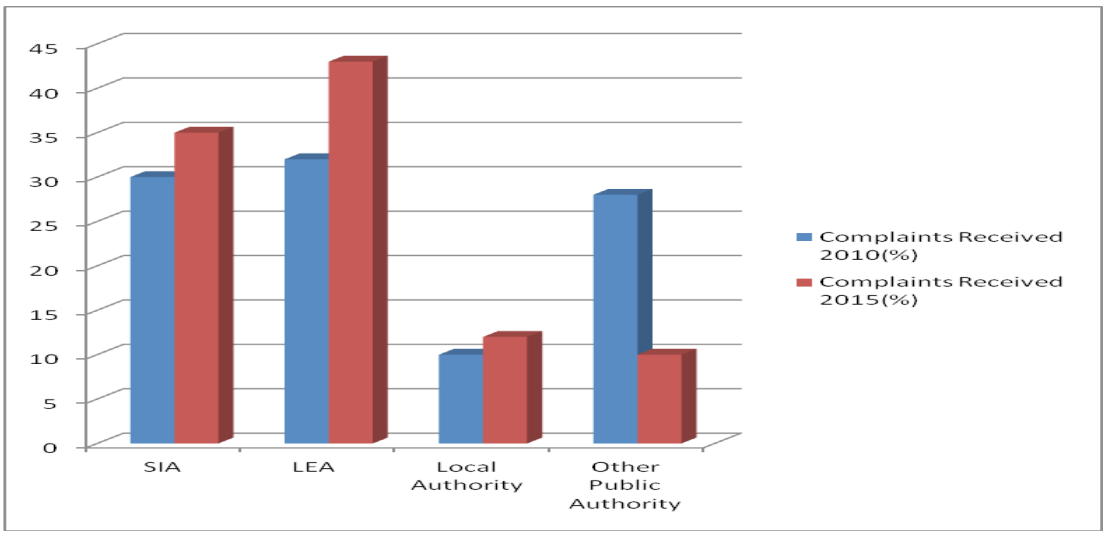
Organisations to which complaints related in 2010 and 2015

4.4 The Table and Chart below give information about the types of organisations that were the subject of complaints during these years. It is important to note that the Tribunal Rules dictate that, in the absence of any express order of the Tribunal, any valid complaint received by the Tribunal (i.e. one that is within its jurisdiction, generally refers to conduct taking place not longer than a year before the complaint, and is not deemed frivolous or vexatious) must be investigated. The mere fact of an investigation or receipt of a complaint must not be seen as any indication of unlawful behaviour. Unlawful activity on the part of a public authority only arises if the Tribunal makes a ruling in favour of the complainant.

Figure 3 Organisations

Public Authority	Complaints 2010 (%)	Complaints 2015 (%)
SIAs (MI6, MI5 or GCHQ)	30	35
Law Enforcement Agency (LEAs) (Police Force, NCA)	32	43
Local Authority	10	12
Other Public Authority e.g. Department for Work and Pensions	28	10

Figure 4 Year on year comparison



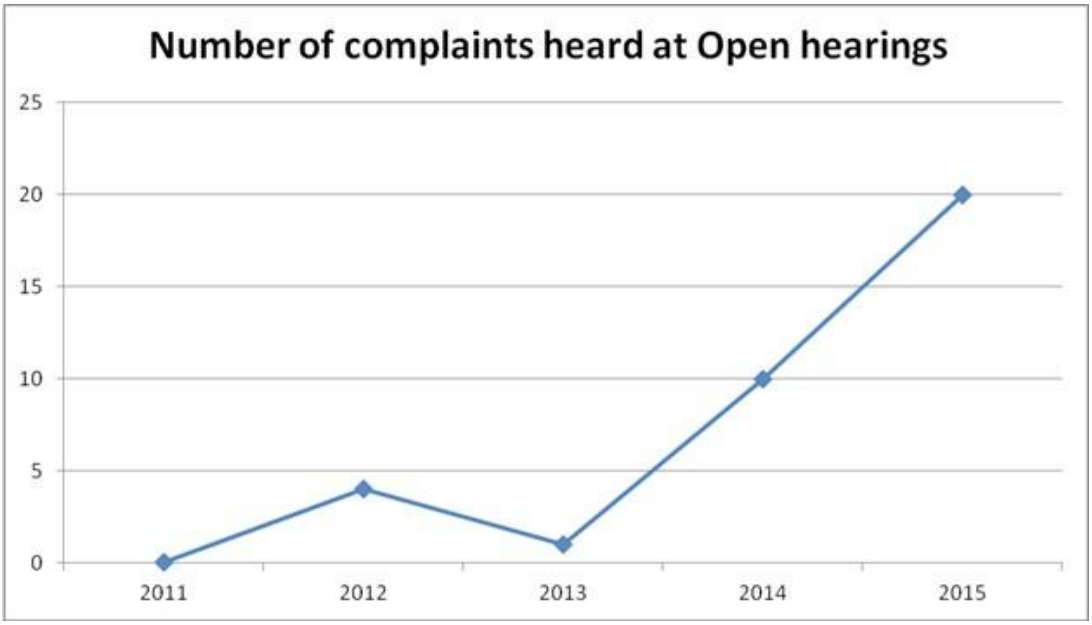
4.5 There remains a relatively even spread across the types of organisation which are the subject of complaints. Local authorities, however, received far fewer complaints than SIAs, law enforcement agencies and miscellaneous public authorities, and these have continued to decline perhaps in part due to the changes in authorisation procedures. In practice, there is a tendency on the part of complainants who may suspect they are subject to intrusive powers, but are unsure about the public authority involved, to allege unlawful conduct against all public authorities with RIPA powers, but especially to site the Police and SIAs as general bodies. As stated above, these figures do not include the recent Privacy International campaign-related claims.

Hearings

4.6 During the period of this report there has also been an increase in the number of Open hearings held by the Tribunal, particularly in relation to complaints brought by NGOs, where issues of law have been raised. However nothing in RIPA or the Tribunal Rules contains an absolute right for either party before the Tribunal to either an *inter partes* hearing or a separate oral hearing without the other party. The decision to hold an oral hearing in a particular case is at the discretion of the Tribunal. It does not have to do so, but if it considers it would assist the case, it may in accordance with Rule 9 of the Tribunal Rules.

4.7 In 2015 the Tribunal sat on 15 occasions in open court, relating to 20 complaints. The Tribunal will endeavour to announce open court proceedings in advance via its website.

Figure 5 Increase in Open hearings



4.8 As is evident from the nature of the Tribunal's jurisdiction and as is expressly recognised in RIPA and the Tribunal Rules, material about secret interception and surveillance operations pose special procedural considerations for the Tribunal. The Tribunal regularly inspects material of the highest security classification which, if disclosed, could harm national security and law enforcement operations which protect the country from terrorists, organised criminals and hostile action by other states. If they are to be used effectively, the interception of communications and covert surveillance must be secret. Accordingly the Tribunal does not give statistics for closed hearings as it is prevented from doing so by Rule 6(2)(a).

Figure 6 Number of Complaints Received and Outcome by Year

NUMBER OF COMPLAINTS RECEIVED AND OUTCOME BY YEAR	NEW CASES RECEIVED	CASES DECIDED	DECISION BREAKDOWN
2011	180	196	86 (44%) were ruled as 'frivolous or vexatious'
			72 (36%) received a 'no determination' outcome
			20 (10%) were ruled out of jurisdiction
			11 (6%) were ruled out of time
			3 (2%) were withdrawn
			2 (1%) were judged to be not a valid complaint
			2 (1%) were found in favour
2012	168	191	100 (52.5%) were ruled as 'frivolous or vexatious'
			62 (32.5%) received a 'no determination' outcome
			14 (7%) were ruled out of jurisdiction
			9 (5%) were ruled out of time
			5 (2.5%) were withdrawn
			1 (0.5%) were judged to be not a valid complaint
2013	205	161	85 (53%) were ruled as frivolous or vexatious
			50 (31%) received a 'no determination' outcome
			17 (10%) were ruled out of jurisdiction, withdrawn or not valid
			9 (6%) were ruled out of time
2014	215	201	104 (52%) were ruled as frivolous or vexatious
			53 (26%) received a 'no determination' outcome
			36 (18%) were ruled out of jurisdiction, withdrawn or not valid
			8 (4%) were ruled out of time
2015	251	219	101 (47%) were ruled as frivolous or vexatious
			65 (30%) received a 'no determination' outcome
			38 (17%) were ruled out of jurisdiction, withdrawn or not valid
			7 (3%) were ruled out of time
			8 (4%) were found in favour

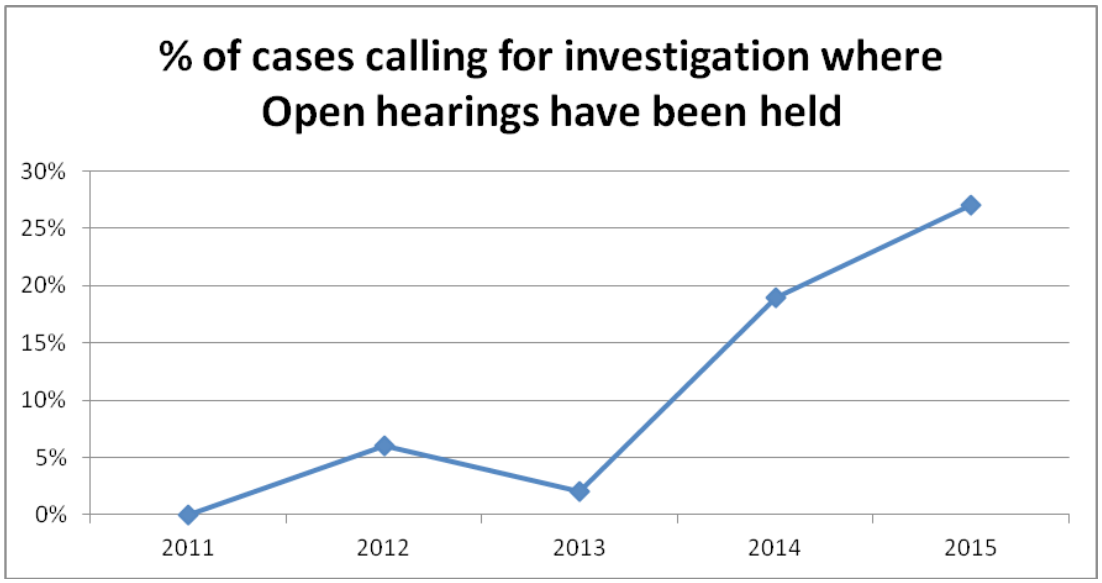
Breakdown of Complaints Determined

4.9 A breakdown of the complaints determined in the period of this report is presented at Figure 6. This shows that of the cases decided in the year 2015, 47% of complaints were ruled as 'frivolous or vexatious' and 30% received a 'no determination' outcome; another 17% were ruled out of jurisdiction, withdrawn or not valid; and 3% were ruled out of time. This means that in 97% of the complaints made of unlawful RIPA conduct either no activity at all was occurring or such activity as did occur was lawfully authorised.

4.10 The Tribunal has robust procedures for determining whether complaints are frivolous and vexatious, out of jurisdiction and out of time, as dictated by the Rules, and these have been established over its 16-year history. The history and justification of these policies and procedures is considered in depth in Chapter 2. Decisions on whether a claim is out of jurisdiction, out of time, or frivolous or vexatious are only made if two or more Members are in agreement as to the reasons for determining such an outcome. Figure 6 shows the number of complaints received by the Tribunal during the period of this report and their outcome. Figure 1 explains what those outcomes mean in greater depth. The number of cases judged by the Tribunal to be 'frivolous or vexatious' has remained high since it began its work in 2000.

4.11 Of the cases investigated by the Tribunal that are not out of jurisdiction, out of time, deemed frivolous or vexatious under Section 67(4) or dismissed for an administrative reason, there has been a dramatic rise in the number of open hearings. This reflects the Tribunal's commitment to open hearings as indicated above. It demonstrates that in 27% of complaints decided by the Tribunal in 2015, and not falling into one of the above categories, a hearing was held in open court.

Figure 7 Percentage of Open hearings



Please note: Any differences between the above statistics and those published in previous years are the result of corrections that have now been made.

Chapter 5. Key Decisions

5.1 The summaries below represent key decisions of the Tribunal since the last Report was published in 2010. These are provided to assist in understanding the Tribunal's rulings, and are not authoritative. Full copies of the judgments referred to are available on the Tribunal website at www.ipt-uk.com

W v Public Authority: Judgment dated 01/02/2011 ref IPT/09/134

5.2 The Tribunal's ruling deals with the issue of the payment of costs in a case where, although the Complainant withdrew their application, the Respondent (a public authority) sought recovery of costs

The Complainant made a complaint against the Respondent in October 2006. After initial investigations, the Tribunal set a timetable for hearings, and the attendance of witnesses. Then the date for the first hearing was set. Much work was entailed in the process, and the Respondent incurred costs in relation to preparation for that hearing (including Counsel's fees) in the sum of some £5,700.

In advance of this hearing the Complainant was directed by the Tribunal to serve submissions in writing, but he failed to do so. When further enquiries were made as to why, his response was to inform the Tribunal that he was formally withdrawing his complaint.

The issue being decided in this case was limited to whether costs can (and if so should) be awarded to (i) a respondent against a complainant; (ii) upon a withdrawal by the complainant. The Tribunal concluded that there was no power to award costs in the circumstances of the individual case. (Contrast the case of Chatwani at 5.10 below).

Mr & Mrs B v Department for Social Development ('DSD'): Judgment dated 29/07/2011 ref IPT/09/11/C

5.3 The Tribunal made a finding in favour of a husband and wife upon their joint complaint against the Northern Ireland DSD. The DSD did not dispute that they mistakenly authorised surveillance to allow DSD officers to enter the complainants' property. The circumstances were that two officers of the Northern Ireland Social Security Agency's Benefit Investigation Service, on behalf of the Respondent, entered the house owned by the Complainants, posing as potential house purchasers, and remained in the property for 35 minutes. This took place in the course of an investigation into allegedly overpaid social security benefits and allowances, which was the subject of a series of surveillance authorisations. There was a specific authorisation of this action, by way of a "test purchase operation", but such authorisation did not fall within the provisions of RIPA.

The Complainants brought proceedings by way of a complaint against the Respondent, pursuant to Section 65(4) of RIPA. They did not fill in a separate form alleging breach of the Human Rights Act 1998 (HRA), in the terms of Section 65(2)(a), but the Tribunal proceeded on the understanding that breach of Article 8 of the European Convention of Human Rights ('ECHR') was the substance of the complaint.

The Complainants sought, in addition to the quashing of warrants/authorisations, destruction of records and an apology, plus compensation in a sum which was put at a "significant six-figure sum" for each of the Complainants. The Tribunal ordered the quashing of the authorisation and the destruction of any notes of the surveillance, and stated that the surveillance was a breach of the Complainants' Article 8 rights. However, the Tribunal concluded that no pecuniary loss was established and made no award of compensation.

Mr Vaughan v South Oxfordshire District Council: Judgment dated 04/07/2012 ref IPT/12/28/C

5.4 This case raised an important point of principle as to whether council tax home inspections constitute surveillance.

After examining the definition of 'surveillance' and 'covert' the Tribunal concluded that there was no surveillance within the meaning of the legislation. Under Section 26(9) surveillance is covert only if it is carried out in a manner that is calculated to ensure that persons who are subject to the surveillance are unaware that it is or may be taking place. On this issue the focus of the case was on the manner in which the observation or monitoring of the Complainant was carried out. The Tribunal concluded that in the circumstances the surveillance carried out by the Council was not covert.

BA and others v Cleveland Police: Judgment dated 05/07/2012 ref IPT/11/129/CH, IPT/11/133/CH and IPT/12/72/CH

5.5 In this case the Tribunal examined the conduct of the Police in placing a covert device into the house of a vulnerable adult, with her consent, which resulted in the arrest of one of her carers.

The patient, who was only mobile by the use of a personal motorised chair, owned the flat. She discovered that items belonging to her were going missing, and believed that one or more of the carers were responsible, although she was unable to identify which of them. They all had unrestricted access to her flat, and the patient supervised their access save for when she was in bed, which was of course for much of the time, particularly at night. In late January 2010 her social worker reported the matter to the Police. The Cleveland Police considered a number of strategies, including the arrest of all carers, which was rejected as being disproportionate. CCTV equipment was installed with the patient's consent.

On 4 July a case for holding DVDs belong to the patient was found to be missing. On 16 July footage was removed from the device which showed the First Claimant perusing the patient's personal documents, then taking the case and peeling the patient's identity label off it.

The Tribunal was satisfied that, although the conduct was not protected by Section 27 RIPA, there was no breach of Section 32(2); and Section 65(7) makes it clear that there can be conduct not covered by an authorisation which still falls to be tested by this Tribunal. That subsection makes it plain that there will or may be cases in which the Tribunal may find it appropriate for the conduct to take place without an authorisation, although it will be expected that "at least" there will have been "proper consideration" as to whether such authorisation should be sought. In this case there was such proper consideration, and the conduct proceeded. The Tribunal was satisfied that, although the conduct was not protected by a surveillance authorisation, there was no unlawful activity or breach of Article 8.

A Complaint of Surveillance: Judgment dated 24/07/2013 ref IPT/A1/2013: Reported in [2014] 2 AER 576

5.6 In order to investigate a complaint of unlawful surveillance the Tribunal held a hearing in open court regarding paragraph 2.29 of the Surveillance Code of Practice.

A preliminary point of law arose in connection with a complaint under RIPA. The complaint was of unlawful surveillance. In order to determine the complaint, it was necessary for the Tribunal to decide whether the covert recording of a "voluntary declared interview" of the complainant amounts to "surveillance" for the purposes of Part II of RIPA.

The Tribunal considered whether a participant in a "voluntary declared interview" was entitled to complain that its being covertly recorded was an infringement of his Article 8 rights. The interviewer was simply asking questions, and observing and listening to the answers voluntarily given by the interviewee. The Tribunal declared that the covert making of a

recording of a voluntary declared interview in the course of an investigation or operation is not surveillance within the meaning of Part II of the RIPA. A record of the questions and answers made by the interviewer, either manually or by a device, in the course of the voluntary interview could not reasonably be regarded as an infringement of Article 8 rights.

Liberty/Privacy No 1: Judgment dated 05/12/2014 ref IPT/13/77/H IPT13/92/CH IPT/13/168-173/H IPT/13/194/CH IPT/13/204/CH: Reported in [2015] 3 AER 142

5.7 On the basis of assumed facts, the Tribunal considered the lawfulness of the alleged receipt by the Security Services of intercept from two interception programmes operated by the Security Services of the United States, Prism and Upstream, and of the regime of interception by the UK Security Services pursuant to warrants issued under Section 8 (4) of RIPA. The Tribunal concluded that the Section 8 (4) regime was lawful and Human Rights compliant. As for Prism and Upstream, the Tribunal concluded that prior to the proceedings and the judgment of the Tribunal there had been inadequate disclosure of the regime to be compliant with Article 8, but that since the disclosures recorded in the Tribunal's judgment of 5/12/2014 it had been compliant, with one possible exception (which was reserved for further argument: see 5.8 below).

The following Paragraphs of the Tribunal's judgment represent a summary of its main findings:

> "157. The legislation in force and the safeguards to which we have referred are intended to recognise the importance of, and the need to maintain, an acceptable balance between (a) the interests of the State to acquire information for the vital purposes of national security and the protection of its citizens from terrorism and other serious crime, and (b) the vital interests of all citizens to know that the law makes effective provision to safeguard their rights to privacy and freedom of expression, together with appropriate and effective limits upon what the State does with that information.
>
> 158. Technology in the surveillance field appears to be advancing at break-neck speed. This has given rise to submissions that the UK legislation has failed to keep abreast of the consequences of these advances, and is ill fitted to do so; and that in any event Parliament has failed to provide safeguards adequate to meet these developments. All this inevitably creates considerable tension between the competing interests, and the 'Snowden revelations' in particular have led to the impression voiced in some quarters that the law in some way permits the Intelligence Services carte blanche to do what they will. We are satisfied that this is not the case.
>
> 159. We can be satisfied that, as addressed and disclosed in this judgment, in this sensitive field of national security, in relation to the areas addressed in this case, the law gives individuals an adequate indication as to the circumstances in which and the conditions upon which the Intelligence Services are entitled to resort to interception, or to make use of intercept."

Liberty/Privacy No 2: Judgment dated 06/02/2015 ref IPT/13/77/H etc as above: Reported in [2015] 3 AER 212

5.8 This judgment dealt with the outstanding matter from Liberty/Privacy No 1. Further disclosures by the Security Services now resolved the position. The Tribunal accordingly declared that, prior to the disclosures made and referred to in the earlier judgment and this judgment, the regime governing the soliciting, receiving, storing and transmitting by UK authorities of private communications of individuals located in the UK which had been obtained by US authorities pursuant to Prism and/or on the Claimants' case Upstream, contravened Articles 8 or 10 of the Convention, but that the regime now complied with the Convention.

By an Amended Open Determination dated 22 June 2015 the Tribunal in Liberty/Privacy No's 1 and 2 made a determination in favour of Amnesty International and the Legal Resources

Centre of South Africa that there had been breaches of procedure by GCHQ such as to amount to an infringement of their rights under Article 8 of the Convention, but made no order for compensation in their favour.

Belhadj & Others v the Security Service & Others: Judgment dated 29/04/2015 ref IPT/13/132-9/H IPT/14/86/CH

5.9 The Claimants issued applications on the basis that there might have been (and for the purpose of an open hearing *were assumed to have been*) interception by the Respondents of their legally privileged information ("LPP"). After disclosure by the Respondents in the proceedings of their previously unpublished procedures for dealing with intercepted LPP, and upon the concession by the Respondents just prior to a five-day fixed hearing, the Tribunal made the following Orders:

> "UPON the Respondents conceding that from January 2010, the regime for the interception/obtaining, analysis, use, disclosure and destruction of legally privileged material has not been in accordance with the law for the purposes of Article 8(2) of the ECHR and was accordingly unlawful;
>
> AND UPON the Security Services and GCHQ confirming that they will work in the forthcoming weeks to view their policies and procedures in the light of the [new] draft Interception Code of Practice and otherwise:
>
> IT IS ORDERED that there be a declaration that since January 2010 the regime for the Interception/obtaining, analysis, use, disclosure and destruction of legally privileged material has contravened Article 8 GCHR, and was accordingly unlawful".

The Tribunal then held both a closed hearing to consider whether there had in fact been interception of the Claimants' LPP and an open hearing to consider the consequences if such were the case; and on the same day they published (i) their reasoned judgment in respect of the submissions made by the parties at the open hearing, and (ii) their open determination of the result of the closed hearing in the light of those conclusions.

The Tribunal concluded, contrary to the Respondents' submissions, that it would undermine public confidence in the Tribunal if its findings that there had been unlawful conduct by the SIAs were not made public. The Respondents had argued that it would be possible for the Tribunal to find in favour of the Complainants, and yet make a 'no-determination' finding. The Tribunal disagreed. It determined that there had been a breach of the Article 8 rights of one of the Complainants, in respect of two documents. It directed, subject to the terms of its order, that these should be destroyed, but did not award any compensation. The Tribunal further ordered that these findings should be made public.

Chatwani & Others v National Crime Agency (NCA): Judgment dated 20/07/2015 ref IPT/15/84-88/CH: Reported in [2015] Lloyds Report (Financial Crime) 659

5.10 The Complainants, members of the Chatwani and Tailor families, sought a declaration that an authorisation for property interference and for the installation of covert listening devices at the headquarters of companies owned and/or controlled by the Complainants was unlawfully obtained, and sought the return of the material obtained by the Respondent under those warrants, and destruction of work product derived from them.

Officers had entered the premises of the Complainants with the benefit of the search warrant, and searched for and removed items. Those of the Complainants who were present were arrested and interviewed at the police station, and eight separate listening devices were installed covertly in five different locations. The premises were securely protected by CCTV cameras. It would not have been possible to affect covert entry without the powers given by the search warrant, so that the opportunity was taken, at the time when they had lawfully entered the premises, to disable the CCTV, in order that the devices could be installed in "a sterile environment", so as to enable their installation without being observed.

The Respondent's plan was to execute the search warrant, arrest the Complainants and interview them, without revealing the totality of the case which the Respondent had against them, and then release them to return back to the premises, which would by then have been fitted with the listening devices.

The Tribunal concluded that, detailed as the property interference application was (as compared with the search warrant), it was deficient in an important respect, namely that it failed to record that there was indeed a likelihood of capture of LPP material, given the nature of the Plan (which was itself not fully disclosed.) Given the responsibility upon the Authorising Officer and the relevant Commissioner to consider such applications, those applying for them must take care, and greater care than was taken in this case, to comply with their vital duty of candour.

The Tribunal found in favour of the Complainants, and ordered that the Property Interference Authorisation be quashed. The Tribunal at first determined that the Complainants should not be awarded their costs, but due to the Respondent's failure thereafter to comply in timely fashion with the Tribunal's orders, an order for costs was later made against it. This was the first time the Tribunal has made an order for costs.

Caroline Lucas MP, Baroness Jones of Moulsecoomb and George Galloway v SIS, GCHQ and Secretaries of State for the Home Department and Foreign Affairs: Judgment dated 14/10/2015 ref IPT/14/79/CH. IPT/14/79/CH IPT/14/80/CH, IPT/14/172/CH: Reported in [2017] 1 AER 283

5.11 The Tribunal considered the existence and status of the Harold Wilson Doctrine ('the Wilson Doctrine'). This was born out of a statement made on 20 June 1966 by the then Prime Minister to the House of Commons to the effect that the telephones of MPs (later extended to Peers) would not be tapped, i.e. apparently giving to Parliamentarians immunity from interception.

The Tribunal concluded that the Wilson Doctrine was not an absolute one. It did not apply to prevent the issue of interception warrants under Section 8(4) of RIPA i.e. as opposed to deliberately targeted warrants under Section 8(1); nor did it apply to incidental interception of Parliamentarians' communications. It further ruled that in any event the Doctrine has no legal effect.

However, the Tribunal noted that the SIAs do in fact already have codes and guidance (disclosed in the proceedings), which impose considerable preconditions and precautions before Parliamentarians' communications could be accessed, with which they are obliged to comply. It concluded that the regime for the interception of Parliamentarians' communications complies with the Convention.

News Group Newspapers Limited and Others v The Metropolitan Police Commissioner: Judgment dated 17/12/2015 ref IPT/14/176/8: Reported in [2016] 2 AER 48

5.12 The case arose out of the event known as 'Plebgate', and the subsequent investigation by the Metropolitan Police as to how there came to be leaks of the contemporaneous police records and a subsequent purported report by a member of the public who turned out to be a police officer, which involved serious allegations both against a member of the Government and members of the Police Force. Such investigations included authorisations under Sections 2122 of RIPA for the obtaining of call data of three Sun journalists and the Sun news desk, which in the event led to the disclosure of the identity of the officer who had leaked the documents and of the source of the purported report by the alleged member of the public. This led to the convictions of one officer and dismissal from the force of others.

The Tribunal concluded that three of the applications were in accordance with RIPA, but that one was unnecessary and disproportionate. It concluded, however, that the practice adopted of applying under RIPA for disclosure of a journalist's source did not comply with the

Convention, and that the appropriate course now was, save in emergencies, to apply for judicial pre-authorisation pursuant to Section 9 of the Police and Criminal Evidence act 1984 ("PACE"), in accordance with the new 2015 code. As the three authorisations were made lawfully at the time in compliance with RIPA, the Respondent was protected by s.6 (2) (b) of the Human Rights Act, but the Fourth Complainant's authorisation should be quashed, and he was entitled to a remedy.

By a further judgment, dated 4 February 2016, the Tribunal concluded, by reference to its own authorities and those of the European Court of Human Rights, that the remedy of a declaration and a quashing order amounted to due satisfaction, and that it was not necessary to award any compensation.

Privacy International, GreenNet & Others v GCHQ and the Secretary of State for Foreign and Commonwealth Affairs. Judgment dated 12/2/16 ref IPT/14/120-126/Ch, IPT/14/85/CH

5.13 The Tribunal considered the Claimants' allegations (which were *for the purposes of the hearing assumed to be true*) as to the activities of GCHQ in carrying out Computer Network Exploitation (CNE), colloquially 'hacking', pursuant to warrants under Sections 5 and 7 of the Intelligence Services Act 1994. The Tribunal was asked to consider a number of issues of law, based on assumed facts, as to whether such activity was or would be (subject to the legality, proportionality and necessity of any particular warrant, or conduct under it, on the facts) lawful in accordance with domestic law and Articles 8 and 10 of the ECHR.

The Tribunal concluded that acts of CNE pursuant to such warrants by GCHQ would in principle be lawful both before and after the amendment of Section 10 of the Computer Misuse Act 1990 in 2014. The Tribunal considered and gave guidance as to how specific a Section 5 warrant would have to be in its description of the property in respect of CNE, and concluded that warrants compliant with such guidance would be lawful both at domestic law and so as to comply with the Convention.

The Tribunal considered the Covert Surveillance Property Interference Code (as amended from time to time since 2002) and the draft 2015 Equipment Interference Code of Practice, which in practice had been in effect since February 2015, and concluded that the regime governing the operation of Section 5 warrants, both before and after February 2015, complied with Articles 8 and 10 of the ECHR. In relation to a Section 7 warrant concerning the authorisation of acts outside the British Islands, there was an issue as to whether the Convention would apply, at least in the absence of particular facts relating to an individual case, and the Tribunal therefore reached no conclusion that the Section 7 regime was non-compliant with the Convention. In relation to the specific issue of the adequacy of dealing with legal and professional privilege, the Tribunal concluded that the CNE regime had been compliant with the Convention since February 2015 (see also the Belhadj decision at 5.7 above as to the position prior to February 2015).

Chapter 6. Legislation, Rules and Codes of Practice

6.1 The Tribunal's work – the consideration, investigation and determination of a complaint or claim - is defined by four main sources. They have already been referred to in the course of this Report. The purpose of this Chapter is simply to describe these in outline. Links to each of them are set out in Annex C.

1. The Regulation of Investigatory Powers Act 2000 (RIPA)

6.2 **Part I** is concerned with the interception of communications, their content and the acquisition and disclosure of communications data. Oversight of these activities is the province of the Communications Commissioner.

Part II provides the basis for the authorisation and use of covert surveillance (both directed and intrusive) and anyone who becomes a covert human intelligence source (CHIS). This Part regulates the use of intelligence gathering techniques and provides safeguards for the public against unnecessary and disproportionate invasion of privacy.

Part III contains provisions to enable law enforcement agencies to require the disclosure of protected and encrypted data, including encryption keys (or passwords). This came into force in 2007, after Parliament had approved a Code of Practice to cover the use of this power.

Part IV provides for the independent judicial oversight of the above, as summarised in Chapter 2 of this Report. This Part includes the appointment of the Commissioners and the establishment and make-up of the Tribunal. In relation to the Tribunal, it covers, amongst others, the following matters:

* What sort of cases it can consider (its 'jurisdiction');
* The obligations of organisations and individuals required to provide information to assist it in its decision-making;
* The right of the Secretary of State to make Rules regarding the Tribunal;
* The disclosure of information to the Tribunal;
* Aspects of any hearings the Tribunal believes necessary;
* What the Tribunal must tell the person bringing the complaint.

Statutory Instrument 2000 No. 2665, made under Section 69 of RIPA, sets out:

* How the Tribunal should proceed in its investigations and determinations;
* How it should receive evidence;
* In what circumstances it may disclose material provided to it;
* How it should determine proceedings, including oral hearings;
* How it should notify a complainant of the outcome.

This Part also provides for the provision and use of Codes of Practice to regulate the exercise and performance of the various powers set out in Parts I-III (see below).
Part V deals with various miscellaneous and supplementary matters. The provision most relevant to this Report is that Section 74 refers specifically to the requirement of proportionality, in that requests for authorisations must be proportionate 'to what the action seeks to achieve'.

2. Human Rights Act, 1998 (HRA)

6.3 The Human Rights Act 1998 (HRA) incorporates the European Convention on Human Rights (ECHR) whose Articles spell out the *universal* human rights that everyone is entitled to enjoy. Schedule 1 to the Act lists full the range of human rights or freedoms which are protected in UK law.

It will be recalled from Chapter 1.7 (above) that the Tribunal was established in order to ensure that the UK complies with Article 13 of ECHR. This provides that everyone whose rights and freedoms are violated *"… shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."*

Most rights recognised by the HRA and ECHR, such as the right to life and the prohibitions on torture or inhuman or degrading treatment, are absolute. This means that there are no conditions or mitigations by which public authorities can make them lawful.

At one time Article 6 (*Right to a fair trial*) was raised before the Tribunal, given that complainants were denied access to some material being considered by it; but these procedures have been validated by the European Court of Human Rights in the case of Kennedy (Chapter 1).

The two Articles which are now most likely to be invoked by a complainant before the Tribunal are Articles 8 and 10. However, the rights protected by these Articles are not absolute, but qualified. This means that they may be infringed by public authorities, but only if, in the circumstances of the case, the infringement is correctly balanced against the wider public interest; and in each case the wider public interest must be described. This may include national security, the prevention or detection of crime, and the protection of public health. These Articles read as follows (for the purposes of this Report, the qualifications are underlined):

> *Article 8: Right to respect for family and private life.*
>
> "1. Everyone has the right to respect for his private and family life, his home and his correspondence
>
> 2 There shall be no interference by a public authority with the exercise of this right <u>except such as is in accordance with the law and is necessary in a democratic society</u> <u>in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."</u>
>
> *Article 10: Freedom of expression*
>
> "1 Everyone has the right to freedom of expression. This right shall include freedom to hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers. This Article shall not prevent States from requiring the licensing of broadcasting, television or cinema enterprises.
>
> 2 <u>The exercise of these freedoms, since it carries with it duties and responsibilities</u>, <u>may be subject to such formalities, conditions, restrictions or penalties as are prescribed</u> <u>by law and are necessary in a democratic society, in the interests of national security,</u> <u>territorial integrity or public safety, for the prevention of disorder or crime, for the</u> <u>protection of</u> <u>health or morals, for the protection of the reputation or</u>

rights of others, for preventing the disclosure of information received in confidence, or for maintaining the authority and impartiality of the judiciary."

6.4 A person can complain to the Tribunal if they believe they have been the victim of unlawful action by a public authority breaching the HRA. A public authority acts unlawfully if either: It fails to obtain lawful authority or is no lawful authority is possible for infringing a person's human rights, or if it breaches those rights by incorrectly balancing them against the public interest.

6.5 The Tribunal is only able to hear and determine human rights claims involving allegations of the unlawful use of covert techniques regulated by RIPA by the authorities listed in Chapter 2.28 (above). These include the SIAs, armed forces, any UK police force and the NCA. If the HRA claim relates to any other organisation, the Tribunal is not the appropriate place to make such a claim, and the complainant is advised to seek legal advice.

3. The Rules

6.6 Statutory instrument 2000 No.2665, made under Section 69 of RIPA, sets out the rules of the Tribunal. These relate to:

* How the Tribunal should proceed in its investigations and determinations;
* How it should receive evidence;
* In what circumstances it may disclose material provided to it;
* How it should determine proceedings, including oral hearings;
* How it should notify a complainant of the outcome.

In the course of this Report extensive reference has been made to the Rules. There are 13 Rules in all. For the convenience of the Reader the following is a brief summary of the relevant Rules.

Rules 4 and 5 spell out the jurisdiction of the Tribunal Members to hear complaints. Rule 4 deals with the powers that may be exercised by two or more Members; Rule 5 deals with the powers that may be exercised by one member.

Rule 6, which deals with the restrictions on the disclosure of information, has already been described in detail in Chapter 2 of this Report.

Rules 7 and 8 govern the requirements of a complaint, staying what a complaint form must contain, and that it must be signed by the complainant. The Tribunal may require a complainant to "supply further information, or make written representations on any matter." (For the convenience of complainants, their complaints may now be submitted on-line, and the Tribunal is now prepared to accept electronic signatures.)

Rule 9 governs the Tribunal's powers to receive written representations, or hold oral hearings.

Rule 10 relates to the ability of the parties to be represented before the Tribunal.

Rule 11 provides that "the Tribunal may receive evidence in any form, and may receive evidence that would not be admissible in a court of law".

Rule 12 deals with the Tribunal's ability to grant remedies, including compensation, to an injured party.

Rule 13 deals with the manner in which the Tribunal may notify complainants of its determinations.

4. Codes of Practice

6.7 Codes of practice include guidance for authorised public authorities making an application or utilising any of the special investigatory powers available to them under RIPA or similar legislation. They help such public authorities assess and understand whether, and in what circumstances, it is appropriate to use such powers. The Codes also provide guidance on what procedures need to be followed by them in each case. All Codes must be approved and debated in both Houses of Parliament and published. Public authorities are required by law to comply with them. The RIPA legislation is complex; it is not an easy statute to understand. In his 2013 Annual Report, Sir Anthony May, a past President of the Queen's Bench Division and then Interception of Communications Commissioner, described Part I of the Act as "difficult legislation, and the reader's eyes glaze over before reaching the end …" He went on to say "The Codes of Practice are more accessible and contain a fairly readable account of the requirements and constraints."

6.8 The updated Interception of Communications Code of Practice 2016 reflects developments in the law since the Code was brought into force in 2002. The Equipment Interference Code of Practice 2016 explains the circumstances and procedures that must be followed before SIAs can interfere with electronic equipment, such as computers. It also describes the rules that must apply to the processing, retention, destruction and disclosure of any information obtained by interference. They also provide more information on the safeguards that apply to the security and law enforcement agencies' exercise of interception powers. Development of these new Codes of Practice has coincided with, and in some cases anticipated or resulted from, the scrutiny of the previous Codes by the Tribunal.

Chapter 7. Tribunal Members

7.1 The Tribunal currently comprises eight members, including the President Mr Justice Burton and Vice-President Mr Justice Mitting.

Legislative requirements for membership

7.2 All Members of the Tribunal are appointed by HM The Queen, and must be senior members of the legal profession. This means:

* A person who has held high judicial office (within the meaning of Part 3 of the Constitutional Reform Act 2005) or is or has been a member of the Judicial Committee of the Privy Council; or

* A person who satisfied the judicial appointment eligibility condition on a seven year basis (under the Tribunals, Courts and Enforcement Act 2007); or

- An advocate or solicitor in Scotland of at least ten years' standing; or

- A member of the Bar of Northern Ireland or solicitor of the Supreme Court of Northern Ireland of at least ten years' standing.

7.3 Both the President and Vice President must satisfy the first of these criteria; they must hold or have held high judicial office.

7.4 Appointments are made for terms of five years, after which Members may stand down or declare themselves available for reappointment.

7.5 A Member of the Tribunal is called upon to review Tribunal cases, to sit on Tribunal oral hearings and to undertake any other prescribed duties as the need arises. The frequency of reviewing case files and sittings depends upon the workload of the Tribunal and on the commitments of the office holder.

Present Members

Sir Michael Burton (President)

Sir Michael Burton was a scholar at Eton College and then at Balliol College, Oxford, where he read Classics and then Law, obtaining his MA: he was a lecturer in law at Balliol from 1970 to 1973. He was called to the Bar in 1970, became a QC in 1984, and was appointed a High Court Judge in 1998. He had a busy commercial practice in the Queen's Bench Division, Chancery Division, Commercial Court and Employment courts, in a wide variety of fields of Law, and sat for many years as a Recorder and Deputy High Court Judge. He was Head of Littleton Chambers from 1991 to 1998.

Since his appointment as a High Court Judge he has sat in Queen's Bench and Chancery Divisions, Commercial Court, Administrative Court, Family Division, Revenue List and the Employment Appeal Tribunal, of which he was President from October 2002 to December 2005, and remains a nominated judge. He was Chairman of the High Court Judges Association from 2010-11. He has been since 2000 the Chairman of the Central Arbitration Committee, pursuant to the Employment Relations Act 1999. He was Treasurer of Gray's Inn in 2012 and remains a Bencher, and is an Honorary Fellow of Goldsmiths College, University of London He is editor of Civil Appeals (2nd Ed Sweet & Maxwell 2013). He was Vice-President of the Investigatory Powers Tribunal from its inception in 2000 until appointed its President in October 2013.

Sir John Edward Mitting (Vice-President)

Educated at Downside & Trinity Hall, Sir John took silk in 1987 and became a Recorder in 1988. In 1994 he was appointed a deputy High Court Judge, becoming a High Court Judge in 2011.
He became a nominated judge of the Administrative Court in 2002, and between 2007-2012 was President of the Special Immigration Appeals Tribunal. He was appointed Vice President of the Tribunal in 2015

Charles Flint QC

Charles Flint QC is a former head of Blackstone Chambers. He specialises in financial services regulation and acts as a mediator in banking and financial services disputes. He is a non-executive director of the Dubai Financial Services Authority, a deputy chairman of the Bar Mutual Indemnity Fund Limited, a member of the Club Financial Control Panel of the Union of European Football Associations and President of the National Anti-Doping Panel. He has been a Member of the Tribunal since 2009.

Christopher Gardner QC

Christopher Gardner has been a Member of the Tribunal since 2009. He practised both as a barrister (called 1968) and Queen's Counsel (1994) from Lamb Chambers, Temple in all forms of contractual and tortious dispute, professional negligence, sports injuries, product liability, insurance, health & safety, personal injury and clinical malpractice. He was appointed a Recorder in 1993 and is a Chartered Arbitrator and Accredited Mediator.

He is a Fellow of the Chartered Institute of Arbitrators (1999), Fellow of the Society for Advanced Legal Studies (1999), Fellow of the Royal Society of Medicine (2000) and Fellow of the Commonwealth Judicial Education Institute (2013). He was appointed Chief Justice of the Turks and Caicos Islands, British West Indies, from 2004-2007 and was Chief Justice of the Falkland Islands, South Georgia, South Sandwich, British Antarctic Territory and British Indian Ocean Territory from 2007- 2015.

Sir Richard McLaughlin

Sir Richard served as High Court judge during a 40-year legal career in Northern Ireland. He held office as a Judge of the Supreme Court of Judicature of Northern Ireland from 1999 to his retirement in 2012. In addition, he was deputy Chair of the Boundary Commission for Northern Ireland, Chair of Servicing the Legal System, Member of the Judicial Studies Board and Chair of the Bar Council of Northern Ireland. He is a Fellow of the Chartered Institute of Arbitrators, LL.B, Queen's University Belfast 1970, LL.M University of Strathclyde 1997. He was appointed to the Tribunal in September 2014.

Susan O'Brien QC

Susan O'Brien QC is the Chair of the Scottish Child Abuse Inquiry. She was in practice at the Scottish Bar until 2015, where she specialised in personal injury and medical negligence. Prior to calling to the Bar, she was a solicitor for 6 years, and as junior counsel she acted for various government departments in judicial reviews. She was a part-time Employment Judge from 2000 to 2015, and a part-time Chairman of Pension Appeal Tribunals from 2012 to 2015. She was a part-time Sheriff from 1995-1999. She was a member of the panel of legal assessors for the General Teaching Council of Scotland from 2005-2010, and a Reporter for the Scottish Legal Aid Board 1999-2005. She was Chair of the Caleb Ness Inquiry for Edinburgh and Lothian Child Protection Committee, which reported in 2003. She was an elected office bearer of the Faculty of Advocates when she was Chairman of Faculty Services Ltd from 2005-2007. She is a Governor of Heriot-Watt University. She was appointed to this Tribunal in 2009.

Robert Seabrook QC

Robert Seabrook QC was called to the Bar in 1964 and took silk in 1983. His wide-ranging experience crosses jurisdictions. In recent years he has concentrated on the fields of clinical negligence, medical disciplinary work and substantial matrimonial finance and property cases.

He was educated at St Georges College, Harare, Zimbabwe and University College London (LL.B). He has been a Deputy High Court Judge, Chairman of the Bar of England and Wales 1994, Leader of South Eastern Circuit 1989-92, member of the Criminal Justice Consultative Council (19952002). In addition he has served as a Recorder (1985-2007).

Mr Seabrook was a Member of the Interception of Communications Tribunal (1996-1999) which pre-dated the Investigatory Powers Tribunal and has been a Member of this Tribunal since 2000.

Professor Graham Zellick CBE QC

Graham Zellick read law at Cambridge (MA, PhD) and was then Ford Foundation Fellow at the Stanford Law School in California. He became Professor of Public Law at Queen Mary and Westfield College and later served as Drapers' Professor of Law, Head of the Department of Law and Dean of the Faculty of Laws. He was Principal of the College from 1990 to 1998 and Vice-Chancellor and President of the University of London for six years before becoming Chairman of the Criminal Cases Review Commission. From January 2009 to August 2015, he was the first President of the Valuation Tribunal for England.

Professor Zellick is a Master of the Bench and former Reader of the Middle Temple, an Honorary Fellow of the Society for Advanced Legal Studies, Fellow of the Academy of Social Sciences and an Honorary Fellow of Gonville and Caius College, Cambridge.

He was editor of *Public Law* and founding editor of *European Human Rights Reports*, was one of the first Electoral Commissioners, a member of the Criminal Injuries Compensation Appeals Panel, the Competition Appeal Tribunal, the Data Protection Tribunal and the Lord Chancellor's Legal Aid Advisory Committee. Professor Zellick was appointed to the Tribunal in January 2013.

Past Members

Sir John Mummery

The Rt Hon Lord Justice Mummery was appointed a Lord Justice of Appeal in October 1996 He was born in Kent and educated at Dover County Grammar School; Pembroke College, Oxford 1959 - 63 (MA, BCL: Winter Williams Prize in Law ; Hon Fellow, 1989). He was called to the Bar at Gray's Inn (Atkin Scholar), in 1964. He served as a Bencher in 1985 and Treasury Junior Counsel : in Charity Matters, 1977 - 81 : Chancery 1981 - 89 : He served as a Recorder, 1989.

Further he has been a member of the Senate of Inns of Court and Bar, 1979 - 81. He was a Member of the Justice Committee on Privacy and the Law, 1967 - 70 ; Sir John has been a Judge of the High Court of Justice, Chancery Division; from 1993 – 1996, President of the Employment Appeal Tribunal, a Lord Justice of Appeal from 2000 and the President of this Tribunal from its inception in 2000 until his retirement from both positions in September 2013.

Dame Sue Carr

Dame Sue Carr is a judge of the High Court of Justice, Queen's Bench Division. She was called to the Bar in 1987, became Queen's Counsel in 2003 and was appointed a Recorder in 2009. She was chairman of the Professional Negligence Bar Association in 2007 and 2008 and chairman of the Conduct Committee of the Bar Standards Board from 2008 to 2010 before becoming head of her chambers in 2012. In April 2011 she was appointed Commissioner to the Disciplinary Board for counsel intervening in proceedings before the International Criminal

Court at The Hague. She was appointed a High Court Judge on 14 June 2013. She is a governing Bencher of the Honourable Society of the Inner Temple and a member of the board of the Judicial College. She was appointed to the Tribunal in February 2014. She resigned from the IPT in January 2016 upon her appointment as Presiding Judge of the Midland Circuit.

Sir Richard Gaskell

Sir Richard Gaskell was born in 1936 and knighted in 1989. He was a former President of the Law Society, member of the Security Service Tribunal between 1989 and 2000, the Intelligence Services Tribunal between 1994 and 2000 and was a Member of this Tribunal from 2001 until his retirement in 2011.

Sir Anthony Holland

Sir Anthony was appointed to the Tribunal in July 2009. Sir Anthony was also appointed as the Financial Services Complaints Commissioner on 3rd September 2004 for a three-year term. He was re-appointed as the Complaints Commissioner for a further three years from 3rd September 2007 and has been recently re-appointed for a further three years from 3rd September 2010. He has served as the Chairman or Governor of a number of bodies and was President of the Law Society (1990-91). Sir Anthony is a member of the Board of the Pension Protection Fund (appointed July 2010). In January 2011, he was appointed a lay member of the Speakers Committee for the Independent Parliamentary Standards Authority. He retired in July 2014.

Sheriff Principal John McInnes QC LLD DL

Sheriff Principal John McInnes QC LLD DL was a member of the Investigatory Powers Tribunal from its inception until his death on 12 October 2011.

His Honour Geoffrey Rivlin QC

His Honour Geoffrey Rivlin QC was appointed a Circuit Judge in 1989, and a Senior Circuit Judge (Senior Resident Judge at Southwark Crown Court) in 2004. In 2008 he became Hon. Recorder of the City of Westminster, retiring from the Bench in 2011. As a judge he also sat as a Deputy High Court Judge and a judge in the Court of Appeal (Criminal Division). Since retiring from the Bench he has acted as Adviser to the Director of the Serious Fraud Office and chaired a Bar Council Report on the Criminal Bar. He was appointed to the Tribunal in January 2013 and retired in November 2015.

Sir Philip Sales

The Rt. Hon Sir Philip Sales was appointed First Treasury Junior Counsel (Common Law) in 1997. He became a QC in 2006 and continued to act in the re-named post of First Treasury Counsel until his appointment to the High Court, Chancery Division in 2008. He was an Assistant Recorder, 1999–2001; Recorder, 2001–08; and Deputy High Court Judge, 2004–08. He has been a member of the Competition Appeal Tribunal since 2008 and was appointed Vice-President of the Investigatory Powers Tribunal in 2014. He was Deputy Chair of the Boundary Commission for England, 2009-2014. He was appointed to the Tribunal in February 2014, he resigned from this Tribunal when he was appointed a Lord Justice of Appeal in the autumn of 2014.

Appendix A Public Bodies

Public Authorities with access to Communications Data under Chapter II of Part I RIPA 2000

- Intelligence Services
- Territorial Police Forces of England, Wales, Northern Ireland & Scotland
- British Transport Police
- National Crime Agency
- The Commissioners for Her Majesty's Revenue and Customs
- The Home Office (Immigration Enforcement)
- Ministry of Defence Police
- Royal Air Force Police
- Royal Military Police
- Royal Naval Police
- Gambling Commission
- Gangmasters Licensing Authority
- The Information Commissioner
- Office of Communications
- Police Ombudsman for Northern Ireland
- Serious Fraud Office
- Financial Conduct Authority
- Prudential Regulation Authority
- Independent Police Complaints Commission
- Police Investigations and Review Commissioner
- The Ministry of Justice - National Offender Management Service
- Northern Ireland Office - Northern Ireland Prison Service
- Criminal Cases Review Commission
- Scottish Criminal Cases Review Commission
- Department of Transport:
    - Air Accident Investigation Branch
    - Marine Accident Investigation Branch
    - Rail Accident Investigation Branch
- Department for Transport Maritime Coastguard Agency
- Fire & Rescue Authorities
- Ambulance Services / Trusts
- Health & Safety Executive

- Department for Health - Medicines & Healthcare Products Regulatory Agency
- DWP – Child Maintenance Group
- Health & Social Care Business Services Organisation – ○ Central Services Agency (Northern Ireland)
- Office of Fair Trading / Competition and Markets Authority
- NHS Protect
- NHS Scotland Counter Fraud Services
- The Department of Enterprise Trade and Investment (Northern Ireland)
- Local Authorities
- Local Authorities

The following Public authorities had their powers removed on 12/02/15 through (SI 2015/228)

- Civil Nuclear Constabulary
- Port of Dover Police
- Port of Liverpool Police
- Royal Mail Group
- Environment Agency
- Scottish Environment Protection Agency
- Food Standards Agency
- Charity Commission
- Department of Agriculture & Rural Development (Northern Ireland)
- Department for Business Innovation Skills
- Department for Environment Food & Rural Affairs
- Department of the Environment Northern Ireland
- Pensions Regulator

Appendix B Section 65 of RIPA

Complaints against public authorities with RIPA powers (extract from Section 65 of the Regulation of Investigatory Powers Act 2000 establishing the IPT)

(1) There shall, for the purpose of exercising the jurisdiction conferred on them by this section, be a tribunal consisting of such number of members as Her Majesty may by Letters Patent appoint.

(2) The jurisdiction of the Tribunal shall be—

(a) to be the only appropriate tribunal for the purposes of Section 7 of the Human Rights Act 1998 in relation to any proceedings under subsection (1)(a) of that section (proceedings for actions incompatible with Convention rights) which fall within subsection (3) of this section;

(b) to consider and determine any complaints made to them which, in accordance with subsection (4) [or (4A)], are complaints for which the Tribunal is the appropriate forum;

(c) to consider and determine any reference to them by any person that he has suffered detriment as a consequence of any prohibition or restriction, by virtue of Section 17,on his relying in, or for the purposes of, any civil proceedings on any matter; and

(d) to hear and determine any other such proceedings falling within subsection (3) as may be allocated to them in accordance with provision made by the Secretary of State by order.

(3) Proceedings fall within this subsection if—

(a) they are proceedings against any of the intelligence services;

(b) they are proceedings against any other person in respect of any conduct, or proposed conduct, by or on behalf of any of those services;

(c) they are proceedings brought by virtue of Section 55(4); *or*

[(ca) they are proceedings relating to the provision to a member of any of the intelligence services of information recorded in an individual's entry in the National Identity Register;

(cb) they are proceedings relating to the acquisition, storage or use of such information by any of the intelligence services; or]

(d) they are proceedings relating to the taking place in any challengeable circumstances of any conduct falling within subsection (5).

(4) The Tribunal is the appropriate forum for any complaint if it is a complaint by a person who is aggrieved by any conduct falling within subsection (5) which he believes—

(a) to have taken place in relation to him, to any of his property, to any communications sent by or to him, or intended for him, or to his use of any postal service, telecommunications service or telecommunication system; and

(b) to have taken place in challengeable circumstances or to have been carried out by or on behalf of any of the intelligence services

[(4A) The Tribunal is also the appropriate forum for a complaint if it is a complaint by an individual about what he believes to be—

(a) the provision to a member of any of the intelligence services of information recorded in that individual's entry in the National Identity Register; or

(b) the acquisition, storage or use of such information by any of the intelligence services.]

(5) Subject to subsection (6), conduct falls within this subsection if (whenever it occurred) it is—

(a) conduct by or on behalf of any of the intelligence services;

(b) conduct for or in connection with the interception of communications in the course of their transmission by means of a postal service or telecommunication system;

(c) conduct to which Chapter II of Part I applies;

[(ca) the carrying out of surveillance by a foreign police or customs officer (within the meaning of Section 76A);]

(d) [other] conduct to which Part II applies;

(e) the giving of a notice under section 49 or any disclosure or use of a key to protected information;

(f) any entry on or interference with property or any interference with wireless telegraphy.

(6) For the purposes only of subsection (3), nothing mentioned in paragraph (d) or (f) of subsection (5) shall be treated as falling within that subsection unless it is conduct by or on behalf of a person holding any office, rank or position with—

(a) any of the intelligence services;

(b) any of Her Majesty's forces;

(c) any police force;

[(d) the Serious Organised Crime Agency;

[(da) the Scottish Crime and Drug Enforcement Agency;] or]

[(f) the Commissioners for Her Majesty's Revenue and Customs;]

(7) For the purposes of this section conduct takes place in challengeable circumstances if—

(a) it takes place with the authority, or purported authority, of anything falling within subsection (8); or

(b) the circumstances are such that (whether or not there is such authority) it would not have been appropriate for the conduct to take place without it, or at least without proper consideration having been given to whether such authority should be sought; but conduct does not take place in challengeable circumstances to the extent that it is authorised by, or takes place with the permission of, a judicial authority.

[(7A) For the purposes of this section conduct also takes place in challengeable circumstances if it takes place, or purports to take place, under Section 76A.]

(8) The following fall within this subsection—

(a) an interception warrant or a warrant under the Interception of Communications Act 1985;

(b) an authorisation or notice under Chapter II of Part I of this Act;

(c) an authorisation under Part II of this Act or under any enactment contained in or made under an Act of the Scottish Parliament which makes provision equivalent to that made by that Part;

(d) a permission for the purposes of Schedule 2 to this Act;

(e) a notice under Section 49 of this Act; or

(f) an authorisation under Section 93 of the Police Act 1997.

(9) Schedule 3 (which makes further provision in relation to the Tribunal) shall have effect.

(10) In this section—

(a) references to a key and to protected information shall be construed in accordance with Section 56;

(b) references to the disclosure or use of a key to protected information taking place in relation to a person are references to such a disclosure or use taking place in a case in which that person has had possession of the key or of the protected information; and

(c) references to the disclosure of a key to protected information include references to the making of any disclosure in an intelligible form (within the meaning of Section 56) of protected information by a person who is or has been in possession of the key to that information; and the reference in paragraph (b) to a person's having possession of a key or of protected information shall be construed in accordance with Section 56.

(11) In this section "judicial authority" means—

(a) any judge of the High Court or of the Crown Court or any Circuit Judge;

(b) any judge of the High Court of Judiciary or any sheriff;

(c) any justice of the peace;

(d) any county court judge or resident magistrate in Northern Ireland;

(e) any person holding any such judicial office as entitles him to exercise the jurisdiction of a judge of the Crown Court or of a justice of the peace.

Appendix C Legislation, Rules and Codes of Practice – Links

Relevant Primary Legislation

The Regulation of Investigatory Powers Act 2000 ('RIPA')
http://www.legislation.gov.uk/ukpga/2000/23/pdfs/ukpga_20000023_en.pdf

The Regulation of Investigatory Powers (Scotland) Act 2000 ('RIP(S)A')
http://www.legislation.gov.uk/asp/2000/11/pdfs/asp_20000011_en.pdf

The Human Rights Act 1998

http://www.legislation.gov.uk/ukpga/1998/42/contents

The Police Act 1997

http://www.legislation.gov.uk/ukpga/1997/50/pdfs/ukpga_19970050_en.pdf

The Intelligence Services Act 1994

http://www.legislation.gov.uk/ukpga/1994/13/pdfs/ukpga_19940013_en.pdf

The Security Service Act 1989
http://www.legislation.gov.uk/ukpga/1989/5/pdfs/ukpga_19890005_en.pdf

Relevant Secondary Legislation

Statutory Instrument 2000 No. 2665 [see below under Part IV, and under Rules]

The Investigatory Powers Tribunal Rules 2000
http://www.legislation.gov.uk/uksi/2000/2665/pdfs/uksi_20002665_en.pdf

Statutory Instrument 2010 No.521 "The Regulation of Investigatory Powers (Directed Surveillance and Covert Human Intelligence Sources) Order 2010"
http://www.legislation.gov.uk/uksi/2010/521/pdfs/uksi_20100521_en.pdf

Statutory Instrument 2010 No.480 "The Regulation of Investigatory Powers (Communications Data) Order 2010"
http://www.legislation.gov.uk/uksi/2010/480/pdfs/uksi_20100480_en.pdf

Scottish Statutory Instrument 2010 No.350 "The Regulation of Investigatory Powers (Prescription of Offices etc and Specification of Public Authorities) (Scotland) Order 2010"

http://www.legislation.gov.uk/ssi/2010/350/pdfs/ssi_20100350_en.pdf

NI Statutory Rule 2002 No.292 "Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) Order (Northern Ireland) 2002"
http://www.legislation.gov.uk/nisr/2002/292/pdfs/nisr_20020292_en.pdf

Codes of Practice

Interception of Communications
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496064/53659_CoP_Communications_Accessible.pdf

Acquisition and Disclosure of Communications Data

https://www.gov.uk/government/publications/code-of-practice-for-the-acquisition-and-disclosure-of-communications-data

Covert Surveillance and Property Interference
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384975/Covert_Surveillance_Property_Interrefernce_web__2_.pdf

Covert Human Intelligence Sources
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/384976/Covert_Human_Intelligence_web.pdf

Investigation of Protected Electronic Information
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/97959/code-practice-electronic-info.pdf

Equipment Interference

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/496069/53693_CoP_Equipment_Interference_Accessible.pdf

RIP(S)A Scottish Codes of Practice

Covert Surveillance
http://www.scotland.gov.uk/Resource/Doc/47034/0025783.pdf

Covert Human Intelligence Sources
http://www.scotland.gov.uk/Resource/Doc/47034/0025782.pdf

Independent Oversight

Interception of Communications Commissioner

http://www.iocco-uk.info/

Intelligence Services Commissioner

http://intelligencecommissioner.com/

Chief Surveillance Commissioner

https://osc.independent.gov.uk/

Surveillance Camera Commissioner

https://www.gov.uk/government/organisations/surveillance-camera-commissioner

Parliamentary Oversight

Intelligence and Security Committee of Parliament

http://isc.independent.gov.uk/

Other Complaints Bodies

Information Commissioner's Office
http://ico.org.uk/

The Adjudicator's Office
http://www.adjudicatorsoffice.gov.uk/

Independent Police Complaints Commission
http://www.ipcc.gov.uk/

Police Investigations and Review Commissioner
http://pirc.scotland.gov.uk/

Police Ombudsman for Northern Ireland
http://www.policeombudsman.org/

Local Government Ombudsman
http://www.lgo.org.uk/

Scottish Public Services Ombudsman
http://www.spso.org.uk/

European Court of Human Rights
http://www.echr.coe.int/Pages/home.aspx?p=home

Appendix D Acronyms and Abbreviations

The following is a list of acronyms or abbreviations common to the jurisdiction of the Tribunal, some of which are used in this Report

Bailii: British and Irish Legal Information Institute

CCTV: Closed Circuit Television

CHIS: Covert human intelligence sources

CJEU: Court of Justice of the European Union

CNE: Computer Network Exploitation

CSPs: Communications Service Providers

CTSA 2015: Counter Terrorism and Security Act 2015

DRIPA 2014: Data Retention and Investigatory Powers Act 2014

DP: Designated Person

DPA 1998: Data Protection Act 1998

DPI: Deep Packet Inspection

ECA 1972: European Communities Act 1972

ECHR: European Convention on Human Rights

ECtHR: European Court of Human Rights

EU: European Union

EU Charter: European Union Charter of Fundamental Rights

GCHQ: Government Communications Headquarters

GPS: Global Positioning System

HMRC: Her Majesty's Revenue and Customs

HRA 1998: Human Rights Act 1998

IOCA 1985: Interception of Communications Act 1985

IOCCO: Interception of Communications Commissioner's office

ISP: Internet service provider

IP: Internet Protocol

IP address: Internet Protocol address

IPT: Investigatory Powers Tribunal

ISA 1994: Intelligence Services Act 1994

ISC: Intelligence and Security Committee of Parliament

ISCom: Intelligence Services Commissioner

ISP: Internet Service Provider

LPP: Legal Professional Privilege

MI5: Security Service

MI6: Secret Intelligence Service

MoD: Ministry of Defence

NCND: Neither confirm nor deny

NCA: National Crime Agency

NGO: Non-governmental organisation

OSC: Office of Surveillance Commissioners

OSCT: Office for Security and Counter-Terrorism

PACE: Police and Criminal Evidence Act 1984

PSNI: Police Service of Northern Ireland

RIPA: Regulation of Investigatory Powers Act 2000

RIP(S)A: Regulation of Investigatory Powers (Scotland) Act 2000

SIAs: Security and Intelligence Agencies

SPoC: Single Point of Contact

SSA 1989: Security Service Act 1989

TA 1984: Telecommunications Act 1984

WTA 2006: Wireless Telegraphy Act 2006

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