

Witness: SIS Witness
Party: 5th Respondent
Number: 2
Exhibit: SIS exhibit
Date: 08.02.17

Case No. IPT/15/110/CH

**IN THE INVESTIGATORY POWERS TRIBUNAL
BETWEEN:**

PRIVACY INTERNATIONAL

Claimant

and

- (1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH
AFFAIRS
(2) SECRETARY OF STATE FOR THE HOME DEPARTMENT
(3) GOVERNMENT COMMUNICATION HEADQUARTERS
(4) SECURITY SERVICE
(5) SECRET INTELLIGENCE SERVICE

Respondents

WITNESS STATEMENT OF SIS WITNESS

I, SIS witness, of the Secret Intelligence Service (SIS), Vauxhall Cross, London, SE1, will say as follows:

1. [REDACTED] In my current role, I oversee the compliance of SIS operations with the law and other relevant guidance and directives. In that context, I attend the six monthly meetings of the Data Retention Review Board. I also have overall responsibility for SIS' engagement with oversight bodies, the Courts, Inquiries, Inquests, and Tribunals, including the Investigatory Powers Tribunal.
2. I am authorised to make this witness statement on behalf of SIS. The contents of this statement are within my own knowledge and are true to the best of my

Were BPD to be shared with overseas liaison the relevant necessity and proportionality tests for onwards disclosure under the SSA or ISA would have to be met. In the event that one (UK) Agency wished to disclose externally a dataset originally acquired by another Agency, Action-On would have to be sought in advance from the acquiring Agency. Wider legal, political and operational risks would also have to be considered, as appropriate.

The Agencies may share applications (which in turn could provide access to another Agency's BPD holdings) as judged appropriate in line with SIA Information Policy on commissioning."

6. Open Handling Arrangements, which were published on 4 November 2015 and applied to the obtaining, use and disclosure of BPD, included details of procedures and safeguards for the disclosure of bulk personal data outside the relevant Intelligence Service. Paragraphs 5.2 and 8.1 detail the key safeguards, including access control, and state that any disclosure must be necessary and proportionate in accordance with SIS's statutory functions and purposes.

Paragraphs 6.0-6.7 set out the guidelines for the disclosure of BPD outside of SIS, including the need to consider whether to place restrictions when sharing BPD/sub-sets of BPDs, as follows:

"Before disclosing any bulk personal data, staff must take reasonable steps to ensure that the intended recipient organisation has and will maintain satisfactory arrangements for safeguarding the confidentiality of the data and ensuring that it is securely handled, or that they have received satisfactory assurances from the intended recipient organisation with respect to such arrangements.

These conditions must be met for all disclosure, including between the Intelligence Services.

These conditions for disclosure apply equally to the disclosure of an entire bulk personal dataset, a subset of the dataset, or an individual piece of data from the dataset.

Disclosure of the whole (or a subset) of a bulk personal dataset is subject to internal authorisation procedures in addition to those that apply to an item of data. The authorisation process requires an application to a senior manager designated for the purpose, describing the dataset it is proposed to disclose

10. Were SIS to share BPD with a foreign partner it would consider any such proposal on a case by case basis, taking into account a number of factors.

- a. The nature of the partner with whom we are sharing. This includes considering the history we have of sharing intelligence with that partner; their data capability and practices; and their history of compliance, either where we have previously shared data or where we have shared actionable intelligence.
- b. The purpose for which it is envisaged BPD will be shared. This covers two considerations: firstly, the necessity case for SIS. At the highest level this means that there must be a requirement to share the BPD to assist SIS in meeting one of the four purposes for which information can be shared under section 2(2) ISA. Secondly, the purpose for which SIS understands that the recipient partner wishes to obtain BPD.

[REDACTED]

SHARING WITH LEAs

11. The safeguards (as set out at paragraphs 5-8 above) apply to SIS sharing BPD with LEAs. I am unable to confirm or deny in this OPEN statement whether that has been any agreement to share BPD with a LEA since 11 March 2015.

12. Whilst we can neither confirm nor deny whether the SIA have agreed to share or in fact do share BPD with either foreign liaison or LEA, were we to do so, we would

- Follow the principles and approach set out in our respective Handling Arrangements and policy/guidance.
- Take into account the nature of the BPD that was due to be disclosed.
- Take into account the nature of the body to which we were considering disclosing the BPD.