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Investigatory Powers Tribunal
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by email

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Your ref
Our ref: Z1516543/EAO/N1

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Dear Sirs,

BPD IPT - Privacy International v SSFCA & others

I am writing to you on the subject of the transfer of bulk data by GCHQ to so-called 'industry partners'.

This issue has obtained increased prominence in this litigation in recent weeks. In particular, the issue has become the focus of a challenge to the efficacy of the oversight undertaken by the Commissioners.

My clients at GCHQ have for some time been making internal enquiries in an attempt to provide more specificity as to the timing, nature and extent of any transfer of bulk data to industry partners. These matters clearly provide a critical factual context to any criticism that may be made of the Commissioners in this area. For that reason, further enquiries have been made since the hearing last week. The purpose of this letter is to inform you of the progress and outcome of those enquiries.

You will have noted that some weeks ago, on 28 April 2017, the Respondents' Response to the Claimant's Request for Further Information dated 17 February was amended. The amendment was to the response to Request 10, and indicated that operational data shared with industry partners 'could in theory include BPD / BCD'.

This amendment was made because investigations undertaken by my clients had cast doubt on whether any bulk data had ever in fact been transferred to industry partners (as opposed to such data being shared with them whilst retained at GCHQ's premises). What we can say at present is that in the period 2010-11 some samples of operational data that might have contained some section 94 data were transferred to industry partners. The possibility that some such data was included in the operational data that was transferred arises from the relevant records, but it is not possible to be certain one way or the other because the samples have now been deleted.

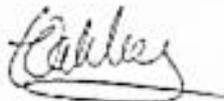
In summary: (a) no BPD has been transferred to industry partners in the period since 2011; (b) in the same period the only example of BCD possibly being transferred to industry partners is the 2010/11 samples detailed above.

Sarah Goom - Head of Division
Edward Holder - Deputy Director, Team Leader Litigation N1



We thought it appropriate to write this letter now in light of the urgency with which the Commissioners are being asked to respond to further questions on transfer. We will of course provide this information by way of witness evidence in due course.

Yours faithfully,



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