



Graham Webber  
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Investigatory Powers Commissioner's Office

**The Hon Sir Michael Burton**  
**Tribunal President**  
**Investigatory Powers Tribunal**

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Dear Mr Webber

Thank you for your letter of 28 September 2017.

I note that a number of your replies are subject to further investigation, [REDACTED]

The Tribunal will be considering the issues raised in your letters of 20 and 28 September 2017 at a three day hearing commencing on 17 October 2017. As such I would be grateful if you could complete your further investigations and send any further information you have obtained, as well as a copy of the appendix to the inspection report, by Wednesday 11 October 2017.

When replying, I would be grateful if you could address the points raised in the following extract from the Claimant's skeleton argument that has been filed for the October 2017 hearing:

"The absence of properly resourced technical audit of BCD and BPD demonstrates that there are not sufficient safeguards over the use of such powers, which are therefore both not in accordance with the law, and disproportionate. The following basic questions do not appear to have been considered:

- a) How many 'failed searches' take place, where data is accessed but no useful intelligence purpose is served? Have the Commissioners examined the failure rate?
- b) Have the Commissioners considered how the 'privacy footprint' of the use of BPD and BCD could be improved, and less data accessed?
- c) What technical understanding do the Commissioners and the Tribunal have of the search techniques and other data processing techniques carried out by the partners with whom data is shared? Are the searches and algorithms audited?
- d) How are the Respondents' artificial intelligence techniques (including, for example, the use of algorithms, 'machine learning' techniques, data mining techniques and automated decision making) audited, if at all?

e) What examination have the Commissioners made of profiling, where information from multiple datasets is aggregated, in order to build a comprehensive profile about individuals and their activities?"

As before, this letter is being sent pursuant to s68(2) of the Regulation of Investigatory Powers Act 2000 as well as s232 (1) and s227(13) of the Investigatory Powers Act 2016.

Please do not hesitate to contact the Tribunal Secretary, Susan Cobb, if you require any further information.

Yours sincerely

Sir Michael Burton  
President of the Investigatory Powers Tribunal