

[REDACTED]

data which he wishes to have, and he will have access to relevant personnel, including those conducting internal audits, as he may require.

26. In my opinion such a regime will be an effective way of providing independent oversight of the agencies' holding and use of bulk personal data which is not already overseen by the Interception of Communications Commissioner.

27. In the case of GCHQ, the Commissioner will adopt a similar approach in respect of data acquired by means of Directions issued under Section 94 of the Telecommunications Act 1994.

(a) (15)

**REPORT OF THE INTELLIGENCE  
SERVICES COMMISSIONER  
FOR 2010**

**CONFIDENTIAL ANNEX**

**Excluded from publication under section 60(5)  
of the Regulation of Investigatory Powers Act  
2000**

**Commissioner:  
THE RT HON SIR PETER GIBSON**

# **ANNUAL REPORT OF THE INTELLIGENCE SERVICES COMMISSIONER FOR 2010**

## **CONFIDENTIAL ANNEX**

1. I am required by section 60(2) of RIPA to report with respect to my functions as the Intelligence Services Commissioner. As I stated in my main report, this Annex contains information which cannot be fully explained without disclosing sensitive information.

### **Inspection Visits**

4. During 2010 I undertook two rounds of inspections of the security and intelligence agencies and warrant-issuing government departments. On those inspections I reviewed the warrants issued and the class and specific authorisations granted by looking at samples, chosen by me, of those warrants and authorisations. I was satisfied that the right balance has been struck between the need to obtain the information concerned and the degree of intrusiveness/interference with privacy involved in seeking to acquire that information. In some cases where the forms used by the agencies and departments and the techniques for completing the forms seemed to me to need improvement, I have pointed this out, but I am satisfied that in all cases the criteria of necessity and proportionality have been properly recognised. I have encountered no warrant or authorisation that appeared to me to have exceeded the strict requirements or even the spirit of ISA or RIPA as the case may be.

5. A breakdown of the warrants and authorisations for 2010 can be found at the end of this report.

### **Bulk Personal Data**

21. On 14 October 2010, the Prime Minister wrote to me requesting that I report to him, the Home Secretary (in relation to the Security Service) and the Foreign Secretary (in relation to SIS and GCHQ) before the end of 2010 on the adequacy of policies and procedures in the agencies, and a proposed framework for ongoing oversight by the Commissioner on an extra statutory basis, in respect of the acquisition, retention and deletion of bulk personal data holdings and in respect of the access to and use of such data. I agreed to comply with that request.
22. To that end, I had meetings with the three agencies to review their existing policies and internal procedures and I paid trial inspection visits to each agency to work out with that agency the most effective method of conducting oversight in accordance with agreed principles. All the agencies have cooperated to the fullest possible extent. It has been of very great assistance to me that I have been accompanied on those visits by Sir Mark Waller. The agencies have thus had the benefit of receiving his preliminary views as well as hearing my comments.
23. I reported to the Prime Minister on 11 January 2011 and my report reflected what I found on my review of the agencies' policies and procedures and the framework agreed with the agencies for the oversight by the Intelligence Services Commissioner of those policies and procedures in the light of my trial inspection visits.
24. In recent years, each agency has developed its policy and practices relating to the management of bulk personal dataset holdings as such data has become more central to its work. Given the agencies' individual remits and working methods there are differences between each agency's detailed policies, mechanisms and management of user behaviour. These are tailored to each agency's statutory functions and operational methodology. Thus, GCHQ's 'pop up' justification screen was introduced some years ago as part of a RIPA compliance arrangement. Within the Security Service bulk data is searched through the same mechanism as that which enables intelligence material to be searched. The Security Service's approach to compliance considerably predates the beginning of bulk data analysis. In recent years the development of bulk data capabilities has been one driver for the strengthening of compliance arrangements. But in such arrangements emphasis is placed on personal and managerial responsibility and on a visible compliance audit.
25. There has been mutual visibility between the agencies and the sharing of best practices. All three agencies have sound policies, internal processes and practices in place to ensure that data users comply with, and in some cases exceed, the requirements of the relevant human rights and data protection legislation and to minimise the risk of data being misused. These processes properly recognise the potentially intrusive nature of bulk personal data and, in my opinion, comply with the legal requirement on each agency to ensure that it is both necessary and proportionate for the agency to acquire the data, that the agency retains

the data for only such time as the retention is necessary and proportionate, and that such data is accessed only by vetted staff with a genuine business need to do so.

26. With the agreement of Security Service, SIS and GCHQ, the Commissioner will pay an inspection visit to each agency every half year. It is intended that such visits will be an extension of the half-yearly visits carried out by the Commissioner in the performance of his statutory duty of review. Similar practices will prevail. Thus each agency will provide the Commissioner with a list of all the bulk personal datasets held at the time of the visit and of all reviews and deletions since the last visit by the Commissioner. The Commissioner will be free to choose which holdings he wishes to inspect in greater detail on his visit. Each agency will keep him informed of any changes in its policies and procedures in relation to bulk personal data and it will promptly draw to his attention any failure, which comes to its notice, to comply with those policies and procedures. The agency will provide him with all the information and documentation on bulk personal data which he wishes to have, and he will have access to relevant personnel, including those conducting internal audits, as he may require.

27. In my opinion such a regime will be an effective way of providing independent oversight of the agencies' holding and use of bulk personal data which is not already overseen by the Interception of Communications Commissioner. In the case of GCHQ, the Commissioner will adopt a similar approach in respect of data acquired by means of Directions issued under Section 94 of the Telecommunications Act 1994.