



# **Report of the Intelligence Services Commissioner for 2015**

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**CONFIDENTIAL ANNEX**

**The Rt Hon Sir Mark Waller**

**July 2016**

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

Pages 2 to 11 withheld on relevancy grounds

[REDACTED]

[REDACTED]

### CHIS Participation in Criminality

#### MI5

In his letter of 27 November 2014, the Prime Minister directed me to keep under review: the application of the Security Services guidelines on the use of agents who participate in criminality and the authorisations issued under them. In the letter the Prime Minister said this direction would not be avowed given the potential damage to national security were its existence to be made public.

As I set out in my report for 2014, MI5 has an internal process and guidelines for authorising agent participation in criminality. These guidelines have been in place since the early 1990s and arose out of the need for agents recruited and run by MI5 sometimes to engage in criminality, [REDACTED]

[REDACTED]

[REDACTED]

MI5 CHIS have been authorised to participate in:

- [REDACTED]
- [REDACTED]

[REDACTED]

[Redacted]

- [Redacted]
- [Redacted]
- [Redacted]
- [Redacted]

For my review, I am concerned to assess whether in my opinion what can be called "the public interest test" is being properly applied.

No authority can make criminal conduct non-criminal. [Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

*[ The redacted text refers to the issues set out in paragraph 9 of the Guidelines ]*

[Redacted] In my oversight I am prepared to make an assessment of whether participation would be likely to satisfy the public interest test. In my view, this test would be satisfied if the guidelines were adhered to.

[Redacted]  
[Redacted]  
[Redacted]

[Redacted] They have a memorandum of understanding with CPS which outlines when consultation on CHIS matters is desirable, [Redacted]

[Redacted]  
[Redacted]  
[Redacted]

[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]  
[Redacted]

**Police Practice**

[Redacted]

[REDACTED]

The Office of Surveillance Commissioners spoke to me about police forms authorising participation in criminality which appears to [REDACTED] <sup>[have authorised]</sup> participation in the offences [REDACTED]

[REDACTED]

[REDACTED] It seemed that MI5 had given approval for this operation confirming that it was necessary and proportionate in the interest of national security. I was concerned that MI5 should not have approved

[REDACTED] MI5 wrote to me [REDACTED] explaining that

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] I accepted that

[REDACTED] the public interest test would be satisfied.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Pages 15 to 96 withheld on relevancy grounds