

IN THE INVESTIGATORY POWERS TRIBUNAL

B E T W E E N:

**(1) PRIVACY INTERNATIONAL
(2) REPRIEVE**

Claimants

- and -

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

Respondents

**PRELIMINARY SUBMISSIONS
ON BEHALF OF THE RESPONDENTS**

1. On 27 June 2017, Privacy International and Reprieve ('the Claimants') issued the present claim in the Investigatory Powers Tribunal. The claim relates to a direction given by the Prime Minister to the Intelligence Services Commissioner pursuant to section 59A of the Regulation of Investigatory Powers Act 2000 ('the Third Direction'). The Third Direction is not a public document; and the Claimants do not know its contents.
2. Nevertheless, the Claimants must have standing in order to bring their claim. The test for standing is well-established: *"the individual may claim to be a victim of a violation occasioned by the mere existence of secret measures or of legislation*

permitting secret measures only if he is able to show that, due to his personal situation, he is potentially at risk of being subjected to such measures" (*Zakharov v Russia* (2016) 63 EHRR 17, §171, emphasis added; adopted by the Tribunal in *Human Rights Watch v. Foreign and Commonwealth Office* [2016] UKIPTrib15 165-CH, at §§41 – 48).

3. The Respondents submit that the personal situations of the Claimants do not show that they are potentially at risk of being subjected to the measures which are the subject of the Third Direction. They therefore do not have standing to bring the claim.

JAMES EADIE QC

VICTORIA WAKEFIELD

20 October 2017