



# Laws on interception

## Oversight

### Implications for JCE



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]

© Crown Copyright. All rights reserved.

# Oversight

- **Executive** – Secretaries of State exercise authority over the Intelligence & Security Services; answerable to Parliament
- **Parliament** – **Intelligence & Security Committee** examines expenditure, administration and policy (not operations) and reports annually to Parliament; members are STRAP cleared
- **Judicial** – Commissioners:
  - Interception of Communications – RIPA
  - Intelligence Services – ISA



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]

© Crown Copyright. All rights reserved.



# Commissioners



- senior Court of Appeal judges
- review Secretaries of State's use of powers under RIPA and ISA
- review GCHQ's operations under RIPA & ISA
- visit GCHQ regularly with full access to paperwork, operations, staff
- annual reports to Prime Minister; laid before Parliament



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]

© Crown Copyright. All rights reserved.

# *“An effective remedy before a national authority”*

- **Article 13 ECHR** guarantees a means of redress for anyone whose Convention rights have been violated
- **Investigatory Powers Tribunal** investigates complaints and deals with them within the circle of secrecy



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]

© Crown Copyright. All rights reserved.


# Investigatory Powers Tribunal

- Eminent legal figures
- Anyone, anywhere may complain
- The Tribunal asks:
  - what did GCHQ do?
  - was it authorised in law, necessary and proportionate?
- So far they have always found in our favour



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]


© Crown Copyright. All rights reserved.




**Laws on interception**

**Oversight**

**Implications for JCE**



 This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]  
© Crown Copyright. All rights reserved.

Part 3

Why do we have to follow these laws and policies?

We have a light oversight regime compared with US

# Oversight

- **Executive** – Secretaries of State exercise authority over the Intelligence & Security Services; answerable to Parliament
- **Parliament** – **Intelligence & Security Committee** examines expenditure, administration and policy (not operations) and reports annually to Parliament; members are STRAP cleared
- **Judicial** – Commissioners:
  - Interception of Communications – RIPA
  - Intelligence Services – ISA



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]  
© Crown Copyright. All rights reserved.

Answerable to all three arms of state

Political oversight: (government)

- GCHQ answerable to Foreign Sec (David Milliband)
- SS answerable to Home Sec (Jacqui Smith)

Foreign Sec receives copy of our compliance doc to make sure we are following RIPA & signs off RIPA warrants – so takes responsibility


Parliamentary oversight: (cross-party STRAP cleared MPs)

- Intelligence & Security Committee provides Parliamentary oversight and scrutiny of the agencies – the expenditure, administration and policy of the Security Service, SIS and GCHQ.
- They carried out report into Bali bombings and have always been exceptionally good at understanding the need to keep our work secret
- investigation into 7/7 London bombings

Judicial oversight: THE MAIN ISSUE FOR US


- Two Commissioners -
  - Interception Of Communications Commissioner –Sir Paul Kennedy - inc communications data and 'safeguards'
  - Intell Services Commissioner –Sir Peter Gibson - CNE / Directed Surveillance Authorisation / encryption

.....more on them



## Commissioners

- senior Court of Appeal judges
- review Secretaries of State's use of powers under RIPA and ISA
- review GCHQ's operations under RIPA & ISA
- visit GCHQ regularly with full access to paperwork, operations, staff
- annual reports to Prime Minister; laid before Parliament


 This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]  
 © Crown Copyright. All rights reserved.

- As Senior High Court judges they are INDEPENDENT, non govt and not openly swayed by personal contact
- They visit GCHQ at least 6-monthly and are guaranteed access to our paperwork, info relating to operations, talking to staff if necessary
- Can also visit ministers to check that they understand the reasons why they've signed the warrants
- Parliament does not see classified annex to PM's report
- Sir Paul Kennedy (Interception) and Sir Peter Gibson (ISA)

Background:

DSA's eg JTRIG – monitoring a tgts activity on the GCWeb – sensitive – not many in GCHQ



## ***“An effective remedy before a national authority”***

- **Article 13 ECHR** guarantees a means of redress for anyone whose Convention rights have been violated
- **Investigatory Powers Tribunal** investigates complaints and deals with them within the circle of secrecy



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]  
© Crown Copyright. All rights reserved.

- At the start of this talk I mentioned the ECHR and said I would cover Article 13. Article 13 allows for the public to bring about complaints against public authorities if they feel that one (or more) of their Human Rights have been violated.
- RIPA created a the Investigatory Powers Tribunal to handle these complaints. They are like the Commissioners and deal with each complaint under the veil of secrecy.

# Investigatory Powers Tribunal

- Eminent legal figures
- Anyone, anywhere may complain
- The Tribunal asks:
  - what did GCHQ do?
  - was it authorised in law, necessary and proportionate?
- So far they have always found in our favour



This information is exempt under the Freedom of Information Act 2000 (FOIA) and may be exempt under other UK information legislation. Refer any FOIA queries to GCHQ on [REDACTED]  
© Crown Copyright. All rights reserved.

- Complaints can come from ANYONE anywhere in the world (hence we apply HRA globally). The form can be downloaded off the internet. No evidence is required to make a complaint just a timeframe (with two years) of when the action is alleged to have taken place.
- Network of around 60 people in GCHQ around dept that [REDACTED] [REDACTED] (Head of Warrantry) in OPP-LEG uses to deal with any complaints that need investigating