



JOINT COMMITTEE ON THE DRAFT INVESTIGATORY POWERS BILL

CALL FOR WRITTEN EVIDENCE

The Joint Committee on the Draft Investigatory Powers Bill, chaired by Lord Murphy of Torfaen, was appointed by the two Houses of Parliament in late November 2015 to consider the Draft Investigatory Powers Bill¹, which was presented to the two Houses on 4 November 2015. The Committee invites any interested individuals and organisations to submit evidence to this inquiry.

The Committee in particular will explore the key issues listed below in detail, and would welcome your views on any or all of the following questions. Please note that questions are not listed here in any particular order of importance.

Written evidence should arrive no later than 21 December 2015. Public hearings will be held in November and December 2015 and January 2016. The Committee has been asked to report to the Houses, with recommendations, in February 2016. The report will receive a response from the Government. The time available for the Committee's inquiry is short, and its focus will be on the contents of the draft Bill rather than more general aspects of policy. The Committee will not consider as part of its inquiry the merits of individual cases which have been, or are now, subject to formal proceedings in courts or tribunals.

Overarching/thematic questions:

- Are the powers sought **necessary**?
 - Has the case been made, both for the new powers and for the restated and clarified existing powers?
- Are the powers sought **legal**?
 - Are the powers compatible with the Human Rights Act and the ECHR? Is the requirement that they be exercised only when necessary and proportionate fully addressed? Are they sufficiently clear and accessible on the face of the draft Bill? Is the legal framework such that CSPs (especially those based abroad) will be persuaded to comply? Are concerns around accessing journalists', legally privileged and MPs' communications sufficiently addressed?
- Are the powers sought **workable** and **carefully defined**?
 - Are the technological definitions accurate and meaningful (e.g. content vs communications data, internet connection records etc.)? Does the draft Bill adequately explain the types of activity that could be undertaken under these powers? Is the wording of the powers sustainable in the light of rapidly evolving technologies and user behaviours? Overall is the Bill future-proofed as it stands?

¹ *Draft Investigatory Powers Bill*, Cm 9152, available at <https://www.gov.uk/government/publications/draft-investigatory-powers-bill>

- Are the powers sought sufficiently **supervised**?
 - Is the authorisation process appropriate? Will the oversight bodies be able adequately to scrutinise their operation? What ability will Parliament and the public have to check and raise concerns about the use of these powers?

Specific questions:

General

- To what extent is it necessary for (a) the security and intelligence services and (b) law enforcement to have access to investigatory powers such as those contained in the Draft Investigatory Powers Bill?
- Are there any additional investigatory powers that security and intelligence services or law enforcement agencies should have which are not included in the draft Bill?
- Are the new offences proposed in the draft Bill necessary? Are the suggested punishments appropriate?

Interception

- Are there sufficient operational justifications for undertaking (a) targeted and (b) bulk interception?
- Are the proposed authorisation processes for such interception activities appropriate? Is the proposed process for authorising urgent warrants workable?
- Are the proposed safeguards sufficient for the secure retention of material obtained from interception?
- How well does the current process under Mutual Legal Assistance Treaties (MLATs) work for the acquisition of communications data? What will be the effect of the extra-territorial application of the provisions on communications data in the draft Bill?

Communications Data

- Are the definitions of content and communications data (including the distinction between 'entities' and 'events') sufficiently clear and practical for the purposes of accessing such data?
- Does the draft Bill allow the appropriate organisations, and people within those organisations, access to communications data?
- Are there sufficient operational justifications for accessing communications data in bulk?
- Is the authorisation process for accessing communications data appropriate?

Data Retention

- Do the proposed authorisation regime and safeguards for bulk data retention meet the requirements set out in the CJEU *Digital Rights Ireland* and the Court of Appeal *Davis* judgments?
- Is accessing Internet Connection Records essential for the purposes of IP resolution and identifying of persons of interest? Are there alternative mechanisms? Are the proposed safeguards on accessing Internet Connection Records data appropriate?
- Are the requirements placed on service providers necessary and feasible?

Equipment Interference

- Should the security and intelligence services have access to powers to undertake (a) targeted and (b) bulk equipment interference? Should law enforcement also have access to such powers?
- Are the authorisation processes for such equipment interference activities appropriate?
- Are the safeguards for such activities sufficient?

Bulk Personal Data

- Is the use of bulk personal datasets by the security and intelligence services appropriate? Are the safeguards sufficient for the retention and access of potentially highly sensitive data?

Oversight

- What are the advantages and disadvantages of the proposed creation of a single Judicial Commission to oversee the use of investigatory powers?
- Would the proposed Judicial Commission have sufficient powers, resources and independence to perform its role satisfactorily?
- Are the appointment and accountability arrangements for Judicial Commissioners appropriate?
- Are the new arrangements for the Investigatory Powers Tribunal including the possibility of appeal adequate or are further changes necessary?

GUIDANCE FOR SUBMISSIONS

Written evidence should be submitted online using the written submission form available at www.parliament.uk/draft-investigatory-powers-submission-form. This page also provides guidance on submitting evidence.

If you have difficulty submitting evidence online, please contact the Committee staff by email to draftinvestigatorypowersbill@parliament.uk or by telephoning 020 7219 8443. The deadline for written evidence is 21 December 2015.

Short submissions are preferred. A submission longer than six pages should include a one-page summary.

Paragraphs should be numbered. All submissions made through the written submission form will be acknowledged automatically by email.

Evidence which is accepted by the Committee may be published online at any stage; when it is so published it becomes subject to parliamentary copyright and is protected by parliamentary privilege. Submissions which have been previously published will not be accepted as evidence. Once you have received acknowledgement that the evidence has been accepted you will receive a further email, and at this point you may publicise or publish your evidence yourself. In doing so you must indicate that it was prepared for the Committee, and you should be aware that your publication or re-publication of your evidence may not be protected by parliamentary privilege.

Personal contact details will be removed from evidence before publication, but will be retained by the Committee Office and used for specific purposes relating to the Committee's work, for instance to seek additional information.

Persons who submit written evidence, and others, may be invited to give oral evidence. Oral evidence is usually given in public at Westminster and broadcast online; transcripts are also taken and published online. Persons invited to give oral evidence will be notified separately of the procedure to be followed and the topics likely to be discussed.

Substantive communications to the Committee about the inquiry should be addressed through the clerk of the Committee, whether or not they are intended to constitute formal evidence to the Committee.

This is a public call for evidence. Please bring it to the attention of other groups and individuals who may not have received a copy direct.

You may follow the progress of the inquiry at www.parliament.uk/draft-investigatory-powers.