[Exhibit 2]

The underlined parts of this document indicate that it has been gisted for OPEN

Updated: January 2015

ISA Section 5 guidance

ISA warrants

Warrants issued under the Intelligence Services Act (ISA) authorise interference with property (eg equipment such as computers, servers, routers, laptops, mobile phones, software, intellectual property etc), or wireless telegraphy.

A **section 5 warrant** authorises interference with property or wireless telegraphy in the British Islands. It may only be issued on grounds of National Security or the Economic Well-Being of the UK. A section 5 warrant is signed by a Secretary of State and is valid for 6 months from the date of signature, at which point the warrant should be renewed or cancelled.[1]

The relevant personnel are responsible for preparing warrant submissions, based on the business case provided by the analyst completing the request form and with input from GCHQ's legal team. Submissions are then reviewed by GCHQ's Legal Advisers and approved by a GCHQ official of appropriate seniority, before being sent to the relevant Department for signing.

Warrant submissions are read by a Secretary of State and senior government officials. They may also be selected by the Intelligence Services Commissioner during one of his twice-yearly inspections. The business case therefore needs to be easily understood by a non-technical reader, should avoid technical jargon and be written to a good standard of English. It should be clear and concise, but include sufficient detail about the proposed operation that the Secretary of State is fully aware of what he is authorising.

Requesting a new Section 5

Requests for new warrants and renewals must be sponsored by an appropriately senior official, who must be satisfied that the proposed operation is justified, proportionate and necessary.

Part I. – to be completed by the relevant GCHQ team

The intelligence case should be fit for purpose for signing by a Secretary of State, avoiding unnecessary jargon and technical terminology. The case should include:

- the intelligence background;
- the priority of the target within the priorities framework as endorsed by JIC and NSC;

[1] The underlined words in this quotation are in the original.

- an explanation of why the proposed operation is necessary;
- a description of any other agency involvement in working the target;
- the intelligence outcome(s) the proposed operation is expected to produce.

As CNE techniques are by nature intrusive, an explanation of how proportionality will be maintained should be given. Key points to consider include:

- the expected degree of invasion of a target's privacy and whether any personal or private information will be obtained;
- the likelihood of collateral intrusion, ie invading the privacy of those who are not targets of the operation, eg family members;
- whether the level of intrusion is proportionate to the expected intelligence benefit;
- a description of the measures to be taken to ensure proportionality.

An assessment of the political risk also needs to be included.

The form is then returned to the sponsor to consider whether, in light of the CNE input, they can recommend to the Secretary of State that the operation is justified, proportionate and necessary, and that they are aware of the risk. If so, they should sign and date the form and send it to the relevant personnel.

The Section 5 Guidance also explains that the process is completed by the preparation of a formal submission and a warrant instrument. These are reviewed by GCHQ Legal Advisers and the sponsor, then sent for signature to the relevant Department, which will follow its own internal procedures before the documents are passed to the Secretary of State for consideration. Once the warrant has been signed, relevant personnel will be informed that the operation can go ahead.

Section 5 renewal process

A reasonable period before a warrant is due to expire, the relevant personnel will request a case for renewal from the relevant personnel, copying the sponsor and include a copy of the previous submission. The analyst should confirm with the sponsor that renewal is required, and if so, provide the relevant personnel with a business case by the specified deadline. This should include:

- an update of the intelligence background, ensuring it accurately reflects the current context of the warrant;
- details of any developments and intelligence gained since the warrant was issued/last renewed – this **must** address any expectations highlighted in the previous submissions;

- a review of the level of intrusion, based on the evidence of the activity authorised by the warrant;
- a review and, if necessary, update of the political aspects of the risk assessment;

The relevant team should provide the following information:

- any updates on technical progress made since the warrant was last renewed
- an updated operational plan – again, this **must** address specific actions or plans laid out in the previous submission
- any updates to the risk assessment.

Again, the relevant personnel may need to work with the originator and the relevant team to strengthen the renewal case, and will also consult the Legal Advisers before providing a copy to the sponsor for final review. When the sponsor is content that the submission is accurate and demonstrates that the operation is still justified, necessary and proportionate, the relevant personnel will submit the renewal application to the relevant Department for signature.

If a warrant is no longer required, it should be cancelled. If not renewed or cancelled, the warrant will expire on the date specified and the activity will no longer be authorised.

It is good practice to cancel warrants as soon as the requirement for the operation has ceased.[2]

Section 5 cancellation process

When a warrant is no longer required, the analyst should send the relevant personnel a short explanation of the reason for the cancellation. When the team conducting the operation confirms that the operation is fully drawn down, the relevant personnel will draft a letter based on this feedback and submit it, with a cancellation instrument, to the issuing Department for signature (usually by a senior official rather than the Secretary of State).

[2] Underlining in the original.