Note: gists shown in italics and double-underlining

AMENDED MI5 REPORT TO THE IPT ON SEARCHES FOR THE BPD/BCD CASE

INTRODUCTION

Search obligation

1. By the IPT's order of 12 December 2016, MI5 (together with GCHQ and SIS) were ordered to:

   "*carry out searches of their databases (including their Bulk Personal Datasets and Bulk Communication Datasets) in relation to the terms contained in the annex to the order, such searches to be completed by Friday 27 January*".

2. The Respondents were ordered to provide a report, detailing the results of those searches, to the IPT and Counsel to the IPT by Friday 17 February and that report is required to:

   - Address searches of BPD and BCD separately;
   - Within those categories, so far as practicable, separate the results relating to the pre-avowal and post-avowal periods.
   - Indicate, in relation the pre-avowal period, the extent to which they would object to disclosure further to rule 6(1) of the IPT Rules 2000.

Types of searches conducted

3. In order to comply with the IPT's order, MI5 has carried out three types of searches:

   - Searches of its corporate record (and in particular those parts of its corporate record that it always searches in response to IPT claims/complaints) in order to determine whether or not any "conduct" has been undertaken in relation to the Claimant.

4. Additionally, and for the first time in an IPT case:

   - Searches of its BPD databases.

   - Searches of its BCD databases.

When searches conducted

5. All of MI5's initial searches were conducted during January 2017 and were completed by 27 January 2017.

6. In relation to its corporate record, MI5 has carried out searches in relation to the period from 1 March 2013 to date. However, in relation to BCD and BPD, MI5 has searched all its current holdings [REDACTION].

Resource implications of the searches

Note: gists shown in italics and double-underlining

7. The corporate record searches have required very significant resource, due to the high number of search terms. [REDACTION]

8. The searches of the BPD and BCD databases have also required very significant resource. *The task of conducting the SIA searches of BPD/BCD and analysing the results took teams of officers across the three agencies a total in excess of 30 working days to complete.*

9. [REDACTION]

9A. In July 2017 the team dealing with the BPD/BCD case established that MI5 held a category of data, in the form of "workings" that officers conducting investigations may have saved, and that this data could be relevant to the accuracy of the searches undertaken in January 2017. In particular, it was established that, in an area known as "*Workings*", officers could (if they needed to do so) save the results of their analysis (arising from a particular investigation) and that these saved "workings" could include (amongst other things) the results from searches that they had undertaken, including the results of searches of MI5's BPD holdings and MI5's BCD database.

9B. Because of the possibility that the data that had been saved into *"Workings"* could potentially be the result of a search of a BPD database or the BCD database, MI5 concluded that it should search "*Workings*" for any data in relation to the search terms provided by Privacy International. The results of these searches of *"Workings"* (carried out during August/September 2017) relating to Privacy International's search terms, are described below.

9C. The search results from *"Workings"*-caused MI5 to review its corporate record search results [REDACTION]. *MI5 has set out any positive results relating to the Claimant's data in Annex A. It was also discovered as a result of this further work that the initial searches in January 2017 had not covered one particular category of holdings, that is maintained by a particular team.* MI5 acknowledges that this was an error in the search process undertaken in January 2017 [REDACTION].

9D. MI5 adds that, separately and independently of the above matters, it has (since January 2017) revised its process for undertaking searches for IPT cases, and that this revised process will ensure that [REDACTION] appropriate searches of their holdings would thus be undertaken.

9E. In the light of the foregoing matters, MI5 has reviewed whether or not there are any further omissions in relation to the searches carried out, and has concluded that there are no further omissions in the searches carried out.

9F. MI5 has reported the retention of data in *"Workings"* (as described at paragraph 9A above) to the Investigatory Powers Commissioner as an error (this was initially reported on 19 July with further details provided on 6 October 2017). The nature of the error is that there is no existing review, retention and deletion ("RRD") period prescribed for the data (officers' *workings, including the results of searches) that has been saved in "Workings"*. MI5 does not consider that this issue gives rise to any breach of either the BPD or BCD handling arrangements or other BPD/BCD policies; the data retained in *"Workings"* includes the results of targeted searches of MI5's holdings (including BPD/BCD) but not BPD or BCD itself.

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CORPORATE RECORD SEARCH RESULTS

10. MI5 searched its corporate records, against the search terms, for any conduct during the period from 1 March 2013 to January 2017.

11. As the Claimant occupied the 6-8 Amwell Street property during the period from 2004 to 2009 (ie outside this search period) this selector was not searched against. All the other search terms were, so far as was possible (depending on the nature of the data held and the means of searching that data), searched against.

12. *MI5 has set out any results of its corporate record searches at Annex A to this report.*

13. MI5 has not included in Annex A details of search results where these relate to the current IPT case relating to BPD and BCD (or the other IPT litigation between HM Government and Privacy International), internal updates about that litigation, or correspondence between the SIA and Government relating to that litigation.

13A. MI5 has set out in Amended Annex A any additional results from its searches of the corporate record. [REDACTION]

BPD SEARCH RESULTS

Overview of results

14. Annex B to this Note is a spreadsheet that sets out the search results in relation to all those selectors where, on searching our bulk personal dataset (BPD) databases, there was a positive result. Where the selector did not provide a positive result, we have not included it at Annex B.

14A. By Amended Annex B to this Note, MI5 reports any positive results in its BPD holdings which had not been identified prior to the searches of "Workings".

15. Annex C to this Note details in relation to each BPD in Annex B (ie where there has been a positive result) the nature of the BPD, its standard use, the nature of the search result and confirms the latest authorisation for that BPD.

16. In relation to *the name of the Bulk Personal Dataset* (see pages [REDACTION]) the Tribunal will note that this open-source derived BPD was not authorised when the data was acquired and then put onto on MI5's systems. MI5 had established this prior to the searches being conducted in January 2017 and had initiated (and has now completed) the process of authorising this BPD.

Extent of the searches.

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17. So far as was possible (having regard to the search term and the nature of the data in each database and the ability to search that database) all of the selectors were run across all of MI5's current BPD databases.

    - The searches have been run against MI5's current (ie January 2017) BPD holdings.
    - The searches were not limited by time; in particular, they were not limited either by reference to when the data was acquired or by reference to events after/before any particular date.
    - In relation to the 3 postal addresses provided by PI, MI5 has searched against 62 Britton Street and 46 Bedford Row, being the addresses occupied by Privacy International over the period since 2011.
    - The address of 6-8 Amwell Street has not been used by Privacy International since 2009. [REDACTION] searching our current holdings against that historic address would have produced results for the last 7 years that were wholly unrelated to Privacy International and which MI5 considers would have been disproportionate.

Pre-avowal and post avowal (March 2015).

18. So far as is technically possible, in relation to any positive result, we have sought to identify whether that data was held/acquired pre- or post- March 2015. [REDACTION] Where it is not possible to determine this, this has been indicated and positive results are listed without time period.

Linking the search results to PI.

19. *Some of the search terms (eg the postal addresses and telephone numbers) may not relate only to Privacy International (use of addresses/telephone numbers can change over time). Any positive results associated with those may not necessarily therefore be results relating to Privacy International.*

Approach to BPD Searches

20. Searching across all of MI5's BPD holdings was a significant and resource-intensive undertaking [REDACTION]

21. Despite this being an extremely resource-intensive method of searching MI5's BPD, this was the most comprehensive approach to ensuring all BPD were searched effectively.

BULK COMMUNICATIONS DATA

Nature of the BCD searches

22. MI5's BCD database (containing the "raw" bulk communications data obtained further to directions under section 94 of the Telecommunications Act 1984) is *the BCD database.* Data is retained for 1 year from acquisition, following which it is deleted.

22A. *The further searches of "Workings" establish that MI5 did hold BCD relating to Privacy International in the pre-avowal period.*

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23. [REDACTION]

BCD database – search results

24. A search of the database was undertaken [REDACTION]. The search query was constructed in order to request the return of all available data within the *BCD* database for each selector and was constructed so as to return data older than 1 year.

25. The search was carried out at 10am on 20 January 2017 and *did not show that MI5 held data relating to Privacy International in its BCD database before 4 November 2015.*

[REDACTION]

This report has been prepared by MI5's *legal and data* Branches

FEBRUARY 2017

OCTOBER 2017

ANNEXES

[REDACTION]