

IN THE INVESTIGATORY POWERS TRIBUNAL
BETWEEN:

PRIVACY INTERNATIONAL

Claimant

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

OPEN RESPONSE TO THE CLAIMANTS' REQUEST
FOR FURTHER INFORMATION RELATING TO
SEARCHES DATED 22 FEBRUARY 2017

This document contains certain voluntary disclosure that the Respondents make relating to the searches that have been conducted for the purposes of these proceedings, which is additional to the information contained in the OPEN Report on Searches dated 17 February 2017 (‘the Report on Searches’).

This document also contains responses to some of the Claimant’s Requests for Further Information dated 22 February 2017. Requests that are premature and/or disproportionate and/or irrelevant have not been answered.

Full details of the searches and their results were disclosed to the Tribunal as CLOSED annexes to the Report on Searches. There is no CLOSED analogue to this document.

Voluntary Disclosure

1. MI5 and GCHQ conducted searches of their BPD and BCD holdings. SIS conducted searches of its BPD holdings. In addition, all three agencies conducted searches against their respective corporate records. Corporate record searches are the searches that the agencies routinely conduct in response to IPT claims. They are designed to indicate

whether or not any `conduct` has been undertaken in relation to the Claimant.

2. With regard to the corporate record searches, all three agencies searched on a date range running from 1 March 2013 (i.e., 2 years prior to the avowal of BPDs) to the date of the search. For the avoidance of doubt, there was no date range involved in the searches of BPD and BCD: the searches were simply conducted against current holdings.
3. The three agencies hold their records and data in different ways, and their individual systems have different search capabilities. The searches conducted were not, therefore, identical. However, the searches conducted by each of the agencies were considered to be both thorough and proportionate. The searches of the BPD and BCD databases alone (as opposed to the corporate record searches) were very resource intensive. The task of conducting the SIA searches of BPD/BCD and analyzing the results took teams of officers across the three agencies a total in excess of 30 working days to complete.

Request relating to paragraph 3 of the Report on Searches: GCHQ BPD

4. As stated in the Report on Searches, GCHQ's search results did not show that GCHQ held data relating to the Claimant in its BPDs before avowal on 12 March 2015.
5. GCHQ considers it to be possible that it did in fact hold such data in its BPDs prior to avowal, which has now been deleted.
6. The results of the corporate record and BPD searches conducted by GCHQ do not show that any data from GCHQ's BPD relating to the Claimant was either accessed or examined during the pre-avowal period.
7. The results of the corporate record and BPD searches conducted by GCHQ do not show that any data that it may have held in its BPDs relating to the Claimant during the pre-avowal period was held in a way that was contrary to any internal or cross-Agency handling arrangements or policies.

Request relating to paragraph 4 of the Report on Searches: MI5 BPD

8. As stated in the Report on Searches, MI5's search results showed that it did hold data relating to the Claimant in its BPDs before avowal on 12 March 2015.

9. The results of the corporate record and BPD searches conducted by MI5 do not show that any data from MI5's BPDs relating to the Claimant was either accessed or examined during the pre-avowal period.
10. The results of the corporate record and BPD searches conducted by MI5 do not show, save in one respect (as to which see below), that the data relating to the Claimant that MI5 held in its BPDs prior to avowal was held during that period in a way that was contrary to any internal or cross-Agency handling arrangements or policies. MI5 did hold (and continues to hold) an open-sourced BPD which was not duly authorised when it was acquired in the pre-avowal period. That dataset contains data relating to the Claimant. MI5 had adverted to the fact that this BPD was not properly authorised prior to the searches being conducted in January 2017 and had already initiated (and has now completed) the process of authorising this BPD.

Request relating to paragraph 5 of the Report on Searches: SIS BPD

11. As stated in the Report on Searches, SIS's search results showed that it did hold data relating to the Claimant in its BPDs before avowal on 12 March 2015.
12. The results of the corporate record and BPD searches conducted by SIS do not show that any data relating to the Claimant that it held in its BPDs was either accessed or examined during the pre-avowal period.
13. The results of the corporate record and BPD searches conducted by SIS do not show that the data relating to the Claimant that it held in its BCDs during the pre-avowal period was held in a way that was contrary to any internal or cross-Agency handling arrangements or policies.

Request relating to paragraph 6 of the Report on Searches: GCHQ BCD

14. As stated in the Report on Searches, GCHQ's search results did not show that GCHQ held data relating to the Claimant in its BCDs before avowal on 4 November 2015.
15. GCHQ considers it to be possible that it did in fact hold such data in its BCDs prior to avowal, which has now been deleted.

16. The results of the corporate record and BCD searches conducted by GCHQ do not show that any data from GCHQ's BCD relating to the Claimant was either accessed or examined during the pre-avowal period.
17. The results of the corporate record and BCD searches conducted by GCHQ do not show that any data that it may have held in its BCDs relating to the Claimant during the pre-avowal period was held in a way that was contrary to any internal or cross-Agency handling arrangements or policies.

Request relating to paragraph 7 of the Report on Searches: MI5 BCD

18. As stated in the Report on Searches, MI5's search results did not show that it held data relating to the Claimant in its BCDs before avowal on 4 November 2015.
19. MI5 considers it to be possible that it did in fact hold data relating to the Claimant in its BCDs prior to avowal, which has now been deleted.
20. The results of the corporate record and BCD searches conducted by MI5 do not show that any data from MI5's BCDs relating to the Claimant was either accessed or examined during the pre-avowal period.
21. The results of the corporate record and BCD searches conducted by MI5 do not show that any data that it may have held in its BCDs relating to the Claimant during the pre-avowal period was held in a way that was contrary to any internal or cross-Agency handling arrangements or policies.

Requests 9 and 10 of the RFI

22. If the question that is asked is whether all deletion of BPD and BCD data held by all three agencies was suspended from June 2015 to January 2017 because this claim had been issued, the answer is no.

21 March 2017

**ANDREW O'CONNOR QC
RICHARD O'BRIEN**