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IPCO
Investigatory Powers
Commissioner's Office

[*TE*] Inspection Report

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1 Introduction

1.1 On 3-5 June 2019, IPCO conducted its third inspection of the [*TE*] at MI5. This followed two previous inspections conducted on 18-22 March 2019.

2 Inspection Methodology

2.1 Present from IPCO: [*five Inspectors and a member of the Technology Advisory Panel*]. [*The member of the Technology Advisory Panel*] returned to MI5 on 13 June to examine in detail the [*an internal compliance exercise*].

2.2 During this inspection IPCO focused on progress made against previous recommendations and received a series of detailed briefings from the various [*teams*] within MI5 that make use of the [*TE*]. These briefings were supplemented by a significant volume of documents outlining policy and progress.

3 Key findings

3.1 Recommendations

3.1.1 The key recommendations arising from the inspection are listed in Table 1 below. See also annex A, which makes clear which of these recommendations flows from the recommendations made in our last inspection.

Number	Reference	Recommendation	Recommendation type
R1	**5.5.5**	[REDACTED]	Core recommendation: improvement must be made
R2	**5.7.7**	MI5 must urgently complete work to understand the extent to which warranted data is held [*in the TE*] and initiate a process to delete any non-compliant data. This should include an early meeting with IPCO including a Technology Advisory Panel member to provide a progress update ahead of the next [*TE*] Inspection.	Core recommendation: improvement must be made

R3	**5.1.6**	MI5 should continue to press ahead with work to mitigate the issues around warranted data [*in a particular area*] highlighted in Recommendations 1 and 5 of our previous report [REDACTED].	Recommendation: observed potential for improvements
R4	**5.2.8**	[*There should be a review to see if greater clarity could be provided regarding* [REDACTED]	Recommendation: observed potential for improvements
R5	**5.3.4**	[*Consideration should be given in a particular area to adopting an approach to speed up the review process*]	Recommendation: observed potential for improvements
R6	**5.11.1**	[*Period checking should take place*]	Recommendation: observed potential for improvements
R7	**0**	[REDACTED]	Recommendation: observed potential for improvements
R8	**5.3.8**	MI5 should provide IPCO with regular updates regarding [*departmental reviews*] highlighting any concerns around non-compliant behaviours.	Recommendation: request for further information
R9	**5.8.2**	[*MI5 should brief IPCO on the findings of a particular review into the security of particular set of data held in a particular environment*]	Recommendation: request for further information

Table 1. Key recommendations resulting from inspection

4 Actions taken on previous recommendations

4.1 Progress against previous recommendations, along with an update to those of our previous recommendations which are still outstanding, is summarised in the annex.

5 Inspection findings

5.1 [***Data storage***]

5.1.1 [*We previously recommended urgent action to address the presence of warranted data stored in a particular area*].

5.1.2 MI5 has made considerable progress against this recommendation and [*the compliance risk*] is now largely mitigated. In particular, MI5 has implemented a [*process to analyse warranted data in a particular area and to delete it where required*]. MI5 has provided further details on this process in the regular [*summaries on the TE work*] shared with IPCO.

5.1.3 [*MI5 is adopting processes*].

5.1.4 [*There are new business processes in place for the use of TE, and the reviews being run by individual departments.*]

5.1.5 MI5 told us that they can now [REDACTED]. [*At the next TE inspection we intend to test the processes and inspect relevant business areas*].

5.1.6 [REDACTED]. A pilot (supported by [*the department for information, security, compliance and strategic policy*]) is starting in [*a month in 2019*] to test the reliability of this approach. [REDACTED]. MI5 hope it can be expanded for wider compliance assurance and replicated across other [*departments*].

[*MI5 should continue to press ahead with work to mitigate the issues around warranted data in this area as highlighted in Recommendations 1 and 5 of our previous report. At the next TE inspection we intend to test the reliability of this approach*]

5.2 Business processes for warranted data

5.2.1 We previously recommended that MI5 urgently complete the roll-out of business processes governing the handling of warranted data in the [*TE*] within [*departments*] (R2, R6 and R7 our previous report).

5.2.2 We are satisfied that MI5 has implemented the necessary business processes set out [*at "Annex H"*] [REDACTED], and that these have been set out in writing as stipulated.

5.2.3 Each process involving warranted data in [*the TE*] has been mapped and recorded with [*information management teams*] in individual [*departments*]. Users can then work within that process without further reference to the [*information management teams*] or compliance team. Any actions involving warranted data in [*the TE*] which are not covered by an existing process must be [*recorded*]. This includes, for example, the retention of data in a file share beyond the agreed retention period as it applies [*in the relevant business area*].

5.2.4 During the inspection we received a high level briefing on progress to date and detailed briefings from each of the [*departments*] regarding their processes for handling warranted data [*and monitoring compliance within the same*]. This included two [*demonstrations*]. In *the demonstrations*] we were satisfied that the processes demonstrated were compliant with section 53 safeguards.

5.2.5 [*MI5 are still implementing new processes involving warranted data*].

5.2.6 [*TE training sessions and guidance have been provided.*]

5.2.7 MI5 Legal Advisors have approved the [*TE*] guidance provided to [*departments*], and have agreed the principles which formed the basis of all the [*department*] processes were compliant with IPA section 53. They then reviewed and advised on the [*department*] processes and will be consulted on new processes. This should ensure that all these processes both current and future, are compliant with the section 53 safeguards.

5.2.8 Having reviewed the warranted data handling processes in use in [*a department*], we observed that the wording used in some of the process flow maps was ambiguous and did not clearly differentiate [*between particular types of handling warranted data*].

[*The department*] should review the wording in their process flow diagrams to see if greater clarity could be provided [*in differentiating*]

5.2.9 MI5 have begun to run assurance checks against these processes ([*5.3 (referred to in the report as 4.3 due to a presumed typographical error*] below), but cautioned that this will take time to complete; for example, it will take [*the department a period of time*] to conduct this assurance. [*MI5 is also seeking longer term cultural change to have users reach a deep understanding of the relevant IPA safeguards*].

5.3 [A type of review]

5.3.1 [*Each department adopts a tailored approach to reviews.*]

5.3.2 [REDACTED]

5.3.3 [REDACTED]

5.3.4 [REDACTED]

[REDACTED]

5.3.5 [REDACTED]

5.3.6 [REDACTED]. [*Departments*] are working together to ensure consistency on [*reviews*] and on the use of RAG status to ensure consistency [REDACTED]. They are also developing consistent language [REDACTED].

5.3.7 MI5 told us there would be improvements [REDACTED] to ensure processes were still fit for purpose and that they plan to relaunch their generic [*TE*] Guidance in updated version in due course.

5.3.8 [REDACTED]. We have asked MI5 to provide us with results of [*reviews*] so that we can see whether there are any emergent compliance issues.

MI5 should provide IPCO with regular updates regarding [*reviews highlighting any concerns*]

5.4 [REDACTED]

5.4.1 REDACTED]

5.4.2 [REDACTED]

5.4.3 [REDACTED]

5.4.4 [REDACTED]

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5.4.5 [REDACTED]

[REDACTED]

5.5 [*File shares*]

5.5.1 In our previous report, we requested an inspection of file share structures in use by those [*departments*] which make most use of the [*TE*] (R8 of our previous report).

5.5.2 During the inspection we received detailed briefings from each [*department*] that make use of the [*TE*]. We were shown the file share structures in place for each [*department*]. Staff have been trained in the use of these structures and compliance is checked [REDACTED].

5.5.3 Overall, the file share structures were appropriate and [*used correctly*]. However there was one area of concern [REDACTED].

5.5.4 [REDACTED].

5.5.5 [REDACTED]. We concluded that [*this area of concern*] represents a potential compliance risk.

[REDACTED]

5.6 Legacy data deletion

5.6.1 We previous recommended that MI5 provide regular updates on their project to delete “legacy” data from the [*TE*] (R9 of our previous report).

5.6.2 MI5 advised us that the deletion of legacy data in [*the TE*] was on track and have provided further details in their regular [*summaries of TE*] remediation work which bear this out. [REDACTED] [*Scanning and deletion of data was taking place*].

5.7 [*Data*] storage

5.7.1 Following our previous inspection, we recommended that MI5 set out their plan to ensure warranted data held on [*areas in the TE*] complies with IPA safeguards (R10 of our previous report).

5.7.2 [*MI5 are identifying data and TE areas*].

5.7.3 In response to our recommendation MI5 conducted a survey of [*a number of TE areas*]. These [*areas*] were selected at random but MI5 could find [REDACTED]. The survey did indicate that some [*areas*] may [REDACTED]

5.7.4 [*TE areas often require higher user access*]. The area of concern here is [*a type of storage in TE areas*]. In any other case, warranted data held by [*TE areas*] is subject to [*wider TE work*].

5.7.5 MI5 told us that any use [*related to the area of concern above*] should now be captured by the local business processes developed as part of their [*TE*] remediation work, ensuring compliant management of [*warranted*] data. MI5 will be conducting a programme of [*work*] to verify the operation of these processes, [REDACTED].

5.7.6 MI5 are taking [*an approach*] to legacy warranted material, and [REDACTED]. MI5 propose to incorporate any new learning into their current guidance and business processes to ensure that any new capabilities or future use of warranted data is compliant with their handling arrangements.

5.7.7 The use of [*areas in the TE*] is now governed by MI5 internal processes so there should be no new non-compliant behaviours. However, [*reference to historical warranted data contained in TE areas*]. This is an area we will wish to follow up on at our next inspection.

MI5 must [*complete*] work to understand the extent to which warranted data is held in [*areas*] and initiate a process to delete any non-compliant legacy data. This should include an early meeting with IPCO including a Technology Advisory Panel member to provide a progress update ahead of the next [*TE*] Inspection.

5.8 [*A set of data*]

5.8.1 We previously recommended that MI5 should [*protect a set of*] material held in the [*TE*], setting out any further mitigations required (R11 of our previous report).

5.8.2 This is not strictly an IPA compliance issue [REDACTED]

MI5 should brief IPCO [*in relation to the findings of a particular review into the security of a particular set of data held in a particular environment*]

5.9 LPP

5.9.1 We previously requested advice from MI5 on whether, and to what extent, LPP items within [*warranted*] data in [*the TE*] are covered by MI5's inseparable LPP policy (R12 of our previous report).

5.9.2 This work is being taken forward by MI5 Legal Advisors which is [*more complex in some areas compared to others*]. The previous recommendation still stands and MI5 have undertaken to provide IPCO with a written response ahead of the next [*TE*] inspection in September.

5.10 Error Reporting

5.10.1 We set out the required approach to reporting of relevant errors associated with the [*TE*] ([*R13 + R14*] of our previous report).

5.10.2 MI5 has discovered fewer relevant errors than anticipated. We discussed MI5's obligations to report [*TE*] compliance issues formally to IPCO as an error under Section 231 of the IPA. Following the inspection, MI5 wrote to IPCO on 3 May 2019 outlining how they proposed to report [*TE*] and related errors in future. [REDACTED]. MI5 assured us that should they find any such cases they would refer these to IPCO for consideration as a potential [*error*] under IPA Section [*231(2) (referred to in the report as 213(2) due to a presumed typographical error)*].

5.11 [*Data storage*]

5.11.1 REDACTED]

[A sample of [REDACTED] used in the TE should be checked periodically to ensure process compliance]

5.12 RRD

5.12.1 We noted that there was a considerable variation in the retention periods applied by [*departments*] to data stored in file shares: for example [*one*] team retain [*a type of data*] for [*a number of*] years [REDACTED]. In [*another team*] data retention ranges from [*a number of*] days in [REDACTED] to up to [*a number of*] years for [REDACTED]. MI5 confirmed that these differing retention periods were not reflected in the material sent to the Secretary of State. [REDACTED].

5.13 [REDACTED]

5.13.1 [*A mitigation is*] being widely, although not universally, applied (see Section 5.5 above). Good management of the Joiners Movers and Leavers (JML) process is essential to effective [REDACTED]. In addition [REDACTED] will be subject to auto deletion if not used for [*a period of time*].

5.13.2 [REDACTED]. Overall, with the possible exception of [*a specific type of area*], we are content that effective [*measures*] are now in place.

6 Conclusion

6.1 It is clear that MI5 has devoted considerable resources to dealing with [*the TE]* compliance issues and has now made considerable progress in implementing the mitigations set out in “Annex H” [REDACTED] which underpinned the IPC’s decision of 5 April. MI5 has also begun to make good progress in addressing [*a particular concern highlighted as a red recommendation in our April report*].

6.2 MI5 has identified [*a number of areas*] but has made little progress [*in relation to determining legacy warranted data within the TE*]. Considerable work is still required to *[implement*] suitable mitigations. We will wish to have a meeting with MI5 in advance of the next inspection to better understand the ongoing compliance risks and the approach to mitigation being adopted by MI5.

6.3 Each [*department*] in MI5 now has appropriate processes in place to manage the handling of warranted data in [*the TE*], supported by regular assurance reviews. It is important that these are maintained on a long-term basis, and that [*the department for information, security, compliance and strategic policy*] identifies best practice from the [*departments*] and ensures that, where appropriate, these are adopted across the organisation.

6.4 In the light of the considerable progress made to date, we will conduct our next [*TE*] inspection in September; this should allow MI5 the time to complete the majority of mitigations currently underway. IPCO will continue to monitor progress against its recommendations through the fortnightly [*summaries*] provided by MI5 and through highlight reports received following the [*department*] reviews.

Annex A: summary of progress against previous recommendations and recommendations arising from this inspection

Standard IPCO colour coded recommendations are used in this table, namely: red = critical recommendation (affects compliance status if not addressed); amber = core recommendation (improvements must be made); green = recommendation (observed potential for improvements/request for further information).

Previous recommendation(s) (report of 26 April 2019)	IPCO assessment of progress against recommendation	Status following this inspection	Updated recommendation(s)
R1: [REDACTED] **R5:** [*MI5 should implement a solution as soon as reasonably practicable to ensure that warranted data is deleted as soon as there are no longer any relevant grounds for retaining it.*] [REDACTED]	MI5 has made considerable progress in this area and the risk [REDACTED] is now largely mitigated. A number of mitigations to address the legacy issues are under way and outlined in detail in the report below. Ways to improve the future state will be included under the [*TE*] programme	Ongoing	MI5 should continue to press ahead with work to mitigate the issues [REDACTED] highlighted in recommendations 1 and 5 of our previous report. [*At the end of the next TE inspection we intend to test the progress made*]

R2: MI5 should urgently complete the implementation of business processes for the handling of warranted data in [*the TE*] and immediately inform IPCO when these processes became or will become fully operational in each relevant business area.	MI5 has made considerable progress in this area. The outline business processes were shared with IPCO in writing on 23 April 2019 (see recommendation R6). IPCO received detailed briefings from each of the [*departments*] making use of [*the TE*] and these are summarised below. IPCO will continue to monitor the success of these arrangements through receipt of regular updates on the MI5 [*assessments*].	Complete (subject to ongoing IPCO assessment of assurance reviews)	N/A

R3:[REDACTED] R4:[REDACTED]	[REDACTED]	Ongoing	[REDACTED]
R6: By 23 April 2019, MI5 should provide a summary all of the local business processes which have been implemented in response to paragraph 33 of "Annex H" to the JC Handbook. This should set out clearly how each process complies with the [REDACTED] key requirements of MI5's new policy on [REDACTED] warranted data in [*the TE*].	MI5 provided this list on 23 April. These processes were discussed in detail at this inspection.	Complete	N/A

R7: MI5 should facilitate a detailed IPCO inspection in May to examine the extent to which relevant [*teams*] have implemented the new policy [REDACTED]	This inspection was conducted 4-6 June 2019. We are yet to participate in an assurance review and will do so as part of the next inspection. In the meantime IPCO will track progress through receipt of the MI5 [*summaries*].	Ongoing	MI5 should provide IPCO with regular updates regarding [*team*] reviews [REDACTED]

R8: On our next inspection, MI5 should facilitate an inspection of the file share structures in use by those [*departments*] which make most use of [*the TE*], focusing on whether their structure and contents mirrors the central records held by the relevant information [*teams*].	We considered that overall the new file share structures were appropriate and that usage was being suitably monitored and enforced. [REDACTED]	Ongoing	[REDACTED]
R9: MI5 should provide IPCO with fortnightly updates on their project to delete legacy data from storage areas in [*the TE*], alongside other technical remediations. MI5 should provide IPCO on their assessment of how much warranted data is likely to be held [*in other areas*] as soon as they have been able to come to a view based on their current "discovery" work.	We have received [*regular*] updates which show steady progress towards the deletion of legacy data. However, as noted separately further work is required [REDACTED].	Ongoing	MI5 must urgently complete work [REDACTED] This should include an early meeting with IPCO including a Technology Advisory Panel member to provide a progress update ahead of the next [*TE*] Inspection.
R10: MI5 should update IPCO on their analysis of data within the sample of [*areas in the TE*] once this analysis is complete. If MI5 assesses that [*areas in the TE*] may hold warranted data they should set out how they plan to ensure these [*areas*] meet the IPA minimisation, destruction and LPP safeguards.	MI5's initial survey of [*areas*] was inconclusive and they now propose to examine [*areas*] according to [*a criterion*]. [REDACTED]	Ongoing	

R11: [*A set of material*]. MI5 should [REDACTED] set out any further mitigations they will take.	[*IPCO will discuss this later in 2019*]	Ongoing	[*MI5 to brief IPCO later in 2019*]
R12: MI5 should revert with advice on whether, and to what extent, LPP items within [REDACTED] warranted data held in [*the TE*] are covered by MI5's inseparable LPP policy; if not, MI5 should set out how they would delete such items if required to do so.	IPCO is awaiting correspondence from MI5 lawyers	Ongoing	The previous recommendation still stands. MI5 have undertaken to provide IPCO with a written response ahead of the next [*TE*] inspection in September.
R13: [*Error reporting*] Should MI5 identify that, as a result of compliance problems in [*the TE*], serious prejudice or harm has been caused to an individual or individuals, they should report this to IPCO for consideration as a potential serious error under IPA section [*231(2) (referred to in the report as 213(2 due to a presumed typographical error)*]	MI5 has accepted this recommendation [REDACTED]. They will inform IPCO [*of any potential serious cases*]	Complete	N/A
R14: MI5 should write to IPCO to make clear that previous disclosures about [*the TE*] constitute notification of an error under IPA Section 235(6), and as such IPCO's ongoing inspections of [*the TE*] constitute an error investigation.	MI5 wrote to IPCO on 3 May 2019 outlining their proposals.	Complete	N/A