



Data Retention and Investigatory Powers Bill

Top Lines

- The Regulation of Investigatory Powers Act 2000 (RIPA) governs the use of a number of intrusive powers, including access to communications data and the interception of communications.
- These powers are vital tools for law enforcement and the intelligence agencies to protect the public, and prevent or disrupt crime. Without them, we would be unable to bring criminals and terrorists to justice.
- RIPA ensures that these intrusive powers are subject to a number of safeguards to ensure that they are not misused.
- These include oversight by the Interception of Communications Commissioner and the Intelligence Services Commissioners, the Investigatory Powers Tribunal, and the Intelligence and Security Committee of Parliament.
- It is important that law enforcement and intelligence agencies have the powers they need to undertake investigations. This Bill does not extend any of these powers. Instead, it makes clear the full range of companies that may be subject to obligations under RIPA.
- The Bill is compatible with the ECHR and will contain the normal statement to this effect from the Home Secretary.

For information relating to communication data please see the separate factsheet.

What is Interception?

- Interception involves making available the content of a communication to a third party during the course of its transmission.
- A limited number of law enforcement and intelligence agencies can apply for an interception warrant.
- Warrants may only be issued by a Secretary of State, and only where it is necessary and proportionate.
- Warrants can only be granted for one of three specific purposes:
 - In the interest of national security.
 - For the prevention or detection of serious crime.
 - Safeguarding the economic well-being of the UK.
- Interception is a vital tool that allows law enforcement and intelligence agencies to identify and understand the threats facing the UK.
- The majority of MI5's priority investigations rely on interception in some form.

Why do we need to legislate?

- The increasing globalisation of the telecommunications market has brought about new challenges.
- We need to ensure there is no doubt that this legislation applies to companies providing communications services to customers in the UK, wherever those companies are located.
- In the absence of such a provision in RIPA, some companies have started to question whether the law applies to them. This represents a real risk to our ability to investigate terrorism and serious crime.
- This legislation clarifies that position, making clear the range of companies or services that may be subject to these requirements – relating to both requests for communications data and interception warrants.
- This Bill also amends the definition of telecommunications service in RIPA to make clear that obligations may be imposed on all kinds of communications services used by suspects, including web-based email and other online services.

Why are you amending the statutory purpose relating to 'safeguarding economic well-being'?

- RIPA provides for an interception warrant to be sought in the interests of the economic well-being of the UK.
- The Interception of Communications Code of Practice makes clear that such a warrant may only be sought where it is also relevant to the interests of national security.
- The Bill amends the purposes in RIPA to reflect the requirements of the Code of Practice.



Data Retention and Investigatory Powers Bill

What oversight is there of the intelligence agencies?

- The UK's security and intelligence agencies are subject to one of the strongest legal and regulatory frameworks in the world.
- The intelligence agencies take their obligations under the law very seriously.
- Intelligence activity is overseen by Secretaries of State, the Interception of Communications Commissioner, the Intelligence Services Commissioner, and the cross-party Intelligence and Security Committee of Parliament.
- The agencies are held to account by the Investigatory Powers Tribunal, which provides an independent forum for hearing complaints against the security and intelligence agencies.
- The Justice and Security Act 2013 significantly strengthened the remit, powers, and resources of the Intelligence and Security Committee.

What about the police and other law enforcement bodies?

- The Interception Commissioner provides oversight of all intercepting agencies, including public authorities.
- The Office of the Surveillance Commissioner, headed by Sir Christopher Rose, provides independent oversight of public authority use of other covert techniques likely to obtain private information.
- The Independent Reviewer of Terrorism Legislation, David Anderson QC, provides statutory oversight of the operation of the UK's counter-terrorism laws.
- The Independent Police Complaints Commissioner provides robust independent investigations into alleged police misbehaviour.
- The Biometrics Commissioner, Alastair McGregor QC, provides independent oversight for the retention and use of biometric material.
- And there are many others – e.g. Information Commissioner, HM Inspectorate of Constabulary, Border Inspector, Police Ombudsman – providing independent scrutiny and transparency to different aspects of the work of the intelligence and law enforcement bodies.



"Overall I believe the agencies act within the constraints imposed upon them by law and the public should have confidence that they do so."

Sir Mark Waller, Intelligence Services Commissioner, June 2014

"Do the interception agencies misuse their powers under RIPA 2000 Part I Chapter I to engage in random mass intrusion into the private affairs of law abiding UK citizens who have no actual or reasonably suspected involvement in terrorism or serious crime? The answer ... is emphatically no. The interception agencies do not engage in indiscriminate random mass intrusion by misusing their powers under RIPA 2000 Part I."

Sir Anthony May, Interception of Communications Commissioner, April 2014

"Unlawful and unwarranted intercept intrusion of any kind, let alone "massive unwarranted surveillance", is not and, in my judgment could not be carried out institutionally within the interception agencies themselves. The interception agencies and all their staff are quite well aware of the lawful limits of their powers."

Sir Anthony May, Interception of Communications Commissioner, April 2014

"It has been alleged that GCHQ circumvented UK law by using the NSA's PRISM programme to access the content of private communications. From the evidence that we have seen, we have concluded that this is unfounded."

Intelligence and Security Committee of Parliament, July 2014



Where can I learn more?

- The ISC has already carried out one review in July 2013, following the PRISM allegations, and made clear that GCHQ had acted lawfully. They are now undertaking a far reaching review on the balance between Privacy and Security. Details can be found at: www.isc.parliament.uk.
- The Interception of Communications Commissioner, Sir Anthony May, published his annual report in April 2014 and it busts myths about oversight, the law and what the intelligence agencies and law enforcement can and cannot do. It can be found at: www.iocco.uk-info.
- The Intelligence Services Commissioner, Sir Mark Waller, published his annual report in June 2014 and it can be found at: www.isc.intelligencecommissioners.com.
- The Investigatory Powers Tribunal provides an independent, judge-led tribunal to ensure that the legislation has been complied with by the agencies and law enforcement. More details can be found at: www.ipt-uk.com.