

# INVESTIGATORY POWERS BILL: CONTEXT

The Investigatory Powers Bill will govern the use and oversight of investigatory powers by the law enforcement and security and intelligence agencies and by other specified public authorities. It builds on the work of three comprehensive reviews undertaken in the last two years. Those reviews, carried out by David Anderson QC, the Independent Reviewer of Terrorism Legislation, the Intelligence and Security Committee of Parliament (ISC), and a panel convened by the Royal United Services Institute (RUSI), between them made 198 recommendations.

All three reviews agreed that the use of investigatory powers will remain vital to the work of the law enforcement and security and intelligence agencies in the future. Collectively, they proposed reforms to the way these powers are overseen and recommended the introduction of stronger safeguards and greater openness.

In November 2015 the Government published a draft Bill for pre-legislative scrutiny. The provisions in the draft Bill were considered by the House of Commons Science and Technology Committee, the Intelligence and Security Committee of Parliament and by a Joint Committee of both Houses of Parliament convened to scrutinise the draft Bill.

Between them, those Committees received around 200 submissions and held a number of evidence sessions with the Government, industry, civil liberties groups and other bodies.

The Government accepted the vast majority of the Committees' recommendations, which were reflected in the revised Bill introduced to Parliament on 1 March 2016. Alongside further explanatory material, the Government has – in line with the Committees' recommendations – also published six draft Codes of Practice alongside the Bill to provide greater detail on the operation of the powers contained in the Bill and the oversight arrangements that will govern them.

The Investigatory Powers Bill will transform the law relating to the use and oversight of investigatory powers. It will strengthen safeguards and introduce world-leading oversight arrangements. The Bill does three things:

First, it brings together powers already available to law enforcement and the security and intelligence agencies to obtain communications and data about communications. It ensures that these powers – and the safeguards that apply to them – are clear and understandable.

Second, the Bill radically overhauls the way these powers are authorised and overseen. It introduces a 'double-lock' for interception warrants, so that these – and other warrants – cannot be issued by the Secretary of State until they have been approved by a judge. And it creates a powerful new Investigatory Powers Commissioner (IPC) to oversee how these powers are used.

Third, it ensures powers are fit for the digital age. The Bill makes provision for the retention of internet connection records (ICRs) in order for law enforcement to identify the communications service to which a device has connected. This

will restore capabilities that have been lost as a result of changes in the way people communicate.

The Government has acknowledged the need, in particular, to make the case for the bulk provisions in the Bill. It has published a detailed operational case for the use of bulk powers which provides unprecedented detail about how the security and intelligence agencies use these capabilities. The case studies in the operational case clearly show how these powers have proved vital in protecting national security. Following House of Commons consideration, the Government has further announced that David Anderson will conduct an independent review into the necessity of bulk powers and will report on his findings later this year.

The new provisions in the revised Bill, which provide for the retention of internet connection records, reflect the compelling case made by law enforcement agencies which was endorsed during pre-legislative scrutiny by the Joint Committee. An operational case has been published setting out the necessity for ICR retention. This was revised following pre-legislative scrutiny, when the Joint Committee recommended that the purposes for which law enforcement may seek access to ICRs should be expanded, provided it is necessary and proportionate for a specific investigation.