



**TERMS OF REFERENCE FOR
THE TECHNICAL ADVISORY BOARD**

Second Edition 2022

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Legislative basis for the Technical Advisory Board (TAB)

1. The Technical Advisory Board (TAB) is an advisory Arm's-Length Body (ALB) first established by section 13(1) of the Regulation of Investigatory Powers Act 2000 (repealed), and now maintained under section 245 of the Investigatory Powers Act 2016 (the Act).

Role and purpose

2. The Act allows the Secretary of State to issue data retention notices (DRNs), national security notices (NSNs) and technical capability notices (TCNs) to Telecommunications Operators (TOs). The power to issue DRNs are set out in section 87 and require TOs to retain relevant communications data if it is considered to be necessary and proportionate. Provision relating to NSNs are set out in section 252 and require TOs to take specified steps that are considered necessary in the interests of national security. Provisions relating to TCNs are set out in section 253 and impose obligations on TOs to ensure they have the certain technical capabilities considered necessary to respond to any relevant authorisation or warrant.

In accordance with sections 90 and 257 of the Act, and the Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018, a notice issued to a TO under these sections, may be referred by the TO to the Secretary of State for review within 28 days of the notice being issued. Before deciding the review, the Secretary of State must consult and take account of the views of the TAB, together with a Judicial Commissioner. In accordance with Sections 90(7) and 257(6), the TAB must consider the technical requirements and the financial consequences of the notice for the person who has made the referral.

The TAB and the Judicial Commissioner must give the relevant TO and the Secretary of State the opportunity to provide evidence and make representations to them before reaching their conclusions. They shall then report their views to the TO and to the Secretary of State. After considering any report from the TAB and the Judicial Commissioner relating to a notice, the Secretary of State may vary, revoke or confirm the effect of the notice. Where the Secretary of State decides to confirm or vary the notice, the Investigatory Powers Commissioner must approve the decision.

Working practices

3. The TAB will fulfil its functions by convening meetings when required and will meet at least once a year. It will give careful consideration to the matters brought before it, where appropriate seeking evidence and expert advice from outside its own membership. The TAB Chair shall report the TAB's conclusions, in writing, to the Secretary of State. In relation to a notice issued under sections 87, 252 and 253 of the Act and referred to the TAB for consideration, the TAB Chair shall also report its conclusions, in writing, to the person making the reference. The TAB will operate business practices that meet its objectives within legislation concerning the management of data and the provision of access to information. Where the Secretary of State has consulted the TAB within a calendar year, the TAB Chair will publish an Annual Report as soon as reasonably practicable after 31 December. In the event no consultations have taken place, the publication of an Annual Report will be at the discretion of the TAB Chair.

Membership

4. The membership of the TAB is provided for under section 245 of the Act and the Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018. The regulations specify that the TAB must comprise between thirteen and fifteen members: six representing those who may apply for warrants under the Act or those who may represent the interests of such persons ("government or public authority members"), six representing the views of those on whom an obligation may be placed or those who may represent the interests of such persons ("industry members"), an independent Chair and the option for two further independent members.

Recruitment of TAB members

5. Recruitment of the TAB Chair, other independent members, and industry members shall be conducted in accordance with the guidelines on ministerial appointments to public bodies issued by the Office for the Commissioner for Public Appointments (OCPA).

The government/public authority members shall be nominated by the law enforcement agencies/intelligence agencies and appointed by the Secretary of State.

Responsibilities of the TAB Chair

6. The Chair is responsible for chairing and managing the work of the TAB. They must also ensure that the TAB operates within the parameters set out in the Cabinet Office's "Public Bodies: A Guide for Departments".

The Chair is directly responsible to the Secretary of State. Their key tasks and objectives are to:

- have responsibility for the operation of the TAB
- lead (and engage fully in) collective consideration of the issues, taking account of the full range of relevant factors, including any guidance issued by the sponsor department or the responsible Minister
- assess the technical requirements and the financial consequences of the notice for the person who has made the referral of obligations placed on public telecommunications services to maintain certain capabilities under IPA, on a case-by-case basis as and when TOs request a review by the Secretary of State
- advise the Secretary of State in relation to TO appeals, taking account of relevant legislation and expert and/or specialist technical advice
- produce and publish, with the support of the TAB Secretariat, an Annual Report when appropriate on the TAB's activities
- complete performance appraisals for members of the TAB
- respond appropriately and in a timely manner to complaints, if necessary, with reference to the HO
- ensure that the TAB does not exceed its powers or functions
- respond to the Secretary of State who may at any time require the TAB to report on any matter relating to the Board's functions
- participate in the recruitment of TAB industry members
- participate in the recruitment of TAB independent members
- review the appointment of TAB members every 3 years and make recommendations to the Secretary of State; and
- agree a code of practice for TAB members with the head of the sponsoring Home Office Unit (Investigatory Powers Unit), ensuring that the code of practice is, where practicable and appropriate, consistent with Cabinet Office guidelines and reporting any breaches of the code of practice to the Secretary of State.

Terms and conditions for the post of TAB Chair

7. The terms and conditions for the post of TAB Chair are as follows:
 - the post holder will need to be developed vetted
 - the post holder will need to abide by the code of practice for TAB members
 - the post holder will need to be eligible as a TAB Chair in accordance with regulation 3(6) of the Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018
 - the remuneration is £400 per day plus expenses. The initial appointment is for three years with the possibility of renewal.

Responsibilities of TAB members

8. TAB members are responsible to the TAB Chair, assisting them to formulate advice for the Secretary of State on matters referred to the TAB for consideration. TAB members must at all times abide by the TAB's code of practice.

Terms and conditions for the post of TAB member

9. The terms and conditions for the post of TAB member are:
 - the post holder will need to be developed vetted
 - the post holder will need to abide by the code of practice for TAB members
 - the post holder will need to be eligible as a TAB member in accordance with either regulation 3(2), 3(4) or 3(6) of the Investigatory Powers (Review of Notices and Technical Advisory Board) Regulations 2018
 - no remuneration will be received, but expenses will be reimbursed
 - Appointments will be for three years with the possibility of renewal.

TAB secretariat and relationship with the Home Office

10. The Home Office will provide the TAB with a secretariat, administrative support and any policy guidance it requires. The Home Office will also administer TAB members' expense claims and payments to the TAB Chair, and act as a conduit between the TAB and other Government

Departments and Agencies and Telecommunications Operators, as required.

Review of the functions of the TAB

11. The TAB Chair should review the functions of the TAB every five years, in line with Cabinet Office guidance.

Contacting the TAB

12. The TAB may be contacted by writing to The Technical Advisory Board, c/o Investigatory Powers Unit, 2 Marsham Street, London SW1P 4DF. Alternatively, e-mails may be addressed to **TAB@homeoffice.gov.uk**.
13. The TAB homepage, which provides further information on the TAB, including copies of both this document and the TAB's Code of Practice, can be found at [Technical Advisory Board - GOV.UK \(www.gov.uk\)](http://www.gov.uk)