



Home Office

Investigatory Powers Bill Team
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The draft Investigatory Powers Bill: bulk personal datasets

Thank you for your letter of 12 January 2016 regarding the provisions in the Investigatory Powers Bill (IP Bill) relating to bulk personal datasets (BPDs), and in particular whether medical records would be covered by those provisions.

The task of defending the UK's interests and protecting its citizens in a digital age is becoming increasingly complicated and challenging. The use of BPDs by the security and intelligence agencies is a critical part of their response to that challenge.

The Government understands the need to offer assurance to the public and to Parliament as to the use of such capabilities by the security and intelligence agencies. However, there is a need to ensure any publication of guidance or information about the types of data that the agencies hold does not jeopardise national security. There is a limit to the detail of security and intelligence agency use of BPDs that can be put into the public domain without affecting national security. Further detail as to what is held, or how they are used, could incite behaviour change and reduce the utility of the information itself, or affect over time the ability of the security and intelligence agencies to carry out their statutory functions.

Nor is it possible to make public the types of dataset that currently the agencies do not hold, or commit not to use particular types of dataset; this may provide those that wish to do us harm greater insight as to the limits of the agencies' capabilities and thus how to avoid detection or disruption.

The national security sensitivity of publishing information about the use of BPDs by the security and intelligence agencies has been recognised by the Intelligence Services Commissioner and the Intelligence and Security Committee of Parliament who provide independent oversight of this vital capability.

The Government and the existing oversight bodies have, though, provided significant information about the safeguards relating to BPDs, how they would operate in the IP Bill, and some illustrative (albeit limited) examples. This includes:

- (a) Examples of bulk personal datasets: the electoral roll, passport or firearm licence records, or a telephone directory.
- (b) An example of the type of datasets: travel data.
- (c) Explanation for why bulk personal datasets are useful and how they are used has been provided in the fact sheet accompanying the Bill and in the ISC Privacy and Security report.
- (d) Explanation of the existing handling arrangements for BPD are provided in the security and intelligence agencies' Handling Arrangements which was published at the same time as the draft Bill's publication.

The security and intelligence agencies can only seek to obtain and examine bulk personal datasets that are relevant to their statutory purposes. In all cases, they must consider carefully the necessity and proportionality of obtaining a dataset and must ensure any information obtained is subject to stringent handling arrangements. These safeguards are reflected in the published Handling Arrangements and the draft IP Bill and will be reflected in a draft statutory Code of Practice that will be published alongside the Bill in the Spring.

The use of BPDs is not new, and the IP Bill does not provide new powers for acquiring BPD. Rather, it provides robust and transparent safeguards around BPDs, including a requirement for warrants to authorise the obtaining, retention and examination of BPDs. Those safeguards are comparable to those provided for in relation to other powers under the Bill. This includes introducing a "double-lock" so that the issue of intelligence agencies' warrants will in future be subject to approval by both a Secretary of State and a Judicial Commissioner. Consequently the system proposed by the draft Bill will continue to provide democratic accountability to Parliament through the role of the Secretary of State, whilst also providing for independent external judicial scrutiny of each decision made. This "double lock" will give the UK one of the strongest oversight systems in the world.

The Investigatory Powers Commissioner will also keep under review the acquisition, retention, use or disclosure of bulk personal datasets by the intelligence agencies. That is currently done by the Intelligence Services Commissioner, who confirmed in his 2014 report that the 'the case for holding BPD has been established in each service' and 'agencies all have strict procedures in place in relation to handling, retention and deletion.' The Intelligence and Security Committee of Parliament also has oversight of the agencies' use of BPD, and recognised in its March 2015 Privacy and Security report that BPDs are 'increasingly important investigative tool for the Agencies'. The Foreign Secretary (for GCHQ and SIS) and the Home Secretary (for MI5) have oversight of the agencies' policies relating to BPDs.

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