

**IN THE INVESTIGATORY POWERS TRIBUNAL**

**BEFORE THE PRESIDENT (LORD JUSTICE SINGH) AND MR JUSTICE EDIS**

**Claim No. IPT/15/110/CH**

**B E T W E N:**

**PRIVACY INTERNATIONAL**

**Claimant / Applicant**

**- and -**

**(1) SECRETARY OF STATE FOR FOREIGN AND COMMONWEALTH AFFAIRS**

**(2) SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**(3) GOVERNMENT COMMUNICATION HEADQUARTERS**

**(4) SECURITY SERVICE**

**(5) SECRET INTELLIGENCE SERVICE**

**Respondents**

**Claim No. IPT/20/01/CH**

**(1) LIBERTY**

**(2) PRIVACY INTERNATIONAL**

**Claimants**

**- and -**

**(1) SECURITY SERVICE**

**(2) SECRETARY OF STATE FOR THE HOME DEPARTMENT**

**Respondents**

---

**ORDER**

---

**UPON READING** the Claimants' Grounds of Claim commencing a new claim (the "**New Claim**") and applying to amend and re-open Claim No. IPT/15/110CH (the "**Application relating to the Existing BPD/BCD Claim**") dated 31 January 2020

**AND UPON** hearing Counsel for the Claimants, Leading Counsel for the Respondents and Leading Counsel to the Tribunal ("**CTT**") at a case management hearing on 10 February 2020

**THE TRIBUNAL DIRECTED THAT:**

1. The Respondents shall preserve all data and documents relevant to the Grounds of Claim, until the conclusion of the proceedings and any appeal or period for appeal. The Respondents have liberty to apply in respect of a specific document or class of documents.
2. The Respondents shall, by 4pm on Monday 6 April 2020, serve a written OPEN (and, if so advised, CLOSED) response to the New Claim. The Respondents shall thereby respond to the entirety of the Grounds of Claim, save that no response is presently required to paragraphs 148-153 inclusive nor to consequential references in paragraphs 154-156.
3. The Respondents shall, by 4pm on Monday 6 April 2020, provide documents which they identify as the key documents relating to the New Claim (“the Core Documents”) to Counsel to the Tribunal in CLOSED only, including the documents listed in the Annex to this Order.
4. The Claimants shall, if so advised, file and serve a Reply to the Respondents’ response to the New Claim by 4pm on Thursday 7 May 2020.
5. The Respondents shall serve any OPEN and, if necessary, CLOSED evidence (i) upon which they seek to rely, and (ii) which they are obliged to disclose by reference to principles of candour, by 4pm on Friday 3 July 2020.
6. The parties, and CTT, shall seek to agree a draft list of issues including, if necessary, any CLOSED issues. The draft list of issues will be provided to the Tribunal, for its agreement, by 4pm on 3 July 2020 indicating any areas of disagreement.

**Disclosure review by CTT**

*(a) The Response*

7. CTT shall serve any requests for disclosure into OPEN of any CLOSED parts of the Response and of the Core Documents by 4pm on Monday 27 April 2020. For the avoidance of any doubt, this shall include CTT considering whether any documents listed in the Annex, which are all relevant documents, should (in light of the matters

now at issue) be further disclosed than in the OPEN versions attached to the Grounds of Claim.

8. The Respondents shall respond to the request in paragraph 7 by 4pm on Monday 18 May 2020.
9. Thereafter, if necessary, the Respondents and CTT shall meet to discuss by Friday 29 May 2020, and any disclosure into OPEN resulting from that meeting shall be provided to the Claimants and to the Tribunal by Friday 12 June 2020, or as part of evidence provided pursuant to paragraph 5.
10. The Tribunal will determine any matters of disagreement arising from the procedure in paragraphs 7 to 9 at a directions hearing on 30 July 2020.

*(b) The evidence*

11. CTT shall serve any requests for disclosure into OPEN of any CLOSED witness statements and evidence by 4pm on Monday 20 July 2020.
12. The Respondents shall respond to the request in paragraph 11 by 4pm on Friday 4 September 2020.
13. Thereafter, if necessary, the Respondents and CTT shall meet to discuss by Wednesday 9 September 2020, and any disclosure into OPEN resulting from that meeting shall be provided to the Claimants and to the Tribunal by Wednesday 16 September 2020.
14. If necessary, the Tribunal will determine any matters of disagreement arising from the disclosure requests in relation to the Respondents' evidence at a hearing to be fixed by agreement with the Tribunal.

**Directions hearing**

15. There shall be a directions hearing on 30 July 2020 with a time estimate of 1 day. At that hearing, the Tribunal will:
  - a. determine any outstanding disputes about disclosure relating to the CLOSED Response and Core Documents;
  - b. consider the draft list of issues;
  - c. make directions for the substantive hearing; and

- d. consider any other matters which require determination prior to the substantive hearing.

16. Prior to the directions hearing:

- a. The Claimants shall file and serve agreed OPEN bundles for the hearing to the Tribunal, CTT and the Respondents by 9 July 2020.
- b. The Respondents shall file and serve agreed CLOSED bundles for the hearing on the Tribunal and CTT by 16 July 2020.
- c. The parties shall file and exchange OPEN skeleton arguments, if so advised, by 23 July 2020.
- d. The Respondents shall file and serve on CTT a CLOSED skeleton argument, if so advised, by 24 July 2020.
- e. CTT shall file and serve OPEN and/or CLOSED submissions, if so advised, by 28 July 2020.

**The substantive hearing**

17. The claim shall be listed for a substantive hearing with a time estimate of 5 days (including pre-reading time) between 23 and 27 November 2020.

**The existing BPD/BCD claim**

18. The issue of remedies in the Existing BPD/BCD Claim be adjourned.
19. The Application relating to the Existing BPD/BCD Claim is stayed until the determination of the New Claim.
20. Liberty to apply.

**Dated 14 February 2020**

## ANNEX

No	Document	Date
1	A letter from MI5’s Director of Policy, Compliance, Security and Information to IPCO (the “ <b>MI5 11 March 2019 Letter</b> ”)	11 March 2019
2	IPCO’s <i>Inspection Report</i> (“ <b>First Inspection Report</b> ”)	29 March 2019
3	A new Annex H — Section II to the MI5 Handbook for Judicial Commissioners (“ <b>Annex H</b> ”)	1 April 2019
4	The IPCr’s “generic” decision on safeguards (the “ <b>Generic Warrants Decision</b> ”)	5 April 2019
5	A letter from Sir Andrew Parker, Director General of MI5, to the Home Secretary (the “ <b>Parker 24 April 2019 Letter</b> ”)	24 April 2019
6	A letter from the IPCr to Sir Andrew Parker (“ <b>IPCr 26 April 2019 Letter</b> ”)	26 April 2019
7	IPCO’s “ <i>Inspection Report: [Technology Environment] follow up inspection, 15–16 April 2019</i> ” (the “ <b>Second Inspection Report</b> ”)	26 April 2019
8	A letter from “The Oversight and Errors Team” at MI5 to IPCO	3 May 2019
9	A letter from the IPCr to Sir Andrew Parker (the “ <b>IPCO 8 May 2019 Letter</b> ”)	8 May 2019
10	A letter from “The Oversight and Errors Team” at MI5 to IPCO	15 May 2019
11	Compliance Improvement Review — Open Summary (“ <b>CIR Summary</b> ”)	June 2019