



BRIEFING PAPER

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The Intelligence and Security Committee

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Summary

The Intelligence and Security Committee (ISC) is a committee of Parliament appointed to scrutinise the UK's three main intelligence and security agencies and other intelligence activities.

The *Justice and Security Act 2013* reformed the ISC, making it a Committee of Parliament; providing greater powers; and increasing its remit, including oversight of operational activity and the wider intelligence and security activities of Government.

The Committee's members are nominated by the Prime Minister and appointed by their respective Houses. It reports directly to Parliament, although it may also report to the Prime Minister where necessary for reasons of national security. Its functions and powers are set out in the *Justice and Security Act 2013*.

1. Establishment and status

The Intelligence and Security Committee of Parliament (ISC) was first established by the *Intelligence Services Act 1994* to examine the policy, administration and expenditure of the Security Service, Secret Intelligence Service (SIS), and the Government Communications Headquarters (GCHQ).

The [Justice and Security Act 2013](#) reformed the ISC: making it a Committee of Parliament; providing greater powers; and increasing its remit (including oversight of operational activity and the wider intelligence and security activities of Government).

Other than the three intelligence and security Agencies, the ISC examines the intelligence-related work of the Cabinet Office including: the Joint Intelligence Committee (JIC); the Assessments Staff; and the National Security Secretariat. The Committee also provides oversight of Defence Intelligence in the Ministry of Defence and the Office for Security and Counter-Terrorism in the Home Office.

Members of the ISC are appointed by Parliament and the Committee reports directly to Parliament. However, members must be nominated by the Prime Minister. The Committee may also make reports to the Prime Minister on matters which are national security sensitive.

The Members are subject to Section 1(1)(b) of the *Official Secrets Act 1989* and have access to highly classified material in carrying out their duties. The Committee takes evidence from Cabinet Ministers and senior officials – all of which is used to formulate its reports.

2. Membership

Section 1 of the 2013 Act sets out how the members should be appointed:

1.— The Intelligence and Security Committee of Parliament

(1) There is to be a body known as the Intelligence and Security Committee of Parliament (in this Part referred to as “*the ISC*”).

(2) The ISC is to consist of nine members who are to be drawn both from the members of the House of Commons and from the members of the House of Lords.

(3) Each member of the ISC is to be appointed by the House of Parliament from which the member is to be drawn.

(4) A person is not eligible to become a member of the ISC unless the person—

(a) is nominated for membership by the Prime Minister, and

(b) is not a Minister of the Crown.

(5) Before deciding whether to nominate a person for membership, the Prime Minister must consult the Leader of the Opposition.

(6) A member of the ISC is to be the Chair of the ISC chosen by its members.

(7) [Schedule 1](#) (which makes further provision about the ISC) has effect.

The current membership of the Committee is as follows:

- Rt. Hon. Dominic Grieve QC (chair)
- Rt. Hon. Sir Alan Duncan
- Rt. Hon. Lord Janvrin
- Rt. Hon. Fiona Mactaggart
- Rt. Hon. Angus Robertson
- Rt. Hon. George Howarth
- Rt. Hon. Keith Simpson
- Rt. Hon. Gisela Stuart
- Most Hon. Marquess of Lothian QC

Recent annual reports, the Government’s responses, special reports and other information are available from the [ISC website](#).

3. Main functions and duties of the ISC

Section 2 of the 2013 Act sets out the main functions of the ISC: to examine or otherwise oversee the expenditure, administration, policy and operations of the Security Service, the Secret Intelligence Service, and the Government Communications Headquarters. The ISC may also examine or oversee any other activities of the Government in intelligence and security matters that are set out in a memorandum of understanding. This enables the ISC to provide oversight of the intelligence and security community beyond the security Agencies. Describing those functions in a memorandum of understanding enables changes to be made to the ISC's remit, in response to changes to the structure and work of the wider intelligence community, by the agreement of the ISC and the Government.

The ISC is able to consider any operational matter provided that it is not part of any ongoing operation and it is a matter of significant national interest.

Section 3 of the Act requires the ISC to make an annual report to Parliament on the discharge of its functions and enables it to make any other reports as it considers appropriate concerning any aspects of its functions. This differs from the previous position whereby the ISC made its reports only to the Prime Minister.

If the ISC and the Prime Minister agree that any matter would be prejudicial to the continued discharge of the functions of the Agencies or other bodies, it should be excluded from the report. The report should make clear to Parliament whether any information has been excluded on this basis, and a report on these matters may be made to the Prime Minister.

4. Disclosure of documents

Under the 2013 Act, if the ISC ask the chiefs of any of the three main intelligence and security agencies (the Security Service, SIS or GCHQ) to disclose information, they must make it available, or inform the ISC that it cannot be disclosed because the Secretary of State has vetoed disclosure.¹ This represents a change from the position in the 1994 Act, under which the Director-General of the Security Services, the Chief of the Intelligence Services or the Director of the Government Communications Headquarters were also able to veto the release of information. The same applies to requests for information from Government departments.² The Secretary of State may only veto disclosure of information on two grounds: that it is sensitive and should not be disclosed to the ISC in the interests of national security; or that it is information of such a nature that, if the Secretary of State were requested to produce it before a Departmental Select Committee of the House of Commons, the Secretary of State would consider (on grounds not limited to national security) it proper not to do so. In deciding whether it would be proper not to disclose on the basis of the latter, the Minister must have regard to governmental guidance concerning the provision of evidence by civil servants to Select Committees. This would mean in particular that the Minister would have to have regard to the Cabinet Office Guidance [Departmental Evidence and responses to Select Committees](#).

¹ *Justice and Security Act 2013*, Schedule 1.

² *Ibid*

5. Background to the reforms of the ISC

5.1 Governance of Britain Green Paper

In July 2007, the [Governance of Britain](#) Green Paper proposed a range of measures aimed at bringing the ISC as far as possible into line with other select committees, whilst maintaining the necessary arrangements for safeguarding sensitive material. These proposals were: an increased role for Parliament in the appointment process for members of the ISC; some hearings of the ISC to be structured to allow unclassified evidence to be heard in open session; providing the Committee with additional support in order to enhance its abilities to conduct investigations; finding alternative, secure accommodation outside the offices of the Cabinet Secretariat; and the ISC Chairman opening debates on its reports in the House, rather than a Government Minister. These proposals have largely now been implemented.

5.2 Justice and Security Green Paper

The Ministry of Justice published the [Justice and Security Green Paper](#) in October 2011. The Green Paper acknowledged that criticism of the ISC continued, notwithstanding the previous reforms. These criticisms focussed on the fact that it was separate and different from other parliamentary committees; that it answered to the Prime Minister; that it was insufficiently independent; that it did not have sufficient knowledge of the operational work of the Agencies; and that the process by which the ISC was appointed, operated and reported was insufficiently transparent.

The ISC itself developed and put forward proposals for reform and communicated these proposals to the Government in advance of the *Green Paper*. The principles on which these proposals were based were summarised in the [ISC's 2010-11 Annual report](#).³

- The Intelligence and Security Committee should become a Committee of Parliament, with the necessary safeguards, reporting both to Parliament and the Prime Minister;
- The remit of the Committee must reflect the fact that the ISC has for some years taken evidence from, and made recommendations regarding, the wider intelligence community, and not just SIS, GCHQ and the Security Service;
- The Committee's remit must reflect the fact that the Committee is not limited to examining policy, administration and finances, but encompasses all the work of the Agencies;

³ Page 82

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- The Committee must have the power to require information to be provided. Any power to withhold information should be held at Secretary of State level, and not by the Heads of the Agencies;
- The Committee should have greater investigative and research resources at its disposal.

The *Green Paper* sought views on these proposals, asking consultees to consider what changes to the ISC could best improve the effectiveness and credibility of the Committee in overseeing the Government's intelligence activities.

Sir Malcolm Rifkind (the incumbent chair) issued a press release⁴ following the publication of the Green Paper in which he observed that:

The Green Paper also contains proposals for reform of the oversight arrangements for the UK intelligence community. I am pleased that the Government has accepted the vast majority of the Intelligence and Security Committee's own proposals in its Green Paper published today. This is a strong endorsement of our desire to modernise and strengthen parliamentary oversight of the intelligence community in this country. If implemented in full, the ISC will become a Committee of Parliament with greater authority, effectiveness, resources and credibility. It will significantly enhance oversight of the United Kingdom intelligence community in a manner in which Parliament and the public can have full confidence. These are significant reforms which I hope will earn widespread support.

This consultation led to the measures brought forward as Part I of the 2013 Act. Part I attracted little scrutiny relative to the far more controversial proposals contained in Part 2 of the Bill seeking to extend the use of "Closed Material Procedures" in civil court proceedings.

In the Second Reading debate on the Bill, the Minister gave the following statement, setting out the aims of the reforms:

I move on to part 1 of the Bill, which I think the House should have much more regard to. It deals with the important issue of parliamentary oversight of our security and intelligence agencies. I suggest to both sides of the House that if we wish to be reassured about the accountability of our security services and really try to guarantee to ourselves that they are not misbehaving, we should look to stronger parliamentary oversight as well as to more accountability to the courts.

It is time to put the Intelligence and Security Committee, chaired by my right hon. and learned Friend, on a much stronger footing and to enhance its independence to strengthen the valuable work it has done so far. We have to give Parliament more effective oversight of the intelligence and security agencies.

The ISC operates within arrangements established by Parliament in 1994, but the nature of the Committee's work has changed dramatically. In the past 18 years, particularly since 9/11, the public profile, budgets and operational demands on the agencies have all significantly increased, but there has been no change in the statutory arrangements for oversight. In the past, the ISC has overseen operational matters but has done so relatively

⁴ ISC [Press Release](#) 19 October 2011

infrequently and generally at the direct invitation of the Prime Minister. The ISC has no statutory powers to oversee such matters. Its statutory remit is also limited to oversight of the security and intelligence agencies, although it has long heard evidence from the wider intelligence community.

At the moment, the Prime Minister receives its report and appoints its members. Currently, the heads of the security and intelligence agencies are permitted, in certain circumstances, to withhold information from it. We can certainly improve on that. We need to give the ISC greater teeth to ensure that we can continue to have confidence in those who oversee the agencies on our behalf.

The Bill provides that the ISC will in future be able to oversee the agencies' operations, within appropriate constraints. The Committee will also in future report to Parliament, as well as the Prime Minister. Its members will be appointed by Parliament, after nomination by the Prime Minister. The power to withhold information from the ISC will move from the agency heads to the Secretary of State responsible for that agency — a Minister accountable to the House. It will be a parliamentary Committee. We are greatly strengthening our powers to hold accountable those who do such vital work for our country.⁵

⁵ [HC Deb 18 Dec 2012 cc727-728](#)

6. Recent inquiries

In November 2014 the ISC published a [*Report on the intelligence relating to the murder of Fusilier Lee Rigby*](#).⁶ The Report concluded that, on the basis of what was known to the Agencies at the time, they could not have prevented the murder. However, the Committee took the view that, had the Agencies been aware of an exchange on social media involving one of the perpetrators, it might have been possible to prevent the attack. The Report therefore considered the wider relationship between law enforcement authorities and Communications Service Providers, concluding that it is unacceptable that such companies do not regard themselves as being under any obligation to identify threats in their users' content, and report them to the authorities.

In March 2015 the ISC published [*Privacy and Security: A modern and transparent legal framework*](#),⁷ a review of the full range of intrusive powers available to UK intelligence and security agencies. The report followed the Snowden revelations concerning the acquisition and use of data and intercept material by the agencies, and revealed the use of certain capabilities for the first time. It concluded that the agencies do not seek to circumvent the law, but that the legal framework is unnecessarily complicated and lacks transparency. The Committee therefore recommended that all the existing legislation governing the intrusive capabilities of the agencies should be replaced by a new single Act of Parliament.

The Government's response to this report was the introduction of the [*Draft Investigatory Powers Bill*](#) in November 2015. The ISC intends to scrutinise the Bill, focussing on those aspects most relevant to the Security and Intelligence Agencies.⁸

The ISC also published a report on [*Women in the UK Intelligence Community*](#)⁹ in March 2015. This looked at diversity issues, including recruitment policy and practice; maternity-related issues, childcare and flexible working; career and promotion prospects; and cultural and behavioural issues. The Committee recommended that the agencies should do more to recruit and support female employees.

In October 2015 the newly appointed Committee issued a statement setting out forthcoming work priorities. These included an investigation into the intelligence basis surrounding the recent drone strikes in which British nationals were killed, as well as an ongoing Inquiry into the role of the UK Government and Security and Intelligence Agencies in relation to detainee treatment and rendition.¹⁰

⁶ Intelligence and Security Committee of Parliament, HC 795, November 2015

⁷ Intelligence and Security Committee of Parliament, HC 1075, March 2015

⁸ Intelligence and Security Committee of Parliament, [Publication of Draft Investigatory Powers Bill: ISC Media Statement](#), 4 November 2015

⁹ Intelligence and Security Committee of Parliament, HC 970, March 2015

¹⁰ Intelligence and Security Committee of Parliament, [Work Priorities Statement](#), 29 October 2015

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