



**All-Party Parliamentary Group on Extraordinary Rendition  
House of Commons, London, SW1A 0AA**

Rt Hon Theresa May MP  
Prime Minister  
10 Downing Street  
London SW1A 2AA

28 June 2019

Dear Prime Minister,

We are writing to you in light of recent developments relating to the UK's involvement in the torture and mistreatment of detainees.

Last month, it was revealed via a freedom of information request that the Ministry of Defence's (MOD) internal guidance permits ministers to share intelligence with our allies even where there is a serious risk of torture or other cruel, inhuman or degrading treatment, if they consider "that the potential benefits justify accepting the risk and the legal consequences that may follow". The reference to "legal consequences" highlights that this policy is not only misguided, it is also illegal under international and domestic law. We urge you to rescind it immediately.

In responding to this revelation, an MoD spokesperson stated that "all our policy and activities in this area comply with the Cabinet Office's Consolidated Guidance" on passing or receiving intelligence. You will no doubt be aware that the adequacy of this Guidance has been questioned by the UN Committee Against Torture, human rights organisations and the UK's own Intelligence and Security Committee (ISC). Indeed, the Committee Against Torture reiterated its concerns - including the lack of clarity over whether ministers and other government officials are even required to adhere to the Guidance – only last month, in the concluding observations of its review into the UK's compliance with the Convention Against Torture.

As the Committee acknowledges, the Consolidated Guidance is currently under review by the Investigatory Powers Commissioner. In response to an Urgent Question from the Member for Haltemprice and Howden on 20 May, the Secretary of State for Defence indicated that she now expects the Commissioner to submit his recommendations for updating and improving the Guidance "within a matter of weeks". On 14 June, the Commissioner announced that he had provided a proposed revised version to you.

This has been a lengthy and delayed process and we would be grateful if you could set out the timetable and next steps for the Government's response and crucially, assure us that the Commissioner's proposed revised version and any related commentary will be published, and any later decisions to deviate from those recommendations fully explained, so that Parliament and the public can have confidence in the process.

As the existence of the MoD policy demonstrates, the Consolidated Guidance in its current form provides a cloak of ambiguity that allows the possibility for ministers and potentially other public officials, to behave in ways that are incompatible with the UK's obligations under international law.

This is unacceptable, and the updated Guidance must provide a much clearer and more robust framework that reflects the high standards the UK rightly sets for itself and others. It must eliminate the possibility of acts being approved that could lead to torture or other ill-treatment, it must explicitly apply to ministers, and it along with any accompanying internal documentation and policies must be public. It must also be clear how the implementation of the Guidance will be monitored and enforced, including external oversight by IPCO.

Furthermore, as we work to ensure that future policy is fit for purpose, it is vital to learn the lessons of the past. We therefore remain deeply concerned that the Government is still ignoring calls to resume the independent judge-led inquiry into UK involvement in detainee mistreatment and rendition in the wake of 9/11. This, too, was raised by the Committee Against Torture, which noted the "disturbing findings" of the Intelligence and Security Committee's 2018 report and expressed concern at the Government's refusal to provide access to the key witnesses and evidence needed for the ISC to complete its work.

The refusal to establish the necessary inquiry is even more surprising given that Prime Minister David Cameron had previously committed to doing so, after the closure of the Gibson investigation. In the statement announcing the closure of the Gibson Inquiry, the then Justice Secretary, Ken Clarke, speaking on behalf of the Prime Minister and Cabinet, made it clear that: "The Government fully intend to hold an independent, judge-led inquiry, once all police investigations have concluded, to establish the full facts and draw a line under these issues."

Following the publication of the ISC report, Sir Alan Duncan committed in Parliament on 2 July 2018 to "update the House within 60 days" on whether or not the Government would deliver the full, independent judge-led inquiry promised by your predecessor in 2010. We are deeply disappointed that more than 300 days later, we have still had nothing approaching a decision or reason for the dramatic delay from you or elsewhere in government on this matter.

The Government's continued failure to deliver an independent inquiry undermines the UK's global reputation as a champion of human rights and the rule of law. We ask you not to delay any further, and instead announce that this long-overdue inquiry will finally go ahead. It is the right thing to do, legally, morally and for British leadership in the world.

We look forward to receiving your response to these issues.

Yours,



The Rt. Hon. Kenneth Clarke CH, QC, MP  
(Chairman of the All-Party Parliamentary Group on Extraordinary Rendition)

Co Signatories on overleaf:

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