



Watching the Watchers

The Intelligence and Security Committee: From Form to Substance

Andrew Tyrie

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Committee: From Form to
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Andrew Tyrie

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Acknowledgements

This report has its origins in a conference in July 2022 organised by the All-Party Parliamentary Group (APPG) on Extraordinary Rendition to discuss the role, powers and potential reform of the Intelligence and Security Committee of Parliament (ISC). The need for such a report had been illustrated by two incomplete and unsuccessful investigations into rendition by the ISC, reflecting the form of parliamentary scrutiny but not the substance. I would like to thank Blackstone Chambers for hosting that exceptionally fruitful debate in 2022, and all those who contributed to it.

In the spirit of that original discussion, I have adopted the title of the conference, 'Watching the Watchers', for this report. The title has been used elsewhere, notably in the work of Dr Andrew Defty and his colleagues at the University of Lincoln on the oversight of intelligence.

Following the conference, the APPG engaged with a range of stakeholders in developing proposals for ISC reform. I am grateful, as is the APPG, to Freshfields for their research assistance, although any views expressed in this paper are mine alone. I am also

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Foreword

Rt Hon Dominic Grieve

(Attorney General, 2010–14; Chair, Intelligence and Security Committee, 2015–19)

The Intelligence and Security Committee, in operation for over 30 years, has done vital work in improving democratic, parliamentary oversight of the intelligence services. Yet it could – and should – be allowed to do that job much better.

The ISC's work has included studies of state threats such as those posed by Russia, China and Iran, reviews of the lessons of terrorist incidents such as the Manchester Arena bombings and the Westminster and London Bridge attacks and cross-cutting topics such as the nature of the UK's international partnerships and this country's involvement in detainee mistreatment and rendition.

Some of these studies have challenged official inertia or broken new ground in investigation. But all too often the

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ISC's work has been stymied by government obstruction.

The committee's investigation into historic issues of detainee mistreatment and rendition is illustrative; this uncovered more evidence relating to more cases than any previous investigation, yet as chair I had to close the inquiry prematurely because we were denied access to key individuals. It is far from being the only example.

This reflects the structures and the constraints within which the ISC currently operates. This valuable report by Andrew Tyrie makes clear proposals for improvement, which I support. Currently, the committee is hobbled constantly, whether in access to individuals or in the publication of its reports.

Not everyone will agree with every last recommendation in this report, but it provides both an outstanding analysis of the ISC's recent record and experience and a programme for change with which it is difficult to argue. The progress that we have made in our parliamentary oversight has faltered in recent years. It is time for us to step up.

Executive summary

This report analyses the current role and operations of the Intelligence and Security Committee of Parliament (ISC), the limits to its effectiveness and options for reform.

The ISC is a statutory committee of Parliament, established initially under the Intelligence Services Act 1994 and governed subsequently by the Justice and Security Act 2013 (the JSA). It comprises nine MPs and Peers whose purpose is to oversee the policies, expenditure, administration and operations of the Agencies and Departments which form the UK Intelligence Community (UKIC).¹

While the ISC has conducted inquiries and published reports on a wide range of significant issues, it has all too often been in some way constrained and obstructed in its activities and investigations. This report examines the legal framework within which the ISC operates, its

¹ For the full definition of UKIC, see footnote 3 in Chapter 1. 'The Agencies' is a narrower definition incorporating MI5 (the Security Service), MI6 (the Secret Intelligence Service) and GCHQ (Government Communications Headquarters).

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interaction with the practice of His Majesty's Government (HMG) and the limitations that this puts on the committee. It then sets out detailed proposals for legislative and other change to address this.

Chapter 1 gives a brief account of the establishment and development of the ISC, the important role that it performs and the pressures to which it has been subject in recent years. It describes the recent signs of a reset in relations with HMG and the possibilities this offers for change.

Chapter 2 explains why the ISC finds itself thwarted from performing its role as effectively as Parliament intended. It sets out the legislative framework of the JSA and the accompanying Memorandum of Understanding (MOU) between the ISC and the Prime Minister. It highlights the limitations that this framework imposes on the ISC. In the case of the JSA:

- *Jurisdiction*: With limited exceptions, the JSA provides that the ISC has jurisdiction over historical matters only and not current operational matters.
- *Information gathering*: The ISC's power to obtain access to people and papers is subject to restrictions, including a ministerial veto with reference to guidelines ('rules') that it applies to

officials giving evidence before select committees (the 'Committee Veto') in spite of the differences in operation between the ISC and select committees.

- *Governance*: There is no time limit for the re-constitution of the ISC after each general election and so it can remain unconstituted for many months.

The MOU, which was 'designed to be a living document' but now has not been updated for over a decade, has failed to safeguard the effectiveness and independence of the ISC. For example:

- *Information gathering*: The MOU states that the Committee Veto will be exercised by the Secretaries of State to prevent the ISC from obtaining access to relevant people and papers only 'very rarely'. In practice the veto has been exercised inappropriately. The MOU has also limited ISC access to only the most senior officials.
- *Remit*: The MOU states that HMG and the Agencies should keep the ISC 'fully and promptly informed of any significant matters falling within the ISC's remit'. This practice has not occurred consistently.

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- *Publication*: The MOU states that HMG will work ‘constructively’ with the ISC to apply a ‘reasonable process’ for redacting sensitive material from ISC reports prior to the Prime Minister approving reports for publication. In practice, this has caused substantial delays to publication.

The independence and effective operation of the ISC also relies on practice and guidance, but here too government actions have undermined them. For example:

- *Governance*: Reports of political intervention in the selection by ISC members of the committee’s chair, including through the use of the party whip, threatened to undermine the committee’s perceived independence.
- *Whistleblowing*: The ISC’s annual reports have expressed concern about unclear and incomplete whistleblowing procedures.
- *Funding*: Reduced funding of the ISC led to years of understaffing and a growing crisis of capacity.
- *Remit*: Important intelligence and security activities have increasingly been devolved to policy departments or other non-Agency bodies,

without corresponding updates to the MOU to expand the ISC's remit.

- *Meeting*: From its establishment in 1994 until 2014, the Prime Minister met with the ISC annually. However, no meeting between the ISC and Prime Minister was held between 2014 and July 2025 – an 11-year hiatus.

Chapter 3 reviews the ISC's work over the last decade. During this period, the ISC has conducted inquiries and published reports on a wide range of significant issues, including into the UK's role in extraordinary rendition; the use of drone strikes by the UK in Syria; and the threats posed by Russia, China and Iran. These reports have been thorough and brought important information into the public domain.

However, the committee's work has also revealed the limitations imposed by the framework described above and in Chapter 2. Its report on past UK involvement in rendition uncovered a much greater number of cases than previously made public, or even suspected. Yet the committee was obliged to shut down its inquiry with the work incomplete because it was denied access to key witnesses. The Russia report was subject to long delays. These damaged the committee's standing as an effective and independent oversight body. The publication of other reports demonstrated similar

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constraints. The ISC's annual reports have highlighted issues of delayed post-election constitution, government interference and (until recently) reduced funding.

Chapter 4 makes proposals to remedy the ISC's shortcomings. It sets out a detailed programme of reform to strengthen the ISC's independence and address many of the impediments to its effectiveness. For example:

- *Information gathering*: The circumstances in which the relevant Secretary of State can exercise the Committee Veto should be narrowed; the fundamental difference between the ISC and select committees should be clarified; and the limitation that only senior officials can be called to give evidence to the committee should be removed
- *Whistleblowing*: The ISC should have a clear and confidential whistleblowing process, with protections for and voluntarily agreed incentives to whistleblowers, and powers to investigate

current operations which are triggered by whistleblower information.²

- *Governance*: Greater protections should be provided from HMG influence over the selection, at the start of a new parliament, of the ISC chair; and a time limit for re-constitution of the ISC should be imposed.
- *Funding*: A consistent process governing how the ISC's budget is set needs to be put in place, with protections to ensure that the body is sufficiently funded to carry out its essential independent oversight functions.
- *Publication*: Timeframes for publication of final ISC reports need to be established, with a requirement or expectation for the Prime Minister to explain the reason(s) for any departure from those timeframes to Parliament, when necessary in person.

² The introduction of a comprehensive whistleblowing framework, incorporating binding financial incentives for whistleblowers, may well require legislative amendment beyond the statute that establishes the remit, function and responsibilities of the ISC (the JSA). Detailed legal examination of what would be required is not covered in this report.

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- *Remit*: Where HMG has devolved intelligence and security activities from the Agencies to policy departments or other non-Agency bodies, the remit of the ISC should be expanded so that it retains oversight of these activities.
- *Meeting*: The Prime Minister should restore and entrench the practice that was in place between 1994 and 2014 of meeting with the ISC at least once a year to discuss its work, key issues and concerns.

These changes can be implemented, in part or in whole, by different routes: through legislative change, through changes to the MOU or both. The different options are presented in Chapter 4; the texts of the JSA and the MOU incorporating the required changes are presented as Annexes to this report.

The most comprehensive route to embedding these changes is by changing the law, i.e. by amendment of the primary legislation (the JSA) under which the ISC is established. The relevant section (Part 1) of the JSA, incorporating the proposed amendments, is reproduced in **Annex A**.

If the JSA is amended, it will entail changes to the MOU. In addition, some detailed matters are best addressed through amendments to the MOU rather than to the JSA.

(Examples include the identification of specific features that distinguish the ISC from a select committee or the naming of additional HMG bodies undertaking intelligence and security activities to those already listed in the current MOU.) The text of the proposed MOU, incorporating both sets of changes, is set out in **Annex B**.

Many issues can be addressed to a more limited extent by updating the MOU alone. HMG has acknowledged that the MOU can be changed more easily than legislation, by way of 'exchange of letters between the Prime Minister and the committee chairman'. In addition to implementing non-binding versions of many of the proposals set out in Annex A, the MOU could implement alternative, non-legislative solutions. This model, which avoids the challenges of securing legislative time and priority is set out in **Annex C**.

This is, however, a second-best solution. The MOU is generally not legally binding and compliance with it has been patchy, so far.

In addition, there are a number of key concerns which must be addressed through binding and formal provisions, such as:

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- caretaking arrangements allowing the ISC to continue to exercise its statutory powers and functions
- legal protections for whistleblowers
- limitations on the use of the Committee Veto
- timeframes and procedures regarding constitution, publication and meetings.

These can only be fully addressed by legislation.

1. The ISC: Form and Substance

The Intelligence and Security Committee of Parliament (ISC) is a unique committee of nine MPs and Peers. Its purpose is to oversee the intelligence services of the UK by examining the policies, expenditure, administration

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and operations of the Agencies and Departments which form the UK Intelligence Community (UKIC).³

Over its more than 30-year existence, the ISC has offered the form of parliamentary scrutiny of the intelligence and security services. It has also offered some substance. Its powers have increased and its remit has widened over the last 30 years. Its status has changed from a committee of parliamentarians, answerable to the executive, to a committee of parliament. But it was established under statute rather than under parliamentary standing orders and with consequently different powers and many limitations.⁴

³ These are: MI5, MI6, GCHQ, Defence Intelligence in the MoD, the Joint Intelligence Organisation and the National Security Secretariat in the Cabinet Office and the Homeland Security Group in the Home Office. In its reports, the ISC uses the term 'Intelligence Community' to refer to these seven organisations. The first three – MI5, MI6 and GCHQ – are referred to as the 'Agencies', while 'Departments' describes the remaining four organisations within the Cabinet Office, Home Office and MOD.

⁴ This pattern of evolution is in many respects similar to that of intelligence oversight in other anglophone 'Westminster model' parliamentary democracies, though there is also national variation. All are much more constrained in their powers than US congressional intelligence oversight committees. Defty, A. (2020a), 'From Committees of Parliamentarians to Parliamentary Committees: Comparing Intelligence Oversight Reform in Australia, Canada, New Zealand and the UK', *Intelligence and National Security*, 35(3), 367–84.

The overall direction has been towards enhancing the ISC's status and role, adding some substance to the form over time; but, as will be explained, much remains to be improved.

The Intelligence Services Act 1994

The ISC was first established under the Intelligence Services Act 1994. This was groundbreaking legislation. Up to that point, there had been little or no parliamentary scrutiny of the intelligence services. Of the Agencies, only MI5 existed on a statutory basis, and that only after 1989.

The end of the Cold War had weakened justifications for secrecy and enhanced the case for legally defined roles for the intelligence services. A number of 'incidents' – ranging from the *Spycatcher* affair to reported improper surveillance of political activists – had increased concerns about lack of oversight of their activities. Among the new legislation's aims, in the words of the libertarian Conservative MP Richard Shepherd, was to 'attest to the general public [...] that the internal security

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services are run ethically and are not directed against honest and honourable citizens'.⁵

In addition to measures such as putting MI6 and GCHQ on a statutory basis and defining their roles (as the Security Service Act 1989 had for MI5), the Intelligence Services Act established the ISC. However, the form that the committee took represented a compromise between the recognition of the need for greater scrutiny and the executive's belief in the need to protect secrecy and national security. The ISC was appointed by and reported to the Prime Minister, not Parliament. In the words of a later ISC chair, Malcolm Rifkind, 'The public [...] see a Committee that is not a Committee of Parliament, although it is a Committee of parliamentarians, because we are all appointed by the Prime Minister, we report to the Prime Minister, and only through the Prime Minister do our reports eventually reach the House. That obviously calls our independence into question.'⁶

The ISC's remit was limited to the policy, administration and expenditure of the Agencies, with no formal remit in relation to operations, current or past and a lack of legal powers over access to people and documents. In

⁵ [House of Commons Hansard](#), 27 April 1994, column 326.

⁶ [House of Commons Hansard](#), 21 November 2011, column 72.

practice, its activities and reporting went beyond this narrow definition. As the then Director General of MI5, Stephen Lander, put it in 2001, 'If I had a pound for every time the Committee has asked me about operational matters, I would be a rich man.'⁷ He pointed to a range of reports that the ISC had published on specific and operational matters, and the number of such reports increased in the years that followed.⁷

Nonetheless, the ISC as constituted therefore faced growing criticism from MPs, academics and NGOs. A number of select committees expressed frustration that they were kept out of relevant policy areas on the grounds that these were matters for the ISC, while there was an underlying (and occasionally more explicit) lack of confidence in its work. In addition, a 'widespread and sustained dissatisfaction with the status of the Committee' became 'a consistent feature of the ISC debates'.⁸ It was perceived to be insufficiently independent from government; to have insufficient knowledge of the operational work of the Agencies it was

⁷ Bochel, H., Defty, A. and Kirkpatrick, J. (2014), *Watching the Watchers: Parliament and the Intelligence Services* (Basingstoke: Palgrave Macmillan), pp. 91–92.

⁸ Bochel, H., Defty, A. and Kirkpatrick, J. (2015), 'New Mechanisms of Independent Accountability: Select Committees and Parliamentary Scrutiny of the Intelligence Services', *Parliamentary Affairs*, 68(2), 314–31; Bochel, Defty and Kirkpatrick (2014), p. 95.

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responsible for overseeing; and to be insufficiently transparent in relation to its own appointment, operations and reporting practices.⁹

This dissatisfaction, and concern about its shortcomings, was reflected in the reception of some of the committee's reports. Among them was the 2007 report on *Rendition*, the limited conclusions of which concerning the UK's involvement in the post 9/11 US programme of extraordinary rendition and mistreatment of terror suspects were rapidly invalidated by events.¹⁰

While the 2007 Green Paper on constitutional reform, *The Governance of Britain*, foreshadowed some modest changes to the ISC and proposed to consult on wider-

⁹ Dawson, J. and Tyler-Todd, J. (2022), *The Intelligence and Security Committee*, Research Briefing Number 02178 (London: House of Commons Library), p. 11; Rifkind, M. (2013), 'We are making intelligence accountable', *The Guardian*, 3 March 2013; BBC News (2011), '[Intelligence and Security Committee wants more power](#)', 13 July 2011 [accessed 12 May 2026].

¹⁰ Intelligence and Security Committee (ISC) (2007), *Rendition*, Cm 7171 (London: TSO). Among the developments undermining the committee's report were proceedings relating to Binyam Mohamed, an Ethiopian national and British resident, who was rendered to Morocco and later held in Guantánamo. The High Court concluded that key documents had not been provided to the ISC and that 'The ISC report could not have been made in such terms if the 42 documents had been made available to it'. Tyrie, A., Gough, R. and McCracken, S. (2011), *Account Rendered: Extraordinary Rendition and Britain's Role* (London: Biteback), p. 92.

ranging legislation, the committee itself appeared to have little appetite for more radical measures.¹¹

This changed with the 2010 election and the ISC that was formed thereafter, which argued strongly for reform, as summarised in its 2010–11 *Annual Report*.¹² In debates at the time of the 2011 Justice and Security Green Paper, past and serving members of the committee made the case. Yvette Cooper, who had served on the committee a decade earlier, argued that, ‘Accountability has increased, but it has not yet gone far enough’, and highlighted the importance of the actual and perceived independence of the committee: ‘exactly because the ISC must operate behind closed doors, it needs to be seen to be independent and authoritative in its conclusions; and exactly because it cannot tell us the evidence on which its judgments are based, it needs to be perceived by the wider public to be independent of

¹¹ Bochel, Defty and Kirkpatrick (2014), pp. 97–99.

¹² ISC (2011). *Annual Report 2010–2011*, Cm 8114 (London: TSO), pp. 81–82. This gives a summary of proposals made by the ISC to the National Security Adviser on 31 March 2011.

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Ministers. That is important for the agencies as well as for the public.¹³

The Justice and Security Act 2013

Part 1 of the Justice and Security Act 2013 (JSA), making significant changes to the ISC, represented the coalition government's response to at least some of these criticisms. The JSA's provisions on Closed Material Proceedings and other areas were subject to widespread criticism, which resulted in relatively little attention being paid to the ISC reforms in Part 1.¹⁴ But the Act at least represented an attempt to put the committee on a stronger statutory footing, to enhance its

¹³ [House of Commons Hansard](#), 21 November 2011, column 85. This debate was on the ISC's 2010–11 *Annual Report*, which set out the committee's own reform prospectus, and followed shortly after the Green Paper's publication.

¹⁴ Peto, A. and Tyrie, A. (2013), *Neither Just Nor Secure: The Justice and Security Bill* (London: Centre for Policy Studies); Bochel, Defty and Kirkpatrick (2014), pp. 69, 71. The government's promotion of ISC reform alongside measures to constrain the courts' scrutiny of the intelligence agencies within a 'system of moving parts' has its echoes in other Westminster democracies, where strengthening of parliamentary oversight has been seen as a useful way to address concerns over increased powers for the intelligence agencies. See Defty, A. (2020a), p. 372.

independence and to give it, in the words of the then Secretary of State, Ken Clarke, 'greater teeth' to ensure public confidence in the Agencies.¹⁵

The JSA therefore changed the ISC's status, establishing it as a statutory committee of Parliament. The Act, along with a Memorandum of Understanding (MOU) required by the JSA to be agreed between the Prime Minister and the ISC, widened the committee's remit to include operational matters, albeit retrospectively, and extended the intelligence services bodies that it oversaw. The Act gave the ISC a statutory right to request information from the Agencies and changed the exercise of a veto power over production of information from the heads of the Agencies to the relevant Secretaries of State, and for defined reasons.

Formally, the committee's reporting shifted to Parliament, though its reports were still subject to approval and redaction by the Prime Minister. Committee members were now nominated by the Prime Minister but approved by Parliament, and the chair elected by members of the committee. The secretariat serving the committee was clearly identified in the MOU,

¹⁵ [House of Commons Hansard](#), 18 December 2012, columns 727–28.

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though in time the formal employment of these staff by the Cabinet Office would prove problematic.

The JSA represented a welcome boost to the ISC's powers. As at the time of the Intelligence Services Act, however, there were arguments that the government should have gone further in buttressing the committee's independence. These would be borne out in the years that followed.

'A concerted effort to undermine democratic scrutiny'

Operating under its new remit and status, the ISC appeared to grow in confidence, issuing an increasing number of important reports.¹⁶ The government was obliged to ask the committee to investigate rendition a second time. Ministers had committed themselves to

¹⁶ The ISC has tended to increase the number, as well as the depth of its reports over the 1997–2010 parliaments: see Bochel, Defty and Kirkpatrick (2014), pp. 86–87. This continued in subsequent parliaments, with the 2019–24 committee producing a record 10 major reports, albeit some (such as the Russia Report) carried over from its predecessor. Recent reports, such as those on China and Iran, are also longer than those of earlier committees.

doing so as an alternative to reviving a judge-led inquiry, which had been shelved on the pretext that it might in some way prejudice a police investigation into MI6's role in renditions to Libya.

Some years after the passage of the JSA, however, it became clear that 'the committee remains, in a number of respects, strongly constrained by the government. The ISC has yet to fully transition into Parliament.'¹⁷ The limitations under which it still operated under the JSA were evident from the obstruction and delays that it encountered in producing several major reports. These difficulties are described in detail in Chapter 3. Rendition was once more emblematic, with the committee shutting down its inquiry in 2018 when its access to key witnesses was blocked.

A more profound deterioration in relations between the committee and the government developed after 2019. Boris Johnson's blocking of the release of an ISC report on the threat posed by Russia, and its influence in British life, became a matter of high-profile controversy. Following the 2019 general election the committee was not constituted for seven months and in July 2020

¹⁷ Defty, A. (2019), 'Coming in from the Cold: Bringing the Intelligence and Security Committee into Parliament', *Intelligence and National Security*, 34(1), 22–37, p. 33.

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Johnson reportedly sought (unsuccessfully) to impose his preferred candidate as chair.

At the press conference to launch the Russia report, the new ISC chair, Julian Lewis, remarked that ‘the sooner normal relations are established between this committee and the government the better it will be for all concerned’. However, the government’s reaction, while not, as some observers feared, amounting to ‘disengaging with the committee’s work’, appeared to indicate its displeasure.¹⁸

From 2019–20 onwards, the government curtailed the ISC’s effectiveness in a number of ways. The ISC’s budget was reduced at a stroke by a fifth, and over the succeeding years remained materially below the levels agreed at the time of the passage of the JSA, undermining the committee’s capacity. The committee continued to be rebuffed in its requests for what had been a customary annual meeting with the Prime Minister but which had by now not taken place since

¹⁸ Defty, A. (2020b), ‘[The delayed publication of the Russia Report demonstrates why reform is needed to preserve the Intelligence and Security Committee’s independence](#)’. LSE British Politics blog, 27 July [accessed 12 May 2026]; Haddon, C. (2020), ‘[The battle over the chair of the Intelligence and Security Committee has laid bare its flaws](#)’ 18 July, Institute for Government comment [accessed 12 May 2026].

December 2014. Contrary to indications given during the passage of the JSA, the government refused to countenance updates to the MOU.

In the passage of the National Security and Investment Act 2021, the government insisted – over strong opposition in the House of Lords – that the ISC should not have oversight of the Investment Security Unit established by that legislation. This reinforced the growing oversight gap as the ISC’s remit was not updated to keep up with the growth of intelligence and security activity in government departments. In the debate on the bill, Lord (Alan) West of Spithead, a former minister and member of the ISC, commented, tongue presumably in cheek, ‘I cannot believe that the Government would prioritise a petty squabble regarding the committee’s Russia report or the chairmanship of the committee over the clear commitments that they have given to Parliament [about the ISC’s scope of oversight].’¹⁹

¹⁹ [House of Lords Hansard](#), 19 July 2012, column 1514. The reference is to undertakings about the scope of the ISC’s oversight given during the passage of the JSA. In January 2022, the National Security Adviser informed the ISC Chair that the government did not consider itself bound by these undertakings: ISC (2025b), *Annual Report 2023–2025*, HC 1544 (London: House of Commons), p. 15.

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In March 2023, in the debate on the National Security Bill, the former Cabinet Secretary (and former ISC member) Lord (Robin) Butler of Brockwell highlighted the same issues as explanations for ministers' displeasure with the ISC, adding, 'I think [the MOU] has not been revised for a bad reason: because the Government have taken a dislike to the Intelligence and Security Committee. They have tried to restrict its activities [...]. If the Government are not going to use the Intelligence and Security Committee properly, they should save money and abolish it. [...] they must choose either to abolish it or to use it properly.'²⁰

The committee pointedly quoted these remarks in its 2022–23 *Annual Report*, adding, 'This certainly raises the question as to what the Government regards as the point and purpose of the ISC – indeed why it was established in 1994, and why it was reformed in 2013.' Addressing the issues of the budget and the MOU, in the same report it raised the question as to whether 'a concerted effort [is] being made to undermine the democratic scrutiny of the UK Intelligence Community put in place by Parliament'.²¹

²⁰ [House of Commons Hansard](#), 7 March 2023, columns 745–46.

²¹ ISC (2023c), *Annual Report 2022–2023*, HC 287 (London: House of Commons), pp. 15, 21.

Reset and Humble Address

In its 2023–25 *Annual Report*, the committee noted that, ‘During the period covered by this Report, the situation became critical.’

The most immediate pressure concerned the budget. Following the budget reduction from £1.65 million in 2018–19 to £1.30 million in 2019–20 (and a continuation at £1.33 million in 2020–21), there was a period of somewhat restored budgets, but well below the £1.84 million level agreed at the time of the JSA (2021–22: £1.55 million; 2022–23: £1.64 million; figures for 2023–24 remain elusive). 2024–25 saw a further major reduction to £1.43 million.²²

In 2024, shortly before the general election, the then Deputy Prime Minister, Oliver Dowden, agreed in principle a short-term uplift of 15 staff in addition to the 15.1 full-time-equivalent (FTE) staff that had been the level agreed at the time of the JSA. However, this could not be implemented before the dissolution of Parliament. The new administration confirmed its agreement to this increase in funding and capacity in May 2025, reversing

²² ISC (2021), *Annual Report 2019–21*, HC 877 (London: House of Commons), p. 14; ISC (2022b), *Annual Report 2021–22*, HC 922 (London: House of Commons), p. 8; ISC (2023c), p. 21; ISC (2025b), p. 16.

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an initial proposed further budget cut to £1.36 million (!) in 2025–26.²³

Keir Starmer held the first Prime Minister’s meeting with the ISC in over a decade in July 2025.²⁴ The committee welcomed the ‘very positive reset in the relationship between the Government and the ISC’ and the Prime Minister’s recognition of the importance of the ISC’s independence. Both sides ‘committed to working together to ensure the scope and remit of the ISC enables it to fulfil its vital oversight role’.²⁵

More recently, and directly relevant for this report, ministers have indicated that, ‘Following discussions with the Committee, the Cabinet Office is conducting a review of the Memorandum of Understanding (MOU) between the Prime Minister and the Committee.’²⁶ The recommendations of this report, in some respects more wide-ranging than that review, set out what is now

²³ ISC (2025b), pp. 15–18 and footnote 40.

²⁴ ISC (2025c), ‘[Press notice following the Committee’s meeting with the Prime Minister](#)’, 14 July.

²⁵ *Ibid.* The statement also noted that ‘the Government will explore all options to ensure independence in [the ISC’s] current and future work’.

²⁶ Cabinet Office Minister Dan Jarvis MP, Written Answer to Mark Pritchard MP, [House of Commons Hansard](#), 3 February 2026, Written Answers (108607).

needed to give substance to the government's stated commitment to ensure the ISC's independence and to provide effective oversight.

In early 2026, the crisis over the appointment of Peter Mandelson as Ambassador to the United States gave the ISC a central role. The Humble Address of 4 February, by which Parliament required full disclosure of materials related to the Mandelson appointment and his tenure as Ambassador, relied on the ISC as the arbiter on material which the government argued should be redacted because of its prejudicial impact on national security or international relations. The committee set aside all other business and concluded its review of the relevant documents (subject to any contesting of its decisions by HMG) by 28 April.²⁷

On 15 May, the ISC issued a further statement, confirming that it had completed its review of the redactions requested by government and made final decisions. The committee took the occasion to express

²⁷ ISC (2026b), '[Press Notice – 28 April 2026](#)'. Some documents had not been referred to the Committee because they were subject to a police investigation. While the statement indicated that the ISC would hold a Contested Redaction hearing with the government over any points of dispute, it was clear from the Humble Address and reiterated in the statement that the committee would have the last word on publication.

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‘a number of concerns with how the Government is responding to the Humble Address’, notably additional grounds for redaction, broad application of these criteria and the withholding of some documents, including ‘a vetting file held by UK Security Vetting’. The committee also raised several overarching issues, which ‘gravely concerned’ it, some of which had also clearly been points of contention with the previous administration: use by officials and ministers of unofficial communication systems; the ‘unacceptable’ lack of an audit trail on decisions; use of lower level, less secure IT systems; and failure to adhere to security advice.²⁸

This role, arising out of the Humble Address, ‘put the ISC at the heart of questions about how government should balance parliament’s desire for transparency against the need to protect national security and sensitive information on foreign relations’.²⁹ The new role was an indication that the ISC is perceived by the government

²⁸ ISC (2026c), ‘[Press Notice – 15 May 2026](#)’. The committee found the scale of use of unofficial communication systems ‘extraordinary’, remarking, ‘Lengthy Whatsapp conversations between senior officials and ministers appear now to be the format by which Government policy is formulated.’

²⁹ Haddon, C. and White, H. (2026), ‘[The Intelligence and Security Committee](#)’. Institute for Government explainer [accessed 12 May 2026].

to remain relevant. But the additional task was an interruption of the committee's normal work.

It remains to be seen how far the 'reset' in relationship will go. It could be argued that, if the ISC is important and reliable enough to adjudicate on releasing documents relating to Mandelson, then it should be empowered to do the much bigger job that it was created for.

In common with intelligence oversight bodies in other 'Westminster model' systems, the ISC has a distinct status. 'The role of the ISC is unique compared to other Parliamentary committees, both in its access to secret intelligence, and its reliance on the government of the day.'³⁰ There are understandable reasons for this model, but it carries the risk of hiving off scrutiny of intelligence to a small group of parliamentarians at one remove from the rest and, in a number of respects, with investigative powers limited by statute. A perception that the committee is unable to do its job could increase the likelihood that select committees press to enter this space, as there were signs of them doing in the mid-

³⁰ Powell, R. (2024), '[30 Years of Scrutiny: What Next for the Intelligence and Security Committee of Parliament?](#)' Centre for Emerging Technology and Security (CETaS), 24 May 2024 [accessed 12 May 2026].

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2000s before the JSA reforms. This would, no doubt, be unwelcome to the government and to the Agencies.

One response is to strengthen the ISC's relationship with Parliament, for example by returning to the practice – oddly, much more regular in pre-JSA years – of a full debate on the ISC's annual report, led by the committee chair,³¹ or by placing the appointment of the chair more directly in the hands of Parliament. Both options are addressed in this report. The report's recommendations, however, range more widely. It makes proposals to strengthen the powers and independence of the committee, and with that its credibility as an instrument of democratic parliamentary oversight, by addressing many of the specific weaknesses that its operation over the past three decades has revealed.

The legal and policy frameworks within which the ISC currently operates, and the ways in which those weaknesses are embedded in it, are set out in the next chapter.

³¹ The most recent *ISC Annual Report* (for 2023–25) was laid before Parliament on 15 December 2025 via a Written Statement by the Prime Minister. This has been standard practice in recent years. [House of Commons Hansard](#), 15 December 2025, column 52WS, Written Answers (HCWS1170).

2. Legal Framework and Operational Realities

The ISC is governed by the Justice and Security Act 2013 (JSA) and other legislation, by the Memorandum of Understanding (MOU), agreed between the ISC and the Prime Minister and by the practice and guidance of

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His Majesty's Government (HMG). This framework represents an advance on the pre-2013 position. However, its limitations, reinforced by the practice of successive governments, have become clear and have often been reflected in the ISC's own reports. What follows sets out in detail the current framework. Doing so makes the shortcomings of the status quo all too apparent.

Legislation

Justice and Security Act 2013

The JSA broadened the ISC's remit, stating that its main functions are to oversee the policies, expenditure, administration and operations of the Agencies and any other activities of HMG in intelligence and security matters that are set out in the MOU. During passage of the JSA, the then minister, James Brokenshire, made clear 'the intention of the Government that the ISC should have oversight of substantively all of central Government's intelligence and security activities to be

realised now and in the future'.³² This very clear commitment would later be challenged.

The JSA sets out various key matters regarding the governance, jurisdiction, information gathering and publication powers of the ISC, and funding among other matters. Some of the most important of those include:

- *Governance*: The ISC must consist of nine members drawn from the House of Commons and House of Lords. Each member is nominated by the Prime Minister, following consultation with the Leader of the Opposition. In practice membership has been drawn from across parties,³³ but the majority of members have always been drawn from the governing party.³⁴

³² Justice and Security Act 2013 (JSA), section 2(4); [House of Commons Hansard](#), 31 January 2013, column 98.

³³ There is no strict requirement for the ISC to be made up of members from different parties, but this has been the case in practice.

³⁴ The members are then appointed by their respective Houses of Parliament. As a result, the list of nominations is put to the House as a motion and the House will need to pass the motion. However, in practice, the House does not debate in any detail the nominations that have been selected by the Prime Minister and the Leader of the Opposition and the Houses of Parliament do not intervene in the appointment of ISC members. The key step is for the Prime Minister to agree on a list of candidates with the Leader of the Opposition.

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The members then elect one member to chair,³⁵ who has additional powers and responsibilities to ordinary members, including a casting vote.³⁶ The ISC chair therefore cannot be appointed until all members of the ISC have been appointed. In an attempt to demonstrate independence from HMG, current ministers of the Crown are barred from membership (and therefore also the chair) of the ISC.³⁷

This process of selection of both members and the chair falls short of that established for select committees in 2010 following the report of the Wright Committee on reform of the House of Commons, *Rebuilding The House*. That established a mechanism of election of select committee members by MPs of their own party, and chairs by the secret ballot of the whole House of Commons. Noting that, ‘Chairs evidently play a crucial role in the operation of their select

See for example the record of parliamentary debate on the motion to appoint ISC members at [House of Commons Hansard](#), 9 February 2022, columns 1049–51.

³⁵ JSA, section 1(6).

³⁶ JSA, schedule 1, section 2(2).

³⁷ JSA, schedule 1, paragraph 1(2)(b). Nothing restricts the ISC chair from being a former minister of the Crown and most (though not all) of the chairs have been.

committee’, the Wright Committee argued that the same system of election ‘should be applied so far as possible to the Chair of the Intelligence and Security Committee’.³⁸ The recommendation for election of the chair of the ISC by secret ballot of the whole House was one of a minority of recommendations of the Wright Committee not accepted by the Government and, in bringing forward the JSA, ministers ignored arguments for implementing Wright’s proposals at that point. The system retains significant power in the hands of the Prime Minister.³⁹

Members of the ISC hold their office for the duration of a parliamentary term and the ISC is

³⁸ House of Commons Reform Committee (2009), *Rebuilding the House* (First Report of Session 2008–09), HC 1117 (London: House of Commons), paragraphs 59 and 66. This proposal related to the election of the Chair and (given that the ISC draws members from both Houses) it did not propose mimicking select committee processes for election of committee members. The ‘so far as possible’ caveat acknowledges the unique features of the ISC; the Wright proposals included a provision that any candidature had to have advance approval from the Prime Minister. For an argument made at the time of the Bill for incorporating Wright’s proposals into the JSA, see Peto and Tyrie (2013), pp. 92–94.

³⁹ The implications of this, and a subsequent attempt by a Prime Minister to interfere with the election of the ISC chair, are set out later in this chapter.

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reconstituted following each general election.⁴⁰ As a result, at the start of each parliament there is inevitably a period before the new ISC members are selected when there is no ISC. There is no time limit in the JSA for the ISC to be reconstituted after a general election.

- *Jurisdiction:* The ISC can generally only consider operational matters that do not form part of ‘any ongoing intelligence or security operation’ and are of significant national interest.⁴¹ The ISC is entitled to investigate ongoing operational matters only in so far as: (i) the Prime Minister has asked the ISC to consider the matter; or (ii) the ISC limits its examination of the matter to considering information provided voluntarily to the ISC by the Agencies or by a government department.⁴² There is no specific provision in the JSA for whistleblowing, nor exception to allow the ISC to consider ongoing operational matters that arise from whistleblowing channels.
- *Information gathering:* The ISC has the power to request information from the heads of the

⁴⁰ JSA, schedule 1, paragraph 1.

⁴¹ JSA, section 2(3)(a).

⁴² JSA, sections 2(3)(b) and 2(3)(c).

Agencies or other government departments in connection with the exercise of its functions.⁴³ Where witnesses provide evidence to the ISC, they have protections equivalent to the parliamentary privilege that applies to evidence before a select committee, including that such evidence may not be used in civil or disciplinary proceedings or against an individual in criminal proceedings unless the evidence was given in bad faith.⁴⁴ However, the JSA provides that the person from whom information is sought can withhold that information if the Secretary of State has decided that it should not be disclosed.⁴⁵ This

⁴³ JSA, schedule 1, paragraph 4: 'If the Director-General of the Security Service, the Chief of the Secret Intelligence Service or the Director of the Government Communications Headquarters is asked by the ISC to disclose the information, then, as to the whole or any part of the information which is sought, that person must either: (a) arrange for it to be made available to the ISC subject to and in accordance with a memorandum of understanding under section 2, or (b) inform the ISC that the information cannot be disclosed because the Secretary of State has decided that it should not be disclosed.'

⁴⁴ JSA, schedule 1, paragraph 7(1) and 7(2). Also note that, unlike for select committees, evidence is almost always presented to the ISC in closed sessions.

⁴⁵ JSA, schedule 1, paragraphs 4(1)–4(3). This represents a major change from the Intelligence Services Act 1994, under which the heads of the Agencies also had veto rights on the disclosure of

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provides ministers with a veto power to prevent information from being shared with the ISC or to prevent particular individuals from being interviewed by the ISC. The Secretaries of State can exercise the veto power under the JSA in two circumstances:

- The information constitutes sensitive information and should not be disclosed to the ISC in the interests of national security.⁴⁶ It appears that the Secretary of State only very rarely relies on this limb of the veto owing to the high level of protection for classified information provided to the ISC, as set out in the section on the Official Secrets Act below.
- The information is 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 which were not limited to national

information. Under JSA 2013, only the Secretary of State has such veto rights.

⁴⁶ JSA, schedule 1, paragraph 4(a).

security) it proper not to do so (the ‘Committee Veto’).⁴⁷

- *Publication:* Because the ISC is involved in highly confidential and sensitive matters concerning classified information, the JSA sets out a process for the publication of its reports that differs from other committees of Parliament. In particular, before making any report to Parliament, the ISC must send it to the Prime Minister.⁴⁸ Any information that the Prime Minister, in consultation with the ISC, considers to be ‘prejudicial to the continued discharge of the functions’ of the UK Intelligence Community (UKIC) must be redacted from the published reports.⁴⁹ The ISC may also make a report to the

⁴⁷ JSA, schedule 1, paragraph 4(4)(b). This requires the Secretary of State to have regard to any guidance issued by a minister of the Crown or a governmental department concerning the provision of evidence by civil servants to select committees: JSA, schedule 1, sections 4(5). The [Explanatory Note](#) to the JSA clarifies (paragraph 42) that *‘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 [...], known as the Osmotherly Rules.’* Further detail on the Osmotherly ‘Rules’ is set out later in this chapter.

⁴⁸ JSA, section 3(2).

⁴⁹ JSA, section 3(4). The reports must specify whether any matter has been redacted on this basis: JSA, section 3(5).

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Prime Minister separately in relation to those matters.⁵⁰ These provisions, in practice, give the Prime Minister of the day very wide-ranging powers to limit public discourse with respect to the activities of the UKIC.

- *Funding*: Under the legislation, ministers of the Crown may: (i) make payments in respect of any expenditure incurred, or to be incurred by either House in relation to the ISC; (ii) provide staff, accommodation, or other resources to either House of Parliament for the purposes of the ISC or to the ISC itself; (iii) make payments to the ISC; or (iv) otherwise make payments to any person for the purpose of the ISC.⁵¹ However, the JSA does not otherwise contain provisions protecting the ISC's budget or prescribing a process for determining how the ISC budget should be set.

Official Secrets Act 1989

Members of the ISC have access to highly classified material and confidential information in carrying out their duties. They are therefore subject to non-disclosure obligations under the Official Secrets Act 1989 (OSA)

⁵⁰ JSA, section 3(7).

⁵¹ JSA, schedule 1, paragraph 3.

and will be guilty of a criminal offence if they make an unauthorised disclosure of any information, document or other article relating to security or intelligence that is covered by the OSA.⁵²

In practice, the OSA affords significant protection to information provided to the ISC, since it means members of the ISC can be held personally criminally liable for the unauthorised disclosure of classified material. In the event of unauthorised disclosure, the relevant individual can be sentenced to up to two years' imprisonment and/or be required to pay a fine at the court's discretion.⁵³

Members of the Agencies are also subject to the OSA and can be held personally criminally liable for unauthorised disclosures. An 'authorised disclosure' must be made by a Crown servant 'in accordance with his official duty'. The OSA does not explicitly state that disclosures to the ISC will be considered disclosures made in accordance with the official duty of Agency staff. This suggests that whistleblowing, even only so far as the Chair of the ISC, could carry the grave risk of criminal liability for any perpetrator. However, case

⁵² Official Secrets Act 1989 (OSA), section 1(1)(b).

⁵³ OSA, section 10(1).

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law⁵⁴ and practice⁵⁵ suggest that such disclosures (whether under the ISC's information-gathering powers or voluntarily by whistleblowing) would be considered an 'authorised disclosure' under the OSA. It is important that the position be clarified.

⁵⁴ For example, in *R v Shayler* [2002] UKHL 11 (a case involving alleged unlawful disclosure under the OSA by a former member of the Security Service), Lord Bingham noted the following in relation to authorised disclosures under section 7 OSA (paragraph 27): *'If a former member has concerns about misbehaviour, irregularity, maladministration, waste of resources or incompetence in the service he may disclose these to the Home Secretary, the Foreign Secretary, the Secretary of State for Northern Ireland or Scotland, the Prime Minister, the Secretary to the Cabinet or the Joint Intelligence Committee. He may also make disclosure to the secretariat, provided (as the House was told) by the Home Office, of the parliamentary Intelligence and Security Committee. He may further make disclosure, by virtue of article 3 of and Schedule 2 to the Official Secrets Act 1989 (Prescription) Order 1990 (SI 200/1990) to the staff of the Controller and Auditor General, the National Audit Office and the Parliamentary Commissioner for Administration.'* This suggests that members of the Agencies can whistle-blow to the ISC without breaching the OSA (although the case pre-dates the changes to the ISC made in the JSA).

⁵⁵ The ISC's reports similarly suggest that staff at the Agencies have been told by their Agency Heads that the ISC is an 'approved route' for whistleblowing. See, for example, ISC (2017b), *Annual Report 2016–2017*, HC 655. London: House of Commons, p. 69.

Other statutory bodies

Primary legislation also establishes statutory bodies other than the ISC that oversee certain intelligence and security matters. Those bodies include the Independent Reviewer of Terrorism Legislation,⁵⁶ whose main role is to inform public and political debate on anti-terrorism legislation; the Investigatory Powers Commissioner's Office,⁵⁷ which oversees the use of covert investigatory powers by more than 600 public authorities; and the Investigatory Powers Tribunal,⁵⁸ which is an independent judicial body that hears complaints against a wide range of government bodies under the Regulation of Investigatory Powers Act 2000 and the Human Rights Act 1998.

Memorandum of Understanding (MOU)

The provisions within Part 1 of the JSA do not give ministers any secondary legislative powers concerning

⁵⁶ First given statutory power under the Prevention of Terrorism Act 2005.

⁵⁷ Given statutory power under the Investigatory Powers Act 2016.

⁵⁸ Given statutory power under the Regulation of Investigatory Powers Act 2000, section 65.

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the ISC and its functions. However, under the Act, this can be addressed through the MOU agreed between the ISC and the Prime Minister and which the ISC is required to publish. The MOU is intended to be a ‘living document’. It is more ‘flexible’ than primary legislation and can be changed more easily, by way of ‘exchange of letters between the Prime Minister and the committee chairman [of the ISC]’.⁵⁹

The first MOU under the JSA was agreed in 2013 and published in 2014. In the subsequent dozen years (during which there have been six different Prime Ministers) there have been no updates to the MOU, which scarcely supports the intention that it should be a ‘living document’. The ISC has tabled amendments to the MOU in this period, but these have not been accepted by any Prime Minister.⁶⁰ The National Security

⁵⁹ JSA, section 2(6); Lord West of Spithead, [House of Lords Hansard](#), 19 July 2012, column 1514. See also [House of Commons Hansard](#), 31 January 2013, column 98.

⁶⁰ The ISC tabled amendments to the MOU in its 2019–21 *Annual Report*, the most significant of which was to suggest an expansion in the number of departments that it had oversight of. These changes were rejected by then Prime Minister Boris Johnson, who stated that ‘*[t]he Government remains confident that the current Memorandum of Understanding with the Committee is sufficient to allow for robust oversight of the Agencies and wider Intelligence Community*’: Prime Minister’s Statement in relation to the

Act 2023 places an obligation on the Prime Minister to work with the ISC to ‘consider whether’ the MOU should be updated to reflect changes arising out of the extension of HMG intelligence functions under that Act within six months of the Act coming into force (i.e. by 20 June 2024). At least until recently, there had been no indication of this requirement being met.⁶¹

The MOU has two functions that are given direct legally binding effect by the JSA. First, the MOU can directly expand the supervisory remit of the ISC beyond those bodies listed in the JSA.⁶² Secondly, the ISC’s consideration of any ongoing operational matter (already prescribed by legislation as set out above) must, in the opinion of the ISC and the Prime Minister,

Publication of the Intelligence and Security Committee’s 2019–21 Annual Report, [House of Commons Hansard](#), 10 December 2021, Written Statements (UIN HCWS464). Amendments were also tabled in the ISC’s 2021–22 and 2022–23 annual reports.

⁶¹ Prime Minister Rishi Sunak acknowledged that the National Security Act 2023 obliges HMG to consider whether the current MOU should be altered or replaced to reflect any changes arising out of the Act, however he did not respond to the ISC’s proposed amendments: Prime Minister’s statement in relation to the Publication of the Intelligence and Security Committee’s 2022–2023 Annual Report, [House of Commons Hansard](#), 5 December 2023, Written Statements (UIN HCWS92). The recent announcement of a Cabinet Office review of the MOU may address this: see footnote 26 above.

⁶² JSA, section 2(2).

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also be consistent with the MOU.⁶³ As regards each of those matters:

- *Remit*: The current (i.e. 2014) MOU expands the remit of the ISC from ‘the Agencies’ (MI5, MI6, GCHQ) to also include ‘the Departments’: the Joint Intelligence Organisation (JIO, within the Cabinet Office); the National Security Secretariat (NSS, also Cabinet Office); Defence Intelligence (DI, within the Ministry of Defence); and the Homeland Security Group (HSG, within the Home Office).⁶⁴ However, there remain a large number of public bodies that are entitled to exercise covert intelligence powers but which are not subject to the jurisdiction of the ISC.⁶⁵
- *Jurisdiction*: The current MOU provides further detail on what will be considered an ‘ongoing intelligence and security operation’.⁶⁶ It also

⁶³ JSA, section 2(4).

⁶⁴ MOU, paragraph 8.

⁶⁵ These include, for example, certain government departments, law enforcement agencies such as the police forces and the National Crime Agency, the military forces, the local authorities and prisons. Much of this activity is unrelated to the work of the UKIC, and hence the ISC’s remit; however, the ISC’s role is undermined when intelligence functions are devolved to bodies not included in the MOU.

⁶⁶ MOU, paragraphs 11–17.

explains that the ISC's information-gathering powers under the JSA are typically retrospective rather than prospective in order to prevent the ISC from jeopardising ongoing operations; compromising the security and safety of the persons involved; or unduly impeding the operational effectiveness of the UKIC.⁶⁷

However, the MOU is expressly permitted to include provisions about the ISC or its functions that are not limited to those two matters on which it has direct legally binding effect.⁶⁸ Accordingly, the MOU can supplement legislation relating to the ISC (i.e., the JSA), provided that it is not inconsistent with that legislation, and without legally binding effect.

Thus the current MOU clarifies certain provisions in the JSA, providing greater detail on how those provisions should take effect in practice and how HMG and the Prime Minister should exercise discretionary powers under the JSA. For example, as regards the ISC's information gathering powers in the JSA, the MOU specifies:

⁶⁷ MOU, paragraph 12.

⁶⁸ JSA, section 2(5)(a).

2. Legal Frameworks and Operational Realities

- *Documentary evidence*: That the ISC has the power to gather written material, both regular briefs on agreed lines of reporting and responses to specific questions, and HMG and the Agencies are to keep the ISC ‘fully and promptly informed of any significant matters falling within the ISC’s remit’.⁶⁹ There should be collaboration between the ISC’s staff and the UKIC to obtain information from the UKIC on the ISC’s behalf.⁷⁰ The duty to provide information to the ISC rests, for the Departments, with the relevant Minister of the Crown, and for the Agencies, with the Heads of the Agencies.⁷¹
- *Oral evidence*: That the ISC also has the power to hold oral evidence sessions with Ministers, Agency Heads and other senior officials.⁷² These oral evidence sessions will be held ‘generally with Ministers (Home Secretary, Foreign Secretary) and other senior officials (Heads of Agencies, National Security Adviser, Chair of the JIC, Chief of Defence Intelligence, Head of OSCT)’,

⁶⁹ MOU, paragraph 20.

⁷⁰ MOU, paragraph 20.

⁷¹ MOU, paragraph 19.

⁷² MOU, paragraph 20.

although this is ‘not an exhaustive list, and the ISC may invite any minister or senior official to give evidence’.⁷³ The ‘nature of the Committee’s work and the need for it to consider protectively marked material in carrying out its function means that the majority of sessions will continue to be held in private.’⁷⁴ This contrasts with select committees, which normally sit in public and only occasionally hold closed evidence sessions. Nor (see below) is the scope of oral select committee evidence-gathering limited to ‘senior officials’.

- *Veto power*: The Committee Veto should only be exercised ‘very rarely’ and, in exercising their discretion to use the Committee Veto, the Secretary of State should have ‘regard to those provisions and other features of the ISC that distinguish it from select committees’.⁷⁵ Those ‘other features’ are not expressly stated in the MOU, but include: (i) that members of the ISC are subject to the OSA, as set out above, and can therefore review classified information; (ii) that, as

⁷³ MOU, paragraph 33. The Homeland Security Group (HSG) is the successor organisation to the Office for Security and Counter-Terrorism (OSCT).

⁷⁴ MOU, paragraph 36.

⁷⁵ MOU, paragraph 32.

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set out above, the majority of ISC hearings are held in closed sessions, whereas select committee hearings are usually held in open sessions; and (iii) that ISC reports cannot be published without the approval of the Prime Minister and are subject to a redaction process.

The MOU also covers other topics, such as the ISC's duties to cooperate with other statutory bodies to avoid unnecessary duplication of their respective remits,⁷⁶ and imparts duties on the ISC and government to 'work together to apply a reasonable process for identifying, in consultation with the ISC, sensitive material that must be removed from ISC reports prior to publication'.⁷⁷

Government practice and guidance

Not all of the ISC's powers and practices are mandated in statute or addressed by the MOU. In some areas, government practice has developed over time to determine how the ISC functions, and in other areas the

⁷⁶ MOU, paragraph 9.

⁷⁷ MOU, paragraph 37.

practice of the ISC is determined by guidance. For example:

- *Information gathering:* The JSA and MOU provide that the Committee Veto can be exercised to prevent the provision of information to the ISC, having ‘regard to any guidance [...] concerning the provision of evidence by civil servants to Select Committees’.⁷⁸ The ‘guidance’ referred to here takes the form of the so-called ‘Osmotherly Rules’, a misnomer for what really is only guidance, issued by the Cabinet Office, which nonetheless significantly influence how government responds to committee requests.⁷⁹ They have a unique status in relation to the ISC (see Box 1).

⁷⁸ JSA, schedule 1, paragraph 4 (5).

⁷⁹ The Osmotherly ‘Rules’ also outline categories of information which it may sometimes be appropriate to decline to provide to select committees. This includes information: (i) as to officials’ personal views (as distinct from the views of ministers) on policy options; (ii) the provision of which requires substantial research be carried out by a department or which could only be supplied at excessive cost; (iii) about matters sub judice; (iv) about the conduct of particular individuals, where the committee’s line of questioning appears to be not just to establish facts but with the implication of allocating individual blame; and (v) contained in the papers of a previous administration.

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Box 1. A double bind

The Osmotherly ‘Rules’ are not rules at all. They are internal guidelines for civil servants responding to requests for information from select committees. No doubt many ministers and officials would like these ‘Rules’ to be binding. Through the JSA and the MOU, they are – uniquely – binding on the ISC. Guidance, misnamed as ‘rules’, has been turned into legislation.

‘The Osmotherly Rules are merely for Government. They have never been accepted by Parliament.’⁸⁰ As even the authors of the Osmotherly ‘Rules’ reluctantly acknowledge, ‘the formal position remains that [a select committee] could issue an order for attendance, and request the House to enforce it’.⁸¹ Select committees have tangled with government departments over witnesses and have often got their way or at least secured a compromise solution.

⁸⁰ Liaison Committee (2012), *Select committee effectiveness, resources and powers* (Second Report of Session 2012–13), HC 697 (London: House of Commons), paragraph 113.

⁸¹ Cabinet Office (2014), ‘Giving Evidence to Select Committees: Guidance for Civil Servants’ (October), (London: Cabinet Office), paragraph 13.

This option is not available to the ISC because the Committee Veto, and its explicit linkage to the Osmotherly 'Rules', is incorporated into the JSA. It is Osmotherly with statutory force. The same legislation and MOU recognise the fundamental differences, set out above, between the operation of the ISC and that of select committees; yet a veto which cannot in practice be enforced on a select committee can be used to thwart the ISC.

The ISC is further limited by the provision within the MOU that it may invite (only) 'senior officials' to give evidence. There is no such specific limitation of oral evidence to senior officials within the Osmotherly 'Rules', even if it is arguably implicit in the guidance that evidence before select committees is to be given by ministers or, under ministerial instructions, by officials on their behalf.

- *Whistleblowing*: In prior publications, the ISC has suggested that staff at the Agencies have been provided with guidance on whistleblowing to the ISC. In particular, the ISC *Annual Report* for 2018–19 stated that the ISC had 'set out the policy and processes for Agency staff wishing to

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approach the ISC chair with concerns (including, crucially, the difference between matters which should be considered as ‘whistleblowing’ and those which are grievances)’.⁸² However, this guidance has not been made available publicly. The JSA and the MOU do not include any protections for whistleblowers and there is no suggestion in the annual reports that any protections or incentives for whistleblowers are included in other policies or guidance (although it may be that any such materials are non-public). Whistleblowing, on the available public evidence, would therefore require particular courage.

- **Governance:** As noted above, there are currently no statutory time-limits within which the ISC must be reconstituted following every general election,

⁸² ISC (2020a), *Annual Report 2018–2019*, HC 633 (London: House of Commons), p. 5, footnote 8 clarifies that the following will constitute matters suitable for whistleblowing: (i) that a criminal offence has been committed, is being committed or is likely to be committed; (ii) that a person has failed, is failing or is likely to fail to comply with any legal obligation to which s/he is subject; (iii) that a miscarriage of justice has occurred, is occurring or is likely to occur; (iv) that the health or safety of any individual has been, is being or is likely to be endangered; (v) that the environment has been, is being or is likely to be damaged; or (vi) that information tending to show any matter falling within any one of the preceding points has been, is being or is likely to be concealed.

and the current MOU does not address this point.⁸³ This has resulted in relatively long periods post-election in which the ISC is not constituted.⁸⁴ The ISC has a team of core staff and hires staff to assist on specific inquiries who are independent of Parliament. The MOU specifies that these staff 'will continue in post notwithstanding a dissolution of Parliament',⁸⁵ and it has been prior practice for the ISC's staff to progress work on ongoing inquiries and/or reports in this period.⁸⁶ However, the extent to which the ISC staff can achieve progress is very limited in circumstances where the committee itself is not formally constituted.

⁸³ For completeness, the JSA (schedule 3, paragraph 1(3)) and the MOU (paragraph 29) make provision for the sharing of documents or other information belonging to a previously constituted ISC with that constituted after the election of a new parliament.

⁸⁴ For example, following the 2019 general election the ISC was not reconstituted for a full seven months. Similarly, the ISC was only reconstituted five months after the 2017 general election, and there had been a similar delay after the 2015 election. 'As a result, in the three years from 2015 to the end of 2017, Britain was without a legislative intelligence oversight body for almost 12 months.' Defty, (2019), p. 30. Most recently, the ISC was not reconstituted for five months following the 2024 general election.

⁸⁵ MOU, paragraph 29.

⁸⁶ ISC (2017c), [Statement by ISC Chair Dominic Grieve](#), 27 April; MOU, paragraph 29.

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Practice in relation to the election of the ISC chair also gives grounds for concern. I have in the past been among those emphasising the importance of the independence of the ISC chair: ‘once the appearance of independence has gone – whatever the reality – so has the point of having the ISC in the first place’.⁸⁷ This concern was heightened by reports that in July 2020 the then Prime Minister Boris Johnson sought (ultimately unsuccessfully) to deploy the party whip and the governing party majority to determine the ISC chair selection process.⁸⁸ The new chair, Julian Lewis, considered demands that he support the Prime Minister’s chosen candidate ‘an improper request’, adding: ‘The 2013 Justice and Security Act explicitly removed the right of the prime minister to choose the ISC chairman and gave it to committee members.’ His predecessor, Dominic Grieve, called the suggestion that it would be improper for ISC members to vote

⁸⁷ [House of Commons Hansard](#), 18 March 2010, column 1060.

⁸⁸ Boris Johnson’s preferred candidate for ISC Chair was Chris Grayling, and his reported attempt to influence chair selection was ultimately unsuccessful as Conservative MP Dr Julian Lewis defied the party whip and voted for himself rather than Grayling to become ISC Chair. Lewis became ISC Chair with opposition parties’ support but had the Conservative Party whip temporarily withdrawn.

across party boundaries when selecting a chair ‘as wrong as it is absurd’ and noted ‘had the government attempt to impose a Chair succeeded, the ISC would have lost all credibility and its effectiveness to do its work and have its conclusions accepted by the public and parliament would have been severely compromised, if not destroyed.’⁸⁹

- *Funding and independence of ISC office:* There is limited information in the public domain about how the level of funding for the ISC is decided. The ISC annual reports suggest that the committee has some degree of involvement in this process. In 2021–22, the ISC reported that it made successful representations to increase its budget,⁹⁰ whereas in 2019–21, the ISC’s budget was cut, which was ‘unauthorised by the Committee’.⁹¹ These indications suggest that the ISC has a degree of involvement in determining

⁸⁹ Sayal, R. (2020), ‘Julian Lewis: Attempt to impose Grayling was “improper request”’, *The Guardian*, 16 July 2020; Grieve, D. (2020), ‘[The Intelligence and Security Committee and its role in democratic accountability](#)’, Constitution Unit blog, 24 July [accessed 12 May 2026].

⁹⁰ ISC (2022b), p. 8.

⁹¹ ISC (2021), p. 14.

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the funding it receives, but that government ultimately determines the budget, a conclusion reinforced by the experience of 2019–25 that was set out in the previous chapter.

Bodies without a substantial measure of budgetary independence tend, in time, to surrender at least some of their operational independence. As described in the previous chapter, ISC funding was reduced for a number of years, with the committee complaining in its annual reports that it had been unable to operate at a fully staffed level since at least 2019. Confronted with ‘an immediate crisis’ for the committee, HMG agreed both a short-term and longer-term response in 2024–25.⁹² This development, while welcome, addresses urgent questions of funding and capacity rather than those of principle and structure.

A further issue, seemingly minor but in practice of great significance, concerns the location of the ISC’s administration within the Cabinet Office, which employs the committee’s staff. There has been a constitutional conflict ever since, in 2013, two Cabinet Office units – the NSS and the JIO –

⁹² ISC (2025b), pp. 17–18.

came under the ISC's remit. A proposed solution, with the committee and its staff moving to Parliament, fell through. While the committee was given undertakings that the independence of its staff would be respected, by its 2023–25 *Annual Report*, it could write that, 'These undertakings have been completely ignored in recent years. ISC Staff have been subject to exceptional pressure, jeopardising the functioning of both the Office and the Committee.' This falls well short of the level of independence that Parliament might reasonably expect. The committee reported that, since 2024, it has been working with HMG 'to establish an independent Office – a body corporate – linked to Parliament through the establishment of a new Board'.⁹³ Whatever the exact form of the new arrangements, full independence from the Cabinet Office is vital.

- *Publication:* The ISC website summarises the process that government and the ISC typically follow for the redaction of ISC reports, in accordance with the provisions of the JSA and MOU.⁹⁴ First, the ISC circulates the reports to the

⁹³ ISC (2025b), p. 15.

⁹⁴ For further details, see ISC website (no date), [How the Committee Works, Publication of Reports, Process.](#)

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UKIC to check for factual accuracy. Second, the UKIC can request redactions and explain to the ISC what harm will be caused by publication of the relevant text. The ISC will then consider each request with regard to national security. Third, if the ISC refuses to redact certain information which UKIC believes would cause serious damage to national security, the ISC and the head of the relevant HMG organisation will hold a meeting to discuss and agree on the scope of redactions. Fourth, the reports are sent to the Prime Minister with a confirmation from the UKIC that the information in the report will not prejudice the discharge of the function of the UKIC. The Prime Minister has the final say on the redactions and publication of the reports. There are no formal time limits for when the Prime Minister must respond. In practice, the ISC usually requests a response within ten working days⁹⁵ and former ISC chair Dominic Grieve has commented that redactions are usually completed within this timeline.⁹⁶ However, as will

⁹⁵ ISC (2023c), p. 11.

⁹⁶ Dearden, L. (2019), 'Boris Johnson blocked release of Russia report against advice of intelligence agencies, Dominic Grieve says', *Independent*, 6 November 2019.

be set out below, there are a number of instances in which aspects of this process have not been followed, including delays in prime ministerial approval.

- *Meetings*: The ISC's annual reports suggest that it should meet with the Prime Minister each year to discuss any key issues or concerns regarding its work. However, neither the JSA nor the MOU mandate regular meetings between the Prime Minister and the ISC, and no such meeting took place from December 2014 until July 2025, creating an extraordinary and unacceptable 11-year hiatus. Former ISC chair Dominic Grieve has commented on the importance of meetings between the ISC and the Prime Minister noting 'while the Chair may get this access, it is important that the PM should hear from the committee collectively'.⁹⁷

There are also occasions on which practice does not reflect the provisions of the JSA and the MOU. In December 2025, HMG announced major reforms to Defence Intelligence functions under the leadership of the Chief of Defence Intelligence. The Chair of the ISC, Lord Beamish (Kevan Jones), pointed out that, under the

⁹⁷ ISC (2021), p. 14; ISC (2022b), p. 8; Grieve (2020).

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JSA and the MOU, these functions were part of the ISC's remit, and yet, 'Not only was the ISC not properly informed in advance of this announcement, but there had been no prior consultation, or any information of substance provided to the Committee.'⁹⁸ Ensuring that the substantive oversight of central government intelligence agency activity promised at the time of the passing of the JSA takes place will require changes of practice as well as of provisions of legislation or of the MOU.

The legislative framework of the JSA was a step forward on the pre-2013 arrangements, but features of the legislation, the MOU, and (perhaps most of all) the practice and guidance that have become established, place significant constraints on the operation and effectiveness of the ISC. Taken together, these have been prejudicing the perceived independence of the ISC and its ability to fulfil its statutory obligations. A review of the committee's work over the last decade – the subject of the next chapter – demonstrates this.

⁹⁸ ISC (2025d), [Statement by the Rt Hon the Lord Beamish PC](#), 16 December.

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Over the last decade, the ISC has conducted inquiries and published reports on a wide range of important issues. This includes 15 ‘special reports’ into specific matters such as the UK’s role in extraordinary rendition, the use of drone strikes by the UK in Syria and Russian interference into UK elections. In addition, the

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committee's annual reports have described the work of the ISC during the reporting period amongst other matters.⁹⁹

These reports have been thorough and have brought important information into the public domain. However, the ISC has also drawn attention in its reports to what it considers to be key impediments to its ability to perform its vital function of independently overseeing the intelligence and security activities of His Majesty's Government (HMG) and ultimately holding it to account for any failures.

This section summarises key features of these special and annual reports over almost a decade, including any relevant commentary in those reports about impediments the ISC itself has identified to the effective performance of its functions.

UK lethal drone strikes in Syria (Syria Report) (2017)

In April 2017, the ISC published a report examining the intelligence supporting the UK's lethal drone strike

⁹⁹ These two categories of reports from the ISC are provided for in JSA, section 3(1) and section 3(2).

against Reyaad Khan (a British citizen) in Syria in August 2015. This was the first time that the UK had conducted a lethal drone strike against a terrorist target outside of participation in a military campaign.

The Syria Report was the first report in which the ISC exercised its new powers under the Justice and Security Act (JSA) to examine operational aspects of the work of the UK Intelligence Community (UKIC) in certain prescribed circumstances. Given the significance of the drone attack in question, the Prime Minister at the time (David Cameron) exercised his discretionary power under the JSA to permit the ISC to investigate this operational matter.¹⁰⁰

The Syria Report identified that Reyaad Khan was a prolific terrorist recruiter and attack planner and that there was ‘no doubt’ that he posed a very serious threat to the UK. However, the ISC was not able to reach a final conclusion on key questions before it, including regarding: (i) how the threat posed by Khan should be quantified; and (ii) the proportionality of the deaths of two other individuals as ‘collateral damage’ in the drone strike alongside Khan.¹⁰¹ The findings of the report were

¹⁰⁰ ISC (2017a), *Lethal Drone Strikes in Syria*, HC 1152 (London: House of Commons), p. 2.

¹⁰¹ *Ibid*, pp. 10 and 19.

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widely reported on in the media and prompted public debate on the use of drone strikes and the degree of transparency of government decision-making in relation to them.¹⁰²

The ISC stated that its inability to reach a final conclusion on these points was in part because it was denied access to several key documents which formed the basis of ministers' decision-making when authorising the drone strike on Khan and evaluating the collateral effects of the strike.¹⁰³

The ISC considered that access to submissions put to ministers concerning the extent to which the actions of Khan and his associates amounted to an 'armed attack' against the UK or Iraq, were necessary to allow the committee properly to evaluate the threat posed by Khan and therefore whether the drone strike was proportionate. However, the ISC was denied access to these documents. The then chair, Dominic Grieve, stated that the ISC was denied access to these documents 'on the grounds that this constituted advice

¹⁰² MacAskill, E. (2017), 'Briton killed in drone strike on Isis "posed serious threat to UK"', *The Guardian*, 26 April; Reuters (2017), ["More transparency" needed over lethal drone strike against British radical, lawmakers says](#) (sic), 26 April [accessed 12 May 2026].

¹⁰³ ISC (2017a), p. 19.

to ministers'.¹⁰⁴ It therefore appears that access to these documents was – in substance or effect – denied based on the Committee Veto.¹⁰⁵

The ISC had also requested materials that it considered were necessary to examine whether the death of two individuals alongside Khan was proportionate, including 'material relating to targeting procedures and the consideration of potential collateral damage'.¹⁰⁶ HMG denied access to these further materials on the basis that because 'the strike was part of a military operation, this was outside of the ISC's statutory remit'. Although the then Prime Minister had permitted the ISC to consider the drone strike as an operational matter, HMG took the view that the specific materials requested relating to 'collateral damage' were not within the agreed

¹⁰⁴ Grieve (2020). The ISC also noted in its report that access to these documents was said by HMG to have been denied in this instance because the 'Ministerial submission did not contain any additional material relevant to the threat posed by Khan, and therefore were outwith the agreed scope of the Inquiry': ISC (2017a), p. 3.

¹⁰⁵ The Osmotherly 'Rules' state that 'officials should as far as possible confine their evidence to questions of fact and explanation relating to government policies and actions [...] Officials should as far as possible avoid being drawn into discussion of the merits of alternative policies, including their advice to Ministers.' Cabinet Office (2014), paragraph 33.

¹⁰⁶ ISC (2017a), p. 2.

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scope of the inquiry set by the Prime Minister. The ISC concluded that ‘we have therefore been prevented from looking at this issue in as much detail as we consider it requires’.¹⁰⁷

The committee concluded that ‘the failure to provide what we considered to be relevant documents on an issue of such seriousness is [...] profoundly disappointing: it has had a significant bearing on the conclusions we have reached’. It also noted that ‘oversight and scrutiny depend on primary evidence: without sight of the actual documents provided to Ministers we cannot ourselves be sure – nor offer an assurance to Parliament or the public – that we have indeed been given the full facts surrounding the authorisation process for the lethal strike against Reyaad Khan.’¹⁰⁸

The Syria Report was produced by the ISC in December 2016 and published in April 2017 in heavily redacted form. In accordance with the process set out in the previous chapter, the final set of requests by the UKIC for redactions to the Syria Report had been received by the ISC on 12 April 2017. However, the then Prime Minister (Theresa May) announced on 18 April 2017 that

¹⁰⁷ ISC (2017d), [Press release](#) on Syria Report, 26 April.

¹⁰⁸ ISC (2017a), pp. 3, 24.

she would be holding an early general election. The only way to guarantee that the Syria Report could be published before the dissolution of Parliament (and therefore the dissolution of the ISC) was for the ISC to agree to all of the proposed redactions. In these challenging circumstances the ISC took the view it was preferable for the Syria Report to be published before the general election – in heavily redacted form – rather than delay its publication until the committee was reconstituted (with a different membership) after the election.¹⁰⁹ In addition, while the ISC could have sought to release parts of the Syria Report that had been redacted following the re-constitution of the ISC after the election, it chose not to do so.

Detainee mistreatment and rendition (2018) (Rendition Reports)

In June 2018, the ISC published two special reports on detainee mistreatment and rendition. The first examined historical issues concerning the actions of the Agencies in relation to the handling of detainees overseas and

¹⁰⁹ *Ibid*, p. 3.

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rendition in the period 2001–10, whereas the second examined current issues such as the application of official guidance to prevent UK involvement.

The Rendition Reports were preceded by an HMG inquiry into detainee mistreatment and rendition chaired by the former judge and Intelligence Services Commissioner Sir Peter Gibson. This was, however, abandoned in January 2012 on the grounds that the police had opened criminal investigations into the same subjects (specifically, investigations into renditions to Libya facilitated by Mark Allen of MI6) and that it would be impossible for the Gibson Inquiry to proceed while criminal investigations were ongoing.¹¹⁰ In December 2013, before the criminal investigations had concluded without charges being brought, the Prime Minister asked the ISC to continue the work started by the Gibson Inquiry rather than fulfil the commitment that had been made to Parliament by the then Justice Secretary, Ken Clarke, to reconstitute a judge-led inquiry.

¹¹⁰ When announcing the suspension of the Gibson Inquiry, the then Secretary of State, Ken Clarke, stated that '[t]he Government fully intends to hold a judge-led inquiry into these issues, once it is possible to do so and all related police investigations have been concluded'. [House of Commons Hansard](#), 18 January 2012, column 752. However, see footnote 113 below.

The Rendition Reports uncovered and shed light on significant further information about the extent of the UK's involvement in detainee mistreatment and rendition in the period 2001–10. This included 28 cases where the Agencies suggested, planned, agreed to, or facilitated rendition operations proposed by other countries; 232 cases where UK personnel supplied questions or intelligence to liaison services after they knew or suspected detainee mistreatment; and 13 incidents where UK personnel witnessed first-hand detainee mistreatment. The Rendition Reports included 27 key conclusions outlining the ISC's serious concerns about the UK's involvement in detainee mistreatment and rendition, concluding that 'in our view the UK tolerated actions, and took others, that [the ISC] regard as inexcusable'.¹¹¹

The ISC's reports were extensively reported on¹¹² and led to renewed public debate on the issue of rendition. Among those calling on HMG to honour past

¹¹¹ ISC (2018d), '[Press Release: Detainee Mistreatment and Rendition 2001–2010](#)', June, p. 1.

¹¹² Cobain, I. and Doward, J. (2018), 'MI6 put questions to prisoner waterboarded 83 times by CIA', *The Guardian*, 30 June 2018; BBC News (2018), '[UK "knew US mistreated rendition detainees"](#)', 28 June [accessed 12 May 2026]; Elliott, F. and Hamilton, F., (2018), 'Torture report: MoD officer "approved hooding and torture of prisoners in Iraq"', *The Times*, 29 June.

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commitments to renew a judge-led inquiry into the practice was Ken Clarke, now on the back benches: not to do so, he warned, would be ‘the most blatant further attempt to get out of the most solemn undertakings that were given by me when I was Justice Secretary and Lord Chancellor on behalf of the then Prime Minister’. HMG nonetheless rejected the call for an inquiry.¹¹³

The ISC was thus much more successful in this investigation of rendition than in its earlier foray into the subject in 2007¹¹⁴ and uncovered evidence of much deeper British involvement in rendition than had previously been understood to be the case. Yet it was not allowed to finish the job.

The Committee faced significant obstacles when gathering information which were ‘regrettable’ and ‘very much to the detriment’ of its enquiries.¹¹⁵ It was denied

¹¹³ [House of Commons Hansard](#), 15 July 2019, column 590.

¹¹⁴ ISC (2007).

¹¹⁵ The ISC noted that it was granted access to the Heads of the Agencies who were in role at the time of the investigations, and that it made no criticism of these individuals, who were very cooperative and committed a great deal of time to their investigation. However, given these individuals were not in role at the relevant time, they could only answer questions by reference to hearsay which was ‘no substitute for hearing from those who were there’: ISC (2018a). *Detainee Mistreatment and Rendition 2001–2010*, HC 1113 (London: House of Commons), pp. 9 and 49.

access to 19 of the 23 SIS witnesses that it sought to interview. According to Dominic Grieve, then ISC chair, HMG denied the ISC access ‘on the grounds that as they were not senior officials they should not be called before it, with the limited powers of select committees to call junior officials being cited in support’.¹¹⁶ HMG’s justification of the denial of access by the ISC to relevant individuals was on the specific basis that the officers were ‘junior at the time’ of the conduct and that, as noted above, the MOU refers only to the ISC’s right to take evidence from ‘senior officials’.

The ISC responded that many of the relevant individuals had reached the level of senior civil servant during their Agency careers and that the mandate for the ISC’s inquiry (as set out by the Cabinet Secretary) empowered the ISC to interview ‘other officials from the Agencies’ and not just the Agency heads. HMG then escalated the question of whether it was appropriate to prevent the ISC from interviewing the relevant ‘junior’ individuals to the Prime Minister.

The Prime Minister expressed concerns about the ‘legal uncertainty over the protection that would be afforded to officers appearing as witnesses before the Committee’ and noted that ‘it is not appropriate for a Parliamentary

¹¹⁶ Grieve (2020).

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committee to request formal evidence from staff who were more junior at the time of the events in question regardless of the position that they [now] hold.’¹¹⁷ The ISC was not granted access to the individuals in question. The latter arguments appeared to combine the Committee Veto, the MOU’s limitation of oral evidence to ‘senior officials’ and – with a certain sleight of hand – the more junior status held by the requested witnesses at the time of events that had taken place more than fifteen years earlier.

In its final report, the ISC noted that the position taken by the Prime Minister was ‘surprising’ given that witness testimony before the ISC is protected from use in criminal, civil or disciplinary proceedings. The ISC also expressed concern that its evidence process had been treated as akin to that of a select committee, which was not appropriate given that the ISC has ‘quite deliberately’ been provided with greater powers and protection than is in practice granted to select committees in recognition of its responsibility for oversight of intelligence. The ISC was additionally critical that the witnesses it was granted access to were told that they would not be allowed to ‘talk about the specifics of the operations in which they

¹¹⁷ Letter from the Prime Minister to the ISC Chair, 10 January 2017, cited in ISC (2018a), p. 9, footnote 20.

were involved, nor fill in any gaps in the timeline of events'.¹¹⁸

As a result of the limitations placed on the ISC, the ISC itself acknowledged that it was unable to conduct an 'authoritative Inquiry and produce a credible Report', instead 'drawing a line under the Inquiry' and publishing partial findings that were 'not, and must not be taken to be, a definitive account' of UK involvement in detainee mistreatment.¹¹⁹

The need to establish the scope and limits of Britain's involvement in and facilitation of kidnap and torture – that is, the US-led programme of extraordinary rendition – fell squarely within the ISC's remit. Its inability to get to the truth on this issue, using its powers under the JSA, amply illustrates the need for those powers to be bolstered.

¹¹⁸ ISC (2018a), p. 9.

¹¹⁹ *Ibid.*, page 1. In addition, the publicly released ISC reports are heavily redacted with key findings omitted, including in most cases the names of victims, those involved in abuses and the locations and dates of the relevant events.

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Russia Report (2020)

In July 2020 the ISC published a report on Russian influence in the UK. The Russia Report made important findings and recommendations about the UK's relationship with Russia. Those findings included that Russian influence in the UK is the 'new normal'; that there is a UK industry of 'enablers', who are 'wittingly or unwittingly – de facto agents of the Russian state'; that there is an inherent tension between HMG's prosperity agenda and the need to protect national security; and that the UK is clearly a target for Russian disinformation.¹²⁰ The Russia Report was extensively reported by the media and prompted public debate and scrutiny over HMG's strategy in preventing election interference, including calls for a public inquiry into the findings of the Russia Report and subsequent legal action when HMG failed to order such an inquiry.¹²¹

¹²⁰ The Russia Report was critical of successive governments for welcoming 'oligarchs' and their money to the UK, providing them with a means of 'recycling illicit finance through the London 'laundromat' and providing them with access to UK companies and political figures: ISC (2020b), *Russia*, HC 632 (London: House of Commons), p. 15.

¹²¹ Grierson, J. (2022), 'MPs take Russian election interference case to human rights court', *The Guardian*, 29 March. In 2025 the European Court of Human Rights ruled against the claim; the campaigners have sought to appeal to the Court's Grand Chamber.

However, publication of the Russia Report was significantly delayed. It had been finalised by the ISC in March 2019, following which it was reviewed and redacted for publication by the UKIC and the Cabinet Office. It was submitted to the Prime Minister for final approval on 17 October 2019 but, for unexplained reasons, was not approved by him until the day after the December 2019 general election. The report was published well after the general election, in July 2020, following the re-constitution of the ISC.

This delay in publication of the report was heavily criticised by politicians across the political spectrum. Labour's Emily Thornberry described the delay in publication as 'utterly unjustifiable, unprecedented', adding that there were 'clearly politically motivated reasons for delaying the publication of the report until after the election'.¹²² The Conservative MP David Davis stated that 'the ISC report on Russian influence in our democracy should be published. To not do so risks creating a paranoid vacuum that'll only damage the institutions we hold dear.'¹²³ Dominic Grieve, who as the outgoing ISC chair had overseen the Russia Report, commented that he was 'extremely disappointed, and

¹²² [House of Commons Hansard](#), 5 November 2019, column 649.

¹²³ Dearden (2019).

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baffled as to why the government has not given a reason why the report cannot be published'. He added, 'this must not be allowed to happen again. We cannot have a situation in which a committee of parliament is not able to share its findings with parliament and the wider public.'¹²⁴

Like the Syria Report, the Russia Report was also published in heavily redacted form. However, it appears that there was general consensus between the ISC and the UKIC (on behalf of the Prime Minister) that significant redactions to the Russia Report were necessary for national security reasons.¹²⁵

The report's delayed publication probably eroded public confidence in the ISC's ability to report in timely fashion on issues that were awkward for the government of the day. In the words of Catherine Haddon of the Institute for Government, 'If there is a perception that a government will use its ability to stall ISC reports for reasons other than national security concerns, then the access versus hindrance trade-off becomes

¹²⁴ *Ibid.*

¹²⁵ In the one instance identified in the Russia Report where redactions were contested, the ISC's position was favoured, and the relevant material was ultimately published.

unbalanced.’¹²⁶ As the delay continued, the BBC reported that ‘Parliament’s Intelligence and Security Committee faces a serious challenge in ensuring its credibility, after an unprecedented wait for its formation along with the delay in publishing its Russia report’. It also raised questions about the ISC’s effectiveness ‘and its ability to prise real accountability out of an often-reluctant secret state...The delay since the 2019 election in creating a committee is far longer than seen previously and has raised questions about whether the government is seeking to create a more pliant body.’¹²⁷

Extreme Right-Wing Terrorism Report (2022)

In July 2022 the ISC published a report on Extreme Right-Wing Terrorism. It found that extreme right-wing terrorism is on an ‘upward trajectory’ in the United

¹²⁶ Haddon, C. (2019), ‘[The row over the Intelligence and Security Committee may require Parliament to review the committee’s role](#)’, Institute for Government comment, 15 November [accessed 12 May 2026].

¹²⁷ Corera, G. (2020), ‘[Russia report: Intelligence committee faces credibility challenge](#)’, *BBC News*, 2 July [accessed 12 May 2026]. There was speculation at this point that, had the government’s choice of chair been approved, the Russia report might have been delayed further or rewritten: Sayal (2020).

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Kingdom, partly as a result of increasing amounts of extremist material on the internet. The report also found that MI5 had been required to absorb responsibility for addressing extreme right-wing terrorism but had not been provided with commensurate resources to tackle this significant threat without other areas of its work suffering as a consequence.¹²⁸

The publication of the report was delayed following what the ISC described as ‘an exceptional breach of procedure’ by the UKIC.¹²⁹ The ISC completed the report on 26 July 2021, with all factual checks and redactions being completed by 5 January 2022. While the report was being prepared for publication, and after the UKIC had advised the Prime Minister that the material in the report would not prejudice the discharge of the functions of the Agencies, the ISC ‘received additional requests for redactions from the Intelligence Community which had been missed during the redaction process itself’.¹³⁰ These requests delayed the publication of the report to 13 July 2022, almost one year after it had been completed and more than six months

¹²⁸ ISC (2022c), [Press Notice](#) on Extreme Right-Wing Terrorism Report, 13 July.

¹²⁹ ISC (2022b), [Annual Report 2021–2022](#), p. 3.

¹³⁰ *Ibid.*

after all factual checks and redactions had already been completed.

China Report (2023)

In July 2023 the ISC published a report presenting a comprehensive analysis of the threat posed by China to the UK's national security interests. It detailed China's strategic objectives, scrutinised the UK's response to China, and recommended that HMG take action to protect UK security and prosperity by addressing challenges posed by China's global ambitions.

The committee began its inquiry into China in 2019 but was unable to conclude it and publish the report until July 2023. Among the reasons cited by the ISC for this delay were the national lockdowns during the Covid-19 pandemic and an 'excessive delay in appointing a new Committee from December 2019 to July 2020'.¹³¹

In addition, the report expressed concerns that the ISC did not have oversight of the Investment Security Unit (the body established to scrutinise investment decisions that raise national security concerns under the National Security and Investment Act 2021), with such oversight

¹³¹ ISC (2023a), *China*, HC 1605 (London: House of Commons), p. 2.

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instead falling to the then House of Commons Business, Energy and Industrial Strategy (BEIS) Select Committee. The ISC argued that only it could provide effective oversight of the Investment Security Unit, as it was the only committee of Parliament with regular access to classified information and to which the UKIC has a statutory duty to provide information. The exclusion of the ISC from oversight was ‘wholly unsatisfactory, as it means that no one oversight body will routinely have the full picture’.¹³² The ISC argued that this lack of effective independent oversight meant that ‘we cannot be confident that security is actually being taken into account or if, for Ministers drawn to the siren call of investment, that is still regarded as a trade-off’.¹³³

In addressing the challenges posed by China, the committee recently undertook an investigation into the security implications of the proposed new Chinese embassy in London and HMG’s response to it. The investigation, begun in July 2025, took oral evidence from senior officials at the Foreign, Commonwealth and Development Office (FCDO) and written evidence from UKIC. The ISC followed up on what had been presented to it, and ‘on the basis of the evidence we have finally

¹³² ISC (2023a), p. 5.

¹³³ ISC (2023a), p. 5.; Powell (2024).

received' concluded in January 2026 that ministers had been able to take proper account of security concerns in their decision-making, but that poor coordination and lack of a robust process gave grounds for concern. However, the ISC Chair, Lord Beamish, commented that, 'It has proved more difficult than it should have been to get straightforward answers to our basic questions.'¹³⁴

International Partnerships Report (2023)

In December 2023 the ISC published a report examining the role of international partnerships in the work of the UKIC. The International Partnerships Report detailed the strategy, mechanics, and legal considerations of international intelligence partnerships, emphasising the importance of the Five Eyes alliance and European cooperation post-Brexit. It also addressed the complexities of working with regimes that do not share UK values, the necessity of international cooperation for national security, and the rigorous processes to manage compliance risks. The ISC made several recommendations to improve partnerships and ensure

¹³⁴ ISC (2026a), '[Press Notice – 20 January 2026](#)'.

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effective oversight and alignment of international intelligence cooperation with UK law and values.

In preparing its report, the ISC faced significant obstacles in obtaining information from the Agencies. The provision of evidence was first delayed by the eight-month period it took to constitute the ISC following the December 2019 election, and second by attempts by the Heads of the Agencies to narrow the scope of the inquiry in response to information requests. While the scope of the inquiry was unchanged and the material was eventually provided (nearly a year after it was first requested), ‘the Agencies’ approach resulted in counterproductive and entirely unnecessary delays to the Inquiry’.¹³⁵

A ‘confidential’ annex to the 2019 Investigatory Powers Commissioner’s (IPC) *Annual Report* requested by the ISC was provided by the Cabinet Office in heavily redacted form, with a justification by the then Deputy National Security Adviser that the annex ‘contain[s] information relating to current (rather than past) operations and operational matters not of significant national interest [...] based on [the] Agencies’ understanding of what aspects were ‘current’ operations

¹³⁵ ISC (2023b), *International Partnerships*, HC 288 (London: House of Commons), p. 3.

at the time of issue'. In the report the ISC noted that this was not a permissible basis on which information could be withheld and 'has written in the strongest terms to the National Security Adviser' to be provided with a full copy of the report. In response HMG continued to refuse to provide the unredacted annex, indicating that it did not consider itself required to do so.¹³⁶

In addition, the publication of the International Partnerships Report was significantly delayed by a dispute between the ISC and the UKIC regarding redactions to the report requested by international partners. In large part owing to this, the International Partnerships Report, which was submitted for approval to the Prime Minister on 6 September 2022, was not published until 5 December 2023, 15 months later, in circumstances where the convention for approval by the Prime Minister is ten working days.¹³⁷

¹³⁶ ISC (2023b), pp. 46-47; HMG (2024) *Government Response to the Intelligence and Security Committee of Parliament Report on 'International Partnerships'*, CP 1020 (February), p. 14.

¹³⁷ ISC (2023c), p. 11.

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Iran Report (2025)

In July 2025 the ISC published a report on the national security threat posed by Iran. This found that Iran posed a wide-ranging, persistent, and unpredictable threat to the UK, highlighting in particular a sharp increase in the physical threat to individuals in the UK, with ‘at least 15 attempts at murder or kidnap against British nationals or UK-based individuals since the beginning of 2022’. The Iran Report was critical of HMG’s response to these threats, finding that the government’s policy was unduly focused on ‘crisis management’, that it was primarily driven by concerns over Iran’s nuclear programme, and that the government’s approach had been ‘insufficiently strategic and long-term’. The report also noted that HMG had adopted a thematic rather than geographic approach as part of its new Counter-State Threats Strategy (CSTS), meaning that the response to Iran had been insufficiently tailored to the specific threats posed. In particular, the Iran Report noted a concerning lack of Iran-specific expertise more broadly across HMG.¹³⁸

The ISC faced difficulties in obtaining accurate and comprehensive information from agencies in the preparation of the Iran Report. Despite the ISC

¹³⁸ ISC (2025a), *Iran*, HC 1116 (London: House of Commons), pp. 3–8.

repeatedly requesting that the CSTS be shared with it as part of its Iran inquiry, the Deputy National Security Adviser only shared the CSTS after the ISC had finished writing the Iran Report, with no ‘adequate explanation’ for this delay. The ISC was therefore unable to scrutinise the CSTS properly as part of the Iran Report and noted that this was ‘completely unacceptable: this Committee has been given the statutory responsibility to oversee such matters, and we question what the Government’s reasons are for withholding it.’¹³⁹

As part of preparing the Iran Report, the ISC assessed and evaluated a police-led operation to provide appropriate protection to UK-based individuals from physical threats by state-backed actors. However, the ISC was provided with conflicting figures from the Homeland Security Group and the Home Secretary on the number of individuals judged to be at a higher level of risk from Iran. The Home Office eventually confirmed the correct number and explained to the ISC ‘that the reason for the discrepancy was an error in their evidence to the Committee, which they then failed to pick up when asked to check the accuracy of their evidence.’ The ISC

¹³⁹ *Ibid.*, p. 236.

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found this failure to provide reliable evidence ‘disappointing’.¹⁴⁰

Cloud technologies (2026)

Until recent years, the ISC had ‘conducted only limited analysis on emerging technologies’, but in May 2021 it announced an inquiry into cloud technologies, supported by the National Audit Office. This proved a lengthy process; after making relatively brief references in successive annual reports to gathering written and oral evidence, it was not until 5 January 2026 that the ISC announced that the report was concluded.¹⁴¹

This report was not made public. The ISC stated that, ‘due to ongoing security sensitivities, the Committee is not able to lay this Report before Parliament at this time’. The report was submitted to the Prime Minister under Section 3(7) of the JSA, which enables this, rather than submission to Parliament, to take place if it is considered (by the Prime Minister after consultation with the ISC) prejudicial to the continued discharge of the functions of the intelligence agencies. In a written statement on 9

¹⁴⁰ *Ibid.*, p. 190.

¹⁴¹ Powell (2024); ISC (2022b), p. 6; [ISC statement](#), 5 January 2026.

March 2026, the Prime Minister thanked the committee ‘for their diligent work and for the independent and robust oversight they provide’ and added that a ‘formal closed response’ had been sent to the committee on 6 March.¹⁴²

Given the closed nature of this process, the most that can be said is that the committee gave no hint of encountering obstruction in its work, and its one statement was to commend the National Audit Office for its support. In any case, the importance of technological change – both as a risk and as a key area of operation by the intelligence agencies – is likely to be a major theme of the ISC’s work and to put extra demands on it. This could raise further questions as to the committee’s resourcing, including its access to dedicated technical expertise.¹⁴³

¹⁴² [ISC statement](#), 5 January 2026; JSA, section 3(7); [House of Commons Hansard](#), 9 March 2026, Written Statements (UIN HCWS1385).

¹⁴³ ISC (2022b), p. 6; Powell (2024). Powell argues for the ISC to have capacity similar to the Technology Advisory Panel serving the Investigatory Powers Commissioner’s Office (IPCO) and suggests a number of avenues of enquiry for the ISC in emerging technologies (intelligence agency approaches to AI ethics and safety; private sector partnerships; privacy and encryption; the opportunities and risks of AI in intelligence analysis; securing the UK’s research ecosystem against foreign theft; and strengthening the semiconductor supply chain).

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Annual reports (2016–25)

The ISC's annual reports include details of the work of the ISC in the relevant year, including changes in ISC membership; the ISC's areas of inquiry and the special reports it has published; evidence gathered by the ISC; statements made by the ISC in the period; and legislation that the ISC has input on, among other matters.¹⁴⁴

However they have also highlighted key issues and difficulties that the ISC has encountered in performing its functions. Over this 10-year period the reports have provided some striking examples:

- *Deadlines*: In its 2022–23 *Annual Report*, the ISC reminded readers that it had complained in the previous year of being 'severely hampered [...] by the failure of the UK Intelligence Community to meet standard deadlines as part of the ISC Inquiry process',¹⁴⁵ adding that this was 'a very

¹⁴⁴ Such as the expenditure, administration and policy of the UKIC, including budgets for the Agencies (and the extent to which these have been exceeded); major projects and achievements reported to the ISC; and diversity and inclusion statistics for the Agencies.

¹⁴⁵ ISC (2022b), p. 7. In addition, the ISC noted that in its prior *Annual Report* the ISC had attributed these delays to 'reduced resources due to the pandemic and their [the Agencies'] need to

serious issue, as it prevents the Committee from effectively performing its statutory oversight role.’¹⁴⁶ The ISC stated that it had engaged directly with the heads of the Agencies and Departments to seek to address this issue, including by allowing additional time for the provision of information concerning ‘Exceptional Inquiries’ and that it was keeping this arrangement under ‘close review’ given the importance of receiving information in a timely fashion.¹⁴⁷

- *Meetings*: In the same annual report, the ISC expressed disappointment that the committee ‘has not had a meeting with the Prime Minister since December 2014’, a period of (at that time) some eight years. The ISC noted that the lack of engagement between the ISC and the Prime Minister had been a subject of discussion in the House of Lords during the passage of the National Security Bill, with Lord Beith commenting on ‘the disengagement of the Prime Minister from the Committee’ and Lord Coaker

focus on immediate national security threats’, but that this was ‘no longer credible’: ISC (2021), p. 2.

¹⁴⁶ ISC (2023c), p. 18.

¹⁴⁷ *Ibid.*, pp. 18–19.

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describing the absence of meetings as ‘simply unacceptable’.¹⁴⁸ In July 2025, the ISC and the Prime Minister finally held the first such meeting in more than a decade.

- *Budget*: The ISC commented that, following years of reduced budget, the ISC had been provisionally allocated its full budget of £1.84 million at the beginning of financial year 2022–23. However, when budget allocations were finally confirmed as late as November 2022 this had – without explanation – been reduced to £1.64 million. The ISC made clear that in future years it must receive its full budget to operate effectively.¹⁴⁹ But the situation deteriorated still further in 2024–25, with the budget reduced to £1.43 million and staffing of nine full-time equivalent

¹⁴⁸ The ISC received an invitation for a meeting from Liz Truss when she was Prime Minister, but the meeting did not go ahead prior to her departure from office in October 2022: ISC (2023c), pp. 17–18.

¹⁴⁹ ISC (2023c), p. 21. In its *Annual Report* for 2021–22, the ISC commented that its budget had been ‘exceptionally’ reduced in the period 2019–20 ‘which was insufficient to operate at a fully staffed level’: ISC (2022b), p. 8. The ISC had similarly received only reduced funding at the beginning of 2021–22. While the funding available to the ISC was eventually increased, ‘this still did not include sufficient funding to operate at a fully staffed level’. However, the ISC had been ‘assured’ that its funding would be restored in 2022–23. The reality proved different.

(FTE) people, compared with an original agreement between government and the ISC to a level of 15.1 FTE. Over the years since the JSA, during which a number of the organisations overseen by the committee had more than doubled their headcount, and their combined annual budgets had increased by £3 billion, the ISC noted that its own ‘staffing has been cut by over 40% and its budget by 23%’.¹⁵⁰ The latter is a cash figure; in real terms, the ISC’s budget fell over this period by 43–45%.

- *Remit:* The ISC noted that over several years it had highlighted that ‘intelligence and security activities are increasingly being devolved’ away from the Agencies and into ‘policy departments’. Since these departments had ‘not been added to the Committee’s MOU’, the relevant activities were being moved out of the ISC’s remit and the ISC’s oversight was being eroded. As a consequence, it appeared that the ISC no longer had the comprehensive oversight of intelligence and security functions that had been committed to during the passage of the JSA. The ISC had raised this matter repeatedly with the National

¹⁵⁰ ISC (2025b), pp. 16–17.

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Security Adviser both in correspondence and in a meeting.¹⁵¹

- *Misconduct*: ‘Serious concerns’ were raised in the 2019–21 *Annual Report* about the behaviour of some senior staff within the UKIC and the extent to which the ISC was kept properly informed of any misconduct by senior staff members. The ISC noted in particular that it had been ‘misled’ regarding the reasons for the sudden departure of the Head of GCHQ.¹⁵²
- *Whistleblowing*: Deficiencies in providing a secure avenue for whistleblowers to disclose information to the ISC were highlighted as far back as the 2016–17 *Annual Report*. In particular, the ISC stated that there was a ‘bar on Agency staff being able to communicate with the Committee directly via secure email’.¹⁵³ Subsequent ISC annual reports do not indicate that this issue has been resolved.

¹⁵¹ ISC (2023c), pp. 15, 22. For the then minister’s commitment to comprehensive oversight by the ISC, see footnote 32.

¹⁵² ISC (2021), p. 13.

¹⁵³ ISC (2017b), *Annual Report 2016–2017*, HC 655 (London: House of Commons), p. 69.

- **Governance:** Delays have resulted from the lack of prescribed timelines for re-constitution of the ISC following general elections. For example, in the press release to its 2016–17 *Annual Report*, which was published eight months late, Dominic Grieve (as the ISC Chair) commented that the ‘serious delay’ in reconstituting the ISC after the June 2017 general election had resulted in late publication of the annual report.¹⁵⁴ The following year’s report likewise commented on the ‘exceptionally long time after the General Election for the [ISC] to be reconstituted’, stating that ‘the effective and robust oversight of the intelligence community, entrusted to us, is too important to have been left in a vacuum for so many months’.¹⁵⁵ Similarly, the ISC did not deliver an annual report in 2019–20 (instead publishing a report covering 2019–21), at least partly because of the ‘lengthy delay’ in reconstituting the committee in this period.¹⁵⁶

The impact of delays – in particular, of the reconstitution of the committee – have been

¹⁵⁴ ISC (2017e), [Press Release](#) on *Annual Report 2016–2017*, p. 1.

¹⁵⁵ ISC (2018c), *Annual Report 2017–2018*, HC 1692 (London: House of Commons), p. 1.

¹⁵⁶ ISC (2021), p. 14.

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highlighted once more in the publication of the most recent *Annual Report*: that for 2023–25: ‘The Report covers a two-year period (and spans two Committees) as the Committee was not able to issue an Annual Report in 2024, due to the dissolution of the previous Committee on 30 May 2024 ahead of the General Election, with the Committee not being reconstituted until 16 December 2024.’¹⁵⁷ Though it did not address issues arising after March 2025, the report was published on 15 December 2025, a year after the committee’s re-constitution.

- *Publication*: As with several of its specific reports, the ISC has noted that the publication of its annual reports has been delayed due to the absence of a clear timeline for prime ministerial approval. In particular, publication of the 2018–19 *Annual Report* was delayed because the Prime Minister did not provide confirmation that it could be published prior to the general election, after which the ISC needed to be re-constituted. As a result, the *Annual Report*, having been sent to the

¹⁵⁷ ISC (2025b), p. 1.

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Prime Minister on 1 November 2019, was not finally published until 21 July 2020.¹⁵⁸

¹⁵⁸ ISC (2017b), p. 69.

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The ISC's effectiveness and independence have been shown to be constrained by both the existing legal framework and by government practice. As a consequence, the ISC has found itself stymied in many ways, including:

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- *information gathering*: the use of the ‘Committee Veto’ and other devices to limit access to witnesses
- *whistleblowing*: a lack of a clear process; an inability of the ISC to handle such cases because of the bar on ISC investigations into ‘ongoing’ operations
- *governance*: delays to the creation of the committee after general elections; prime ministerial interference in the choice of chair by committee members
- *funding*: lack of structured protections of the committee’s budgets, reflected in cuts and strain on the ISC’s capacity between 2019 and 2025
- *publication of reports*: unreasonably long delays in approval of reports by the Prime Minister
- *remit*: a failure to keep up with the devolution of intelligence and security activities to other departments, and to ensure comprehensive oversight by the ISC
- *meetings with the Prime Minister*: the absence of a formal mechanism for regular meetings, resulting in an 11-year gap without any such meetings

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This chapter sets out options for change and applies them to each of the highlighted areas. The full detail of the proposed reforms to the Justice and Security Act (JSA) and/or improvements to the Memorandum of Understanding (MOU) is set out in the Annexes to this report.

Box 2: Legislation and the MOU: approaches to change

The best, most comprehensive and binding solution is through primary legislative change: amendment of the JSA. **Annex A** sets out the proposals for improvements to the wording of those sections and schedules of the Act which concern the ISC.

The JSA gives no powers to make secondary legislation relating to the functions of the ISC. But many detailed provisions are incorporated in the MOU. Changes to the legislation will therefore in many cases also require amendment of the MOU. There are, in addition, some changes best made through changes to the MOU rather than to the JSA. **Annex B** sets out a proposed text of the MOU incorporating these amendments.

Legislative change, however, requires both political will and parliamentary time, neither of which can necessarily be assumed. The alternative route, and one which can be undertaken relatively simply through an exchange of letters between the Prime Minister and the ISC chair, is to update the MOU alone. The MOU amended along these lines is shown in **Annex C**.

This is very much a second-best option: the MOU is generally not legally binding, compliance has been far from complete and some impediments can only be addressed – or can be addressed more comprehensively and in legally binding form – via legislation. That is the route to profound and lasting change.

Information gathering

Improvements are essential in the ISC's powers to gather information, by reducing the scope for excessive use (or misuse) of the 'Committee veto' in denying the ISC access to information and witnesses and ending the related restriction under which the ISC is able to interview only so-called senior officials.

Given the need to protect the sensitive material to which it has access from wider disclosure, the ISC is subject to

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a number of provisions (such as meeting in private), set out in earlier sections, which distinguish its operation from that of select committees. In spite of this, under the JSA its power to obtain access to people and papers is subject to the 'Committee Veto': a ministerial veto that gives statutory force, applied uniquely to the ISC, to the guidance (the misnamed Osmotherly 'Rules') which government seeks to apply to officials requested to give evidence to select committees (see Box 1, p. 19).

The MOU seeks to address this tension between use of the 'Committee veto' and the accepted differences in operation between the ISC and select committees by stating the expectation that the veto will be deployed 'very rarely' and taking full account of the 'provisions and features of the ISC that distinguish it from select committees'. In practice, the veto has been deployed to damaging effect on at least one significant occasion in the limitations placed on access to witnesses in the Rendition Report (see Chapter 3).

The same applies to the MOU's provision that the ISC has access to ministers and *senior* officials. In the case of the Rendition Report its interpretation was stretched further to deny access to officials who had been in more junior positions *at the time of the events investigated*.

Options for addressing these difficulties are set out in Table 1.

Table 1: Options for Change: Information Gathering

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Standalone amendments to MOU
<i>Narrowing the use of the Committee Veto to prevent ISC access to documents or information</i>	Committee Veto not to be exercised 'save in exceptional circumstances' <i>Schedule 1, paragraph 4(5)</i>		Agree Committee Veto not to be exercised 'save in exceptional circumstances' <i>Paragraph 32(a)</i>
<i>Highlighting the differences between the ISC and select committees</i>	Prime Minister to provide an explanation to Parliament regarding 'exceptional circumstances', with regard to the features of the ISC that distinguish it from a select committee <i>Schedule 1, paragraph 4(5A)</i>	Prime Minister to provide explanation to Parliament regarding 'exceptional circumstances', identifying specific features that distinguish the ISC from a select committee <i>Paragraph 32</i>	Agree that Prime Minister to provide explanation to Parliament regarding 'exceptional circumstances', identifying specific features that distinguish ISC from a select committee <i>Paragraph 32(b)</i>

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<i>Removing the limitation that only senior officials can give oral evidence</i>		Remove the provision that oral evidence sessions before the ISC are always limited to senior officials <i>Paragraph 20(a) and 33</i>	Remove the provision that oral evidence sessions before the ISC are always limited to senior officials. <i>Paragraph 20(a) and 33</i>
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Whistleblowing

Whistleblowing is an important potential means by which the ISC can obtain the information necessary adequately to perform its functions. The existence of robust and well understood whistleblowing procedures acts as a discipline on and within the agencies, enhancing the incentives for strong internal processes, which should in turn strengthen trust and make whistleblowing a last resort.

The committee is well placed to operate as a protected and secure whistleblowing channel. The Official Secrets Act (OSA) applies to its members, who are experienced in dealing with highly classified materials. Changes are needed to have an effective and confidential whistleblowing process, backed by the necessary powers and full protection for whistleblowers.

Neither the JSA, nor the MOU, contains express whistleblowing procedures. Worse still, legal uncertainty remains as to whether whistleblowing to the ISC is (or is not) an 'authorised disclosure' under the OSA and could therefore attract criminal liability.¹⁵⁹

Given the severe risks and costs to a whistleblower, an effective procedure is badly needed, incorporating strong protections and incentives for the relevant individuals. This should include a confidential whistleblowing channel to the ISC, ongoing protection of the whistleblower's identity, appropriate compensation and adequate protection from personal liability in relation to conduct on which they report.

ISC annual reports indicate that some guidance has been made available to the Agencies in relation to whistleblowing to the committee; however, there is very limited information in the public domain about this guidance. In any event, its effectiveness is likely to be limited without strong protections and incentives for the relevant individuals, and the ISC has noted the lack of

¹⁵⁹ As stated above, the OSA does not currently make explicit that disclosures to the ISC are authorised disclosures under section 7 of the OSA, although case law suggests that such disclosure can be so understood.

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any ‘secure’ route through which a whistleblower can provide information.

The JSA also restricts the ISC’s powers to investigate ‘ongoing’ operational matters except at the initiative of the Prime Minister, or where information has been provided voluntarily by the Agencies. This is likely to create obstacles, possibly insurmountable, to the ISC conducting an investigation based on information provided by whistleblowers, which by its very nature often relates to current or recent operations.¹⁶⁰

Table 2 sets out proposals for addressing most of these matters. The introduction of binding financial incentives for whistleblowers would require legislative amendment beyond the JSA and is outside the scope of this report.

¹⁶⁰ It is unclear whether whistleblowing by a member of Agency staff would constitute information provided to the ISC voluntarily by the Agencies such that the ISC could investigate. In any event, such an interpretation would not apply to whistleblowing by former Agency staff and would not expressly allow further information gathering by the ISC.

Table 2: Options for Change: Whistleblowing

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Establishing a whistleblowing process to the ISC with effective protections</i>	<p>Information provided by a whistleblower to the ISC is an ‘authorised disclosure’ under OSA <i>Schedule 1, paragraph 4(6A)</i></p> <p>Information provided by whistleblowers cannot be used in civil or criminal proceedings against them <i>Schedule 1, paragraph 7(1) and (2)</i></p>	<p>Establish a clear and secure whistleblowing channel to the ISC and take all reasonable measures to ensure the anonymity of whistleblowers <i>Paragraph 21(b)</i></p>	<p>Establish a clear and secure whistleblowing channel to the ISC and take all reasonable measures to ensure the anonymity of whistleblowers <i>Paragraph 21(b)</i></p>

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<p><i>Giving the ISC powers to investigate ongoing operations when triggered by whistleblower information</i></p>	<p>Enable the ISC to investigate on the basis of 'credible information' from a whistleblower and when the ISC is satisfied it is 'of significant national interest' <i>Section 2(3)(ba)</i></p>	<p>Notes that under Section 2(3)(ba) the ISC may investigate on the basis of 'credible information' from a whistleblower and when the ISC is satisfied it is 'of significant national interest' <i>Paragraph 16(a)</i></p>	<p>The ISC to investigate 'credible' information provided by whistleblowers, with the agreement of the Prime Minister, 'save in exceptional circumstances' <i>Paragraph 16</i></p>
			<p>If the Prime Minister does not agree, they must provide a written explanation to the ISC Chair, which the Chair can publish <i>Paragraph 16</i></p>

Governance

The ISC's effectiveness has been compromised by significant delays in constituting the committee after successive general elections. This must be addressed, alongside measures to protect and reinforce the committee's independence.

Under the present legal framework there is no time limit for re-constitution of the ISC after a general election, and only very limited provision for interim arrangements. The result has been many months of ostensibly limited or no oversight of the UK's security and intelligence functions. Those delays have also disrupted the ISC's existing flow of work and impeded or delayed its ability to produce reports. The *Annual Reports* (sic) for 2016-17, 2019-21 and 2023-25 were all affected, while the belated release of the Russia and China reports both reflected the protracted period without an ISC in operation after the 2019 election.

These delays have other consequences. Without an ISC in being, there is no avenue for reports to be made to its members by whistleblowers. In addition, as the ISC is one of the last parliamentary committees to be constituted after a general election, strong candidates for its membership may by then be precluded by having taken up roles on select committees. There is therefore

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a strong case for a specified time limit within which the committee must be constituted, as is the case in Canada,¹⁶¹ by amending the JSA or the MOU as suggested in Table 3.

Under current legislation, the ISC chair is selected by the ISC members from within its nine-person membership, which has, since the ISC's inception, always drawn the majority of its members from the governing party. The process could be open to manipulation by the executive, a concern heightened by Boris Johnson's reported efforts to secure the election of his favoured candidate through use of the party whip. The Wright Committee recommended a process similar to that of select committee chairs be used for the appointment of the chair of the ISC.

¹⁶¹ Members of Canada's National Security and Intelligence Committee of Parliamentarians (NSICOP), established in 2017, must be appointed within 60 days of a new parliament convening. Canadian parliamentarians seem to have come to this conclusion in 2016 after interaction with their British counterparts, including members of the ISC. 'It seems unlikely that the UK parliamentarians' undoubted frustration at the delays in nominating members to the UK committee was not passed on to their Canadian counterparts': Defty (2020a), p. 374.

Table 3: Options for Change: Governance

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Ensuring timely appointment of ISC members</i>	Appointment of ISC members to take place within a specified time (with a maximum of six weeks) following the start of a new parliament <i>Section 1(3)¹⁶²</i>	Appointment of ISC members to take place within a specified time (with a maximum of six weeks) following the start of a new parliament <i>Paragraph 5</i>	Appointment of ISC members to take place within a specified time (with a maximum of six weeks) following the start of a new parliament <i>Paragraph 5</i>

¹⁶² The ISC to be appointed by the earlier of: (i) the day on which the first select committee members are elected pursuant to Standing Order 122 of the Standing Orders of the House of Commons, or (ii) within six weeks of the start of a new parliament. Identical provisions are set out within the MOU.

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<i>Securing independence through the composition of ISC membership</i>	The majority of ISC membership not to come from the governing party <i>Section 1(5)</i>	The majority of ISC membership not to come from the governing party <i>Paragraph 5</i>	The majority of ISC membership not to come from the governing party <i>Paragraph 5</i>
<i>Securing independence through the election of the ISC Chair</i>	Chair to be elected by secret ballot of House of Commons from ISC membership <i>Section 1(2) and (6A)</i>	Chair to be elected by secret ballot of House of Commons from ISC membership <i>Paragraph 5</i>	Prime Minister not to intervene in election of ISC chair <i>Paragraph 5</i>

Funding and independence of ISC office

A mechanism is needed to ensure stable and adequate funding for the ISC. While the JSA sets out a formal process through which the ISC is funded, neither it nor the MOU establishes how the budget will be allocated and agreed. The result is that there are few (if any) statutory protections of the committee’s funding.

After several years of funding reductions, policy has shifted since 2024–25 and budgets have increased.

However, a more structured approach is badly needed to give greater assurance of adequate budgets in future – see Table 4.

Table 4: Options for Change: Funding

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Setting objective of sufficient funding</i>	The ISC to be 'at all times sufficiently funded to carry out its functions' <i>Schedule 1(3)(2)</i>	The ISC to be 'at all times sufficiently funded to carry out its functions' <i>Paragraph 40</i>	The ISC to be 'at all times sufficiently funded to carry out its functions' <i>Paragraph 40</i>
<i>Establishing three-year budget process</i>	The ISC to prepare a rolling three-year budget to be agreed with the Prime Minister <i>Schedule 1(3)(3) and (4)</i>	The ISC to prepare a rolling three-year budget to be agreed with the Prime Minister <i>Paragraph 40</i>	The ISC to prepare a rolling three-year budget to be agreed with the Prime Minister <i>Paragraph 41</i>

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<i>Establishing remedy if budget reduced</i>	The Prime Minister to provide a written explanation in the event of budget reduction or failure to approve, which the ISC chair can publish <i>Schedule 1(3)(5)</i>	The Prime Minister to provide a 'reasonably detailed' written explanation in the event of budget reduction or failure to approve, which the ISC chair can publish <i>Paragraph 41</i>	The Prime Minister to provide a written explanation in the event of budget reduction or failure to approve, which the ISC chair can publish <i>Paragraph 42</i>
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As set out in Chapter 2, the independence of the ISC's administration, operating within the Cabinet Office, has been compromised by a conflict with the committee's oversight of Cabinet Office units, with 'ISC staff subject to exceptional pressure'. Work is reportedly under way to establish the committee's office as a separate entity and, if this is the approach chosen, it would be expected to require amendment of the JSA.¹⁶³ Given this uncertainty, no specific amendments to the JSA relating to this issue have been incorporated in Annex A. In any case, full independence of the ISC's administration from the Cabinet Office, to accompany the restoration of its

¹⁶³ ISC (2025b), pp. 15–16.

funding and capacity to which HMG is committed, is essential to strengthening the committee.

Publication of reports

A more binding timetable on the Prime Minister is required to prevent unacceptable delays to the release of ISC reports – see Table 5.

Under current legislation an ISC report cannot be published without the consent of the Prime Minister, yet he or she is not required to respond to such a request in a specified timeframe. This gives the Prime Minister ultimate say over the timing of publication, as well as the extent of any redactions (which can be applied where material is held by the Prime Minister to be prejudicial to the continued discharge of the functions of the UKIC).¹⁶⁴

Several reports have been subject to substantial delay, with delays to the Russia Report a subject of intense

¹⁶⁴ The UKIC is typically heavily engaged in the process for determining which redactions should be applied to a report. The mechanism for applying redactions is an informal one involving the ISC, UKIC and the Prime Minister as set out on the ISC's website: [*How the Committee works*](#).

4. Options for Reform

political controversy and damaging to the ISC’s credibility as an effective oversight body.

Table 5: Options for Change: Publication of Reports

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Establishing a timetable for the Prime Minister to respond to draft reports</i>	The Prime Minister to inform the ISC of any matters to be excluded from a report within 15 days. If they are unable to do so, to provide a reasonable alternative deadline and a written explanation, which the Chair of the ISC can publish <i>Section 3(4A) and (4B)</i>	The Prime Minister to inform the ISC of any matters to be excluded from a report within 15 days. If they are unable to do so, to provide a reasonable alternative deadline and a written explanation, which the Chair of the ISC can publish <i>Paragraph 37</i>	The Prime Minister to inform the ISC of any matters to be excluded from a report within 15 days. If they are unable to do so, to provide a reasonable alternative deadline and a written explanation, which the Chair of the ISC can publish <i>Paragraph 37</i>

Remit

As stated in earlier chapters, a key pledge made at the time of the passage of the JSA was that the ISC would have ‘oversight of substantively all of the central Government’s intelligence and security activities’. The MOU also specifies that the government and the Agencies should keep the ISC ‘fully and promptly informed’ of any significant matters falling within the ISC’s remit. Neither commitment has been properly honoured.

In recent years, the committee has raised concerns over the loss of scrutiny inherent in the increasing devolution of intelligence and security activities out of the Agencies to other departments across government, without a corresponding expansion in its remit. This was exacerbated by the exclusion of the Investment Security Unit, established under the National Security and Investment Act 2021, from the committee’s scrutiny. The result has been a growing gap in oversight.¹⁶⁵ The

¹⁶⁵ There are also significant gaps in oversight of special forces, which are likely to be the subject of greater attention after the conclusion of the Independent Inquiry relating to Afghanistan (the Haddon-Cave Inquiry).

4. Options for Reform

committee has on several occasions suggested that a new MOU should be implemented to expand its remit to address this. To date, Prime Ministers have not agreed to the request although a wider review of the MOU appears now to be under way.¹⁶⁶

The commitment to keep the ISC informed has not been honoured either, even of matters clearly within its remit. The disregard of the committee in relation to the restructuring of Defence Intelligence at the end of 2025 is a striking example of this.

In bringing the scope of the ISC's oversight up to date, full and binding reform should be achievable through amendment of the MOU rather than through legislation, since Section 2(2) of the JSA states that the MOU will determine the matters over which the ISC has oversight. In Annex D to its *2022–23 Annual Report*, the ISC proposed amendments to the MOU to expand its remit. These are replicated in Annex B and Annex C of this report.

However, the requirement for the ISC to be kept fully and promptly informed of significant matters within its remit, currently set out only in the MOU, could be given legislative force. This could address deficiencies in

¹⁶⁶ ISC (2023c), p. 15; ISC (2022b), p. 8; ISC (2021), p. 10. For the wider review of the MOU, see footnote 26.

current practice and is set out in Annex A. Additional requirements for the ISC to be kept informed of when (and where) powers have been devolved can be incorporated in both legislation and the MOU and are therefore set out in each of the Annexes.

Table 6: Options for Change: Remit

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Ensuring that the ISC is kept fully and promptly informed of matters within its remit and of devolution of intelligence and security activities to other government bodies</i>	Government and the Agencies to ensure that the ISC is kept fully and promptly informed of any significant matters within its remit, and of where intelligence and security activities have been devolved to other	In addition to any significant matters within its remit, Government and the Agencies to ensure that the ISC is kept fully and promptly informed of where intelligence and security activities have been devolved	In addition to any significant matters within its remit, Government and the Agencies to ensure that the ISC is kept fully and promptly informed of where intelligence and security activities have been devolved

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	government bodies. HMG and the Agencies to each appoint a senior official responsible for this <i>Schedule 1(4)(5B)(b) and 4(5C)</i>	to other government bodies. HMG and the Agencies to each appoint a senior official responsible for this Paragraphs 20(b) and 21(a)	to other government bodies. HMG and the Agencies to each appoint a senior official responsible for this Paragraphs 20(b) and 21(a)
<i>Expanding the ISC's remit to take account of existing devolution of intelligence and security activities</i>		Expanding the ISC's oversight of intelligence and security matters to include bodies listed in its 2022–23 Annual Report Appendix C <i>Paragraph 8</i>	Expanding the ISC's oversight of intelligence and security matters to include bodies listed in its 2022–23 Annual Report Appendix C <i>Paragraph 8</i>

Meetings with the Prime Minister

The expectation of at least an annual meeting between the ISC and the Prime Minister must be put on a more formal basis. These exchanges are held by former

members and chairs of the ISC to be extremely important for their work.

The JSA establishes a unique statutory relationship between the Prime Minister and the ISC. The Prime Minister appoints members of the ISC, albeit in consultation with the Leader of the Opposition. The Prime Minister and the ISC agree the MOU (and supposedly maintain it as a 'living document') and the ISC is required to obtain input or instruction from the Prime Minister on certain matters (including in respect of the investigation of ongoing operational matters and publication of reports).

Despite this relationship, there are no provisions in the MOU or JSA requiring regular meetings between the Prime Minister and the ISC. Nonetheless, the ISC annual reports suggest that it had become conventional (or at least expected) for them to meet annually. For the first twenty years of the ISC's existence, this was what happened. But this was followed by a hiatus of more than a decade before another meeting was held, in July 2025. The ISC commented that the absence of such meetings since 2014 was 'unacceptable given the importance of the issues at hand'.¹⁶⁷

¹⁶⁷ ISC (2021), p. 14.

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Table 7: Options for Change: Meetings with the Prime Minister

Key issues	Annex A	Annex B	Annex C
	Amendments to JSA	Amendments to MOU accompanying JSA changes	Stand alone amendments to MOU
<i>Putting annual meetings with the Prime Minister on a formal basis</i>	The ISC and the Prime Minister to meet at least once annually to discuss the ISC's work <i>Section 1(6B)</i>		The ISC and Government agree that the ISC and the Prime Minister will meet at least once annually to discuss the ISC's work <i>Paragraph 6</i>

Options and next steps

In its most recent annual report, the ISC commented that, 'The Heads of the organisations within the Intelligence Community frequently cite the importance of the ISC in providing their "licence to operate". Without

sufficiently robust and empowered Parliamentary oversight, this “licence to operate” is inhibited.¹⁶⁸

If we want that ‘robust and empowered’ parliamentary oversight of the intelligence agencies, we cannot continue on the path that has been taken in recent years; nor can we continue with the constraints under which the ISC has had to operate. It is good that, after years of financial squeeze, the committee is at last adequately resourced; this needs to be accompanied by reforms that enhance its powers and independence.

There are two routes to addressing the problems highlighted in this report: changing the law, as set out in Annex A (with accompanying changes to the MOU set out in Annex B); or relying on changes to the MOU alone (Annex C).

A review of the MOU now appears to be under way. That is welcome, but it is only the start. It remains to be seen how far the review truly addresses the limitations put on the ISC in discharging its role. There should also be a commitment to regular reviews; it is scandalous that the MOU has been unchanged since 2014. But if the ISC is to be restored and sustained in its role, the most

¹⁶⁸ ISC (2025b), p. 17

4. Options for Reform

comprehensive approach, that of legislative change, must be adopted.

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The Justice and Security Act 2013: Proposed amendments

[Proposed amendments are underlined. Only sections/schedules of the Act referring to the ISC and therefore containing proposed amendments are included.]

PART 1

OVERSIGHT OF INTELLIGENCE AND SECURITY ACTIVITIES

*Oversight by the Intelligence and Security
Committee of Parliament*

1 The Intelligence and Security Committee of Parliament

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- (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. The Chair of the ISC shall be chosen from among the members from the House of Commons in accordance with subsection (6A) below. The Deputy Chair of the ISC shall be chosen from among the members from the House of Lords in accordance with subsection (6B) below.
- (3) Each member of the ISC is to be appointed by the House of Parliament from which the member is to be drawn, and all members of the ISC shall be appointed by the earlier of: (i) the day on which the first select committee members are elected pursuant to Standing Order 122 of the Standing Orders of the House of Commons, or (ii) within six weeks of the start of a new Parliament.
- (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. The majority of those nominated by the Prime Minister for membership must not belong to the governing party.
- (6) A member of the ISC is to be the Chair of the ISC chosen by its members.
- (6A) Any member of the ISC who is a member of the House of Commons may nominate themselves to stand for Chair of the ISC. The Chair shall be elected from those members nominated by secret ballot of the House of Commons within fourteen days of the appointment of the members of the ISC pursuant to subsection (3) above.
- (6B) The ISC and the Prime Minister shall meet at least once annually to discuss the ISC's work.
- (7) Schedule 1 (which makes further provision about the ISC) has effect.

2 Main functions of the ISC

- (1) The ISC may examine or otherwise oversee the expenditure, administration, policy and operations of—
 - (a) the Security Service,
 - (b) the Secret Intelligence Service, and
 - (c) the Government Communications Headquarters.
- (2) The ISC may examine or otherwise oversee such other activities of Her Majesty's Government in relation to intelligence or security matters as are set out in a memorandum of understanding.
- (3) The ISC may, by virtue of subsection (1) or (2), consider any particular operational matter but only so far as—
 - (a) the ISC and the Prime Minister are satisfied that the matter—
 - (i) is not part of any ongoing intelligence or security operation, and
 - (ii) is of significant national interest,

- (b) the Prime Minister has asked the ISC to consider the matter, or
- (ba) credible information about the matter has been provided to the ISC by an employee or former employee of the Security Service, the Secret Intelligence Service, the Government Communications Headquarters or a government department and the ISC is satisfied that consideration of the matter is of significant national interest, or
- (c) the ISC's consideration of the matter is limited to the consideration of information provided voluntarily to the ISC (whether or not in response to a request by the ISC) by—
 - (i) the Security Service,
 - (ii) the Secret Intelligence Service,
 - (iii) the Government Communications Headquarters, or
 - (iv) a government department.
- (4) The ISC's consideration of a particular operational matter under subsection (3)(a) or (b) must, in the opinion of the ISC and the Prime Minister, be consistent with any

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principles set out in, or other provision made by, a memorandum of understanding.

- (5) A memorandum of understanding under this section—
 - (a) may include other provision about the ISC or its functions which is not of the kind envisaged in subsection (2) or (4),
 - (b) must be agreed between the Prime Minister and the ISC, and
 - (c) may be altered (or replaced with another memorandum) with the agreement of the Prime Minister and the ISC.
- (6) The ISC must publish a memorandum of understanding under this section and lay a copy of it before Parliament.

3 Reports of the ISC

- (1) The ISC must make an annual report to Parliament on the discharge of its functions.
- (2) The ISC may make such other reports to Parliament as it considers appropriate concerning any aspect of its functions.

- (3) Before making a report to Parliament, the ISC must send it to the Prime Minister.
- (4) The ISC must exclude any matter from any report to Parliament if the Prime Minister, after consultation with the ISC, considers that the matter would be prejudicial to the continued discharge of the functions of the Security Service, the Secret Intelligence Service, the Government Communications Headquarters or any person carrying out activities falling within section 2(2).
- (4A) The Prime Minister shall seek to inform the ISC of any matters which must be excluded from the report pursuant to subsection (4) above within 15 days after receiving the report from the ISC.
- (4B) If the Prime Minister is unable to comply with the timeframe set out in subsection (4A), they must agree a reasonable alternative deadline with the Chair of the ISC and provide a written explanation to the Chair of the ISC indicating the reason for the delay. The Chair of the ISC shall be entitled to publish that written explanation.
- (5) A report by the ISC to Parliament must contain a statement as to whether any matter

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has been excluded from the report by virtue of subsection (4).

- (6) The ISC must lay before Parliament any report made by it to Parliament.
- (7) The ISC may make a report to the Prime Minister in relation to matters which would be excluded by virtue of subsection (4) if the report were made to Parliament.

4 Sections 1 to 3 and Schedule 1: interpretation

In sections 1 to 3 and Schedule 1—

“government department” means a department of Her Majesty’s Government but does not include—

- (a) the Security Service,
- (b) the Secret Intelligence Service, or
- (c) the Government Communications Headquarters,

“Her Majesty’s forces” has the same meaning as in the Armed Forces Act 2006,

“Her Majesty’s Government” means Her Majesty’s Government in the United Kingdom,

“Leader of the Opposition” has the same meaning as in the Ministerial and other Salaries Act 1975,

“Minister of the Crown” has the same meaning as in the Ministers of the Crown Act 1975,

“notice” means notice in writing.

SCHEDULE 1
THE INTELLIGENCE AND SECURITY COMMITTEE
OF PARLIAMENT

Tenure of office

- 1 (1) Subject as follows, a person appointed as a member of the ISC during a Parliament holds office for the duration of that Parliament.
- (2) A member of the ISC vacates office if—
- (a) the person ceases to be a member of the House of Parliament by virtue of which the person is a member of the ISC,
 - (b) the person becomes a Minister of the Crown, or
 - (c) a resolution for the person's removal is passed in the House of Parliament by virtue of which the person is a member of the ISC.
- (3) A member of the ISC may resign at any time by notice given to—
- (a) the Chair of the ISC, or

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- (b) in the case of the member who is the Chair of the ISC, the Speaker of the House of Parliament by virtue of which the person is a member of the ISC.
- (4) A person who ceases to be a member of the ISC is eligible for reappointment.
- (5) Section 1(2) does not affect the validity of anything done between the occurrence of a vacancy and the vacancy being filled.
- (6) Anything which, immediately before the end of a Parliament, is in the process of being done or omitted to be done by or in relation to the ISC may be continued by or in relation to the ISC in the new Parliament.
- (7) Anything done or omitted to be done by or in relation to the ISC in a Parliament (or treated as so done or omitted) is, if in force or effective immediately before the end of that Parliament, to have effect as if done or omitted by or in relation to the ISC in the new Parliament so far as that is required for continuing its effect in that Parliament.

Procedure

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- 2
- (1) The ISC may determine its own procedure; but this is subject to sub-paragraphs (2) to (5).
 - (2) If on any matter there is an equality of voting among the members of the ISC, the Chair of the ISC has a second or casting vote.
 - (3) The Chair of the ISC may appoint another member of the ISC to act, in the Chair's absence, as the chair of the ISC at any meeting of it.
 - (4) A person appointed under sub-paragraph (3) does not enjoy the right conferred on the Chair of the ISC by sub-paragraph (2).
 - (5) The quorum of the ISC is three.
 - (6) The ISC may take evidence on oath, and for that purpose may administer oaths.

Funding and other resources

- 3
- (1) A Minister of the Crown—
 - (a) may make payments to either House of Parliament in respect of any expenditure incurred, or to be incurred, by either House in relation to the ISC,

- (b) may provide staff, accommodation or other resources to either House of Parliament for the purposes of the ISC,
 - (c) may make payments, or provide staff, accommodation or other resources, to the ISC, or
 - (d) may otherwise make payments, or provide staff, accommodation or other resources, to any person for the purposes of the ISC.
- (2) The ISC shall at all times be sufficiently funded to carry out its functions as set out in this Act.
- (3) During each financial year the ISC must prepare an estimated budget of the ISC's reasonable expenditure to be incurred in the next three financial years, and submit it to the Prime Minister for approval.
- (4) If approved the budget shall remain in place until it is superseded by a future budget approved by the Prime Minister.
- (5) If the Prime Minister:
- (a) withholds approval of the ISC's budget;

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- (b) makes such approval conditional on changes to the budget; or
 - (c) reduces an approved budget,
- the Prime Minister must provide a written explanation for this decision, which the Chair of the ISC shall be entitled to publish.

Access to information

- 4 (1) This paragraph applies to information requested by the ISC in the exercise of its functions that—
- (a) does not relate to any particular operational matter, or
 - (b) relates to a particular operational matter that the ISC is considering under section 2(3)(a), (b) or (ba).
- (2) If the Director-General of the Security Service, the Chief of the Secret Intelligence Service or the Director of the Government Communications Headquarters is asked by the ISC to disclose the information, then, as to the whole or any part of the information which is sought, that person must either—

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- (a) arrange for it to be made available to the ISC subject to and in accordance with a memorandum of understanding under section 2, or
 - (b) inform the ISC that the information cannot be disclosed because the Secretary of State has decided that it should not be disclosed.
- (3) If the ISC asks a government department or any part of a government department to disclose the information, then, as to the whole or any part of the information which is sought, the relevant Minister of the Crown must either—
 - (a) arrange for it to be made available to the ISC subject to and in accordance with a memorandum of understanding under section 2, or
 - (b) inform the ISC that the information cannot be disclosed because the Secretary of State has decided that it should not be disclosed.
- (4) The Secretary of State may decide under sub-paragraph (2)(b) or (3)(b) that

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information should not be disclosed only if the Secretary of State considers that—

- (a) It is—
 - (i) sensitive information (as defined in paragraph 5), and
 - (ii) information which, in the interests of national security, should not be disclosed to the ISC, or
 - (b) 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 which were not limited to national security) it proper not to do so.
- (5) In deciding for the purposes of sub-paragraph (4)(b) whether it would be proper not to disclose information, the Secretary of State must have regard to any guidance issued by a Minister of the Crown or a government department concerning the provision of evidence by civil servants to Select Committees. Save for exceptional

circumstances, the Secretary of State shall not, under sub-paragraph (4)(b):

(a) require written material to be withheld from the ISC; or

(b) prevent individuals from appearing before the ISC to provide oral evidence in a closed session.

(5A) Where the Secretary of State exercises the power under sub-paragraph 4(b), the Prime Minister shall provide an explanation to Parliament as to why the Secretary of State has exercised that power including, the “exceptional circumstances” that apply and with regard to the provisions that the ISC has for keeping material confidential and other features of the ISC that distinguish it from a Departmental Select Committee of the House of Commons as referred to in paragraph 32 of the memorandum of understanding.

(5B) His Majesty’s Government, the Security Service, the Secret Intelligence Service; and the Government Communications Headquarters shall keep the ISC fully and promptly informed of:

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- (a) any significant matters that fall within the ISC's remit; and
- (b) instances where intelligence and security activities have been devolved from the Security Service; the Secret Intelligence Service; the Government Communications Headquarters; or a government body to any other government body, including the name of the body to which the activity has been devolved and the nature of the activity.
- (5C) Each of these bodies shall appoint a senior official with a personal obligation to ensure compliance with the duties in paragraph 5B above.
- (6) The disclosure of information to the ISC in accordance with sub-paragraph (2) is to be regarded for the purposes of the Security Service Act 1989 or the Intelligence Services Act 1994 as necessary for the proper discharge of the functions of the Security Service, the Secret Intelligence Service or (as the case may be) the Government Communications Headquarters.

(6A) If an employee or former employee of the Security Service, the Secret Intelligence Service or the Government Communications Headquarters discloses information under section 2(3)(ba) of this Act, disclosure of that information shall be considered to be (in the case of employees and former employees) an “authorised disclosure” under section 7 of the Official Secrets Act 1989; and, (in the case of employees) a “qualifying disclosure” under section 43B of the Public Interest Disclosure Act 1998.

- (7) In this paragraph “relevant Minister of the Crown”, in relation to a request for information, means—
- (a) such Minister of the Crown as is identified, for the purposes of requests of that description, in a memorandum of understanding under section 2, or
 - (b) if no Minister of the Crown is so identified, any Minister of the Crown.

Sensitive information

- 5** The following information is sensitive information for the purposes of paragraph 4(4)(a)—
- (a) information which might lead to the identification of, or provide details of, sources of information, other assistance or operational methods available to—
 - (i) the Security Service,
 - (ii) the Secret Intelligence Service,
 - (iii) the Government Communications Headquarters, or
 - (iv) any part of a government department, or any part of Her Majesty's forces, which is engaged in intelligence or security activities,
 - (b) information about particular operations which have been, are being or are proposed to be undertaken in pursuance of any of the functions of the persons mentioned in paragraph (a)(i) to (iv),
 - (c) information provided by, or by an agency of, the Government of a country or territory

outside the United Kingdom where that Government does not consent to the disclosure of the information.

Publication of information received in private

- 6** (1) This paragraph applies to information received by the ISC in private in connection with the exercise of its functions.
- (2) The ISC—
- (a) may only publish the information by way of a report under section 3, and
 - (b) must not otherwise disclose the information to any person if the ISC considers that there is a risk that the person will publish it.
- (3) The restrictions on publication and disclosure of information in sub-paragraph (2) do not apply if—
- (a) the ISC and the Prime Minister are satisfied that publication or disclosure would not be prejudicial to the continued discharge of the functions of the Security Service, the Secret

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Intelligence Service, the Government Communications Headquarters or any person carrying out activities falling within section 2(2),

- (b) publication or disclosure is necessary for the ISC to comply with any enactment or rule of law, or
- (c) the information has on an earlier occasion been disclosed to the public, in circumstances which do not contravene—
 - (i) sub-paragraph (2), or
 - (ii) any other enactment or rule of law prohibiting or restricting the disclosure of information.

Protection for witnesses

- 7 (1) Evidence given by a person who is a witness before the ISC or information provided to the ISC by a person pursuant to section 2(3)(ba) may not be used in any civil or disciplinary proceedings against that person, unless the evidence was given in bad faith.

- (2) Evidence given by a person who is a witness before the ISC or information provided to the ISC by a person pursuant to section 2(3)(ba) may not be used against the person in any criminal proceedings against that person, unless the evidence was given in bad faith.

Annex B

A Memorandum of Understanding between the Prime Minister and the Intelligence and Security Committee of Parliament (ISC): Amendments accompanying changes to the JSA

[Please note: Suggested amendments are underlined, amendments previously proposed by the ISC in its Annual Report (2022–2023) are underlined and enclosed in borders.]

Introduction

1. The Justice and Security Act 2013 (“the Act”) provides for the oversight of the intelligence and security

activities of HM Government (HMG) by the Intelligence and Security Committee of Parliament (ISC).

2. The Act states that any memorandum of understanding (MoU) for the purposes of the Act must be agreed between the Prime Minister and the Intelligence and Security Committee of Parliament. The ISC shall publish the MoU and lay a copy before Parliament (see section 2(6) of the Act).

3. In addition to addressing certain particular matters specified by the Act,¹ this MoU also sets out the overarching principles which will govern the relationship between the ISC and those parts of Government it oversees.

The Intelligence and Security Committee of Parliament

4. The ISC is a Committee of Parliament created by statute and comprising members of each House of Parliament.² For the purposes of its work, the ISC has a

¹ The activities of HMG that the ISC shall oversee; the principles governing the ISC's consideration of operational matters; the arrangements by which the Agencies and other government Departments will make information available to the ISC; and the relevant Ministers of the Crown responsible for providing information to the ISC.

² The Standing Orders of the House of Commons and House of Lords, which govern the procedures of their Select Committees in general, do not apply to the ISC. The ISC has the power to hear evidence on oath, but it is expected that this will only be used exceptionally.

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dedicated independent staff, known as the Office of the ISC Secretariat, headed by the Director.

5. In accordance with section 1 of the Act, Parliament appoints the members of the ISC, by vote on a motion of the relevant House and this vote shall occur on the earlier of: (i) the day on which the first select committee members are elected pursuant to Standing Order 122 of the Standing Orders of the House of Commons, or (ii) within six weeks of the start of a new Parliament. Candidates for membership must first have been nominated by the Prime Minister, who must nominate a majority of candidates from a party other than the governing party. The ISC elects its own Chair is elected from amongst the appointed members of the Committee who are members of the House of Commons by secret ballot of that House.

6. The ISC makes its reports to Parliament, subject to the requirement that material must be redacted from a report if the Prime Minister considers that its inclusion would prejudice the functions of the Security Service, the Secret Intelligence Service, the Government Communications Headquarters (collectively, “the Agencies”) or of other parts of the intelligence and security community. The ISC may also, as appropriate, report to the Prime Minister.

7. All members of the ISC, and their staff, are notified under the Official Secrets Act 1989 (section 1(1)(b) and 1(6)). They may not, without lawful authority, disclose any information related to security or intelligence which has come into their possession as a result of their work on, or for, the ISC.

Remit

8. The Act provides that the ISC may oversee the expenditure, administration, policy and operations of the Agencies; and that it may examine or otherwise oversee such other activities of HMG in relation to intelligence or security matters as are set out in a memorandum of understanding. The ISC is the only committee of Parliament that has regular access to protectively marked information that is sensitive for national security reasons: this means that only the ISC is in a position to scrutinise effectively the work of the Agencies and of those parts of Departments whose work is directly concerned with intelligence and security matters.³ This will not affect the wider scrutiny of those departments by other parliamentary committees. The ISC will aim to avoid any unnecessary duplication with the work of those Committees. In addition to the expenditure, administration, policy and (subject to paragraphs 11–17) operations of the Agencies, the ISC and HMG have agreed that the ISC shall also oversee the following activities: ISC’s oversight of intelligence and security matters across Government entails, as at [date to be added]:

- a. MOD:

³ This will not affect the wider scrutiny of departments such as the Home Office, FCO and MOD by other parliamentary committees. The ISC will aim to avoid any unnecessary duplication with the work of those Committees.

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- i. The strategic intelligence activities undertaken by the Chief of Defence Intelligence, including intelligence collection, analysis and training.⁴
 - ii. Offensive cyber.
- b. Cabinet Office:
- i. The activities of the National Security Adviser and National Security Secretariat in relation to matters of intelligence and security. In practice this will include the activities of the Cabinet Office: in providing support to the Prime Minister in his role as Minister with overall responsibility for intelligence and security matters; coordinating intelligence policy issues of strategic importance and public scrutiny of intelligence matters; managing the Single Intelligence Account; and certain activities (relating to matters of intelligence and security) of the Office of Cyber Security and Information Assurance (OCSIA).
 - ii. The activities of the Investment Security Unit.

⁴ In respect to operational matters, addressed in paragraphs 11–17, general military operations conducted by the MOD are not part of the ISC’s oversight responsibilities.

iii. The activities of the Joint Intelligence Organisation.

c. Home Office: the activities of Homeland Security Group, the Office for and Counter-Terrorism (OSCT).

d. Department for Science, Innovation and Technology:

i. the activities of the Telecoms Security and Resilience Team;

ii. the Counter Disinformation Unit.

e. Department for Culture, Media and Sport: the activities of the Office of Communications.

f. Department for Transport: the activities of the Transport Security, Resilience and Response Group.

g. Foreign Commonwealth and Development Office: the activities of the Intelligence Policy Department.

9. There are a number of other individuals or bodies that oversee intelligence and security matters. For example: the Independent Reviewer of Terrorism Legislation; the Intelligence Services Commissioner; and the Interception of Communications Investigatory Powers Commissioner. The ISC will continue to have a relationship with those bodies

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and should cooperate with them so far as is reasonable to avoid any unnecessary duplication in their respective remits.

10. Likewise, the ISC will seek to avoid unnecessary duplication with the work of courts or tribunals (such as the Investigatory Powers Tribunal) which may, from time to time, have cases before them concerned with intelligence and security matters.

Oversight of Operational Matters

11. The ISC may consider or otherwise oversee the operational activities⁵ of the Agencies and the specified activities of other Government Departments referred to in paragraph 8 above (“the Departments”). The ISC may consider particular operational matters in ~~three~~ four sets of circumstances:

- a. Where the ISC and the Prime Minister are satisfied that the matter is not part of any ongoing intelligence or security operation and is of significant national interest and the consideration of the matter is consistent with any principles set out in, or with any other provision made by, the MoU (see section 2(3)(a) and 2(4) of the Act); or

⁵ Certain long-running ‘operations’ may be considered within the ISC’s remit, for example, where the entire intelligence gathering effort for a particular country is undertaken for long periods under the guise of a single operational code word.

Watching the Watchers

- b. Where the Prime Minister has asked the ISC to consider the matter and the consideration of the matter is consistent with any principles set out in, or with any other provision made by, the MoU (see section 2(3)(b) and 2(4) of the Act); or
 - ba. Where credible information about the matter has been provided to the ISC by an employee or former employee of one of the Agencies or a government department and the ISC is satisfied the matter is of significant national interest (see section 2(3)(ba) of the Act); or
- c. Where consideration of an operational matter is not covered by (a), ~~(b)~~ or (ba) above, but information is nevertheless provided voluntarily to the ISC by the Agencies or a Department, whether or not in response to a request by the ISC (see section 2(3)(c) of the Act).

Further detail regarding the ISC's oversight of operational matters in these circumstances is set out below.

12. The ISC recognises the sensitivity of intelligence and security operations. Its role overseeing such operational activity will therefore be governed by the following overarching principles:

- a. this work must not jeopardise the success of an operation or compromise the security and safety of those involved; and

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- b. the ISC’s examination of an operational matter must not unduly impede the operational effectiveness of an Agency or Department.

13. Where there are legal proceedings (criminal or civil), inquiries⁶ or inquest proceedings, the ISC and HMG will consider carefully whether it is appropriate to proceed with an investigation.

14. Under section 2(3)(a) of the Act, the ISC’s power to oversee operational activity is retrospective and on matters of significant national interest. When considering whether an activity ‘is not part of any ongoing intelligence or security operation’, the ISC and the Prime Minister will take into account:

- a. Whether the main objectives of the particular operation have been achieved or whether there is now no reasonable prospect of further operational activity to seek to achieve the main objectives in the near future;
- b. That the operational activity of the Agencies and Departments can vary greatly in scope, type and magnitude and in some cases it may not be clear when a particular operation has ended. Deciding whether a matter is or is not part of ‘any ongoing intelligence or security operation’ will be a

⁶ Including statutory inquiries or other independent judge-led inquiries.

matter of judgement for the Prime Minister and the ISC;

- c. When two or more operational activities may be separated in time but closely linked in objective, the ISC will be entitled to have retrospective oversight of such operations that have been completed, unless such oversight would jeopardise the success of such future operations; and
- d. The ISC and HMG are agreed that the operational activity or event in question will only be regarded as ‘of significant national interest’ if it raises issues of wider significance or raises serious questions relating to Agency or Departmental conduct, competence, resourcing and policy in the operational context, including in situations where there is, or is likely to be, significant parliamentary or public interest in relation to such issues or questions.

15. The Prime Minister will nominate the National Security Adviser and his deputy for intelligence matters to consider, on his behalf, whether the conditions for such oversight are met. The final decision will rest with the Prime Minister, in conjunction with the ISC.

16. Under section 2(3)(b) of the Act, the Prime Minister may, at his discretion, consider it appropriate to invite the ISC to consider an operational matter which falls outside the ‘retrospective’ and ‘significant national interest’ criteria.

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16A Under section 2(3)(ba) of the Act, the ISC may consider operational matters where credible information about the matter has been provided to the ISC by an employee or former employee of one of the Agencies or a government department and the ISC is satisfied the matter is of significant national interest.

17. Under section 2(3)(c) of the Act, the ISC may consider operational matters not covered by sections 2(3)(a), ~~or 2(3)(b),~~ or 2(3)(ba) where information is provided voluntarily to the ISC by the Agencies or a Department, whether or not in response to a request by the ISC.

Provision of Information

18. The ISC requires information from HMG in order to carry out its oversight function. The importance of the ISC's oversight role is recognised by the fact that, while officials and Ministers are able to provide information to the ISC, only a Secretary of State has the power to withhold it. This is reflected in paragraph 4 of Schedule 1 to the Act.

19. The duty to provide information to the ISC rests, for the Departments, with the relevant Minister of the Crown (this may, but need not necessarily, be a Secretary of State),⁷ and for the Agencies, with the Heads of the Agencies.

⁷ For the following Departments, the relevant Ministers of the Crown, for the purposes of making information available to the ISC (paragraphs 4(3) and 4(7) of Schedule 1) are as follows:

20. In practice there will be a range of methods which the ISC may use in order to obtain the information it requires from HMG, including:

- a. oral evidence sessions with Ministers, Agency Heads and other ~~senior~~ officials. These sessions allow the ISC to ask detailed questions about particular issues within their remit, but also to get a broader sense of the issues that Agencies, Departments and Ministers are facing and to decide whether any particular issue might need further scrutiny;
- b. Written material, both regular briefs on agreed lines of reporting and responses to specific questions. HMG and the Agencies will keep the ISC fully and promptly informed of:
 - i. any significant matters falling within the ISC's remit; and

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- a. Cabinet Office: Any Minister of the Crown in a relevant Government department;
 - b. MOD: Secretary of State for Defence;
 - c. Home Office: Secretary of State for the Home Department;
 - d. Foreign and Commonwealth Office: Secretary of State for Foreign and, Commonwealth and Development Affairs;
 - e. DSIT: Secretary of State for Science, Innovation and Technology;
 - f. DCMS: Secretary of State for Culture, Media and Sport; and
 - g. Department for Transport: Secretary of State for Transport.

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- ii. where intelligence and security activities have been devolved from the Security Service, the Secret Intelligence Service; the Government Communications Headquarters or any government body to any other government body, including the name of the body to which the activity has been devolved and the nature of the activity.

- c. Members of the ISC's staff working with the Agencies and the Departments to obtain information on the ISC's behalf, ensuring that the ISC has all the information it needs to do its job in relation to matters consistent with its remit.

21. The responsibility for ensuring the ISC has access to relevant information consistent with its remit will fall to the appropriate Agency or Department, who will make available the information the ISC needs. The ISC will work together with the Agencies and Departments to ensure that the provision of such information does not involve disproportionate cost or diversion of effort.

21A. Under paragraph 4(5C) of Schedule 1 of the Act, the Agencies and HMG are required to each appoint a senior official who is personally responsible for ensuring compliance with the obligation in paragraph 20(b) above.

21B. The Agencies, Departments and ISC will work together to establish an accessible and secure means for a current or former employee of the Agencies or Departments to communicate with the ISC (whether regarding operational

matters under section 2(3)(ba) of the Act or otherwise) (*Whistleblower*) and agree to take all reasonable measures to preserve the anonymity of Whistleblowers (including by treating the identity and any identifying features of a Whistleblower as strictly confidential).

22. The Committee may seek confirmation from HMG of the factual accuracy or completeness of information it has gathered before drawing on it in its reports.

23. Committee members may, as part of their work, undertake visits to the Agencies and Departments that the ISC oversees, to familiarise themselves with the broader context of their work. Information provided to Committee members in the course of such visits will not constitute formal evidence gathering unless it is agreed as such by both parties either in advance or retrospectively.

24. On occasion the Prime Minister may write to the ISC specifically to draw to the Committee's attention an area of work it may wish to scrutinise.

25. In common with the practice for departmental select committees, the ISC should be informed of impending Ministerial statements or announcements which are relevant to its current enquiries or general remit in good time. The ISC will also be informed in advance of the appointments of the heads of the Agencies, the Chief of Defence Intelligence and the Chair of the Joint Intelligence Committee (JIC).

26. The ISC will seek to keep HMG informed as to its future work plans, as far as that is possible and reasonable. The ISC, in consultation with the Agencies and Departments,

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will set reasonable deadlines when it makes requests for information. Where it becomes clear that, exceptionally, HMG is unable to meet a particular deadline set by the ISC for provision of information, then the Agency or Department concerned will notify the ISC and provide a written explanation in advance of the deadline.

Protection and Handling of Sensitive Information

27. The ISC is responsible for ensuring that information disclosed to it is handled in accordance with HMG's document handling, storage and security procedures. The ISC will be provided with appropriate accommodation and facilities for this purpose and/or the requisite resources.

28. The Act sets out restrictions on the ISC's ability to publish or disclose information (section 3(4) of, and paragraph 6 of Schedule 1 to, the Act). In practice, the ISC and HMG agree that these provisions of the Act will only prevent the ISC publishing or disclosing information if it is information of the kind that it could not include in one of its reports to Parliament.

29. Paragraph 1(3) of Schedule 3 to the Act allows the ISC created by the Act to access documents or other information provided by or belonging to the previous Intelligence and Security Committee (i.e. the Committee established by section 10 of the Intelligence Services Act 1994). The ISC in a new Parliament will inherit the documents, and will be able to continue the ongoing work, of its predecessor in the preceding Parliament (paragraphs 1(6) and (7) of Schedule

1 to the Act). The Committee's staff will continue in post notwithstanding a dissolution of Parliament.

Withholding Information

30. The ISC regularly sees protectively marked material in the course of their work but there may, exceptionally, be circumstances in which it would not be appropriate for the ISC to see particular information, as set out in paragraph 4 of Schedule 1 to the Act. The power to withhold information from the ISC can only be exercised by a Secretary of State (given the ISC's remit this will generally be the Foreign, Home or Defence Secretaries).

31. It is agreed by HMG and the ISC that no decision will be taken to withhold information from the ISC without the ISC being informed of that decision. If the Secretary of State, after considering advice from the Agencies and/or the Departments, decides that there is reason to withhold certain information, the relevant Minister will discuss the matter with the ISC Chair, if requested.

32. The power to withhold information from the ISC under paragraph 4(4)(b) of Schedule 1 is discretionary,⁸ and one

⁸ In considering whether to withhold information on these grounds the Secretary of State will have regard to any guidance issued by a Minister of the Crown or a Department concerning the provision of evidence by civil servants to Select Committees (paragraph 4(5) of Schedule 1). Currently, this means the Cabinet Office Guide "Departmental Evidence and Response to Select Committees" (July 2005) (sometimes referred to as the "Osmotherly Rules"). The Osmotherly Rules outline the categories of

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that it is expected will be required to be exercised very rarely. ~~In exercising this discretion the Secretary of State will have particular~~ Where the Secretary of State exercises the power under paragraph 4(4)(b), the Prime Minister shall provide an explanation to Parliament as to why the Secretary of State has exercised that power, including with regard to the exceptional circumstances that apply, the provisions that the ISC has for keeping material confidential. In some cases, having regard to those provisions and other features of the ISC that distinguish it from a select committees, including that: (i) the members of the ISC are subject to the Official Secrets Act 1989; (ii) the majority of ISC hearings are held in closed sessions; and (iii) ISC reports cannot be published without the consent of the Prime Minister. Having regard to those features the Minister might well consider it appropriate that information be provided to the ISC even where it would not otherwise be provided to a select committee. For example, the ISC has in the past received information about matters *sub judice* and/or contained in papers of a previous administration.

information where it may sometimes be appropriate to decline to provide information to Select Committees. These include information: as to officials' personal views (as distinct from views of Ministers) on policy options; requiring substantial research be carried out by a Department or which could only be supplied at excessive cost; about matters *sub judice*; about the conduct of particular individuals, where the Committee's line of questioning appears to be not just to establish facts but with the implication of allocating individual blame; and contained in papers of a previous administration.

Oral Evidence Sessions: Closed

33. The ISC's evidence sessions are generally with Ministers (Home Secretary, Foreign Secretary) and senior officials (Heads of Agencies, National Security Adviser, Chair of the JIC, Chief of Defence Intelligence, Head of OSCTHSG). This is not an exhaustive list, and the ISC may invite any Minister or ~~senior~~ official to give evidence.

34. During an evidence session, if witnesses consider that answering a question put to them would disclose information that a Minister might consider ought properly to be withheld from the ISC, in accordance with paragraph 4(4) of Schedule 1 to the Act, then the witnesses should state that they will need to take further advice before answering the question. A response must be provided to the ISC in writing as soon as possible after the evidence session (generally within 14 days). This will take the form of a substantive response to the question, or a response setting out the Secretary of State's decision, informing the ISC that they will be exercising the power to withhold the information.

35. The Committee will supply witnesses giving oral evidence with copies of their verbatim transcripts as soon as possible after their appearance (generally within 14 days). This is to enable witnesses to check that the transcript is an accurate record of what they said and, if necessary, provide corrections.

Open Sessions

36. HMG and the ISC are committed to enabling occasional evidence sessions in public on matters agreed by both parties. The nature of the Committee's work and the need for it to consider protectively marked material in carrying out its functions means that the majority of sessions will continue to be held in private; and oral evidence sessions involving junior officials will always be held in private. HMG and the ISC will agree adequate safeguards (including on physical security, attendance, and arrangements for broadcast) in advance of each public session. This will allow them to take place without risking disclosure of protectively marked information, while still enabling a substantive hearing. The ISC will provide those giving evidence with an indication of the main issues to be discussed, in keeping with the practice of Parliamentary Select Committees.

Reporting

37. Whilst the Act provides that information must be redacted from a report if the Prime Minister considers its inclusion would be prejudicial to the continued discharge of the functions of the Agencies or of the wider intelligence and security community, HMG will work constructively with the ISC to ensure that as much of its reports that can be published, is published. HMG and the ISC will work together to apply a reasonable process for identifying, in consultation with the ISC, sensitive material that must be removed from ISC reports prior to publication. As set out at section 3(4A) of the Act, when a report that has been subject

to this consultation process between HMG and the ISC is sent to the Prime Minister for approval for publication, the Prime Minister shall seek to inform the ISC which matters must be excluded from the report within 15 days of receiving the report and confirm to the ISC that the report can be published, subject to these exclusions. If the Prime Minister is unable to comply with this timeframe, they must agree a reasonable alternative deadline with the Chair of the ISC, and provide a written explanation for the delay. The Chair of the ISC is entitled to publish this explanation.

38. HMG will aim to respond substantively to any report by the ISC within 60 days.

39. The ISC will provide information on its staffing and budget in its published reports.

Expenditure and budget

40. Paragraph 3, Schedule 1 of the Act provides that the ISC must at all times be sufficiently funded to carry out its functions as set out in the Act. For each financial year the ISC is required to prepare an estimated budget of the ISC's reasonable expenditure to be incurred in the next three financial years and submit it to the Prime Minister for approval. If approved the budget remains in place until it is superseded by a future budget approved by the Prime Minister.

41. If the Prime Minister decides to: withhold approval of the ISC's budget; make such approval conditional on

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changes to the budget; or reduce an approved budget, they must provide reasonably detailed written explanation, which the Chair of the ISC shall be entitled to publish.

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A Memorandum of Understanding between the Prime Minister and the Intelligence and Security Committee of Parliament (ISC): Stand alone amendments to the MoU

[Please note: Suggested amendments are underlined, amendments previously proposed by the ISC in its Annual Report (2022-2023) are underlined and enclosed in borders.

Introduction

1. The Justice and Security Act 2013 (“the Act”) provides for the oversight of the intelligence and security activities of HM Government (HMG) by the Intelligence and Security Committee of Parliament (ISC).

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2. The Act states that any memorandum of understanding (MoU) for the purposes of the Act must be agreed between the Prime Minister and the Intelligence and Security Committee of Parliament. The ISC shall publish the MoU and lay a copy before Parliament (see section 2(6) of the Act).

3. In addition to addressing certain particular matters specified by the Act,¹ this MoU also sets out the overarching principles which will govern the relationship between the ISC and those parts of Government it oversees.

The Intelligence and Security Committee of Parliament

4. The ISC is a Committee of Parliament created by statute and comprising members of each House of Parliament.² For the purposes of its work, the ISC has a **dedicated independent** staff, known as the **Office of the ISC Secretariat**, headed by the Director.

¹ The activities of HMG that the ISC shall oversee; the principles governing the ISC's consideration of operational matters; the arrangements by which the Agencies and other government Departments will make information available to the ISC; and the relevant Ministers of the Crown responsible for providing information to the ISC.

² The Standing Orders of the House of Commons and House of Lords, which govern the procedures of their Select Committees in general, do not apply to the ISC. The ISC has the power to hear evidence on oath, but it is expected that this will only be used exceptionally.

5. Parliament appoints the members of the ISC, by vote on a motion of the relevant House and the ISC and HMG agree that this vote shall occur within six weeks of the start of a new Parliament. Candidates for membership must first have been nominated by the Prime Minister.—The majority of those nominated for membership must not belong to the governing party. The ISC elects its own Chair from amongst the appointed members of the Committee and the ISC and HMG agree that the Prime Minister (and other Ministers of the Crown) will not seek directly to influence the election of the ISC Chair in any way, including through the party whip.

6. The ISC makes its reports to Parliament, subject to the requirement that material must be redacted from a report if the Prime Minister considers that its inclusion would prejudice the functions of the Security Service, the Secret Intelligence Service, the Government Communications Headquarters (collectively, “the Agencies”) or of other parts of the intelligence and security community. The ISC may also, as appropriate, report to the Prime Minister. The ISC and HMG agree that the ISC and the Prime Minister will meet at least once annually to discuss the ISC’s work.

7. All members of the ISC, and their staff, are notified under the Official Secrets Act 1989 (section 1(1)(b) and 1(6)). They may not, without lawful authority, disclose any information related to security or intelligence which has come into their possession as a result of their work on, or for, the ISC.

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Remit

8. The Act provides that the ISC may oversee the expenditure, administration, policy and operations of the Agencies; and that it may examine or otherwise oversee such other activities of HMG in relation to intelligence or security matters as are set out in a memorandum of understanding. The ISC is the only committee of Parliament that has regular access to protectively marked information that is sensitive for national security reasons: this means that only the ISC is in a position to scrutinise effectively the work of the Agencies and of those parts of Departments whose work is directly concerned with intelligence and security matters.³ This will not affect the wider scrutiny of those departments by other parliamentary committees. The ISC will aim to avoid any unnecessary duplication with the work of those Committees. In addition to the expenditure, administration, policy and (subject to paragraphs 11–17) operations of the Agencies, the ISC and HMG have agreed that the ISC shall also oversee the following activities:– ISC’s oversight of intelligence and security matters across Government entails, as at [date to be added]:

- a. MOD:

³ This will not affect the wider scrutiny of departments such as the Home Office, FCO and MOD by other parliamentary committees. The ISC will aim to avoid any unnecessary duplication with the work of those Committees.

Watching the Watchers

- i. The strategic intelligence activities undertaken by the Chief of Defence Intelligence, including intelligence collection, analysis and training.⁴
 - ii. Offensive cyber.
- b. Cabinet Office:
- i. The activities of the National Security Adviser and National Security Secretariat in relation to matters of intelligence and security. In practice this will include the activities of the Cabinet Office: in providing support to the Prime Minister in his role as Minister with overall responsibility for intelligence and security matters; coordinating intelligence policy issues of strategic importance and public scrutiny of intelligence matters; managing the Single Intelligence Account; and certain activities (relating to matters of intelligence and security) of the Office of Cyber Security and Information Assurance (OCSIA).
 - ii. The activities of the Investment Security Unit.

⁴ In respect to operational matters, addressed in paragraphs 11–17, general military operations conducted by the MOD are not part of the ISC’s oversight responsibilities.

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iii. The activities of the Joint Intelligence Organisation.

c. Home Office: the activities of Homeland Security Group, the Office for and Counter-Terrorism (OSCT).

d. Department for Science, Innovation and Technology:

i. the activities of the Telecoms Security and Resilience Team;

ii. the Counter Disinformation Unit.

e. Department for Culture, Media and Sport: the activities of the Office of Communications.

f. Department for Transport: the activities of the Transport Security, Resilience and Response Group.

g. Foreign Commonwealth and Development Office: the activities of the Intelligence Policy Department.

9. There are a number of other individuals or bodies that oversee intelligence and security matters. For example: the Independent Reviewer of Terrorism Legislation; the Intelligence Services Commissioner; and the Interception of Communications Investigatory Powers Commissioner. The ISC will continue to have a relationship with those bodies

and should cooperate with them so far as is reasonable to avoid any unnecessary duplication in their respective remits.

10. Likewise, the ISC will seek to avoid unnecessary duplication with the work of courts or tribunals (such as the Investigatory Powers Tribunal) which may, from time to time, have cases before them concerned with intelligence and security matters.

Oversight of Operational Matters

11. The ISC may consider or otherwise oversee the operational activities⁵ of the Agencies and the specified activities of other Government Departments referred to in paragraph 8 above (“the Departments”). The ISC may consider particular operational matters in three sets of circumstances:

- a. Where the ISC and the Prime Minister are satisfied that the matter is not part of any ongoing intelligence or security operation and is of significant national interest and the consideration of the matter is consistent with any principles set out in, or with any other provision made by, the MoU (see section 2(3)(a) and 2(4) of the Act); or

⁵ Certain long-running ‘operations’ may be considered within the ISC’s remit, for example, where the entire intelligence gathering effort for a particular country is undertaken for long periods under the guise of a single operational code word.

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- b. Where the Prime Minister has asked the ISC to consider the matter and the consideration of the matter is consistent with any principles set out in, or with any other provision made by, the MoU (see section 2(3)(b) and 2(4) of the Act); or
- c. Where consideration of an operational matter is not covered by (a) or (b) above, but information is nevertheless provided voluntarily to the ISC by the Agencies or a Department, whether or not in response to a request by the ISC (see section 2(3)(c) of the Act).

Further detail regarding the ISC's oversight of operational matters in these circumstances is set out below.

12. The ISC recognises the sensitivity of intelligence and security operations. Its role overseeing such operational activity will therefore be governed by the following overarching principles:

- a. this work must not jeopardise the success of an operation or compromise the security and safety of those involved; and
- b. the ISC's examination of an operational matter must not unduly impede the operational effectiveness of an Agency or Department.

13. Where there are legal proceedings (criminal or civil), inquiries⁶ or inquest proceedings, the ISC and HMG will consider carefully whether it is appropriate to proceed with an investigation.

14. Under section 2(3)(a) of the Act, the ISC's power to oversee operational activity is retrospective and on matters of significant national interest. When considering whether an activity 'is not part of any ongoing intelligence or security operation', the ISC and the Prime Minister will take into account:

- a. Whether the main objectives of the particular operation have been achieved or whether there is now no reasonable prospect of further operational activity to seek to achieve the main objectives in the near future;
- b. That the operational activity of the Agencies and Departments can vary greatly in scope, type and magnitude and in some cases it may not be clear when a particular operation has ended. Deciding whether a matter is or is not part of 'any ongoing intelligence or security operation' will be a matter of judgement for the Prime Minister and the ISC;
- c. When two or more operational activities may be separated in time but closely linked in objective,

⁶ Including statutory inquiries or other independent judge-led inquiries.

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the ISC will be entitled to have retrospective oversight of such operations that have been completed, unless such oversight would jeopardise the success of such future operations; and

- d. The ISC and HMG are agreed that the operational activity or event in question will only be regarded as ‘of significant national interest’ if it raises issues of wider significance or raises serious questions relating to Agency or Departmental conduct, competence, resourcing and policy in the operational context, including in situations where there is, or is likely to be, significant parliamentary or public interest in relation to such issues or questions.

15. The Prime Minister will nominate the National Security Adviser and his deputy for intelligence matters to consider, on his behalf, whether the conditions for such oversight are met. The final decision will rest with the Prime Minister, in conjunction with the ISC.

16. Under section 2(3)(b) of the Act, the Prime Minister may, at his discretion, consider it appropriate to invite the ISC to consider an operational matter which falls outside the ‘retrospective’ and ‘significant national interest’ criteria. The ISC and HMG agree that where information concerning intelligence and security matters is provided to the ISC by a current or former employee of the Agencies or Departments (*Whistleblower*), and the ISC considers the information is credible and concerns a matter of significant national

interest, the ISC will inform the Prime Minister. If the Prime Minister agrees with the ISC's assessment as to credibility and national interest, and save in exceptional circumstances, they will ask the ISC to consider the matter under section 2(3)(b) of the Act. If the Prime Minister does not agree with the ISC's assessment as to credibility or national interest, or considers that there are exceptional circumstances, they must provide a written explanation of their reasons to the ISC Chair. The ISC Chair shall be entitled to publish that written explanation.

17. Under section 2(3)(c) of the Act, the ISC may consider operational matters not covered by sections 2(3)(a) or 2(3)(b) where information is provided voluntarily to the ISC by the Agencies or a Department, whether or not in response to a request by the ISC.

Provision of Information

18. The ISC requires information from HMG in order to carry out its oversight function. The importance of the ISC's oversight role is recognised by the fact that, while officials and Ministers are able to provide information to the ISC, only a Secretary of State has the power to withhold it. This is reflected in paragraph 4 of Schedule 1 to the Act.

19. The duty to provide information to the ISC rests, for the Departments, with the relevant Minister of the Crown

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(this may, but need not necessarily, be a Secretary of State),⁷ and for the Agencies, with the Heads of the Agencies.

20. In practice there will be a range of methods which the ISC may use in order to obtain the information it requires from HMG, including:

- a. oral evidence sessions with Ministers, Agency Heads and other ~~senior~~ officials. These sessions allow the ISC to ask detailed questions about particular issues within their remit, but also to get a broader sense of the issues that Agencies, Departments and Ministers are facing and to decide whether any particular issue might need further scrutiny;

⁷ For the following Departments, the relevant Ministers of the Crown, for the purposes of making information available to the ISC (paragraphs 4(3) and 4(7) of Schedule 1) are as follows:

- a. Cabinet Office: Any Minister of the Crown in a relevant Government department;
- b. MOD: Secretary of State for Defence;
- c. Home Office: Secretary of State for the Home Department;
- d. Foreign and Commonwealth Office: Secretary of State for Foreign ~~and, Commonwealth and Development Affairs;~~
- e. DSIT: Secretary of State for Science, Innovation and Technology;
- f. DCMS: Secretary of State for Culture, Media and Sport; and
- g. Department for Transport: Secretary of State for Transport.

Watching the Watchers

- b. Written material, both regular briefs on agreed lines of reporting and responses to specific questions. HMG and the Agencies will keep the ISC fully and promptly informed of:
 - i. any significant matters falling within the ISC's remit; and
 - ii. where intelligence and security activities have been devolved from the Security Service, the Secret Intelligence Service; the Government Communications Headquarters or any government body to any other government body, including the name of the body to which the activity has been devolved and the nature of the activity.
- c. Members of the ISC's staff working with the Agencies and the Departments to obtain information on the ISC's behalf, ensuring that the ISC has all the information it needs to do its job in relation to matters consistent with its remit.

21. The responsibility for ensuring the ISC has access to relevant information consistent with its remit will fall to the appropriate Agency or Department, who will make available the information the ISC needs. The ISC will work together with the Agencies and Departments to ensure that the provision of such information does not involve disproportionate cost or diversion of effort.

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21A. The Agencies and HMG will each appoint a senior official who is personally responsible for ensuring compliance with the obligation in paragraph 20(b) above

21B. The Agencies, Departments and ISC will work together to establish an accessible and secure means for Whistleblowers to communicate with the ISC (whether regarding operational matters or otherwise) and agree to take all reasonable measures to preserve the anonymity of Whistleblowers (including by treating the identity and any identifying features of a Whistleblower as strictly confidential).

22. The Committee may seek confirmation from HMG of the factual accuracy or completeness of information it has gathered before drawing on it in its reports.

23. Committee members may, as part of their work, undertake visits to the Agencies and Departments that the ISC oversees, to familiarise themselves with the broader context of their work. Information provided to Committee members in the course of such visits will not constitute formal evidence gathering unless it is agreed as such by both parties either in advance or retrospectively.

24. On occasion the Prime Minister may write to the ISC specifically to draw to the Committee's attention an area of work it may wish to scrutinise.

25. In common with the practice for departmental select committees, the ISC should be informed of impending Ministerial statements or announcements which are relevant to its current enquiries or general remit in good time. The

ISC will also be informed in advance of the appointments of the heads of the Agencies, the Chief of Defence Intelligence and the Chair of the Joint Intelligence Committee (JIC).

26. The ISC will seek to keep HMG informed as to its future work plans, as far as that is possible and reasonable. The ISC, in consultation with the Agencies and Departments, will set reasonable deadlines when it makes requests for information. Where it becomes clear that, exceptionally, HMG is unable to meet a particular deadline set by the ISC for provision of information, then the Agency or Department concerned will notify the ISC and provide a written explanation in advance of the deadline.

Protection and Handling of Sensitive Information

27. The ISC is responsible for ensuring that information disclosed to it is handled in accordance with HMG's document handling, storage and security procedures. The ISC will be provided with appropriate accommodation and facilities for this purpose and/or the requisite resources.

28. The Act sets out restrictions on the ISC's ability to publish or disclose information (section 3(4) of, and paragraph 6 of Schedule 1 to, the Act). In practice, the ISC and HMG agree that these provisions of the Act will only prevent the ISC publishing or disclosing information if it is information of the kind that it could not include in one of its reports to Parliament.

29. Paragraph 1(3) of Schedule 3 to the Act allows the ISC created by the Act to access documents or other information

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provided by or belonging to the previous Intelligence and Security Committee (i.e. the Committee established by section 10 of the Intelligence Services Act 1994). The ISC in a new Parliament will inherit the documents, and will be able to continue the ongoing work, of its predecessor in the preceding Parliament (paragraphs 1(6) and (7) of Schedule 1 to the Act). The Committee's staff will continue in post notwithstanding a dissolution of Parliament.

Withholding Information

30. The ISC regularly sees protectively marked material in the course of their work but there may, exceptionally, be circumstances in which it would not be appropriate for the ISC to see particular information, as set out in paragraph 4 of Schedule 1 to the Act. The power to withhold information from the ISC can only be exercised by a Secretary of State (given the ISC's remit this will generally be the Foreign, Home or Defence Secretaries).

31. It is agreed by HMG and the ISC that no decision will be taken to withhold information from the ISC without the ISC being informed of that decision. If the Secretary of State, after considering advice from the Agencies and/or the Departments, decides that there is reason to withhold certain information, the relevant Minister will discuss the matter with the ISC Chair, if requested.

32. The power to withhold information from the ISC under paragraph 4(4)(b) of Schedule 1 is discretionary,⁸ and one that it is expected will be required to be exercised very rarely. ~~In exercising~~ It is agreed by HMG and the ISC that:

- a. save for exceptional circumstances, under this discretion the Secretary of State will not:
 - i. require written material to be withheld from the ISC; or
 - ii. prevent Agency or Department staff from appearing before the ISC to provide oral evidence in a closed session
- and,

⁸ In considering whether to withhold information on these grounds the Secretary of State will have regard to any guidance issued by a Minister of the Crown or a Department concerning the provision of evidence by civil servants to Select Committees (paragraph 4(5) of Schedule 1). Currently, this means the Cabinet Office Guide “Departmental Evidence and Response to Select Committees” (July 2005) (sometimes referred to as the “Osmotherly Rules”). The Osmotherly Rules outline the categories of information where it may sometimes be appropriate to decline to provide information to Select Committees. These include information: as to officials’ personal views (as distinct from views of Ministers) on policy options; requiring substantial research be carried out by a Department or which could only be supplied at excessive cost; about matters sub judice; about the conduct of particular individuals, where the Committee’s line of questioning appears to be not just to establish facts but with the implication of allocating individual blame; and contained in papers of a previous administration.

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- b. where the Secretary of State exercises the power under paragraph 4(4)(b) of Schedule 1, the Prime Minister shall provide an explanation to Parliament as to why the Secretary of State has exercised that power, including with regard to the exceptional circumstances that apply, the provisions that the ISC has for keeping material confidential ~~In some cases, having regard to those provisions~~ and other features of the ISC that distinguish it from a select committees, including that: (i) the members of the ISC are subject to the Official Secrets Act 1989; (ii) the majority of ISC hearings are held in closed sessions; and (iii) ISC reports cannot be published without the consent of the Prime Minister. Having regard to those features the Minister might well consider it appropriate that information be provided to the ISC even where it would not otherwise be provided to a select committee. For example, the ISC has in the past received information about matters *sub judice* and/or contained in papers of a previous administration.

Oral Evidence Sessions: Closed

33. The ISC's evidence sessions are generally with Ministers (Home Secretary, Foreign Secretary) and senior officials (Heads of Agencies, National Security Adviser, Chair of the JIC, Chief of Defence Intelligence, Head of OSCTHSG). This is not an exhaustive list, and the ISC may invite any Minister or ~~senior~~ official to give evidence.

34. During an evidence session, if witnesses consider that answering a question put to them would disclose information that a Minister might consider ought properly to be withheld from the ISC, in accordance with paragraph 4(4) of Schedule 1 to the Act, then the witnesses should state that they will need to take further advice before answering the question. A response must be provided to the ISC in writing as soon as possible after the evidence session (generally within 14 days). This will take the form of a substantive response to the question, or a response setting out the Secretary of State's decision, informing the ISC that they will be exercising the power to withhold the information.

35. The Committee will supply witnesses giving oral evidence with copies of their verbatim transcripts as soon as possible after their appearance (generally within 14 days). This is to enable witnesses to check that the transcript is an accurate record of what they said and, if necessary, provide corrections.

Open Sessions

36. HMG and the ISC are committed to enabling occasional evidence sessions in public on matters agreed by both parties. The nature of the Committee's work and the need for it to consider protectively marked material in carrying out its functions means that the majority of sessions will continue to be held in private- and oral evidence sessions involving junior officials will always be held in private. HMG and the ISC will agree adequate safeguards (including on physical security, attendance, and arrangements for

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broadcast) in advance of each public session. This will allow them to take place without risking disclosure of protectively marked information, while still enabling a substantive hearing. The ISC will provide those giving evidence with an indication of the main issues to be discussed, in keeping with the practice of Parliamentary Select Committees.

Reporting

37. Whilst the Act provides that information must be redacted from a report if the Prime Minister considers its inclusion would be prejudicial to the continued discharge of the functions of the Agencies or of the wider intelligence and security community, HMG will work constructively with the ISC to ensure that as much of its reports that can be published, is published. HMG and the ISC will work together to apply a reasonable process for identifying, in consultation with the ISC, sensitive material that must be removed from ISC reports prior to publication. When a report that has been subject to this consultation process between HMG and the ISC is sent to the Prime Minister for approval for publication, the Prime Minister shall seek to inform the ISC which matters must be excluded from the report within 15 days of receiving the report and confirm to the ISC that the report can be published, subject to these exclusions. If the Prime Minister is unable to comply with this timeframe, they must agree a reasonable alternative deadline with the Chair of the ISC, and provide a written explanation for the delay. The Chair of the ISC is entitled to publish this explanation.

38. HMG will aim to respond substantively to any report by the ISC within 60 days.
39. The ISC will provide information on its staffing and budget in its published reports.

Expenditure and budget

40. The ISC will at all times be sufficiently funded to carry out its functions as set out in the Act.
41. For each financial year the ISC must prepare an estimated budget of the ISC's reasonable expenditure to be incurred in the next three financial years, and submit it to the Prime Minister for approval. If approved the budget will remain in place until it is superseded by a future budget approved by the Prime Minister.
42. If the Prime Minister:
 - a. withholds approval of the ISC's budget;
 - b. makes such approval conditional on changes to the budget; or
 - c. reduces an approved budget,the Prime Minister must provide a written explanation, which the Chair of the ISC shall be entitled to publish.

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About the author

Andrew Tyrie founded the All-Party Parliamentary Group on Extraordinary Rendition in 2005. He was its Chairman from its inception until 2017. He is currently the group's Co-Chair.




He was Conservative Member of Parliament for Chichester from 1997 to 2017. He has chaired many other parliamentary committees and commissions, including the Parliamentary Commission on Banking Standards, the Treasury Select Committee and the Liaison Committee. He was created Privy Councillor in 2015 and a Life Peer in 2018. He sits in the House of Lords as a non-affiliated Peer.

About the Constitution Unit

The Constitution Unit is a research centre based in the UCL Department of Political Science. We conduct timely, rigorous, independent research into constitutional change and the reform of political institutions. Since our foundation in 1995, the Unit's research has had significant real-world impact, informing policy-makers engaged in such changes – both in the United Kingdom and around the world.

For over 30 years, the Intelligence and Security Committee (ISC) has provided parliamentary oversight of the work of Britain's intelligence services: 'watching the watchers'. It has broken important ground in many of its reports. But it has frequently been frustrated by limitations on access to key individuals, delays and restrictions on publication of its work and challenges to its independence. Nowhere was this more evident than in its efforts to get to the truth about Britain's role in extraordinary rendition, where it uncovered much new information but felt constrained to close its enquiry before it was complete.

This report sets out options for reform, ranging from amendments to the ISC's Memorandum of Understanding with the Prime Minister to full legislative change, to ensure that our intelligence agencies can keep us safe while still providing the level of effective accountability to Parliament that a modern democracy requires.

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