

A Message from the Investigatory Powers Commissioner, Sir Brian Leveson:

Reading the updates in this newsletter, as I begin my second three-year term as the Investigatory Powers Commissioner, I am pleased to see how much we have already achieved this year – with much more yet to come. Please do read through the recent activities provided below; much of it will be relevant to the work that we all do.

Looking ahead, next month marks five years since the Investigatory Powers Act 2016 received Royal Assent. Although we have more to do as we improve compliance, enhance transparency and maintain pace with advancing technology, much has been learned and achieved in the last five years. We should all be proud of our own contributions to this.



Updates from IPCO:

- This month we hosted the annual European Intelligence Oversight Conference in London. This is the first time the event has taken place in the UK. The conference brought together organisations which oversee the work of the intelligence agencies across Europe; sixteen countries were represented. Discussions centred on accountability, transparency and the development of technology.
- A draft [Statutory Instrument](#) was laid on 18 October to put on a statutory footing the Investigatory Powers Commissioner's oversight of the GCHQ Equities Process, and the National Crime Agency's (NCA) and Metropolitan Police Service's (MPS) compliance with [The Principles](#).
- On 19 October, a draft [Statutory Instrument](#) was laid in relation to two updated Codes of Practice: CHIS and the Interception of Communications. Further details can be found [here](#).
- The Data Access Agreement between the UK and USA on accessing electronic data for the purpose of countering serious crime commenced at the beginning of October. Parliament has given the Investigatory Powers Commissioner the role to oversee UK public authorities' compliance with the terms of this agreement; both Judicial Commissioners and Inspectors will assist him to fulfil this new role.
- In September, two new Judicial Commissioners were appointed to support the work of the Investigatory Powers Commissioner. Sir Nigel Davis and Lord Menzies will serve for three years. More information is available [here](#).
- The mental health and wellbeing of CHIS is a top priority for CHIS units; IPCO continues to engage with those within law enforcement charged with the management of this. IPCO is supporting new processes that are currently on trial and, when on inspection, Inspectors will continue to ensure that issues, risks and needs are identified and addressed appropriately.
- If you receive an FOI request for an IPCO inspection report of your organisation, you should bring this to the attention of IPCO's Data Protection Officer at info@ipco.org.uk before making any disclosures.
- If you wish to publish an IPCO Inspection Report, please ensure that you first contact IPCO's data protection officer at info@ipco.org.uk.
- We continue to publish inspection statistics on our website. Please [see here](#) for more information.
- We also now publish our Quarterly Newsletters. Please [see here](#).

Raising a concern:

IPCO has published [guidance](#) for those who want to disclose information about the use of investigatory powers.

The Investigatory Powers Commissioner recognises the importance of the information gateway which is created in the Investigatory Powers Act 2016. We have seen this provision used on a number of occasions since IPCO was established, as we have set out in our last two Annual Reports.

This guidance formalises the process set out in IPCO's [2019 Annual Report](#) and relates to disclosures concerning any matters that fall within the Investigatory Powers Commissioner's oversight. It also makes clear that, where appropriate, an employer's internal whistleblowing policy should be considered first.

We encourage you to publish a copy of, or link to, this guidance on your internal communications platform.

Spotlight on: Reporting of Relevant Errors to IPCO

The way IPCO deals with Relevant Errors will change from 21 November.

Relevant Errors committed by public authorities, in the exercise of their powers and responsibilities under the Investigatory Powers Act 2016, the Regulation of Investigatory Powers Act 2000 and the Police Act 1997, will now need to be reported using the following revised process:

- Public authorities must report any Relevant Error to the Investigatory Powers Commissioner (IPC) in accordance with the relevant Code of Practice. All reports should be submitted to Errors@ipco.org.uk.
- Upon receipt of a Relevant Error, an automated acknowledgement will be provided.
- Where any further information or action is required as a result of a Relevant Error report, an IPCO Inspector will make contact with the public authority concerned.
- The Relevant Error will then be assessed to determine whether the circumstances could have a) resulted in serious harm or b) call for any urgent changes to national policy or procedures. If this is the case, an investigation will take place.
- If it is not deemed serious, the Relevant Error will be addressed at your next inspection.

Relevant Errors will routinely be examined at each of our inspections. Public authorities will be required to provide records and confirmation that any material obtained in consequence of the error, that has no connection or relevance to any investigation or operation undertaken by your public authority, has been destroyed.

The Senior Responsible Officer for each public authority is responsible for oversight of reporting errors to the IPC, and the identification of both the cause(s) of errors and implementation of processes to minimise repetition.

If you have any questions regarding this change, please contact us by emailing info@ipco.org.uk.

Update on Criminal Conduct Authority (CCA) notifications:

IPCO has seen an increase in the number of queries regarding CCA notifications; these arose particularly at the time that many of the original applications were renewed for the first time.

Please note:

- All CCA and UC applications need to be submitted as separate applications in separate emails (although such emails can be submitted simultaneously). Although they may be linked, separate submissions are required with a separate Summary Sheet for each.
- Correct CCA URNs must be provided (this is usually distinct to the operative URN); please refer to CCA guidance or notes provided on the Summary Sheet.
- If attempting to align CCA dates with use and conduct authorisations (and we would encourage this), the CCA must be cancelled and a new CCA authorised simultaneously on the first day of the renewal of the use and conduct authorisation, in order to avoid any CCA gap. You cannot modify or extend CCA dates and the day a renewal of the CCA is authorised will not alter its start date.
- To aid swift review by our Judicial Commissioners, all documents or attachments must be labelled accurately and listed within the body of the email. Multiple documents embedded within a single pdf will be returned for resubmission.