



Home Office

IPCO

Investigatory Powers
Commissioner's Office

OCDA

Office for Communications
Data Authorisations

FRAMEWORK AGREEMENT

Home Office and the Investigatory Powers Commissioner

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Contents

1	Introduction	3
	<i>Status of this document</i>	<i>3</i>
2	Founding Legislation and Functions of the IPC.....	4
	<i>Founding Legislation and Classification</i>	<i>4</i>
	<i>Functions</i>	<i>4</i>
	<i>Appointments and Staff.....</i>	<i>4</i>
3	Governance and Accountability	5
	<i>Responsibility to Parliament and Ministers</i>	<i>6</i>
	<i>Responsibilities of the Sponsorship Team</i>	<i>6</i>
4	Planning, Finance and Reporting.....	7
	<i>Business Plan and Performance Reporting</i>	<i>7</i>
	<i>Finance and Budget.....</i>	<i>7</i>
	<i>Annual Report.....</i>	<i>8</i>
5	Operational Policy and Procedures	8
	<i>Corporate Support</i>	<i>8</i>
	<i>Legal Support</i>	<i>9</i>
	<i>Access to Corporate Records</i>	<i>9</i>
	<i>Risk Management.....</i>	<i>9</i>
	<i>Security, Information Assurance and Safety</i>	<i>10</i>
	<i>Freedom of Information and Data Protection</i>	<i>10</i>
	<i>Communications</i>	<i>11</i>
	<i>Review of IPCO and OCDA's Status</i>	<i>11</i>
	Signatures	11

1 Introduction

- 1.1. The role of the Investigatory Powers Commissioner (IPC) was established by virtue of the Investigatory Powers Act 2016 (the Act).
- 1.2. The Act provides for the appointment of the IPC and Judicial Commissioners (JCs), and requires that HM Treasury, Home Office and Scottish Ministers must provide funding, staff and other resources to support the Commissioners.
- 1.3. The IPC is supported in exercising the statutory functions laid out under the Act by two offices. These are known as The Investigatory Powers Commissioner's Office (IPCO) and The Office for Communications Data Authorisations (OCDA). Each office is headed by a Chief Executive.
- 1.4. The Home Office (HO) is the sponsoring department for both IPCO and OCDA. There are two sponsoring teams within the Homeland Security Group (HSG). The National Security Unit (NSU) is responsible for managing the relationship with IPCO and the Investigatory Powers Unit (IPU) is responsible for the relationship with OCDA.

Status of this document

- 1.5. This document sets out the broad framework for the governance of IPCO and OCDA and outlines how the relationship with the HO as the sponsoring department will operate.
- 1.6. This document is not legally binding.
- 1.7. This document was produced by IPCO, OCDA and the HO and has been approved by the IPC and Permanent Secretary of the HO.
- 1.8. The document will be reviewed by the HO and the IPC every three years or at any other time as agreed by both the HO and the IPC. An earlier review may also be triggered by one of the following events:
 - The appointment of a new IPC or Chief Executive of IPCO or OCDA;
 - A change of senior policy sponsor (usually Director level) in the HO;

- A significant change in Government policy relating to the responsibilities of the IPC; or
- A change of sponsoring team within HO for OCDA or IPCO.

2 Founding Legislation and Functions of the IPC

Founding Legislation and Classification

2.1 The IPC and his supporting offices - IPCO and OCDA - are independent of HM Government. For the purposes of administration and governance, the supporting offices are classified (according to Cabinet Office guidance) as Arm's Length Bodies of the HO.

Functions

2.2 The main oversight functions of the IPC are described in section 229 of the Act.

Appointments and Staff

2.3 Section 227 of the Act provides that the Prime Minister (in consultation with Scottish Ministers) must appoint the IPC and JCs. They are appointed for a term of three years.

2.4 The IPC and JCs are only eligible for appointment if they hold or have held high judicial office within the meaning of Part 3 of the Constitutional Reform Act 2005 and have been recommended by the Lord Chancellor, the Lord Chief Justice of England and Wales, the Lord President of the Court of Session (Scotland) and the Lord Chief Justice of Northern Ireland. Additionally, the IPC must also recommend the appointment of JCs.

2.5 JCs are not civil servants but statutory office holders and are subject to the terms and conditions of appointment as set out by the Home Office. JCs are appointed by the IPC with support from the appointments team at the Judicial

Office which provides administrative support to the Lord Chief Justice of England and Wales under the process laid out in 2.4.

- 2.6 IPCO and OCDA will internally manage staff recruitment with the support of the Government Recruitment Service (GRS).
- 2.7 The Chief Executives of both IPCO and OCDA are line-managed by the IPC. Reflecting the normal staffing structure of arm's length bodies, the staff of IPCO and OCDA are civil servants appointed on terms and conditions set by the HO and are appraised in line with HO performance management procedures. The staff work directly to the IPC rather than to Ministers.
- 2.8 IPCO and OCDA staff are subject to levels of remuneration and terms and conditions of service (including pensions) within the general pay structure approved by the HO and HM Treasury.

3 Governance and Accountability

- 3.1 The IPC will report annually to the Prime Minister as set out in Section 234 of the Act.
- 3.2 The IPC and other JCs are responsible for the discharge of their functions, subject to agreement by the Secretary of State on the provision of resources as specified at Section 238 of the Act. The IPC may delegate the exercise of functions of the Investigatory Powers Commissioner (except recommending JCs or appointment to the Technology Advisory Panel) to any other Judicial Commissioner S227(8). The IPC may delegate the exercise of their functions to any member of staff or any other person acting on behalf of the Commissioners (s.238(5)).
- 3.3 The budgets for IPCO and OCDA will be agreed annually with the HO. A letter of financial delegation will issue from the HO which confirms the funding allocated within which they are expected to deliver their business plans.

- 3.4 Subject to their delegated authorities, IPCO and OCDA will ensure that the creation of any additional posts do not incur forward commitments that will exceed their ability to pay for them.
- 3.5 The Chief Executives of IPCO and OCDA will chair regular management team meetings with the senior team of their organisation. These teams will oversee the discharge of the functions of each organisation and will be responsible for ensuring that effective arrangements are in place to provide assurance on risk management, governance, and finance.
- 3.6 The senior teams are responsible for drafting annual business plans and setting the strategic direction for IPCO and OCDA in consultation with the IPC. They will ensure the efficient and effective use of staff and other resources, considering HM Treasury guidance (*Managing Public Money*) and rules relating to the use of public funds.

Responsibility to Parliament and Ministers

- 3.7 The IPC is accountable to the Prime Minister and to Parliament for the discharge of the functions as laid out under the Act. This is set out in the annual report and other ad-hoc reports, as appropriate (as specified at Section 234 of the Act). The Prime Minister is responsible for laying the annual report before Parliament.
- 3.8 The Security Minister has specific responsibility for IPCO and OCDA within the HO ministerial team. The Security Minister will meet the IPC at least twice a year to discuss current matters of concern and any other relevant issues. If the Security Minister is unavailable, a suitable representative will take their place.

Responsibilities of the Sponsorship Team

- 3.9 The sponsorship teams provide the primary contact with the HO and act as an advocate for both organisations within the HO and other IPCO and OCDA stakeholder departments. They also represent the views of the HO to IPCO and OCDA and will ensure that relevant departmental policies are communicated.

- 3.10 The sponsorship teams support IPCO and OCDA but are not involved in the exercise of the judgment of the IPC or the JCs in the discharge of their functions.
- 3.11 The Heads of the sponsorship teams will meet with the Chief Executives at least quarterly to discuss current issues.

4 Planning, Finance and Reporting

Business Plan and Performance Reporting

- 4.1 The Chief Executives and senior teams will ensure their business plans reflect both the statutory duties of IPCO and OCDA, in addition to priorities set by the IPC.
- 4.2 The business plans are prepared annually. They include both longer term objectives, vision and values and also key priorities and targets for the year immediately ahead and will be linked to high level staffing, budgeting and resource information.

Finance and Budget

- 4.3 The Chief Executives of IPCO and OCDA as budget holders are accountable to the Principal Accounting Officer of the HO (the Permanent Secretary).
- 4.4 The Chief Executives are responsible for ensuring that IPCO and OCDA operate in full compliance with Managing Public Money ensuring the standards regarding governance, decision making, risk management and financial management that are set out in Managing Public Money are adhered to. The HO's Principal Accounting Officer is ultimately responsible for accounting to Parliament for IPCO and OCDA's expenditure.
- 4.5 IPCO and OCDA will ensure that timely forecasts and finance information are provided to the HO. The HO must be notified promptly of any over or under-spends and of any mitigating actions that have been put in place. The HO must be notified of any significant financial problems in a timely fashion.

IPCO and OCDA will provide appropriate and timely finance reporting to the HO to satisfy requests by Security Minister or the Secretary of State when commissioned.

Annual Report

- 4.6 In accordance with section 234 of the Act, the IPC will deliver an annual report after the end of each calendar year to the Prime Minister, covering the carrying out of the functions of the JCs and a summary of reviews, serious errors and public engagements for IPCO. The report will also include information about OCDA.
- 4.7 The HO fact check the report before publication and propose redactions, where appropriate, from the open report on the basis of the limited grounds as set out in the Act (e.g. national security).
- 4.8 The IPC will finalise the report in accordance with his statutory obligations under the Act. The Prime Minister will publish the report and lay a copy of the published report before Parliament, passing a copy to Scottish Ministers who will lay a copy before the Scottish Parliament. The report will be made available on the IPC website.

5 Operational Policy and Procedures

Corporate Support

- 5.1 Support functions include, but are not limited to, Human Resources; Finance and Commercial; Security; and Information Technology (including through access to HO Business Partners as appropriate). The HO will ensure IPCO and OCDA are adequately briefed on policy and legal developments which may impact their operations.
- 5.2 IPCO and OCDA will build relationships directly with relevant teams in the HO. The sponsorship teams will facilitate exchanges where appropriate and

ensure IPCO and OCDA are kept up to date on policy and operational changes within the HO and HM Government that may affect their activities.

Legal Support

- 5.3 In addition to in-house legal staff, IPCO and OCDA may appoint counsel to advise on and undertake legal matters on their behalf. IPCO and OCDA may also instruct other external counsel as necessary. They will be responsible for the costs of the same.
- 5.4 In the event of litigation, inquiries or inquests requiring additional legal resource, the HO will ensure sufficient resource is provided. IPCO and OCDA have some in house legal resource and the ability to instruct Counsel. In so far as demands exceed the capacity within the respective offices to deal with litigation, inquiries or inquests, the sponsor department will need to ensure additional resource is provided.
- 5.5 In the event of litigation involving IPCO or OCDA, the relevant Chief Executive will assess their resource capability, consulting with either IPCO or OCDA and the IPC as appropriate in the first instance to identify additional support, and through their Sponsorship Teams will communicate their need for additional legal support to the HO if necessary.

Access to Corporate Records

- 5.6 The HO has a right of access to IPCO and OCDA's corporate administrative records as may be required to discharge the obligations of the HO and the Principal Accounting Officer.
- 5.7 Where IPCO or OCDA identifies that access may compromise an actual or perceived ability to discharge their functions independently or constitute access to operational records, further independent advice will be sought.

Risk Management

- 5.8 IPCO and OCDA will maintain their own internal risk registers. The senior teams will regularly review their registers, appoint internal risk champions and implement a risk management policy that aligns with the HO's risk

management policy. If a risk requires escalation to the HO (for example, due to incurring significant financial liability), this will be reported through the sponsorship teams.

Security, Information Assurance and Safety

- 5.9 IPCO and OCDA will comply with HM Government standards for the management of security and information risk as set out in the Government's Security Policy Framework and associated security standards.
- 5.10 IPCO has its own security officers to oversee and advise on security matters. IPCO hosts a quarterly Security Working Group meeting with security accreditors, and key security stakeholders to raise and discuss security matters. In addition, IPCO attends a monthly meeting where the security requirements of the building are discussed and agreed.
- 5.11 OCDA will also have its own Operational Security Officers to oversee and implement security policies on behalf of its key stakeholder partners and working in conjunction with building partners, as well as developing its own Security Management Plan. OCDA will ensure it builds close relationships with the IPCO Operational Security Officers and shares knowledge and resources when and where appropriate to ensure both IPCO and OCDA have a mirrored approach to security matters.
- 5.12 IPCO and OCDA will also maintain a Business Continuity Plan (BCP), in accordance with HO guidelines, which must be reviewed at least annually. Regular testing of the BCP is conducted to ensure staff awareness and functionality.

Freedom of Information and Data Protection

- 5.13 IPCO and OCDA are not listed as public authorities for Freedom of Information Act 2000 (FOIA) purposes. They will endeavour to be as transparent as they can be through the IPC's Annual Report, taking into account the inherently sensitive nature of their work and associated legal obligations to protect certain sensitive information.

- 5.14 IPCO and OCDA will ensure that all personal data is processed in accordance with their obligations under the Data Protection Act 2018 (DPA) and the General Data Protection Regulation (GDPR).

Communications

- 5.15 IPCO and OCDA retain independent responsibility for the management and performance of communication functions. This includes strategic communications, press and media engagement, digital communications, internal communications and stakeholder engagement.
- 5.16 In the event of significant press interest in matters pertaining to IPCO or OCDA business, IPCO and OCDA's Communications and Engagement Teams will provide timely updates to the sponsor department. The sponsor department will also ensure timely updates are provided to IPCO and OCDA where public interest on issues that impact their work have been directed to the HO.

Review of IPCO and OCDA's Status

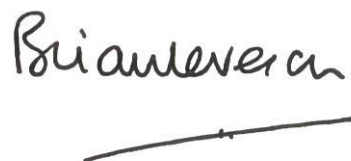
- 5.17 IPCO and OCDA will be subject to periodic external review either as part of HM Government's triennial review process (every 3 years) or equivalent external scrutiny.

Signatures

This Framework Agreement is agreed between:



Permanent Secretary, Home Office



Investigatory Powers Commissioner