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Rt Hon Ben Wallace MP
Minister of State for Security and
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Rt Hon Dominic Grieve QC MP
Chair, Intelligence and Security Committee
35 Great Smith Street
London
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3 December 2018

Dear Dominic,

GCHQ's planned use of the Investigatory Powers Act 2016 Bulk Equipment Interference Regime

I am writing to inform you that GCHQ's position on the authorisation of equipment interference (EI) operations has evolved since the Investigatory Powers Act received Royal Assent in 2016.

During passage of the then Investigatory Powers Bill through Parliament, HMG indicated that the majority of GCHQ's EI operations would be authorised under targeted or targeted thematic warrants. The reason for this was that the use of bulk EI warrants was anticipated to be limited to overseas "discovery" based EI operations. Under this approach, EI authorised under a bulk warrant would have been the exception and Lord Anderson of Ipswich K.B.E. Q.C. stated in his "Report of the Bulk Powers Review", published on 19 August 2016, that "Bulk EI is likely to be only sparingly used".

EI operations are a critical capability for our security and intelligence agencies in order to keep the country safe. Since the passage of the Bill, the communications environment has continued to evolve, particularly in terms of the range of hardware devices and software applications which need to be targeted. In addition, the deployment of less traditional devices, and usage of these technologies by

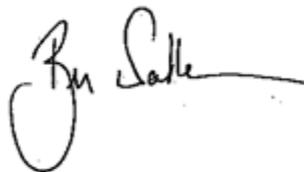
individuals of interest has advanced significantly. Following a review of current operational and technical realities, GCHQ have revisited the previous position and determined that it will be necessary to conduct a higher proportion of ongoing overseas focused operational activity using the bulk EI regime than was originally envisaged.

This interpretation is fully in line with the Act and the EI Code of Practice, as, for the reasons above, it is not always possible to adequately foresee the extent of all interferences with privacy to a sufficient degree to properly and fully assess necessity and proportionality at the point of issue of a warrant. The legislation contains the bulk warrant provisions specifically for these circumstances, and, following careful consideration of any warrant application through the Judicial double lock process, the additional controls and safeguards of the bulk regime will be employed. HMG has informed the Investigatory Powers Commissioner of these proposals, and he has proposed enhanced post facto safeguards for this activity.

Alternatively, where it is possible to ensure a greater degree of foreseeability of the relevant intrusion at the point of issue of the warrant, a targeted thematic warrant is likely to be more appropriate.

I can confirm you will receive a further letter on this matter from GCHQ which will provide additional detail at a higher classification. Should you have any observations or questions please let me know and we will work with GCHQ to address them.

I am copying this letter to the Investigatory Powers Commissioner, The Rt Hon Lord Justice Fulford. A copy of this letter will be placed in the House Library and published on the Government website.

A handwritten signature in black ink, appearing to read 'Ben Wallace', with a long horizontal flourish extending to the right.

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