



INVESTIGATORY POWERS TRIBUNAL

Statistical Report

2016

OUTCOMES AND STATISTICS 2016

In this report the Investigatory Powers Tribunal (“the IPT”) publishes figures for complaints received and determined during the period 1st January and 31 December 2016.

When a complaint has been made to the IPT there are seven possible outcomes:

Figure 1 Possible outcomes of complaints to the IPT

Possible outcomes of complaints	
1	<p>No determination in favour of the complainant: This means that after considering the case and requiring any necessary investigation, EITHER the Tribunal is satisfied that there has been no conduct in relation to the complainant by any relevant body which falls within the jurisdiction of the Tribunal, OR that there has been some activity but it is not in contravention of the relevant legislation (i.e. the Regulation of Investigatory Powers Act 2000 (“the Act”), the Intelligence Services Act 1994 or the Police Act 1997) or “conduct” of the intelligence services, and so cannot be determined to be unlawful.</p> <p>The provisions of the Act do not allow the Tribunal to disclose whether or not complainants are, or have been, of interest to the Secret Intelligence Agencies (“the SIAs”) or law enforcement agencies. Nor is the Tribunal permitted to disclose what evidence it has taken into account in considering the complaint.</p>
2	<p>Out of Jurisdiction: This ruling means that after careful consideration by at least two Members, the Tribunal has ruled that under Rule 13(3)(c) of the Investigatory Powers Tribunal Rules 2000 (“the IPT Rules”), the IPT has no power to investigate the complaint.</p>
3	<p>Out of Time: In such cases, after careful consideration by at least two Members, the IPT rules that under Rule 13(3)(b) of the IPT Rules, the complaint is out of time and the time limit should not be extended.</p>
4	<p>Frivolous or vexatious: The IPT concludes in such cases that the complaint is obviously unsustainable and/or that it is vexatious. A complaint is regarded as obviously unsustainable if it is so far-fetched or lacking in foundation as to justify this description. A complaint is regarded as vexatious if it is a repetition or repeated repetition of an earlier obviously unsustainable complaint by the same person, and thus falls within the provisions of Rule 13(3) (a), such that, pursuant to Section 67(4) of the Act, the IPT has resolved to dismiss the claim.</p>
5	<p>Case Dismissed: The IPT has resolved to dismiss the complaint, for example, the complainant has failed to comply with a request for information (after due warning).</p>
6	<p>CWC: Complainant withdrew the complaint.</p>
7	<p>The Tribunal has ruled in favour of the complainant. In this event, it is open to the Tribunal to grant a remedy (as above). Sometimes the finding alone may be all that is necessary or appropriate.</p>

Volume of Complaints

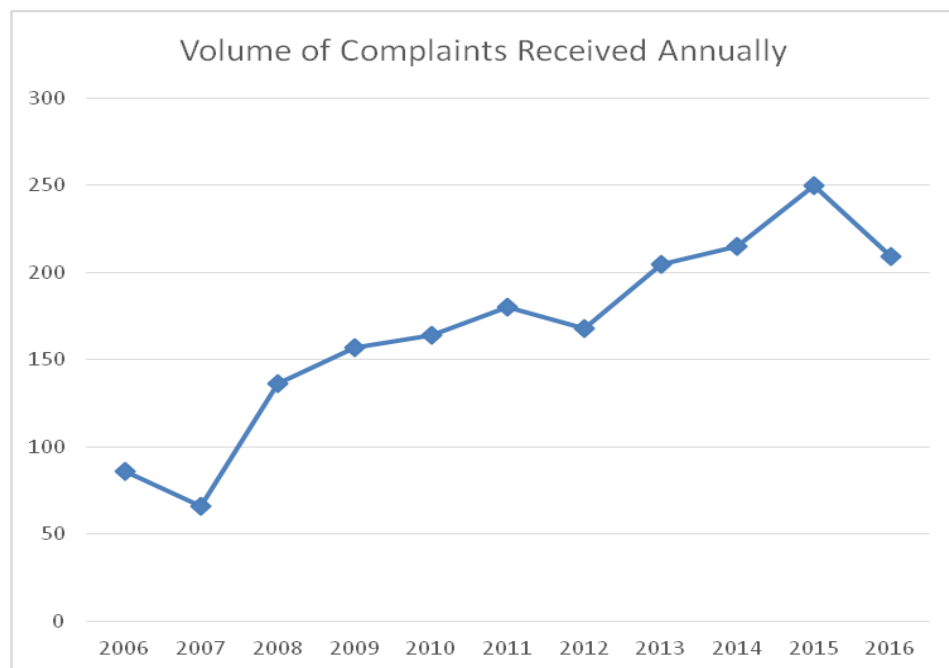
The volume of complaints to the IPT has risen from 95 in its first year to 209 new complaints received in 2016. In 2015 the IPT received 250 new complaints.¹

For the purposes of this statistical report the figure of 209 new complaints in 2016 does not include complaints that are the direct result of the online Privacy International campaign that followed the IPT's judgement in *Liberty/Privacy International (No 1) and (No 2)* [2014] UKIP Trib 13/77-H [2015] 3 All ER 142 and [2015] 3 AER 212. That campaign has led to 665 individual complaints in all against the Secret Intelligence Agencies (the SIAs). The Tribunal held an OPEN public hearing on 15 April 2016 to consider those complaints and the judgment that followed (dated 16 May 2016) can be found here: http://www.ipt-uk.com/docs/Human_Rights_Watch_FINAL_Judgment.pdf

To be a valid complaint it must be (a) within jurisdiction as set out by the Act, (b) generally referring to conduct taking place not longer than a year before the complaint², and (c) not deemed frivolous or vexatious.

In 2015 the IPT received 250 cases with an additional 368 cases as a result of Privacy International campaign, thereby increasing the yearly total to 618. In 2016 the IPT received 209 cases with an additional 297 cases as a result of the Privacy International Campaign, thereby increasing the yearly total to 506.

Figure 2 **Complaints Received over the last 10 years**



¹ That figure does not include complaints received as part of the Privacy International campaign that is referred to in the report.

² The IPT has a discretion to extend that time limit

Organisations to which complaints related in 2016

Figure 3 below give information about the types of organisations that were the subject of complaints during the last three years.

It is important to remember that the IPT Rules dictate that, in the absence of any express order of the Tribunal, any valid complaint received by the Tribunal must be investigated. The mere fact of an investigation or receipt of a complaint cannot therefore be seen as any indication of unlawful behaviour. Unlawful activity on the part of a public authority only arises if the Tribunal makes a ruling in favour of the complainant.

It is also worth noting that there is a tendency on the part of complainants who may suspect they are subject to intrusive powers, but are unsure about the public authority involved, to allege unlawful conduct against all public authorities with powers under the Act.

Finally it is to be noted that the figures below do not include the recent Privacy International campaign-related claims.

Figure 3 Organisations

Public Authority	2010 (%)	2015 (%)	2016 (%)
Secret Intelligence Agencies (MI6, MI5 or GCHQ)	30%	35%	35%
Law Enforcement Agency (LEAs) (Police Force, NCA)	32%	43%	44%
Local Authority	10%	12%	8%
Other Public Authority e.g. Department for Work and Pensions	28%	10%	13%

Hearings

In 2016 the IPT sat on 11 occasions in open court. Those OPEN *inter partes* hearings related to 4 complaints. In addition the Tribunal also sat in April 2016 to consider 10 complaints as representative of 663 complaints which were a direct result of the online Privacy International campaign referred to above.

Figure 4 Number of Complaints Received and Outcome by Year

Year	New Cases Received	Cases Decided	Decision Breakdown
2012	168	191	100 (52.5%) were ruled as 'frivolous or vexatious'
			62 (32.5%) received a 'no determination' outcome
			14 (7%) were ruled out of jurisdiction
			9 (5%) were ruled out of time
			5 (2.5%) were withdrawn
			1 (0.5%) were judged to be not a valid complaint
2013	205	161	85 (53%) were ruled as frivolous or vexatious
			50 (31%) received a 'no determination' outcome
			17 (10%) were ruled out of jurisdiction, withdrawn or not valid
			9 (6%) were ruled out of time
2014	215	201	104 (52%) were ruled as frivolous or vexatious
			53 (26%) received a 'no determination' outcome
			36 (18%) were ruled out of jurisdiction, withdrawn or not valid
			8 (4%) were ruled out of time
2015	251 ³	219	101 (47%) were ruled as frivolous or vexatious
			65 (30%) received a 'no determination' outcome
			38 (17%) were ruled out of jurisdiction, withdrawn or not valid
			7 (3%) were ruled out of time
			8 (4%) were found in favour
2016	209 ⁴	230	120 (52%) were ruled as frivolous or vexatious
			58 (25%) received a 'no determination' outcome
			26 (11%) were ruled out of jurisdiction, withdrawn or not valid
			11 (5%) were ruled out of time
			15 (7%) were found in favour

³ Plus 367 from the Privacy International worldwide campaign; 618 in total

⁴ Plus 297 from the Privacy International worldwide campaign; 506 in total

