

TOM WATSON MP



HOUSE OF COMMONS

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Dear Yvette

You will know how pleased I was when you announced in March that the oversight framework governing the intelligence agencies was unsustainable. I've been working to highlight this, and the failure of the coalition to provide any leadership or response to Snowden's disclosures.

Now, more than ever, when there's something to do - and it's in line with our clear vision - we must grab the bull by the horns.

The bull I have in mind is the ECJ's important recent decision on the 'wide-ranging and particularly serious' interference of the Data Retention Directive on 2 fundamental rights of British citizens, the right to privacy and protection of personal data.

As its name suggest, this Directive provides the basis for the Data Retention (EC Directive) Regulations 2009 ('DRRegs'). The DRRegs are a major plank of the apparatus used by the intelligence agencies. They require public communications providers to retain data for their use. Thanks to the Information Commissioner, we know there's institutional overuse of powers to request communications data. It's kept for too long, use is unclear and the records are a mess.



You probably know the ECJ decision demands we re-think the DRRegs. Technically, the DRRegs are now voidable. They should be repealed. It would be great to see Labour lead on this: the Home Office should be called to task. I've been told that several communications providers have been frantically seeking help from the Home Office on the effect of the ECJ decision. They too are looking for leadership.

Repeal of the DRRegs should come hand in glove with a debate on how they can best be replaced to allow the state to retain some data for limited periods and specific purposes - without offending the basic rights of British citizens. This must be subject to rigorous oversight. I would like to see Labour lead on this too. As you've rightly said, there must be informed debate on oversight of the intelligence services and the adequacy of RIPA. In the same way, we should be debating the retention of and use data by the agencies (and others).

The PM can't get away with assertions that the Information Commissioner has approved RIPA and the work of the intelligence agencies wholesale. He can't get away with non-legislative options, or nothing.

The ECJ decision is a good hook to move this debate forward. We can also use the Information Commissioner's and Home Affairs Committee's reports. There's no need to wait.

I suggest we call for immediate revision of the Acquisition and Disclosure of Communications Data Code of Practice. This may help cross the bridge in the shorter term.



I also think we should look at updating the old British-US Communication Intelligence Agreement as a parallel measure. We need to get on top of retention and use of UK data by partner intelligence agencies, as well as our own. An Addendum to this Agreement articulating principles for the collection, sharing and use of data may be the most diplomatic way forward. The Americans would be the first to understand. President Obama's first Director of Privacy Timothy Edgar, visiting Westminster last week, expressed the view that an updated or new agreement on data collection and use was 'a good idea'. We should take his lead. We're not like the coalition - paralysed into silence.

My suggestions support your policy absolutely - they follow the vision through. I hope they help.

In view of the potential manifesto opportunities, I am copying this letter to Jon Cruddas and Douglas Alexander.

Yours sincerely

A handwritten signature in black ink that reads "Tom Watson" with a horizontal line underneath.

Tom Watson
Member of Parliament for West Bromwich East