

Strengthening oversight of NZSIS and GCSB



DEPARTMENT of the
PRIME MINISTER and CABINET

Te Tari o Te Pirimia me Te Komiti Matua

Ensuring the agencies operate legally and properly and are held to account

The New Zealand Intelligence and Security Bill 2016

FACTSHEET NO. 9

What the Bill proposes

- Increasing the membership of the Parliamentary Intelligence and Security Committee (ISC) to between five and seven members.
- Requiring the Prime Minister to consult with the Leader of the Opposition before nominating members.
- Allowing the ISC to request that the Inspector-General of Intelligence and Security (IGIS) inquire into any matter about the intelligence and security agencies' compliance with the law and propriety of their activities.
- Preserving the independence of the IGIS from the New Zealand Security Intelligence Service (NZSIS), Government Communications Security Bureau (GCSB) and the responsible Minister/s and the Prime Minister in legislation.
- Clarifying that the IGIS may review the propriety and implementation of all warrants. This means oversight occurs before, during and after any activity.
- Permitting the IGIS to generally inquire into operationally sensitive matters. There is currently a restriction which, in practice, is not enforced.

The importance of oversight

Intelligence and security agencies are essential in a modern democracy to protect against security threats and to advance the interests of the nation as a whole.

However, the inherently secret nature of the agencies, along with their intrusive capabilities, means it is essential robust and independent oversight exists to ensure they act legally, properly and in a manner consistent with New Zealand's democratic values.

Through independent oversight, a balance is struck between the secrecy necessary for the agencies to operate effectively and the public's expectations of accountability and transparency.

For more information on why secrecy is necessary, see Factsheet 11.

Oversight bodies

In New Zealand, the main oversight bodies of the intelligence agencies are the IGIS and the Parliamentary ISC. The Bill proposes strengthening their existing oversight roles.

The ISC is the Parliamentary oversight committee for the intelligence agencies. It examines issues of effectiveness and efficiency, budgetary matters and policy settings.

The IGIS is a statutory officer providing independent external oversight and review of the intelligence and security agencies. The IGIS is responsible for reviewing issues of legality and propriety, which includes the agencies' compliance with human rights and privacy obligations.

Executive/Ministerial

- The Minister Responsible for the GCSB and Minister in Charge of the NZSIS oversees day-to-day business.
- The Attorney-General approves warrants.
- The Minister for National Security (Prime Minister) oversees the national security system and the National Security Committee of Cabinet provides Cabinet oversight.
- State Services Commissioner, as employer of the Directors-General.

Parliamentary

- The Intelligence and Security Committee (ISC).
- The agencies are required to brief the Leader of the Opposition.
- Legislative requirement to review the intelligence agencies every five to seven years.

How the oversight regime fits together

NZSIS and GCSB will operate within a strengthened oversight and accountability framework.

Judicial

- The participation of a panel of Commissioners of Intelligence Warrants (currently the Commissioner of Security Warrants) in the warranting process.
- The Courts.

Independent authorities

- Inspector-General of Intelligence and Security (IGIS).
- Privacy Commissioner.
- Ombudsman.
- Auditor-General.