

The delayed publication of the Russia Report demonstrates why reform is needed to preserve the Intelligence and Security Committee's independence



Events surrounding the publication of the Russia Report reveal as much about the poor state of the government's relations with Parliament's Intelligence and Security Committee (ISC) as those with Russia, writes **Andrew Defty**. He sets out an agenda for reform to restore the independence of the ISC and put relations between the government and the ISC on a more constructive footing.

At the end of the 21 July [press conference](#) to launch the Intelligence and Security Committee's long-delayed Russia Report, the new ISC Chair, Julian Lewis, observed that "the sooner normal relations are restored between this committee and the government the better it will be for all concerned." His follow-up comment, that the committee had not been informed about the government's written response to the report which was released to Parliament at the same time, suggests there is still some way to go.

Relations between the government and the Intelligence and Security Committee are in a parlous state. The seven-month delay in nominating members of a new committee following December's general election, along with the debacle over the election of the Chair and the subsequent withdrawal of the whip from the winning Conservative candidate, Julian Lewis, mark a low point in an already deteriorating relationship. Lewis is the second ISC Chair in succession to have the Conservative whip withdrawn by Boris Johnson, while the latest long delay in appointing the ISC [follows similar delays](#) after the 2015 and 2017 general elections. In the previous Parliament the ISC wound up two inquiries early because the government refused to allow the committee access to information it needed.

While the Russia Report has revealed some evidence of Russian interference in the UK, this episode has also revealed some worrying examples of government interference in the work of the ISC. If normal relations are to be restored, reforms are needed to the way in which the ISC is appointed and operates.

Set a deadline for establishing the ISC after a general election

It has taken [longer to establish the ISC](#) after the election than any other parliamentary committee and longer than after any previous election since the ISC was established in 1994. The ISC is a parliamentary committee and its members are appointed by Parliament. However, under statutory security arrangements, Parliament is asked to approve a list of nominations for membership drawn up by the Prime Minister in consultation with the Leader of the Opposition. This list was only put before the [House of Commons on 13 July](#) and the [House of Lords](#) the following day.

At last week's press conference, ISC Chair, Julian Lewis stated that:

This committee has been subjected to unprecedented delay and dislocation this really should never happen again.

Unfortunately, this is not the first time this has happened. Lewis's comments reflect those of his predecessor, [Dominic Grieve](#), following the five-month delay after the 2017 general election.

These long delays set a worrying precedent. In recent months a succession of government ministers have responded to parliamentary questions about the absence of the ISC by claiming that this is quite normal. If current bad practice is not to be used to justify future delay, a deadline should be mandated. There is a precedent for this in Canada where a parliamentary intelligence oversight committee, modelled in no small part on the ISC, was recently established. [Canadian legislation](#) states it must be set up within 60 days of Parliament sitting following a general election. Introducing a similar deadline to UK law is now perhaps the only way to ensure that the work of the ISC is not disrupted again.

Remove the Prime Minister's control over the timing of the publication of ISC reports

Legislation may also be required to prevent Prime Ministers from using the review process for ISC reports to manipulate the timing of publication. Pre-publication reviews are designed to remove material which would be damaging to national security. This involves a process of negotiation between the committee and the intelligence and security agencies. Once the agencies are happy that a report can be released, it is sent to the Prime Minister for confirmation before being laid before Parliament and published. While the Prime Minister does not have the power to further alter the content to remove material which might be politically embarrassing, this process gives the Prime Minister control over timing.

This was the source of a [fractious debate](#) between the ISC and the government prior to the general election. The Russia Report was sent to the Prime Minister on 17 October but was not cleared for publication by the time Parliament was dissolved on 6 November. The ISC claimed that it was standard practice for the PM to provide approval within 10 days (something which the government disputes) and on the [final day of the parliamentary session](#) several ISC members pressed the government to explain what possible reason the Prime Minister could have for withholding approval.

It is important that ISC reports should not undermine national security, so a process of review is clearly necessary. However, if the intelligence and security agencies are content there is no reason to add a further stage. Some mechanism must now be put in place to prevent Prime Ministers from manipulating the review process for political ends. It may be sufficient to write the 10-day turnaround for Prime Ministerial confirmation into the [memorandum of understanding](#) between the ISC and the government, although recent governments have not been shy of rolling back on commitments in this memorandum. A safer route may be a more substantive change to the statutory arrangements to state that in normal circumstances ISC reports can be published as soon as the intelligence and security agencies have completed their review. Provision could be made for the Prime Minister to intervene, but only if the ISC and the agencies cannot agree on redactions to reports.

Improve ministerial engagement with the ISC

One of the more startling revelations to emerge this week was from the ISC's [Annual Report for 2018–19](#), which was published at the same time. This revealed that the Prime Minister had not appeared before the Intelligence and Security Committee since December 2014. Prior to this, the committee notes, it had “met annually with the Prime Minister to discuss its work, report on key issues, and raise any concerns.”

The notion of ministerial accountability for the intelligence and security agencies is well established. The Prime Minister has a [statutory duty](#) to oversee the work of the intelligence and security agencies. While day-to-day responsibility for the agencies lies with a Secretary of State (in practice Home and Foreign secretaries), the heads of the agencies have the right of direct access to the Prime Minister and are required to report annually to the Prime Minister on their work. Moreover, as current events have made clear, the Prime Minister has considerable responsibility for the structure and functions of the ISC itself.

It is therefore surprising that in nearly five years no UK Prime Minister has found time to appear before the ISC. It is even more remarkable considering that two of the ISC's inquiries, on the mistreatment of detainees and lethal drone strikes, were carried out at the request of the Prime Minister. Restoration of annual meetings between the Prime Minister and the ISC will contribute to more effective oversight and may help to relieve some of the recent tensions between them.

Reinstitute annual parliamentary debates on the work of the ISC

It is also important that the committee enjoys a close relationship with Parliament and that its work is subject to parliamentary scrutiny. One consequence of the long delay in appointing the committee is that the Russia Report was published only days before Parliament's summer recess. The government has not provided any time for Parliament to debate the report and parliamentarians had to content themselves with a short debate in both Houses in response to urgent questions tabled by Opposition members.

In 1998 the Labour government introduced an annual House of Commons debate on the work of the Intelligence and Security Committee, followed in 2009 by annual House of Lords debates. These debates have fallen into abeyance in recent years, however. The last Commons ISC debate took place in 2010. The House of Lords held a debate on the work of the committee in [September 2019](#), but this was the first since 2011. Given that much of the ISC's work takes place behind closed doors, time should be made in the parliamentary calendar for an annual debate on what it does. Moreover, a Secretary of State should be made available to respond to these debates, as was previously the case, and not, as in response to [last week's urgent question](#), a Minister of State with no statutory responsibility for the intelligence agencies.

The ISC must fully transition to Parliament

One of the more worrying claims to emerge out of last week's brief House of Commons debate on the Russia Report was [Julian Lewis's suggestion](#) that the government had sought to make political appointments to the secretariat of the ISC. Although the source for this allegation is not clear, this is in keeping with this government's increasing reliance on special advisors including in the field of national security. In recent months the role of [Prime Minister's National Security Advisor](#) was removed from the Cabinet Secretary and given to a political appointee. [Reports](#) have also emerged of the Prime Minister's special advisor, Dominic Cummings, reviewing Britain's national security infrastructure.

As a parliamentary committee the ISC should be immune from this kind of interference. However, despite becoming a parliamentary committee in 2013, the ISC has never fully transitioned to Parliament. The committee continues to meet on government premises and its secretariat is drawn from the Cabinet Office rather than parliamentary staff.

The boundaries which exist between Parliament and government are much stronger than those between the civil service and the executive in Whitehall. Although transition to Parliament would not be without potential drawbacks, as the ISC has been relatively well-resourced in recent years and draws upon expertise from within the intelligence community, arrangements could be made to ensure that the committee is still funded by the government. The ISC, like other parliamentary committees, would then be free to draw on outside expertise. In the interests of enhancing the credibility of the ISC and protecting its independence, the time has surely come for the ISC to transfer fully to Parliament.

Intelligence service accountability is a necessary feature of a healthy democracy, and an independent parliamentary oversight committee is central to providing democratic accountability. The ISC has an essential role in ensuring the UK's intelligence agencies are effective in protecting national security. It also ensures that the intelligence agencies are not subject to political pressure. As both the content and process for publishing the Russia Report suggest, protecting the independence of Britain's parliamentary institutions, including the ISC, should now be a priority both for government and Parliament.

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