

# The delay in appointing a new Intelligence and Security Committee threatens to undermine its work before it has even begun

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By Democratic Audit UK

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*In February of this year, the then-Chair of the Intelligence and Security Committee (ISC) – the body which oversees the UK's three main intelligence agencies – was caught in a journalistic sting operation. Since then, the ISC seems to have been inactive. It is now two months since the General Election and the Government (who take the lead in ISC membership nominations) have also been inactive in beginning the nomination process. **Andrew Defty** argues that the delay threatens to undermine the important work of the ISC at a critical time before it has even begun.*



It is more than two months since the general election and new Intelligence and Security Committee (ISC) has yet to be appointed. The delay in appointing the new committee is beginning to raise eyebrows, and questions, in Parliament and beyond. Last week, Fiona Mactaggart, who served on the ISC in the last Parliament asked the Leader of the House, Chris Grayling, whether the membership might be finalised so that the committee could meet before the summer recess. His reply that it was his ['hope and expectation that that would happen as soon as possible, and hopefully before the summer recess'](#), does not inspire confidence.

It is not entirely clear why the appointment of a new committee is taking so long, but the process of appointing ISC members changed in the last Parliament, and it also appears to have become bound up with the appointment of select committees which has preoccupied Parliament in recent weeks. Since the election a short note on the [ISC website](#) has noted that:

*...following the 2015 General Election, Parliament has yet to appoint Members to the ISC. It is expected that this will occur in a similar time frame to, or shortly after, appointments have been made to Departmental Select Committees in the House of Commons.*

During the last Parliament changes were made to the process for appointing members of the ISC. In the past, the committee and its Chair were appointed by the Prime Minister, after consultation with opposition leaders, shortly after each general election. Under changes introduced in the [Justice and Security Act 2013](#), members are now appointed by Parliament. However, unlike select committee members who are elected from the whole House, members of the ISC must first be nominated by the Prime Minister, after which Parliament approves their membership. Although this process was followed for the appointment of two [new members in the last Parliament](#), this will be the first time that Parliament has been asked to approve the whole committee, and the first time that the ISC has selected its own Chair.

The process to some extent mirrors that for appointing members of parliamentary select committees, which was also modified in the last Parliament, so that select committee Chairs are elected by a secret ballot of all MPs, while individual parties must now hold elections for their allocation of select committee members. Although both processes are part of a shift towards giving Parliament more say over the composition of its committees, the different approaches reflect the Government's (and perhaps the agencies) desire to retain some control over appointments to the ISC.

The distinction between the ISC and the parliamentary select committees is also reflected in the timing of appointments to the committee. While parliament has spent much of the last month finalizing the membership of select committees, it is clear that the Government has decided that appointments to the ISC should wait until that process is over. There may be good reasons for this. The government would not want to be seen to deny select committees access to some MPs by effectively having first choice of MPs for membership of the ISC. Something which might also lead to parliament vetoing ISC members if it was felt their talents would be better placed elsewhere. It also means that MPs who are unsuccessful in seeking appointment to a select committee can still find a role on the Intelligence and Security Committee.

However, the situation is somewhat unsatisfactory, for a number of reasons. By delaying appointments to the ISC until after the appointment of select committees there is a risk that the ISC is viewed, in Parliament and beyond, as a second tier committee, less important than other parliamentary committees. As a result of the tendency to appoint former Ministers to the ISC, membership of the committee has in past, rightly or wrongly, acquired the reputation of being a compensation for departing Ministers. It would be regrettable if as a result of the current arrangements, the ISC were now viewed as comprising members who were unsuccessful in securing select committee membership.

There may also be more pressing reasons why a new Intelligence and Security Committee should be in place soon. As the committee has itself observed, intelligence is an area in which few parliamentarians have much experience and membership of the ISC comes with a steep learning curve. For this reason, following each election the newly appointed ISC has usually comprised a combination of new and existing members. With the departure from Parliament of three members of the previous committee including its Chair, and the resignation of a fourth shortly before the general election, at least four of the nine members of the ISC will be new appointees. There will be much to learn not least about the way in which the committee operates, before the serious business of intelligence oversight can begin in earnest.

The relative inexperience of the new committee may be compounded by the need to hit the ground running. As is clear from the reported cases of UK citizens travelling to Syria to fight with ISIS and the recent terrorist attack in Tunisia, the UK is facing an ongoing terrorist threat with significant implications for the work of the intelligence and security agencies. Yet there is, at present, no parliamentary oversight committee in place to assess the agencies' capacity to meet that threat. This is not the first time that this has been the case. Delays in making appointments to

the ISC have, in the past, left the committee struggling to keep up with events. Most notably following the 2005 general election when a new committee was not appointed until the 12th July, several days *after* the 7/7 terrorist attacks in London.

The situation has been made worse this year because it appears that the previous ISC effectively stopped working in February. On 24<sup>th</sup> February, Sir Malcolm Rifkind resigned as Chair of the ISC, following 'cash for access' allegations arising from an investigation conducted by *The Daily Telegraph* and *Channel 4*. On the same day, in what might be viewed as a fit of pique, the ISC issued a statement that as there were '[no further formal meetings scheduled before the prorogation of Parliament](#)', it would not be appointing a new Chair. Although the ISC published two reports after this date, both of these were completed before Sir Malcolm's resignation, and it is far from clear that the committee has met at all since that date. The committee's press releases certainly suggested it was not intending to.

This in itself is somewhat unsatisfactory. ISC members frequently claim that the committee is one of the hardest working parliamentary committees. It meets on a weekly basis when Parliament is sitting. In addition to its set-piece inquiries such as those published towards the end of the last Parliament, it also oversees the administration, expenditure and policy, and since reforms introduced in 2013, the operations, of the three intelligence and security agencies and the wider intelligence community. While the publication of its 'Privacy and Security' report marked the end of a significant and to some extent ground-breaking inquiry for the ISC, it seems odd that the committee would decide that it had no further work to do for the remainder of the Parliament. While the ISC does not comment on every intelligence issue which comes to public attention, ISC members claim that it keeps a watching brief on what is going on and any significant intelligence issue which attracts the attention of the public and the media, and many which do not, are subject to scrutiny by the committee.

More significantly, the ISC does have unfinished business. In December 2013 the Prime Minister asked the ISC to pick up the work of the so-called 'Detainee Inquiry', chaired by the retired judge, Sir Peter Gibson, into whether Britain was implicated in the ill-treatment of detainees by other countries. In response to this additional work-load the committee [requested](#), and received, additional resources to enable it to continue the work of the detainee inquiry alongside its other inquiries into the murder of Fusilier Lee Rigby and the *Privacy and Security* inquiry. While the latter two inquiries were completed in the last Parliament the detainee inquiry remains in the ISC in-tray. Therefore, far from reaching the end of its work in February 2015 the ISC had at least one on-going inquiry. It is disappointing that this was not scheduled for consideration in the remaining weeks at the end of the last Parliament, and that the time taken to appoint the new committee has delayed it further.

There may, of course, be a number of reasonable explanations as to why the ISC has not yet been appointed and it may also be the case that the committee was not in a position to make progress with the detainee inquiry at this time. Nevertheless, the very existence of a parliamentary intelligence oversight committee which meets on a regular basis and which may at any point seek explanation or clarification about the conduct of the intelligence and security agencies is central to providing democratic legitimacy to the agencies and the government's use of covert powers. The government's tardiness in seeking to appoint a new Intelligence and Security Committee threatens to undermine the capacity and credibility of the new ISC before it has even begun its work. Insofar as the role of the committee is to monitor the effectiveness of Britain's intelligence and security agencies it may even be damaging to national security.

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