

**STATEMENT**

Statement of: William A Butler

Occupation: Chief Executive: Security Industry Authority

This statement consisting of seventeen pages signed by me is true to the best of my knowledge and belief.

**Leveson Inquiry into the culture, practices and ethics of the press**

1. I, William A. Butler of the Security Industry Authority, London WC1V 6WY (SIA), make this statement in response to the request of Lord Justice Leveson under section 21(2) of the Inquiries Act 2005.
2. Since 27 July 2009 I have been employed in the position of Chief Executive at the SIA. I previously held the post of Director of Corporate Services at the Gambling Commission, where I was part of the team that led the establishment of the new regulator for the gambling industry. I have also worked in a number of other large national organisations, including the Audit Commission - where I

qualified as an accountant and held a number of roles, including Regional Director for Central England and Director of Health - and the Healthcare Commission as Finance Director. I hold a degree in Law and am a member of the Chartered Institute of Public Finance and Accountancy.

3. I make this statement in my role as Chief Executive of the SIA. Save where otherwise stated, I do so from my own knowledge or from information and documents made available to me by the SIA. The facts set out in it are true to the best of my knowledge and belief.

#### **The Security Industry Authority**

4. The SIA is a statutory body established by the Private Security Industry Act (PSIA) 2001, as amended. The SIA is the organisation responsible for regulating the private security industry. It is an independent body reporting to the Secretary of State for the Home Department (SSHHD), under the terms of the PSIA. Its mission is to regulate the private security industry effectively, to reduce criminality, to raise standards and recognise quality service. Its remit covers the United Kingdom.
5. The SIA is not responsible for the development of central Government policy regarding the private security industry: this is the responsibility of the SSHHD. The SIA advises and assists the SSHHD in the development of such policy as requested and in accordance with its functions.

6. The SIA has two main duties. One is the compulsory licensing of individuals undertaking designated activities within the private security industry; the other is to manage the voluntary Approved Contractor Scheme, which measures private security suppliers against independently assessed criteria.
  
7. Licensing ensures that private security operatives are 'fit and proper' persons who are properly trained and qualified to do their job.
  
8. Our Approved Contractor Scheme introduced a set of operational and performance standards for suppliers of private security services. Those organisations that meet these standards are awarded Approved Contractor status. This voluntary accreditation provides purchasers of private security services with independent proof of a contractor's commitment to quality. There are currently 714 security companies with approved contractor status across the United Kingdom.
  
9. Manned guarding (which comprises security guarding, door supervision, close protection, cash and valuables in transit, and public space surveillance using CCTV), key holding and vehicle immobilising are currently designated as "designated activities" under the Private Security Industry Act 2001 (Designated Activities) Order 2006 (as amended). This means that a licence is required to carry out these activities. The cost of an SIA licence is currently £245 per three year licence (this figure is reviewed annually and multiple licences held by the

same individual cost half that amount). As at 11 October 2011 there are 366,617 valid licences.

10. Total turnover for the SIA in 2010/11 was £29.3m and the organisation operates on a cost recovery basis through the fee charged for issuing individual licences (as well as participation in the voluntary Approved Contractor Scheme). In 2010/11 the SIA employed 216 staff based remotely or at the corporate headquarters in London. This does not include personnel employed by the SIA's managed service provider (based in Liverpool) which processes non-exceptional licence applications and handles the bulk of licence-related telephone and e-mail inquiries.

11. The PSIA allows other sectors of the private security industry to be brought into regulation as designated activities by order made by the SSHD in consultation with Scottish Ministers and the Department of Justice in Northern Ireland. Other sectors where the PSIA allows regulation includes private investigations, but the SSHD has not yet ordered that private investigations be designated a "designated activity" and private investigations are not therefore currently subject to regulation by the SIA.

12. Our mission is to be an effective, fair and efficient regulator of the private security industry. We are committed to the principles set out in the Legislative and Regulatory Reform Act 2006 and to the Regulators' Compliance Code, a statutory code of practice for regulators.

13. This means our regulatory activities are targeted only where action is needed and we carry these out in a way that is transparent, accountable, proportional and consistent.

- **Targeted** - we use the National Intelligence Model to identify non-compliance and target our resources appropriately.
- **Transparent** - we follow government best practice in the development of any policies or services. Where it is appropriate to do so, we work with the Home Office to conduct Regulatory Impact Assessments.
- **Accountable** - we consult with our stakeholders to ensure that they have the opportunity to be involved in our decision making.
- **Proportional** - we operate an enforcement process that is proportionate to the degree of non-compliance encountered.
- **Consistent** - we check every licence application against the same set of published criteria, ensuring that our licensing decisions are fair and consistent.

#### The Board

14. The SIA Board currently has five non executive members and four executive members and is chaired by Baroness Ruth Henig CBE.

#### The Executive

15. The Executive function comprises three directorates and the Finance and Business Planning team, which reports directly to me. The three directorates are:

- Service Delivery;
- Compliance, Intelligence and Communication;
- Transition.

16. Each directorate is composed of smaller teams that are responsible for specific areas of our day-to-day operations.

17. The PSIA does create a number of offences relating to the licensing of individuals and the Approved Contractor Scheme, which enable failure to comply with particular requirements to be addressed. Should further information be required or be of interest in this regard it can be provided to the Inquiry.

18. Where an offence is committed by a body corporate and is committed with the consent or connivance of, or attributable to, any neglect on the part of a director, manager, secretary or other similar officer of the body corporate, then that person is guilty of the offence and can be punished accordingly.

19. An offence under section 17 of the PSIA can only be committed if it is made compulsory for private security companies to be approved under our Approved Contractor Scheme. The PSIA does allow for this, but there are no plans for that part of the PSIA to be brought into effect.

20. We have a range of sanctions for non-compliance available to us (these include the issuing of written warnings and improvement notices for non-compliance, and

the revocation or suspension of licences). We may take mitigating factors into account when deciding what action to take (including but not limited to):

- The time elapsed since the activity became licensable.
- The progress an individual has made towards getting or renewing a licence e.g. training completed, licence application submitted.
- The progress a company has made towards getting its workforce licensed e.g. proportion of staff licensed, proportion of staff trained and proportion of staff who have submitted a licence application.
- The availability of training to achieve the qualification for licensing.
- Previous encounters with or warnings given by the SIA or other agency.
- Any other factor that we think is relevant in the circumstances.

21. The weight given to any of these factors will be dependent on all the circumstances of the particular case.

22. Regulation of the Private Security Industry was introduced from April 2004, using a geographical roll out, and starting with the Door Supervision sector with other sectors following on over the next few years. The regime was introduced in Scotland from 2007 and Northern Ireland from 2009. Arrangements for Scotland and Northern Ireland are fully devolved to the respective governments.

**Current position in relation to the licensing and/or regulation of private investigations**

23. Paragraph 4 of Schedule 2 of the PSIA defines the activity of Private Investigations that fall within the scope of SIA regulatory powers.

24. It is perhaps useful at this stage to highlight sub-paragraph 4(6) of Schedule 2 which states:-

*6) This paragraph does not apply to activities carried out for the purpose of obtaining information exclusively with a view to its use, or the use of information to which it relates, for the purposes of or in connection with the publication to the public or to a section of the public of any journalistic, literary or artistic material or of any work of reference.*

25. Paragraph 25 of the Explanatory Notes to the PSIA explains that the effect of sub-paragraph 4(6) is that “the professional activities of journalists and broadcasters” are excluded from the scope of private investigations for these purposes. Therefore the SIA’s understanding is that even if private investigations under paragraph 4 of Schedule 2 PSIA were to become “designated activities” for the purposes of the PSIA and subject to regulation, the general activities of journalists would still not be regulated by the SIA.

#### Private Investigations Regulation Chronology

26. The SSHD has not yet designated private investigations a “designated activity” for the purpose of the PSIA and private investigations are not therefore regulated by the SIA. However, the SSHD has asked the SIA to assist in developing policy in this regard over the past few years as the SSHD has considered so

designating private investigations. It is worth noting (and this will be elaborated on below) that although there was an intention to regulate private investigations, this did not happen for practical reasons and has latterly been superseded by the review of private security industry regulation as a whole.

27. In line with the approach taken for other industry sectors, informal consultation activity was undertaken by the SIA during 2005 and 2006 with individuals and representatives working within the private investigations sector to ascertain views on the designation of private investigations under the PSIA. Although the responses gathered during this process are not formally documented, the views and perspectives captured were reflected in the formal consultation document that followed.

28. On 1 August 2007 a formal consultation document (no. 4 on the list of supporting documents) was published by the Home Office, presenting the options for licensing the private investigations sector. Responses were invited from existing stakeholders, organisations and individuals with an interest and the wider public over a 12 week period between 1 August and 24 October 2007.

29. Following the conclusion of the consultation, an analysis of the responses (no. 5 on the list of supporting documents) was published by the Home Office in May 2008 which indicated a consensus in favour of the preferred option for competency based licensing of the sector.

30. In line with better regulation principles and procedures, the publication of responses was followed by more detailed consideration of the costs, benefits and impacts of competency based licensing (the preferred option) This was approved by Ministers and published by the Home Office as an Interim Impact Assessment in September 2008 (no. 6 on the list of supporting documents).

31. In March 2009, following the publication of the Interim Impact Assessment, the Home Office and SIA agreed that licensing private investigations would be a priority (alongside business licensing and regulation of enforcement agents).

32. In September 2009, following a comprehensive consideration of options and timescales the SIA did not consider that it would be feasible to introduce regulation in 2010 for the following reasons; the SIA informed the Home Office of the same:

- there would not be sufficient training availability and capacity to allow individuals to obtain the required qualification for licensing;
- the Home Office required a revised Impact Assessment; and
- it would coincide with the proposed re-tender of the SIA Managed Service Provider Contract for its licensing services and the SIA would not have sufficient resources to handle the introduction of additional licensed sectors.

33. On 22 October, 2009, the Chair and I met with the then Minister and the need to address regulation of the Private Investigation sector was raised. Consequently

licensing of the private investigations sector was provisionally re-scheduled for 2011 or 2012. This was endorsed by the Home Office following its inclusion in the SIA's Corporate and Business Plan (no. 12 on the list of supporting documents).

34. The project was re-launched by the SIA in February 2010 with a planned *Open for Business* (i.e. able to accept applications from individuals) date of April 2011 and an *Enforcement* date of October 2011.

35. Independent research was also commissioned in March 2010 (no. 11 on the list of supporting documents) to ascertain a more up to date estimate of the licensable population for the sector and the SIA began to make practical preparations in anticipation of private investigations becoming subject to regulation.

36. Following the announcement of the May 2010 General Election, there was a general instruction from the Cabinet Office not to make any public announcements regarding new policy developments because of pre-election Purdah. This included the future regulation of private investigations.

37. The moratorium on public announcements was maintained following the formation of a new government to allow time for discussions with new Ministers on policy priorities.

38. This situation remained unchanged until September 2010 when, with future progress on the project becoming impossible without further Home Office

involvement, the decision was made by the SIA to suspend all SIA activity related to the licensing of private investigations.

39. Following the *Arms Length Bodies Review*, published in October 2010, the Government announced its intention that regulation of the private security industry would no longer lie with an NDPB and that there would be a “*phased transition to a new regulatory regime*”.
40. At the request of Ministers, the SIA has since led work to develop a framework for the new regime, working closely with the industry through a Strategic Consultation Group, conferences and forums and with other stakeholders and officials in the Home Office and the devolved governments of Scotland and Northern Ireland.
41. The Government accepted the framework for new a regulatory regime proposed by the SIA in early 2011 and announced that new legislation will be introduced at the earliest opportunity to abolish the SIA in its current form and introduce a new regulatory regime for the private security industry.
42. The new regime’s primary focus will remain the protection of the public through regulating to support the existence of a fit and proper industry. Regulation will focus on business licensing, but a register of individuals approved to work in the industry will be maintained. The intention is that the new regime should recognise developments in the industry since the introduction of the current regime,

including the increasing maturity of the industry, and build on the considerable investments already made.

### **Current position in relation to the future licensing and/or regulation of private investigations**

43. The Government announced last October that there will aim to be a phased transition after the 2012 Olympic and Paralympic Games from the SIA to a new independent regulatory regime for the private security industry, which will place a greater focus on licensing businesses as opposed to licensing individuals. It would be open to the SSHD to consider whether any regulation of private investigations brought into force before the transition to the new regime could be included in the transition to the new regime, as could any provisions specific to the new regime.

44. If a new regime were to include regulation of private investigations this could take into account the recommendations made by the Information Commissioner at paragraph 7.13 of his report entitled 'What Price Privacy' (no. 13 on the list of supporting documents) that recommends 'including a caution or conviction for a section 55 offence [section 55 of the Data Protection Act 1998, Unlawful obtaining etc of personal data] among our grounds for refusing or revoking the licence of a private investigator'..

45. This issue could also be considered in light of the additional criteria and controls that may be available to the new regulator if transition follows current plans and

introduces business licensing for any business providing services in a designated sector.

46. To assist the Inquiry, I enclose the following documents and publications that relate to the SIA's licensing functions in general, and to the work undertaken in respect of private investigations.

#### General

1. **Get Licensed: April 2010.** The Get Licensed publication is the document required under Section 7 (1) of the PSIA which sets out the criteria which the SIA proposes to apply in determining whether or not to grant, revoke or modify a licence. It is a brochure which is aimed at security suppliers and individual applicants and outlines who needs a licence, details of our criminality criteria and how to apply for a licence.
2. **Enforcement Policy Code of Practice: August 2011.** This booklet explains what SIA investigators and others authorised under section 19 of the Private Security Industry Act 2001 can and cannot do. It also explains the responsibilities and rights of regulated entities when encountering SIA action.
3. **A New Regulatory Regime: September 2011** This paper sets out the Security Industry Authority (SIA) suggestions for a new regulatory regime in support of the Government's intention for the private security industry. These suggestions reflect the consultations conducted with industry and other stakeholders, the SIA's own research and experience of regulating the industry.

Private Investigations

4. **Partial RIA: Regulations to Implement the Private Security Industry Act 2001 in respect of Private Investigation and Precognition Agents: August 2007.** This is the formal consultation document which presented four options for regulating private investigations (as well as precognition agents) including: do nothing; an alternative to regulation; licensing with no competency criteria; and licensing with a competency criteria.
5. **Responses to the RIA as published by the Home Office: May 2008.** This document is the post-consultation report for the consultation paper, Regulations to Implement the Private Security Industry Act 2001 in respect of Private Investigation and Precognition Agents. It covers: the background to the report; a summary of the responses to the report; a detailed response to the specific questions raised in the report; and the next steps following this consultation.
6. **Interim Impact Assessment: September 2008.** This paper sets out the detailed consideration of the costs, benefits and impacts of competency based licensing (the preferred option) which was approved by Ministers and published by the Home Office
7. **SIA News releases:**
  - a. "RIA for PIs and PAs published" 1 August, 2007. This news release announced the publication of the formal consultation document and signalled the beginning of the consultation period.
  - b. "SIA publishes interim PI-PA report" 2 September, 2008. This news release announced the publication of the Interim Impact Assessment.
8. **External Presentations.**

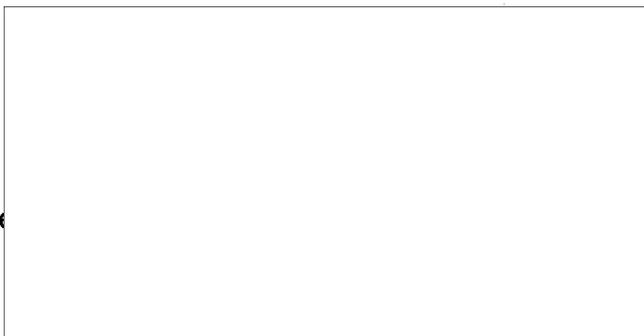
- a. "Licensing Private Investigators" Presentation to NHS Counter Fraud Investigators" June 2009. This presentation was made at the invitation of the NHS Counter Fraud Investigators.
9. **Board Papers:** these are papers containing recommendations to the SIA Board regarding the timing of regulation of private investigations
- a. "PI-PA Board Paper" September 2009 re feasibility of licensing in 2010
  - b. "PI-PA Board Paper" April 2010 re feasibility of licensing in 2011
10. **Private Investigations Project Board Minutes:** these are minutes of the meetings of the Project Board responsible for implementing the project to regulate private investigations (which featured representation from the Home Office, the Scottish and Northern Ireland governments).
- a. 19 February, 2007
  - b. 2 July, 2007
  - c. 4 September, 2007
  - d. 17 October, 2007
  - e. 19 December, 2007
  - f. 28 May, 2008
  - g. 29 August, 2008
  - h. 19 June, 2009
  - i. 11 June, 2010
11. **Scoping the Private Investigators Market (April and June 2010):** This contains the findings of SIA commissioned independent research into the licensable population and characteristics of the private investigations industry. The research is in two parts due to the intervention of Purdah in relation to the 2010 General Election.

**12. Corporate and Business Plan 2009/10 to 2011/12:** This document sets out the Security Industry Authority's three year corporate and business plan including its aims and objectives as they were at the beginning of the 2009 /10 financial year as well as key performance indicators, budgets and financial plans.

**13. What Price Privacy:** This is the Information Commissioner's 2006 Report into the unlawful trade in confidential personal information.

Should the Inquiry require any further information on the matters contained in this statement I would be willing to assist in this regard.

Sign



Date

19/10/11