

Letter to the UK Prime Minister, Rt Hon Boris Johnson, Prime Minister

Rt Hon Boris Johnson MP
House of Commons
London
SW1A 0AA

20 May, 2020

Dear Rt Hon Boris Johnson MP,

The COVID-19 pandemic has hit the United Kingdom (UK) hard. We now have the highest death toll in Europe since the emergency began. And yet the Government seems to be drifting towards authoritarianism and technological solutionism rather than measures that will truly help to protect people and save lives, while continuing to uphold their human rights.

In the space of a few weeks, the UK Government has implemented and proposed measures, which will have serious impacts on people's rights now and in the future.

The exceptional powers under the UK Coronavirus Act have changed the relationship between the state and the public. These included weakening safeguards against pervasive surveillance and changing the process for issuing surveillance warrants. The Investigatory Powers Commissioner has appointed temporary Judicial Commissioners who have the powers to approve warrants signed off by a Secretary of State. The Act also changed the length of time that Judicial Commissioners can give ex post facto authorisation of warrants from three to 12 days. The Act gives the police and immigration officials the power to detain people who they suspect are infected with coronavirus. Protections under the Mental Health Act have been weakened. The Bill also effectively removed the right to assembly; although some restrictions on gatherings are legitimate to limit the spread of coronavirus, it is unacceptable to limit the right to protest in such an excessive way as under the Act.

Moreover, the Government recently proposed to increase the number of public institutions that can access communications data collected under the Investigatory Powers Act. In a [memorandum published](#) alongside the proposed changes, the Government argues that the changes are necessary because the five public bodies that will be able to access the data "are increasingly unable to rely on local police forces to investigate crimes on their behalf." However, it is not clear why this is the case and whether this relates to police forces being occupied with enforcing new regulations related to the coronavirus pandemic. Therefore, the proposal uses the pandemic to set course for mission creep with minimal scrutiny.

The drift towards a surveillance state does not stop with regulatory proposals but expands to policy initiatives too. The current trialling of a coronavirus contact tracing app on the Isle of

Wight poses various risks for human rights. As noted by the Joint Committee on Human Rights (JCHR), the existing legal framework is inadequate to protect people from misuse of their data; therefore, if the Government wants to deploy contact tracing apps, Parliament has to quickly issue an adequate legal framework that guarantees users' human rights protection. In addition, contrary to [some recommendations](#), the app the Government is trialling uses a centralised model for the collection, processing and storage of users' data. The centralised recording of data could facilitate mission creep; there is no guarantee that the Government will not add additional tracking features or later use the data for purposes other than Covid-19 tracking. Of particular concern is the fact that the National Cyber Security Centre and GCHQ will have the capacity to (re)identify the phones of people who have installed the app. Based on the UK Government's track record on surveillance, we consider these risks to be real.

In March, it was announced that the Department for Digital, Culture, Media and Sport would lead a 'Counter Disinformation Cell' whose remit would, "combat false and misleading narratives about coronavirus". We understand that the Rapid Response Unit, set by the Government in April 2018, is currently supporting the work of the Counter Disinformation Cell, including working with platforms "to remove harmful content". However, the activities of both teams remain unclear. While the Government has a responsibility to address misinformation about coronavirus, we need to ensure that freedom of expression is not disproportionately restricted during this time. The sharing of information, analysis and ideas is vital for public engagement and trust. The Government must be transparent about any initiatives in this respect and ensure that any restrictions on freedom of expression are narrowly drawn and strictly necessary and proportionate to legitimate aim of protecting public health.

In April, the Information Commissioner's Office (ICO) announced that it will be flexible around enforcing Freedom of Information obligations and has told requesters that they might experience delays when making information requests during the pandemic. This has consequences for transparency at a time when it is most needed. For example, an FOI request made on April 3 for more information about patient data-sharing deals between the UK Government and tech companies has not received a substantive reply. During a public health emergency, it is vital the Government publishes and shares official data in order to encourage public debate, promote transparency and ensure accountability. However, a lack of transparency around public procurement means that there is no information publicly available about, for example, which businesses are being supported by the Government and which companies are getting subsidies or loans.

Finally, the Government needs to ensure that whistleblowers are fully protected, especially during this time. It has been reported that NHS and social care organisations have discouraged and even gagged care professionals from discussing problems around access and use of personal protective equipment (PPE).

We believe that all these measures constitute a dangerous authoritarian drift towards a surveillance state that violates the international framework on human rights and abandons democratic values and rule of law. This is an attack on the very foundations of UK democracy. These are practices that should never be accepted, not even during a public health emergency.

We call on the UK Government to stop using the pandemic as an opportunity to acquire ever increasing powers to surveil people. Instead, we urge the Government to commit to uphold human rights; provide clear, comprehensible and easily accessible information about all the measures adopted, in respect of open democracy and rule of law; and be fully accountable about measures it takes to tackle this pandemic.

Signed by:

Brett Solomon, Executive Director, Access Now
Quinn McKew, Acting Executive Director of ARTICLE 19
Silkie Carlo, Director of Big Brother Watch
Martha Dark, Director, Foxglove
Phil Booth, Coordinator, medConfidential
Mary Fitzgerald, Editor in Chief, openDemocracy
Jim Killock, Executive Director, Open Rights Group
Gus Hosein, Executive Director, Privacy International
Dr Paul Bernal, Associate Professor of IT, IP and Media Law, UEA Law School
Owen Blacker, digital rights activist
Andy Phippen, Professor of Digital Rights at Bournemouth University

Copied to:

Rt Hon Matt Hancock, Secretary of State for Health and Social Care
Rt Hon Priti Patel, Home Secretary
Rt Hon Oliver Dowden, Secretary of State for Digital, Culture, Media and Sport