

OPEN RIGHTS REPORT AND ACCOUNTS

31 OCTOBER 2020



ABOUT ORG

Open Rights Group (ORG) is a UK based digital campaigning organisation working to protect fundamental rights to privacy and free speech online. With over 3,000 active supporters, we are a grassroots organisation with local groups across the UK.

Our work on data protection and privacy includes challenging the immigration exemption to UK data protection law, defending the General Data Protection Regulation (GDPR) from attempts to water down its provisions, and challenging uncontrolled and unlawful data sharing by online advertisers.

openrightsgroup.org

COMPANY INFORMATION 31 OCTOBER 2020

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Owen Blacker (resigned 9 November 2020)
John Elliott (resigned 9 November 2020)
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🔒 nhsx.nhs.uk



Menu

NHS COVID-19 App

Technology has the potential to save lives and to help the country deal with the COVID-19 pandemic.

REPORT OF THE BOARD OF DIRECTORS

The Directors of the company present their annual report for the year ending 31 October 2020.

The Directors would like to thank our members, supporters, donors and grantors who made our important work possible. The Directors would also like to thank our staff, volunteers, members of our local groups and Advisory Council for their hard work, support, tremendous knowledge and world-class expertise.

OUR OBJECTIVES, MISSION, AND ACTIVITIES

We challenge:

- Threats to privacy by both the government through the surveillance of our personal communications, and by private companies, which use our personal data in opaque and secretive ways.
- Threats to free speech through the criminalisation of online speech, online censorship and restrictive copyright laws.
- We work to protect and extend human rights and civil liberties which history tells us are often overlooked or eroded during periods of rapid change.
- Our activities include public education and awareness raising, constructive engagement in policy making using our expert research, campaigning and, where necessary, legal interventions.

Our values:

- **We believe in human rights;**
- **Our work is based on evidence;**
- **We are accountable to our supporters, and operate with integrity;**
- **We believe in the importance of empowered people defending digital rights**



INTRODUCTION

Our work must be accessible and inclusive. This was a challenging year for ORG, as the Covid crisis caused us to rapidly shift the focus of our work and deal with a government that both scaled up the use of personal data in the fight against the pandemic and dismissed privacy safeguards in data protection as “bureaucracy”. Nevertheless, we were able to refocus our work quickly and effectively.

In practical terms, we were able to adjust more easily than most, as we had already migrated to remote working; have a loyal supporter base who stuck with us despite the financial challenges; and also have very supportive funders who allowed us to adjust our immediate goals. We would like to thank everyone who has helped us through this difficult time in order to concentrate our attention on a government that continued to prove that it does not respect people’s privacy rights.

The period also deals with the first impacts of Brexit. The Government raised the prospect of damaging trade agreements

that would undermine data protection rights. It began to discuss its ambitions to change our privacy framework. These are going to be threats that, if realised, will increase unfair discrimination and social exclusion and fuel inequality; data protection is the first bulwark against the abuse of data by governments and corporations. We remove protections at our peril – how we use data is not simply a business opportunity, but a decision that forces us to choose the kind of society we want.

The combination of Brexit and the pandemic also undermined the efficacy of our data protection regulator, the Information Commissioner. The Commissioner paused investigations, and failed to hold the Government to account over repeated abuses of data during the pandemic. We challenged the Government on the unsafe operation of Test and Trace, which they were forced to admit had received no data protection impact assessment (DPIA). We helped co-ordinate a group of MPs to express their concern about the ICO’s lack of action regarding the Government’s abuse of data.

The ICO also attempted to ‘close’ the complaint filed by executive director Jim Killock and Dr Michael Veale against the abuses of the AdTech industry, who share massive amounts of personal data in an unsafe and uncontrolled manner. While the ICO investigated our complaint and found that the industry is operating unlawfully, it refused to take action, instead closing our complaint without a resolution. As a result, we are taking the ICO to the Information Tribunal.

Our AdTech work extended to Europe in 2020, as we collaborated as part of a coalition to challenge AdTech in the European courts. This resulted in many new complaints being filed, as well as the opening of a case against IAB Europe in Belgium, parallel to our UK complaint. We also worked with publishers and AdTech experts to better understand how the industry is evolving, and studied the impact on AdTech of new ePrivacy regulations, which unfortunately are not as strong as they should be.

In 2020, we were also able to begin to address some of the threats that digital technology and policies impose on vulnerable communities. We started a project with immigration organisations to help them understand and evaluate the new threats and impact of digitisation. We were drawn to do this partly because of our work challenging the UK’s Immigration Exemption to data access rights, which we felt was inserted into the data protection framework to facilitate bad practice. We believe that we also need to work with many other sectors in order to defend digital rights. Digitisation is now so pervasive that we can only deal with its problems by working with other groups whose focus is on the communities directly affected.

This year should have been one in which better understanding and enforcement of GDPR in the UK deepened privacy rights and strengthened accountability. Outrageously, however, both the ICO and Government have created an environment in which it is increasingly difficult to use those rights – and now they are under direct existential threat. ORG is needed more than ever, but also now needs to become much bigger and with much greater reach if we are to effectively defend our rights against deregulation and institutional weakening.

Top achievements

- **Strategic communications:** We successfully placed more of our issues across a diverse range of press and media outlets. As a result, we’ve established ORG as an authoritative and respected organisation on privacy, data, and digital rights;
- **Public campaigning and mobilisation:** Our efforts to mobilise and engage our members, supporters, and members of the public through multiple channels and on a range of different policy and campaigning topics;
- **Litigation:** Against the ICO for closing our complaint against the AdTech industry; against the Government for the Immigration Exemption; legal action that exposed Test and Trace as operating unlawfully;
- **Authoritative policy expertise:** Established ORG as an authoritative and respected source of policy expertise on privacy, free expression, and data protection;
- **Parliamentary and political engagement:** Successfully engaged parliamentarians and civil servants in Westminster, Whitehall, Edinburgh, Holyrood and Cardiff Bay;
- **Thought leadership:** Produced high-quality audiovisual content aimed at raising awareness and campaigning.



CROSS-CUTTING ISSUES

Brexit and trade agreements

The outcome of the 2019 general election ended uncertainty about the future of the United Kingdom's membership of the European Union. The newly-elected Conservative government quickly began pursuing trade deals. As a result, ORG prepared to deal with the consequences of these trade deals for our privacy, data, and digital rights. In response, we planned and delivered our work across five separate categories:

- **Policy analysis and briefing;**
- **Media/press awareness;**
- **Public campaigning and supporter mobilisation;**
- **Civil society engagement, mobilisation, and policy co-operation;**
- **Engaging parliamentarians, civil servants, and other influential people across Westminster and Whitehall, in addition to influential voices in academia and think tanks.**

In March, we responded to the negotiating plans and priorities set out by the UK government for a free trade agreement with the US. We explained some of the main issues in the digital trade chapters of these deals and outlined our positions.¹

In late August, we secured funding from Luminate for a three-month collaboration with the New Economics Foundation to ensure that the UK's digital trade policy enshrines digital rights and benefits society in broad terms rather than entrenching the power of technology companies and undermining democracy. This project involved three streams of research, advocacy, and public campaigning.

We spent a significant amount of time within this reporting period on the research aspect, preparing to deliver this project. However, delivery of the advocacy and public campaign aspects began in November 2020; therefore they will be covered in the next annual report.

¹ <https://www.openrightsgroup.org/blog/uk-publishes-trade-objectives-for-deal-with-the-us-what-you-need-to-know/>



UK-Japan trade deal

Our work on the Digital Trade campaign which included our intervention on the UK Japan Trade Agreement has been sector-leading. A combination of our parliamentary engagement, member and supporter mobilisation, press coverage,² and public campaigning efforts forced this issue to be debated and discussed in both Houses of Parliament.

The Covid crisis and our response

The Covid crisis posed a set of strategic and fundamental challenges to our privacy, data, and digital rights. From the outset, we stressed that we wanted the Government to succeed in eradicating the coronavirus. That meant that the Government wanted to use data to understand the impact of its policies on the progress of the disease, and to anticipate what new measures it needed to put in place. We knew that privacy would be compromised but stuck to the principle that our right to know must be honoured.³

2 <https://www.openrightsgroup.org/press-releases/japan-trade-agreement-could-mean-more-a-level-style-debacles/>

3 <https://www.openrightsgroup.org/blog/in-the-coronavirus-crisis-privacy-will-be-compromised-but-our-right-to-know-must-not-be/>

Whilst recognising the extraordinary nature of the Covid crisis, we also raised awareness about the implications for our civil liberties.⁴ The Covid-19 Bill gave extraordinary powers to the police and intelligence services. This meant that our work to defend human rights online became more consequential than ever before.⁵

From enabling strategies to curb the virus, to empowering individuals to connect and work from home, digital technology has played a vital role in all our lives during the Covid crisis. As the Government adopted emergency powers, ORG was on high alert⁶ to ensure that our digital liberties emerge from this crisis stronger than ever.⁷

In April, when mobile data and contact tracing became a hot topic, we demanded that the Government explain its approach

4 <https://www.openrightsgroup.org/blog/2020-we-need-political-accountability-more-than-ever-and-the-ico-can-lead-the-way/>

5 <https://www.openrightsgroup.org/blog/democracy-and-covid-19/>

6 <https://www.openrightsgroup.org/blog/the-government-must-explain-its-approach-to-mobile-contact-tracing/>

7 <https://www.openrightsgroup.org/blog/open-tech-privacy-and-covid-19/>



to mobile contact tracing.⁸ The UK and EU started developing projects to provide privacy-protecting means of understanding who is at risk of infection.

Through providing timely and high-profile content and interventions in the form of blogs and public events, ORG became one of the highest-profile civil society organisations critiquing the Government's approach for our civil liberties, especially at the height of the first lockdown. We balanced care and sensitivity about the unique circumstances in which we found ourselves with principled defence of our civil liberties. Below are some of the outputs we produced from the early days of the crisis up to 31 October 2020 on Covid-related issues.

⁸ <https://www.openrightsgroup.org/blog/the-government-must-explain-its-approach-to-mobile-contact-tracing/>

- In the Coronavirus crisis, privacy will be compromised – but our right to know must not be;⁹
- We need political accountability more than ever – and the ICO can lead the way;¹⁰
- Open tech, privacy and Covid-19;¹¹
- The Government must explain its approach to mobile contact tracing;¹²

⁹ <https://www.openrightsgroup.org/blog/in-the-coronavirus-crisis-privacy-will-be-compromised-but-our-right-to-know-must-not-be/>

¹⁰ <https://www.openrightsgroup.org/blog/2020-we-need-political-accountability-more-than-ever-and-the-ico-can-lead-the-way/>

¹¹ <https://www.openrightsgroup.org/blog/open-tech-privacy-and-covid-19/>

¹² <https://www.openrightsgroup.org/blog/the-government-must-explain-its-approach-to-mobile-contact-tracing/>

- Democracy and Covid-19;¹³
- Contact tracing and immunity passports: questions for the Government;¹⁴
- Contact tracing and immunity passports must respect privacy;¹⁵
- Contact tracing apps and vulnerable migrants: key concerns;¹⁶
- Time for a coronavirus safeguards bill;¹⁷
- Hostile Environment may stop migrants from using NHSX tracker app;¹⁸
- NHSX tracking app privacy assessment: key concerns;¹⁹
- Something is rotten in the Information Commissioner's Office;²⁰
- Demanding strong legal safeguards for contact tracing;²¹
- NHSX app: No news is bad news;²²
- NHSX app delayed, but data protection still MIA;²³
- Where everybody knows your name: pubs and data;²⁴
- Pubs vs. privacy: what changes for contact tracing;²⁵
- NHS app users get privacy; others get nothing;²⁶
- Data and trust: will migrants use the NHS app?²⁷

The quality of our policy analysis, briefings, and other content throughout this period placed us firmly on the map. Furthermore, the strength of our communications efforts – both strategically and tactically – made us a credible commentator and source of advice, in both the media and the political sphere.

Due to the ongoing nature of the Covid crisis, this section does not cover all aspects of our response. The rest will be covered either in next year's report or elsewhere within this report.

Overall, the Covid crisis was disruptive and presented financial challenges. As with many other civil society organisations, it prevented us from growing as we had been planning at the beginning of 2020. In our campaigning work, we were able to push back against some of the excesses of the Government's plans, and score victories in showing how poor their attitude to basic privacy concerns had been. We successfully crowdfunded the legal element of this work, and created significant national media attention for ORG.

13 <https://www.openrightsgroup.org/blog/democracy-and-covid-19/>

14 <https://www.openrightsgroup.org/blog/contact-tracing-and-immunity-passports-questions-for-the-government/>

15 <https://www.openrightsgroup.org/blog/contact-tracing-and-immunity-passports-must-respect-privacy/>

16 <https://www.openrightsgroup.org/blog/contact-tracing-apps-vulnerable-migrants-key-concerns/>

17 <https://www.openrightsgroup.org/blog/time-for-a-coronavirus-safeguards-bill/>

18 <https://www.openrightsgroup.org/blog/hostile-environment-may-stop-migrants-from-using-nshx-tracker-app/>

19 <https://www.openrightsgroup.org/blog/nhsx-tracking-app-privacy-assessment-key-concerns/>

20 <https://www.openrightsgroup.org/blog/something-is-rotten-in-the-information-commissioners-office/>

21 <https://www.openrightsgroup.org/blog/demand-strong-legal-safeguards-for-contact-tracing/>

22 <https://www.openrightsgroup.org/blog/nhsx-app-no-news-is-bad-news/>

23 <https://www.openrightsgroup.org/blog/nhsx-app-has-been-delayed-but-data-protection-is-as-urgent-as-ever/>

24 <https://www.openrightsgroup.org/blog/where-everybody-knows-your-name-pubs-and-data-collection/>

25 <https://www.openrightsgroup.org/blog/pubs-vs-privacy-what-changes-for-contact-tracing/>

26 <https://www.openrightsgroup.org/blog/nhs-app-users-get-privacy-other-visitors-get-nothing/>

27 <https://www.openrightsgroup.org/blog/data-trust-will-migrants-use-the-nhs-app/>

Test and Trace programme

Following a legal challenge, we successfully forced the Government to admit that they deployed the Covid-19 Test and Trace programme unlawfully²⁸ without a data protection impact assessment (DPIA).

The coverage we managed to secure for this story was unprecedented. The story was featured on BBC²⁹, SKY³⁰, Wired³¹, DailyMail³², CNN³³, BBC Breakfast³⁴, and included in the morning briefing emails by the New Statesman's Stephen Bush³⁵ and Politico, among others. Additionally, our executive director was interviewed live on the Today programme, LBC, EuroNews TV, talkRadio, BBC London, and BBC Radio Sussex. The story was also featured prominently in the rolling daily Covid-19 coverage of the Telegraph, Express, and Evening Standard.

In August 2020, we organised a letter³⁶ to the ICO³⁷ signed by a cross-party group of more than 20 MPs who, in an unprecedented move, challenged the Information Commissioner over their failure to enforce data protection standards for Test and Trace and hold the Government to account.

28 <https://www.openrightsgroup.org/press-releases/government-admits-test-and-trace-unlawful/>

29 <https://www.bbc.co.uk/news/technology-53466471>

30 <https://news.sky.com/story/coronavirus-government-admits-its-test-and-trace-programme-is-unlawful-12032136>

31 <https://www.wired.co.uk/article/nhs-test-and-trace-unlawful-data>

32 <https://www.dailymail.co.uk/news/article-8539993/Governments-test-trace-programme-broke-data-protection-law-rights-group-says.html>

33 https://edition.cnn.com/world/live-news/coronavirus-pandemic-07-20-20-intl/h_95d32882469251f03a143eb2666460d7

34 <https://twitter.com/OpenRightsGroup/status/1285258068029210624?s=20>

35 <https://go.pardot.com/webmail/509131/490733654/ea25b4d2e6c6e3529ea32b449a620b7ad780960aabe-346dac44b13724b73a4db>

36 <https://www.openrightsgroup.org/app/uploads/2020/08/Letter-for-MPs-Final-sigs-1.pdf>

37 <https://www.openrightsgroup.org/press-releases/cross-party-group-of-mps-challenge-information-commissioner-over-data-protection-failure/>

Our letter raised awareness in Westminster and secured coverage ranging from the Today programme and The Guardian³⁸ to Wired.³⁹

National Data Strategy

ORG's response to Government's National Data Strategy's call for evidence was published in July 2019.⁴⁰

In this brief response to a vast question, we highlighted the need for a multi-stakeholder approach, collaborative policy making, and a means to bring the public along with changes, starting with a rights-based approach to data use. We stated our desire for greater clarity about the methodology and depth of engagement.

There are many aspects of government data policy where the promise of digital access to the wealth of government information – contemporary or historic, documentary, photographic or otherwise – has simply not been met. We would advocate for a thorough review to deliver the full benefits of a digital future.

In our brief response we outlined our key concerns and offered some general observations about previous problems that have surfaced, in order to demonstrate the challenges the strategy will have to address.

As part of our broader response to the Government's National Data Strategy agenda, we drew attention to threats to digital rights and privacy, and to the strategy's potential to exacerbate existing inequalities, particularly in migrant and refugee communities. We also challenged the Government to view the strategy as a means to enhance and strengthen data protection and privacy, rather than starting by asking what can be watered down and deregulated.

38 <https://www.theguardian.com/uk-news/2020/aug/21/mps-criticise-privacy-watchdog-information-commissioner-nhs-test-and-trace-data>

39 <https://www.wired.co.uk/article/ico-data-protection-gdpr-enforcement>

40 <https://www.openrightsgroup.org/publications/response-to-national-data-strategy-open-call-for-evidence-july-2019/>

National Data Strategy



VIRT-EU project

In December 2019, we completed the three-year VIRT-EU project on privacy and ethics in Internet of Things (IoT) design, funded by the European Union's Horizon 2020 programme. ORG is hosting the project's practical outputs on our website;⁴¹ these include digital tools, reports, and workshop materials to help organisations incorporate these concerns into their processes – for example conducting impact assessments for new products.

ORG's contribution was based on several years of research work in which we analysed the legal framework, including the potential impact of Brexit. We also engaged directly with IoT developers to form a closer view of

their decision-making processes via role-playing workshops which took developers through the issues facing companies. ORG's main deliverable was an open source online interactive tool to help developers conduct privacy, social, and ethical impact assessments of IoT projects.

The results of this work have been released as open publications and code;⁴² there is more detail on the VIRT-EU website.⁴³

41 <https://www.virteuproject.eu/servicepackage/>

42 <https://github.com/virteu> and <https://blogit.itu.dk/virteuproject/deliverables/>

43 <https://virteuproject.eu>



PRIVACY

AdTech

Online advertising was a key area of campaign and policy concentration for ORG in 2019–20. ORG planned and delivered a range of activities across Europe with partner organisations, as well as in the UK. Some of these activities fell outside this year's report, and therefore will be covered in next year's report.

Our AdTech related activities can best be categorised into two sections, covering our work in the UK and our work across Europe with our European partners.

UK

In January 2020, Jim Killock, Michael Veale, Johnny Ryan, and Ravi Naik responded to the ICO's failure to take action against Interactive Advertising Bureau (IAB) members.⁴⁴

Represented by Ravi Naik, the Human Rights Lawyer of the Year 2018–19, Jim Killock and Michael Veale complained about the AdTech

⁴⁴ <https://www.openrightsgroup.org/press-releases/data-regulator-ico-fails-to-enforce-the-law/>

industry and "Real-Time Bidding"⁴⁵ to the UK's ICO in September 2018. Johnny Ryan of Brave submitted a parallel complaint against Google regarding its AdTech system to the Irish Data Protection Authority.

Also in January we responded⁴⁶ to a report released by the Norwegian Consumer Council showing that mobile apps are sharing user data far and wide through AdTech systems that include sensitive information on topics such as sexuality, drug use, and political views. Among the apps the NCC investigated were the dating apps Grindr and OKCupid. The report called for action to ensure that sensitive personal data is kept securely, and not shared widely without user consent. As many of these applications are UK-based, ORG wrote⁴⁷ to the UK's Information Commissioner Elizabeth Denham to ask her to investigate.

⁴⁵ <https://www.iccl.ie/what-is-real-time-bidding/>

⁴⁶ <https://www.openrightsgroup.org/press-releases/news-release-mobile-adtech-out-of-control/>

⁴⁷ <https://www.openrightsgroup.org/publications/letter-to-ico-re-out-of-control-report/>

Europe

In January 2020, we organised a discussion panel⁴⁸ at Computers, Privacy and Data Protection, the annual European privacy conference, to tackle the question of whether “ethical AdTech”⁴⁹ is possible.

Our main set of activities in Europe were delivered as part of a coalition with Civil Liberties Union for Europe⁴⁹ (known as Liberties) and Panoptykon Foundation,⁵⁰ funded jointly by Digital Freedom Fund⁵¹ and the Open Society Foundation⁵². The key objective was to ensure that our efforts were concentrated on ending the ongoing and continuous abuse of personal data in Real-Time Bidding, building on the complaint originally submitted against Google and the IAB. These activities were divided into three areas: litigation, policy and political advocacy, and campaigning.

Litigation

We began our litigation work by updating the complaints for the new Google and IAB frameworks and extending the complaints to AdTech exchanges and other intermediaries. We brought in Liberties members as key actors in lodging the complaints within chosen EU jurisdictions.

The Belgian APD, which is the leading data protection authority for our complaint against the IAB, moved our cases to the Litigation Chamber. Their investigative work was summarised in a preliminary report, in which they found that:

- The IAB cookie consent management platform (TCF) is in breach of GDPR obligations such as lawfulness, transparency, accountability, and security;

48 <https://www.openrightsgroup.org/blog/is-ethical-ad-tech-possible/>

49 <https://www.liberties.eu/en>

50 <https://en.panoptykon.org>

51 <https://digitalfreedomfund.org>

52 <https://www.opensocietyfoundations.org/what-we-do/regions/europe>

- The IAB tried to avoid liability under the GDPR by imposing unfair contractual terms to those participating in the TCF;
- The IAB is the controller for OpenRTB, which, along with Google Authorised Buyers, is the framework that underpins Real-Time Bidding.

We found this to be extremely positive news. We continued working to ensure coordination among the various complainants throughout the litigation phase.

We submitted five further complaints against Google and the IAB through our EU partners, updating the legal reasoning and contents of the complaints reflect the findings and concerns raised in the Belgian preliminary report.

Policy and political advocacy

Our main work in this strand of our activities included collaborating with our coalition partners to formulate our policy positions across a range of topics covering AdTech and ePrivacy. In May 2020, ORG, Liberties and Panoptykon contributed to the first report on the application of GDPR. With our submission to the European Commission, we drew attention to a number of issues we experienced while lodging our RTB complaints, including the lack of cooperation among Supervisory Authorities in cross-border complaints. Our concerns were reflected in the Commission's final report. The working document published in response to the report revealed that the European Data Protection Board chose to take up most of our recommendations.

We then supported European Digital Rights (EDRi)⁵³ and their participation in the ePrivacy debate by helping shape their policy proposals around digital advertising. With EDRi, we also engaged with the European Data Protection Board⁵⁴ and the European Consumers' Organisation.⁵⁵

53 <https://edri.org>

54 https://edpb.europa.eu/edpb_en

55 <https://www.beuc.eu>

Campaigning

In the campaigning strand of our activities, we spent a significant amount of time crafting and honing our message and designing a Europe-wide campaign, which falls outside of this reporting period and will appear in the next annual report. The key points:

- We agreed to focus on the harms of RTB, to individuals' privacy as well as to society, to stress the urgency to reform the AdTech sector and make sure that support does not fade over time;
- We created a map of key messages from the AdTech industry, which we plan to build on, to elaborate our counter-narrative and undermine the credibility of the industry.

Data protection

On 28 January 2020, Data Protection Day, we wrote a letter to all Members of Parliament⁵⁶ explaining that data protection in the UK is under threat, following statements from government sources indicating that they wished to diverge from European privacy standards. In this letter to MPs, we pointed out that data protection matters to their constituents and asked them to secure the following commitments⁵⁷ from the Government:

1. **Data protection standards will continue to apply across all industries, protecting personal data from abuse;**
2. **Trade agreements will not be used to dilute, undermine, or circumvent existing data protection standards.**

In April, in our response to the roadmap presented in the European Commission's report on GDPR, and based on our experience

56 <https://www.openrightsgroup.org/publications/data-protection-day-letter-to-members-of-parliament/>

57 <https://www.openrightsgroup.org/press-releases/government-must-pledge-to-uphold-data-privacy/>

with AdTech complaints, we suggested⁵⁸ changes to the mechanism which governs cross-border complaints to the European Commission.

GDPR article 80(2)

In October 2020 we had a rare chance to make data protection law serve everyone better. The Department of Digital, Culture, Media & Sport (DCMS) held a public call for views⁵⁹ on allowing NGOs to independently bring forward complaints about data protection breaches.

Following ORG's call to action, over 300 of our supporters spoke out⁶⁰ for better privacy law⁶¹ by submitting responses to the DCMS consultation on the Data Protection Act 2018. We argued in favour of implementing Article 80(2) of the GDPR, which would enable NGOs such as ORG to independently bring forward complaints about data protection breaches.

Our position included the following points:

- Data processing operations are deeply complex and systemic, like the problems with online advertising. Relying solely on individuals to identify problems is unrealistic. Privacy organisations have the expertise and knowledge to identify problems and protect individuals' rights. They must be allowed to independently raise complaints to the ICO and complain to the court about controllers, processors, or ICO failure.
- Some of the worst breaches of data protection law are attached to sensitive areas of our private lives, like tracking individuals' use of mental health

58 <https://www.openrightsgroup.org/publications/org-reponse-to-the-european-commission-review-of-the-gdpr/>

59 <https://www.gov.uk/government/publications/call-for-views-and-evidence-review-of-representative-action-provisions-section-189-data-protection-act-2018/call-for-views-and-evidence-review-of-representative-action-provisions-section-189-data-protection-act-2018#how-to-respond>

60 <https://www.openrightsgroup.org/campaign/make-data-protection-law-work-for-everyone/>

61 <https://www.openrightsgroup.org/campaign/make-data-protection-law-work-for-everyone/>



websites. These breaches need to be challenged, but often are not because of their sensitivity. Giving organisations the power to bring complaints independently means these sensitivities will not prevent action from being taken to protect privacy.

- Consumer law allows consumer organisations to make super-complaints based on complaints about harm to consumers. Implementing Article 80(2) would place data protection law on the same standards as consumer law.

Data and Democracy

July and August saw the launch of our report “Polis and the political process”,⁶² in conjunction with the cross-party think tank Demos. This report tested using a deliberative online platform to gauge public opinion on issues such as political micro-targeting, with questions designed by ORG. ORG also contributed to a literature review and held an online webinar to launch the report.

62 <https://www.openrightsgroup.org/publications/democratic-innovations-polis-and-the-political-process/>

As part of our Data and Democracy programme, we gave evidence to the House of Lords’ Democracy and Digital Technologies Committee. ORG’s recommendations to the All-Party Parliamentary Group on Electoral Campaigning Transparency were adopted in their final report⁶³ in January.

The 18-month Data and Democracy Project, funded by the Joseph Rowntree Reform Trust, ended on 31 August 2020. In the final phase of the project, we launched a report “Who Do They Think You Are?”⁶⁴ alongside a web tool⁶⁵ that allows people to find out what personal data UK political parties held on them. To launch the report, we organised an invite-only event for key and expert stakeholders including civil servants, policymakers, academic experts, and journalists, and also a public event⁶⁶ which included a question-and-answer session.

63 <https://www.openrightsgroup.org/blog/appg-on-electoral-campaigning-transparency-adopt-org-reforms-to-electoral-landscape/>

64 <https://www.openrightsgroup.org/campaign/who-do-they-think-you-are/>

65 <https://action.openrightsgroup.org/who-do-political-parties-think-we-are-4>

66 <https://www.openrightsgroup.org/events/data-democracy-report-launch/>

2019 general election

In the run-up to the 2019 General Election, we secured a tactical grant to fund campaigning on the use of data by political parties. Our campaign aimed to stop political parties from abusing personal data in their drive to win elections. We are worried that these practices violate everyone's rights to privacy⁶⁷ and strain the trust in – and integrity of – our democratic system through the increased opportunity of micro-targeted social media ads.

During the election campaign, we commissioned a poll of public attitudes towards data-driven campaigning practices amongst people living in the most marginal constituencies in Great Britain. The poll found strong public support for curbing the worst excesses of online campaigning.⁶⁸

SAR tool

In December 2019 and as part of our campaign for transparency during the General Election, ORG released⁶⁹ an innovative tool to help voters turn the tables on political parties by showing the personal data the parties hold on them.

Using rights provided in GDPR, ORG has developed a tool that allows everyone to easily email a Subject Access Request to each of the main political parties to find out what personal data they hold. Normally, submitting a SAR is off-putting because of the difficulty of getting the wording precisely right. Using our tool, all a person needs is a photo ID that shows their identity and current voting address.

The tool sends a SAR to every political party that has a sitting elected representative in a national or regional parliament or assembly. This means all parties represented in the

House of Commons, Scottish Parliament, Welsh Senedd and Northern Irish Assembly.

During and following the 2019 general election, nearly 600 ORG members and supporters, as well as members of the public, used the SAR tool to exercise their data rights and find out what data the political parties held on them.

Immigration, Data, and Technology

Our efforts to uphold data and digital rights in the immigration sector began in 2018, when – in conjunction with the3million,⁷⁰ the grassroots organisation for EU citizens living in the United Kingdom – we successfully crowdfunded a legal challenge against the Immigration Exemption in the Data Protection Act 2018.

However, our Immigration, Data, and Technology programme,⁷¹ funded by the Paul Hamlyn Foundation,⁷² didn't officially start until 2020. ORG's work on immigration aims to empower the sector to work on, and campaign against, the increasing collection of personal data, data sharing, and new technologies driving immigration controls.

From the early days of the Covid crisis, we made sure to specifically take into consideration the impact of the crisis on the privacy, data, and digital rights of immigrants, refugees, asylum seekers, and others affected, such as EU citizens.

In our first blog, we published our concerns about contact tracing apps and vulnerable migrants.⁷³

We also warned that the Hostile Environment may stop migrants from using the NHSX tracker app.⁷⁴

67 <https://www.theguardian.com/politics/2019/dec/09/campaigners-threaten-uk-parties-with-legal-action-over-data-processing>

68 <https://www.openrightsgroup.org/press-releases/poll-finds-strong-support-for-policies-combating-nefarious-online-campaigning-activity/>

69 <https://www.openrightsgroup.org/press-releases/campaigners-release-tool-for-the-public-to-discover-the-extent-of-political-party-profiling-during-general-election/>

70 <https://www.the3million.org.uk>

71 <https://www.openrightsgroup.org/campaign/immigration-policy-project/>

72 <https://www.phf.org.uk>

73 <https://www.openrightsgroup.org/blog/contact-tracing-apps-vulnerable-migrants-key-concerns/>

74 <https://www.openrightsgroup.org/blog/hostile-environment-may-stop-migrants-from-using-nshx-tracker-app/>



One of the first key steps in this programme was partnering with Privacy International⁷⁵ to conduct a survey to understand the needs and capacities required to deal with data privacy and the use of new technologies in the immigration sector. We reported back⁷⁶ on the key privacy concerns of 30 immigration organisations, lawyers, and individual experts who participated in the survey. These findings formed the basis of our strategy for engaging with the sector under this programme.

As the UK left the EU, the UK's immigration regime underwent major changes. We warned that the new Immigration and Social Security Co-ordination (EU Withdrawal) Bill⁷⁸ adopted by Parliament, which ended free movement, effectively embedded surveillance of EU migrants.

75 <https://www.openrightsgroup.org/blog/data-privacy-and-new-tech-in-the-immigration-sector/>

76 <https://www.openrightsgroup.org/blog/immigration-sector-concerns-and-needs/>

77 <https://www.openrightsgroup.org/blog/immigration-bill-brings-surveillance-to-eu-migrants/>

78 <https://publications.parliament.uk/pa/bills/cbill/58-01/0104/20104.pdf>

Towards the end of this reporting period, the NHSX Covid-19 app⁷⁹ was launched across England and Wales, despite the many concerns raised by civil society and privacy advocates including ORG, both collectively⁸⁰ and individually,⁸¹ regarding privacy and security. The app now offers better privacy, but concerns remain for the wider Test and Trace programme, such as the collection and storage practices put in place by pubs for those who do not use the app. We continued to put pressure on the Government to address the remaining concerns, specifically to “clarify how people's private data will be kept safe and secure under the new Test and Trace regulations”.⁸²

79 <https://www.nhs.uk/covid-19-response/nhs-covid-19-app/>

80 <https://www.openrightsgroup.org/publications/open-letter-nhsx-app-safeguards-for-marginalised-groups/>

81 <https://www.openrightsgroup.org/blog/nhsx-tracking-app-privacy-assessment-key-concerns/>

82 <https://www.openrightsgroup.org/blog/data-trust-will-migrants-use-the-nhs-app/>



FREE EXPRESSION

Online Safety Bill (formerly Online Harms)

ORG showed leadership in Parliamentary discussions and roundtables on the bill, and engaged frequently with civil society, the tech sector, and business groups on strategies. Our advocacy has attracted international attention and support. ORG has a four-strand strategy on the framework and eventual bill:

- **Parliamentary and policy engagement;**
- **Thought leadership on platform power;**
- **Continued advocacy on wrongful takedowns / blocking, transparency, and accountability;**
- **Public-facing engagement.**

Our advocacy on the Online Harms framework incorporates separate policy issues which influence its development, including the Law Commission's review into online communications offences, calls from Government and charities for restrictions on end-to-end encryption, and the dual Parliamentary committee enquiries into freedom of expression.

In February, we responded⁸³ to proposals to appoint Ofcom as online harms regulator.⁸⁴

83 <https://www.openrightsgroup.org/press-releases/online-harms-regulation-threatens-free-speech/>

84 <https://www.gov.uk/government/news/government-minded-to-appoint-ofcom-as-online-harms-regulator>



ONLINE SURVEILLANCE

Blocked.org.uk

ORG's service Blocked.org.uk helps users find out if a website is blocked by their Internet service provider, mobile content filters, or court-ordered blocks. If the block is due to miscategorisation by content filters, our service helps users file a request to get the site unblocked. Over 800 such reports were sent in the 2020 calendar year, allowing us to understand the wide range of mistakes and damage caused by filters overblocking websites.⁸⁵ Users regularly complain that website launches and businesses – as well as email and technical back-end servers – are disrupted by blocks. While most problems get resolved once reported, some services, such as Vodafone, are unresponsive to many requests. We also worry about the number of people who do not find our service and struggle to get sites unblocked. The solution is easy: people should always choose filters, rather than find them on by default.

⁸⁵ <https://www.blocked.org.uk/stats>

Encryption

We continued to advocate against threats to the public use of end-to-end encryption, which are currently concentrated in discussions about the Online Harms framework (Online Safety Bill). We have spoken out against calls for the use of encryption⁸⁶ to qualify as a violation of the “duty of care”, and for the eventual regulator (Ofcom) to impose a proto-licensing system that would grant it the authority to order a company to suspend the use of end-to-end encryption on the basis of the largely subjective “duty of care”.

In collaboration with the Global Encryption Coalition,⁸⁷ we also addressed these issues on a national security and international level.⁸⁸ This includes engagement with the Home Office on the ‘Five Eyes’ position on encryption.

⁸⁶ <https://www.openrightsgroup.org/blog/online-harms-encryption-under-attack/>

⁸⁷ <https://www.globalencryption.org/>

⁸⁸ <https://www.openrightsgroup.org/publications/joint-letter-to-international-governments-to-support-encryption/>



ORG SCOTLAND

Thanks to increased activities, our work in Scotland continued to grow and our influence and impact increased. We strengthened our existing relationship with MSPs, civil servants and civil society organisations, both established and new.

In January, in conjunction with Privacy International, we⁸⁹ called on Police Scotland to prevent rolling out of Cyber Kiosks until the Scottish Government reforms the law to provide an overarching framework in line with human rights standards for the seizure of electronic devices. That recommendation was not heeded by the Scottish Government.

In June, ORG produced its recommendations for Scotland's AI Strategy⁹⁰ and our Scotland Director was

added to the Strategies Working Group on Ethics and Regulatory Frameworks.⁹¹ He contributed over a series of workshops; we await the next stage of development.

In August, we submitted our response⁹² to Scottish Parliament Justice Committee's call for evidence on the Public Order and Hate Crime Bill. We raised concerns about the inclusion of "insulting" language in the "stirring up hatred" offence and its likely negative effect on freedom of expression online.

Towards the end of this reporting period, we started planning a campaign for the 2021 Scottish parliamentary election. Our activities in the run-up to and during the election will appear in the next reporting period.

89 <https://www.openrightsgroup.org/press-releases/news-release-open-rights-group-and-privacy-international-statement-on-police-scotlands-announcement-to-roll-out-cyber-kiosks/>

90 <https://scotland.openrightsgroup.org/blog/4-key-recommendations-for-scotlands-ai-strategy/>

91 <https://www.scotlandaistrategy.com/working-groups>

92 <https://scotland.openrightsgroup.org/publications/response-to-public-order-and-hate-crime-bill/>



GRASSROOTS COMMUNITY, MEMBERSHIP AND ACTIVISM

One of our strongest campaigning tools is our active base of more than 20,000 members and supporters spread across the UK. This continues to provide us with a unique ability to mobilise support for our strategic objectives. A key pillar of our campaigns strategy is empowering ORG's member and supporter base via increased engagement and mobilisation. Although the Covid-19 crisis altered our plans, we were able to scale up our external communications, alongside our digital campaigning activities and online events, providing compelling content and direct action tools to influence political representatives on ORG campaigns.

In November 2019, ORG's Supporter Council convened for an annual summit in Birmingham to train local group leaders and facilitate cooperation amongst organisers. This was followed by 15 events across the UK, led by volunteer organisers in London, Bristol, Cambridge, Oxford, Norwich, Leeds, Birmingham, Glasgow, and Edinburgh.

The local groups adapted to the onset of Covid-19 by transitioning to online events and activism as a means of engagement during lockdowns. They hosted 17 events online to support our national campaigns.

Online and offline events and activism featured expert speaker panels, activist training, film screenings, digital security workshops, cryptoparties⁹³, campaign planning sessions, and collaborations with allied activist groups.

⁹³ <https://www.cryptoparty.in>



FINANCIAL STATEMENTS

31 October 2020

ACCOUNTANTS' REPORT TO THE DIRECTORS OF OPEN RIGHTS

You consider that the company is exempt from audit for the year ended 31 October 2020. You have acknowledged, on the balance sheet, your responsibilities for complying with the requirements of the Companies Act 2006 with respect to accounting records and the preparation of the accounts. These responsibilities include preparing accounts that give a true and fair view of the state of affairs of the company at the end of the financial year and its profit or loss for the financial year.

In accordance with your instructions, we have prepared the accounts which comprise the Profit and Loss Account, the Balance Sheet and the related notes from the accounting records of the company and on the basis of information and explanations you have given to us.

The accounting records and explanations provided appear to be reasonable, however we have not carried out an audit or any other review, and consequently we do not express any opinion on these accounts.



Urban Ledgers Limited
14 Thornhill Square
London
N1 1BQ

Date: 27 July 2021

INCOME AND EXPENDITURE ACCOUNT

for the year ended 31 October 2020

	NOTES	2020 £	2019 £
INCOME			
Gifts and donations income		10,312	27,829
Business membership		9,252	25,142
Contracts		5,600	6,100
Grants	6	349,766	265,065
Reimbursed expenses		872	2,188
Supporter donations		195,224	212,659
Public event income		193	35,321
Interest income			
		571,219	574,305
EXPENDITURE			
Accounting and other professional fees		18,590	17,838
Associations and memberships		6,725	4,109
Bad debts		-	3,400
Bank charges		307	3,919
Bookshop and merchandise		1,109	2,107
Contractors and specialists		6,988	17,758
Depreciation		3,412	3,208
Donation processing charges		11,183	9,237
External communications		-	3,538
Foreign exchange variance		36	-
General campaigning		81,346	23,535
Grants made		27,753	32,910
Insurance		1,113	1,113
Office supplies		1,872	6,624
ORGCon and public event costs		4,373	23,493
Other expenditure		46	684
Postage and printing		799	1,323
Rent and rates		6,212	17,347
Salaries		299,936	325,109
Service providers		9,667	19,422
Staff recruitment		2,478	3,187
Staff training		4,339	7,729
Travel and subsistence		39,110	-
Volunteer costs		6,819	33,148
Website costs		36,827	13,151
Total Expenditure		571,040	573,892
Surplus of income over expenditure for the year		179	413
Balance brought forward		52,413	52,000
Balance carried forward		52,592	52,413

BALANCE SHEET

for the year ended 31 October 2020

	NOTES	2020 £	2019 £
FIXED ASSETS			
Tangible Assets	4	3,030	3,439
CURRENT ASSETS			
Prepayments		10,065	6,323
Deposits		-	1,541
Staff Loans	5	101	101
Grants Receivable		4,404	4,999
Other Debtors		20	-
Cash at bank and in hand		309,767	268,612
		324,357	281,576
CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR			
Creditors		1,732	14,619
Funding received in advance		227,524	162,362
Donation Crowdfunding		33,395	40,300
Other creditors		12,144	15,321
		274,795	232,602
Net Current Assets		49,562	48,974
Net Assets		52,592	52,413
CAPITAL AND RESERVES			
Profit and loss account		52,592	52,413
ACCUMULATED FUNDS			
		52,592	52,413

For the year ending 31 October 2020 the company was entitled to exemption from audit under section 477 of the Companies Act 2006 relating to small companies.

No members have required the company to obtain an audit of its accounts for the year in question in accordance with section 476 of the Companies Act 2006.

The directors acknowledge their responsibility for complying with the requirements of the Act with respect to accounting records and for the preparation of accounts.

These accounts have been prepared in accordance with the micro-entity provisions of the Companies Act 2006 and FRS 105, The Financial Reporting Standard applicable to the Micro-entities Regime.

Approved by the Board on 28 July 2021



James Cronin, Director

NOTES TO THE ACCOUNTS

for the year ended 31 October 2020

1 Accounting policies

Basis of preparation of financial statements

The accounts have been prepared under the historical cost convention and in accordance with the Financial Reporting Standard for Smaller Entities (effective April 2008).

2 Surplus income and the accumulated fund

As a not for profit company, all income is dedicated to its object of raising general awareness of digital rights matters and is credited to an accumulated fund to be used for future projects. As a company limited by guarantee and without share capital, income cannot be distributed to shareholders.

3 Supporter donations

Regular supporter donations are treated on a cash basis, i.e. are treated as pertaining to the month in which they are received.

4 Tangible fixed assets

Depreciation has been provided at the following rates in order to write off the assets over their useful economic lives:

Equipment: 33% straight line

5 Staff loans

Staff loans are extended typically for the purchase of season tickets, and are repaid by equal deductions from the employees' salaries.

6 Grant income

	2020 £	2019 £
Joseph Rowntree Reform Trust Ltd	58,657	28,549
Luminate	65,910	-
Open Society Foundations	95,936	35,176
VIRT-EU	14,598	106,142
Information Commissioner's Office	-	25,588
The Handshake Foundation	59,280	38,220
TAF	-	5,900
Highway One Trust	1,667	7,500
Digital Freedom Fund	16,169	17,990
Reset	20,969	-
Legal Education	1,000	-
London Trust Media	3,380	-
Paul Hamlyn Foundation	4,335	-
Unbound Philanthropy	7,865	-
	349,766	265,065

