

Dame Chi Onwurah DBE MP
Science, Innovation and Technology Committee
House of Commons
London
SW1 0AA

21 November 2025

INFORMATION COMMISSIONER'S PERFORMANCE: A CALL FOR AN INQUIRY

Dear Dame Chi Onwurah DBE MP,

We are writing to you as a group of civil society, academic and legal practitioners. We are concerned about the collapse in enforcement activity by the Information Commissioner's Office, which culminated in the decision to not formally investigate the Ministry of Defence (MoD) following the Afghan data breach.

Data protection cuts across sectors and society. It is an important line of defence against abuse and discrimination in healthcare, in the workplace, in public service delivery, in immigration control, in policing, in education. Data breaches expose individuals to serious danger and are liable of disrupting government and business continuity.

However, in a recent public hearing hosted by your committee, Commissioner John Edwards has shown unwillingness to reconsider his approach to data protection enforcement, even in face of the most serious data breach that has ever occurred in the UK. This approach threatens UK residents' data rights and well-being, leaves organisations on a weak footing to face growing data security threats, and imperils the government's central growth mission.

Evidence shows a strong correlation between the ICO lack of formal regulatory action and a surge in, sometimes egregious, data breaches in the UK.

As the ICO's own post-implementation review of its new Public Sector Approach (PSA) disclosed, "the average number of reported breaches increased by 11%"¹ following its adoption. The PSA is an ICO internal policy which prioritises

¹ See ICO, *Post-implementation review annexes: Public sector approach trial*, p.15, at: <https://cy.ico.org.uk/media2/migrated/4032078/psa-post-implementation-review-annexes.pdf>

engagement and public 'name and shame' instead of dissuasive and legally binding enforcement action. Likewise, the review notes that complaints from the British public against public sector organisations have since increased by 8%, with peaks of 21% and 12% in the justice and public health sectors respectively.²

Indeed, egregious and repeated data breaches have affected victims of the Windrush scandal,³ 9,400 Northern Ireland police officers,⁴ the electoral records of 40 million UK residents,⁵ and 19,000 Afghanis being relocated by the MoD.⁶ Despite the severity of these incidents, the ICO has applied its public sector approach and either issued reprimands – written notices that lack the force of law – or significantly lowered the monetary penalties it awarded. Further, the ICO decision not to pursue any formal action against the MoD despite their repeated failures was extraordinary, as was its failure to record its decision making. The picture that emerges is one where the ICO public sector approach lacks deterrence, and fails to drive the adoption of good data management across government and public bodies.

The handling of the Afghan data breach is not an isolated case; many are being let down by the ICO and its numerous failures to use corrective powers.

Alongside the shift away from enforcement in the public sector, statistics show that private sector enforcement is also becoming a rare occurrence from the ICO. Indeed, the latest ICO Annual Report reveals a sharp drop in formal investigations, criminal prosecution, and in the issuing of enforcement notices, monetary penalties, and reprimands.⁷ Dovetailing the ICO's move away from formal regulatory action, there has been a clear increase in the number of complaints from 2023 onwards.⁸ This suggests that organisations are diverting resources away from compliance and responsible data practices, knowing that the ICO is not going to pursue the matter.

The ICO's response to changes to UK data protection law further exacerbate these risks. With a recent call for views on regulating online advertising, the ICO has

2 Ibid, p.17

3 See ICO, *Action we have taken*, at:

<https://ico.org.uk/action-weve-taken/enforcement/2022/08/secretary-of-state-for-the-home-department-home-office/>

4 Ibid, at: <https://ico.org.uk/action-weve-taken/enforcement/police-service-of-northern-ireland-mpn/>

5 Ibid, at: <https://ico.org.uk/about-the-ico/media-centre/news-and-blogs/2024/07/ico-reprimands-the-electoral-commission-after-cyber-attack-compromises-servers/>

6 Ibid, at: <https://ico.org.uk/action-weve-taken/enforcement/2024/02/ministry-of-defence-1/>

7 See Information Commissioner's Annual Report and Financial Statements 2024/25, at:

<https://ico.org.uk/media2/1wyfliqp/annual-report-2025-ico-v4-1-complete.pdf>

For a quick overview: *The UK Information Commissioner's Annual Report 2024/25: Surveying a Systematic Trend Away from Adequate Enforcement*, at: <https://inform.org/2025/07/22/the-uk-information-commissioners-annual-report-2024-25-surveying-a-systematic-trend-away-from-adequate-enforcement-david-erdos/>

8 See *Cause for Complaint: Assessing the ICO's Proposed New Approach to Data Protection Complaints*, at: <https://inform.org/2025/10/28/cause-for-complaint-assessing-the-icos-proposed-new-approach-to-data-protection-complaints-david-erdos/>

proposed to interpret their duty to promote growth and innovation as grounds to tolerate non-compliance with legal requirements that protect Internet users from predatory advertising, micro-targeting and political profiling.⁹ In another consultation, the ICO is proposing to radically curtail its handling of complaints so that many will not be investigated, but merely recorded for information purposes.¹⁰ This posture contradicts what the law stipulates, nor does it reflect repeated reassurances from Parliament and the government that the Data (Use and Access) Act would have not lowered data protection standards in the UK.

Change appears to be unlikely unless the Science, Innovation and Technology Committee uses their oversight powers and steps in.

Parliament has given the ICO considerable powers not to politely hope for the best, but to enforce compliance with legally binding orders. As we heard from the public hearing you hosted, the ICO chose not to use these powers to address the Afghan data breach, a decision strenuously defended by the Information Commissioner.

Unfortunately, the Afghan data breach is not an isolated incident, but the symptom of deeper structural failures which are emerging in the way the ICO operates. The recent call for views on enforcement procedural guidance “aims to increase transparency”¹¹ about how the ICO investigates infringements, but does not change or even leave room to question the ICO overall approach to enforcement.

Thus, we believe it would be of immense benefit to UK citizens, and to the shape of the UK’s digital economy, for your Committee to open an inquiry to investigate the Information Commissioner’s Office, and understand why data protection enforcement appears to be a low priority.

Signed:

5Rights Foundation

Alison Benson, Information Governance Professional

9 See *ICO call for views on our approach to regulating online advertising*, at: <https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/2025/07/ico-call-for-views-on-our-approach-to-regulating-online-advertising/>

See also: *Cookie Consent Review Exposes Weaknesses in UK Data Protection Reform*, at:

<https://www.openrightsgroup.org/blog/cookie-consent-review-exposes-weaknesses-in-uk-data-protection-reform/>

10 See *ICO consultation on draft changes to how we handle data protection complaints*, at:

<https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/2025/08/ico-consultation-on-draft-changes-to-how-we-handle-data-protection-complaints/>

11 See *ICO consultation on data protection enforcement procedural guidance*, at: <https://ico.org.uk/about-the-ico/ico-and-stakeholder-consultations/2025/10/ico-consultation-on-data-protection-enforcement-procedural-guidance/>

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