

BIG BROTHER WATCH



Big Brother Watch 2020-1: Progress Report

About Us

Big Brother Watch is a UK civil liberties campaign group fighting for a free future. We're determined to reclaim our privacy and defend freedoms at this time of enormous technological change. And we fight to win.

We're a fiercely independent, diverse, non-partisan and non-profit group of campaigners and researchers who work to roll back the surveillance state and protect rights in parliament, the media or the courts if we have to. We publish unique investigations and pursue powerful public campaigns to pursue real change. We work relentlessly to inform and empower the public to collectively reclaim privacy, defend our civil liberties and protect freedoms for the future.

We use five main methods in our work: advocacy and campaigns; parliamentary lobbying; public interest litigation; research and investigations to inform policy and public debate; and public education and empowerment.

Contact

Silkie Carlo

✉ silkie.carlo@bigbrotherwatch.org.uk



Contents

INTRODUCTION	5
KEY ACHIEVEMENTS 2020-2021	8
JOIN THE FIGHT FOR THE FUTURE	9
BIG BROTHER WATCH IN DEPTH REVIEW: 2020-2021	11
TEAM & OFFICE	12
MEDIA	15
TALKS	16
TRAINING	17
ORGANISATIONAL STRATEGY	18
CAMPAIGN WORK	21
EMERGENCY POWERS AND CIVIL LIBERTIES	23
Coronavirus Act	23
Schedule 21 – an arbitrary detainment power	24
Six monthly votes	24
Emergency Powers and Civil Liberties reports	26
Defending civil liberties: As lockdown began	28
Lockdown laws	29
Unfair and discriminatory lockdown fines	32
Secret prosecutions	33
Legal support	34
Contact tracing	36
The App	36
Mandatory contact tracing	36
Surveillance expansion	37
Thermal biosurveillance	39

Contents

Covid data heist	41
Predictive analytics	41
Covid marshals	41
Protest during the pandemic	42
Censorship	44
Leafleting ban	46
100 days of lockdown	47
2021: Covid passes	47
The 'consultation' phase and our campaign launch	48
Creating a rebellion	50
Our investigations	52
Lobbying	53
Challenging the 'trials'	53
U-turns	53
Discriminatory impacts	54
The September-October 2021 campaign	54
Party conferences	54
England	55
Scotland	57
Wales	58
Our legal challenge in Wales	59
Northern Ireland	60
Revival of Covid pass plans in England, December 2021	61
Our legal challenge in England	62
Mandatory vaccines	63
SURVEILLANCE AND POWER	64
Mass surveillance: Big Brother Watch & Ors v UK	65
Stop Facial Recognition	66
Campaign	66

Contents

Private companies	68
Netflix	69
Covert Human Intelligence Sources	70
Chinese surveillance	70
Voter ID	70
General surveillance and privacy advocacy	71
FREE EXPRESSION	72
Online Safety Bill	73
Anti-protest laws	76
Freedom of information monitoring	77
DATA RIGHTS & JUSTICE	78
End Digital Strip Searches	79
AI policy work	83
Welfare, automated decisions and citizen scoring	83
Data 'reform'	86
Digital ID	86

INTRODUCTION

This two-year review of Big Brother Watch's work and impact defending civil liberties covers arguably the most challenging, rewarding and defining period in Big Brother Watch's history - the Covid-19 pandemic.

As the country was rapidly plunged into fear, uncertainty and division, Big Brother Watch took calm, determined and fearless leadership in UK civil society. We defended privacy, transparency, autonomy, equality and parliamentary democracy – all the vital components of a democracy where citizens can enjoy civil liberties.

I am immensely proud of the high-impact, expert and effective campaign group we have become. We met the challenges of 2020-1 head on, providing expert yet accessible policy and legal analysis on the avalanche of emergency laws, advocating for the protection of civil liberties, and executing successful cross-party campaigns to defend rights, equality and democracy in the most adverse of circumstances. Our achievements are a credit to our team, which has worked incredibly hard with a deep sense of responsibility to our supporters and the country, despite the inevitable personal challenges everyone faced arising from the pandemic. It is an honour to work with and learn from them every day. I am also grateful for the stewardship of our board for sharing our fearless defence of liberty, providing moral encouragement, and safeguarding the good governance of the organisation.

For Big Brother Watch, this period reflects not only unprecedented external change but significant internal change. At the beginning of 2020, we launched our new brand identity, new website and new supporter scheme. We grew our full-time staff from 2 in 2020 to 5 by the end of 2021. Despite major fundraising challenges posed by the pandemic and adverse economic factors, this was the strongest period in Big Brother Watch's history, both in terms of grants and public donations. Our supporters' generosity enabled us to run highly effective campaigns, build capacity into the staff team, and pursue litigation – all with a lasting, beneficial impact on the country.

Most notably, in this period we

- led analysis of the Coronavirus Bill and launched the successful #TwoYearsTooLong campaign which resulted in an amendment requiring 6 month votes on the Bill
- produced 12 reports on Emergency Powers and Civil Liberties, which documented and analysed rapid legal changes, policing and court activity with a comprehensive set of recommendations, sent periodically to every parliamentarian
- provided policy briefing materials in advance of every single parliamentary vote on coronavirus-related legislation that impacted civil liberties, including over 30 written policy briefings on coronavirus-related laws and statutory instruments

- produced the comprehensive report, Access Denied: the case against a two-tier Britain under Covid certification, and launched national campaigns against mandatory pass schemes across the four nations, including legal challenges against mandatory pass schemes in both England and Wales
- led lobbying efforts against mandatory Covid passes nationally, leading to one of the biggest MP rebellions in modern history and the biggest Conservative rebellion (99 MPs) in Johnson's premiership
- provided written submissions to consultations on mandatory Covid passes and mandatory vaccines
- provided written evidence to the Joint Committee on Human Rights, and both written and oral evidence to the Public Administration and Constitutional Affairs Committee

In our other campaign areas, we:

- launched the report, Poverty Panopticon: the hidden algorithms shaping Britain's welfare state and launched the website, WelfareDataWatch.co.uk - the report has prompted an investigation by the Information Commissioner and is being used as a key resource by the Equality and Human Rights Commission;
- launched the report, The State of Free Speech Online, held a report launch in parliament, and launched the website SaveOnlineSpeech.org - the Online Safety Bill has since been amended and paused;
- won the campaign against digital strip searches, with police revoking Digital Processing Notices and introducing an improved interim process whilst a new system is developed.

Our internal achievements include:

- Reached 5 excellent full-time staff, plus volunteers
- Rebranded the organisation and launched a new central website, as well as four campaign sites
- Launched a supporter scheme
- Raised £240,000 via Crowdfunder, to successfully challenge mandatory Covid passports
- Surpassed 100k followers on Twitter and developed a YouTube channel

This report is intended for our supporters, without whom this body of work would never have been achieved, and fellow campaigners. Why is it so long?! I have learned a lot about protecting civil liberties in a crisis by reading accounts, ranging from 19th and 20th Century wars up to the work of UK civil society post-9/11. I felt it was important to record and document Big Brother Watch's work protecting civil liberties during this unique pandemic period – a period that had an historic impact on rights, liberties and technology – as this insight can be a valuable learning tool for others, as well as our future selves.

The indelible experience of drastically losing liberty, even to see your own family members or leave your house, during this period means that the challenges we face ahead may well eclipse those we have experienced before. With economic hardship, civil unrest and geopolitical instability ahead - and a Government set to rip up the human rights and data protection frameworks amidst a technological revolution – our work is vital.

Finally, I'd like to express my deep gratitude to our funders for their invaluable support and commitment to protecting rights and freedoms in the UK. Together, we have made history.

With your support, we could have many more victories to come.



Silkie Carlo,
Director of Big Brother Watch

KEY ACHIEVEMENTS 2020-2021

1

WON our legal challenge to mass interception in European Court of Human Rights



2

DEFEATED mandatory Covid passes across the UK



3

STOPPED thermal biosurveillance



4

STOPPED live facial recognition for 2 years



5

Digital strip search policy REPEALED



6

STRENGTHENED free speech protections in Online Safety Bill



JOIN THE FIGHT FOR FUTURE

THE TIME IS NOW

We don't want to live in a world in which every moment is recorded, every detail of our private lives is for sale, and populations can be manipulated by automated surveillance and control.

Why? Because mass surveillance stifles dissent and discourages challenges to power. The feeling that we could be being watched changes our behaviour, breeds conformity and limits human creativity with invisible barriers. The power of being watched imposes controls on society that could never be enforced through other means.

The outcome of a surveilled society, whether by the state, tech giants, big corporations or data brokers, is the decline of democracy - and the risk of mass manipulation. The challenges are only growing.

We're at a unique axis in time. Never before has society faced such a rapid rate of major change. The decisions we make now will affect the freedoms of future generations to come. The fight for the future is now.

We're a small organisation but with a big role in this fight. We're working to reinvigorate a popular civil liberties movement for all in the digital age, influencing mass audiences to reclaim their privacy and defend their freedoms. We drive targeted, highly strategic campaigns for real change to chip away at the surveillance state.

OUR MISSION

Big Brother Watch is a UK civil liberties campaign group fighting for a free future. We're determined to reclaim our privacy and defend our freedoms at this time of enormous technological change.

We're a fiercely independent, diverse, non-partisan group of campaigners and researchers who work to roll back the surveillance state and protect rights in Parliament, the media, or the courts if we have to. We publish unique investigations and pursue powerful public campaigns to pursue real change. We work relentlessly to inform and empower the public to collectively reclaim privacy, defend our civil liberties and protect freedoms for the future.

OUR STORY SO FAR

Big Brother Watch has played a critical role defending civil liberties in the UK since 2009, as our rights have faced erosion from a growing surveillance culture and new tech that enables greater intrusions into our lives.

We're dedicated to running successful campaigns grounded in technology, policy, legal and campaigns expertise that protect the rights and freedoms of the public. We always fight to win.

Here are some examples of our recent successes:

- Orchestrated the biggest parliamentary rebellion in Johnson's premiership and ultimately defeated mandatory vaccine IDs following our legal challenges
- Successfully restored the right to protest during the pandemic
- Defeated the centralised Covid App
- Won our legal challenge Big Brother Watch v UK in the highest human rights court in Europe, proving mass surveillance exposed by whistleblower Ed Snowden was unlawful
- Ended digital strip searches of victims of crime
- Lead the national campaign against facial recognition surveillance
- Revealed HMRC's unlawful collection of 5 million Voice IDs, and campaigned until all 5 million were deleted – the biggest ever deletion of biometric IDs from a state-held database.
- Investigated and stopped an AI predictive policing system
- Exposed the scale of Chinese state-owned surveillance in the UK in a groundbreaking report, after which two Government departments have dropped the firms

WHY BIG BROTHER WATCH?

We're a dynamic, fast-paced, creative campaign organisation that is fearless in fighting power and uniquely persuasive in the court of public opinion. We have a demonstrable track record of success in putting important issues on the political and media agenda and leading diverse, powerful coalitions for real change

GET INVOLVED

We're looking for people to help with core funding on a quarterly basis to keep this vital work going. We also have opportunities to support specific projects – from practical protections for free speech under attack, to challenging mass surveillance, investigating harmful AI uses, to protecting civil liberties post-pandemic.

Ready to join the fight for the future? Get in touch with our Director, Silkie Carlo on

☎ 020 8075 8478/

✉ silkie.carlo@bigbrotherwatch.org.uk



**BIG BROTHER WATCH
IN DEPTH REVIEW:
2020-2021**

TEAM & OFFICE

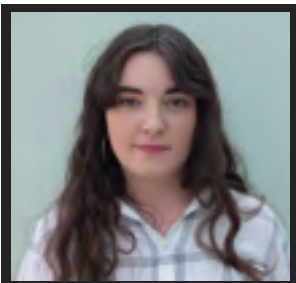
Rebrand

In February 2020, after months of hard work, we launched a total rebrand, new website, and a new public supporter scheme including merchandise. Our new look and refreshed mission statement closely reflects our fearless, expert and professional identity.

Team

We started 2020 with two staff and a digital communications contractor. We have since expanded to meet the growing external challenges, and now have 7 desks in our small office, 6 of which are equipped with IT.

Our highly skilled, multi-disciplinary team is responsible for all the outstanding achievements that follow in this report.



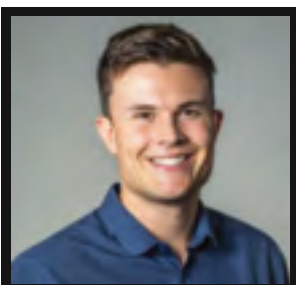
Madeleine

We welcomed our new Legal and Policy Officer, Madeleine Stone, from July 2020. Madeleine previously volunteered with us for 2 years whilst studying for her Human Rights Law MA at SOAS, where she specialised in counter-terrorism policy and surveillance. Madeleine then joined us as a contracted researcher at the beginning of the pandemic before taking on a full-time staff role, with a specific responsibility to specialise in emergency powers. This was a key recruitment for our success during the pandemic. Madeleine became one of the country's foremost experts in coronavirus emergency powers and reported every 1-2 months on legislative changes, sending briefings to every parliamentarian. She is also a highly capable public speaker and media commentator.



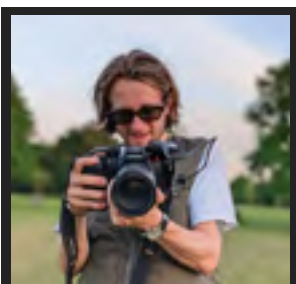
Jake

In October 2020, we recruited a Head of Research and Investigations, Jake Hurfurt, to lead our renewed investigation into hidden algorithms in the welfare system and the secret emergence of citizen scoring systems in the UK. Previously, Jake read PPE at Oxford University before spending 3 years as a reporter at the Daily Mail. Jake is an expert investigator and technology researcher.



Mark

In November 2020, we welcomed Mark Johnson as a Legal and Policy Officer, focusing on freedom of expression and the government's Online Safety Bill. Previously, Mark worked as a parliamentary assistant and a public affairs executive, after studying Politics at Stirling University. He is a key contact for parliamentarians on freedom of expression and online safety issues, an excellent media spokesman, and has achieved opinion bylines in the Spectator and CityAM among other publications.



Erlend

In March 2021, we recruited Erlend Evans as our Digital Communications Manager. Erlend manages all of our digital channels including our websites, social media profiles and supporter engagement. With a background in journalism and digital content production, Erlend brought diverse digital skills to the team including excellent video making skills, and he consistently produced high-impact videos on emerging civil liberties issues during the pandemic.

We started 2020 with four volunteers. Almost all volunteering paused for the first six months of lockdown, but we later recruited 5 new volunteers to support us mostly remotely, as almost all work has been intermittently remote due to Covid legal restrictions. During this period, some of our excellent volunteers have moved on to impressive roles, including at the data firm AWO, a cancer charity, a PR firm and of course, Big Brother Watch!

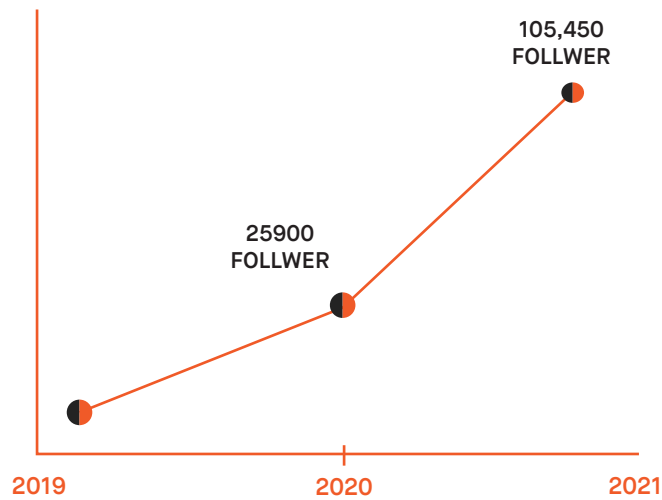
Our volunteer support is now in flux from 1-4 people and will soon need to either transform to a fully remote volunteering team or close all our volunteer positions, as our office is at full capacity. We would require additional funding of approximately £15,000pa to upgrade our office size and host more volunteers in our office. Additional office space would also be useful for filming and media production, storage of our reports and increasing physical materials, and to host meetings.



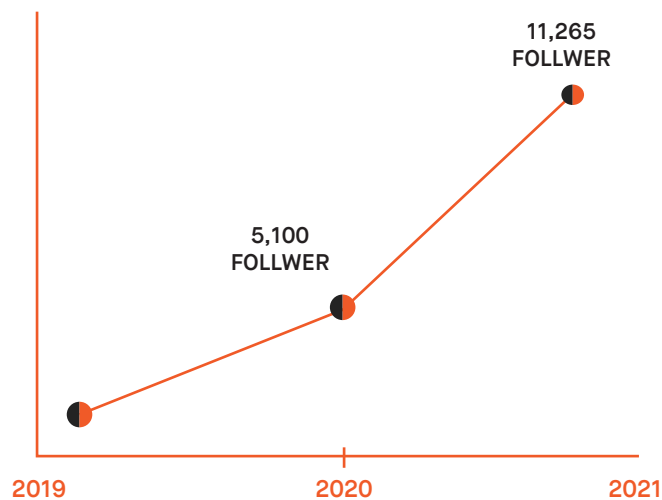
MEDIA

MEDIA

Social media



Our Twitter following in January 2020 was 25.9k – a significant increase from 2019. However, in December 2021 our Twitter following is 105,450.



Our Facebook following in January 2020 was 5,100. In December 2021, our following was 11,265.

In December 2021, we launched a Telegram account which we will seek to grow in coming months and years.

OPINION PIECES

Our Director Silkie Carlo wrote:

- 10 Telegraph opinion pieces (8 on emergency powers and mandates, 1 on GDPR and 1 on free speech)
- 3 CityAM opinion pieces on emergency powers and digital ID
- 1 Daily Mail debate on the contact tracing app

Our Legal and Policy Officer Mark Johnson wrote:

- 1 CityAM opinion piece on emergency powers
- 1 Spiked opinion piece on vaccine passports
- 1 Spectator opinion piece on the Online Safety Bill
- 1 Critic opinion piece on the Online Safety Bill
- 1 Unherd opinion piece on our State of Free Speech Online report
- 1 Reuters opinion piece on the Online Safety Bill

Our Legal and Policy Officer Madeleine Stone wrote:

- 1 Huffington Post opinion piece on emergency powers and the Coronavirus Act
- 1 CityAM opinion piece on the loss of parliamentary sovereignty during Covid
- 1 Unherd opinion piece on vaccine passports

TALKS

Our Director Silkie Carlo:

- debated Sir David Omand (ex head of GCHQ), Sir Bill Jeffrey and Nigel Inkster (ex MI6) on mass surveillance at the Cambridge Union for the Wilberforce Society
- delivered a 3h class on policing, technology and human rights at Liverpool John Moores University to policing undergraduates
- gave a talk about human rights law and surveillance at Middle Temple Hall
- delivered a presentation to the Westminster e-forum on biometrics

- spoke at the APPG on AI on facial recognition
- spoke at an Open Society Foundations event on technology and discrimination
- spoke on two panels at the online How The Light Gets In festival about tech, the future and health
- spoke, alongside MI5 whistleblower Annie Machon, at the World Ethical Data Forum; and spoke on a panel on data rights post-Covid also at WEDF
- gave a talk on technology and criminal justice to Goldsmiths law students
- spoke at RightsCon on data protection in law enforcement
- gave a speech against Covid IDs at our Labour Party conference fringe event
- spoke at the Battle of Ideas on a panel about vaccine passports
- spoke at screening of Coded Bias at Imperial College
- spoke at the Institute of Advanced Legal Studies' conference about privacy and data during the pandemic on with the Biometrics Commissioner and others.
- spoke at Tortoise Media 'thinkins' on the Online Safety Bill

Our (former) Legal and Policy Officer Griff Ferris:

- spoke at the Tate Exchange on facial recognition
- delivered a talk at Windsor Boys' School about technology and human rights
- spoke at the Northern Police Monitoring Project's event on data driven policing

Our Legal and Policy Officer Madeleine Stone:

- spoke at Open Society Foundations virtual panel on Covid-19 and the rise of biosureveillance
- spoke at a Kings College London Security Studies department panel on Surveillance and Privacy in Crises
- spoke at a Public Law Project panel on data, transparency and accountability
- spoke at a PrivSec panel on Covid passes

Our Legal and Policy Officer Mark Johnson spoke on a panel about the Online Safety Bill at Warwick University.

TRAINING

In early 2020, before the pandemic, we provided a very well-attended evening of free digital privacy training for at-risk activists in London.

ORGANISATIONAL STRATEGY

We set a new 3 year strategy in 2021, establishing four streams of work, taking us to the end of 2023. We have had a remarkable success rate across all of our 2021 focus goals.

PROGRAMMES OF WORK 2021-23

RIGHTS AND DEMOCRACY POST-COVID

Goal: Combat emerging post-Covid threats to the democratic process, civil liberties and digital rights in the UK, improving legislative and technological responses.

- Stop thermal biosurveillance
- Defend the right to protest
- Challenging unlawful and discriminatory policing, prosecutions and fines
- Repeal the Coronavirus Act
- Restore parliamentary democracy
- Defend the rule of law, inc. challenge ultra vires regulations
- No vaccine/immunity passports
- Stop the digital coup

FOCUS 2021: Stop thermal biosurveillance; Repeal the Coronavirus Act; No immunity passports

OUTCOME: We achieved all of our focus goals.

FREE EXPRESSION

Goal: Limit corporate and state-sponsored censorship online and promote freedom of expression especially online.

This includes:

- Online Safety Bill

As well as reactive work on:

- End to end encryption
- Anonymity
- Police, Crime, Sentencing and Courts Bill

FOCUS 2021: Influence parliament to defend encryption, exempt lawful communications in Online Safety Bill; defend free expression in PCSC Bill

OUTCOME: We have weakened anti-free speech powers in the Online Safety Bill, defended encryption in light of Apple client-side scanning attempts, and have influenced the wider debates on free speech

SURVEILLANCE AND POWER

Goal: End disempowering, rights-abusive, suspicionless surveillance practices by authorities and private companies.

This includes:

- RIPA/Investigatory Powers
- Voter ID
- Live facial recognition and advanced CCTV
- Employer surveillance
- Predictive policing, LEADS

As well as reactive work on:

- Undercover policing
- ANPR
- Drones
- Fingerprint scanners
- Body worn video

FOCUS 2021: Win Big Brother Watch v UK appeal, end live facial recognition by authorities/retailers

OUTCOME: We had a limited, yet significant, win in the Big Brother Watch v UK appeal. Live facial recognition has not ended, but it was not used by police during 2021.

DATA RIGHTS & JUSTICE

Goal: Ensure that personal information is respected and protected by the state and companies, and that processing - including by AI and algorithms - is fair, just and respects our rights.

This includes:

- AI, digital suspicion and poverty
- End digital strip searches

As well as reactive work on:

- AI in criminal justice
- Big data

FOCUS 2021: Expose and challenge intrusive and unfair AI/automated decision-making in local authorities' welfare and social care provisions; stop provisions enabling digital strip searches in Police, Crime, Sentencing and Courts Bill

OUTCOME: We successfully launched our landmark report, Poverty Panopticon. After winning the fight against digital strip searches, we influenced the debate on mobile extraction policy reform during the Police Bill debates and established a key stakeholder position to influence the forthcoming Code of Practice.



**CAMPAIGN WORK:
2020-2021**



EMERGENCY POWERS

EMERGENCY POWERS

In 2020, we faced arguably the greatest crisis for civil liberties in the UK since World War II – the coronavirus pandemic.

Big Brother Watch rose to the challenge – despite comprising just two full-time staff at the time, we responded robustly, rationally and highly strategically in March 2020 and thereafter.

Coronavirus Act

The draconian Coronavirus Bill was published on 19th March 2020 and given only 3 sitting days to be scrutinised by Parliament.

In response, Big Brother Watch:

- Rapidly analysed and wrote a briefing on the Coronavirus Bill, focusing on the duration of the Bill, the detention and dispersal powers, and the relaxation of surveillance safeguards. We sent the briefing to all MPs and peers, and received feedback that it was used by many.
- Rapidly launched the “Two Years is Too Long” campaign for more frequent parliamentary votes on the emergency powers, as the original Bill would have lasted for 2.5 years. As part of this 3 day campaign we:
 - Wrote a letter on “defending our liberty” published in the Telegraph, co-signed by senior political figures across parties including then Shadow Attorney General Baroness Chakrabarti, former Brexit Minister David Davis MP, Liberal Democrat leader Sir Ed Davey MP, Joanna Cherry QC MP, Amnesty UK, Liberty and others, warning that the Bill contained “the most draconian powers ever proposed in peace-time Britain” and urging for a shorter duration of the emergency law
[photo of letter?]
 - Made a new ‘Emergency powers’ campaign page, with an “email your MP” tool, and utilised our mailing list to encourage people to email their MPs to urge for a shorter duration of the Bill. Website clicks indicated that tens of thousands of people visited the campaign page.

SUCCESS:The Coronavirus Bill was amended to require a vote in parliament every six months for the powers to remain in force.

Schedule 21 – an arbitrary detention power

Once the Bill was passed into law, we closely monitored uses of the most concerning powers – notably, Schedule 21 powers to detain anyone “potentially infectious” potentially indefinitely. We worked with Sky News analysing the first known fine issued under Schedule 21 of the Coronavirus Act, in which a black woman was detained and held in a police cell merely for being at a train station. This case confirmed our fears that anyone could be treated as “potentially infectious”, and this arbitrary police power would be used against marginalised people. Following the negative publicity, the fine was eventually overturned.

In the first weeks of lockdown, we continued to do lots of robust media commentary about misuses of the Coronavirus Act including in the Telegraph, Times, ITV News, Associated Press, and PA.

SUCCESS: On May 2nd, after working with the Times and human rights lawyer Kirsty Brimelow QC to build sustained media pressure on misuse of the Coronavirus Act, the Crown Prosecution Service announced that it would review every single charge and prosecution under emergency powers. This unprecedented step was vital in exposing the chronic misuse and unsuitability of the most dangerous Coronavirus Act powers and, over time, revealed that 100% of charges made under the Coronavirus Act were in fact unlawful.

In June 2020, we produced a written briefing on the Coronavirus Act for the Public Administration and Constitutional Affairs Committee, which was cited several times in the subsequent report. Furthermore, many of our concerns and recommendations were echoed.

Six monthly votes

Vote 1: September 2020

The first six-month vote on the Coronavirus Act was in September 2020. We executed a campaign to repeal Schedule 21 detention powers in the Act and increase parliamentary scrutiny. This centred on focused lobbying, briefings, and a public ‘email your MP’ campaign, accompanied by a brilliant short video on the Act. The video achieved 100,000+ views on Twitter and 10k views on YouTube; the ‘email your MP’ page had 55,000+ views. We worked closely with the 1922 executive as well as senior Labour backbench, SNP and Liberal Democrat figures on amendments and support.

We sent every MP a 3-page briefing on why Schedule 21 in particular needed to be repealed. Despite its attempt to stop reporting, we pressured the CPS to continue reporting on the unlawful Schedule 21 prosecutions that month which found yet more unlawful prosecutions and maintained the unprecedented 100% unlawful prosecution rate.

We published a podcast with Steve Baker MP, which we headlined with comments that the Coronavirus Act is the “biggest expansion of state power in a generation”.

Madeleine wrote an opinion piece on Huffington Post, rallying for the removal of Schedule 21 powers.

Silkie also hosted a panel at Spectator Alternative Conference with Steve Baker MP, Kirsty Brimelow QC and Guardian journalist Damien Gayle titled “Civil liberties in a crisis”, focusing on the problems with the Act.

However, an amendment to remove Schedule 21 could not be selected. As we argued when the Coronavirus Bill was passed, it was extremely unsatisfactory that the motion to renew the Act was an ‘all-or-nothing’ motion. The Speaker appeared to criticise this approach, labelling it a “narrow, binary choice” in the September debate. High profile parliamentarians, from Labour’s Shadow Health Minister Baroness Thornton, to Sir Ed Davey and Sir Charles Walker called for an end to the Act. Steve Baker MP described the Act as a “blunt instrument that does more harm than good”, whilst Rebecca Long-Bailey described it as “asymmetric authoritarianism”.

24 MPs voted against the renewal of the Coronavirus Act: 7 Conservative backbenchers, 6 Labour backbenchers, 9 Liberal Democrat MPs, Caroline Lucas MP of the Green Party and Stephen Farry MP from the Alliance Party of Northern Ireland.

Vote 2: March 2021

At the one year anniversary of the Coronavirus Act, March 2021, we relaunched our campaign to Repeal the Coronavirus Act with a renewed campaign page, ‘email your MP’ tool, briefings and a new YouTube video. We gave briefings via Zoom to MPs and Peers, including from the Covid Recovery Group, and sent written briefings to every MP and Peer.

The Shadow Health Secretary Jonathan Ashworth, Liberal Democrats leader Sir Ed Davey, the SNP, and Steve Baker MP all rallied against Schedule 21 powers in the debate, among others.

At this vote, 76 MPs voted against renewal of the Coronavirus Act.

We sent every MP a 3-page briefing on why Schedule 21 in particular needed to be repealed. Despite its attempt to stop reporting, we pressured the CPS to continue reporting on the unlawful Schedule 21 prosecutions that month which found yet more unlawful prosecutions and maintained the unprecedented 100% unlawful prosecution rate.

We published a podcast with Steve Baker MP, which we headlined with comments that the Coronavirus Act is the “biggest expansion of state power in a generation”.

Madeleine wrote an opinion piece on Huffington Post, rallying for the removal of Schedule 21 powers.

Silkie also hosted a panel at Spectator Alternative Conference with Steve Baker MP, Kirsty Brimelow QC and Guardian journalist Damien Gayle titled “Civil liberties in a crisis”, focusing on the problems with the Act.

However, an amendment to remove Schedule 21 could not be selected. As we argued when the Coronavirus Bill was passed, it was extremely unsatisfactory that the motion to renew the Act was an ‘all-or-nothing’ motion. The Speaker appeared to criticise this approach, labelling it a “narrow, binary choice” in the September debate. High profile parliamentarians, from Labour’s Shadow Health Minister Baroness Thornton, to Sir Ed Davey and Sir Charles Walker called for an end to the Act. Steve Baker MP described the Act as a “blunt instrument that does more harm than good”, whilst Rebecca Long-Bailey described it as “asymmetric authoritarianism”.

24 MPs voted against the renewal of the Coronavirus Act: 7 Conservative backbenchers, 6 Labour backbenchers, 9 Liberal Democrat MPs, Caroline Lucas MP of the Green Party and Stephen Farry MP from the Alliance Party of Northern Ireland.

Vote 3: October 2021

SUCCESS: After 18 months in law, Schedules 21 and 22 were finally removed from the Coronavirus Act.

Much of the rest of the Act was renewed. The Coronavirus Act finally expired on 25 March 2022.

Emergency Powers and Civil Liberties reports

We were careful to meticulously document excessive policing, rapid legal changes, new or expanded surveillance technologies and the growth of online censorship as it happened. We committed to publishing an Emergency Powers and Civil Liberties report every month detailing these observations, action we were taking, and a comprehensive set of recommendations and to circulating this to every parliamentarian.

At the end of April 2020, we published our first Emergency Powers & Civil Liberties report and placed this with the Times, connecting it with another case of a wrongful conviction under the Coronavirus Act that Madeleine had unearthed. This rapid yet extensive report was a mammoth effort and great success.

SUCCESS: One of our first recommendations was that the CPS should review every charge made under emergency laws – days later, the CPS announced it would indeed review every charge.



By 2021, as the pace of legislative changes slowed, we produced reports every two and then every three months. In total, we published 14 Emergency Powers & Civil Liberties reports between April 2020 and March 2022. Many of our reports were accompanied by a YouTube video scripted by Madeleine to summarise key takeaways and developments, which were widely watched.

We followed many of the reports with meetings with politicians across all parties and drafting written parliamentary questions for them to submit, as well as campaign activities in pursuit of our recommendations. We saw our work make an impact in parliament - encouraging (and being mentioned in) debates, leading to written and oral questions, empowering MPs with research, and ensuring ministers were held to account.

Defending civil liberties: As lockdown began...

Even before the legal restrictions were imposed, police forces began exercising unprecedented power over the private lives of citizens.

We wrote multiple statements for the press on the emergency of excessive policing and citizen policing as it was happening. Within the first week of the lockdown, our comments were on the front page of the Times as well as the Telegraph, the Sun and an op ed in City AM; and Silkie was on the panel of BBC Radio 4's Any Questions on the first Friday after the lockdown was announced, warning against the draconian Coronavirus Act and police using drones to film and shame ramblers.



Our (then) Legal and Policy Officer Griff Ferris also took to the airwaves, appearing on BBC regional radio and talkRADIO about coronavirus police powers.

That week, we had 1+ million impressions on Twitter.

We worked hard to ensure we worked effectively, collegiately and strategically with other stakeholder NGOs. We immediately liaised with groups including Amnesty, Liberty, Open Rights Group, JUSTICE, the Bingham Centre for the Rule of Law, Netpol, and mental health organisations including Rethink and Mind.

In the first fortnight of lockdown...

Advocacy:

- We signed a joint statement with Amnesty International and scores of rights groups around the world warning against the expansion of state surveillance in the pandemic context
- We wrote letters, co-signed by fellow NGOs including Open Rights Group, Index on Censorship, Adam Smith Institute and others, to social media companies requesting transparency and engagement on recent decisions that limited free expression around Covid-19, and one to the Department for Digital, Culture, Media and Sport about their new 'Rapid Response Unit' - a secretive censorship unit in government. We achieved BBC media coverage.

Legal action:

- We sent a 'pre' pre-action letter to the UK Government requesting transparency of any location data sharing between government and major telecommunications companies, and of any use of surveillance powers in relation to Covid-19

Investigations:

- We sent Freedom of Information requests to government departments asking for their data sharing agreements with supermarkets regarding Covid and vulnerable/shielding individuals

Media:

- We commented robustly in the media on coronavirus-related issues where civil liberties were adversely affected, including phone tracking and excessive policing, with comments in the Telegraph, Times, ITV News, Associated Press and New York Times
- Our Director took part in a debate on the BBC Radio 2 Jeremy Vine show about coronavirus and policing and did an interview for Al Jazeera
- We ghost-wrote an opinion piece for a senior Conservative backbencher for a major newspaper.

Lockdown laws

Lockdowns were imposed by ministers via statutory instruments under the Public Health Act 1984 using the urgent procedure whereby prior votes in parliament are bypassed. Retrospective approvals of lockdowns by parliament were often sought once the legal restrictions had been altered or replaced, meaning that for months, Britain lived under ministerial diktat.

When votes on Covid restrictions were held, Big Brother Watch published clear and comprehensive briefings on them and circulated them to all parliamentarians. Ahead of the first debate in May 2020, we also circulated a guest briefing by Tom Hickman QC of Blackstone Chambers, arguing that the lockdown law was ultra vires and unlawful.

Big Brother Watch argued that the national lockdown was unlawful as the Health Secretary of State did not have the authority to impose such wide-reaching restrictions on people's liberty under the Public Health Act. The powers contained within the Act were intended to isolate individuals only with the expressed approval of magistrate, not to place the entire nation under house arrest.

With an excellent legal team – Kirsty Brimelow QC and Jude Bunting from Doughty Street Chambers, Emmet Coldrick from Quadrant Law Chambers and Jules Carey from Bindmans LLP – we applied for permission to intervene in legal challenge R (Dolan and others) v Secretary of State for Health and Social Care.

At the time of our submission in October 2020, over 70 sets of Regulations had been made under the Public Health Act, none of which had received prior Parliamentary approval or scrutiny.

Our application to intervene was ultimately unsuccessful, as was the Dolan challenge overall. However, our arguments fed into the Dolan challenge and proved an important contribution to the wider public and parliamentary debate about the rule of law and excessive ministerial power during the pandemic.

In addition to our monthly Emergency Powers and Civil Liberties reports, we wrote and circulated approximately 30 policy briefings on Covid restrictions during this period, many of which related to national, local and tiered lockdowns. This work was principally led by our excellent Legal and Policy Officer specialising in Emergency Powers, Madeleine Stone.

Further, in September 2020 Madeleine submitted a briefing on key emergency powers areas impacting privacy and civil liberties for the House of Commons Covid-19 General Debate, and submitted a briefing to the 'Life Beyond Covid-19' inquiry by the House of Lords Covid-19 Committee drawing attention to issues with the role of Parliament, over-policing, NHS and big data, and freedom of expression. In October 2020, she also submitted to the House of Lords Constitution Committee's inquiry on the 'Constitutional Implications of Covid-19'. In April 2021, she submitted a response to the Justice Committee's inquiry into 'Covid-19 and the Criminal Law'.

We became recognised media spokespeople on lockdown laws and civil liberties. In September 2020, our Director was featured in a piece in the Critic covering five key critics of lockdown laws, alongside Kirsty Brimelow QC and former supreme court judge Lord Sumption.



We sought to promote awareness and criticism of the extreme new laws in publications that reach many different audiences, and to keep the conversation energised to prevent these extraordinary changes being normalised. In October 2020, we worked with the Sun on an article about the 500 Covid laws, picking out the most dangerous ones for our freedoms. In January 2021, Madeleine was interviewed on LBC about unlawful policing and the blurring between lockdown laws and guidance, and she also gave comments to the Times on unlawful Covid prosecutions. In July 2021, Madeleine appeared in an Al Jazeera documentary, 'Under the Cover of Covid' on the loss of civil liberties during the pandemic.



During this period, we extended our work across the four nations more than ever, delivering specific briefings and lobbying efforts in Scotland, Wales and Northern Ireland as well as Westminster. This included taking part in a roundtable on Covid-19 and human rights with Scottish Ministers in June 2020.

We also published a blog on the highly overlooked issue of the Isle of Man, as people were being jailed and isolated in horrific conditions for allegedly breaking lockdown restrictions and had very little publicity or support.

Unfair and discriminatory lockdown fines

Our close monitoring of lockdown policing revealed that police enforcement of emergency laws was erratic, often discriminatory and frequently unlawful.

We monitored enforcement by conducting open source research online and on social media, liaising with grassroots groups, journalists and lawyers, contacting magistrates courts, and inviting members of the public to get in touch. We found that police misinterpreted or misunderstood frequently changing laws and applied power excessively and sometimes arbitrarily, at will.

We also contacted various authorities – for example, sending enquiries to councils who had restricted seating to press to them to provide or conduct Equality Impact Assessments. We documented case studies involving such policing in our monthly reports. We were also able to connect many affected individuals with free legal advice and representation, to challenge unlawful policing and fines.

We led the national campaign for all Covid fines to be reviewed. We wrote to the National Police Chiefs' Council (NPCC) in May 2020 warning of an "outbreak of injustice", showing that Asian people were being disproportionately fined in particular, and urging for a review of all fines in a letter co-signed by rights NGOs and lawyers. We also published a joint letter with Liberty about the racially disproportionate issuing of fines. Whilst no such review was established, our call was replicated by the Joint Committee on Human Rights. Our constant media pressure ensured that police were being held to account for bad practice and we encouraged an emphasis on police engaging and explaining the rules, rather than excessive enforcement.

We received a reply from the Chair of the NPCC in June, which did not commit to a review but did provide further statistics. The new statistics gave further evidence that lockdown enforcement was being applied in a racially discriminatory manner.

To mark 100 days of lockdown, we wrote to the NPCC again in late June 2020 drawing attention to this and urging once more for a review process. This time, our letter was co-signed by 13 rights groups and over 40 parliamentarians across parties, as well as Reverend Martin Poole, who infamously pressed the (then) Health Secretary Matt Hancock for a review of fines during Covid press briefing. We achieved BBC and other significant press coverage.

In November 2020, we joined with Liberty to write to the Chief Constables of ten police forces with the greatest ethnicity disparity in their issuing of fines, arguing that the police forces must review the fines issued by their officers under lockdown powers or risk breaching equality laws. Our letters received regional press coverage.

In January 2021, the Government announced a "crackdown" on non-compliance, focusing on mask-wearing. The "crackdown" came despite the fact that people with legal exemptions from compulsory mask-wearing, including disabled people and abuse survivors with PTSD, were already being routinely subjected to unlawful policing and false claims that they needed to carry "papers" to prove their exemption. We wrote a letter to the Chair of the National Police Chiefs' Council, co-signed by disabilities and survivors' groups, urging police chiefs to clarify the legal exemptions on face covering requirements to their officers to prevent further discrimination.

Secret prosecutions

The monthly CPS review that we had called for uncovered a consistent stream of unlawful prosecutions under lockdown laws. However, an investigation by the Evening Standard in October 2020 indicated that there were likely even more prosecutions under the Regulations that were unlawful and effectively taking place in secret under the Single Justice Procedure (SJP). The SJP allows people to be convicted in their absence, with a magistrate deciding a case 'on the papers', that is on basis of the evidence provided to them. The accused can instead enter a plea in response to a 'Single Justice Procedure Notice' sent to them by post – however, some people affected claim that they did not receive any such notification in the post.

In February 2021, we worked with Fair Trials to further analyse how the CPS' review of prosecutions under emergency laws was being conducted and found that there were thousands of cases not being reviewed, which means there could be hundreds more unlawful prosecutions undetected. We shared our findings with The Times and gave commentary for their article.

In June 2021, Madeleine worked with Fair Trials to write a letter to the Secretary of State for Justice calling for a review of all Covid prosecutions made under the SJP and calling for an immediate suspension of the SJP for Covid prosecutions. The letter was co-signed by four other justice groups, and was covered in the Independent. In July, Madeleine had two meetings with Shadow Courts Minister Alex Cunningham MP on the use of SJP alongside Fair Trials, and closely advised him on a letter he sent to the Justice Minister on the issue. Madeleine also drafted oral questions for Alex Cunningham which were asked at Justice Questions in the Commons.

Legal support

We assisted a number of individuals and groups in the context of excessive lockdown policing, providing advice and support and on occasion securing them free legal support through our contacts. Several examples are included throughout this report. Some key examples are summarised below.

SUCCESS: A man in Wales, Keith Neale, contacted us after being arrested by police for being outside, alone, during lockdown in April 2020. He explained to us that he was homeless, living in a vehicle, and so had no home to go to; and that he felt his treatment by police was aggressive and wrong. However, he had been held in a police cell and was now facing a prosecution for breaching lockdown laws.

Homeless people were not subject to the 'stay at home' law for obvious reasons. Mr Neale was able to retrieve the police's body worn footage of the incident and also shared with us his own phone recording, which confirmed his disturbing account.

We connected Mr Neale with criminal defence solicitor Patrick Ormerod, formerly of Bindmans, who kindly agreed to take on the case.

In what we understand to be the first successful defence of a lockdown prosecution at trial, Mr Neale won his challenge – but was found guilty of obstructing a police officer as he did not provide his personal details to police. However, this engaged another important civil liberty.

In February 2021, Mr Neale successfully challenged this on appeal too, clarifying the important principle in common law that it is not an offence in and of itself to refuse to give personal details to a police officer. Bindmans has written more about the implications of the challenge for the right to silence and lockdown laws. The challenge could have helped thousands of people, clarifying to police and the public that it is not an offence for innocent people to withhold personal details from police.

We found harrowing footage of a family in Scotland whose home was entered by police in January 2021 on suspicion of hosting guests during lockdown, resulting in a physical altercation, screaming children, and a young woman having a seizure. After contacting the family, we established that their epileptic teenage daughter had in fact gone to the home after being discharged from hospital and then suffered a seizure when police entered the home and got into a physical altercation with her mother. We posted the video, which was watched 1.2mil times, and helped secure free legal support for the family. The case is ongoing.

In May 2021, we gave support and helped connect a young family with legal advice after they were effectively falsely imprisoned in hotel quarantine (despite having returned to UK before the country of origin was red listed) and subjected to degrading treatment. Eventually, the family left quarantine and were wrongly fined, but these fines were later reimbursed. Of our support, the father said:

“

“I really appreciated the support you provided and the fact that you spoke to me personally was really kind of you! It gave me the moral boost I needed at the time and the acknowledgement that there are people out there who really care about civil liberties and injustice to minorities.”

”

Contact tracing

The App

The government initially proposed a contact tracing app with a centralised data store, meaning that the government, should it wish, could potentially re-identify contacts and obtain a complex map of citizens' movements. This posed serious privacy risks and would fail to win public trust.

- We worked closely with Open Rights Group and other stakeholder groups to campaign against a centralised contact tracing app
- We produced a comprehensive webpage and FAQ, overseen by technical experts, to provide accessible explanations for a general audience of the government's planned app and the risks
- Our Director wrote opinion pieces in CityAM the Daily Mail (as part of a debate format) advocating against the centralised app
- Our Director spoke at the Westminster Forum panel on contact tracing and the failure of the centralised app, among NHS directors, SAGE members, an MP and public health experts.

SUCCESS: The government ditched the centralised contact tracing app in favour of a decentralised, privacy-preserving system!

We were then invited to a NHS Test and Trace briefing of the new decentralised app.

We wrote a new FAQ on the new decentralised Covid-19 App for our website and reports, with input from medConfidential's Phil Booth and tech expert, Luke Redpath.

Mandatory contact tracing

As venues reopened in July 2020, the government made contact tracing mandatory. This meant that people going to pubs and restaurants either had to check in with a QR code and the contact tracing app, or manually provide their details.

Government guidance and responsibility for this enormous data sharing exercise was threadbare. We were concerned that small business owners would not be able to safeguard such data, and unfortunately our concerns were vindicated.

Scam text messages significantly increased and many young women received unsolicited messages from male staff members they were required to give their details to.

- A case of a woman who received unsolicited texts from a barman after he required her contact details for contact tracing received significant attention online. Using this as an example case, we contacted the woman and wrote a letter to the pub and a complaint to the ICO on her behalf.
- We gave quotes to the Daily Mail to support reporting of young women being harassed following poor Test and Trace data management practices; as well as quotes in the Mail about police being given access to health (self-isolation) data.
- Our Director was interviewed on BBC Sunday Morning Live on Test and Trace and privacy; later in October, Madeleine did talkRADIO and BBC interviews on police access to Test and Trace data.

We challenged the concerning opacity around Test and Trace contracts and legal compliance.

- We instructed leading data protection lawyer Ravi Naik of data agency AWO to write to the Health Secretary and question him on legal compliance/the Data Protection Impact Assessment (DPIA) for Test and Trace with a pre-action letter.
- By November 2020, we instructed AWO, jointly with Open Rights Group, to submit a complaint to the ICO regards the Government's position on joint controller status for the contact tracing obligations made on businesses.
- We signed an open letter to the Health Secretary with We Own It and 100 public figures, calling for all Test and Trace contracts to be published.

Surveillance expansion

The pandemic led to an expansion of surveillance powers, in an environment of over-policing. We documented these developments in our monthly reports throughout. For example, we:

- Worked with grassroots campaign group Stop the Scan to scrutinise the police's increased use of mobile fingerprinting and conducted a mass Freedom of Information project to identify uses both in relation to alleged Covid rule breaches and to search immigration databases.
- We gave media commentary criticising the increased use of drones by police forces and councils, and liaised with the All Party Parliamentary Group (APPG) on Drones to motivate parliamentary action .

- Worked with Open Rights Group on a briefing for the Joint Committee on Human Rights and the prospects of bulk surveillance powers being used, in July 2020.
- In October 2020, following news that Government-funded artificial intelligence cameras and sensors were being used to monitor social distancing in UK towns, we wrote letters to Kent Council and the Department for Transport to ask questions about privacy and data protection. We also wrote to Kettering Council regards their monitoring of CCTV to enforce mask-wearing.
- In May 2021, we placed a story exclusively with the Telegraph after finding that researchers for the Government's Scientific Pandemic Influenza Group on Behaviours (SPI-B) had tracked 18 million people's phones in February after they had received Covid vaccinations to analyse their behaviours, without their knowledge or consent. The story, with our strong criticism, was also covered by the Mirror and the Sun.

The New Statesman wrote a profile of our work after interviewing our Director in April 2021, concluding that "Covid-19 has accelerated the creation of a dangerous surveillance state."

CASE STUDY: A Northern Irish police officer contacted us after his phone was taken and subjected to full data extraction in relation to a suspected Covid breach – he had misunderstood required self-isolation periods and returned to work too soon after travelling abroad. He was then questioned about various data, including private messages between him and his partner, going back five years. His partner was also interviewed under caution in relation to historic messages. He was threatened with gross misconduct charges. We offered him support and connected him with a barrister who has expertise on mobile phone extraction. In 2022, with legal support, his complaint was upheld by the ICO. He gave us the following testimony:

“(...) in search of support, advice and advocacy I reached out Big Brother Watch almost 2 years ago during the Covid pandemic. I was contacted back the same day by Silkie Carlo who provided me with initial guidance and helped me understand the unjust treatment I felt I was facing and express my views to the organisation in question. She provided support and advice and facilitated a free consultation with a leading barrister for me, as well as keeping in contact with me throughout, almost 2 years on. (...) I would not have had the knowledge, information and confidence to pursue such action and sustain it for such a long period, had I not had Silkie as a point of contact. The work that she and her organisation do, has been very valuable to me”

”

Biosurveillance

We identified that Heathrow Airport, Bournemouth Airport and Amazon UK were using thermal biosurveillance cameras, and wrote letters to each of them making the case for them to desist, copying the ICO, Surveillance Camera Commissioner, and Transport Committee. This intrusive surveillance technology signified a serious expansion of body surveillance despite its inefficacy for identifying illness – not only because Covid-19 is not always associated with a raised body temperature, but because infrared scanning estimates skin temperature rather than measuring core body temperature.

Furthermore, the technology is often paired with facial recognition and other invasive surveillance technologies – for example, Heathrow used thermal surveillance alongside automated behavioural and demographic analysis, and planned to add facial recognition.

SUCCESS: All airports stopped using thermal biosurveillance following our campaign.

Recognising an emerging trend, we became concerned that access to schools and other important public buildings could become contingent on thermal scans, and that such scans were not being operated in a privacy-respecting way that protected people's data rights. We secured a grant from the Digital Freedom Fund to research and do legal work to protect data rights in the context of biosurveillance.

Our goals were:

- To ensure a more evidence-led, rights-respecting and data protection respecting approach to surveillance during the pandemic, particularly related to thermal scanning
- To increase public awareness about the potential issues related to thermal scanning
- To set precedent confirming that other rights are being indirectly violated by the imposition of thermal scanning in certain contexts (e.g. education, airports, employment)

We raised attention about the issue, invited members of the public to tell us about their experiences of thermal surveillance so we could write to operators and ask them to desist, and we launched a specific campaign site in July 2021, BiosurveillanceWatch.co.uk.

In our scoping work, we identified and contacted numerous operators of thermal surveillance to urge them to desist, or evidence their legal compliance. This included:

- 10+ schools and universities
- 7+ restaurants (mostly large chains)
- 6 airports
- 6 workplaces
- A theatre group (responsible for 6 theatres in London), and another London theatre
- 5 medical and care settings
- 2 retail chains
- An international port
- A major coach company
- A nation gym chain
- A homeless shelter
- A borough council
- A theme park

We also identified one concerning case where a city-wide rollout of thermal surveillance was proposed. Users of an app would have a time-limited “freedom pass” after passing a thermal scan, allowing them to freely access premises involved in the scheme, whilst non-users or those who failed the thermal scan would be denied entry. We identified and engaged the company behind the scheme, as well as some of their users.

In all of the cases, we were unable to identify a single Data Protection Impact Assessment (DPIA). In fact, confirming our initial fears, every operator that responded denied that they were processing sensitive category data or indeed personal data at all, thus avoiding their responsibilities to assess and protect individuals’ privacy and data rights.

Since our very first letters raising concerns about thermal surveillance to airports and the Department for Transport, some positive health advice reflecting our early concerns was published by the MHRA and the European Centre for Disease Prevention and Control. Eventually, (then) Government Health Minister Lord Bethell explicitly advised against the use of thermal scanners for temperature screening, stating: “it’s important businesses do not rely on temperature screening tools and other products which do not work.”

In addition to the airports, many other operators of thermal biosurveillance desisted their use following our intervention. Therefore, we pivoted our project to produce a legal opinion on thermal biosurveillance with counsel, which we will publish to help set a legal standard in 2022, emphasising privacy and data protection.

Covid data heist...

The pandemic led to a series of new data sharing deals between the government and private companies, often trading our health data. We monitored these closely and documented several deals in our Emergency Powers and Civil Liberties reports.

We also:

- Sent a joint letter to Palantir with Privacy International and others in April 2020, requesting information about the NHS-Palantir Covid Datastore. Palantir offered us a meeting but would only meet us 1:1 – not as a group – so we declined.
- Met with parliamentarians and special advisors about our Covid-19 and big data work.
- Madeleine uncovered a government contract with renowned company Faculty AI to undertake social media surveillance and sentiment analysis, and in August 2020 we gave the Guardian the exclusive story.

Predictive analytics

Our research, led by Jake, into Xantura's Covid OneView service revealed that local authorities were giving their citizens vulnerability scores based on intrusive data processing. Xantura claimed it could use the system to predict who may break self-isolation rules, among other things. If councils held the data, Xantura modelled social and economic frailty on a range of invasive metrics including 'socially unacceptable behaviour' - even including aspects of people's sex lives, debt, children's behaviour at school and much more. We secured strong coverage of this issue in the Daily Mail, with comments from Steve Baker MP. The practice did not become widespread or continue.

Covid marshals

In Autumn 2020, the Government announced the introduction of local Covid marshals to patrol neighbourhoods and promote compliance with rules and guidance.

We monitored the roll-out of Covid marshals and, as expected, found many lacked accurate knowledge about the rules, whilst others were abusing their position. In one case, Covid marshals patrolled student accommodation and even entered girls' rooms – we gave strong commentary to the Daily Mail.

SUCCESS: We found that Brent Council was advertising vacancies for Covid marshals to conduct investigations “covertly”. However, such covert spying of members of the public would be unlawful – the use of covert surveillance techniques would require magistrates’ approval under the Regulation of Investigatory Powers Act and can only be used in relation to more serious offences. We wrote to Brent Council, which subsequently withdrew the “covert” job responsibilities from the advertisement. This action, and the publicity we did with The Metro, caused Brent Council to back down and likely prevented other councils following suit.

Protest during the pandemic

Protests were, wrongly, treated as de facto banned by police during large parts of the pandemic. During this period, Black Lives Matter protests emerged across the country in the wake of George Floyd’s murder; women demonstrated and grieved following the shocking murder of Sarah Everard; Extinction Rebellion protests continued; protests against the Police, Crime, Sentencing and Courts Bill went ahead; and thousands of people protested against lockdowns, Covid passes and vaccine mandates.

We :

- Monitored and analysed the changing protest laws, producing briefings for parliament
- Monitored policing at several protests in London, and met with London Assembly Members regarding the policing of protests in London
- Met with lawyers and liaised with protest groups about joint action to clarify the protected right to protest
- Wrote to the Metropolitan Police following their appalling treatment of journalists at 5th November 2020 protests, in which police wrongly told journalists they needed “authorisation” to cover the event and threatened them with arrest. The force later apologised.
- We also held two demonstrations ourselves against mandatory Covid passes – one, outside the Senedd in October 2021; the second, on Parliament Square in December 2021.

We were contacted by the family of a 19 year old woman ('B') who had been arrested and held in a police cell for 24 hours after giving a speech about the importance of the arts at a small, outdoor demonstration against lockdown laws in Cornwall, Autumn 2020. She was released under investigation for breaching the Serious Crime Act, as police wrongly believed she was a protest organiser and as such encouraging others to commit an offence. Attending a protest has never been in and of itself an offence. We connected 'B' with Patrick Ormerod of Bindman's solicitors, who she then instructed. The Serious Crime Act investigation was eventually dropped. Like many people, 'B' did pay rather than challenge the Fixed Penalty Notice for an alleged breach of lockdown restrictions, to avoid risking prosecution and a record that could obstruct her chosen career path.

The media and political conversation about protest during the pandemic changed dramatically as a row emerged over the planned Clapham vigil in memory of Sarah Everard, who was raped and murdered by a police officer, with more public voices protecting protest rights. We did media appearances in the run up to the vigil, criticising the policing decisions and the lack of a clear protest exemption in law. Our women team members also attended the 'banned' vigil that subsequently took place. After a legal challenge was initiated by the banned vigil organisers, Reclaim These Streets, we discussed intervening in the case. Eventually, we instead provided the group with our series of documented protest interferences by police, to be used in the evidence base for their ultimately successful claim.

We rapidly wrote a joint letter to Home Secretary Priti Patel from ourselves, Liberty and MPs calling for a protest exemption to lockdown regulations, immediately following brutal policing scenes at the banned vigil in memory of Sarah Everard. Over 60 parliamentarians signed our letter, and we placed it with the BBC on a Saturday morning when large anti-lockdown protests – who had had little to no political support in defending their right to protest – were taking place. The story was also covered by the Telegraph.

Four days later, new lockdown Regulations were introduced that contained a specific exemption for protests to take place with precautions.

Coronavirus: Protests should be allowed during lockdown, say 60 MPs and peers

© 20 March 2021



Sarah Everard murder



More than 60 MPs and peers have written to the home secretary calling for a change in Covid-19 legislation to allow protests to happen during lockdown.

The letter, organised by campaign groups Liberty and Big Brother Watch, says there is a human right to protest.

Censorship

We wrote a letter to Google in October 2020, co-signed by Article 19, after they appeared to bury search results for the Great Barrington Declaration – a website hosting an open letter by infectious disease epidemiologists and public health scientists criticising lockdowns. Concerns had been raised by journalists and MPs that Google search results rapidly changed in relation to the Declaration when it stopped returning as the top search result for “Great Barrington Declaration”, instead returning articles that criticised the Declaration. The actual Declaration itself became hard to find via Google despite remaining the top search result on competitor search engines. The company agreed to meet and in December 2020, our Director met with with Google representatives online. They refused to confirm or deny that such manipulation had taken place.

In November 2020, we responded to the Labour Party's proposal to "stamp out" anti-vaccine sentiment online, warning that people's concerns or misunderstandings could be censored, and that the scope for free expression would be unduly narrowed by this reactionary policy.

In January 2021, we gave strong comments to the media, including the BBC and The Sun, admonishing YouTube for removing talkRADIO's channel – presumably, for broadcasts that were critical of the Government's management of the pandemic. We also liaised with talkRADIO and offered advocacy support. Following the backlash, YouTube reinstated the broadcaster's channel.

In October 2021, YouTube removed a video that we had uploaded of David Davis MP giving a speech at our Conservative Party conference fringe event against vaccine passports. After we publicised this, YouTube reversed the decision and apologised to Davis. Our Director gave an interview to BBC Newsnight, pointing to the longer term censorship risks of the Online Safety Bill, and she wrote an opinion piece in the Telegraph.

Davis said of the censorship,

"You couldn't make this up. If you tried to invent a way of demonstrating that you can't trust the big platforms to police our free speech, this is it. This is the perfect parable.(...) If it wasn't a well-known politician and a well-known campaigning group, [YouTube] may never have backed off."



The screenshot shows the BBC News website interface. At the top, there are navigation links for Home, News, Sport, Weather, and iPlayer. Below the navigation is a red banner with the word 'NEWS' in white. Underneath the banner is a horizontal menu with categories: Home, War in Ukraine, Coronavirus, Climate, UK, World, Business, Politics, Tech, Science, and Health. The 'Politics' category is selected and underlined. Below the menu, there are sub-categories: Politics, Parliaments, and Brexit. The main headline of the article is 'YouTube U-turns over David Davis vaccination passports clip after protest'. Below the headline is the date '14 October 2021' and a red share icon. A video player shows a man with white hair and glasses, identified as MP David Davis, speaking at a meeting. Below the video player, there is a caption: 'MP David Davis was filmed addressing a meeting at the Conservative Party conference'. Below the caption, there is a short summary: 'YouTube has reversed its decision to remove a video of David Davis arguing against Covid passports, following criticism from the ex-minister.' Below the summary, there is a quote: 'According to Big Brother Watch, the platform said Mr Davis's speech at the Conservative Party conference violated its policy on "medical information".'

Leafleting ban

In February 2021, ahead of local elections, Cabinet Office Minister Chloe Smith wrote to MPs claiming that lockdown restrictions “do not support door to door campaigning or leafleting by individual political party activists”, suggesting that leafleting was banned. Any such suggestion was incorrect, contradicted the fact that services such as the Royal Mail and Amazon deliveries continued unabated, and was a serious interference with the right to freedom of expression and the democratic process during an election period.

Madeleine wrote and co-ordinated civil society sign-up to an open letter to Chloe Smith, urging her to retract her unlawful guidance on the leafleting 'ban'. Sign-up from other organisations included Fair Vote, Unlock Democracy, Index on Censorship, Liberty, Article 19 and the Local Government Association Independent Group. We also liaised with the Electoral Reform Society.

Furthermore, we supported two councillors who received fines for leafleting, and connected them with trusted lawyers who then advised them about challenging the fines.

SUCCESS: By March 2021, the leafleting ban was dropped and by May, the councillors' fines were rescinded.

100 days of lockdown

We marked 100 days of lockdown on 1st July 2020 by publishing our third Emergency Powers and Civil Liberties report, publishing our letter to the NPCC calling for a review of all Covid fines with the BBC, and publishing a "100 days of lockdown" video. This short film summarised our research on over-policing, growing surveillance, censorship and the erosion of parliamentary democracy over the previous 100 days in an engaging and shareable way.

2021: Covid passports

From our very first Emergency Powers and Civil Liberties report In April 2020, we warned of the Health Secretary's strong interest in 'immunity certificates' as a form of 'freedom pass'. We later uncovered a series of contracts for Covid pass development up to November 2020, although ministers were still denying, in the press and even in parliament, that there were any plans for Covid passes or vaccine passports at all.

We continued to warn that such policy proposals were indeed being taken seriously within government and being invested in with public funds. We wrote to the (then) Vaccines Minister Nadhim Zahawi to seek clarity. He replied to us in February 2021 claiming again that there were no plans at all for immunity passports. This was clearly not the case.

We began a pro-active advocacy and media campaign. In February 2021, Mark Johnson did his first TV appearance on Jeremy Vine on 5, excellently making the case against vaccine passports, as well as BBC regional radio, an Adam Smith Institute podcast, and an op-ed for Spiked. Jake did a string of interviews on talkRADIO. In March, our Director made the case against vaccine passports on BBC Radio London, as a panellist on BBC Radio 4's Moral Maze, and debated a representative of the Tony Blair Institute, which was lobbying government to introduce vaccine passports, for Unherd.

On February 21st 2021, the 69th anniversary of Winston Churchill scrapping wartime ID cards, we published a blog about Britain's fight against mandatory IDs, from the backlash to war IDs up to Covid passes and voter ID – branding the so-called Covid certificates as 'Covid IDs', tying proposals in to previous failed ID schemes. The blog was accompanied by a thread on Twitter which was seen over 500,000 times and shared 1,700+ times.

We sought to deepen our research about immunity pass schemes and liaised with colleagues at the Association for Civil Rights in Israel (ACRI) to learn about their experience, as Israel was the first country to roll out a Green Pass.

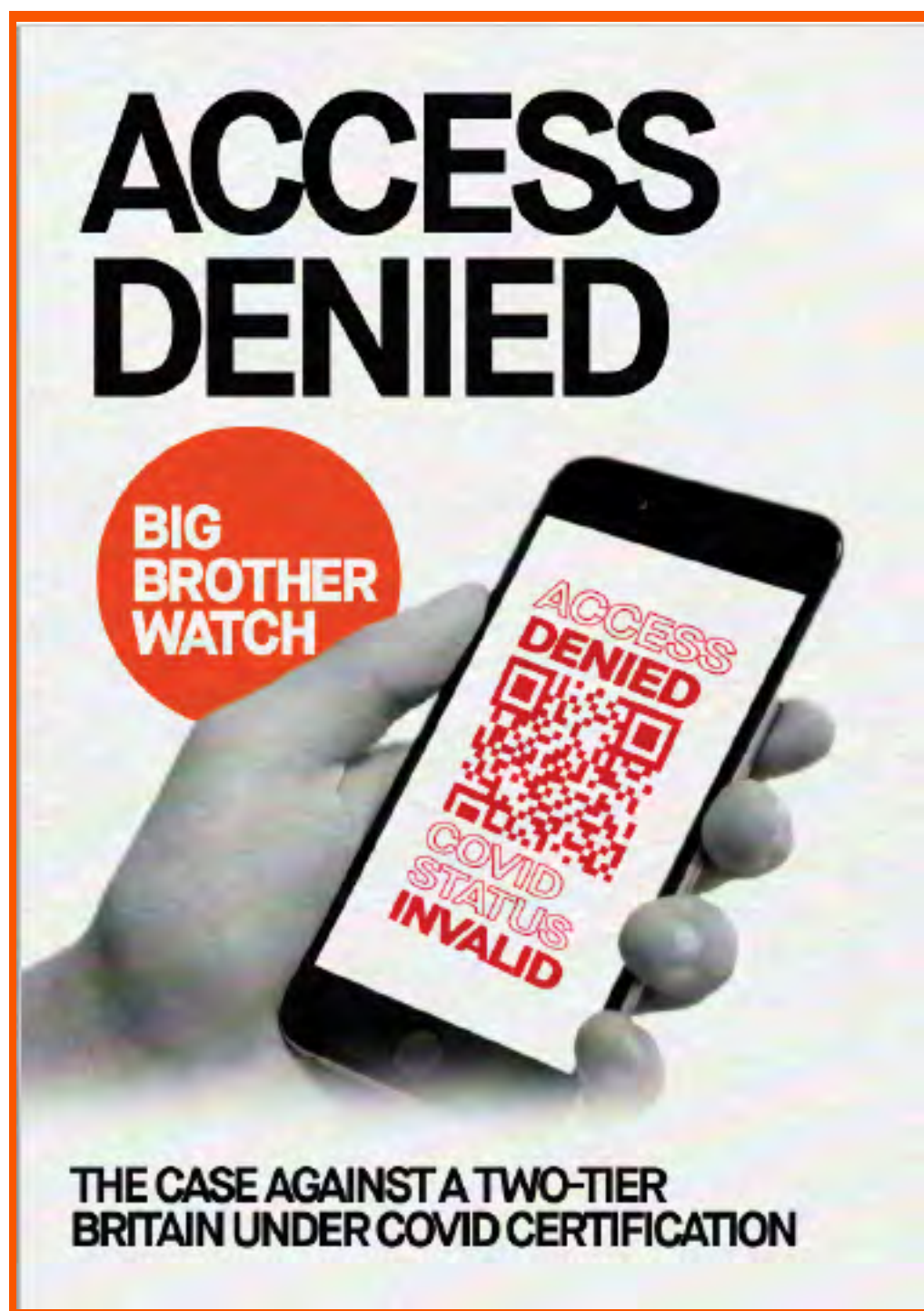
The 'consultation' phase and our campaign launch

After a petition against vaccine passports achieved 100,000+ signatures, a petitions debate was held in which our work was quoted extensively. We provided a written briefing for all MPs. We also launched a campaign site, StopVaccinePassports.co.uk, hosting 9 key arguments against Covid passes, FAQ, and an 'Email your MP' tool with a template email against Covid passes, which was used by many thousands of supporters.

Then, on 15th March 2021, the Cabinet Office launched a consultation into whether "Covid-status certification could play a role in reopening our economy, reducing restrictions on social contact and improving safety". We added an easy-read draft consultation response to our StopVaccinePassports.co.uk site, which thousands of people used as the basis of their response to the Cabinet Office.

Meanwhile, we quickly raised funds through our networks to commission a rapid legal advice for publication, and for submission to the Cabinet Office's consultation, on the human rights and employment law issues. With the funding, we were able to instruct an outstanding legal team led by privacy expert Charlotte Kilroy QC to produce the compelling and persuasive advice.

We rapidly wrote a report, *Access Denied: the case against a two-tier Britain under Covid certification*, containing our detailed research and policy analysis of the evidence base for Covid passes, the ethical and legal issues and the technological issues. We submitted this with the legal advice to the Cabinet Office consultation, and also publicised it.



We understood that the consultation was a launchpad for a pre-determined decision to roll out Covid passes, and so we launched a Crowdfunder to build the biggest possible campaign, and if necessary legal challenge, against mandatory Covid passes. The Crowdfunder was remarkably successful and, from March 2021-2022, raised a phenomenal £240,400. This was Big Brother Watch's biggest fundraiser in our history. We felt incredibly emboldened to have such significant public support.



On 23rd March, the Public Administration and Constitutional Affairs Committee began an inquiry into Covid 19 Vaccine Certification and issued a call for evidence. We submitted written evidence and our Director was called to give oral evidence in May, alongside David Davis MP.

Creating a rebellion

On 2nd April 2021, we publicly released the Access Denied report alongside a pledge against "divisive and discriminatory" Covid passes that we co-ordinated, signed by 70+ MPs across parties. We launched this via BBC News and our Director gave live interviews to the BBC, Sky, ITV, LBC and talkRADIO. We secured Baroness Chakrabarti a slot to talk about the pledge and report on BBC Radio 4's Today programme and ITV News. We also secured coverage on Sky News, the Mail, the Guardian, the Sun, Mirror and others.

Our pledge signalled the start of a serious, cross-party rebellion against Covid pass proposals. Chair of the 1922 Committee, Sir Graham Brady, personally sent the report directly to No. 10.

BBC Sign In Home News Sport Reel Worklife Travel Future Search BBC

NEWS

Home | War in Ukraine | Coronavirus | Climate | Video | World | Asia | UK | Business | Tech | Science | More

Coronavirus: Dozens of MPs criticise 'divisive' Covid passports

By Jennifer Scott
Political reporter, BBC News
© 2 April 2021

Coronavirus pandemic



GETTY IMAGES

Top Stories

- Cities flooded and power cut as Ian crosses Florida 15 minutes ago
- How a massive data breach has exposed Australia 7 hours ago
- Australian adviser to Suni Kyi jailed in Myanmar 35 minutes ago

Features



On the front line with Ukrainian troops in Kherson

Privacy Policy | Feedback | Follow 21.5M

Thursday, Sep 29th 2022 3PM 34°C 6PM 31°C 5-Day Forecast

MailOnline News

Home News U.S. | Sport | TV&Showbiz | Australia | Femail | Health | Science | Money | Travel | Video | Best Buys | Discounts

Latest Headlines | The Queen | King Charles III | Liz Truss | Russia-Ukraine War | Prince Harry | Meghan Markle | World News | Most read | Login

FORTY rebel Tories including six ex-Cabinet ministers join forces with opposition MPs in bid to block 'divisive and discriminatory' vaccine passports

- Unlikely alliance condemned vaccine passports as 'divisive and discriminatory'
- Members of coalition were organised by the pressure group Big Brother Watch
- Signed a pledge to oppose the idea if it is brought forward by ministers
- Signatories include Jeremy Corbyn, Sir Iain Duncan Smith and Esther McVey

By JASON GROVES POLITICAL EDITOR FOR THE DAILY MAIL
PUBLISHED: 00:00 BST, 2 April 2021 | UPDATED: 09:04 BST, 2 April 2021

Site | Video | Enter your search | Search

- Follow Daily Mail (Facebook)
- Subscribe Daily Mail (YouTube)
- Follow @DailyMail (Instagram)
- Follow Daily Mail (Pinterest)
- Follow @dailymailuk (Twitter)
- Follow Daily Mail (Snapchat)

DON'T MISS

Costello dead at 59: Gangsta's Paradise rapper passes away after friend found him lying unresponsive on bathroom floor in Los Angeles





We began liaising extensively with Conservative and Labour backbench leaders, working together to build a media backlash and parliamentary rebellion. We gave briefings to Conservative backbenchers, Liberal Democrats, Greens, Labour MPs and Labour Grassroots members.

Our investigations

Further, alongside our report release we secured Telegraph coverage of Jake's investigation into Netcompany, a private company that received £3m of public money in November 2020 to develop a Covid passport app; and Guardian coverage of leaked NHS documents we had received including an NHS-commissioned report from December 2020 planning Covid passes which even explored whether they should be required for entry to family and at-home gatherings. Several weeks later we secured i coverage of Covid pass contracts, worth up to £21m, going back six months. All of these stories revealed significant development of Covid passes at times when Government had claimed there were "no plans" for Covid passes, which also exposed the shallow nature of the 'consultation'.

Further, we liaised with a group of leading Israeli public health experts and academics who were criticising Israel's Green Pass – then, the leading operational Covid pass example – and asked them to draft an opinion piece about Israel's experience, which we secured placement of on the Telegraph online.

Lobbying

As the Labour frontbench began considering policies for test certificates, we produced a policy briefing against the policy based on rights and safety, and circulated a guest briefing on the scientific case against test certificates from Professor Jon Deeks, one of the country's leading experts on biostatistics and test evaluations. We circulated the briefings widely to parliamentarians and the press.

Challenging the 'trials'

Straight after the Covid-status certification consultation closed, the Government announced a series of Covid pass "trials" - yet further confirming our research suggesting that the policy was a fait accompli.

In May 2021, we instructed leading privacy law firm AWO to send a letter to Government querying the unclear privacy policies for the trials and legal basis for collecting health data at public events such as football matches. We could not bring a full legal challenge to Covid passes on the basis of the trials, but we could attack the legal compliance of aspects of the trials.

SUCCESS: In July 2021, the privacy policy for the Covid pass trials was revised following correspondence with the Government via our lawyers.

U-turns

On 5th July 2021, the Government finally announced that Covid passes would not be a legal requirement, ahead of the stage 4 reopening of society.

However, they soon U-turned on this announcement and on 19th July, announced that proof of double vaccination would be a legal requirement for entry to nightclubs and large gatherings from September – despite those venues already being open – coinciding with the timeline by which all eligible over 18s could be double vaccinated.

Erlend created a short, high-impact video exposing the Government's lies and U-turns on vaccine passports which achieved 80,000 views on YouTube and an incredible 715k views on Twitter!

We again took to the press, and our Director appeared on BBC Politics Live among other broadcasts to make the case against these coercive, counter-productive and illogical plans, and placed an opinion piece in the Sunday Telegraph.

Moreover, we began planning major campaign actions for September to coincide with the anticipated parliamentary vote.

Meanwhile, we began identifying venues requiring Covid passes as a condition of entry in anticipation of the September legal obligation, sending scores of letters to theatres, festivals, nightclubs and music venues requesting that they drop the requirements. We also sent letters to every club using Covid passes in the Premier League. We created a boycott list of venues requiring Covid passes on our campaign site.

Discriminatory impacts

Madeleine set up an advocacy project, *Queers Against Covid Passes*, with Liberty colleagues and created an open letter to all LGBT venues for people to sign to express opposition to Covid passes. She co-wrote an excellent article for *gal-dem* magazine drawing attention to the campaign. We wrote letters to a number of LGBTQ+ clubs about their use of Covid passes, which led to at least one event dropping their Covid pass requirements.

The September-October 2021 campaign

In September 2021, as expected, plans escalated to impose mandatory Covid IDs across the four nations. We were highly prepared and executed strategic regional campaigns to mount the biggest pushback possible against proposals in each country.

Party conferences

It appeared that the Government's pledge on vaccine passports would mean that a vaccine pass would be a requirement to attend Conservative party conference, leading a number of rebels to vow not to attend.

In response, we organised a snap Conservative Party conference (unofficial) fringe event for the rebels and local supporters, titled *Conservatives Against Covid IDs*, which we publicised in a story via the *Times* newspaper.

Our excellent line up included Sir Graham Brady MP, David Davis MP, Steve Baker MP, Chris Green MP, and Baroness Helena Morrissey, on a panel chaired by Julia Hartley-Brewer. It was a fantastic event that we live streamed on YouTube.

The conference did not, eventually, require Covid passes.

We also organised a Labour Party conference (unofficial) fringe event in Brighton with a similarly strong line up of speakers including Baroness Chakrabarti, Bell Ribeiro-Addy MP, Dawn Butler MP, Rebecca Long-Bailey MP, Emily Benn and our Director Silkie Carlo on a panel chaired by Freddie Sayers. Likewise, we live streamed the event on YouTube where footage is still available. Silkie's speech received 30,000+ views on YouTube.

The main Labour conference did require Covid passes. We liaised with conference organisers and met with Labour members who were on our side campaigning with us against the passes for conference, including Jeremy Corbyn MP.

England

In September 2021, we launched our biggest public campaign yet to fight against Government plans to introduce mandatory vaccine-only Covid IDs for public venues in England. We did a 'No Covid IDs' projection onto Parliament.



The stunt was covered by Mail Online, whose video of our stunt achieved 124,000 views on YouTube.

We also sent an advan playing a video exposing Government U-turns on Covid IDs to circle Westminster.



We hired the digital billboard to circle Westminster on a busy Wednesday morning before Prime Minister's Questions, playing our viral video of Ministers' U-turns and lies about Covid IDs, which received significant attention. We bumped into the (then) Health Secretary Sajid Javid with our advan and recorded a clip of him being scooted away, which achieved 200,000 further views on Twitter.

We press-released our stunts and took to the airwaves at every opportunity, including an opinion piece in the Telegraph against vaccine passports, LBC interviews with Tom Swarbrick, Nick Ferrari and Andrew Castle, talkRADIO interviews, comments in the Guardian and much more.

We also boycotted a festival the Director was due to speak at due to their Covid pass policy, and encouraged other high profile speakers to – which was covered in the Spectator.

We ran a huge 'email your MP' campaign, using the stunts as pushes to reach new audiences and motivate the public to take action.

These higher-spend activities paid off, drastically increasing our social media reach over the week.

SUCCESS! Plans for mandatory vaccine passports in England were scrapped days later, on 12th September! The proposal was kept in reserve for 'Plan B' if the NHS came under unsustainable pressure in Winter.]

Signalling that Covid passports were still very much on the table, the Government ran a consultation from late September to early October on how – not whether – a mandatory scheme should work. We sent a response, and issued a public call to action with a guide on how people could quickly and easily send a response.

Scotland

Scottish parliament voted in favour of a motion for vaccine passes and on 1st October 2021, a mandatory vaccine passport law was introduced (although it was not enforceable until 18th October) .

We ran a major 'Email your MSP' campaign with a template email for Scottish supporters to send in advance of the vote.

We sent a briefing to all MSPs and emailed all party leaders in Scotland urging them to oppose the plans. Our Director personally wrote to Scottish Ministers in letters co-signed by Liberty, which we placed exclusively with the Scottish Sun. She also gave a live broadcast interview to BBC Scotland, rallying against the mandatory vaccine pass policy. We gave comments to the Scottish Sun on the worrying figures on ethnicity and vaccination, indicating a serious segregation effect of vaccine passports – but ultimately, these serious issues did not deter Scottish Ministers.

Scottish Labour, Conservatives and Liberal Democrats did oppose the plan, which was a major success – but not enough to prevent the SNP-Green coalition policy.

We appointed an excellent legal team with privacy and human rights expertise to provide us with legal advice on a potential challenge in Scotland. However, we could not proceed with a challenge due to the high risk of uncapped adverse costs in Scotland, which could have posed an existential threat to our organisation had we lost a challenge – if we lost, which was a serious possibility, Big Brother Watch may be forced to close. We liaised closely with the Night-time Industries Association (NTIA) about their ultimately unsuccessful application for an injunction, and prospects for other legal challenges, but neither of our groups could safely execute a legal challenge.

On 19th November, the Scottish government published a 70-page evidence review which found no evidence at all, in two months of their vaccine passport scheme, that it had any benefit to public health. Our director did a live interview on BBC Scotland's Sunday Show to call for the government to scrap the mandatory scheme altogether.

The Scottish government then dropped plans to extend the vaccine passport requirement further and in fact added proof of a negative test to the pass, as an alternative to proof of vaccination.

Wales

Likewise, plans were suddenly brought forward for mandatory Covid passes by the Labour Government in Wales, prompting us to launch an 'email your MS' campaign; send every Senedd member a Big Brother Watch briefing on the plans; and our Director personally sent every Senedd member an email urging them to vote against mandatory Covid IDs.

Liaising with party leaders, the Welsh Conservatives agreed to oppose the plans and back our campaign, as did the Liberal Democrats. Plaid Cymru eventually decided to also oppose the plans, meaning all opposition parties would vote against Covid IDs. This was a major breakthrough.

On 5th October 2021, the day of the vote, we held a demonstration outside the Senedd, attended by around 100 supporters. We met the Conservative lead on the issue, Russell George MS, for a photo prior to the vote.

In what would have been an historic defeat, we should have won the vote against mandatory Covid IDs in Wales. However, one Conservative MS Gareth Davies was missing and did not vote, or arrange a matched vote, leading to chaos, confusion and ultimately a win for the Welsh Government. Our Director put a series of questions to Davies about his absence and claimed attempts to vote remotely, which he refused to answer. Our FOIs about the incident were also refused.

Despite this crushing loss, we were undeterred and channelled our focus into bringing a legal challenge against the mandatory Covid pass scheme.

We took to the airwaves after the vote, and Madeleine did her first live TV interview on GB News about the vote.



Later in October, the Welsh Government expanded the mandatory Covid pass scheme – with the support of Plaid Cymru – which eventually included cinemas, concert halls and theatres, as well as nightclubs and certain large events. We sent a briefing to all Senedd members on the Regulations, explaining why expanding the Covid pass scheme would be counter-productive and harmful.

Our legal challenge in Wales

We instructed an expert team, retaining our counsel from our Covid pass advice in April, Charlotte Kilroy QC, and bringing in Bindmans solicitors to send a pre-action letter to the Welsh government on 9th November. We secured strong media coverage including the BBC, ITV Wales, talkRADIO, and GB News.

A few weeks later we received an incredible reply from the Welsh government, admitting that Ministers' advice and expectations were that Covid passes "might" make "only a small, and probably unmeasurable" impact on Covid cases. However, the Welsh Government also refused to allow us to publish the correspondence. Therefore, we quoted this correspondence in our subsequent grounds for challenge, which we submitted on 11th January 2022 - and then published our grounds, finally getting this important admission into the public domain.

Viewing this as a vital challenge by and for our supporters, we called out for evidence from people affected by mandatory Covid passes in Wales and used their anonymised accounts to support the legal challenge in our grounds.

SUCCESS: Faced with our legal challenge, which was enabled by the overwhelming public support backing our Crowdfunder campaign, Welsh Ministers announced the mandatory Covid pass scheme would be scrapped on 18th February.

Northern Ireland

In late November 2021, Ministers in Stormont made a shock decision to implement mandatory Covid passes – and without an Assembly vote. We launched a snap campaign -

We:

- Wrote to the Northern Irish Health Minister calling for a prior vote
- Launched a 'write to your MLA' email campaign for the public
- Wrote letters, co-signed by Liberty, medConfidential, the Manifesto Club and Open Rights Group to every MLA urging them to vote against Covid IDs for Northern Ireland
- Had multiple meetings with DUP MLAs
- Deployed digital adverts opposing Covid passes across Northern Ireland the weekend before the vote.



The public reception to our adverts was overwhelmingly positive, and visitors to our campaign site StopVaccinePassports.co.uk tripled in November compared to October. However, the ads also caused some minor controversy with one Alliance Party MLA, ridiculously claiming that the slogan 'Stop Vaccine Passports' could put lives at risk and urging the advertising company to take them down. The ridiculous comments only aided our coverage and outreach, whilst also shining a light on the falsehoods and hysteria that began to characterise the pro-Covid pass campaign.

Nevertheless, after our campaign, plans continued to roll out the Covid pass but not legally enforce the requirement until after an Assembly vote.

Covid passes were eventually repealed in Northern Ireland in February 2022, shortly after the announcement that they would be repealed in Wales.

Revival of Covid pass plans in England, December 2021

After we had defeated Covid plans twice, the Government revived the policy as part of a 'Plan B' response in England in December 2021, in what many saw as a 'dead cat' strategy as the Partygate scandal began to unravel. Ahead of a snap vote in parliament on mandatory Covid passes on 14th December, for which the Regulations were laid in parliament only 24h before,

We:

- produced emergency placards, banners and leaflets in an extremely tight window and held a demonstration on Parliament Square that was endorsed by fellow rights and equality NGOs
- deployed large 'Stop Covid ID' digital billboards in London and Manchester
- sent a roving digital 'Stop Covid ID' advan around Parliament on the day of the vote
- sent every MP a party-specific briefing against Covid IDs
- ran a public 'email your MP' campaign
- took to the airwaves





SUCCESS: We achieved the biggest Tory rebellion (99) of Johnson's premiership and one of the biggest rebellions since the Labour rebellion on Iraq war, making the Government rely on Labour votes to get mandatory domestic Covid passes over the line. 126 MPs in total voted against the plans - we also achieved 10 Liberal Democrat votes against, 8 Labour, 2 Independent, 1 Green, and 6 DUP.

Our legal challenge in England

On 23rd December 2021, we launched a legal challenge against the Johnson Government's mandatory Covid pass scheme on privacy and discrimination (due to spot-checking powers) grounds. This was only possible thanks to the overwhelming public support backing our Crowdfunder campaign.

SUCCESS: On 19th January, the Prime Minister announced that mandatory Covid passes would be scrapped the following week - making the controversial policy one of the shortest lived. We were therefore able to conclude our legal action without adverse costs.

Mandatory vaccines

We were the leading civil liberties group to campaign against mandatory vaccines. They were introduced for care homes and NHS staff in England.

We:

- Wrote briefings on mandatory vaccines in care homes for the House of Commons and House of Lords debates that included testimonies from care workers from our supporter base, some of whom stood to lose their jobs
- Submitted human rights-informed responses to the Department of Health and Social Care's consultation on mandatory vaccines for care home staff, and later on mandatory vaccines for NHS workers
- Wrote briefings against mandatory vaccines for NHS workers and sent a copy to every parliamentarian
- Lobbied the Labour Party to oppose mandatory vaccines, which they did regards care homes; however, after losing the vote, the party then voted in favour of mandatory vaccines for NHS staff
- Advocated in print and broadcast media, including BBC, against mandatory vaccine policies.

All mandatory vaccine laws were repealed in early

The background of the image is a solid orange color. In the center, there is a white rectangular box with a thin white border. Inside this box, the words "SURVEILLANCE AND" are written in a bold, white, sans-serif font on the top line, and "POWER" is written in the same font on the bottom line. The text is centered horizontally and vertically within the box. The background behind the text is a faint, semi-transparent image of a hand holding a pen over a document, with a magnifying glass positioned over the text on the document. The magnifying glass is tilted, and its lens is focused on the text. The overall composition is clean and professional, with a strong emphasis on the text.

SURVEILLANCE AND POWER

Mass surveillance: Big Brother Watch & Ors v UK

Our legal challenge against mass surveillance conducted under the Regulation of Investigatory Powers Act 2000, which we started in 2013 after NSA contractor Edward Snowden blew the whistle, is now widely recognised as a landmark case for surveillance, technology and human rights.

In 2019 we chose to appeal the September 2018 judgment, although we had had some success, as we thought the absence of a strong determination on the compatibility of mass interception with the Article 8 right to privacy per se set a worrying precedent for mass surveillance in the UK/Europe. The appeal was heard by the Grand Chamber at the European Court of Human Rights – the highest court in Europe.



“

“Admitting non-targeted bulk interception involves a fundamental change in how we view crime prevention and investigation and intelligence gathering in Europe, from targeting a suspect who can be identified to treating everyone as a potential suspect whose data must be stored, analysed and profiled (...) a society built upon such foundations is more akin to a police state than to a democratic society. This would be the opposite of what the founding fathers wanted for Europe when they signed the Convention in 1950.” - Judge Albuquerque, dissenting opinion in Big Brother Watch & Ors v UK”

We continue to monitor and engage with developments on mass surveillance in the UK. In January 2021, our Director contributed to a roundtable with the Investigatory Powers Commissioner, Sir Brian Leveson, urging for stronger transparency and accountability mechanisms. In this period, we also had two meetings with the Home Office’s investigatory powers team, in which our Director urged for an independent reviewer to conduct the legally required 5-year review of the operation of the Investigatory Powers Act.

”

Stop Facial Recognition

In January 2020, the Metropolitan Police Service announced its decision to roll out live facial recognition as an operational tool. This was despite the damning independent review, Commissioners' concerns, Government assurances that regulation would precede future use, and our incredibly strong media campaign. In immediate response, we condemned the decision on ITV and Sky News, circulated press quotes and made a 38 Degrees petition which accrued 35,000+ signatures.

In January, our Director appeared on BBC Victoria Derbyshire, ITV Wales, and was interviewed on radio including talkRADIO and a 1 hour debate on talkSport radio. Our former Legal and Policy Officer was interviewed on Global (LBC and Heart) radio, and Sky News live, Al Jazeera live as well as LBC News and talkRadio.

There were 3 deployments in February 2020 in London, each of which we observed, and which were broadly unsuccessful for the police.

Campaign

In January, South Wales Police used facial recognition at a Cardiff v Swansea football match. We organised a demonstration with football supporters and went to Cardiff for the weekend, holding a banner outside the stadium and handing out leaflets on match day (Sunday). Ahead of the match, we placed press comments from us and a supportive Welsh Police and Crime Commissioner, Arfon Jones, to the press leading to extensive media coverage.



Big Brother Watch demonstration in Cardiff, January 2020

In March 2020, we gave evidence on facial recognition at the Citizens Biometrics Council organised by the Ada Lovelace Institute, and spoke at a roundtable with European campaign coalition Reclaim Your Face about the campaign to stop live facial recognition.

Political engagement

In January 2020, the day before South Wales Police used facial recognition at a Cardiff football match, our Director had a meeting with First Minister of Wales Mark Drakeford. He was attentive to our concerns and agreed to carry them forward.

Our Legal and Policy Officer had meetings in which he advocated for a ban on live facial recognition with the North Wales Police and Crime Commissioner; the Dyfed Powys Police and Crime Commissioner; and London's Deputy Mayor for Policing Sophie Linden.

SUCCESS: A great reflection of our successful campaign came in March 2020, when the Equality and Human Rights Commission called for a moratorium on live facial recognition, and cited our work. This was a hugely helpful development adding more regulatory weight behind our call for a ban. Our Legal and Policy Officer wrote a blog for the Commission's website to accompany the release of their report.

We also worked with Liberal Democrat Haringey Councillors for some time on a local facial recognition moratorium – the motion eventually passed in July 2020.

Police did not use live facial recognition for the entirety of the pandemic. However, attempts to revive live facial recognition policy continued.

In July 2021, we collaborated with Privacy International and Liberty on a joint response to the College of Policing's live facial recognition consultation; and published an open letter to accompany it, calling for a ban on live facial recognition. In September 2021, we wrote a response to another consultation, this time on proposed changes to the Surveillance Camera Code of Practice to accommodate live facial recognition, and gave media comments criticising this to the BBC.

In October 2021, our Director gave oral evidence to the House of Lords Justice and Home Affairs Committee on new technology and the law, having already submitted expert written evidence, and drew particular attention to the need to legislate against live facial recognition. Clips of the evidence were featured on BBC Politics Live, the Mail Online, and it was also covered in the Standard.

In autumn 2021, we investigated and sent letters to schools that started using facial recognition for lunch payments, urging them to desist. We gave strong media comments to the Financial Times, the Sun, Guardian and many more. We supported peers in raising a Question for Short Debate in the House of Lords on this issue, and provided speaking notes.

SUCCESS: All schools we identified using facial recognition for school lunch payments stopped their use of the technology following our intervention and ICO advice.

Private companies

Clearview AI

In February 2020, we started investigating Clearview AI, a firm that allows facial recognition searching of a database of 3 billion images scraped from the internet. We asked the ICO to investigate as to whether and how UK authorities were using it – at that time, they said they would not investigate. News later broke that 6 police forces and a number of other bodies were using Clearview AI. We responded strongly in the press and all those organisations desisted use, claiming it was only a “trial”. We explored the possibility of litigation, but the ICO later announced it had opened an investigation into Clearview AI in July 2020. We drafted written parliamentary questions on the topic for Darren Jones MP.

Southern Co-op

In January 2021, we started the #StopCoopSpying campaign against Southern Co-op, which we discovered is using live facial recognition in its stores across the South of England. We engaged in correspondence with the company and started a campaign site, with a draft Email to the CEO, a draft tweet, and a downloadable leaflet for people to take action. Our ability to take further action was limited due to the pandemic, but we created a strong campaign foundation to pursue in 2022. Our campaign was covered by multiple media outlets, including nationals such as the Telegraph as well as regional press, and our Director did a live interview for Sky News.

We met with MPs from affected constituencies, such as Daniel Zeichner MP who we drafted parliamentary questions for, as well as councillors in affected areas.

Uber

We worked with the drivers' union on a joint letter to the Mayor of London, rallying against Uber's use (and TfL's endorsement) of facial recognition of drivers in Spring 2021. The facial recognition has resulted in racist misidentifications and adverse impacts for drivers.

Sainsburys

We wrote to Sainsburys to urge them to stop using intimidating facial detection cameras.

Sainsburys

We wrote to Sainsburys to urge them to stop using intimidating facial detection cameras.

SUCCESS: Sainsburys agreed to stop using facial detection cameras in its stores.

Netflix

In September 2020, the documentary Coded Bias premiered in the UK; in April 2021, it went on Netflix. The documentary charts the efforts of women campaigners around the world fighting biased algorithms, principally facial recognition, and after filming us for over a year, prominently features Big Brother Watch's long fight against facial recognition.

The documentary was a great success and helped raise awareness of our core campaign issue and our important work.



Covert Human Intelligence Sources

During the pandemic, the Government published a Covert Human Intelligence Sources ('CHIS') Bill, which effectively gave police spies the ability to commit crimes with impunity. Going through parliament amidst our battle against Covid passes and much more, we adopted a supportive role on the campaign whilst other groups such as Reprieve took the policy lead. Nevertheless, we sent briefings to every parliamentarian, were in contact with peers including Baroness Chakrabarti and MPs including Joanna Cherry QC, and our briefings were read from during parliamentary debates. Regrettably, the Bill was rushed through parliament with little public or political attention.

Chinese surveillance

In 2021, we began our investigation of the scale of surveillance cameras in the UK made by Chinese state-owned companies.

Our Head of Research and Investigations Jake sent FOIs to 3,000+ secondary schools, 150 NHS Trusts, every government department, 400+ local authorities, 150 universities as well as around 100 Oxbridge and Durham colleges about their use of Chinese CCTV.

We had meetings with Hong Kong Watch and Free Tibet, among other groups, whilst beginning our research to ensure we engage with important stakeholders throughout, understand wider human rights issues, and establish new links between rights groups. This work is to be continued in 2022.

Voter ID

We campaigned against Government plans to introduce mandatory photo ID for elections, given the lack of an evidence base of ballot box fraud in the UK compared to evidence of disenfranchisement arising from ID requirements, as seen in the pilots of the scheme, let alone the risk of building momentum for a national ID card. The Elections Bill was introduced in July 2021. We responded in the press, and our Director was interviewed by Julia Hartley-Brewer on talkRADIO.

Mark led our policy work on the Bill, joining monthly meetings with a large coalition of rights, equality and democracy groups and sending briefings to all MPs. This work is to be continued into 2022.

General surveillance and privacy advocacy

Big Brother Watch remains the country's foremost source of critical expertise and go-to commentary on surveillance and privacy.

During this period, we continued to advocate for privacy protections in the context of both public and private surveillance, across broadcast and print media. For example, we were widely interviewed and quoted criticising Amazon's new 'home drone', Amazon palm scanners, Amazon Go shops, and then Amazon Ring doorbells after a legal judgment found one home-owner had used the device to invade a neighbour's privacy. We also signed a letter to Apple with 90 other NGOs rallying against the company's plans to undermine privacy by pursuing client-side scanning on iCloud – the company later dropped the plans.

We also provided advocacy on encryption, the UK's ANPR surveillance network, the need for laws to regulate police drones, the Health Department's attempted GP data grab, the emergence of vein ID in Manchester, and GPS ankle tags for migrants. Following a number of high-profile attacks and murders of women, we also critically analysed a number of surveillance-based power grabs police pursued in response, such as installing more plainclothes officers in bars, CCTV tracking of women and on-demand drones.

A photograph of a diverse crowd of people at what appears to be a protest or public demonstration. The image is overlaid with a semi-transparent orange filter. Several white rectangular boxes are drawn over the crowd, highlighting different individuals. In the center, a young man is looking to the right with a determined expression. Other people in the background are holding up smartphones, some with their cameras pointed towards the viewer. The overall atmosphere is one of active participation and public expression.

FREE EXPRESSION

FREE EXPRESSION

Online Safety Bill

We successfully influenced legislative proposals for an Online Safety Bill to strike a better balance between safety and freedom of expression.

We had a letter to the editor published in the Times in February 2020, following the Government's response to the online harms white paper consultation. We also attended an online harms roundtable in parliament, and our Director asked (then) Minister Matt Warman a series of questions about the censorship impact of the proposals.

SUCCESS: The Government no longer plans to require social media companies to remove "legal but harmful" speech.

However, the powers in the revised Online Safety Bill clearly pressure companies to censor or suppress some categories of lawful content.

Save Online Speech coalition

We built and lead a coalition of data and rights organisations to defend privacy and free expression online in the face of the Online Safety Bill, under the campaign banner Save Online Speech. We built and launched the website, SaveOnlineSpeech.org, in March 2021, which Mark publicised via the [i newspaper](#). The coalition collaborates on joint actions under Mark's leadership, and meets monthly.

The State of Free Speech Online

We published a groundbreaking report in September 2021, *The State of Free Speech Online*, containing high quality research and analysis on censorship issues with case studies, which we collected over 2 years, to demonstrate the real risks of the online censorship proposals to freedom of speech and democratic culture.

It was publicised exclusively with the Mail on Sunday, and our Legal and Policy Officer Mark Johnson wrote an op-ed promoting the report in *Unherd*. We published a new campaign webpage highlighting key censorship examples.

In December 2021, when Covid restrictions had eased, we held The State of Free Speech Online event in Parliament organised brilliantly by Mark and chaired by our Director, for a delayed launch of our report. Our speakers included David Davis MP, Joanna Cherry MP, Baroness Claire Fox, and Viscount Colville, and our audience included parliamentarians as well as Big Brother Watch supporters. We also livestreamed the event on YouTube.

THE STATE OF FREE SPEECH ONLINE

**BIG
BROTHER
WATCH**

BigBrotherWatch.org.uk
@BigBrotherWatch

Lobbying

We secured numerous meetings with the Digital Minister, DCMS and the Home Office to voice our concerns and propose alternatives. We have successfully opened a dialogue and have used this route to influence the legislative proposals. As a result, the Government has now discarded the idea of requiring platform removal of “legal but harmful” speech online, opting instead for adherence to terms and conditions (which the Government can influence to be censorious) and algorithmic accountability, which is a significant success.

We closely analysed the draft Online Safety Bill, circulating an in-depth briefing and submitting a response to the Joint Committee’s pre-legislative scrutiny inquiry. We also submitted a response to the DCMS Committee’s inquiry on “Online Safety and Online Harms”. Further, Mark wrote a letter in September 2021 to the (then) new DCMS Secretary of State, Nadine Dorries, regarding the Online Safety Bill and data protection law.

In October 2021, we met with Minister Chris Philp at DCMS and powerfully voiced our concerns about the Online Safety Bill’s impact on freedom of expression. Also in October, our Director gave oral evidence to the draft Online Safety Bill committee in parliament, and was interviewed by Channel 4 News about the same. We clearly and consistently were winning the arguments in parliament and the public forum.



Throughout this period, we also secured numerous meetings with Facebook (and subsidiaries), Twitter, Google and others to discuss better, rights-compliant internet regulation. This enabled us to voice concerns about the platforms' own censorship and surveillance practices, to examine their policies and encourage a firmer commitment to upholding human rights principles. Overall, Big Brother Watch has run an impressive lobbying effort during this period, expertly led by Mark who has engaged with parliamentarians, ministers, committee chairs, Big Tech representatives, special advisors, APPGs and other stakeholders in a highly strategic and impactful way.

Media

We have consistently achieved high-profile media commentary on the Government's online censorship plans, progressively changing the narrative.

In May 2021, Mark responded strongly to the publication of the revised Online Safety Bill with his comments in the Evening Standard and Daily Mail – the latter using our comment that the Bill would lead to “censorship on a scale never seen before in a democracy” as its online headline.

Further, we used YouTube's removal of our video of David Davis MP's speech against vaccine passports in October 2021 as a critical opportunity to draw attention to the problems with online censorship. Our Director gave an interview to BBC Newsnight and wrote an opinion piece for the Telegraph (which previously championed the Online Safety Bill), whilst Mark did interviews with talkRADIO and an opinion piece in Spiked.

Anti-protest laws

During this period, we successfully advocated for the right to protest – both through the pandemic, as described, and in the face of a new anti-protest law, the Police, Crime, Sentencing and Courts Bill ('Police Bill').

Mark skilfully led our work, liaising with a large coalition of rights and equality groups, and worked on several joint briefings with Liberty as well as a joint submission to the Joint Committee on Human Rights' inquiry on the Police Bill. He achieved the difficult task of mobilising a small number of high-profile Conservative MPs, including Steve Baker MP, to support amendments to the Bill. Our efforts focused on opposing new powers to criminalise protests that “risk causing another person to suffer disease”, which we argued entrenched deeply anti-democratic sentiments normalised during the pandemic. Mark also was a highly

effective spokesperson in the media representing Big Brother Watch in defence of protest rights, giving interviews to talkRADIO and comments to the Guardian, among other outlets.

Further, we wrote a letter of support for Black Protest Legal Support's legal observers who brought legal challenges following their unjustified arrests at anti-Police Bill demonstrations, providing an authoritative voice in defence of the important democratic role independent legal observers serve.

Freedom of information monitoring

A 2020 investigation by openDemocracy found a 'difficult FOIs' list which is centralised from government departments and sent via a Cabinet Office 'clearing house' for central government advice on how to respond to 'difficult' Freedom of Information requests. The lists include the name of the requester, which is a direct and serious breach of FOI rules – FOI requests must be dealt with in an "applicant blind" manner. We gave strong commentary for openDemocracy's report, condemning the practice. The investigation led to an inquiry by the Public Administration and Constitutional Affairs Select Committee and an internal review by government.

The background of the image is a solid orange color with a faint, repeating pattern of various documents and maps. Some of the visible text in the background includes "PLAN", "ESSENTIAL", and "COMPANY".

DATA RIGHTS & JUSTICE

DATA RIGHTS & JUSTICE

End Digital Strip Searches

SUCCESS: Police digital strip search policies have been repealed, and the government has committed to reform!

We are delighted to report that our campaign against digital strip searches has had remarkable success. The 'Digital Processing Notice', under which police would conduct digital strip searches predominantly of women who report sexual offences, has been revoked. An interim Digital Processing Notice that better respects complainants' data protection and privacy rights is now in place, and we are now involved in an ongoing consultation regarding a permanent replacement.

This breakthrough was confirmed by police and reported widely on 16th July 2020, including by The Guardian: "Police and CPS scrap digital data extraction forms for rape cases," which quoted us. We were also interviewed on Times Radio.

In September 2020, the Digital Processing Notices were replaced by interim forms. The forms require far more specificity and necessity of data requested from victims and witnesses and are clearer about their rights in relation to their data. This was a breakthrough.

This vital project has better protected victims' rights to privacy and a fair trial, as well as data protection rights. We have influenced digital extraction vendors, the Information Commissioner, the women's rights sector and ultimately the police and Crown Prosecution Service (CPS). Further, we believe by setting a critical precedent in this setting, we have helped deterred moves towards further unjustified bulk data collection and automated analysis in criminal investigations generally.

Research

Throughout 2020 we completed an important Freedom of Information investigation, exposing the impact of digital extraction demands on case outcomes, and police forces' technical capacities as well as open source research into mobile phone extraction providers' tools and capabilities.

The FOI investigation was incredibly difficult. We found that digital extraction requests and responses are often not formally logged, and the extent to which they are is in a qualitative case note format. Therefore, data about the high rate of digital strip searches and their effect on case

outcomes was inaccessible. We adopted an innovative approach, relying on information rights under the Freedom of Information Act, to extract data from samples of rape case notes between a chosen time frame. Through repeated requests and appeals made under the FOIA, we were able to obtain a valuable dip sample of 390 cases from across 22 police forces.

Our findings, published exclusively via the Guardian, were shocking. We found that, in our sample:

Our goals were:

- 100% of cases where victims refused to hand in their phones were closed with no further action
- At least 1 in 5 victims refused to be subjected digital strip searches
- 19% of victims asked for digital search were children
- Women were disproportionately asked to hand in their phones, with 95% of the police's requests being made to women, who made up 88% of rape complainants
- No force had completed an Equality Impact Assessment or a Data Protection Impact Assessment

This information clearly stood to provide compelling evidence that digital strip searches were unjust, obstructive of justice and had not been fully assessed.

Stakeholder engagement

The ICO's report on mobile phone extraction was delayed after we met with the Information Commissioner to confidentially discuss her preliminary findings. We learned that she was considering advising that police adopt a new legal basis to conduct mobile phone extraction from victims without seeking their consent, as it is legally questionable whether consent can be granted for non-specified and unlimited data collection. We made a persuasive case to the Commissioner that this was a dangerous, misguided approach that would do untold harm to victims of sexual violence and the criminal justice system as a whole. We explained that her Office had misdiagnosed the problem, which was the fact of bulk downloads in the first place, and so retrofitting a new legal basis to entrench this practice would be a serious breach of complainants' privacy rights. After this meeting, she committed to pausing publication, re-evaluating the report and reconsidering her recommendations. Meanwhile, we also liaised with the National Police Chiefs Council about their policy in this area.

We disclosed to the ICO the result of our FOI investigation that 100% of cases where victims refused a digital strip search were closed with no further action, demonstrating the serious obstructive impact of bulk downloads on justice for victims. We placed our investigation with the Guardian on the day before the ICO report was due to be published, as a final exertion of

pressure on the ICO to take the matter of access to justice seriously.

The ICO's report, published 18th June 2020, strongly refuted the police's 'digital processing notices' which entrenched the digital strip search approach. It also strongly criticised the "default position of extracting as much data as is available" that was the subject of our campaign. The report was widely welcomed by the sector and put further pressure on the NPCC and CPS to retract the digital strip search policy.

Under this project, we also initiated work with the Centre for Women's Justice and the Victims' Commissioner for England and Wales on a draft 'alternative', rights-respecting Digital Processing Notice and policy. This was for internal use, to crystallise and unify key stakeholders' view of the technical issues (for example, to identify the nature and extent of technical extraction we feel to be privacy-respecting) and to agree on the appropriate remedy so we could work towards that.

Our advocacy work is highly collaborative and this project allowed us to build a much-needed bridge between the digital rights and women's rights sectors in the UK. We brought together a coalition of ten leading campaign groups to support our call for reform. Whilst we frequently work with some of these groups, such as Amnesty International, Privacy International, JUSTICE and Liberty, we had never before worked with the Centre for Women's Justice, End Violence Against Women, Southall Black Sisters, Fawcett Society, Rape Crisis or the Survivors' Trust prior to this campaign. Combining our distinct areas of expertise, which was particularly needed given the NPCC's 'technical necessity' defence of bulk downloads, we were able to effectively understand and analyse the problem and potential solutions. Our distinct contacts, from regulators to lawyers and the press, also enabled us to achieve public engagement with this issue that was quite unlike anything our groups would have been able to achieve on our own. We also worked closely with the Victims Commissioner for England and Wales and the Victims Commissioner for London, who we had not worked with before.

These are lasting relationships that will enable us to freely share information and collaborate in future. In particular, we are continuing to work with women's and survivors' groups with great solidarity and unity in our pursuit for a permanent replacement policy.

Legal

We wrote a witness statement for two victims' legal challenge against the NPCC's digital extraction policy, who were represented by Centre for Women's Justice. Our witness statement was based on our extensive policy analysis, technical research, and a large-scale FOI project.

However, a new judgment in a separate case (R v Bater-James and Mohamed) involving digital extraction helpfully gave new guidance about the safeguards needed in digital extraction practice; and with our continued campaigning, the digital extraction forms were revoked as explained above.

The victims' legal challenge to the Digital Processing Notice was thankfully settled with this satisfactory resolution in September 2020, and our witness statement was no longer needed.

Ongoing engagement

After September 2020, we had several meetings with the ICO and the Home Office to provide advice about the new permanent policy, whilst it remained in development. We also responded to the Attorney General Office's consultation on mobile phone extractions.

One of the important safeguards we are pursuing is the right of a victim to seek a review, by another senior officer, of a request for a digital download. In October 2021, we met with Thames Valley Police which is now piloting the victim's right to a review.

Our lobbying and policy engagement work continued throughout 2021, including reviewing multiple policy documents such as the Justice Department's 'Rape Review' and a new draft Code of Practice for digital extraction.

Police Bill

In 2021, digital extractions were put onto an explicit statutory footing for the first time in the Police, Crime, Sentencing and Courts Bill. However, the legal powers were accompanied by threadbare safeguards.

We led the analysis and policy briefing on these powers on behalf of 11 NGOs, spanning rights groups, victims' groups and women's groups such as Amnesty UK, Centre for Women's Justice, End Violence Against Women coalition, Fair Trials, Liberty, and Rape Crisis. We produced a number of briefings and sent them to all parliamentarians; we submitted written evidence to the Joint Committee on Human Rights; and we drafted and campaigned for complex legislative amendments to protect privacy rights and prevent unjustified digital strip searches. Though not successful in the manner we aimed for, our amendments were debated in the House of Lords, receiving support from Baroness Chakrabarti, Lord Paddick, Lord Beith, Baroness Hamwee and Lord Carlile among others. At the end of the debate, the Minister leading the Bill committed in the House to meeting with us to consult our views on the subsequent Code of Practice.

Victim support

We have continued to provide advice and legal contacts to women who have contacted us after receiving police requests for digital strip searches. This includes advising women on (successfully) challenging disproportionate requests from police, and on submitting requests for excessive personal data to be deleted after an investigation has concluded.

AI policy work

In February 2020, the Committee for Standards in Public Life, chaired by former head of MI5 Lord Jonathan Evans, published a report on Artificial Intelligence and Public Standards, for which we contributed evidence. The report led to newspaper headlines that police are using AI with “troubling secrecy”, echoing the evidence we had provided. We were specifically credited in the report as “prominent in scrutinising live facial recognition and predictive policing technologies” and “a vital part of democratic accountability”.

Also in February 2020, the House of Lords held a debate on algorithms in the public sector, for which we circulated a written briefing to all peers. Big Brother Watch was credited by name three times in the debate.

Also in 2020, an authoritative report by the Council of Europe’s legal advice body (the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly) extensively cited our work, particularly our investigation of an AI police recidivism predictor (HART), and recommended that stronger regulations are introduced for AI in policing.

In other AI policy work, in February 2021 we wrote to GCHQ with a set of questions, which remain unanswered, after it released a report including plans to use AI to combat disinformation.

Welfare, automated decisions and citizen scoring

We continued to produce leading investigative and policy work on the emergence of AI and automated decision-making in the UK.

On 20th July 2021, we published the report *Poverty Panopticon: the hidden algorithms shaping Britain’s welfare state*, following a 9 month investigation on the secretive use of algorithms and automation in the welfare system.

We launched the report with strong digital assets including a social media video and a campaign site welfaredatawatch.co.uk where people can submit their own ‘subject access requests’ to authorities, exercising their data rights to obtain details of any processing or scoring they have been subjected to by authorities personally. We secured press coverage of the key findings – including that over half a million benefits applicants are secretly assigned fraud ‘risk scores’, that 1.6 million people are subject to rent non-payment prediction scores, and 250,000 people are assigned secret abuse-victim and unemployment prediction scores – in the Guardian, the New Statesman and the BBC.

@BigBrotherWatch/BigBrotherWatch.co.uk

POVERTY PANOPTICON

[The hidden algorithms shaping
Britain's welfare state]

BIG
BROTHER
WATCH

Poverty Panopticon

The report, authored by our Head of Research and Investigations Jake Hurfurt, is a research landmark exposing the little-known use of powerful algorithms, predictive scoring and AI – effectively, the birth of citizen scoring in the UK – in an area of public administration affecting the most vulnerable people in our country.

The report had a significant impact with two important regulatory authorities. It is being used as a core resource by the Equality and Human Rights Commission, which is now expanding its work into scrutinising the impact of automated decisions on rights and equality in the UK. We also followed publication of the report with a complaint to the Information Commissioner's Office, which is "conducting further research" including "fact-finding enquiries with a number of organisations" regarding the issues raised in our report.

Relatedly, we found that the Department for Work and Pensions (DWP) had leaked 6,000 disabled people's National Insurance numbers on its website. We published this investigation exclusively via MirrorOnline, with strong commentary that led to a resolution and apology from the DWP.

We led strong stakeholder engagement throughout our research and after publication of the report, hosting roundtables with privacy and other human rights groups, disability rights groups, and digital rights groups as well as liaising with legal advice centres. We have also contributed significantly to a number of external roundtables on algorithms and AI, including with the Public Law Project, Ada Lovelace Institute, Nuffield Council on Bioethics, Digital Freedom Fund – and on non-welfare issues, with RUSI and GCHQ.

We have continued to deepen our research and also worked with the team of Labour's Shadow Department for Work and Pensions Secretary to put a written question to the DWP Minister on issues raised by the report.

Exploring strategic litigation

In Spring 2021, we instructed lawyers at Leigh Day on a pro bono basis to send a 'pre' pre-action letter to government regarding potential hidden algorithms in the welfare system. The background to this is that in 2016, a judgment found that the DWP had underpaid thousands of welfare claimants with mental health disorders as the Department had not correctly classified those disorders as a disability meriting a Personal Independent Payment ('PIP') claim. Thousands of remedial payments were expected but only a fraction of the expected number of claims was adjusted. This led us, and our lawyers, to wonder whether under-performing or discriminatory algorithms were responsible for allocating the thousands of required remedial payments.

Despite our attempt, we were not able to use the threat of legal action to successfully force disclosure of any algorithms in use.

We remain intent on using the law as a vehicle to expose and challenge unfair citizen scoring, and will continue to actively consider potential test cases.

Data 'reform'

The Government has committed to rolling back on key data protection legislation post-Brexit. Whilst we have no ideological stake in whether our laws mirror those in more Europe generally, the government's data 'reform' plans would significantly weaken privacy protections for Britons and risk the UK's 'adequacy' status whereby our data protection framework is recognised as on a par with Europe for data sharing purposes. In September 2021, our director wrote an opinion piece, published in the Telegraph, arguing for the retention of GDPR-standard privacy laws.

The Government held a consultation on its data reform plans. In November 2021, we sent a concise response to the consultation focusing on the importance of maintaining GDPR's Article 22 protections against automated decision-making. This work will continue into 2022 and beyond.

Digital ID

During this period, Government developed plans to create a digital identity framework whereby private companies can offer government-approved identity verification services. We attended and contributed to several roundtables during this period with the (then) Minister Matt Warman and DCMS officials, stressing the necessity for non-digital alternatives and safeguards against centralised IDs and expanded ID requirements.

We also did media engagement on digital IDs in the run up to vaccine passport proposals in Autumn 2020, including the BBC, the Times and an opinion piece in City AM.

WE CAN WIN

Our fight for a free future is made possible by our supporters.

The dangers of living in a surveillance state are too often overlooked, so thank you to every individual and grant-maker who has refused to look the other way and made all of these successes possible.



THANK YOU

for everything you do to defend civil liberties and protect privacy.



<https://bigbrotherwatch.org.uk/donate>

BIG BROTHER WATCH



The fight for
the future is now.

Ready to get
involved?

Contact:

silkie.carlo@bigbrotherwatch.org.uk