

# "At what point did we become North Korea?" - Behind the politics of surveillance in the UK

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# Introduction

# What is Wrong with the UK?

- Encryption Backdoors
- Policing of Speech
- Age Verification
- Mandatory Digital ID

## This talk

- some facts
- some opinions and generalisations
- some challenges

# Who writes the law?

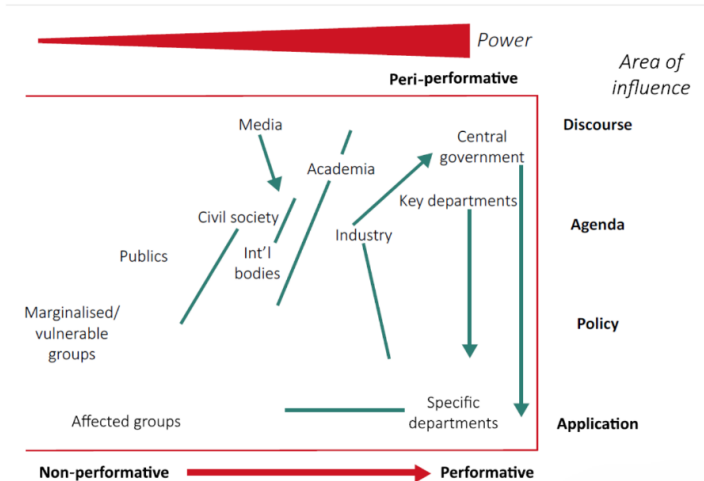


## Crash course on parliamentary politics and lawmaking



- First past the post electoral system, unelected second chamber
- Parliament is Sovereign: No written constitution, but bound by convention and international laws
- Primary and Secondary legislation; Quangos
- Industry Secondments and Revolving Doors: “Speculative Legislation” (Heather Burns)
- Government consults “stakeholders” - but who does it listen to?

# Who's at stake? The (non)performativity of "stakeholders" in UK tech policy [Taylor et al., 25]



# Electoral Calculus

- Post Brexit instability
- 2024 election: majority of seats, minority of votes
- Domestic challenges: stagnant economy, public debt, struggling public services, high welfare and immigration
- Reform setting the agenda
- Our “Special relationship”



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## A wider slide into authoritarianism

- Push to weaken human rights framework
- Rise in Facial Recognition trials by police
- Proscribing of protest groups as terrorists
- Removal of Jury Trials
- Demonisation of Refugees, Legal Migrants, Trans people, Disabled people
- Police, Crime, Sentencing and Courts Act 2022
- Public Order Act 2023
- Home Secretary can revoke dual citizenships
- Photo ID requirement for voting

## Civil Society Resistance



- Think-thanks and academics typically engaging with narrow policy aspects and letter-writing
- Consultation engagement tends to be low
- Some legal victories but not much work on Public Opinion
- Tim May's *Four Horsemen of the Infocalypse*: drug-dealers, money-launderers, terrorists, and pedophiles.
- Not much engagement with “the other side”

## Mass Surveillance

## A (recent) brief history of surveillance in the UK

### Regulation of Investigatory Powers Act 2000

- Enables public bodies to demand data from ISPs, conduct surveillance and interception
- Requires disclosing private keys
- Investigatory Powers tribunal upheld 4 out of 956 complaints over 10 years.
- Applies to non-UK persons; GCHQ participates in Five Eyes programmes
- Independent Technical Advisory Board reviews feasibility of requests, telecommunication companies and security agencies

## Investigatory Powers Act 2016 (Snooper's Chart)

- Bulk interception of communication, metadata retention from ISPs for up to 1 year
- Allows access from government bodies without a warrant (but with independent commissioner consultation)
- Allows law enforcement to tamper with communication devices (in bulk)
- Requires communication services providers based in the UK to remove encryption when asked
- Later ECJ ruled indiscriminate retention of communication data to be unlawful

### Investigatory Powers (Technical Capability) Regulations 2018

- Statutory Instrument allowing the issue of *technical capability notices*

## 2024 Amendment

- Tighter authorisation required for surveillance of MPs and journalists
- Creates new class of bulk datasets with no expectation of privacy
- Removes consultation requirement or judicial review for logging requests
- Requires companies to notify the introduction of measures that could prevent surveillance - such as encryption
- Extend Technical Capability Notices to foreign companies - including secrecy statute

## Apple vs UK

- TAB contracts accidentally expired (2022-2024)
- In December 2024, Home Office issues secret TCN to Apple to backdoor iCloud encryption for global users
- As a response, Apple disabled Advanced Cloud Protection for (new) UK users, issues timeout for existing users
- IPT refuses to have hearing in the open or hear WhatsApp deposition
- White House pressures UK to drop case
- October 2025, Home Office issues a second TCN for UK users
- Legal challenge (might?) be heard in January

## Hate Crime



## Can you be arrested for a tweet or a prayer?

- Freedom of Expression in the UK is encoded as part of Article 10 of the ECHR
- *Hate Speech* criminalised by Public Order Act 1986 with (many) amendments, Hate Crime and Public Order (Scotland) Act 2021
  - Threshold increased from “abusive or insulting” to just “abusive” (Crime and Courts Act 2013)
  - 2021 Act includes the right to express ideas that “offend, shock or disturb.”
- Investigations follow complaints from the public to the Police or “third-party reporting centres”
- Abortion clinic “buffer zones”
  - Public Order Act 2023 and Abortion Services (Safe Access Zones) (Scotland) 2024

## Is this effective?

- Online hate and harassment has been on the rise, prosecution record are not uniform
- High-profile cases include Lucy Connolly (31 months) and celebrities like J.K. Rowling and Graham Linehan (both non-criminal)
- National Security Online Information Team
- Police's *Hate Crime Operational Guidance* advises police to record "non-crime hate incidents"

## Age Verification

## Online Safety Act 2023

- Various attempts by Conservatives over a series of governments
- Introduces a Duty of Care for Online platforms with user-to-user functionalities (Category 1) with a requirement to:
  - assess the risk of harms to children and implement appropriate measures to:
  - take down illegal content, including on E2EE messaging services through client-side scanning,
  - prevent legal-but-harmful content from being accessible to children
- £18m or 10% turnover fine; non-compliant websites blocked
- Also criminalises other online behaviour, including “cyberflashing” and transmitting threats or false information with the intention of causing serious harm
- Previously: Digital Economy Act 2017 required age-gating for adult websites

## OSA Categorisation

Categories	Category 1	Category 2A	Category 2B
Categorised services must comply with additional duties relating to the below:			
Transparency reporting	✓	✓	✓
Enhanced requirements on risk assessments and record keeping	✓	✓	
Additional terms of service duties	✓		
Protections for news publisher and journalistic content, and content of democratic importance	✓		
Providing user empowerment features	✓		
Providing user identity verification options	✓		
Prevention of fraudulent advertising	✓	✓	
Disclosure of information about use of the service by a deceased child user	✓	✓	✓

## Enforcement and Scope

- Ministers stated that they would not enforce the requirement for breaking E2EE “until it becomes technically feasible”
- Technical Notices are published
- OSA applies to 100,000 “high-risk” services, including by companies outside the UK with a significant number of UK users
- From Summer 2025, platforms must enforce child protection, including Age Verification through
  - Facial Age estimation
  - Open Banking
  - Credit Card data
  - Digital identity services
  - Email-based age estimation
  - Mobile network operator age check
  - Photo-ID matching
- December 25: Ofcom issues £1m fine to AVS group

## Reaction

- A majority of Online Platform implemented Age Verification using private providers (e.g. Yoti)
- Overeager tagging and censoring of some information
- A number of UK-based websites have shut down
- A number of foreign websites have started blocking UK users
- 4chan and Kiwi Farms are suing Ofcom for violating their “first amendment rights”
- Wikipedia failed to obtain an exemption, although they haven't been classified by Ofcom yet
- VPNs usage increases, not criminalised

*If you want to overturn the Online Safety Act you are on the side of predators. It is as simple as that. — Peter Kyle, Science and Technology secretary, July 29, 2025*

Digital ID



## Background

- “Papers, please”: Mandatory ID as Wartime measure, discontinued in the 50s
- Introduced by Labour government (Digital ID Act 2006) along with central id database
- Abolished by Conservative-Liberal Democrats Coalition (except for non-EU foreign residents)
- Legal basis for Digital Verification Services introduced in 2020
- Data (Use and Access) Act 2025 requires a Trust framework and register to certify private DVSS
- Public bodies will be able to disclose (consensually) information to DVSS
- UK and Scottish government provide voluntary SSO for some government services

## The BritCard

- Government announces Digital ID to...stop illegal boats?
- Internal push from Blairites, timing suggests “dead cat”
- “Security at its core”, federated scheme
- Veterans card pilot, mobile driving licenses announced
- OneLogin (provided by a 3rd party) loses certification under trust framework, contractor workstation found to be insecure

## Response

- Opposed by all parties and (possibly) some ministers, petition to stop proposal receives  $\approx 3$  million signatures
- Parliamentary Debate on December 8th
- Surveillance, security, digital exclusion, mandatory nature, cost, slippery slope and lack of detail
- Conservative opposition is concerned about choice - it will put private providers out of business

*the level of digital hygiene across Government is not such that it could support a mandatory digital ID scheme — Dame Chi Onwurah, Chair of the Science, Innovation and Technology Committee*

## Conclusion

## Some personal reflections

- Debate is never rational or even coherent: Policy vs Politics
- Harms are inevitable; Risk, proportionality and controls
- We need to learn how to play the game - and listen
- Brexit is still a mistake
- On a personal level, staying on top of this can be taxing