

Dear Oliver Dowden,

We are writing as MPs concerned about the appointment process for the incoming ICO, which we believe may compromise their independence, as it appears to ask for a candidate whose regulatory thinking matches that of the Government, rather than one who possesses the skills necessary to regulate.

The ability of the Government to unduly influence the appointment of the Information Commissioner was raised by Parliament in 2004¹ and 2014. In 2014, the Public Administration Committee recommended considering making the Information Commissioner an officer of Parliament, appointed by Parliament, to ensure they were not political appointments.²

Unfortunately, this was not taken up in the Data Protection Act 2018. We are now seeing the consequences, as DCMS has advertised for a Commissioner that understands the “the wider benefits of data sharing”, has “commercial and business acumen”, and experience “of using data to drive innovation and growth”. While candidates should have data protection and privacy “experience”, no mention is made of experience regulating data protection.³

The advert makes extensive mention of the need for the Information Commissioner to align with the goals of the National Data Strategy, which the advert says include removing barriers to commercial use of data and balancing rights with growth.

The impression has been made that DCMS seeks an Information Commissioner that will work to remove protections within current laws, to reduce the risks of enforcement action, and rather than guarantee the rights of individuals, will seek to “balance” rights against concerns such as “regulatory certainty” and economic growth. That is, DCMS is seeking an Information Commissioner whose policy views match its own, rather than a regulator that will seek to enforce the law as Parliament has written it.

This may prove inimicable to growth in practice. It is hard to prevent unethical business practices without strong, principle-based law such as data protection currently provides. Consumer trust may be undermined if such models emerge. Data adequacy recognition may be harder to sustain. But that is a debate for another day.

We call on you, today, to halt the recruitment process and restart it, removing recruitment criteria pertaining to matters of policy that are outside of the remit of this statutory regulator, and include criteria that allow candidates to demonstrate they are able to do the job, in particular, regulatory and data protection enforcement experience.

Andrew Gwynne MP
Baroness Bakewell of Hardington Mandeville
Baroness Bennett of Manor Castle
Baroness Doocey
Baroness Harris of Richmond
Baroness Jane Bonham-Carter

1 <https://publications.parliament.uk/pa/cm200506/cmselect/cmconst/991/99109.htm#a22%2044>
2 <https://publications.parliament.uk/pa/cm201415/cmselect/cmpublicadm/110/11009.htm>
3 <https://publicappointments.cabinetoffice.gov.uk/appointment/information-commissioner-2/>

Baroness Jones of Moulsecoomb
Baroness Sarah Ludford
Caroline Lucas MP
Chris Bryant MP
Clive Betts MP
Clive Lewis MP
Daisy Cooper MP
Diane Abbott MP
Dr Philippa Whitford MP
Grahame Morris MP
Joanna Cherry MP
Layla Moran MP
Lord Cashman
Lord Fox
Lord Strasburger
Lord Tim Clement-Jones
Lord Wallace of Saltaire
Mohammed Yasin MP
Rachel Hopkins MP
Richard Thomson MP
Rt Hon Dame Margaret Hodge
Sarah Olney MP
The Earl of Lytton
Wendy Chamberlain MP