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Africa House  
70 Kingsway  
London WC2B 6AH  
DX 37954 Kingsway  
T: +44 20 3321 7000  
www.mishcon.com

**Sent via email:**  
Richard Neal  
Lead Case Officer  
Information Commissioner's Office

Emma Bate  
Director of Legal Services  
Information Commissioner's Office

London | Cambridge | Oxford | Hong Kong | Singapore

12 June 2025

Dear Mr Neal  
Dear Emma

## FATCA | UK GDPR

At the heart of Jenny's [UK] GDPR complaint against HMRC lies the contention that Jenny's sensitive data are subject to insufficient safeguards both in the UK and the US.

### 1. MPs criticise HMRC for failure to reveal phishing leakage

Two days ago, the parliamentary Treasury Committee reprimanded HMRC for delaying its announcement of a security breach that affected around 100,000 taxpayers. In its letter dated 10 June 2025, the Chair of the Treasury Committee told HMRC that it was 'unacceptable' that it was never deemed necessary to inform parliament about an issue that affected such a vast number of taxpayers and led to the loss of GBP47 million of public money. The committee had only learned about the leak when a notification was published on the HMRC website on 4 June 2025.



### 2. Not an isolated incident, and more than meets the eye?

This episode echoes a similar incident in South Africa, where the Office of the Tax Ombud ('OTO') has been investigating systemic failures by the South African Revenue Service following a steep increase of cyber incidents affecting taxpayers. According to media reports, the OTO's report is likely to be critical of the local tax authorities.

Given the strong cooperation between HMRC and the South African tax authorities, it cannot be excluded that HMRC was aware of the issue, and that the lack of disclosure to the Treasury Committee might be a deliberate attempt to escape the kind of scrutiny meted out by the OTO in South Africa.

### 3. "Trust in the tax system, taxpayer rights and human dignity"

I was made aware of the South African incident at a recent international conference on taxpayer rights that took place in [Washington](#) D.C. on 6-8 June. Speakers included professors from Harvard, Oxford, Kenya, South Africa and New Zealand, tax judges, as well as representatives from the World Bank and Taxpayer Advocates. The conference focused on the issue of Taxpayer Rights, Trust, and the Rule. Reports included the [improper use](#) of tax information, the increased disregard of the rule of law, the lack of legal redress and courts that appear [unwilling](#) to examine the good faith of tax authorities.

This resonates with Jenny. Never mind the [evidence to the contrary](#): HMRC's consistent official narrative has been that tax authorities take data protection and data security seriously, and that the US offers data protection safeguards. However, the letter from the Treasury Committee is a reminder that HMRC has a [vested interest](#) in protecting its position. In the case of FATCA, HMRC jumped the gun when signing of the [UK IGA](#) only two months after the [negative opinion](#) from the WP29 (of which the ICO was a party), thus undermining [two years' worth of negotiations](#) between the EU and the US to find a "more proportionate and more workable" solution. A finding in Jenny's favour would leave some eggs on HMRC's face.

HMRC's approach to Jenny's claim has been to deny her a voice before the High Court, by turning her claim into a procedural battle over funding, (as if data protection rights defended themselves). By so doing, HMRC trampled on Jenny's dignity to be treated as an [honest citizen with a serious concern](#), as also recognised by the press at the time of the implementation of the UK IGA – see e.g. this article in [The Economist](#).

A decade later, Jenny's concerns have been confirmed by two decisions from the [Belgian data protection authority](#) (also [here](#)). It is to be hoped that the criticism from the Treasury Committee will assist in removing any bias in favour of HMRC (or indeed, the US)<sup>1</sup>, reduce the scope for ["policy views"](#), and focus the ICO's mind solely to the task in hand, notably a plain application of the UK GDPR principles to Jenny's circumstances, treating her claim [fairly](#), and with the [dignity](#) she deserves.

Best regards,

**Filippo Nosedà**  
Partner



<sup>1</sup> Comments such as those made by the ICO in the FOIA's decision in Jenny's case (["the UK has long-standing ties with the US which, at the time of the request, remained one of the UK's closest allies on the international stage"](#)) should play no role in a UK GDPR complaint and in any event do not reflect recent events in the US, which greatly undermine citizens' data protection rights, as discussed in our research (see e.g. our letters [6 Jan 2025](#), [24 Jan 2025](#), [18 Feb 2025](#), [19 Mar 2025](#) and [10 April 2025](#), and previously [17 Sept 2024](#), [25 July 2023](#), [23 March 2022](#), [14 December 2020](#) and [18 May 2020](#)).