

Scottish Biometrics Commissioner – Advisory Group Meeting

Minute of meeting of 18 July 2023 (1400 - 1530 via MS Teams)

Members Present	
Brian Plastow (Chair)	Scottish Biometrics Commissioner
Phil Chapman	Director of Operations - Police Investigations and Review Commissioner (PIRC)
Professor Fraser Sampson	Biometrics & Surveillance Camera Commissioner for England and Wales
Fiona Douglas	Director of Forensic Services - Scottish Police Authority
Gina Wilson	Head of Strategy - Children & Young People's Commissioner Scotland
Gillian Jones	Data Governance Manager - Police Scotland
Professor Shannon Vallor	Baillie Gifford Chair in the Ethics of Data and Artificial Intelligence at the Edinburgh Futures Institute (EFI) at University of Edinburgh
Genevieve Lennon	Strathclyde University
Scott Ross	Head of Change & Operational Scrutiny - Scottish Police Authority (SPA)
Suzanne Chow	Police Scotland
Mark Hargreaves	Assistant Inspector - His Majesty's Inspectorate of Constabulary in Scotland
Kerry Harvey	Data Protection Officer - Police Scotland
James Mann	Head of Information Assurance & Data Ethics -Chief Data Office - Police Scotland
Cheryl Glen	Corporate Services Manager - Scottish Biometrics Commissioner
Diego Quiroz	Operations Manager - Scottish Biometrics Commissioner
Joanna Milne (Minutes)	Business Support Officer - Scottish Biometrics Commissioner

Apologies	
Mhairi Morrison	Assistant Procurator Fiscal for Major Crime – Crown Office and Procurator Fiscal Service
Professor Derek Penman	Independent Member
Professor John McNeil	Independent Member
Clare Hussain	Head of Data Governance - Police Scotland
Ken McDonald	Head of Regions - Information Commissioners Office
Denis Hamill	Chief Data Officer – Police Scotland
Claire Methven O'Brien	Scottish Human Rights Commissioner

1. Welcome, Apologies & Introductions

The Chair welcomed members to the eighth meeting of the Advisory Group for the Scottish Biometrics Commissioner (SBC).

The Chair welcomed the new members and asked everyone to introduce themselves.

The Chair confirmed Professor John McNeil is stepping down from the Advisory Group and thanked him for his input and guidance over the last two years.

The Chair also confirmed that Naimh Nic Daeid, Director of Leverhulme Research Centre for Forensic Science at the University of Dundee has agreed to join the Advisory Group.

2. Minutes of previous meeting and Action Log

Minutes of the meeting on 29 November 2022 were approved.

Action log updates

James Mann confirmed his team will provide the Advisory Group with a presentation on the Police Scotland Data Governance and Ethics Framework at the next meeting in November.

Fraser Sampson to provide updates on the Data Protection and Digital Information Bill as it progresses.

Police Scotland are awaiting the approval of the Force Executive to create two new posts dedicated to biometrics. This is to enable Police Scotland to discharge its obligations under the Scottish Biometrics Commissioner Act 2020, and statutory Code of Practice.

3. Draft self-assessment questionnaire / proposed methodology

The draft self-assessment questionnaire was issued to the Advisory Group and the Commissioner has taken on board the feedback already provided by Police Scotland, SPA and PIRC and the revised questionnaire was issued.

The questionnaire consists of 64 questions subdivided over 12 sections of the code and will be assessed using a red, amber, green status. The Commissioner confirmed guidance notes will be issues along with the questions but not all 64 questions will apply to everyone.

Once the questionnaires have been reviewed a meeting will be put in place to discuss responses flag as red and amber.

All findings will be summarised and published on our website.

One member asked whether there was scope to expand the existing questionnaire in respect of asking how the validity and reliability of any AI algorithms used within any biometric systems is currently tested. The Commissioner indicated that he would consider whether any specific question needs expanded before the

questionnaire is finalised, or whether the draft questions are sufficiently broad enough to drill into this type of issue.

The Commissioner confirmed that once the questionnaire is ready, due to their size the PIRC will be first to receive it to ensure it is fit for purpose.

4. Draft Terms of Reference

Our Strategic Plan sets out that we will carry out at least one thematic review a year. The SBC thematic review for this year will focus on images and where they are stored by Police Scotland, the SPA and the PIRC. The reason behind this review is to determine how many images are held, why the images are being held (i.e., the value) and the retention and destruction policy applied.

The OM confirmed that this will be a high-level strategic review over desk-based interviews starting in October with the final report being published in March 2024.

Following feedback page 6, paragraph 2 under the heading The Law is to be reviewed to ensure wording is correct when it comes to children's images when the offence is referred to the Children Hearing System.

Action: OM to review what happens to children's images when they are referred to the Childrens Hearing System.

5. Section 16 Notice of Biometrics Act

The Commissioner confirmed the Section 16 Notice was issued to Police Scotland regarding the new DECS project. Police Scotland have issued the Commissioner with their response. A pilot is currently underway, and concerns have been raised about the Cloud based system which is provided by an American company.

The concern is whether provisions of the 2018 American Cloud Act apply to the data held on the system which would allow American authorities to access the information.

Action: ICO to give advice on whether DESC is compliant with UK data protection law, having regard to the implications of the US Cloud Act given that the hosting companies for DESC are US Headquartered.

6. Laws of Retention Workshop

Following the recommendations from the 2018 IAG, a review into the laws of retention was discussed at a joint workshop (SBC working with the Scottish Government) was held on 12 June to determine whether this is still required. It was agreed at the workshop that a review of the laws is required.

The Cabinet Secretary for Justice was briefed on the outcome of the review and agreed that a Scottish Government led review should take place. The extent and scope of the review is still to be agreed.

SBC have agreed to support the review and the Commissioner thanked everyone from the Advisory Group who were able to attend the meeting.

7. AOB

The Commissioner confirmed that our draft Annual Report and Accounts are currently with the publishers and auditors – the report will be published in September.

The Section 32 report is currently being compiled by our Operations Manager and will be published in September/ October.

The Commissioner also confirmed that the SBC and SPA are currently in talks about hosting an event in spring next year. It is still very early stages, but the Commissioner will hopefully have more details at the next Advisory Group meeting later in the year.