



Scottish Biometrics Commissioner – Advisory Group Meeting

Minute of meeting of 16 July 2024 (9.30 – 11.00 via MS Teams)

Members Present	
Genevieve Lennon (Chair)	Strathclyde University
Brian Plastow	Scottish Biometrics Commissioner
Mhairi Morrison	Assistant Procurator Fiscal for Major Crime – Crown Office and Procurator Fiscal Service
Eleanor Deeming-Johnstone	Legal Officer -Scottish Human Rights Commission
Gillian Jones	Head of Biometrics - Police Scotland
Craig Naylor	HM Chief Inspector of Constabulary in Scotland
Scott Ross	Head of Change & Operational Scrutiny - Scottish Police Authority (SPA)
William Webster	Professor of Public Policy and Management at University of Stirling
Suzanne Chow	Detective Chief Superintendent – Police Scotland
Niamh Nic Daeid	Director Leverhulme Research Centre for Forensic Science (LRCFS)
Shannon Vallor	Baillie Gifford Chair in the Ethics of Data and Artificial Intelligence at the Edinburgh Futures Institute (EFI) at University of Edinburgh
Dominique Mitchell	Senior Policy Officer - Information Commissioners Office
Alastair Patience	Head of Serious Crime - SPA
Denis Hamill	Chief Data Officer – Police Scotland
Tony Eastaugh CBE	Biometrics and Surveillance Camera Commissioner for England and Wales
Elaine Hamilton	Head of Forensics Policy, Scottish Government
David Scott	Policy Manager Police Workforce, Equality and Forensics Unit– Scottish Government
Ryan Paterson	Forensics Team, Workforce, Equality and Forensics Unit – Scottish Government
Louise Robertson	Forensics, Biometrics and Technology Policy Officer Scottish Government
Diego Quiroz (OM)	Operations Manager - Scottish Biometrics Commissioner
Ross McDonald	Detective Chief Inspector – Police Scotland
Joanna Milne (Minutes)	Business Support Officer - Scottish Biometrics Commissioner

Apologies	
Mark Hargreaves	Assistant Inspector of Constabulary - HMICS
Gina Wilson	Head of Strategy - Children & Young People’s Commissioner Scotland
Jenny Brotchie	Regional Manager - Information Commissioners Office
Peter Fussey	Professor of Sociology at University of Essex
Fiona Douglas	Director of Forensic Services - Scottish Police Authority

Phil Chapman	Director of Operations - Police Investigations and Review Commissioner (PIRC)
Cheryl Glen (CSM)	Corporate Services Manager - Scottish Biometrics Commissioner

1. Welcome, Apologies & Introductions

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

2. Minutes of previous meeting and Action Log

Minutes of the meeting held on 19 March 2024 were approved with an amendment to item 6. It should have read one hundred pages of amendments and not twenty.

In addition it was noted that item 6 – Data Protection and Digital Information Bill is no longer being progressed due to the change Government.

Action log updates

The action log was updated and all actions closed where appropriate.

3. New Advisory Group members introductions

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

4. Laws of Retention

The commissioner provided background to the laws of retention review for the new members of the Advisory Group. The Commissioner explained that John Scott conducted a review in 2018 which produced several recommendations one of which was to review the laws of retention. Further to this report the SBC held a workshop and it was agreed that they should be reviewed.

Since October, the Commissioner and Operations Manager have been working closely with Scottish Government colleagues in the Forensics Policy Team to produce a paper outlining recommendations.

The Commissioner advised that Scottish Government colleagues had received legal advice on the sufficiency of the Criminal Procedure (Scotland) Act 1995, and this, combined with how long it would take to amend primary legislation had led the joint review team to the conclusion that it may be quicker and more helpful to Police Scotland for clarity on any gaps in legislation to be provided through amendments to the Code of Practice. This after all, was one of the reasons why the Parliament had legislated for a statutory Code.

the Commissioner explained that the joint review team concluded that the absence of periodic reviews in current Police Scotland policy may be inconsistent with guidance given under the UK Data Protection Act. Therefore, the joint review team had included a recommendation for Police Scotland to review its retention policies in relation to biometric data by 31 October 2025.

During discussions for the draft paper there were discussions about a range of other biometrics including emerging biometrics. However, Scottish Government confirmed that emerging biometrics were beyond the agreed scope of the review.

The Chair of the Advisory Group suggested that it may be helpful for the draft report to signpost that the 95 Act may need amended in future to provide an explicit power for constables to capture images in custody in circumstances where such images may then be used for a purpose other than for which they were originally intended. For example, to create watchlists for application to live facial recognition technologies.

Action: Advisory Group to provide feedback on draft report by 6 August.

5. Progress of four recommendations – Police Scotland

Police Scotland have been working on the four recommendations from the Children and Vulnerable Adults assurance reviews.

A policy has been introduced by Police Scotland in relation the taking of biometrics from children.

Police Scotland have created a leaflet which is available to those people who find themselves in custody and having their biometrics taken. A copy of the leaflet can be found [here](#).

A page has also been created to explain what biometrics are, why they are taken and how long they will be kept. It also explains how to contact the Scottish Biometrics Commissioner should you wish to complain about how PSoS or SPA deal with your biometrics.

Police Scotland have also produced a quarterly report covering the acquisition and destruction of biometrics samples.

The Commissioner thanked Police Scotland for all the work they have put into meeting the recommendations.

6. Draft ToR for DNA Assurance Review

The ToR for the DNA Assurance Review was circulated round the Advisory Group members.

The Commissioner explained that he is hoping to conduct this review in partnership with Niamh Nic Daeid from the Leverhulme Research Centre for Forensic Science and the SPA.

The report will hopefully contain some sanitised case studies and an explanation of why Scotland uses DNA 24 instead of DNA 17 and the benefits.

Any feedback on the ToR should be sent to the Commissioner ASAP.

7. Draft ToR for Retrospective Facial Search Assurance Review

Alongside the assurance review on DNA the Commissioner is proposing a second assurance review on retrospective facial search.

The assurance review will be conducted in partnership with HMICS and Daragh Murray of Queen Mary University.

The review was welcomed and given the feedback it will be reviewed and recirculated to include Right Based Pathways.

Action: Amended ToR to be circulated round the Advisory Group.

7. Conference Highlights

The Operations Manager thanked the SPA and Police Scotland for the contribution to a successful conference. Over ninety people attended and the feedback was very positive.

The SPA suggested that it would be helpful for Police Scotland and the Commissioner to jointly discuss options around initiating a national conversation around the future of biometric technologies including establishing whether live facial recognition in limited circumstances might have public support.

8. Police Scotland – data governance and ethics framework

Denis Hamill provided an overview of the data governance and ethics framework. The overview explained the teams involved and the processes they follow.

Denis went on to discuss the Data Ethics Journey and confirmed that a data ethics review of recommendation four from the Children's assurance review conducted last year will be conducted with one year.

The Rights Based Pathway was also discussed as a way of ensuring changes are ethically triaged and eventually taken to the Data Ethics Oversight Group or the Independent Data Ethics Group. However, Police Scotland explained that the ethical framework was not yet complete as they had yet to establish an independent advisory forum. This is still being considered by the Force Executive.

Discussions took place around the Data Ethics Triage questions and the ease of answering and also the training requirements for the triage team to ensure they understand what is being asked of them.

Police Scotland are also investing in Data Science roles to ensure they have the capacity to evaluate the data provided by the vendors of the technology.