

**Scottish Biometrics Commissioner**

# **How to complain if a policing organisation does not follow the Code of Practice**



**Easy Read**



## What is a Code of Practice?



A **Code of Practice** is a set of rules that explain how people should behave when they are at work.

**Biometric data** means information that can be used to find someone's **identity** - who they are.

Biometric data can include:

- fingerprints
- **DNA** – the code that makes up **genes**

**Genes** hold information that control how a body grows and works.

DNA information is found in samples taken from any part of a person's body – for example, blood or **saliva** – this means your spit

- a photograph of a person

You can use the complaints procedure if you think a **policing organisation** has not followed the Code of Practice in the way they get, keep, use and destroy your biometric data.



## Policing organisations are:

- Police Scotland
- the Scottish Police Authority (SPA)
- the Police **Investigations** and Review Commissioner (PIRC) – investigates incidents Scottish policing organisations



An **investigation** is when an organisation looks for facts to find out exactly what happened.

A **review** is when something is looked at to see if it is working well and what needs to change.



The Scottish Biometrics Commissioner is Dr Brian Plastow.

He makes the Code of Practice.



The complaints procedure explains:

- how to complain to us
- how we will look into your complaint
- the legal powers the Commissioner has
- what can be done to make sure organisations follow the Code of Practice



The complaints procedure is on our website and paper copies are available to any person who needs them.

## Complaining to us



You can complain to us if policing organisations:

- keep your personal biometric data
- and they are keeping your data in ways that **breach** the Code of Practice

A **breach** means the rules have been broken.



You or your representative may complain to us even if you have already complained to Police Scotland, SPA or PIRC.



We will follow the law and keep your information safe and private.



We may need to collect and share information with different people and organisations to do our investigation.

We may do this by:

- phone
- letter
- or email



We may:

- make reports about our investigations
- do research by getting facts, figures and information
- do **analysis** – checking information very carefully to understand it better



When we do this we will not include any names of people.



To find out more about how we handle your information and your rights, look at our [Privacy Notice](#) and [Publication Scheme](#) or ask us for a copy.

## Things to do before you complain to us



Before making a complaint to us you should read the Code of Practice and know what biometric data is.

If your complaint is about:

- being arrested
- being arrested unlawfully
- or about an act of criminality

you should complain to the correct policing organisation.

We can give you advice on this if you are not sure who to complain to.



## How long do I have to make a complaint?



You must make your complaint before 3 years have passed since the event you are complaining about.

We may accept a complaint after this time limit if there are reasons like:

- you have had a serious medical condition
- you have had a long time in hospital
- the allegations are very serious





If you feel that the time limit should not apply to your complaint, tell us why.

We can only look at complaints about things that happened after the Code of Practice started on 16 November 2022.

## Things we cannot investigate



We cannot investigate:

- information about a crime
- issues that are being heard in court or have already been heard by a court or **tribunal**

A **tribunal** is a meeting to settle a disagreement about an issue with the law.



We cannot investigate the holding of your biometric data by or on behalf of:

- the National Crime Agency (NCA)
- British Transport Police (BTP)
- the Ministry of Defence Police (MDP)
- policing bodies that work across the UK



We cannot investigate work that only other UK Commissioners can do.

This includes a complaint about your biometric data:

- if it is kept as part of a terrorism investigation



**Terrorism** is an action or threat of violence to make people frightened and put their life at risk.

- if you think your biometric data has been captured as part of a surveillance operation



**Surveillance** is when the police carefully watch a person or place because a crime has happened or is expected to happen.



The UK Information Commissioner Office (ICO) makes sure that organisations follow UK data protection laws.

If someone has not protected the privacy of your biometric data, you should complain to the ICO.





However we can look at complaints:

- if the ICO has found that your data protection rights have not been protected
- or a policing organisation may not have followed data protection laws according to the Code of Practice

## How do I complain?



Please contact us for advice if you are not sure if we can look at your complaint.

We are here to help.



You can complain to us:

- in writing – our address is:

Scottish Biometrics Commissioner  
Bridgeside House  
99 McDonald Road Edinburgh  
EH7 4NS



- by telephone: 0131 202 1043
- by email:  
[contact@biometricscommissioner.scot](mailto:contact@biometricscommissioner.scot)



- by using the complaints link on our website: [biometricscommissioner.scot](https://biometricscommissioner.scot)



British Sign Language (BSL) users can contact us using contactSCOTLAND-BSL.

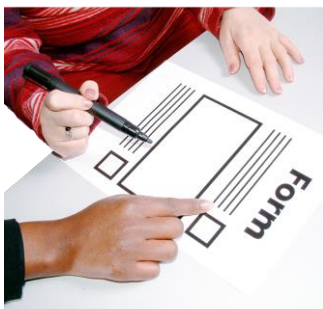
If you would like information in another language or format, or Braille, then please contact our office and we will arrange this.

## Getting help to make your complaint



We understand that you may not be able or want to make a complaint yourself.

We will accept complaints on your behalf by a friend, relative, or an advocate, if you have given them your **consent** to complain on your behalf.



**Consent** means to agree to something.

We will send you a consent form for signing when we get your complaint.



You have the right to ask an organisation if they are using or storing your personal information

This is called making a **subject access request**.



You can find more information about this on the [ico.org.uk](http://ico.org.uk) website.

If you need advice or guidance before making a complaint to us these organisations may be able to help you:



- [Citizens Advice Scotland](#)
- [Law Society of Scotland](#)

The Law Society of Scotland may be able to help you find a solicitor.

Telephone 0131 226 7411



- [Scottish Independent Advocacy Alliance](#)

Telephone 0131 510 9410

## What information must be in my complaint?



You should include:

- your full name
  - your address
  - your date of birth
  - how to contact you – for example by phone or by email
  - the name of the organisation you think is not following the Code of Practice
- If you are not sure which organisation is keeping your data, please give us as much information as possible.
- an explanation of:
    - why you think the organisation is not following the Code of Practice
    - how you would like us to resolve the matter

# What happens when I have complained?

## Stage 1



- we will contact you before 3 working days have passed to:
  - say we have got your complaint
  - tell you what our initial assessment is

We will try to discuss the complaint with you so that we understand everything.

If a complaint is about a crime we will refer it to the Police.



- we will give your complaint to an investigation officer and tell you their name

We aim to complete our investigation in 30 working days.



- we will contact the organisation you think is not following the Code of Practice

We will ask for any information we need to investigate your complaint.

We may contact you for more information.



- the Commissioner will:
  - review the investigating officer's report
  - make a **written determination**

A **written determination** is a written decision about what he has found out including if there has been a breach of the Code of Practice.

The Commissioner will send a copy of the written determination to you and the organisation you have complained about, to explain the decision.



- if the Commissioner finds that the Code has been breached, he will make a report, unless the breach is something quite small



The Scottish Biometrics Commissioner may send a **compliance notice** to the organisation you have complained about.

A **compliance notice** is a letter that tells the organisation to follow the Code of Practice.



## Stage 2

If you are not happy with the decision the Commissioner has made you can ask for a meeting with the Commissioner or the investigation officer.



## Stage 3

If you are still not happy you may want to contact a solicitor for legal advice.