

Scottish Biometrics Commissioner – Advisory Audit Board Minutes

17 August 2022 @ Bridgeside House

Board	Andy Shaw, Chair David Watt
Attendees	Committee – Andy Shaw, Chair Committee – David Watt External Auditor – Audit Scotland, Tommy Yule External Auditor – Audit Scotland, Gillian McCreadie Commissioner – Brian Plastow Corporate Services Manager – Cheryl Glen Business Support Officer – Joanna Milne (note taker)
Apologies	Operations Manager – Diego Quiroz

Item	Subject	Discussion	Actions	Lead
1	Welcome	The Chair welcomed everyone, apologies were noted from the Operations Manager		
2	Declarations of Interest	All declarations of interest are up to date and published on our website		
3	Minutes of previous meeting	Minutes from the previous meeting on 16 March 2022 were approved	Previous minutes to be published on our website	BSO
4	Commissioner's update	<p>Criminal Justice Committee and Code of Practice</p> <p>On 15 June the Commissioner appeared before the Criminal Justice Committee to discuss the draft Code of Practice. A subsequent letter from the Committee on 20 June asked about the potential extension of the Commissioner's remit to include prisons. This would be supported by the Commissioner and the Chief Inspector of Prisons.</p>		

		<p>On 8 August the Cabinet Secretary for Justice and Veterans confirmed the Scottish Statutory Instrument will be laid in Parliament on 7 September with the proposed date of 16 November for the Code to come into effect. There has been several positive articles written about the laying of the Code of Practice some of which can be read on our website as below:</p> <p>Scotland leads way on biometric data First ever government biometrics code moves toward approval in Scotland Scotland set for 'world first' with biometric data code of practice Scotland set to be the world first for biometrics data code of practice in prisons</p> <p>The draft public Complaints process has been developed with Police Scotland, the SPA, PIRC and ICO and will be available once the Code of Practice comes into effect.</p> <p>An annual programme of compliance will start one year after the Code comes into effect. This will comprise of a self-assessment questionnaire followed by quality assurance checks.</p>		
5	Operations Manager update	<p>Thematic Reviews</p> <p>The Children & Young People and Vulnerable Adults thematic reviews will be run concurrently with the aim of the reports being available by 31 March 2023. Both reviews will be run in partnership with the Scottish Police Authority with the Children & Young People's review also working with the Children and Young People's Centre for Justice (CYCJ).</p> <p>New rules around the Age of Criminal Responsibility (Scotland) Act 2019 came into effect during December 2021, raising the age of criminal responsibility from 8 to 12. Police Scotland have adopted the EU stance of under 18's being classed as a child and not as an adult in the criminal justice system (the UNCRC approach). In addition, Scottish Government are consulting on policy proposals for the Children's Care and Justice Bill. The policy intention is to move 16 and 17 year old offenders into the Children's Reporter System. If this happens, it will call into question the utility of</p>		

		<p>capturing biometric data from under 18's except in the most serious of cases.</p> <p><u>Animation</u></p> <p>The public awareness animation is ready to be displayed on our website. The animation conveys what biometrics are and what our role is. It will also be used during our focus groups for the Children & Young People thematic review.</p> <p>The animation will also be added to our Facebook account. Discussion took place around how best to promote the animation – SBC to consider the use of LinkedIn.</p>	LinkedIn to be considered	BSO
6	Corporate Services Manager	<p><u>Governance</u></p> <p><u>Handbooks</u> Governance & Risk Management Handbook and the Risk Policy and Risk Register have both been published on our website. Number of changes were made on the Strategic Risk Register following our last meeting. The risk cause and effect have now been split out. CSM thanked the AAB for their input.</p> <p><u>Shared Services agreement</u> A final updated version of the Shared Services Agreement has been agreed and signed by the Ombudsman and Commissioner. The agreement will be reviewed regularly to ensure it remains fit for purpose. Discussion suggested a one-year reflection of the agreement – what worked and what didn't.</p> <p><u>Internal Audit</u> We are in the process of procuring Internal Audit services through Public Contracts Scotland. Intention is to have contract in place before the end of the year with a stipulation that the first audit will take place in Q4 of this financial year. Other office holders have been asked for their internal audit costings so we can benchmark costs and the number of days of activity. David has kindly offered to help with the evaluation process.</p>		

		The Chair highlighted making reference to Section 2.2 of the Shared Services Agreement within the Internal Audit process.		
7	Financial Update	<p><u>Annual Audit Plan – External Auditor</u></p> <p>External Auditor highlighted that the audit plan was agreed with the Commissioner back in April but due to meeting dates it was now being formally presented to the Board. The plan summarises the work done for the year</p> <p><u>Annual Report and Accounts – Commissioner</u></p> <ul style="list-style-type: none"> ▪ The Commissioner highlighted that in addition to the accounts direction received from Ministers relative to reporting on performance against budget, Section 32 of the SBC Act 2020 gives legal instruction that the Annual Report must include issues relevant to the use of biometric data for criminal justice and police purposes. Therefore the first Annual Report has been nuanced to reflect these competing legislative imperatives ▪ The primary audience for the ARA is the Scottish Parliament and in particular the Criminal Justice Committee ▪ First round of feedback from the AAB, resulted in a section being removed and a 17 page Guide to Biometric Data was published on our website ▪ The report will be professionally formatted and then signed by both the external auditors and the Commissioner ▪ Intention next year is to have two reports - one on the performance and budget under Section 31 of the SBC Act 2020. The other will be under Section 32 of the SBC Act 2020 on what we have found on the retention, destruction and use of biometrics by Police Scotland, the Scottish Police Authority and PIRC ▪ Commissioner explained that within the ARA, twelve pages on biometrics will be sent to Police Scotland, the Scottish Police Authority and PIRC for factual accuracy checking ▪ Highlights of the ARA - the function of the SBC was built during a pandemic on time and under budget due to decisions made with an eye to value for the public purse including co-location; a Shared Service Agreement with the SPSO; phasing recruitment to coincide with the completion of building works to the SBC office 	<p>The Audit Advisory Board is to be changed in all documentation to Advisory Audit Board.</p> <p>Changes to be made as per feedback</p>	<p>CSM</p> <p>CSM</p>

