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Dr Brian Plastow
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Our Reference: 202600518629
Your Reference: Scottish Biometrics

11 June 2026

Dear Brian,

Thank you for your letter dated 25 May 2026 regarding Live Facial Recognition (LFR) technology.

I recognise that assurances are required to secure public trust and support for any future use of new technology by Police Scotland, including LFR. The joint commitment by Police Scotland and the Scottish Police Authority (SPA) to better inform decision-making on any future deployment of LFR is therefore welcomed, recognising that any decision must consider the proportionality principle, respect for human rights, and the need to strike an appropriate balance between the privacy of individuals and the safety of our communities.

I agree that the legal and procedural safeguards around the use of LFR currently comprise a combination of primary legislation relating to the general duties of constables, data protection law, and the obligations arising under the European Convention on Human Rights. The ability to respond in an agile manner when establishing statutory obligations around the deployment of new and emerging biometric modalities and supporting technologies was also forefront of considerations during the parliamentary passage of what became the Scottish Biometrics Commissioner Act 2020, including the proposal for a Code of Practice.

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Tha Ministearanna h-Alba, an luchd-comhairleachaidh sònraichte agus Rùnaire Maireannach fo chumhachan Achd Coiteachaidh (Alba) 2016. Faicibh www.lobbying.scot

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I welcome that the current version of your statutory Code is very clear that any biometric enabled technology and supporting data must be used in a manner that promotes public confidence, respects human rights and is non-discriminatory. I note that any proposed changes to the Code (for example, in relation to LFR specifically) that you may wish to pursue would be subject to the secondary legislative procedure for approval. I further note that the 2020 Act includes provision to ensure that any such changes require ministerial approval and for the Scottish Ministers to lay draft affirmative regulations with a view to bringing a revised Code into effect. This framework therefore provides the opportunity for full parliamentary scrutiny, should the Parliament decide to exercise it.

I do, however, note your view that the introduction of primary legislation to Parliament would represent the optimal approach to establishing a statutory basis and enabling framework for the limited and proportionate use of LFR by Police Scotland.

Police Scotland and the SPA have made clear that their considerations regarding the potential use of LFR technology are ongoing, and that submission of a Business Case to the SPA - and any subsequent decision – are not expected until 2027-28 at the earliest.

The Scottish Government is also monitoring the work being taken forward by the UK Government to develop a proposed new legal framework for the use of biometrics, facial recognition and similar technologies in law enforcement. While the findings of the UK Government's consultation, and its formal response, are still to be published, the finer detail of any draft legislation once published will be carefully assessed by the Scottish Government in terms of their applicability to, and implications for, Scotland.

Given these circumstances, any commitment by the Scottish Government at this stage to consider bringing forward primary legislation on such matters would be premature. The Scottish Government does, however, stand ready to work with Police Scotland, the SPA, your office and other stakeholders to ensure that any use of facial recognition technology is lawful, effective, proportionate and grounded in respects for human rights.

Notwithstanding the independence of your office and that you are accountable to the Scottish Parliament, I would very much welcome an introductory discussion with you to hear more about the work of your office and your views on the future direction of biometrics and supporting technologies in Scotland, both during the current parliamentary session and beyond. It may be that such a discussion could take place in autumn, which would align well with the statutory considerations currently being undertaken by the Scottish Government to assess whether your functions under the 2020 Act remain appropriate or should be amended. If you are agreeable to such a meeting, please contact my office at cabsecforjustice@gov.scot to arrange.

Yours sincerely,



NEIL GRAY

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