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AUTHORITY

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**LETTER SENT BY E-MAIL ONLY**

Dr Brian Plastow  
Scottish Biometrics Commissioner  
Bridgeside House  
99 McDonald Road  
Edinburgh  
EH7 4NL

23 December 2021

Ref: CO/152/2021

Dear Brian

**SCOTTISH BIOMETRICS COMMISSIONER ACT 2020 – CODE OF PRACTICE: DRAFT 0.2 FOR CONSULTATION**

The Scottish Police Authority welcomes the opportunity to provide comment on the draft Biometrics Code of Practice (CoP). As requested in your correspondence of 30 September, I have consulted with Board members and held detailed discussions with members of the Forensics Services Committee to gather comment and feedback. I am also aware that Fiona Douglas, Director of Forensic Services and her management team have responded on behalf of SPA Forensic Services.

The Authority recognises that the science of Biometrics is an area that continues to evolve at unprecedented pace and is an area of considerable public interest. We welcome the development of a statutory Code of Practice and recognise the value that a code will bring to the oversight of the acquisition, use, retention and destruction of biometric data across policing and criminal justice in Scotland. The Authority supports the '12 Guiding Principles' around which the code is structured. In reviewing the Code of Practice, we identified several areas that we believe present particular value to policing and the public we serve. These include:

**Definition of biometric data** - The Authority welcomes a specific definition of biometric data. The definition encapsulates the multiple dimensions of what biometric data is and could be, allowing this definition to be future-proofed as far as possible.

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**Empowering participation** - The Authority welcomes and supports the commitment from the Biometrics Commissioner to consult with the public on this Code of Practice. We also recognise and support the approach outlined in the Code of Practice to empower citizens through the proposed complaints procedure.

**Accessibility** - The Authority welcomes the commitment to producing the Code of Practice in an accessible format. A user-friendly version will enable the Code of Practice to be understood more widely.

**Compliance** - The Authority supports the inclusion of relevant legislation and guidelines to promote understanding and compliance. We are particularly supportive of the focus on the lawful and respectful processing of biometric data.

The Authority welcomes your intention to undertake social research to better understand public attitudes to, and levels of public awareness of, the use of biometric data for policing and criminal justice purposes in Scotland. This information will be valuable not only to inform the Code of Practice, but to all those with interests in the use of biometric data in policing and criminal justice. If appropriate, I would very much appreciate if you could share your findings with the Authority once this research is complete. On a similar note, the Authority will shortly be publishing the results from our public polling on new and emerging technology in policing and would be very pleased to share any insight that we generate.

In considering the draft Code of Practice, there are three areas we would offer additional comment on. I have summarised those below and the Authority would be very happy to discuss these with you or your officials before the Code of Practice is finalised.

**Preventative approach:** The current Code focuses on enforcement and corrective actions. Although this will support improvement across the criminal justice landscape, there may be opportunity for effort to be invested in supporting procedural and process improvement to align with recognised best practice prior to enforcement action being taken.

**Differentiation in regulatory landscape:** Further information on the differentiation of the role of the Biometrics Commissioner from the other bodies that have an oversight role in Scotland, including the Information Commissioner's Office would be beneficial. In particular, members of the public may benefit from further guidance on which body should be contacted in different circumstances.

**Terminology and legal references:** Certain sections of the Code of Practice contain language that may be open to interpretation. Strengthening this may support improved rates of compliance with the Code. Additionally, there are instances in the Code where references to case law may require amendment.

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Thank you again for the opportunity to comment on this draft. We look forward to working with you during the delivery.

Yours sincerely

A handwritten signature in black ink that reads "Martyn Evans". The signature is written in a cursive style with a large initial 'M'.

**Martyn Evans**  
Chair

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