



Scottish Biometrics
Commissioner
Coimiseanair
Biometrics na h-Alba

Scottish Biometrics Commissioner

Advisory Group – Terms of Reference

(Version 1.0)



Safeguarding our biometric future

The role of the Scottish Biometrics Commissioner

1. The Scottish Biometrics Commissioner Act 2020 established the office of Scottish Biometrics Commissioner and provides for its functions. The Commissioner is independent of Scottish Government and is appointed by Her Majesty the Queen on the nomination of the Scottish Parliament. The Commissioner's general function is *'to support and promote the adoption of lawful, effective, and ethical practices in relation to the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes'*.
2. The Commissioner's functions currently extend to Police Scotland, the Scottish Police Authority (SPA), and the Police Investigations and Review Commissioner (PIRC). However, discussions are ongoing between Scottish Government and Westminster with a view to extending the Commissioner's function to include other UK wide policing bodies operating in Scotland via a section 104 Order under the Scotland Act 1998.

Meaning of Biometric Data

3. The meaning of "biometric data" in the Scottish legislation is contained within section 34 (1) of the Scottish Biometrics Commissioner Act:

"Biometric data" means information about an individual's physical, biological, physiological, or behavioural characteristics which is capable of being used, on its own or in combination with other information (whether or not biometric data), to establish the identity of an individual.

For the purposes of subsection (1), "biometric data" may include:

- (a) Physical data comprising or derived from a print or impression of or taken from an individual's body,*
- (b) A photograph or other recording of an individual's body or any part of an individual's body,*
- (c) Samples of or taken from any part of an individual's body from which information can be derived, and*
- (d) Information derived from such samples.*

Requirement for Advisory Group

4. Section 33 of the Act provides that:
 - The Commissioner must establish and maintain an advisory group.
 - The purpose of the group is to give advice and information to the Commissioner about matters relating to the Commissioner's functions.
 - The members of the group are to be such persons as the Commissioner determines, subject to the approval of the Parliamentary corporation as to the number of members, the persons appointed.

Remuneration, expenses etc

5. The Commissioner may pay members of the group such remuneration and allowances (including expenses) as the Commissioner, with the approval of the Parliamentary corporation determines. Such fees may relate to attendance at meetings or to other external contributions. The Parliamentary corporation have approved that advisory group members who are not in paid employment may be paid a daily rate of £300 by the Commissioner for work associated with advisory group activity. Travel and expenses rates in keeping with the SPCB's expenses scheme may be offered to all members of the group.

Terms of Reference

6. The Terms of Reference for the advisory group is **'to give advice or information to the Commissioner about any matter relating to the Commissioner's functions.'** It is envisaged that such advice and information will include, but not be limited to:

- reviewing the content of the draft 4-year Strategic Plan
- the content and structure of the draft Code of Practice.
- the complaints procedures relative to the Code of Practice.
- the National Assessment Framework for biometric data outcomes.
- the law.
- biometrics in policing and the criminal justice process.
- operational policies, practices, and procedures.
- promoting public awareness and understanding.
- databases and technologies, and data governance.
- matters relating to children, young people, vulnerable adults, and protected characteristic groups.
- privacy and data protection considerations within remit of the Information Commissioner (ICO)
- human rights.
- ethical considerations.
- emerging technologies.
- academic and other U.K. and international collaboration and research opportunities.
- interface with stakeholders and other regulatory bodies.

Frequency of Meetings

7. The advisory group will meet quarterly, and where the circumstances of the current Covid19 pandemic dictate, meetings will be held on-line via Microsoft Teams. The nature and frequency of meetings will be kept under ongoing review.

Chair and Administrative Arrangements

8. An independent member of the advisory group, not associated with Police Scotland, the Scottish Police Authority, or Police Investigations and Review Commissioner will be appointed by the agreement of members. Once the office of the Commissioner is fully

established, staff from the office of the Commissioner will provide the necessary administrative support.

9. The role of the Independent Chair of the Advisory Group is limited to supporting the Commissioner and the advisory group with no responsibilities in relation to governance or performance management. These matters are catered for through separate arrangements and the work of the Commissioner’s independent Audit Advisory Board (AAB), and through regular liaison with the appointed external Audit Scotland auditor.

10. In between formal meetings, members will receive updates from the Commissioner on any matter pertinent to the advisory group.

Publishing minutes and agendas

11. Under the provisions of the Freedom of Information (Scotland) Act 2002 and the Scottish Information Commissioner’s model publication scheme relative to freedom of information, summary minutes and agendas of the advisory group will be published on the Commissioner’s website once established.¹

Membership

12. With the approval of the Parliamentary corporation, the following individuals are members of the advisory group:

Advisory Group (on biometric data and technologies) - Membership	
Director of Forensic Services	Scottish Police Authority Forensic Service
Professor John McNeill	Former PIRC & Human Rights Commissioner
HM Assistant Inspector of Constabulary in Scotland	HMICS
Professor Derek Penman QPM	International Policing Consultant, former Chief Police Officer & Chief Inspector of Constabulary
Professor Fraser Sampson	Biometrics & Surveillance Camera Commissioner (E & W)
Detective Chief Superintendent	Police Scotland – Major Crime and Public Protection
Director of Investigations	Police Investigations & Review Commissioner (PIRC)
Procurator Fiscal	Crown Office and Procurator Fiscal Service (COPFS)
Head of ICO Regions	Information Commissioners Office (ICO)

¹ The current planning assumption is that the office of the Commissioner and a public facing website will be fully established by the autumn of 2021.



Dr Genevieve Lennon	Chancellor's Fellow, University of Strathclyde
Head of Change and Operational Scrutiny	Scottish Police Authority
Head of Strategy	Children & Young Persons Commissioner for Scotland
Head of National Systems Support	Police Scotland
Chief Data Officer	Police Scotland
Operations Manager	Scottish Biometrics Commissioner's Office
Corporate Services Manager	Scottish Biometrics Commissioner's Office
Biometrics Policy Lead	Scottish Human Rights Commission