

Elena Whitham MSP  
Minister for Community Safety  
Scottish Government  
St Andrew's House  
Regent Road  
Edinburgh  
EH1 3DG  
[Elena.Whitham.msp@parliament.scot](mailto:Elena.Whitham.msp@parliament.scot)

21 November 2022

Dear Minister,

### **Scottish Biometrics Commissioner Act 2020**

My purpose in writing to you is twofold. Firstly, to congratulate you on your recent appointment as Minister for Community Safety in Scotland, and secondly to highlight the important work in Scotland in the field of biometrics in policing and criminal justice that touches directly on your portfolio.

As you will be aware, the Scottish Biometrics Commissioner Act was passed by the Parliament in April 2020, and I was subsequently appointed as Commissioner by her late Majesty on the nomination of the Scottish Parliament on 12 April 2021. My 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. At present my functions extend to Police Scotland, the Scottish Police Authority, and the Police Investigations and Review Commissioner, all of whom hold biometric data acquired from persons (or from crime scenes) without the usual safeguards of consent.

The political driver behind the 2020 Act followed recommendations from HMICS in 2016, and subsequently by (now) Lord Scott in the report of the Independent Advisory Group on biometric data in Scotland in 2018, which highlighted the absence (at that time) of independent oversight in Scotland over the use of biometric and forensic data, techniques, and technologies within the criminal justice system in Scotland.

In the months since taking office, I have successfully designed and stood up the new public authority in Scotland, laid a 4-year Strategic Plan before the Parliament, laid my first Annual Report and Accounts before the Parliament, and have designed and received the approval of the Parliament and Scottish Ministers for a new statutory Code of Practice which took legal effect in Scotland on 16 November 2022. The introduction of the new national Code, backed by a complaint's mechanism is a world first and has received exceptionally positive media coverage. See for example: <https://www.holyrood.com/news/view/world-first-for-scotland-biometric-data-dna>

The new Code of Practice is now attracting significant positive interest from other international jurisdictions and can be viewed on my website:

<https://www.biometricscommissioner.scot/publications/code-of-practice/>

My first Annual Report and Accounts can also be found on my website and pages 2 to 8 provide a convenient Executive Summary of pertinent issues of which you may wish to be aware: <https://www.biometricscommissioner.scot/publications/annual-report-and-accounts-2021-2022/>

On 15 June 2022, and as part of the Parliament's scrutiny of the Code of Practice, I appeared before the Criminal Justice Committee where a range of relevant topics were discussed:

[https://www.youtube.com/watch?v=sufAcTr\\_bMg](https://www.youtube.com/watch?v=sufAcTr_bMg)

Following my appearance before the Criminal Justice Committee we subsequently exchanged correspondence on a range of issues including potential expansion of my remit to other areas of criminal justice in Scotland where biometric data is held and used without the usual safeguards of consent, most notably within the Scottish Prison Service. My letter to the Criminal Justice Committee can be viewed here:

<https://www.biometricscommissioner.scot/publications/letter-of-response-to-criminal-justice-committee-june-2022/>

I trust that this short synopsis will give you a flavour of recent developments in this area and if your diary permits, I would welcome the opportunity to meet with you in person in due course to discuss further opportunities to enhance public confidence and trust in the use of biometric data held without consent in the wider criminal justice ecosystem in Scotland.

Yours sincerely

*Brian Plastow*

**Dr Brian Plastow**  
**Scottish Biometrics Commissioner**