

Neil Gray MSP
Cabinet Secretary for Justice
Scottish Government

cc Kirsten Oswald MSP
Minister for Victims and Community Safety

by e-mail

Dear Cabinet Secretary,

25 May 2026

Live Facial Recognition (LFR) in UK Policing

I write to congratulate you on your re-election to the Scottish Parliament and to welcome your appointment as Cabinet Secretary for Justice.

I am acutely aware that you will have competing priorities within your new portfolio spanning the entire justice system in Scotland as well as your wider Cabinet responsibilities and wish you every success in your new role.

As you know, recent years have witnessed a rapid growth in AI-enabled biometrics in all aspects of our daily lives. Whilst such technologies bring a diffusion of benefits, others are more controversial. In a justice context, the law rarely keeps pace with rapid advances in such technologies often meaning that they emerge and proliferate in a legal vacuum. This is best exemplified by the rapid growth of Live Facial Recognition (LFR) and the police use of other inferential biometric technologies in England and Wales.

Against this context, the King's Speech on 13 May 2026 and subsequent House of Lords debates (14–21 May 2026), mark an important milestone for biometrics, facial recognition, and similar technologies. Pages 68-69 of the King's Speech set out the intention of the Westminster Parliament to *'Establish a new legal framework (for England and Wales) to underpin law enforcement use of facial recognition and similar technologies, making it clear when use of these technologies can be justified...'*.

As you will be aware, Police Scotland does not possess and therefore has never deployed LFR technology in Scotland. However, its use is accelerating at scale in England and Wales because the Home Office is massively expanding its funding of LFR technology, investing heavily in deploying 50 facial recognition vans to all regional police forces in England and Wales and also making it available to UK policing bodies, including those which operate in Scotland such as the British Transport Police (BTP) as well as to policing operations at UK Borders.

Against this context, it is inconceivable that Police Scotland will not want equitability of access to such technology in future not least to enable them to respond effectively to serious and organised crime group activity, as part of counter-terrorism policing operations, to assist in the co-ordination of UK-wide activity against county-lines drug dealers, and as part of a strategic policing response to address the national emergency of male violence towards women and girls. In relation this last aspect, it is worthy of note that LFR has had considerable success in England and Wales in identifying Registered Sex Offenders (RSO's) either unlawfully at large and wanted on warrant or alternatively acting in breach of a sexual harm prevention order (SHPO) and in the Metropolitan Police area 10% of arrests through LFR deployments relate to sex offenders posing a danger to the local community.

In England and Wales, the approach has been to put the cart before the horse as evidenced by the technology being introduced within a legal vacuum with primary legislation proposed only after the Home Secretary has already made a funding decision to support its adoption and roll out to all police forces in England and Wales.

Therefore, my purpose in writing to you is to advocate a different approach for Scotland and to ask Minister's to consider bringing forward primary legislation in Scotland to create a statutory basis and enabling framework for the limited and proportionate use of LFR in Scotland by Police Scotland within legislative guardrails approved by the Scottish Parliament for its use.

As you know, in October 2025, the SNP Conference approved a resolution proposing that LFR systems should not be implemented in Scotland without passing through primary legislation at the Scottish Parliament. This is a position which I have stated publicly that I support.

The advantage of primary legislation on something as controversial as LFR is that through Parliamentary debate it may establish legal and democratic legitimacy as well as public accountability through the scrutiny of elected members of the Parliament. It could also provide a high degree of legal certainty to Police Scotland that cannot easily be challenged in the courts.

In the absence of primary legislation, any future decision by Police Scotland to introduce LFR could of course be catered for through amending the provisions of the Scottish Biometrics Commissioner's Statutory Code of Practice approved by the Parliament in November 2022. However, whilst any amended Code of Practice would have to be approved by Scottish Minister's before being introduced through Regulations, the use of secondary legislation would carry less democratic legitimacy and accountability and would not be exposed to full Parliamentary debate. Thus, it may not represent the collective will of the Scottish Parliament.

Given the clarification in the recent King's Speech that a new legal framework is to be introduced in England and Wales, I now write formally to offer my support to the resolution adopted at the last SNP Conference proposing that LFR should not be implemented in Scotland without passing through primary legislation at the Scottish Parliament.

Scottish Biometrics Commissioner

Bridgeside House

99 McDonald Road

Edinburgh EH7 4NL

Given statements by the Scottish Police Authority that a decision on the adoption of LFR in Scotland by Police Scotland may still be two years away, it would be helpful to know if this is something that the new Scottish Government might consider in its legislative programme for 2026 to 2031.

Yours sincerely,

Brian Plastow

Dr Brian Plastow

Scottish Biometrics Commissioner