

Biometrics and Forensics Ethics Group

Notes of the 12th meeting held on 10 June 2020, via teleconference.

1 Welcome and introductions

- 1.1 Mark Watson-Gandy, Chair, welcomed all to the 12th meeting of the Biometrics and Forensics Ethics Group (BFEG) – see annex A for attendees and apologies.

2 Notes of the last meeting & matters arising

- 2.1 The minutes of the March meeting had been circulated and relevant sections agreed by the stakeholders. Members were asked to provide any corrections to the secretariat by the 24th of June after which time a final version would be agreed by the Chair for publication.

Action 1: Members to pass corrections or amendments to the minutes to the secretariat by the 24th of June.

3 Chair's update

- 3.1 The Chair had attended a round table event hosted by the Centre for Data Ethics and Innovation (CDEI) on Covid-19 antibody certificates. As antibody certificates could utilise biometric data the ethical considerations had been discussed by members of the BFEG as an area of self-commissioned work. The Chair felt that the BFEG's ethical considerations on this issue were at a more advanced stage than the CDEI and proposed drafting an information note for the Minister given the topicality of the issue. This was agreed by the members and it was suggested that this note also be shared with Jonathan Montgomery, Chair of the NHSX, Covid-19 app Ethics Advisory Board (EAB). It was proposed and agreed that the summary of issues that had already been drafted for the EAB could be used as a starting point to draft the note.

Action 2: Secretariat to draft a Ministerial information note on antibody passports and circulate to members for comments and amendments.

- 3.2 The Chair and Vice-Chair had attended a meeting with the Chair of the NHSX Ethics Advisory Board (EAB) to share their thoughts on the Covid-19 tracing app. The meeting was productive, and another meeting was proposed for the end of June.

4 Biometric Commissioner's update

- 4.1 Paul Wiles' tenure as the Biometrics Commissioner would end on the 12th of June. The Chair of the BFEG and the members asked Kevin and Danny for their thanks to be passed to the outgoing Commissioner.

4.2 An announcement regarding the position of the Commissioner was expected at the end of the week. The BFEG members highlighted that the role of the Commissioner was a statutory requirement and should not be vacant.

4.3 A written update had been provided to the BFEG ahead of the meeting. The main points were:

- The Biometrics Commissioner's Annual Report was yet to be published. The BFEG were informed that this was expected soon, and the published report would be shared with stakeholders via email.
- The Coronavirus Act sets out provision for the normal processes for National Security Determinations (the retention and use of biometric material for national security purposes) to be relaxed. The Act requires that any extension beyond 6 months should be approved by Parliament. It had been agreed that the Biometrics Commissioner should produce a report on the effects of the changes prior to any extension of the Act.
- Separately the Biometrics Commissioner had requested that pre-implementation guidance on National Security Determinations be brought forward and put through Parliament before the recent Terrorism Act comes into force. The BFEG were informed that the Biometrics Commissioner's Office were pleased with the initial draft of this guidance.
- Visits to police forces were on hold because of the covid-19 lockdown restrictions and would not recommence before the end of the Biometrics Commissioner's term. The Commissioner wished to record his thanks to all areas of the police service across the UK for their openness and commitment to compliance with the provisions of Protections of Freedoms Act.
- The Biometrics Commissioner noted that the covid-19 emergency may justify some uses of both biometrics and Artificial Intelligence-enabled technologies as in the immediate public interest. However, public interest tests would also reflect the context at the time, and it would be important that Parliament ensures that such uses do not drift into a new and different context.

4.4 It was noted that the use of biometrics and AI-enabled technologies in the covid-19 emergency was also an area of interest to the BFEG.

5 FIND Strategy Board update and issue papers

5.1 The main points of the update from the Forensic Information Databases (FIND) Strategy Board were:

- FINDS had invoked a Business Continuity Response in reaction to COVID-19, with a focus on the core CJS activities.
- The NPCC Homicide Working Group (HWG) paper on genetic genealogy databases, which did not endorse their use, was agreed by the FIND SB and sent to forces via the HWG in March. If a Senior Investigating Officer

chooses to use this technique, they should notify the Chairs of the HWG and the FIND SB.

- Chief Constable Andy Cooke, NPCC lead for biometrics, had proposed a Biometrics Strategy Board to sit over the FIND SB and cover facial recognition and emerging biometrics.
- Biometric Vetting submissions had increased with increased police force recruitment.
- Delivery of the NDNAD2 was delayed to July 2020 as a result of the covid-19 emergency.
- The lease on the FINDS site had been extended to at least October 2020 (from May).
- Increasing the number of loci on the NDNAD was approved by the FIND SB and this work package would be added to the Home Office Biometrics Programme (HOB) DNA Stage 3 work plan.
- An options paper on how to create a Y-STR Reference Database for the UK would be discussed at the next Forensic Science Regulator DNA Specialist Group in June 2020.

5.2 Clarification on the changes the new NDNAD would bring was sought and it was explained that the new NDNAD would allow automation of the system, the present NDNAD required manual triggering of a search.

5.3 The FINDS representative was asked if there was any update on the position of the UK in the Prüm DNA and fingerprint sharing agreements with the EU. There was no update on this.

5.4 The Chair asked about the composition of the new board proposed by Chief Constable Andy Cooke. This query was answered by a representative from policy. The Board would have representation from the Home Office, Counter-Terrorism Policing, the National Crime Agency, and the National Police Chiefs' Council and would be a decision-making Board. A representative from the BFEG would be asked to sit on working groups created by the Board and may be asked to attend the Board to update on work or to contribute to specific agenda items. The members of the BFEG highlighted the need for continued ethical oversight of facial recognition and emerging biometrics decision-making.

Issue paper 1:

5.5 The BFEG was asked to consider a change in the process for providing DNA profile information for analysis in familial DNA searches. The main points of the paper were:

- In the present system the algorithms used for familial DNA search of the National DNA Database (NDNAD) use a subset of the 16 short tandem repeat (STR) markers/loci available on the NDNAD (the *SGMPlus* set of 10 markers).
- It is not possible for comparison of matches generated using this algorithm to be made against the full DNA-17 DNA profile held on the NDNAD.

- The paper from FINDS proposed that where a familial DNA profile generated matches with profiles on the NDNAD that, subject to assessment, these profiles would be released to the FSP for comparison of the complete set of DNA markers.

5.6 It was clarified that there would be no increase in the volume of requests if this change was accepted; every familial DNA search was considered by the Chair of the FIND SB and the subsequent release of DNA profile data would only be requests were approval had already been granted by the Chair.

5.7 The BFEG were generally in support of this proposal, it was noted that this would make familial DNA searches more effective. However, the group requested sight of the policy covering the decision-making process to release DNA profile information to the FSP before making a final decision.

Action 4: FINDS to share the draft policy document for the familial DNA proposal with the BFEG.

Issue paper 2:

5.8 The BFEG was asked to consider a change in the process for searching the Vulnerable Persons DNA Database (VPDD) to allow routine searching against DNA profiles from unidentified body/part(s), and crime scenes (trophies from potential victims of known serial killers or 'no body' murders). The main points of the paper were:

- In the present system reference DNA profiles held on the VPDD only become searchable if a Police Force requests a record to be activated.
- When reference samples were taken from vulnerable persons' the consent given did not include the regular searching of DNA profiles against their record.
- FINDS proposed that a vulnerable persons' reference DNA profile be treated in the same way as a missing persons reference DNA profile, in that it could be regularly searched against DNA profiles from unidentified bodies and specific crime stains (murders without bodies and trophies obtained from major crimes).
- FINDS anticipated that some unidentified bodies could be identified by this means.
- The Vulnerable Volunteer DNA Retention Form would need to be updated to reflect this change. BFEG were asked to consider the appropriateness of searching against all the historic records present on the VPDD.

5.9 The BFEG highlighted that consent for routine searching had not been given by the donors of samples currently held on the VPDD. The BFEG did not support routine searching of VPDD samples currently held without specific consent being sought from the donor. It was clarified that this would not prevent searching taking place if requested by a Police Force, for the purposes for which consent was given.

5.10 The BFEG would support routine searching of VPDD samples against DNA profiles from unidentified body/part(s), and crime scenes once the consent form had been amended to reflect the change in process.

- 5.11 The BFEG sought clarity on the oversight of the VPDD and were informed that oversight was provided by the FIND Strategy Board and DNA Operations Group.
- 5.12 In amending the consent form the BFEG requested that, under the list of examples of vulnerable donors the term “the mentally ill” be worded more accurately.
- 5.13 It was noted that in making changes to this consent form the DNA sample retention leaflet provided in custody suites should be reviewed and may need to be updated.

6 Home Office Policy Update and 2020/21 commission

- 6.1 The main points of the update from the policy sponsor were:
- Live Facial Recognition (LFR) had not been deployed by the Metropolitan Police Service since February as there had been no relevant large gatherings. Oral and written parliamentary questions had been received on the use of LFR and compilation of watchlists.
 - Ministers were not appealing the judgement in the Gaughran case and had agreed to an expansion of the ‘Custody Images Review 2’ work to a wider ‘Biometrics Access and Retention Review’.
 - The initial UK Research Institutes (UKRI) consultation with stakeholders identified digital forensics, forensic databases, and DNA as key areas for research. The Science for Justice Advisory Group was working with UKRI and the research community to address how research can better meet user need. The UKRI work programme will be published in due course.
 - A Digital Forensics Policy team was being set up to create a framework for extraction, use, storage, and deletion of digital forensics data.
 - The findings from the review of the Criminal Justice Board (CJB) forensic sub-group work programme was to be presented to the CJB on 1 July.
- 6.2 In response to the update on LFR the representative from policy was asked whether the Metropolitan Police Service had deployed LFR during the Black Lives Matter protests in London. The BFEG were informed that LFR had not been deployed at these protests and the Metropolitan Police Service was committed to stating when and where LFR would be deployed 24 hours ahead of any deployment.
- 6.3 The BFEG raised concerns that the expansion of the scope of the custody images review to include all biometrics would delay this work further. The group were informed that there was significant work in this area and that it was important that all biometrics should be reviewed together.
- 6.4 The new commission for the BFEG from the policy sponsor was discussed. The main points covered were:
- The commission aimed to provide continuity and allow for long-term planning.
 - The Home Office Biometrics Working Group continued to be commissioned to provide advice for the HOB programme and related Home Office initiatives on projects at an early stage of development.

- The Complex Datasets Working Group would continue to provide advice on projects considering the adoption and/or use of explainable data-driven technology. This group would also be asked to review a machine learning strategy being developed by for Home Office data scientists.
- The BFEG was asked to develop a method to provide advice and support on data ethics for Home Office data projects, building from the guidance offered by the new Data Ethics Framework from the Department of Culture, Media, and Sport (DCMS).

Action 5: Draft of updated Data Ethics Framework from DCMS to be shared with the BFEG

- In the longer term the BFEG would provide input into the development of discipline-specific ethics guidance and procedures.
- The BFEG would be asked to advise on approaches to collection, use, retention and deletion of biometrics and extracted digital forensic material, and to advise on ethical issues in the use of information extracted in digital forensics investigations.

6.5 Members of the BFEG requested further information on the requirements for the commissioned work on the access and retention review of biometrics and forensics.

Action 6: Secretariat to clarify the scope and requirements for the Biometrics and Forensics Access and Retention Review workstream and circulate detail to members.

6.6 Members queried the lack of specific reference to Live Facial Recognition (LFR) in the new commission. The group were informed that policy saw investigation of LFR being included in the broader biometrics review. It was highlighted that investigation of specific issues in LFR could be considered as part of the work self-commissioned by the BFEG. Members were asked to send proposals for the 30% of work that could be self-commissioned by the BFEG to the secretariat so that a paper could be prepared for the next meeting to select topics to take forward.

Action 7: Members to share proposals for self-commission with secretariat.

7 Data Ethics Advisory Service Proposal

7.1 Members heard an update from the Data Ethics Framework Group. A meeting had been held between the group and the policy lead to discuss possible approaches for responding to data ethics queries from the Data & Identity Directorate and a Data Ethics Advisory Service was considered.

7.2 The proposal for the Advisory Service was set out and the main points were:

- Data Ethics queries would be submitted to the BFEG in writing. It would be expected the makers of the data model should provide a summary of the benefits, and how current services would be improved by using this data model.
- The query would be reviewed and areas for discussion identified.
- Where advice on the use of machine learning advice was required this may be sought from the current Complex Datasets Working Group.

- A teleconference would be held between those developing the data model and the members of the Advisory Service to discuss the proposed model.
- A written summary of the teleconference and recommendations made would be produced for agreement by both parties.

7.3 Members were supportive of the Data Advisory Service and raised the following points:

- Ethical issues of data sharing between law enforcement and other services, for example education and social services, should be included as ethical issues to be discussed.
- The volumes of requests the advisory service could receive would need to be monitored and agreed.
- To consider an alternative name for the group, such as the Data Ethics Advisory Group, as “service” did not show the required level of independence.

7.4 The next step for the group would be to propose an operational structure for discussion and agreement by the BFEG. The Chair asked for members to join the Advisory Group and one member expressed an interest. Other members who would be interested to join the working group were asked to contact the secretariat.

Action 8: Members to contact secretariat to express interest in joining the Data Ethics Advisory Group.

8 WG 2 – FR WG update and discussion of MPS LFR watchlist size

8.1 The Facial Recognition Working Group (FRWG) would be producing briefing note on the use of Live Facial Recognition (LFR) in public/private collaborations. The briefing note would include recommendations for ethical practice that should be considered and implemented in these specific collaborations. The FRWG were considering including a recommendation to establish an oversight board to oversee the public and private partnerships collaborations.

8.2 The group had received oral and written evidence from a range of different sources. The evidence received so far suggested there could be an increase in these collaborations in the future. The group would be holding another evidence gathering event at the end of June.

8.3 The group suggested that the BFEG produce a document listing all published reports on Live Facial Recognition along with a brief summary and a link to each report. The document would be available for individuals interested in learning more about Live Facial Recognition. The members were supportive of this proposal and this would be discussed further with the secretariat.

8.4 The Chair of the FRWG raised concerns regarding watchlists used in the recent LFR deployments by the Metropolitan Police Service (MPS) and the significant increase in size from the watchlists used in trial deployments. It was suggested that the secretariat contact the MPS to discuss the BFEG’s concerns over the size of the

watchlists. The FRWG chair also suggested inviting the MPS to a BFEG meeting to discuss the proportionate use of this technology.

Action 9: Secretariat to contact MPS to discuss BFEG concerns on the increasing size of the watchlist.

8.5 The members were informed that the FRWG Chair's final term on the BFEG would end in July. The Head of the Science Secretariat suggested that the FRWG Chair could be co-opted to the BFEG in order to see through the completion of the FRWG briefing note report. The Chair and BFEG members were very supportive of this proposal and this was agreed with the Chair of the FRWG. The BFEG Chair would co-opt the FRWG Chair onto the BFEG to complete the briefing report.

Action 10: Chair to co-opt Nina Hallowell to continue the LFR work and report.

9 Home Office Biometrics Ethics (HOB E) Working Group update

9.1 Members heard an update from the HOB E Working Group (HOB E WG), the main points were:

- The Working Group had met once since the last meeting where they received an update on the HOB programme and feedback on the group's comments on improvements to the Home Office Data Privacy Impact Assessment templates.
- The group had received a presentation for a new HOB project request, currently in the early stages of development. This was in line with the group's request for earlier engagement in projects. The group were able to identify ethical issues that should be considered during the development of possible technical solutions.
- The Group would be invited to raise ethical issues on future HOB projects at their early stages.

9.2 The HOB E WG Chair recorded thanks from the group to Nina Hallowell who, following the completion of her term with the BFEG in July, would step down from her work with the HOB group.

10 Complex Datasets Working Group update

10.1 The members heard an update from the large and complex datasets group. They had met twice since the last BFEG meeting, the main points of the update were:

- The production of the group's report on the two machine learning use cases reviewed was pending the receipt of the final Data Protection Impact Assessments (DPIA) for each case.
- The report would address two key questions; firstly, was the machine-learning application selected the appropriate solution to the business need; and if so, had the model been developed ethically?

10.2 Once the DPIAs had been received and reviewed a draft of the report would be shared with the BFEG for comment. The group was also working on a report on general ethical issues in the use of machine learning models.

11 Genetic Genealogy report

11.1 The final version of the report on law enforcement use of genetic genealogy techniques had been circulated to members prior to the meeting. The members ratified the report for publication.

Action 11: Secretariat to format and publish the Genetic Genealogy Report

12 AOB

12.1 The next meeting would be held on 23rd September 2020. The away day planned for September would be postponed to December and dates would be circulated for the December meeting.

Action 12: Secretariat to circulate the date for the December BFEG meeting and dinner.

Annex A – List of attendees and apologies

Present – all via teleconference or Skype

- Mark Watson-Gandy - Chair
- Louise Amoore - BFEG Member
- Simon Caney - BFEG Member
- Nina Hallowell - BFEG Member
- Mark Jobling - BFEG Member
- Isabel Nisbet - BFEG Member
- Jennifer Temkin - BFEG Member
- Thomas Sorell - BFEG Member
- Denise Syndercombe Court - BFEG Member
- Richard Guest – BFEG Member
- Charles Raab – BFEG Member
- Julian Huppert – BFEG Member
- Nóra Ni Loideain – BFEG Member
- Peter Waggett - BFEG Member
- Andrew Thomson – FINDS Unit, HO
- Kevin Geddes – Biometrics Commissioner’s Office
- Danny Regan – Biometrics Commissioner’s Office
- Alex MacDonald - Identity Unit, HO
- Carl Jennings - Identity Unit, HO
- Cheryl Sinclair - Data Policy Unit, HO
- Sanaya Thethy - Identity Unit, HO
- Joanne Wallace – Head of Science Secretariat, HO
- Nadine Roache - BFEG Secretariat, HO
- Jennifer Guest - BFEG Secretary, HO

Apologies

- Liz Campbell - BFEG Member

Annex B – review of open actions from previous meetings

December 2019

- **Action 1** (Information on online passport application algorithm) – Discharged. Query regarding passport renewal face matching algorithm. This will form part of the HOB algorithm bias review.
- **Action 4** (Guide to DNA profiling for BFEG members) Guide to be produced for the September 2020 meeting.

March 2020

- **Action 1** (FR WG to draft a briefing note on collaborative use of LFR) – see section 8.
- **Action 3** (CD WG to produce general guidance on ethical issues in binary classification systems) – see section 10.
- **Action 4** (CD WG to share their report on the machine-learning use cases) – see section 10.
- **Action 5** (Advice on the custody images leaflet) – This action was ongoing, awaiting a draft leaflet from the policy lead.
- **Action 10** (Meeting between BFEG and OCDA representatives) This action was complete.