



Fraser Sampson  
Commissioner for the Retention and Use of Biometrics Material  
Office of the Biometrics Commissioner  
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Dear Fraser,

## **BIOMETRICS COMMISSIONER'S ANNUAL REPORT**

Thank you for your letter to the Home Secretary of 31 August covering your first Annual Report as Biometrics Commissioner. I am grateful for your report and particularly reassured to note your views on the responsible way in which the police are operating in this sensitive area.

### **Policing issues**

*Compliance with the legislation:* I am pleased to note that compliance is generally good across policing and, in particular, the impressive level of commitment across policing and law enforcement partners.

*Use of the biometric retention regime under section 63G of PACE 1984 (as amended by PoFA) across police forces:* Following our recent discussion on this point, I have briefed ministerial colleagues on your work. I welcome your proactive engagement to improve the consistency across police forces on this important aspect of the retention process.

*Voluntary attendees:* I note your concern about the impact on the biometrics databases. It is important that the police follow the guidance, and the Police Crime Sentencing and Courts Bill contains clauses making it easier for the police to recall people to give biometrics where appropriate.

## National security issues

*National Security Determinations (NSDs):* Thank you for the important oversight function you provide in relation to NSDs, including challenging a number of NSDs made by the police when you do not believe that the initial information provided in support of the NSD fulfils the necessary requirements. This is a key safeguard in ensuring the fair operation of a retention system in which the public can have confidence, and I find it reassuring that of the 450 NSDs that you have reviewed since taking up office there has been good overall compliance with the legislation and you have not felt it necessary to exercise the power granted to you to order the biometric material's destruction.

*Changes made by the Counter-Terrorism and Border Security Act 2019:* I am grateful for the attention you have paid in your report to the changes the Government made through the 2019 Act to improve the way in which the retention of biometric material supports the police in vital counter-terrorism investigations while also ensuring that it remains subject to appropriate independent oversight. Although you have identified some 'teething issues' in the implementation of the updated legislation, I am pleased that you report that improvements in the NSD process are now being seen as the changes bed in, including a reduction in unnecessary 'pre-emptive' NSDs being made and greater consistency in NSD decision-making. I support your ongoing engagement with the police to keep further progress on implementation under review.

*Holdings of biometric material received from foreign law enforcement bodies:* I note you have raised the outstanding issue of deleting foreign law enforcement data in your report. This has taken longer than anticipated to resolve, but through the efforts of the MPS Secure Operations Forensics Services (SOFS) to manually delete the data, there now remains approximately 90,000 records, and work continues to complete the deletion. These records continue to be held in a non-searchable format. The manual deletion of data is a labour intensive task and meetings have been held between SOFS and Home Office Biometrics (HOB) to explore opportunities to support these efforts and to identify the options for a more efficient longer-term solution. I understand that your team has been involved in these discussions.

*Emergency arrangements under section 24 of the Coronavirus Act 2020:* I am pleased to receive your comments on the positive impact this temporary power has had on our national security, including the significant number of biometric profiles that would have been lost were it not for the regulations made under section 24, and that it has been exercised in a responsible and proportionate manner. It has been vital that national security has been protected as far as possible from the effects of the pandemic, and the case studies you reference underline the crucial role of retained biometric material in counter-terrorism work and public protection. I am also clear, however, that extraordinary measures such as this should not last any longer than is necessary, which is why earlier this year the Government expired section 24 early, following consultation with the relevant stakeholders, as no further regulations are to be made under it.

Finally, I would like to take this opportunity to thank you and your team for all your work since you took up your appointment in March. I am grateful for your collaborative approach, particularly with the Forensic Science Regulator, Gary Pugh. This remains an important area for policing, where we must strike a balance between giving police the powers they need to protect the public, but doing so in a way which respects the individuals' right to privacy. I look forward to continuing our work together over the coming year.

A copy of this response will be placed in the Commons and Lords Libraries and it will be published on gov.uk.

A handwritten signature in black ink, appearing to read 'Susan', written in a cursive style.

**Baroness Williams of Trafford**