Biometrics and Forensics Ethics Group
Meeting Minutes
June 06 2023

Notes of the 23rd meeting on 6 June 2023 online via Microsoft Teams between 10:30 and 13:15.

1   Welcome, apologies for absence and declarations of interest.

1.1   Chair welcomed all to the meeting and confirmed it was being recorded for the benefit of notes accuracy.

1.2   Chair confirmed apologies for absence and advised members that future meetings would commence with a reminder for panel members to review and declare any declarations of interest that may arise as a result in changes to circumstances since the last meeting or specific agenda items.

1.3   Chair introduced the meeting with the sad news of the unexpected resignations of two panel members (Professor Louise Amoore and Professor Nina Hallowell). Chair confirmed he and Lord Sharpe, Parliamentary Under Secretary of State for the Home Office, were to send letters to both thanking them for their service, valuable contribution, and commitment to the Biometrics and Forensics Ethics Group (BFEG).

2   Notes of the last meeting and matters arising

2.1   Chair apologised for the delay in distribution of the minutes to the last meeting. Minutes were agreed as a true record with no matters arising.

2.2   Outstanding actions update:

2.2..1   October 2021 **Action 7:** Secretariat to develop a template to provide to presenters based on the BFEG ethical principles.

Update: Secretariat are developing a set of questions in the form of a commissioning brief. Secretariat will work with presenters ahead of BFEG meetings to ensure all new commissioned work follows this process.

2.2..2   March 2020 **Action 3:** Complex Datasets working group to produce general guidance on ethical issues in binary classification systems.

Update: Secretariat to follow this issue up with relevant officers and provide update for next meeting in September.

2.2..3   March 2023 **Action 2:** Policy representative to feedback concerns regarding digital forensics to the Forensic Science Regulator.

Update: Secretariat to follow up on the Policy Representative's return and provide BFEG progress update.

2.3   All remaining actions from the last meeting have been complete. A full list of outstanding actions, including those raised at this meeting can be found in annex B.

3   Chairs update

3.1   Chair introduced this item by outlining a series of activities which had taken place since the last meeting including the following:

3.2   **Home Office Scientific Advisory Council (HOSAC)**

HOSAC quarterly meeting took place on 11 May 23 and BFEG were asked to provide a presentation on their work and remit. Chair confirmed there were potential opportunities for further work or engagement against some of the HOSAC priorities.

3.3   **Engagement with Home Office**

A presentation was shared to Home Office audiences via the Science and Evidence Ecosystem Newsletter and a power point presentation was submitted for a senior Home Office stakeholder newsletter. Chair confirmed feedback had suggested a very positive response to the power point presentation. It was confirmed the power point presentation was available to BFEG members if needed.

3.4   **Update regarding working with the College of Policing (CoP)**

The Chair confirmed CoP had adapted BFEG ethical principles and were seeking permission to utilise the logo of BFEG during a public consultation. Continued liaison with CoP regarding this and other ventures going forward was programmed to take place.

3.5   **Equalities and Human Rights Commission (EHRC)**

An initial meeting with policy representatives from the EHRC had taken place with an intention to develop a dialogue further, including a potential invite to the September BFEG forum. It was hoped the representative from EHRC would be able to provide a presentation of their current work and priorities aligned to the work of BFEG.

3.6   **Live facial recognition challenge panel and Hackathon**

Two Home Office events had been scheduled to take place and it was confirmed invites for BFEG representation had been received.

3.7   **Big Brother Watch Report Launch**

Chair attended this event and confirmed notes on the report regarding Facial Recognition had been distributed to panel members with a link to the report.

3.8   **Chair and Secretariat administration for BFEG**

Regular meetings had been taking place since early April with Secretariat relating to meeting structure and forward planning.

3.9   **Introductory meeting with Lord Sharpe**

Chair confirmed he met with Lord Sharpe, the Minister with Portfolio for BFEG, in January (following ministerial changes) to introduce the work of the BFEG. At this meeting Lord Sharpe requested an action point for further information from BFEG, relating to the work of the Centre for Data Ethics and Innovation advisory board, discussions had taken place and it had been agreed this action was to be transferred to the policy team for completion.

4   Policy updates and 2023/2024 commission

4.1   Chair invited the policy representative to provide the policy update.

4.2   Officers confirmed the Data Protection and Digital Information Bill had passed through its Commons Committee stage. It was confirmed the abolition of the Biometrics and Surveillance Camera Commissioner (BSCC) post was underway, with the Biometrics Commissioners casework functions transferring to the Investigatory Powers Commissioner's Office (IPCO).

4.3   Work was underway to review where the other functions of the abolished post would reside.

4.4   Officers presented an overview of different types of facial recognition, live, retrospective and officer initiated. Members were advised there was a momentum to collate all the work around facial recognition within policing and industry into a single workstream. This included work on customer custody image collection, which the policy team were working with the police on. This also includes work on a new strategic facial matching system.

4.5   Members raised concerns regarding the ethical implications and governance aspects of facial recognition technology. Members encouraged officers to present this work to BFEG to ensure the appropriate challenge and ethical considerations are taken into account from inception to delivery.

4.6   Officers confirmed there had been an increased use of facial recognition by the police over the last year and a half since the police national database upgraded its algorithm. The improvements to the algorithms had resulted in improved accuracy and better results although, there had been very different differential uses of the system across the 43 forces.

4.7   Members requested more detail on the impact of the proposed reforms within the Data Protection and Digital Information Bill particularly in relation to the split between the Information Commissioners Office (ICO) and the IPCO.

Members also confirmed that the impact assessment for the Bill clearly indicated that going forward there would be a greater use of biometric powers and queried what added resources were going to be provided to absorb these functions and responsibilities and whether it would be possible to get some indication of staffing and budgets.

4.8   Officers advised the precise details had yet to be finalised, but the functions and staff were likely to be transferred which would require no additional staffing or budget. The surveillance camera code was to be abolished, resultantly, the Commissioner's function to promote compliance with that code was being abolished and, therefore, there were no functions as such to transfer. The rationale for the reform was that the ICO already substantially covered the area. The ICO had its own video surveillance guidance. Officers commented that the Data Protection Act was extensively referenced in the code, as was the Human Rights and Equalities Act.

4.9   Members indicated concern that the impact assessment indicated greater use of biometric data, even though this is not specified in the Bill, and the abolition of the two Commissioners required attention to ensure the correct levels of governance and scrutiny remained in place to ensure ethical standards were maintained. Officers confirmed that biometrics was a growth area, and the abolition of the Commissioners was to simplify the process and avoid any overlap that might occur.

4.10   Members raised concern regarding the increased use of facial recognition by police forces given the lack of oversight and ethical governance. Clarification on whose responsibility this should be, was also raised as an issue. Given the level of public interest and the importance of trust and confidence in policing there was a need for such oversight. Members suggested this should be a function that BFEG had a role to play in. Members also requested engagement with the relevant officers in the police services such as the Metropolitan Police Service and South Wales Police Service.

ACTION 1: Members to provide policy with a list of their concerns regarding the lack of oversight and ethical governance for facial recognition, following the abolition of the BSCC.

ACTION 2: Members to collate questions for meeting with director of intelligence at the Metropolitan Police Service

4.11   Officers confirmed the current three use cases for facial recognition were live, retrospective and officer initiated facial recognition. Retrospective had been used by most if not all forces, but officer initiated, and live facial recognition were only used by some forces and to varying degrees. The reason for was suggested to be the historical effectiveness of the algorithms. Officers confirmed work had been done with CoP and the London Policing Ethics Panel and there was a strong likelihood for continued work to be carried out.

Officers also agreed there may be a need to ensure what is done locally and what is needed nationally in terms of scrutiny and public engagement would continue to be a significant issue.

5   Forensic Information Database Service (FINDS) Strategy Board (SB) update

5.1   Chair welcomed the officer to the meeting and requested an update be provided on behalf of FINDS.

5.2   Officers confirmed the strategy boards annual report had been published.

ACTION 3: Link to annual report to be provided to BFEG members.

5.3   As part of an update regarding the FINDS SB, officers outlined one of the most significant pieces of work related to running out of barcode numbers. Enhancement was required to change the barcode format for the future. It was noted that this did not only affect the national DNA database, but impact was also seen in Police National Computer and other police associated systems. Officers commented that this was likely to be a significant project. There was a timeline for completion.

5.4   Officers confirmed that the FINDS SB had agreed to temporary retention of personal and DNA profile data from individuals whose relatives were believed to have died in the Ukraine war. Officers confirmed those family members who had offered their DNA samples to be profiled and then held in the missing person's database were to be transferred to the relevant international agency dealing with this issue.

ACTION 4: Officers at FINDS to provide an update on progress with regard to the missing persons DNA project, including what biometrics had been used.

5.5   Officers from FINDS provided BFEG an update on progress of a project to the update of the Kinship Volunteer DNA consent forms. Officers indicated that supporting information to assist with completing forms (in general) has been an ongoing issue and was a matter of priority. Officers commented that the Missing Persons DNA Database itself required a significant number of enhancements, consideration would be given to how this supportive information could be built in going forward.

5.6   The draft kinship volunteer form was discussed, officers advised they would just be custodians responsible for monitoring and reporting. Some members confirmed they had provided comments in relation to the consent form which were acknowledged by the officers.

5.7   In relation to the storage of DNA profiles, members queried an update regarding the Interpol database and whether the Home Office had contributed

to its development. Officers confirmed the Interpol database had utilised software from the Netherlands and incorporated that for kinship analysis. Engagement with Interpol was also driven by the fact that some missing persons, from the United Kingdom (UK), go missing abroad, Interpol acted as a conduit in this process and as a facilitator with each country setting out the criteria for how their data was used on the Interpol database. This limited access and defined the parameters for searches.

5.8   Members of BFEG questioned that the relationship was between the National Crime Agency (NCA) and the UK missing persons unit. Officers confirmed the NCA was the national centre for international work – the UK missing persons unit sits within the NCA and all transactions with Interpol were done through the NCA. This included all profiles submitted to the Interpol database. All matches returned by Interpol are passed to the NCA who had responsibility to forward matches to policing.

6   BSCC update

6.1   Chair confirmed this was another standing item for the agenda and invited officers to present the update.

6.2   Officers confirmed the recent Facial Recognition Panel had generated a few follow-up actions which were currently underway. Officers provided an update on progress regarding the Data Protection and Digital Information Bill noting that the Commissioner had provided written evidence to the committee, repeating their concerns that the Bill referred to the transfer of casework but didn't set out in any detail what will happen to the Commissioner's other functions. Work was underway to detail what these functions are to take them forward.

6.3   Members confirmed a report had been drafted by BFEG some four years previously regarding the use of CCTV in open spaces, which highlighted the lack of guidance available and reflected the lack of cohesion that appears to be suggested now.

6.4   Members questioned where the responsibility for this guidance and structure would lie if it should be with the Home Office or something that BFEG should take on board.

6.5   Officers confirmed the full findings on the local authority use of open public space surveillance. The main findings confirmed that local authorities were not as joined up as they could be. Response rate to the survey requests from local authorities had been lower than anticipated. Officers confirmed that whilst increased engagement between the BSCC and local authorities would be hoped, given the current staff shortages and priorities it was unlikely this would be addressed in the short or medium term. The lack of cohesion made

it unclear who would be responsible for this sort of vital work once the Commissioner's function was terminated.

6.6   Work has also been commissioned on the use of police drones; the responses were being analysed. One of the anticipated findings was that most forces use a Chinese company to provide their technology.

6.7   Officers confirmed that contact between the Commissioner and the ethics lead for Policing had been diarised and thanked members for the introduction.

6.8   Officers confirmed that the team within the Commissioner's office dealing with biometrics will be transferring to the IPCO along with the casework function. The transfer of staff working on the surveillance camera side functions was to be confirmed.

6.9   Members requested an update from the ICO and the IPCO regarding the incorporation of the Commissioners work particularly around the governance and ethics frameworks in relation to the abolition of the surveillance code of practice.

ACTION 5: Officers in the Office for the Biometrics and Surveillance Camera Commissioner to provide an update on progress with regard to the abolition of the role, including potential for representatives from ICO and IPCO to attend a future BFEG meeting to address governance and ethics frameworks in place to address the abolition of the surveillance code of practice.

7   2022/2023 Commission progress and BFEG workplan updates.

7.1   Chair confirmed the current commissioning brief was drawing to an end and work was underway to ensure all outstanding issues were being addressed. Secretariat had been tasked to develop the new commissioning brief into a more structured programme to ensure BFEG were able to manage resources effectively.

7.2   Chair confirmed templates were being developed to aid development of a work programme for the commissioning brief, to enable project management and resource allocation to ensure completion the commission. This process was discussed in more detail during a closed session with members of BFEG.

7.3   Chair provided an update on working group progress:

AI Working Group Update

- The AI Working Group Chairs had been liaising with the Policy team to devise a new timeline for delivery. The AI Charter was near to completion with the focus drawn to advising on the development of a risk triaging process. To best utilise the time of the BFEG and prevent the BFEG from producing working protocols, it was being proposed that the BFEG share recommendations to the policy team and then

advise further as the policy team shape the triaging tool. The secretariat was working to ensure the working group had access to all the relevant and necessary materials. The commissioning brief had a hard deadline in early July.

Data Ethics Advisory Group (DEAG)

- The DEAG had shared their comments on the three Data Protection Impact Assessment (DPIAs) which they had been asked to review by the National Criminal Justice Lab (NCJL) project team. The NCJL project team had suggested they would continue to seek advice of BFEG (via DEAG) until March 2024, potentially further. The secretariat was working with the project team to arrange the next series of meetings.

Biometric Recognition Technology Working Group

- A replacement chair was required for the working group – Peter Waggett was confirmed as Chair.

7.4 It was agreed to ensure continuity with membership changes that a deputy chair would be agreed for each working group.

ACTION 6: Secretariat to coordinate agreement of a deputy chair for each BFEG working group.

8 New commission request: Third-Party Material Consent Form

8.1 Chair introduced the new commissioning request and confirmed BFEG had been asked to provide a decision in relation to this submission.

8.2 Officers confirmed this submission related to a process change to improve the way that police request personal records during criminal investigations. The submission included a new form that had been developed with the National Police Chief's Council (NPCC). Some BFEG members had pre-submitted responses to the materials that had been shared. Officers thanked members for their useful comments and contributions.

8.3 Since the work to develop the third-party material consent form was initiated, the work programme had grown. Officers outlined the need for guidance, rationale and also provision of possible examples alongside the consent form. The final part of the evaluation process for the proposed consent form would be a completed request form, so that officers get a sense of how much detail they should be including in a request form and for officers to understand the sort of evidence that would be required and why.

8.4   Officers confirmed to BFEG the NPCC had developed new notices to enable police services to address the recommendations to improve the way police request third-party material. A public consultation had been undertaken.

8.5   Officers acknowledged the extra detail required on the consent form may take longer for police to fill out, it was hoped that overall police officers would see the benefits of this process.

8.6   The submission to BFEG was to ensure the process for requesting information and the content of the form was appropriate. This was to include advice on whether the form and the guidance were clear.

8.7   Members questioned whether any attempt was being made to classify third-party material, for example types of third-party material most frequently requested. BFEG commented that this form of classification would assist in defining necessity and proportionality.

8.8   Officers confirmed that the results of the data collection exercise could be provided but General Practitioner (GP) records were the most commonly requested third-party material request (including counselling records).

8.9   It was confirmed private CCTV would not be included in this process.

8.10   Members reiterated the typology of the data being requested as significant as well as the legal expectation to privacy. Members focused on who would be making the decision to confirm the requests, ensuring when confirming requests consideration was given to necessity and proportionality.

8.11   Officers confirmed there was need for a countersignature from a senior officer, which would assist in addressing the issue of necessity and proportionality of requests. However, officers acknowledged more work needed to be done to address this issue.

8.12   Members indicated a need to have access to the training material provided to officers for them to be familiar with the concept of necessary and proportionate particularly when obtaining third-party material. Officers confirmed they would send some material over.

9   AOB

9.1   Peter Waggett informed members that the British Standard Institute (BSI) was developing a British standard around use of Face Recognition. The BSI was hosting a public consultation on the industry code of practice that was being developed and it was suggested BFEG respond.

9.2   Chair bought the meeting to a close with confirmation of the provisional dates for September meeting, the secretariat would be in contact to confirm travel and accommodation once a date was finalised.

9.3   Dave Lewis confirmed he had been Co-opted on to the police's National Ethics Committee with a view to having some sort of link to BFEG. Dave confirmed however, he was attending as an individual not as a member of BFEG. Secretariat confirmed work would be undertaken to develop this relationship.

9.4   Date for September meeting was confirmed as 8 September 2023, and it would be a full day in person meeting.

Annex A – List of attendees and apologies

Present

- Mark Watson-Gandy – Chair
- David Lewis – BFEG Member
- Richard Guest – BFEG Member
- Mark Jobling – BFEG Member
- Niamh Nic Daeid – BFEG Member
- Nóra Ni Loideain – BFEG Member
- Sarah Morris – BFEG Member
- Charles Raab – BFEG Member
- Thomas Sorell – BFEG Member
- Denise Syndercombe Court – BFEG Member
- Peter Waggett – BFEG Member
- Biometrics and Surveillance Camera Commissioner
- FINDS Unit, HO
- Data and Identity Unit, HO
- BFEG Secretariat, HO

Apologies

- Liz Campbell – BFEG Member
- Simon Caney – BFEG Member
- Anne-Maree Farrell – BFEG Member

Annex B – Outstanding Actions List

March 2020 **Action 3:** Complex Datasets working group to produce general guidance on ethical issues in binary classification systems.

October 2021 **Action 7:** Secretariat to develop a template to provide to presenters based on the BFEG ethical principles.

March 2023 **Action 2:** Policy representative to feedback concerns regarding digital forensics to the Forensic Science Regulator.

July 2023 **Action 1:** Members to provide policy with a list of their concerns regarding the lack of oversight and ethical governance for facial recognition, following the abolition of the Biometrics Surveillance Camera Commissioner.

July 2023 **Action 2:** Members to collate questions for a meeting with director of intelligence at the Metropolitan Police Service.

July 2023 **Action 3:** Link to FINDS annual report to be provided to BFEG members.

July 2023 **Action 4:** Officers at FINDS to provide an update on progress with regard to the missing persons DNA project, including what biometrics had been used.

July 2023 **Action 5:** Officers in the Office for the Biometrics and Surveillance Camera Commissioner to provide an update on progress with regard to the abolition of the role, including potential for representatives from ICO and IPCO to attend a future BFEG meeting to address governance and ethics frameworks in place to address the abolition of the surveillance code of practice.

July 2023 **Action 6:** Secretariat to coordinate agreement of a deputy chair for each BFEG working group.