

Criminal Justice Committee

**20th Meeting, 2022 (Session 6), Wednesday
15 June 2022**

Scottish Biometric Commissioner's draft Code of Practice – Oral Evidence

Note by the clerk

Introduction

1. The Scottish Biometric Commissioner, Dr Brian Plastow, laid his first draft Code of Practice on the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland ('the draft Code') before the Scottish Parliament on 19 April 2022. This is required by section 11(1) the [Scottish Biometric Commissioner Act 2020](#) ('the 2020 Act').
2. The Committee will take oral evidence from the Commissioner on his draft Code at its meeting on Wednesday 15 June 2022. This will provide the Committee with an opportunity to hear from the Commissioner on his first draft Code, and ask any questions, or express any views on the draft Code, to him.
3. This will be the first occasion on which Dr Plastow will have appeared before a parliamentary committee since being appointed as Scotland's first Biometrics Commissioner on 12 April 2021.

Consideration of the draft Code

4. Under the provisions of the 2020 Act, the Commissioner's general 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 by Police Scotland, the Scottish Police Authority (SPA) and the Police Investigations and Review Commissioner (PIRC).
5. One of the duties conferred on the Commissioner by the 2020 Act is the drawing up, implementation and operation of a Code of Practice on the acquisition, retention, use and destruction of biometric data for criminal justice and police purposes in Scotland. This is the first specific statutory Code which has been established in Scotland in relation to personal biometric data held for criminal justice and police purposes.

6. The draft Code is currently available on the Scottish Biometric Commissioner's website:<https://www.biometricscommissioner.scot/media/cnxb3ncn/biometrics-code-of-practice-draft-to-be-laid.pdf>
7. Under section 11(2) of the 2020 Act, "the Commissioner must have regard to any representations about [the draft Code] that are made to the Commissioner within 60 days of the date on which the copy of it is laid" before the Parliament.¹
8. As a result, the Commissioner must have regard to any representations made to him on the draft Code by Members before Monday 20 June 2022.
9. Following this process, the draft Code will be finalised and brought into force by way of statutory instruments laid before the Parliament by Scottish Ministers, under the 2020 Act.

Clerks to the Committee
10 June 2022

¹ Under section 11(3) of the 2020 Act, in calculating the period of 60 days no account is to be taken of any time during which the Parliament is dissolved or in recess for more than 4 days.