



Children and Young People's  
Centre for Justice

# Scottish Biometrics Commissioner: review of functions

CYCJ response

**May 2026**

**Collaborating for rights-respecting justice**  
[cycj.org.uk](http://cycj.org.uk) | [cycj@strath.ac.uk](mailto:cycj@strath.ac.uk)

## Overview

The Children and Young People's Centre for Justice (CYCJ) very much welcomes the opportunity to respond to the Scottish Government's Consultation on the functions of the Scottish Biometrics Commissioner. We note the positive progress which has been made since our involvement in the thematic review of biometric data for children in 2023. As we outline in our response, however, greater detail is needed on the impact of the capture of biometric data from children and young people, in terms of their rights under the United Nations' Convention on the Rights of the Child (UNCRC) and the European Convention on Human Rights (ECHR). This is particularly important in advance of future developments which may further threaten civil liberties, presenting challenges to the right to rehabilitation and reintegration for children and young people.

Our response draws from our practice knowledge, research evidence, policy understanding and participation work.

## Questions

1. Do you consider that the SBC's functions under the 2020 Act are appropriate? In this context, functions include the SBC's powers and duties.

**Yes**

No

Please explain

The Children and Young People's Centre for Justice (CYCJ) welcomes the opportunity to respond to this consultation on the review of the functions of the Scottish Biometrics Commissioner. In general, we believe that the functions as set out in the 2020 Act are appropriate, and note the progress which has been made since the 2023 Joint Assurance Review on the acquisition of children's biometric data. That said, we believe that a greater framing around rights is needed, centred around the United Nations' Convention on the Rights of the Child (UNCRC) and the European Convention on Human Rights (ECHR). This is particularly pressing in advance of future developments which may further threaten civil liberties, presenting challenges to the right to rehabilitation and reintegration for children and young people.

CYCJ very much welcomed the opportunity in 2023 to work with children and young people to understand their concerns and level of knowledge regarding how

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biometrics are captured in Scotland (CYCJ, 2023). Findings from this included concerns over children and young people's understanding, transparency, informed participation and accountability. We note the substantial progress which the Commissioner records as having been achieved since then, such as more restrictive criteria for capture which has seen falling numbers of children and young people having their data collected and the now widespread use of accessible and understandable materials. As evidenced in the latest annual review, the fact that no children under the age of criminal responsibility were processed is also a positive reflection of efforts to protect privacy and reduce stigma against children in conflict with the law (SBC, 2025).

At the same time, CYCJ believes there needs to be a clearer articulation over how this work is reviewed in line with commitments to the UNCRC and ECHR. We welcome the views of the Commissioner that the age of criminal responsibility should be increased and note the reference to the UNCRC in the latest annual report from the SBC, connecting this to the policy from Police Scotland that biometric data is now only captured for under 18s arrested in connection "with violent or sexual offending or otherwise by exception". That said, we believe there needs to be greater framing as to how the different articles of the UNCRC relate to the process of biometric data capture and storage, to provide greater safeguards now and when dealing with future developments. An area that requires further clarification is how biometric monitoring is conducted in a way that remains consistent with Article 40 under UNCRC about dignity, freedom and the principle of being innocent until proven otherwise. Similarly, a more detailed explanation would be beneficial to determine how biometrics collection and surveillance aligns with the ECHR guidelines on protecting young people's privacy and family life.

Looking ahead, it is important to consider core objectives, such as developing strong legal frameworks with relation to the rapidly developing biometrics technologies in order to better align with UNCRC and ECHR obligations. The use of live facial recognition (LFR) in London, for example, has raised significant concerns over rights infringements. An article in the Guardian newspaper (Booth, 2026) found that it was being used in Croydon to check individuals were adhering to court orders and probation terms. This public suspicion of individuals raises serious questions about the right of children under article 3 of the UNCRC to have the best interests of the child as the primary consideration; the right to privacy under article 16; and the rights under Article 40 to be treated in a manner which promotes a child's dignity, the presumption of innocence and for children who have come into conflict with the law to have their "privacy fully respected at all stages of the proceedings". For young

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people, it raises similar concerns around the ECHR, such as Article 6 on presumption of innocence and Article 8 on respect to privacy.

As noted by the Coalition for Racial Equality and Rights (CRER), available data, such as around stop and search of children and young people, points to areas of overrepresentation of black and minority ethnic communities in certain interactions with Police Scotland (CRER, 2025). A greater articulation of the need to track, and respond accordingly to, the capture of biometric data of individuals with protected characteristics, would be welcome. A strong statement on the need to uphold the public sector equality duty, alongside a more detailed rights analysis, would be particularly beneficial in the face of new and emerging technologies like LFR. As the range of biometric data capture grows, the management and registration in the national database spark concerns on long-term delivery of care and rehabilitation for children and young people. Moreover, as this and other policy areas develop, it is worth considering alternative options to police custody where biometrics can be collected in a less stigmatising manner, reducing the likelihood of retraumatisation.

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## References

Booth, Robert. (May 4, 2026). Scanned, tackled, arrested: how live facial recognition was piloted on the streets of Croydon. The Guardian. Available at:

<https://www.theguardian.com/uk-news/2026/may/04/live-facial-recognition-pilot-croydon-london>

Children and Young People's Centre for Justice (CYCY), (2023). Thematic Review of Biometric Data – Children and Young People's Perspectives. Available at:

<https://www.cycj.org.uk/resource/thematic-review-of-biometric-data-children-and-young-peoples-perspectives/>

Coalition for Racial Equality and Rights (CRER), (2025). Racial Inequality in Scotland: State of the Nation - Volume 1. CRER. Available at: <https://www.crer.org.uk/crer-publications>

Scottish Biometrics Commissioner (SBC) (2025). Annual Report and Accounts 2024/25. Available at: <https://www.biometricscommissioner.scot/media/au4pgvbv/annual-report-and-accounts-2024-25.pdf>

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