

JUSTICE COMMITTEE
SCOTTISH BIOMETRICS COMMISSIONER BILL
SUBMISSION FROM STONEWALL SCOTLAND

Stonewall Scotland was established in 2000. Since then we have been campaigning for equality and justice for lesbian, gay, bi and trans (LGBT) people living in Scotland. We work with a range of partners, including the Scottish Government and police and criminal justice agencies, to improve the lived experience of LGBT people in Scotland.

While Stonewall Scotland has not worked extensively in the field of biometric data and related policy, we have significant experience of working in partnership with criminal justice agencies, supporting them to serve and work with LGBT communities. Furthermore, the Scottish Government has previously engaged with us in discussions surrounding equalities considerations for this topic area, hence our interest in this Bill.

Although there is a lack of evidence specifically relating to biometric data and LGBT communities to draw upon, based on Stonewall Scotland's research on LGBT people's confidence in criminal justice and our experience of working with public services, we are able to foresee potential issues relating to biometric data use.

It is possible that the collection and retention of information about an individual's physical, biological, psychological or behavioural characteristics could reveal their LGBT status to staff within police and criminal justice agencies without the consent of that individual. For example, DNA or the comparison of historical and recent custody photographs or facial recognition could potentially reveal an individual's trans status. While we recognise the relevance of this data for police investigations, this sensitive information would require careful handling in order to avoid unnecessarily 'outing' individuals. We would recommend that there should be oversight over who has access to this sensitive information and whether this is proportionate.

Considering these concerns, we welcome that this Bill will establish a Scottish Biometrics Commissioner to address ethical and human rights issues in relation to biometric data and scrutinise police compliance with the Code of Practice on the collection, use, retention and disposal of biometric data. We would recommend that the Code of Practice both references and safeguards individuals' right to privacy, especially as it relates to sensitive information, such as LGBT identity.