

Surveillance Camera Commissioner's statement: Court of Appeal judgment (R) Bridges v South Wales Police – Automated Facial Recognition

I very much welcome the findings of the Court of Appeal.

I have repeatedly called for open debate from all sides on this very important issue. If there is to be an ethical and evolutionary process for the legitimate use of automated facial recognition (AFR) technology by the state then it is essential that the public have trust in the technology, its legal and regulatory controls and the honesty of endeavour by the police themselves.

The Court of Appeal case, its submissions and findings, are a key element of that evolutionary process. The spirit in which all parties contributed to these important appeal proceedings is to their credit and the court rightly acknowledged this.

I was particularly encouraged by the approach to these proceedings by South Wales Police who have worked so hard to be transparent and ethical in their approach to use AFR technology in this pilot phase. Doubtless the learning from this appeal process will be valuable to them as well as other parties.

I am glad that, like the Divisional Court, the Court of Appeal have recognised my statutory role in the regulation of surveillance cameras and their use in conjunction with AFR technology, the Home Secretary's Surveillance Camera Code of Practice (The Code) and the guidance I issued to police forces in October 2018 as key parts of the legal framework.

I note the issues in the judgment regarding bias that can be inherent in facial recognition algorithms. Use of this technology will not and should not get out of the gate if the police cannot demonstrate its use is fair and non-discriminatory. I will consider how I can amend my guidance to ensure police forces are aware for the potential bias in systems and also consider what more can be done with manufacturers of the technology to eliminate it.

In so far as the legal deficiencies identified by the court are concerned I am sure that others will share my frustration with the Home Office. The police worked hard to apply themselves in adhering to The Code, a statutory based document which for more than five years I have fruitlessly and repeatedly been calling upon the Home Office to update. The court opined that these deficiencies could be addressed through updating The Code and through national police guidance being issued.

My considered view is that Home Office and the Secretary of State have been asleep on watch and should reflect upon the comments of the court and now act

in the public interest. I urge ministers and officials to listen to the independent regulatory voices which they have appointed to consider and advise on these matters not ignore them. I hope they step away from their self-generated plan to dilute both my role and that of the Biometric Commissioner in to a single commission and I hope that they review and update The Code and commission an independent review of the legal framework which governs overt state surveillance. Hope but not hopeful.

I very much welcome the findings of the court in these circumstances. I do not believe the judgment is fatal to the use of this technology, indeed, I believe adoption of new and advancing technologies is an important element of keeping citizens safe. It does however set clear parameters as to use, regulation and legal oversight.

Maybe the regulators at the sharp end of this subject matter really do understand things a little more than those advising ministers sometimes purport to.

Ends

Note to editors

Surveillance Camera Commissioner

The Surveillance Camera Commissioner (SCC) is an independent appointee. Appointed by the Home Secretary via the Protections of Freedoms Act (PoFA) 2012 (s34). The Commissioner regulates the operation of overt surveillance camera systems such as CCTV and anything connected to those system such as automatic facial recognition algorithms.

Surveillance Camera Code of Practice

The [Code](#) was issued by the Home Secretary in 2013 by virtue of s30 of PoFA and police forces must pay due regard to the Code when deploying surveillance cameras overtly in public places. The Code sets out 12 guiding principles which if followed will ensure surveillance cameras are deployed proportionately and effectively to support communities not spy on them. The SCC has a role in encouraging compliance with the Code. Failure to comply is admissible in court.

Surveillance Camera Commissioner's guidance on Automated Facial Recognition

The Commissioner issued guidance to all police forces on the [deployment of automated facial recognition technology](#) in October 2018 (published in March 2019) which supplements the Code.

Legal challenge

This case was bought by Ed Bridges (supported by Liberty) on two deployments of automated facial recognition by South Wales Police. The first hearing took place in May 2019 and was appealed in June 2020.