

# Biometrics Commissioner's address to the Westminster Forum: 5 May 2020

In January this year I wrote my last annual report as commissioner on the use of biometrics for policing. When it was finished, I sent it to the Home Secretary and I am waiting for her to publish it, as she is required to do by laying it before Parliament. As I was writing that report, I was aware of the emergence of a new virus in China but not that it would become a global pandemic. Many commentators have made the point that when we eventually come out of this emergency the world that emerges may not be as it was before – that the effects of coronavirus (COVID-19) will lead to some enduring change. That there will be a new 'normal'. However, there is much less agreement about how it will be different.

When I wrote my report, I was largely looking back and reporting on the police use of biometrics in the previous year. There was an exception to that in a section where I addressed the issue of the emergence of new biometrics and the Artificial Intelligence (AI) driven analytics on which they depend and whether, if they are used in policing, that should require new legislation to provide a governance framework? Those comments were made in a world that has since been turned upside down by coronavirus. My term of office comes to an end in mid-June and since this will probably be my final speech as Commissioner, I thought that I would try and address the question of whether the points that I made then about the need for new legislation are still applicable now?

The legislation governing the police use of biometrics is the Protection of Freedoms Act 2012, but it only governs DNA and fingerprints because, whilst at that time the possibility of other biometrics was known, there was scepticism as to whether they would become reliable enough to be deployed in policing. Since that legislation was passed, the situation has been transformed by the growth of AI analytics and the availability of very large data sets for their development. Facial and voice matching has improved significantly, and trials of their use are being conducted. This rapid growth of both AI and biometrics has meant their use is being widely explored across both the public and private sectors, although mainly outside of policing. Whatever the post coronavirus world looks like, the one thing that I am certain of, is that these new technologies will play an important role in shaping that future world. Consequently, the new technologies are now part of high politics across government and not just a niche issue for policing and the Home Office, although the police use of technology will always require particular attention.

In January I concluded my discussion of the new technologies with a point that I was cautious about making. It was that decisions about the use and governance of AI analytics and biometrics involved a politically strategic choice about what kind of future social and political world we wanted to create. I did so because it was clear to me that the new technologies had widespread (possible) application across almost every aspect of society to

the point that, whether we liked it or not, they would result in a major disruption of our world, perhaps of an order like those wrought by past major technological changes. The technologies are going to lead to a new social and political framing of the world we will live in and they may even be the basis for re-building our economy, if it emerges badly damaged from the pandemic. The emergency is also illustrating the fact that the new technologies themselves will not determine the nature our future world – there is no necessary technological determinism, driven either by God or mammon. Our world will be the product of the decisions that we make about how we use the new technologies. That is progress because in January I still felt that it was necessary to argue against such determinism and for the need to make political choices.

I pointed to the example of China as a country that had already made its strategic political choice and was actively seeking a technological lead in this area as a basis to develop its global power and influence. The Chinese choice is to use the technologies for a new and previously unattainable form of social control over both the lives and thinking of their citizens. My caution was because I knew I could be accused of shroud waving and inviting the response that we were not China and would not make the same choices. But that misses the point which is that if we do not want to create a future in the image of China then we need to decide what kind of future do we want to create?

I feel less cautious in making that claim now because the pandemic has underlined the point. China has demonstrated how effective their technical means of control can be and also how it raises opposition and how brutal the response to such doubts will need to be.

In this country concerns have been raised that the new technologies should not be deployed without a proper consideration of their operating model and whether that sustains our civil liberties. There is also a debate as to how to distinguish what uses of the new technologies may be acceptable in an emergency and how we ensure different judgements apply once the emergency has abated. Parliament recognised the problem in its debates of the emergency coronavirus Act, by insisting that its application be time-limited, and that any extension should be approved by Parliament. In so far as the Act made emergency changes in the retention of biometric profiles by the police, my Office will have to make a report on the consequences of those changes before Parliament considers any extension.

Different uses of the new technology have emerged out of a series of separate pragmatic decision from government and the private sector. So far, continuing with that approach has seemed to be the preferred method of the government, encouraged by a muted public response to current uses of the technologies. However, the extent of public concern has been growing.

In past examples of such major transformations, laissez faire pragmatism quite quickly had to be governed by public decision making in order to guide the society legislators wished to see. We must be careful, of course, that regulation does not stifle innovation or limit other aspect of freedom, such as the freedom to pursue knowledge. The practical problem is how we choose

the right balance in our approach.

Liberties are a touch stone but how should our concern for liberty be used in developing a vision of our new 'normal'?

In trying to address that question My first point in January was that the new technologies are developing at a speed that politics, government and legislation has not kept up with. That remains the case and indeed has been knocked further back by the current emergency. Even though not all of government is dealing directly with coronavirus, it seems to have paralysed other thinking, as the Brexit debate did for the years before.

At the same time, the search for solutions to coronavirus is pushing the new technologies even faster, whether that be vaccine development or case tracking by mobile phones. If the new technologies are to be part of our future, then we also need some proper thinking about their governance.

My second point was that we have failed to develop properly rigorous methods for trialling and evaluating the new technologies before deploying them. I was talking about trialling new technologies for policing but the same could be said more generally. There is a danger that instead of choosing how to deploy new technologies based on evidence, we fall under the spell of technical wizardry as providing easy solutions to problems.

During the current crisis there has been an admirable determination to conduct proper trials of vaccine and medical therapeutics, even if at break neck speed. Proper trials methodology is well embedded into medical science and its governance but not in many other areas.

Each other area of application – for example policing – needs a standard trials methodology. Unless we have proper trials we run the risk of deploying technologies that have unforeseen or even harmful effects, or that we fail to develop the necessary decision making framework for their successful use, or that they are less effective and more costly than existing solutions, or in some cases simply do not work and so lead to embarrassing reversals.

We must address the fact that claims made by technology developers, perhaps in good faith based on their evaluations, may not be replicable when their technologies are used in real world applications. The point is not one of hostility to developers or to dampen technical development but to extend the development process into the application phase with rigour. There is a debate to be had as to whether developers should engage in this application evaluation and not just finish with a limited demonstration. That is what happens in medicine.

My third point was that not all applications of the new technologies will be in the public interest to deploy. This a more controversial point in that we may have different views as to how we should make judgements as to which technologies it is acceptable to deploy. My report was about policing and I argued that we should resolve such differences by applying a public interest test.

In other words, that we should determine, based on the best evidence available to us, how far a use-case would bring public benefit (rather than benefits to a particular, partial or commercial interest). The reason I hold this view is that biometrics depend on analytics that often use data about individuals and sometimes reveal very personal aspects of our biological being or social behaviour.

This means that some uses of the new technology will intrude into individual rights, including but not limited to, the right to respect a person's privacy. Such intrusion can only be justified on the basis that it brings other, more general benefits, that outweigh these disadvantages. In other words, intrusions into individual rights must be balanced against a wider public interest: what lawyers refer to as 'proportionality'. Such an approach is well established in policy making and public law, at least in western democracies. It is reflected in trans-national governance such as the European Convention on Human Rights. We already have a framework for thinking about proportionality. Proportionality judgements are always made in context as we respond to a changing world and that is why decisions made in this emergency must be re-visited once it is over and not be allowed to drift into a different context.

This does not mean that I think that the new technologies can only ever be deployed if they are in the public interest. There will be situations in which it is reasonable to allow use for private or commercial interests but again proportionality tests should still apply. How such cases are identified and in which governance is something that our legislators will have to grapple. The issue is already firmly on the political agenda in many countries, because of concerns about the use being made of individual data holdings by tech-based companies, and legislators are under pressure to provide a governance framework.

My fourth point was that by their very nature, public interest tests can't be made by a partial or vested interest. Whilst groups may work to develop their own governance arrangements – the police service, for example, are doing so – they will risk foregoing public trust if they are viewed as being partially or self-interested no matter how high minded and lawfully, they operate. The Commissioner of the Metropolitan Police has talked of this danger in recent speeches.

Groups are likely to achieve public trust if they reflect or implement general propositions taken by a public body determining the public interest, whether that is Parliament or the courts declaiming public law. The same general point, it seems to me, will apply to what governance Parliament decides is appropriate for the use of the new technologies by the private sector.

Trust will be central in future to the deployment of new technologies as it always has been and once lost can be difficult to re-gain. The present crisis has demonstrated just how important public trust is for a government trying to manage an emergency. When the emergency is over and we come to re-examine our national threat assessment and our planned responses, as we surely will, then the government will need to address the best way to maintain public

trust in an emergency just as much as how they best use scientific advice.

My fifth point was public interest tests ought to be informed by the sentiment of the public, but that sentiment is not best read from simple public opinion surveys, although methodologically more sophisticated work may have a part to play.

For citizens to reach an informed view they need to be informed by a public debate – the sentiment of the public should be formed based on such evidence and reasoning. This public debate ought to be instigated, if not led, by ministers. To date this has been largely missing and if government wants a future which makes significant use of AI and biometrics, ministers will need to persuade the public that it is their interests to do so and they have put clear governance in place to prevent abuse.

My final point was that public interest tests need to be made by a public body that has legitimacy to do so and ultimately that means by Parliament. That means that we will need fresh parliamentary legislation to govern the police use of new biometrics beyond DNA and fingerprints. The present government gave a manifesto commitment to do this which appears to change the approach adopted by the previous administration. The lessons of the current pandemic make it obvious that legislation creating governance for new biometrics will need to go beyond policing and cover the broader use of the new technologies certainly by State actors but probably also the private sector.

Such legislation will need a cross-government approach, will not be easy and take time to develop. What I do not see yet is a minister anywhere in government leading such thinking and starting a public conversation.

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## [How our construction sites are getting ready for re-start](#)

The Box Encapsulation Plant Product Store Direct Import Facility (BEPPS-DIF) site, like much of our construction work, is paused work due to the Covid-19 pandemic.

From the moment construction work paused, we knew that people would return at some point, and we knew that we wanted them to be safe.

So throughout April and into May ahead of the beginning of a phased restart on 11 May, BEPPS-DIF has been piloting the new measures of all our projects we'll need to have in place once work starts in the "new normal".

This includes:

- stringent social distancing measures
- increased cleaning regimes
- reinforcing hand washing rules
- changes to travel to and from worksites
- extra supervision
- additional risk assessments
- new signage

It's already brought a visible change to the way the BEPPS-DIF site looks – there are distancing marks on the floors, parts of buildings have been cordoned off, and new one-way systems have been introduced.

Every part of the working day has been thought of – from the car parking, welfare such as canteens and toilets. The entire site has been reorganised to ensure employees can maintain distance from their colleagues.

Sellafield Ltd's Head of Projects Steve Harnwell, said:

We've been working with our supply chain colleagues who have collaborated and generously shared their approach, as well as linking in with trade unions, and we feel we're fully in-line with best practices deployed throughout the UK.

The most important thing is to keep our workforce safe, and these measures will help do this. The next step is to roll out these measures across all our major projects, and when we recommence some projects we will review to learn from their use and incorporate improvement if required.

We will be regularly reviewing all measures put in place, including those on BEPPS-DIF and other projects and other areas of site and our offsite offices.

Any measures brought in will depend on what is appropriate, practical and possible in differing spaces, but the overriding driver will be to keep the workforce safe.

The BEPPS-DIF site isn't quiet this week – a few people returned to work on Monday to ensure everything is ready for the people who will be attending starting from next week.

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## [Tireless work by the Embassy in Chile during coronavirus times](#)

Since the middle of March, when the coronavirus (COVID-19) pandemic was declared by the World Health Organisation (WHO), the British Embassy Santiago

has been almost entirely focused on managing the health crisis.

Our main work at the start of the pandemic was helping British nationals in Chile, both on cruise ships and on land, who had emergency needs arising from the crisis. Before international flights were completely cancelled in mid-April, we worked with the Chilean authorities to ensure that British nationals could leave the country without difficulties and to help people in remote areas to get to Santiago for their flights.

We believe that nearly all of the 3,000 or so British visitors who were in Chile in mid March are now safely back in the UK. However, we will continue to work tirelessly to help those who are still in Chile.

Another part of our work has been to support British nationals who were visiting Chile and contracted COVID-19. We have had five cases – four of which were people on cruise ships – including 3 who were hospitalised. Throughout their weeks in Chile we remained in close contact with them, their respective hospitals, insurers, and families back in the UK. All have now returned to the UK.

## **The UK and Chile working together**

In the rush of handling the immediate health crisis, it can be hard to make time to take a longer term view. However, Chile and the UK, like all other countries in the world, are going to suffer serious economic damage as a result of the virus. Therefore, a powerful and co-ordinated economic response is vital to reduce the negative economic impact of the pandemic.

Chile is one of the UK's key trade and investment partners in Latin America, a country which shares the UK's belief in the importance of free trade and a fellow member of the OECD. We will be working closely together in the coming months over our responses to the economic consequences of the pandemic.

We will also be seeking not only to restore trade to its pre-COVID-19 levels, but to increase it. In this way we can help restore the economies of both the UK and Chile. Also, both countries are committed to global responses to the current health crisis, including the scope for collaboration on the area of vaccines.

## **The UK's international response**

As in other British embassies overseas, the UK has been combining our support for British citizens with a three-pronged approach to respond to COVID-19:

- firstly, supporting the global health response and in particular the most vulnerable countries. The UK has pledged £744 million through aid funding including support for the WHO (£65 million), Red Cross (£50 million) and UNICEF (£25 million). This includes sending experts and sharing medical supplies to prevent the spread of the disease and support hospitals and medical workers stretched to their limit around the world

- secondly, the UK is leading on international efforts to find a vaccine. We have contributed £250 million to the Coalition for Epidemic Preparedness Innovations (CEPI), the largest national contributor to this global initiative to develop new vaccines, therapeutics and diagnostics. The UK will also host the Global Vaccine Summit in June 2020. In addition to tackling COVID-19, it remains vital that programmes against other diseases such as AIDS, tuberculosis and malaria continue
- the final strand is to protect the international economy – as it would be a high cost to pay if we beat the virus but were to lose yet more lives to increased poverty and the loss of global supply chains for essential goods like food and medicines

## Further information

For more information about the British Embassy in Chile, follow us on:

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## [Funding supports Anglesey community work](#)

The money has been granted to Anglesey County Council to support the community during the coronavirus pandemic.

The council plans to invest the money into provisions for Amlwch Foodbank and the 'Neges' food distribution project. It will also buy 3D printers for Ysgol Syr Thomas Jones to make protective visors for key workers and volunteers.

The funding forms part of the 12 grants, worth £300,000 in total, Magnox has made available to local authorities or charities where a Magnox site is located.

Gwen Parry-Jones, Magnox Chief Executive, said:

Many community groups are carrying out positive work, supporting the most vulnerable in their areas. This work is vital, and a key part of Magnox's response to COVID-19 is to help other organisations deal with the pandemic wherever we can.

In this time of national crisis, Magnox has agreed with the NDA that we should make available up to £25,000 at each site from the Magnox Socio-economic Scheme for use by local community groups on COVID-19 related activities. Magnox is committed to assisting the communities surrounding our sites, as our communities have

supported us for over 50 years, and we hope this funding will go some way to supporting the essential work being delivered.

Anglesey County Council Leader and Talybolion county councillor, Llinos Medi, added: "We're extremely grateful to Magnox and the NDA for this funding which will help support vulnerable residents and communities across north Anglesey during these unprecedented and difficult times."

"The funding will, of course, be put to good use as we work with community partners and volunteers to ensure local communities are as resilient as possible in light of this terrible Coronavirus pandemic.

"Whilst this funding will help north Anglesey, the County Council will also make every effort to ensure there is similar provision in other parts of the Island, to ensure parity."

Chair of Wylfa's Site Stakeholder Group and Councillor for the Twrcelyn Ward, Aled Morris Jones, added: "What Magnox and the NDA have done to support communities, financially and through provision of equipment, is very generous. That staff have given of their time to volunteer to assist in their communities is inspirational. It shows the nuclear family coming together to support each other. We will beat this virus together and we will all meet again in happier times."

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## [International COVID Response Oral Statement](#)

With permission Mr Speaker, I would like to update the House on the UK's support for the global effort to tackle the coronavirus pandemic.

The world is now having to address the biggest threat that it has faced in decades: an invisible killer on a global scale.

Here in the UK, communities across the country are united in their determination to beat it – making their own personal sacrifices by staying at home, protecting our NHS and saving lives.

There is a daunting outlook for countries in the developing world: simultaneously facing a health crisis, a humanitarian crisis and the risk of a protracted economic crisis leading to much greater hardship for years to come.

The threat of famines, exacerbated by the worst locust plague for 70 years, fragile healthcare systems that enable the spread of the disease and economic disruptions risk a much longer and harder road back to recovery than for

wealthy countries.

However, through the altruism of the British people and the expertise of our scientists and engineers, the UK is proudly playing a leading role in the global response.

On Monday, together with other world leaders, my Right Honourable Friend, the Prime Minister, co-hosted a virtual Global Coronavirus Response Pledging Conference.

He called on countries around the world to step up their efforts and work together on this, the “most urgent shared endeavour of our lifetimes”.

World leaders responded and some £6.5 billion was pledged for the Covid-19 response, including the UK’s own £388 million commitment for vaccines, tests and treatments.

The UK is proud to stand with our international partners – this is a truly global effort and the only way to fight this pandemic is together.

## **Scientific Response**

Mr Speaker, so the UK is an international development superpower, and we are also a scientific and medical world leader. This enables our response to this global pandemic to be greater than the sum of its parts.

From Gloucestershire’s Dr Jenner, who laid the foundations for immunology, to our researchers who developed vaccines for measles and Ebola, the UK has led the scientific response to many global health challenges in the past.

And I am so proud to say that UK-based scientists, such as those at the Liverpool School of Tropical Medicine are playing key roles in the global response to this deadly new virus.

Scientists in Bedfordshire who developed rapid diagnostic devices to manage the recent Ebola outbreak funded with taxpayers’ money through UK AID, are using that expertise to develop new rapid diagnostic tests.

Researchers at Oxford University, funded through CEPI, the Coalition for Epidemic Preparedness Innovations, are now progressing to clinical trials with funding from the UK government’s Vaccines Taskforce – which is also funding a vaccine trial starting soon at Imperial College.

In partnership with a British success story, AstraZeneca – one of the world’s largest pharmaceutical companies – our Oxford researchers are working towards their vaccine being manufactured at scale.

But we know that any vaccine might prove to be the solution, so through our DFID aid budget, the UK is the largest single contributor by any country to CEPI’s international efforts to find a vaccine. Through this fund, we are working to improve our understanding of the virus and to support scientists around the globe – CEPI is already backing nine potential vaccines.

Mr Speaker, the Foreign Secretary outlined at the launch of the WHO "Access to Covid-19 Tools" Accelerator, that the UK is proud to work with our international partners to ensure new vaccines are accessible to everyone and quickly as possible.

No one will be safe until we are all safe, Mr Speaker. So we will need vaccines against this deadly disease, at home and abroad.

Once a vaccine is found, delivering it globally will be the next big challenge. To help that, we have invested the equivalent of £330 million a year for the next five years in Gavi, the global vaccine alliance that delivers vaccines in 68 of the poorest countries around the world.

And on 4 June the UK will be hosting the Global Vaccines Summit to co-ordinate international investment efforts for Gavi.

Together with the announcement made by the Prime Minister on Monday, that is a combined additional investment in global health security that comes to more than £2 billion – helping combat the spread of this disease.

In investing globally, we are helping to protect our citizens, our families from future waves of infection, and therefore protecting our NHS.

## **DFID response**

The global pandemic is one part of the challenge facing the world. DFID's immediate Coronavirus response to date amounts to £744 million. But this is on top of our work to pivot much of our existing activity to provide health, humanitarian and economic support where it is needed most – as part of our response to these crises.

A health response that builds on the UK's longstanding record of supporting countries to prepare for and respond to large disease outbreaks, including as the third largest donor to the World Health Organisation.

Investing on the frontier of research into new rapid diagnostics and therapeutics that can detect and treat coronavirus.

Working in partnership with Unilever, we've launched an innovative handwashing campaign that will reach a billion people around the world. A major contribution to global sanitation and hygiene.

With the support of British and international NGOs, and advice from the London School of Hygiene & Tropical Medicine, we will reach 1 in 7 people around the world with information on the most effective ways to stop the virus spreading and therefore to save lives.

## **Economic response**

We are also working to reduce the global economic impact of the virus by preventing its spread, protecting both the UK public and the stability of our economy.

Last month, the UK together with other G20 countries announced a commitment to suspend debt service payments to the poorest countries until the end of 2020. This will create up to \$12 billion of additional fiscal space.

DFID has also made available up to £150 million to the International Monetary Fund for debt relief.

These measures will enable developing countries to direct greater domestic resources to their own healthcare efforts, helping prevent the virus from spreading around the world.

So, we are supporting developing country governments to make proportionate, evidence-based trade-offs between containing the virus and maintaining open trade. So that essential goods and services, including critical medical and food supplies, can continue to move around the world.

That supports developing countries, but it also means that British consumers get the vital goods they need.

Mr Speaker...

COVID-19 is a global pandemic. It does not respect national borders. Individual efforts will only succeed as part of a global response.

The UK has been playing – and will continue to play – a leading role in galvanising the most effective co-ordinated international action.

In 2017, the scientific community in the UK proudly played a key role in the international response to the Ebola outbreak in West Africa. I am proud to update the House that we are doing so again.

We are using British expertise and funding to demonstrate leadership internationally. Recognising the needs will be great, we are doing whatever it takes to make sure vaccines, treatments, and technologies are available, to save lives and support economies in the most vulnerable countries to help end the pandemic.

This will help reduce the risk of the world being attacked by a second wave of infection.

So, as the Prime Minister said on Monday, it's humanity against the virus. We are in this together and only together we will prevail.

I commend this statement to the House.