

# In response to the Scottish Government's consultation on 'Enhanced oversight of biometric data for justice and community safety purposes'.

Report from the Justice Committee of the Scottish Youth Parliament  
November 2018



## Introduction

The Scottish Youth Parliament represents Scotland's young people. Our vision for Scotland is of a nation that actively listens to and values the meaningful participation of its children and young people. Our goal is to make this vision a reality, in order to ensure Scotland is the best place in the world to grow up.

We are a fundamentally rights-based organisation, and our mission, vision and values are grounded in the United Nations Convention on the Rights of the Child (UNCRC). In particular, our purpose embodies Article 12: that young people have the right to express their views freely and have their opinions listened to in all matters affecting them. As a completely youth-led organisation, the words and sentiment of Article 12 have a profound importance for our work.

Our democratically elected members listen to and recognise the issues that are most important to young people, ensuring that their voices are heard by decision-makers. We exist to provide a national platform for young people to discuss the issues that are important to them, and campaign to effect the change they wish to see.

SYP's Values are:

**Democracy** - We are youth-led and accountable to young people aged 12 to 25. Our democratic structure, and the scale of our engagement across Scotland, gives us a mandate that sets us apart from other organisations.

**Rights** - We are a fundamentally rights-based organisation. We are passionate about making young people aware of their rights, and ensuring that local and national government deliver policies that allow those rights to be upheld.

**Inclusion** - We are committed to being truly inclusive and work tirelessly to ensure the voices of every young person from every community and background in Scotland are heard.

**Political Impartiality** - We are independent from all political parties. By working with all stakeholders, groups, and individuals who share our values, we can deliver the policies that are most important to young people.

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## Our approach

SYP's Justice Committee comprises of 19 young people and we wish to relay the views of Scotland's young people to the Scottish Government in relation to your consultation on 'Enhanced oversight of biometric data for justice and community safety purposes'. We would be grateful if you could take account of these views in your consideration of this area of policy development, and we are delighted to be meeting with the Cabinet Secretary for Justice in the next couple of months to discuss them further.

This submission links to our previous *Right Here, Right Now* national campaign on young people's rights October 2017-18. For more information on this, please see [here](#).

Our views were gathered at a Biometrics Evidence Session our Convener Peter Rigg MSYP co-produced with the Scottish Government's Forensics and Biometrics team and our Committee members at our 67<sup>th</sup> National Sitting on 21<sup>st</sup> October in Kilmarnock. The questions asked were adapted from the public consultation to allow for the meaningful participation of our members.

## Our findings

To contextualise our response, our findings should be read in light of the following SYP Policy recommendation.

*We warmly welcome the commitment in the Programme for Government from the First Minister to 'incorporate the principles of the UN Convention on the Rights of the Child into domestic law.' We now need to see a clear timetable for how this will happen (including when a draft Bill will be introduced to Parliament) that ensures the legislation is able to receive Royal Assent in advance of the next Scottish Parliament election in 2021. This will ensure children and young people's rights in this context are binding, not guiding - and properly respected, protected and fulfilled.*

### **On the Code of Practice, the Committee commented:**

- It should explicitly reflect the United Nations Convention on the Rights of the Child (UNCRC).
- It should make provision for educating young people about their rights.
- It should articulate the separate regime for children and young people.
- The Committee liked the Code's principles, stating that the wording was clear, broad and inclusive.
- They would like a separate approach for children and young people, though were clear in stating that this should be found in a universal Code.
- The Committee requested to be involved in the drafting of the final code.

**On the role of the Scottish Biometrics Commissioner, the Committee commented:**

- That there should be a close working relationship with Scotland's Commissioner for Children and Young People.
- That the Scottish Biometrics Commissioner should work collaboratively with the police.
- The Committee welcomed its independence - feeling that it helped remove the political element.
- The Committee requested to be involved again in the description of the role/designing of the application process.
- The Committee didn't want the Scottish Biometrics Commissioner to be an appeal route which allowed the police to overturn sheriff decisions, but were happy for the Commissioner to be an appeal route for individuals.
- All cases where biometric data is captured from children should go to the Commissioner for review.

**On the extension of the Commissioner and Code's remit:**

- There were mixed views about the inclusion of LAs/CCTV and broader devolved agencies (health, education). On the whole, there seemed to be consensus that these should all have independent oversight, but that this shouldn't necessarily be pooled into one body. There was a clear demand for criminal justice to be kept separate from other oversight systems.
- The Committee felt that, while the exact nature of the Scottish Biometrics Commissioner's remit will not mirror that of the Biometrics Commissioner for England and Wales, it is nevertheless of essential importance that there be a 'close and collaborative relationship' between the Commissioners, and that the necessity for this relationship to smoothly adapt as technological and circumstantial developments necessarily require should be considered in the principled drafting of the final code.

**On the New Regime for Children and Young People:**

- The Committee was very supportive of the overall proposal, but stated that they would be interested in seeing more detail on how the proportionate approach for 13-17 year olds might work, including how the Commissioner would oversee this.
- While the Committee welcomed a person-centred proportionate approach, the members also highlighted the need to ensure fairness through the employment of transparent guidelines across the country - they suggested a panel might be needed to review this.
- The group were interested to understand further if a young person's mental health would be taken into account and impact the decision on what biometric data is taken.