THE COMMISSIONER FOR THE RETENTION AND USE OF BIOMETRIC MATERIAL

Recruitment Information Pack

November 2015
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Foreword

A message from the Home Secretary, Rt Hon Theresa May MP

Dear Applicant,

The use of biometric material (DNA samples, DNA profiles and fingerprints) to verify a person’s identify is a crucial tool for the police and other law enforcement agencies in their work to protect the public from crime and terrorism. Such use of biometric material must however, be proportionate in respecting our hard won civil liberties. The Protection of Freedoms Act 2012 made significant changes to the framework for police retention of DNA samples, DNA profiles and fingerprints. The new regime came into force on 31 October 2013. Its first two years of operation has brought about a marked transformation in the management of this material, ensuring the police apply a robust, balanced and proportionate approach to the use, retention and destruction of the material.

The role of the Biometrics Commissioner is vital in ensuring that decisions by the authorities to keep biometric material are made in accordance with the law, and that there is public and Parliamentary confidence in the exercise of such powers. Alastair MacGregor QC, the first and current Commissioner, has provided invaluable oversight to the operation of the provisions contained in the Act, and his detailed reports and observations provide a valuable and accessible source of information to the public. His term of appointment is due to end in March 2016. I am, therefore, seeking applications to be his successor in this statutory role of national importance.

As the new Biometrics Commissioner, you will report directly to me, and will have the opportunity to shape the role further within the constantly evolving biometrics and forensics operating environment. This role will demand a talented individual of unquestionable integrity and credibility, who can demonstrate their ability to exercise sound judgment to balance complex information and competing interests.

I wish you well in your application.

Rt Hon Theresa May MP
Home Secretary
November 2015
Background

The Protection of Freedoms Act 2012 (PoFA) introduced a new regime for the destruction, retention and use by the police of biometric material (DNA samples, DNA profiles and fingerprints), including that held for national security purposes.

The new regime amended the Police and Criminal Evidence Act 1984 so that only those convicted of a criminal offence have their DNA and fingerprints retained indefinitely. For example, biometric material from persons charged with, but not convicted of, a qualifying offence (i.e. serious offence), fingerprints and DNA profiles, may be retained for three years (with a single two-year extension period available on application by a Chief Officer of Police to a District Judge). PoFA additionally makes provision for a National Security Determination (NSD) to be made, allowing the extended retention of biometric material where it is necessary for national security purposes. This regime also distinguishes between the retention of biometric materials taken from adults and those under 18 years of age.

The Commissioner for the Retention and Use of Biometric Material (the ‘Biometrics Commissioner’) is responsible for providing independent oversight and scrutiny of the regime established by PoFA, and governs the retention and use by the police in England and Wales of DNA samples, DNA profiles and fingerprints. In addition to other casework responsibilities in relation to DNA and fingerprints, the Commissioner also has a UK-wide oversight function as regards their retention and use by the police on national security grounds.

The Commissioner has three main functions:

1. to decide applications made by the police under section 63G of the Police and Criminal Evidence Act (PACE) – that is, applications for consent to the extended retention of DNA profiles and/or fingerprints belonging to individuals who have no convictions but who have been arrested for, though not charged with, a ‘qualifying’ offence;

2. to keep under review NSDs which are made or renewed by Chief Officers and pursuant to which DNA profiles and/or fingerprints may be retained for national security purposes; and

3. to fulfil the general ‘independent oversight’ function referred to above, i.e. “keeping under review the retention and use” by the police of DNA samples, DNA profiles and fingerprints.

The Commissioner must also make an annual report to the Home Secretary about the carrying out of all these functions. That report will then be laid before Parliament. The latest annual report can be viewed here.

The Commissioner will have close working relationships with both the Office for Security and Counter-Terrorism (OSCT) and the Crime and Policing Group (CPG) within the Home Office, who are co-sponsors of this role.
Role Description

Title: Commissioner for the Retention and Use of Biometric Material.

Appointed by: Home Secretary.

Duration: Fixed term appointment for three years.

Remuneration: Due to the nature of the appointment, it is offered part time on the basis of three working days per week. Remuneration will be calculated pro rata with a full time equivalent salary between £115,000 and £125,000, depending on skills and experience.

Location: Central London.

Purpose:

The Government is seeking an experienced individual to provide independent oversight and scrutiny to the regime for the destruction, retention and use by the police of biometric material. Under Section 20 of PoFA, the Biometrics Commissioner will provide an important safeguard to the regime which includes provisions for the retention of such material where a responsible chief officer of police has determined that this is necessary for national security purposes by making a NSD.

The Commissioner’s role will be essential in ensuring that the police and other law enforcement authorities’ retention of biometric material (i.e. DNA and fingerprints) is necessary, proportionate and in accordance with the law. The Commissioner will maintain independent oversight of the operation of the regime, which is likely to attract a significant degree of interest from Parliament, the media and civil liberty organisations, in particular. This is a high profile and public facing role requiring significant engagement with stakeholders who either exercise the powers or are affected by them.

The Commissioner will be supported by a small team and report directly to the Home Secretary.

The Commissioner’s main responsibilities will be to:

- keep under review all NSDs made or renewed by the police and other authorised law enforcement bodies and the use to which that material is being put;

- decide whether to approve applications from the police or other law enforcement bodies for the extended retention of DNA profiles and fingerprints taken under PACE powers from individuals arrested but not charged for qualifying offences (i.e. serious offences);

- provide advice and oversight of wider developments in the use of biometrics for law enforcement and national security, including the use of new modalities, and development of new technology platforms;
keep under review the retention and use of fingerprints, DNA profiles and samples in accordance with the relevant legislation\(^1\);

make an annual report to the Home Secretary about the carrying out of these functions;

respond to the Home Secretary who may at any time require the Commissioner to report on any matter relating to their functions. The Commissioner may also choose to report on any matter which they consider to be directly related to their functions; and

attend meetings of, and contribute to the work of, the National DNA Database Strategy Board and other boards, groups and bodies relating to the governance, retention and use of biometrics by the Home Office and law enforcement agencies.

**Person Specification**

It is essential in your supporting statement that you provide evidence and proven examples against each of the selection criteria in **Part One only** of the person specification, in so far as you are able. These responses will be further developed and explored with those candidates invited for interview, together with the other criteria listed in **Part Two**.

**Part One – Essential Criteria**

- Evidence of exercising sound judgment when balancing complex information and competing interests, accompanied by an understanding that such judgments can be open to scrutiny and challenge.

- Evidence of demonstrating effective communication in a variety of forms to diverse and challenging audiences such as politicians and the media.

- Evidence of leading and delivering high quality services in public or customer focused environments, including analytical casework, and of driving results at a senior level through influence and persuasion.

- Evidence of building productive working relationships with a wide variety of senior stakeholders, including demonstrating an ability to protect the public interest by seeking to ensure compliance with the relevant legislation, and holding others to account.

- Evidence of demonstrating a clear understanding of, and firm commitment to, the promotion of diversity and equality of opportunity.

\(^1\) Sections 63A and 63D to 63T of PACE: [http://www.legislation.gov.uk/ukpga/1984/60/contents](http://www.legislation.gov.uk/ukpga/1984/60/contents)
Desirable

- Experience of working at a senior level in a legal, law enforcement, regulatory or criminology environment.

- Experience of working at a senior level in academia (for example, in the study of criminal justice, ethics, human rights law or criminology).

Part Two – Knowledge, Skills and Abilities

- Enthusiasm and demonstrable interest in the role that biometrics can play in protecting the public and a sensitivity to the civil liberties issues which may arise.

- An ability to command respect and demonstrate both the independence and authority to establish credibility with Ministers and key stakeholders.

- Strong analytical and written skills.

- Resilient in challenging circumstances and able to work under pressure, remaining calm but decisive.

- Comfortable operating in a political environment.

- Personal integrity and credibility.
Terms of Appointment

Appointment Term:
- Your appointment will be made by the Home Secretary and will be for a period of three years.
- There is a possibility of re-appointment at the end of the period of office at the discretion of the Home Secretary, subject to a satisfactory appraisal of performance and mutual agreement.
- It should be noted that this role is a public appointment; the post holder will be neither an employee of the Crown nor of HM Government. Such appointments are not normally subject to the provisions of employment law.
- The appointment may be terminated prior to the conclusion of the period of appointment.

Remuneration and Time Commitment:
- Due to the nature of the appointment, it is offered part time on the basis of three working days per week. Remuneration will be calculated pro rata with a full time equivalent salary between £115,000 and £125,000, depending on skills and experience.
- No allowances, such as for accommodation, will be payable and you will not be eligible for any form of bonus payment.
- The remuneration is taxable through payroll, but the appointment is not pensionable.
- The post holder can claim reimbursement for reasonable travel and subsistence costs necessarily incurred during the course of their duties at rates set centrally.
- Applicants should note that the successful candidate cannot be remunerated for this role if they are being paid for an existing full time role from the public purse, and decide to stay in that role full time.

Location: The office holder will be provided with office space in Home Office headquarters, in Central London. Administrative support will also be provided. Home to office travel will not be reimbursed.

Training: An induction programme will be provided on appointment.

Availability: The successful candidates will be encouraged to take up this appointment as soon as possible, subject to the successful completion of pre-appointment checks and security clearance.

Security clearance: The successful candidate will be required to have or be willing to obtain security clearance to Developed Vetting (DV) level.

DV is the most comprehensive form of security vetting. Carrying out the relevant checks can take a number of months. It includes:

- a basic check of identity documents and employment/education referees;
- a check against departmental/company records;
- the completion of a security questionnaire and a specific, more detailed DV supplementary questionnaire;
• a check against the criminal and security records of the UK and, if appropriate, of overseas countries;
• a credit reference check;
• the completion of a financial questionnaire;
• a detailed interview conducted by an investigating officer; and
• further enquiries, including the checking of references, in writing, by telephone or by interview, from both personal friends and employers as appropriate.

Please note, individuals should normally have been resident in the UK for 10 years preceding their application for DV clearance. The role will be offered on a conditional basis until the successful candidate has passed all checks. For further information, please follow this link: http://www.fcoservices.gov.uk/eng/ourservices/national_security_vetting.asp

Nationality: As this appointment will require dealing with national security issues, it is reserved. In order to take up this appointment you must be a UK National, i.e. British Citizen, British Subject under Part IV of the British Nationality Act 1981 having the right of abode in the UK, or British Dependent Territories citizen acquiring citizenship from connection with Gibraltar. In order to confirm your eligibility for this post, please complete the Nationality form at Annex B.

Confidentiality: You will be subject to the provisions of the Official Secrets Act and required to exercise care in the use of official information acquired in the course of official duties, and not to disclose information which is held in confidence.

Disqualification for appointment: There are circumstances in which an individual will not be considered for appointment. They include:
• people who have received a prison sentence or suspended sentence of three months or more in the last five years;
• people who are the subject of a bankruptcy restrictions order or interim order;
• in certain circumstances, those who have had an earlier term of appointment terminated;
• anyone who is under a disqualification order under the Company Directors Disqualification Act 1986; and
• anyone who has been removed from trusteeship of a charity.

Registration of interests: The purpose of these provisions is to avoid any danger of the post holder being influenced, or appearing to be influenced, by their private interests in the exercise of their public duties.

Public appointments require the highest standards of propriety, involving impartiality, integrity and objectivity, in relation to the stewardship of public funds and the oversight and management of all related activities. This means that any private, voluntary, charitable, or political interest which might be material and relevant to the work of the body concerned should be declared. It is important, therefore, that you consider your circumstances when applying for a public appointment and identify any potential conflicts of interest, whether real or perceived.
There is a requirement to declare any actual or potential conflict of interest you may have in being appointed as Biometric Commissioner in a separate form. Any actual or perceived conflicts of interest will be fully explored by the Panel at interview stage.

**Political activity:** The post holder will need to show political impartiality during their time as Biometric Commissioner and must not undertake any party political activity during the period of their appointment. Details of the successful candidate’s declared political activity must be published by appointing departments when the appointments are publicised.

The Political Activity Declaration will be kept separate from your application and will only be seen by the Panel prior to interview – the Panel may at that stage explore with candidates any potential for conflict of interest. It is appreciated that political activities may have given you relevant skills, including experience gained from committee work, collective decision making, resolving conflict and public speaking. If, therefore, you have had such experience and you consider it relevant to your application for this post, you may if you choose include it separately in the main body of your application.
Response Instructions

If you wish to apply for this position, please supply the following by noon on 01 December 2015:

- A comprehensive CV setting out your career history and including details of any professional qualifications.

- A short supporting statement (maximum two sides A4, minimum 11 font) giving evidence of the strength and depth of your ability to meet the essential criteria for the role. Please provide specific examples to demonstrate how you meet each of the experience, qualities and skill areas identified in the person specification.

- In addition, please also complete and return via email the forms at Annex B, relating to referees, diversity, nationality, political activity and conflicts of interest.

Completed applications should be emailed to publicappointments@homeoffice.gsi.gov.uk

If you can not apply online, please post applications to:

Public Appointments Team
Home Office
2 Marsham Street
Ground Floor, Seacole Building
London
SW1P 4DF

Further Information: If you have any queries about this role, please contact Neil King by emailing Neil.king12@homeoffice.gsi.gov.uk.

If you have any queries about the recruitment process for this role, please contact:
Will Nixon on 0207 035 5987 or email Will.Nixon@homeoffice.gsi.gov.uk.

Equal Opportunities Monitoring: The Home Office is committed to providing equal opportunities for all, irrespective of race, age, disability, gender, marital status, religion, sexual orientation and transgender.

As part of the application process we ask candidates to complete equal opportunities monitoring information (Annex B). This will help us to monitor selection decisions to assess whether equality of opportunity is being achieved. The information on the form will be treated as confidential, and used for statistical purposes only. The form will not be treated as part of your application.

Interview Access Scheme for Disabled Persons: As a member of the Employers Forum on Disability, we are committed to actively encouraging applications from people with disabilities. Applicants with a disability are guaranteed an interview if they meet the minimum criteria for the appointment, as outlined in the relevant role description. Declaring a disability for the purposes
of a guaranteed interview is your decision and is entirely voluntary. A copy of the form can be found at Annex B.

Whether you choose to apply under the Interview Access Scheme or not you can still ask us to make particular arrangements for you when attending an interview. You can also contact us if you want to discuss the criteria for the role or have questions regarding your application.

Data Protection

The Home Office takes its obligations under the Data Protection Act seriously. Any data about you will be held in secure conditions with access restricted to those who need it in connection with dealing with your application and the selection process. Data may also be used for the purposes of monitoring the effectiveness of the recruitment process, but in these circumstances will be kept anonymous. The ethnic monitoring form is used for monitoring the selection process only. If you do not wish to have these details recorded please return the form uncompleted.

The Commissioner for Public Appointments regulates and monitors appointments to public bodies to ensure procedures are fair. We are required by the Commissioner for Public Appointments to retain information about the people who apply for public appointments within his remit, and make this information available to him for audit purposes, if requested to do so. Information you provide in your application may therefore be made available to the Commissioner for Public Appointments and the Commissioner's auditors on a confidential basis in order to help fulfil the Commissioner’s formal complaints investigation role and for audit purposes.

Our data protection policy is in line with the requirements of the Data Protection Act and the requirements of the Commissioner’s Code of Practice. The Commissioner’s requirements relating to the information we collect about applicants are set out below:

- Your initial contact details, including your name and address will be held by the Home Office for a period of at least two years.
- If you submit an application form, the form and any supporting documentation will be retained for at least two years.
- Information held electronically, including your contact details and the monitoring information which you provide will also be held for at least two years.

If you would like these details to be removed from our records as soon as this recruitment exercise is complete, please contact Will Nixon on 0207 035 5987.

Please note: Expenses incurred by candidates during the recruitment process will not be reimbursed except in exceptional circumstances and only when agreed in advance with the Home Office Public Appointments Team.
Indicative Timetable

Please note that these dates are only indicative at this stage and could be subject to change. Please let us know in your application letter if you are unable to meet these timeframes.

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<tr>
<td>Advert Closing Date</td>
<td>Midday, 01 December 2015</td>
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<td>Shortlist Meeting</td>
<td>08 December 2015</td>
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<td>Final Panel Interviews</td>
<td>13 and 15 January 2016</td>
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<td>Meeting with Home Secretary (if required)</td>
<td>Post interview</td>
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Selection Process

This role is being competed in accordance with the Code of Practice (April 2012)\(^2\), which sets out the regulatory framework for public appointments processes. The Code is based on three core principles – merit, openness and fairness.

The competition will be chaired by Michael Kaltz (Public Appointments Assessor). His role will be to ensure that appointments are made in accordance with the Office of the Commissioner for Public Appointment’s Code of Practice. The selection panel will include Paul Lincoln (Director, National Security, Home Office), Stephen Webb (Senior Responsible Officer, Major Law Enforcement Programmes, Home Office) and Dr Gillian Tully (Forensic Science Regulator, and independent panel member).

The Home Office Public Appointments Team will acknowledge your application and keep you updated on the progress of the competition.

At the short-listing meeting the selection panel will assess each application against the essential criteria and decide who to invite for final interview.

Interviews are expected to take place in central London and will last for between 45 and 60 minutes. Further details about the format will be provided to you in advance.

The decision to appoint to this role rests with the Home Secretary. Appointable candidates may be invited to meet with her, or another Minister, before a final decision is made. As a result there may be a delay in informing candidates of the outcome of the competition.

Complaints

If you are not completely satisfied with the way your application is handled at any stage of the competition, please raise any complaint in the first instance with:

Will Nixon  
Public Appointments Team  
Home Office  
Ground floor, Seacole Building  
2 Marsham Street  
London, SW1P 4DF

We will reply to your complaint within 20 days. If, after receiving our response you are still not satisfied, you may contact the Commissioner for Public Appointments:

The Commissioner for Public Appointments  
Room G/8, Ground Floor  
1 Horse Guards Road  
London SW1A 2HQ  
Tel: 0207 271 0849

The Commissioner for Public Appointments regulates and monitors appointments to public bodies to ensure procedures are fair. More information about the role of the Commissioner and his Code of Practice is available from  
http://publicappointmentscommissioner.independent.gov.uk/

Information about the Commissioner’s policy and manner in which complaints are investigated are set out in the Commissioner’s leaflet Your Guide to Making a Complaint about a Public Appointments Process which can be found at:  
http://publicappointmentscommissioner.independent.gov.uk/contact

Candidate Survey

The Commissioner for Public Appointments would like to find out what you think of the public appointments process. When you have completed the process, the Commissioner would appreciate a few minutes of your time to complete this survey:

http://publicappointmentscommissioner.independent.gov.uk/candidate-survey/
ANNEX A
Seven Principles of Public Life

The principles of public life apply to anyone who works as a public office-holder. This includes all those who are elected or appointed to public office, nationally and locally, and all people appointed to work in the civil service, local government, the police, courts and probation services, NDPBs, and in the health, education, social and care services. All public office-holders are both servants of the public and stewards of public resources. The principles also have application to all those in other sectors delivering public services.

Selflessness
Holders of public office should act solely in terms of the public interest.

Integrity
Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.

Objectivity
Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

Accountability
Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.

Openness
Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.

Honesty
Holders of public office should be truthful.

Leadership
Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.