

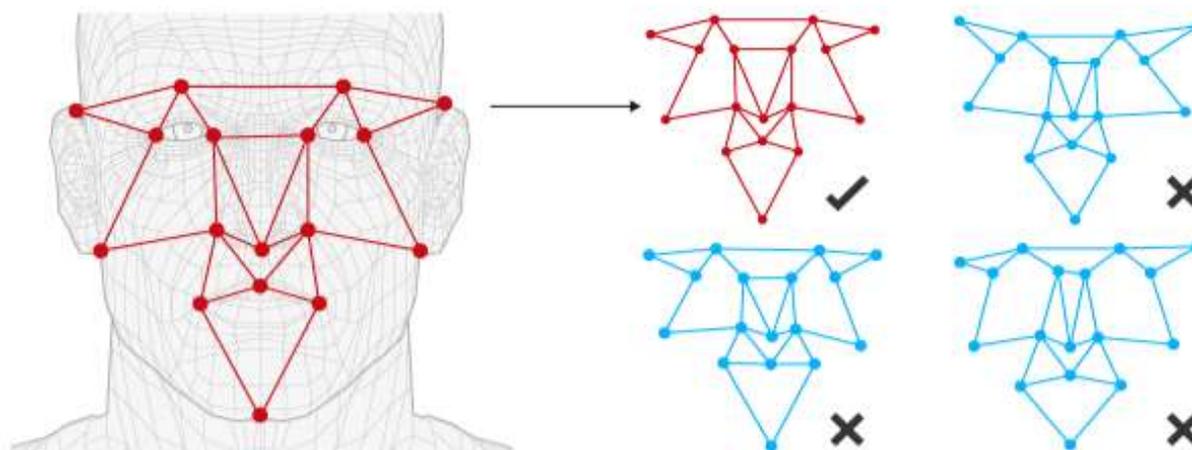
Facial Recognition Technology

Data Protection Considerations

Michelle Brown, Senior IG Lead and Chair of the Greater Manchester
Local Authority Information Governance Expert Reference Group

What is Facial Recognition Technology?

Facial recognition can identify people by measuring dozens of distinguishable features on the face



1 Facial recognition software reads the geometry of a face captured from a photo or video to create a unique code or 'faceprint'

Guardian graphic

2 Faceprints are compared with those on a watchlist and a computer ranks likely matches which are later verified by a human operator

Image taken from: Sabbagh, Dan (2020). "South Wales police lose landmark facial recognition case" *The Guardian* 11 August 2020. Available at: <https://www.theguardian.com/technology/2020/aug/11/south-wales-police-lose-landmark-facial-recognition-case>

Case Studies

Case Study: Metropolitan Police Service

- Undertook trials between March 2016 and 2018.
- Began “official” use in Feb 2020 at Stratford (right)
- Suite of documentation outlining their approach (including report on the trials) available at: <https://www.met.police.uk/advice/advice-and-information/facial-recognition/live-facial-recognition/>
- Legal basis – policing powers are enough to override privacy in HRA
- Deployed for specific, targeted, temporary interventions.
- Watchlist specific to each deployment helps ensure proportionality and necessity
- Version of algorithm used (NEC-3) believed to be most accurate available.
 - However, report revealed female suspects spotted “correctly” 34.9% (compared to male 57.9%)
 - Racial bias – white males correctly identified 50.9%; south Asian 52.5%; afro-caribbean 40%



Case Study: King's Cross Central

Facial recognition

This article is more than 1 year old

Facial recognition technology scrapped at King's Cross site

Surveillance software switched off at prestigious development after backlash

Dan Sabbagh *Defence and security editor*
Mon 2 Sep 2019 18:00 BST

80



▲ A CCTV camera in Pancras Square near King's Cross station. Photograph: Dan Kitwood/Getty Images

Facial recognition technology will not be deployed at the King's Cross development in the future, following a backlash prompted by the site owner's admission last month that the software had been used in its CCTV systems.

- 2 cameras from May 2016 to March 2018
- Abandoned following backlash in the media in Sept 2019
 - Use challenged by Mayor of London Sadiq Khan
 - Letters between KCC and Mayor published in the press
- Highlights the need to be transparent – people unaware the cameras were present
- Ethics – still widely opposed where purpose is unclear

Case Study: Trafford Centre trial

News | Greater Manchester News | The Trafford Centre

Greater Manchester Police monitored every visitor to Trafford Centre for SIX MONTHS using controversial technology until they were told to stop

The force used new Automatic Facial Recognition (AFR) technology to scan shoppers for criminals on a watchlist and missing people

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By Steve Robson
13:58, 14 OCT 2018 | UPDATED 17:55, 15 OCT 2018

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Around 15 million people are believed to have been caught up in GMP's mass surveillance pilot

TRAFFORD CENTRE FACE RECOGNITION CAMERAS: YOUR QUESTIONS ANSWERED



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- In use April to October 2018
- Looking for watchlist of criminals and missing persons
- Up to 15 million people captured by cameras during 6 month period
- Concerns by the Surveillance Camera Commissioner that this was not proportionate
- GMP pulled out following legal advice.

Case Study: South Wales Police court case



- Case brought by Liberty and Ed Bridges (left) who objected to capture of his own images.
 - Spotted van at a peaceful protest he was part of and felt AFR was used to intimidate. (Right to protest encroached?). Also captured in Cardiff City Centre whilst Christmas shopping.
- High Court found the use of AFR lawful
- Court of appeal found use of AFR unlawful
 - No clear guidance on where it could be used
 - DPIA not good enough
 - Steps not taken against racial or gender bias
- Benefits **do** outweigh the privacy intrusion.
- Surveillance Camera Commissioner called for Home Office to revise Code of Practice
- South Wales Police confirmed images not stored, so Mr Bridges images not held as he is not on a watchlist
- Lack of transparency

Implementing AFR

How to address data protection requirements

Feasibility and Privacy by Design

- Mandated by GDPR Article 25 – data protection by design and by default
- Can you achieve your aims via other less intrusive means?
 - Do you need to use facial recognition?
 - Do you need to use images at all?
- Will it achieve what you want it to achieve?
 - Do you hold a suitable dataset to match to?
- Data Protection Impact Assessment
 - Use the SCC template

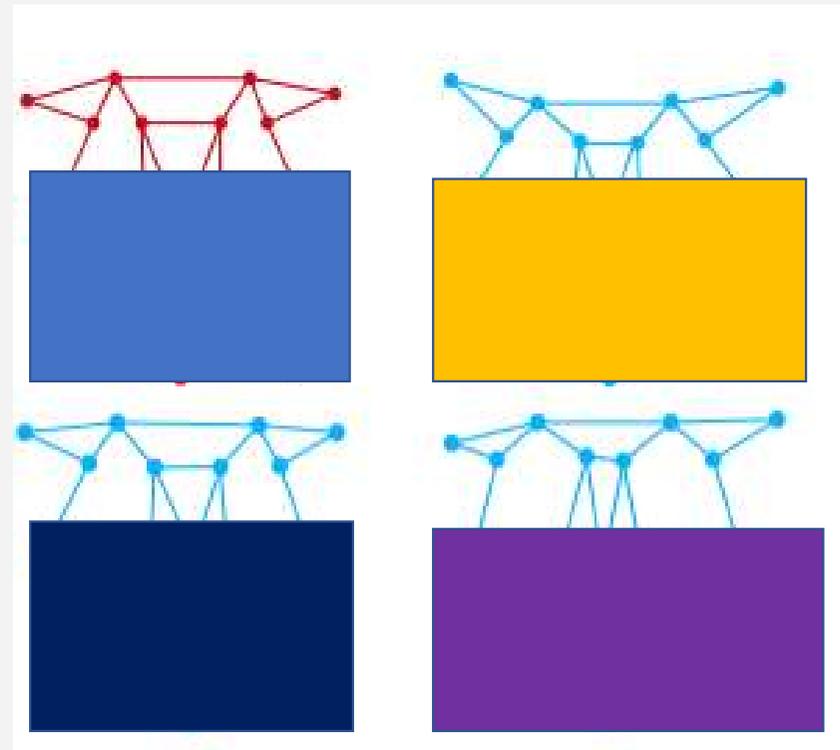


**Consult DPO/IG
Team for advice
before
committing!**

Accuracy

- Need to ensure processing is as accurate as possible.
 - MPS using most accurate available, yet success rate circa 50% maximum
- Gender and racial bias proved to be an issue with current technology – responsibilities as a public body under Equalities Act 2010
- Face coverings:
 - Seasonality – hoods, scarves etc.
 - Facial covering for religious reasons
 - Face masks – current requirements during the Covid-19 pandemic (future use?)

Facemasks and Facial Recognition

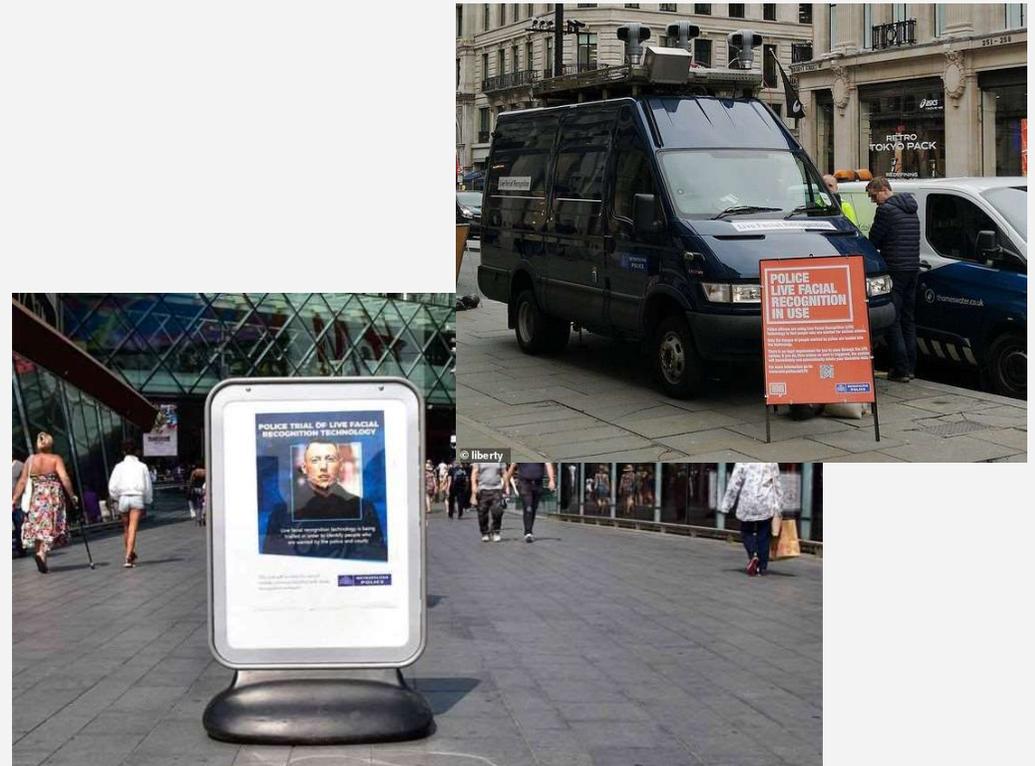


Automated Decision Making

- Article 22(1) GDPR – *“The data subject shall have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal effects concerning him or her or similarly significantly affects him or her.”*
- Can only carry out automated decision making like this if:
 - Necessary for a contract;
 - Authorised by law; or
 - Based on explicit consent.
- Processing which includes human intervention NOT classed as automated decision making
 - For example, MPS use AFR to identify persons of interest, images checked by officers before sending officers in on the ground.

Transparency

- Need to tell people clearly that AFR is in use
- Ethical – to earn trust from the public
- Lawful – Privacy Notice under Article 13 GDPR
- Can be layered
 1. Sign – brief detail, but include link to...
 2. Website with full detail



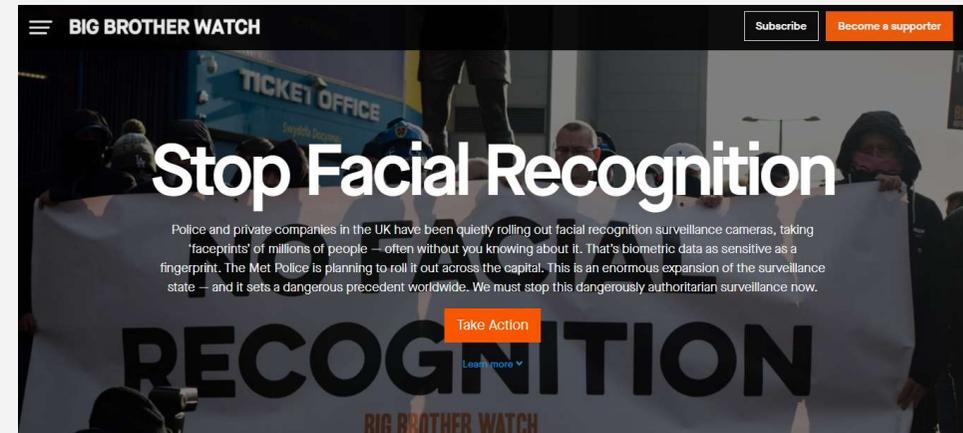
Consultation

- Required by GDPR - Article 35(9) – *“Where appropriate, the controller shall seek the views of data subjects or their representatives on the intended processing...”*
- Useful to establish if there is support for the implementation in question.
- Ada Lovelace Institute (Right) undertook a study in 2019 to look at attitudes from the public within the UK:
https://www.adalovelaceinstitute.org/wp-content/uploads/2019/09/Public-attitudes-to-facial-recognition-technology_v.FINAL.pdf



Ethical considerations

- Camera technology seen to be intrusive – should you use it?
- UK DP regime based on Human Rights - compliance with DP law should help use be ethical
- Human right to privacy vs benefits of use
 - Threshold for intrusion high e.g. policing purposes/protecting the public from crime
- Results of your consultation – will it be supported or opposed by the public?
- Ada Lovelace study – *“The public expects the government to be placing limits on the use of facial recognition technology...”*



Seek Advice from your IG team and DPO!

Undertake a DPIA

Accuracy – racial and ethical bias

Ensure use is lawful, proportionate, and ethical

Consult the Public

Be transparent

Questions

Thank you!