



West Midlands Police's Ethics Committee

Terms of Reference

Background

1. West Midlands Police ("WMP") has established a Data Analytics Lab (the "Lab"). The purpose of the Lab is to analyse various data sets with a view to informing WMP's operations and strategic decisions (e.g. appropriate allocation of resources or adoption of new crime prevention models). There are times where the analysis of data for policing purposes may give rise to ethical questions and considerations.
2. This Ethics Committee has been established to provide independent advice to the West Midlands Police Chief Constable ("CC") and the West Midlands Police & Crime Commissioner (the "PCC") regarding ethical issues arising from the Lab's work.

Roles and responsibilities

Advising on ethics

3. The Ethics Committee will be responsible for providing the CC and PCC advice as to whether it believes each of the Lab's data projects should go ahead and/or be altered in some way, as explained further below. It is also responsible for suggesting any actions the Ethics Committee considers appropriate given its conclusions regarding the ethics issues identified. In doing so, the Ethics Committee will follow the process and the principles contained within these Terms of Reference. It will not be the role of the Ethics Committee to advise on ethical issues relevant to WMP's activities that fall outside of the Lab's work.

Advising CC and/or PCC

4. While the Ethics Committee will, in the majority of cases, advise the CC on each proposed data project, the PCC's consent to approving a project will only be required where a proposed data project is not purely operational. Whether or not a project is purely operational will be decided upon by the CC and the PCC under a scheme of consent, in advance of the Ethics Committee's briefing. There may be some occasions where the Lab is engaged with data projects that are purely operational surrounding sensitive matters relating to national security, extremely serious levels of criminality or matters of great urgency. In these instances, the CC, or in the CC's absence the Deputy Chief Constable (the "DCC"), may decide that these matters are not appropriate for review by the Ethics Committee. However, this should only occur in very exceptional circumstances and, where the CC or DCC makes such a decision, the PCC must be notified as to the reasons why, as soon as is practicable, so that the PCC can

properly hold the CC to account for the decision. The PCC will keep this arrangement under review and will express any concerns to the CC in the event that the PCC believes a proposal should have been considered by the Ethics Committee, following which the PCC and CC shall, in good faith, agree how to take the matter forward.

Advice separate from WMP compliance

5. It is not the Ethics Committee's role to provide legal advice and the process in these Terms of Reference assumes that legal counsel will be independently sought by WMP as appropriate. Equally, WMP will remain responsible for the Lab having its own internal confidentiality management, data protection and information management governance and processes including the appointment of a Data Protection Officer, seeking independent specialist legal or data protection advice and conducting its own data protection impact statements and assessments on proposed projects before such projects are considered by the Ethics Committee. There should be a clear statement on any project proposals to the Ethics Committee making it clear that the Lab has received advice from WMP that the proposal is legally compliant, provided the Lab has in fact received such advice. Further, for the avoidance of doubt, it will be WMP's responsibility to ensure the activities of the Lab comply with any other regulator and/or UK government body inspection regime (whether relating to investigatory powers or otherwise). To the extent that either the PCC's office or WMP is required to participate in any regulatory query in relation to the Ethics Committee, they shall comply with their legal duties. The Ethics Committee will, of course, consider relevant legal issues, where identified, as part of its analysis of the ethics issues arising.
6. Subject to obligations of confidentiality and the contractual terms of their appointment, WMP will not hold members liable for the advice they provide in their capacity as members of the Ethics Committee, and their contracts will include an indemnity. Of course, members will nevertheless be expected to use all reasonable endeavours to provide advice to the best of their ability and with reasonable care, skill and diligence.
7. Members will be under a strict obligation to maintain the confidentiality of matters discussed that are deliberately not disclosed as part of the Ethics Committee records (discussed below). However, members should also be aware that their advice may, subject to applicable law and applicable legal procedures, be disclosable in legal proceedings or regulatory action involving WMP.
8. The Ethics Committee is to act independently and free of bias, including political bias.

Membership of the Ethics Committee

Members' skill set

9. In the ordinary course of business, members of the Ethics Committee will typically include:
 - a) Two experienced data science specialists (the relevant data science experience expected by WMP and the OPCC, will be stipulated in the OPCC's advert for the committee vacancies reserved for these data scientists). Typically, they will help inform other members on the data methodology being employed in conducting the analysis.
 - b) An experienced human rights expert. Typically, this member would inform other members on human rights principles or law and associated legal issues, such as discrimination, bias, data protection and privacy rights.

- c) A senior civil servant experienced in implementing policy. Typically, this member would inform other members on practical realities of implementing policy in the public sector.
- d) Four external members who are residents of the West Midlands, who need not have any specific qualifications or areas of expertise. However, these members must have demonstrated that they can bring value to the work of the Ethics Committee, and will bring with them a strong awareness of discrimination, privacy and other ethical issues. Some members may also be appointed for their expertise in the area of crime prevention and policing.
- e) A senior representative of the OPCC. Typically, this member would be expected to inform the Ethics Committee of the PCC's interest in the issue, such as expressing reasons as to why a particular question is not purely operational and therefore falling within the PCC's scope. However, this member is not to interfere with the Ethics Committee's independence and political neutrality.
- f) A senior representative of WMP. Typically, this member would be expected to inform the Ethics Committee on operational matters, such as information as to how certain data sets are collected in practice, WMP's operational priorities or other relevant matters such as criminal trends and rationale for proposing certain questions.
- g) Strong consideration will be given to appointing a member or members who bring with them expertise in ethics in policing, sociology, criminology, ethics and moral philosophy and/or other areas of specialism relating to the field of ethics defined broadly.
- h) A human rights campaign group (i.e. an organisation established to promote or protect human rights) representative who should come with a broad range of knowledge around data privacy and issues concerned with bias and discrimination.
- i) An organisation concerned with the prevention of crime and tackling social exclusion (e.g. an organisation concerned with rehabilitation or crime prevention initiatives) representative, who should bring with them an awareness of crime prevention, policing and ethics issues whether related to discrimination, privacy, human rights generally or other ethical considerations.

Typically, external representatives would be expected to offer insight from an external campaigner's perspective, while ensuring their advice is independent from the campaign group (similar to the independence of a charity trustee who is appointed as a representative of a third party) and respectful of the principles within these Terms of Reference.

Term of membership

10. Members will typically be appointed for a term of three years in accordance with the appointment process set out below. Members who have served a three year term may be appointed for a second term of three years, such appointment process to be the same as the initial appointment, as set out below. In any event, individuals will not typically sit more than two terms of three years, although the PCC reserves the right to extend terms to ensure continuity and support when new members are appointed, such as allowing a period for an outgoing Chair to guide new members through the Ethics Committee's processes.
11. It is recognised that the senior representative of WMP and OPCC may change more frequently due to the typical length of time served in any one position by senior officers or appointees as applicable. Should an officer or appointee not be able to sit on the Ethics Committee for the

full three year term, the CC or PCC as applicable shall replace them with another senior representative for the remainder of the current term.

Membership vetting

12. Members may need to be vetted due to the confidential nature of information and/or data being considered from time to time. Whether or not vetting is required, and the type of vetting that may be required, will be a decision of WMP.

Website biography

13. Appointed members will have a short biography placed on a website page on the PCC's website, so that the public can access information on the committee's membership.

Meetings and records

Timing of meetings

14. The Ethics Committee will, upon all members having been given reasonable notice, meet privately to discuss the ethical issues arising regarding specific Lab data projects. It is expected that meetings will typically be held quarterly. When deciding times and dates of meetings, the OPCC will give due consideration to the personal circumstances of the applicable member to try to avoid choosing times that act as a social barrier to their membership. The OPCC will seek to support such members with the reimbursement of reasonable expenses to enable their attendance, where the OPCC deems appropriate.
15. If they agree to do so, the Ethics Committee members may, through the Chair, ask the OPCC Secretariat if they can hold a meeting outside of the scheduled quarterly meetings if they deem it necessary to provide advice for a particular project in a timely fashion. In such cases, the OPCC Secretariat will consult with the Lab and will confirm to the Ethics Committee whether or not there is to be an additional meeting.
16. For urgent advice or advice on data project proposals before they are finalised, the Ethics Committee members may also agree to accept a reasonable request from the Lab for an additional meeting, provided the Lab has consulted with the OPCC Secretariat and the OPCC, acting reasonably, agrees.

Appointing the Chair

17. The Chair of the Ethics Committee shall be appointed by the PCC. The Chair may not be the WMP or the OPCC representative, so as to preserve the independence of the Ethics Committee. The Chair shall be able to invite other relevant experts to meetings to advise the members, provided any invitees agree to maintain the confidentiality of matters discussed.

Format of meetings

18. After the Chair has opened the meeting, representatives from the Lab shall be given an opportunity to present the applicable project proposal. The Chair may invite the Lab representatives to stay to answer questions from the members of the Ethics Committee. Once

all questions have been asked, if any, the Chair will ask the Lab representatives to excuse themselves from the meeting so as not to inadvertently impact on the impartiality of the rest of the meeting.

Minutes of meetings

19. Minutes shall be kept of all meetings. Records shall be kept of all minutes, briefing papers and advice provided by the Ethics Committee (together the "Records").
20. All Records will be provided to the members of the PCC's Strategic Policing and Crime Board, at the Board's next meeting. As explained further below, all or part of such Records may be redacted by the OPCC Secretariat (see role description below) at the direction and reasonable discretion of the Ethics Committee, the CC and/or the PCC for the purpose of maintaining confidentiality such as in relation to commercial confidentiality, operational sensitivity and personal data.

Quorum

21. Ethics Committee meetings will be considered quorate when five or more members are present provided that at least one data science expert, one human rights expert (or human rights third party representative), one external member and the Chair are always present. Where the Chair is the same as the data scientist, human rights expert (or human rights third party representative) or external member, at least one other non-WMP or non-OPCC member must be present.
22. Substitutes will not be permitted to attend meetings, unless by invitation of the Chair.
23. In order for any expedited proposal to be formally recommended by agreement over correspondence (e.g. by email), a sufficient number and category of members would need to respond in accordance with a quorate meeting.

Appointment of members

24. The PCC will appoint the Ethics Committee members (except for the WMP representative which shall be appointed by the CC). With the exception of the OPCC member, the CC's agreement will be required before formally appointing the other members chosen by the PCC.
25. Members may be directly approached and appointed based on their having appropriate experience, but in each case following an application and interview process. The OPCC will also open a formal application and interview process and will advertise as appropriate and comply with relevant laws. The appointments will be published on a website page outlining the work of the Ethics Committee.
26. While at all times complying with equality laws of England and Wales, the PCC and CC will use all reasonable endeavours to appoint Ethics Committee members that are, so far as is possible, representative of the diverse communities of the West Midlands including in relation to age, race, colour, nationality, religion, belief, sex, gender, pregnancy & maternity, disability, sexual

orientation or otherwise. This shall apply both to external and non-external members of the Ethics Committee.¹

27. All applicants for membership will need to disclose any conflicts of interest before being appointed, and after their appointment, to disclose any conflicts at the time they arise where applicable. Upon joining the Ethics Committee, a member must absolve themselves from participating in the discussions of the Ethics Committee where that same member has a conflict.
28. The PCC and CC reserve the right to remove members by agreement if, acting reasonably, they deem such a removal to be in the public interest. Any such removal will be justified in writing to the individual, to help ensure there is transparency and integrity in the decision. The PCC and CC may agree any such additional rules or codes of conduct from time to time governing the conduct and removal of Ethics Committee members.

Benefits of membership

29. Membership of the Ethics Committee will not be remunerated, to preserve decision making independence.
30. Reasonable and necessary expenses will be reimbursed. When deciding what is reasonable, the OPCC will give due consideration to the personal circumstances of the applicable member so that expenses do not serve as a social barrier to their membership.

Secretariat

31. The OPCC will appoint an OPCC Secretariat to organise the meetings and, working with the Lab, help administer the briefing papers for the Ethics Committee.
32. The OPCC Secretariat will, working with the Lab, ensure there is consistency in the format of briefing papers and the advice provided by the Ethics Committee following its analysis.
33. Briefing papers, which will mainly be made up of the project proposals submitted by the Lab, are typically to be provided by the OPCC Secretariat to the members of the Ethics Committee one week before scheduled meetings, or sooner where possible, to ensure members have enough time to consider the content.
34. The OPCC Secretariat may, with agreement from the PCC, provide further procedural rules from time to time to ensure the smooth running of the Ethics Committee and advisory process.

Engaging the Ethics Committee

Advising the CC and/or the PCC

35. In the ordinary course of business, the process for engaging the Ethics Committee is as follows:
 - a) Following the Lab and WMP's internal compliance processes, a proposed data project is presented by the Lab to WMP's Executive Team (ultimately the CC). In preparing a data project proposal, the Lab will likely have undertaken a review of the available data (e.g. a

¹ The PCC and CC's commitment to promote diversity on the Ethics Committee will be consistent with the OPCC and WMP's public sector duty under the Equality Act 2010 (the "Act") to "*encourage people with protected characteristics to participate in public life...*" and provisions under the Act regarding positive action.

- data discovery exercise), and the point at which it takes the project to WMP's Executive Team will be after this initial preparation and scoping exercise.
- b) If approved by WMP's Executive Team, all proposals need to go through the Ethics Committee.
 - c) The appropriate schemes of consent between WMP and the OPCC will be considered to help clarify when matters are purely operational and therefore only fall under the CC's remit, or when matters are not purely operational and therefore require the PCC's approval as well. Once decided, the Ethics Committee will be tasked with considering the briefing papers and advising the CC and/or the PCC.
 - d) The CC and/or the PCC, as applicable, shall have regard to the advice provided by the Ethics Committee. However, they shall not be bound by the Ethics Committee's advice.
 - e) Where the CC and/or the PCC do not follow the advice of the Ethics Committee, it will tell the Ethics Committee and will ordinarily provide reasons for not following the advice, as soon as is practicable, unless doing so would undermine legitimate operational secrecy (including matters relevant to national security) or which should be kept confidential in accordance with principles of public law.

Advice process

- 36. Once notice of the meeting has been provided and the date scheduled, the Ethics Committee will consider the Analytic Lab's proposed project outlined in the briefing papers, including the methodology being adopted.
- 37. If the CC and PCC are satisfied (including after having received advice from the Ethics Committee) that the question and methodology meets the appropriate ethical standards, the Ethics Committee will be given, at a later date, a chance to consider:
 - a) The proposed policies and/or operational strategies being considered for interventions arising from the findings of the analysis; and
 - b) Whether or not any actioned policies and/or operational strategies were successful at achieving the stated objectives and/or an assessment of the public benefit or harm caused by such.
- 38. The Ethics Committee will also be given an opportunity to review any proposed changes to the applicable project, such as if the research methodology has changed, to consider the impact this has on the ethics issues.
- 39. The Ethics Committee's advice will be established by consensus, but any member has the right to be recorded in the meeting minutes as dissenting with the majority view of the Ethics Committee.
- 40. At each stage of the Ethics Committee's analysis (i.e. considering the initial project proposal; the proposed implementation arising from findings from a proposal and/or the success of any outcomes arising from implementing the project findings), it will issue written advice to the CC and/or the PCC as applicable explaining its position and stating:
 - a) It advises approving the project;
 - b) It advises approving the project with minor amendments;
 - c) It advises approving the project with major amendments;
 - d) It advises rejecting the project;
 - e) It requests more information from the Lab in order to be able to advise; or
 - f) So far as it relates to analysing the outcomes of an actioned policy or strategy arising from the Lab's research, it advises on a continued or changed course of direction (e.g. if serious problems have been identified necessitating stopping the intervention or

encouraging further implementation of the intervention based on evidence of positive outcomes).

Publication of briefing papers and advice

41. The briefing papers provided to the Ethics Committee, the minutes and the advice provided by the Ethics Committee will be made public on the Ethics Committee website page, except where publication would disclose matters of operational secrecy (including matters relevant to national security) or which should be kept confidential in accordance with principles of public law.
42. A decision whether or not to disclose the briefing papers and/or advice shall remain with the CC and the PCC, and their internal compliance processes.
43. In any event, the Ethics Committee will consider each time it conducts an ethical assessment of a project, whether or not, based on ethical grounds rather than formal legal grounds, it advises the CC and PCC to publish all or part of the briefing and advice papers.
44. Note that these Terms of Reference (as may be amended from time to time) will also be made available on a page dedicated to the Ethics Committee on the PCC's website.
45. Once at the end of each year, with the support of the OPCC Secretariat under the guidance of the Chair, the Ethics Committee will publish an annual statement outlining the work of the Ethics Committee, save for those elements that are to be kept confidential pursuant to these Terms of Reference. Where applicable, the annual statement will include the ratio of non-disclosed to disclosed advice provided by the committee for the purpose of transparency.
46. It is anticipated that PCC's Strategic Police & Crime Board will be given an opportunity to consider and scrutinise each annual statement at a meeting of the PCC's choosing.

Principles

47. WMP and the OPCC understands that what counts as ethically right or moral can be ambiguous and open to debate and disagreement. Further, the OPCC and WMP understand that just because something is legal it does not necessarily follow that it is ethical, and the Ethics Committee members are expected to recognise this distinction, where relevant, when formulating their advice. What is or is not deemed ethical will very often involve a complex analysis with no clear cut answers or obvious solutions and members should at all times be encouraged to freely bring their individual perspective as to what they consider to be ethical issues. Nevertheless, the CC and PCC are under a duty to make decisions that are in the public interest and as such they require support in turning the outcome of theoretical moral debates into meaningful actions. Therefore, as is the case for many other ethics governance structures functioning in multiple contexts, the Ethics Committee is tasked with using its expertise to provide pragmatic advice that is appropriate for meaningfully advising the CC and PCC on how to move forward. The Ethics Committee is established to bring different people together with different perspectives and expertise to conduct a thorough ethical analysis so it can provide practical and independent advice.
48. To that end, in reviewing project and policy proposals, the Ethics Committee will provide WMP and the OPCC with advice having considered similar principles underlying the National Statistician's Data Ethics Advisory Committee. These are:
 - a) The use of data has clear benefits for users and serves the public good.

- b) The proposed use of data should not discriminate against any individuals or groups of people (e.g, based on race, nationality, religion, gender, sex, disability, age, social background or otherwise).
 - c) The proposed use of data is necessary and proportionate.
 - d) The data subject's identity (whether person or organisation) is protected, information is kept confidential and secure, and the issue of consent is considered appropriately.
 - e) The risks and limits of new technologies are considered and there is sufficient human oversight so that methods employed are consistent with recognised standards of integrity, quality and human rights.
 - f) Data used and methods employed are consistent with legal requirements such as data protection laws, equality laws, the Human Rights Act, public law and rights of judicial review and the common law duty of confidence.
 - g) The data used and research and analysis methods employed are sufficiently accurate, appropriate and rigorous in order to draw reasonable conclusions.
 - h) The views of the public are considered in light of the data used and the perceived benefits of the research.
 - i) The access, use and sharing of data is transparent, and is communicated clearly and accessibly to the public.
 - j) The use of data will never be used to harm, cause emotional or physical danger, stigmatise and/or victimise a particular individual or group of individuals.
49. The Ethics Committee will of course consider these principles in light of the need to preserve WMP's operational independence and legitimate need to maintain operational secrecy on a case by case basis.

Key questions

50. The Ethics Committee members will be selected on the basis of experience in applying ethics, relevant law and/or research and statistics expertise. It is expected that they come with sufficient experience to be able to identify pertinent questions when assessing the ethics of a specific project proposal, to be considered alongside the ethical principles above.
51. Questions will vary from project to project and will give rise to different issues relevant for considering the ethics. Equally, the questions that need to be considered will vary depending at what stage a particular project is being considered, such as whether it is at the proposal stage as opposed to the suggested policy or operations as a result of the findings stage or an analysis of an operation's outcomes.
52. Notwithstanding the existing expertise members will bring, the Ethics Committee will be invited to consider the following non-exhaustive list of questions as applicable or appropriate from time to time:
- a) What is the purpose of the data analysis?
 - b) What kind of data will be used and to what degree will it be aggregated or anonymised?
 - c) How reliable is the data including?:
 - i. How is it collected?
 - ii. What is the identified population it is collected from and does it involve specific demographics or vulnerable groups (e.g. victims of crime, vulnerable adults or children, prisoners)?
 - iii. How old is it?
 - iv. Who collected it?

- v. How large is the sample?
 - vi. Does the data contain any biases by virtue of how it was collected?
 - vii. Is there inaccurate or missing data?
- a) What are the details of the statistical/research methodology being used?
 - b) Will anyone's privacy or human rights be infringed?
 - c) Will anyone be discriminated against?
 - d) Is the proposed project necessary and proportionate (e.g. is the analysis reasonable and/or is the use of personalised data, where applicable, proportionate?)
 - e) How will the public benefit from the specific data project?
 - f) How intrusive (i.e. sensitive personal data?) and identifiable is the data being looked at?
 - g) How targeted is the use of data and will it target specific individuals?
 - h) Are automated processes involved, and what are the risks in this case if there is limited or no human oversight?
 - i) What are the risks of individuals or groups suffering unintended consequences?
 - j) How compatible is the proposed use of data with the reason it was originally collected?
 - k) Recognising that the public's agreement or disagreement does not necessarily mean something is ethical or unethical respectively, would the public agree with what you were doing?
 - l) Would there be a risk of challenge, whether by judicial review or otherwise, from an affected individual, group or organisation (e.g. human rights campaign group)?
 - m) How open is WMP about the project and methodology employed?
 - n) How much accountability, governance and oversight is there throughout the project, including level of seniority?
 - o) How secure is the data being used, including the findings?
 - p) Is there an appropriate balance between privacy and the perceived benefits of the project?
 - q) Has there been any stakeholder engagement?
 - r) Is there a communications strategy regarding how research findings, implications for operations and monitoring (including matters of controversy and how this relates to matters of public confidence in policing) will be communicated to the CC, PCC and the public?
 - s) Are policy or operational proposals as a result of the findings:
 - i. Appropriately substantiated by the project or is further research required to justify proposals?
 - ii. Proportionate, necessary and in pursuit of a legitimate purpose?
 - iii. Entail appropriate outcome monitoring and impact measurement mechanisms/plans?
 - iv. Punitive or supportive and preventative?
 - t) Is there evidence of positive and/or negative outcomes arising from an implementation of operational proposals arising from a project's findings? If so:
 - i. How have these outcomes been measured and is the impact measurement (including consideration of impact on equality) scientifically robust?
 - ii. What steps should be taken to remedy identified problems or improve outcomes, including whether or not the implementation should be expanded, suspended or stopped?
53. These Terms of Reference are not intended to be overly prescriptive. While members will be invited to consider the principles and proposed questions above, members should not feel constrained by them. For instance, where members have additional questions or concerns

they should feel free to raise them, and members should feel free to discount certain questions or aspects of principles where they consider them irrelevant or not to apply to the applicable project.

Review of the Terms of reference

54. The CC and PCC reserve the right to amend these Terms of Reference by agreement, and the Ethics Committee reserves the right to propose amendments from time to time to be considered by the CC and PCC.
55. In the ordinary course of business, these Terms of Reference will be reviewed annually to consider whether amendments should be made to reflect relevant technological, legal and policy changes.