Office for Artificial Intelligence
Department for Science, Innovation and Technology
100 Parliament Street
London SW1A 2BQ

By email: evidence@officeforai.gov.uk

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Dear Sirs

'A pro-innovation approach to AI regulation': Response to Consultation

We write as independent Chair and Members of the West Midlands Police and Crime Commissioner and West Midlands Police Data Ethics Committee (the Committee). This response to the consultation summarises functions and activities that could support AI regulation and innovation, identify and address risks, and improve capabilities, based on the innovative and specialist work that we have carried out since 2019.

The role of the Committee is to advise the Chief Constable and Police and Crime Commissioner on data science projects developed by West Midlands Police's Data Lab. Our terms of reference require us to provide **pragmatic advice on a rolling basis** regarding **scientific validity, operational outcomes, impact on individuals, proportionality and potential risks and benefits**, as projects progress from proposal to potential operational use. Expertise represented by volunteer members include data science (both academic and commercial), law, human rights, policing operations, ethics (including medical ethics) and the interests of vulnerable groups and the victims of crime. A fundamental principle of **transparency** underlies the work of the Committee, with papers and minutes published here. The Chief Constable and PCC commit to taking account of the Committee's recommendations and to responding publicly if they disagree.

We are concerned that recent aggrandising 'terminator' or 'existential' warnings only act to exaggerate the capabilities of AI, while drawing attention away from the **multi-disciplinary, long-term hard work and real-world focus** needed to understand the functionality, operation and implications of existing machine learning and data-driven models in high-stakes environments such as policing, and the vital importance of independent, transparent and expert national oversight.

The Secretary of State's Foreword to the white paper states that:

"[the risks posed by AI] could include anything from physical harm, an undermining of national security, as well as risks to mental health. The development and deployment of AI can also present ethical challenges which do not always have clear answers…Unless we build public trust, we will miss out on many of the benefits on offer."

Police use of data science, predictive modelling and other AI methods such as facial recognition carries these same risks and opportunities. The Committee's experience over the last 4 years demonstrates that an independent advisory function operating alongside data science projects **does not hamper innovation**. Instead, it **supports robust and thoughtful deployment of appropriate technology**, thus augmenting the knowledge and skills within policing bodies and reducing the likelihood of unforeseen problems and consequent negative impact on public funds. As the Secretary of State points out, ethical challenges do not always have clear answers. However, there are often a clear set of factors and issues that need to be addressed and the Committee provides a vehicle for an informed consensus view to be taken of such factors. Furthermore, the themes underpinning the Committee process arguably demonstrate the operationalisation of many key factors that must be considered in the human rights necessity and proportionality test. The process recognises that projects take time, may progress from exploration to

deployment and may change throughout the process, and that different questions may arise at different points.

The Committee's independent scrutiny serves to encourage broader thinking about whether the scientific method is suitable for the policing context and the consequences for individuals of the interventions that might follow, thus encouraging good practice. However, this can only be achieved by Committee members and the police **building an understanding over time - from experience - of the technical, legal, ethical and operational priorities and issues** that must be addressed. Issues that must be investigated and understood include: i) policing operational aims and challenges ii) data incompleteness/inconsistencies in policing iii) use of uncertain or unreliable intelligence and 'non-crime' data within data analytics iv) police interventions/coercive action that may be informed by outputs v) the consequences of action based on erroneous or uncertain outputs vi) the proportionality of the proposed method when compared to existing methods of working vii) the performance of third-party commercial models in criminal justice contexts.

The productive challenge and critical oversight represented by the Committee's work could provide a **policy and process blueprint** for **a national advisory review structure** in policing and other public sector contexts to support innovation (by commercial suppliers as well as by the public sector internally) and enhance public trust, giving confidence to determine which projects should proceed and which ones should not. It has been recognised as best practice by the House of Lords Justice and Home Affairs Committee, with Committee members contributing to proposals for a national model based on the principles of the Committee. New Zealand has implemented an external, independent, expert panel to provide advice and oversight from an ethical and policy perspective of emergent technologies to its national police force. (The Committee could also provide a standardised template for self-assessment by businesses using or producing AI, although it is recognised that commercial bodies will have differing constraints and incentives.)

For success, such a **national advisory review structure must incorporate**, at a minimum, the following:

- An independent review process which monitors each project throughout its **development lifecycle**, with organisational commitment to respond to recommendations.
- **Transparency** underpinning proceedings.
- A wide representation of skills and experience, enabling review of the model and implementation challenges from **multiple viewpoints**. This can, and does, provide important insight into the model development process and supports successful outcomes by highlighting potential issues and unintended consequences in advance.
- An **inventory** of all projects reviewed and their outcomes in deployment.
- A regular process to **collate and disseminate** strategic and operational lessons, based on the recommendations and outcomes of the review process, for the benefit of regulators, the public sector organisations in question, and commercial suppliers of AI.
- A review structure that is **embedded** within the technical development/acquisition process, appropriately resourced, and championed by the relevant organisation(s) including by senior leadership and political oversight.

We would be delighted to meet officials and Ministers to discuss further how the experiences of the Committee could inform the Government's approach to AI regulation, and would extend an invitation to officials and Ministers to observe a meeting of the Committee should they wish to do so.

Yours faithfully

Prof. Marion Oswald, MBE
Chair, West Midlands PCC and West Midlands Police Data Ethics Committee

Prof. Anindya Banerjee
Committee Member, Professor of Econometrics and Head of Department of Economics, University of Birmingham

Derek Dempsey, FRSA
Committee Member, Director, Empyrric

Malcolm Fowler
Committee Member, Criminal defence solicitor and Higher Court Advocate (non-practising)

Prof. Pete Fussey
Committee Member, Professor and Co-Director Human Rights, Big Data and Technology Project, University of Essex

Dr Jamie Grace
Vice-Chair, West Midlands PCC and West Midlands Police Data Ethics Committee

Jennifer Housego, MA (Analytics, Intelligence & Media) FCLIP (Hon), DMS, LLB
Committee Member, Head of Digital Change, Continuous Improvement & Analysis Directorate, Essex Police

Tom McNeil
Committee Founding Member, Assistant Police & Crime Commissioner for the West Midlands

Dr Claire Paterson-Young
Committee Member, Associate Professor, Institute for Social Innovation and Impact, University of Northampton

Prof. Simon Rogerson
Committee Member, Professor Emeritus in Computer Ethics

Prof. Tom Sorell
Committee Member, Professor of Politics and Philosophy, University of Warwick

Siân Thomas
Committee Member, Lecturer and Registered Social Worker, School of Social Policy, University of Birmingham