



Protective marking:	Official until date of publication
Publication scheme Y/N:	No
Title:	MPS Policy - Retrospective Facial Recognition System.
Version:	Version 1.0
Summary:	Establishes policy and standard operating procedures for the use of the MPS Retrospective Facial Recognition System.
Branch/ OCU:	MPS FR
Review date:	24 th August 2025

MPS POLICY - RETROSPECTIVE FACIAL RECOGNITION SYSTEM

1 Introduction, Aim and Scope

Introduction

- 1.1 Retrospective Facial Recognition (RFR) is used by the Metropolitan Police Service (MPS) as an after-the-event capability to help officers establish who a person is or whether their image matches against other images held by policing in order to help progress investigations and operations. It helps officers work more efficiently and effectively to keep Londoners safe.
- 1.2 This policy (Policy) provides direction to use, using and approving the use of RFR and explains the standard operating procedures which apply to the use of the MPS RFR System. Compliance with the Policy will help ensure a consistent approach to the use of this policing tool across the MPS.

Aim & Scope

- 1.3 This Policy aims to:-
 - a) provide MPS personnel and members of the public with information about the MPS’s present strategic, operational and technology objectives for the use of RFR such that it enables the MPS to achieve its law enforcement purposes; and
 - b) provide MPS personnel with direction as to the images used for RFR searches and the considerations and safeguards which apply to their use; and
 - c) establish the governance structure for the use of RFR, ensuring that MPS use of RFR is appropriately governed and legally compliant; and

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- d) as part of a published suite of documents, assist the public to understand the standards the MPS, as a public body, operates to. In doing so, the MPS provides details about the approval processes and requirements to use RFR, details what images may be used by RFR, and the considerations and constraints relevant as to the use of RFR.

1.4 This Policy is structured as follows:-

- a) **Part A:** What images can be used for RFR Searching?
- b) **Part B:** How should an RFR Search be undertaken?
- c) **Part C:** Governance and oversight arrangements.

1.5 This Policy relates only to the use of MPS's RFR System. Facial recognition technologies have a number of potential applications within a law enforcement context. These deployment methodologies and the names adopted for each by the MPS are summarised at Annex B to this policy in order to provide MPS personnel and the public with an overview of terminology, as well as to ensure precision and consistency when referring to various facial recognition technologies.

Strategic Objectives

1.6 The MPS will:-

- a) use RFR technology in a responsible way to help officers efficiently and effectively establish who a person is or whether their image matches against other images held by policing in order to help progress investigations and operations in accordance with the MPS's statutory and common law policing powers; *and*
- b) strengthen and develop RFR technology capability to protect the public, reduce serious crime, to help safeguard vulnerable persons, to uphold professional standards and to keep London safe for everyone; *and*
- c) build public trust and confidence in the development, management and use of RFR by taking account of privacy and performance considerations whilst maximising transparency without unduly compromising investigations; *and*
- d) maintain good governance, with clear decision making and accountability; *and*
- e) ensure that RFR is used in compliance with all applicable legal requirements, and that it meets the oversight and regulatory framework; *and*
- f) transparently identify, manage and mitigate reputational and organisational risk to the MPS; *and*
- g) be recognised as a responsible, exemplary and ethical organisation.

Operational Objectives

1.7 The MPS will:-

- a) use RFR technology to deliver faster resolutions through the efficient use of imagery to locate relevant investigatory leads for policing to action - this technology can avert the need for consuming manual reviews of extensive imagery or the use of other (potentially more intrusive) tactics which might otherwise be necessitated to generate a lead; *and*
- b) use RFR technology to deliver more successful resolutions through the effective searching of imagery in order to return investigatory leads for further analysis – this

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technology can propose Potential Matches for further analysis which might otherwise not have been made.

Technological Objectives

- 1.8 The MPS will:-
- a) ensure all RFR technology is fit-for-purpose and used in line with strategic intentions and operational objectives; *and*
 - a) provide ongoing technical oversight and evaluation into the effectiveness of the technology as a policing tactic to support investigations and operations; *and*
 - b) look to technology improvements whilst keeping the MPS model under review.

Use Case

- 1.9 This Policy relates to the use of RFR as an after-the-event capability to help officers establish who a person is or whether their image matches against other images held by policing in order to help progress investigations and operations. It helps officers work more efficiently and effectively to keep Londoners safe. Non exhaustive examples of how RFR technology may do this include:
- a) To aid investigations by providing a lead as to the potential identity of a subject, confirming where a subject appears within a set of imagery, or establish who a person is pictured as having been associated with; *and*
 - b) Use in the custody environment to help ensure the early flagging of risks to officers and ensuring links are made to others' investigations where the subject is also of interest to the police; *and*
 - c) To aid the identification of the deceased, grievously injured or unresponsive including so as to assist with making timely contact with family members.

The technical operation of RFR

- 1.10 The technical operation of RFR can be summarised as follows in relation to a typical search of a single Probe Image:

1	Image Reference Library Enrolment Where the RFR Approving Officer has sanctioned the use of an Image Reference Library, it is 'enrolled' into the RFR System. This process sees the RFR System produce a template for each image based around extracted key facial features in order that the library can be searched.
2	Facial image acquisition Following completion of a MPS RFR Form 3, an approved RFR System User will start the process to enrol the relevant Probe Image into the RFR system.
3	Facial detection The RFR System pre-processes the Probe Image and detects the face(s) in the image. Where there are multiple faces in an image, or a single face is not detected by the RFR System, the results are presented for input by the RFR System User. The RFR User will consider if the face(s) presented/manually selected are relevant to the purpose of the RFR Search. At this point biometric processing has not occurred in relation to the Probe Image – the activity is seeking to flag faces present within an image, not to uniquely identify them. This is a data protection

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	by design feature which ensures the relevance of data processing in relation to the searching that follows.
4	Face selection The RFR User selects only the face(s) from the Probe Image which are relevant to their RFR Search.
5	Feature extraction From each face(s) selected by the RFR User, the RFR System produces a Biometric Template based around extracted key facial features.
6	Face comparison The RFR software then compares the Biometric Template(s) of the Probe Image against the Image Reference Library.
7	Matching When the Biometric Template(s) from the Probe Image are compared to the Image Reference Library, the RFR System generates a similarity score against each image comparison. This is a numerical value indicating the extent of similarity, with a higher score indicating greater points of similarity. The results (including the similarity score) will be presented to authorised RFR Users who will review and determine if a Viable Match has been returned and what, if any, further action is required.

2 Document Edit History

- 2.1 As a living document, this Policy will be subject to periodic review, on at least an annual basis. It is likely to be amended as the technology develops further and as the circumstances relating to RFR Searches evolve.

Version	Date	Additions/Modifications
Version 1.0	24/08/23	Final document.

3 Terminology

- 3.1 Within the MPS and throughout the MPS RFR Documents, the following terms and definitions apply:

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Adjudication	means a human assessment of a Potential Match generated by the RFR System to determine if the Potential Match should be considered to be a Viable Match or not.
Temporary Image Reference Library	is an Image Reference Library created for a discrete purpose linked to a specific investigation or operation as more particularly described at paragraph 5.5(b)i) of this Policy.
Biometric Template or Template	is a digital representation of the features of the face that have been extracted from the facial image. It is these Templates (and not the images themselves) that are used for searching. Note that Templates are proprietary to each facial recognition algorithm and new Templates will need to be generated from the original images if the algorithm is changed.
Environmental Factor	is an external element that affects RFR system performance such as dim lighting, glare etc. in the images.
Facial Recognition (FR)	is a technology which works by analysing key facial features, generating a mathematical representation of these features, and then comparing them against the mathematical representation of known faces in a database generating possible matches. This is based on digital images (still or from live camera feeds).
Image Reference Library	means a gallery of images (be it single capture or a frame extracted from media) or short video against which Probe Images can be searched by the RFR System in order to seek Potential Matches. In wider usage terms such as 'gallery' or 'image gallery' are often used to refer to Image Reference Libraries.
MPS RFR Form 1	means the form to apply for and approve the use of a Substantive Image Reference Library.
MPS RFR Form 2	means the form to apply for and approve the use of a Temporary Image Reference Library.
MPS RFR Form 3	means the form to be completed by an RFR User undertaking a search or by the person tasking the RFR User to initiate a RFR Search.
MVP	means the Minimum Viable Product RFR System this is the system that will be used at "go live" in August 2023. The extent of the functionality and systems will be limited and certain Probe Searches will not be possible until the completed system is released. The MVP RFR System contains all the safeguards referred to in the DPIA.
Potential Match	means the results returned as a result of the RFR Search. Such returns are not conclusive and fall to a human-in-the-loop Adjudication process.
Pre-RFR Check	means options which may result in lower levels of intrusion than an RFR Search as further outlined at paragraph 8.16 of this Policy.
Probe Image	means the facial image submitted for a facial search using the RFR System.
Probe Images Collection	means a collection of Probe Images either held for a common purpose or sharing a common characteristic(s) or both.
RFR Approving Officer	means in the case of a Substantive Image Reference Library, the Senior Responsible Officer for RFR in line with paragraph 5.5(a)iii) of this Policy, and in the case of a Temporary Image Reference Library, and officer of at least superintending rank in line with paragraph 5.5(b)ii) of this Policy.
RFR	means the use of facial recognition where media is analysed after the event. The result of such analysis would come sufficiently after the

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	event such that they could not shape events to which the media related in real time.
RFR Search	means the use of the MPS RFR System to seek Potential Matches between a Probe Image and at least one Image Reference Library.
RFR Search Grounds	means the grounds under which RFR Searching may proceed as further described at paragraph 8.3 of this Policy.
RFR Search Purpose	means the purposes for RFR Searching, at least one of which must exist as further described at paragraph 8.2 of this Policy.
RFR System	means the NEC Neo Face Reveal retrospective facial recognition system as used by the MPS (currently in MVP format).
RFR User	means an authorised user of the MPS RFR System.
Subject Factor	means a factor linked to the individual. For example, the individual is wearing a head covering, is smoking, eating, or looking down at the time of passing the camera.
System Factor	means a factor relating to the RFR system such as the algorithm
Substantive Image Reference Library	means a standing image library with value across investigations and operations and is made available to MPS personnel (or a unit or team within the MPS) for RFR Searching as more particularly described at paragraph 5.5(a)i) of this Policy.
Tiers	Means the tiers of offences referred to in Annex C of this RFR Policy which are used to determine the retention of images within the Unresolved Crime Cache (when this searching is activated).
Unresolved Crime Cache	is a collection of Probe Images where the RFR Search Purpose and RFR Search Grounds continue to exist following an initial RFR Search such the images are subject to ongoing periodic RFR searching against new material added to the relevant Image Reference Libraries in line with paragraph 6 of this Policy. RFR Searching of the Unresolved Crime Cache will not be available at the point the MVP RFR System is brought into operation.
Urgency	<p>means, in the context of undertaking a RFR Search and/or approving the use of an Image Reference Library (as applicable), a requirement that is related to a case where:</p> <p>a) a risk to life and/or risk of harm (including to person and/or property) situation arises where the assessment of threat, harm and risk and the importance of using RFR favours acting with urgency when balanced against:</p> <ul style="list-style-type: none"> i. the impact of awaiting the results of a Pre-RFR Check in the context of an RFR Search; and ii. the impact of awaiting following the routine process to approve an Image Reference Library; <i>and/or</i> <p>b) intelligence/investigative opportunities are reasonably anticipated to be lost if the assessment of threat, harm and risk and the importance of using RFR favours acting with urgency when balanced against:</p> <ul style="list-style-type: none"> i. awaiting Pre-RFR Check results prior to moving to undertake an RFR Search; or

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	ii. pursuing the routine process to approve an Image Reference Library.
Viable Match	means a Potential Match, where following Adjudication, the RFR User has determined the similarity between the Probe Image and the image from the Image Reference Library to be a match.

PART A: 'WHAT' - What Images can be used for RFR Searching?

4 Probe Images

Sources of Probe Images

- 4.1 This part covers the circumstances when Probe Images may be subject to RFR Searching. In deciding if a Probe Image meets the criteria to enable a RFR Search to take place, those responsible for requesting/approving RFR Searching must:
- a) have regard to the nature and importance of the investigation and/or operation together with any intelligence that supports the policing need to undertake a RFR Search in order to ensure that the image(s) proposed for RFR Searching meet the necessity and proportionality criteria for a RFR Search to take place; *and*
 - b) only use Probe Images lawfully held by the MPS with consideration also being given as to the legal basis under which the Probe Image has been acquired; *and*
 - c) have regard to the source of the Probe Images, particularly where they are derived from a sensitive or third-party source and may risk compromising that source or exposing that source to risk; *and*
 - d) reflect in the decision making for a search, factors such as the Probe Image is taken in conditions where the subject is non-compliant or otherwise obtained in circumstances where there are elevated privacy conditions (see paragraphs 4.2 onwards for further guidance); *and*
 - e) must only use Probe Images where;
 - i. reasonable steps have been taken to ensure that the Probe Image is the most up to date and/or suitable image available to the police at the time RFR Searching is being considered; *and*
 - ii. reasonable steps have been taken to ensure that Probe Images are of a suitable quality for RFR Searching. Regard should be given to the prospect of the RFR system returning a Viable Match. The RFR system supports this by assessing Probe Images for searching to ensure they are of suitable quality and indicates those that may pose issues to the RFR User for a resolution.
- 4.2 Where Probe Images are used for RFR Searching, there is a need for careful consideration on the facts of the case to fully reflect the privacy expectations that attach to the Probe Image(s). Relevant factors in that assessment include the purpose for which the police hold such images, any processing limitations attached to the images, the importance of

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undertaking the RFR search using that Probe Image in order to meet a policing objective and the proportionality of using the Probe Image notwithstanding the expectations of privacy that attach to it.

4.3 Where it is viable to do so without unduly impacting on the performance of the RFR system and the objectives of undertaking an RFR search, suitable, compliant police-originated images should be preferred for RFR Searching. As per the Image Matrix at Annex A to this policy, these images have the lowest expectations of privacy and have the highest levels of foreseeability in terms of their use by the MPS. However, there will be occasions where no compliant image is held by the MPS or the wider law enforcement community, or if one is held:

- a) its quality or currency is not optimal for facial recognition purposes; *or*
- b) it would not address the policing need where other images if held, and if a Viable Match is returned, would.

This may be the case where the context of a particular image itself has significance and should a Viable Match against that image get returned by the RFR system, it places an individual at a location, with other people of significance to the MPS, and/or it would otherwise confirm the actions or conduct of a subject.

4.4 In these circumstances, to ensure the level of intrusion attached to undertaking a RFR Search using a Probe Image is minimised, particularly in the context of the expectations of privacy that attach to that Probe Image, consideration may be given to the use of other Probe Images for RFR Searching. This requires application of the Image Matrix at Annex A and prioritising those with the lowest expectation of privacy first.

4.5 RFR Users will confirm the level applicable to a Probe Image(s) on the MPS RFR Form 3. This process allows an approach which directly informs the safeguards applicable to the RFR Search being contemplated and the approval level which applies. This approach allows for any further contextual points relevant to a particular search to be considered and an opportunity to recognise that elevated privacy considerations attach to a Probe Image which, in their judgment, mean its overall intrusiveness is commensurate with being placed in a higher level on the Image Matrix than would otherwise be the case.

Specific considerations relating to protected characteristics

4.6 The MPS recognises that regardless of any performance considerations of the RFR system, there is a need to take particular care when considering age (including the protection of children – particularly the very young, (ii) those with a relevant disability¹ and (iii) those who have and/or are undertaking a gender reassignment². This is because:

¹ A relevant disability in this context means those with a disability (as the term is defined in section 6(1) of the Equality Act 2010) and that such a disability may impact on the performance of the police force's RFR system. Examples which may have an impact (depending on the performance characteristics of the specific RFR system) include if the subject has suffered a facial injury, undergone facial surgery, has a degree of facial trauma or is of a particular bearing which inhibits their facial features from being recognised.

² In this context means those with who had and/or are undertaking gender reassignment (as the term is defined in section 7(1) of the Equality Act 2010) and that the gender reassignment may impact on the performance of the police force's RFR system. This is more likely where a less recently taken Probe Image is being considered such that it would pre-date corresponding images in an Image Reference Library.

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- a) There may be different privacy expectations around the use of RFR³ and that these can be particularly relevant in relation to these people given their potential vulnerability⁴.
- b) The MPS recognises that those involved in criminality have the wherewithal and capability to exploit information to their advantage. This may arise if there is a published performance differential that shows a lower performance level in relation to a particular protected characteristic.

4.7 Specific safeguards regarding Probe Images: The following outlines further, specific safeguards that apply to the use of certain Probe Images:

	Age (U. 18)	Age (U.16)	Age (U.13)	Disability	Gender Reassignment
Circumstances relating to the Probe Image					
	Subject is suspected to be aged under 18 at the time of the RFR Search.	Subject is suspected to be aged under 16 at the time of the RFR Search.	Subject is suspected to be aged under 13 at the time of the RFR Search. The MVP RFR System will not be used for searching where the subject is suspected to be under 13 at the time of the search.	Subject is suspected to have a relevant disability	Subject is one where it is suspected that the Probe Image pre-dates the undergoing or completion of a gender reassignment
Additional safeguards					
Approval	RFR User	RFR Search request requires endorsement by inspecting	The above categories must be approved by an officer of at least Inspecting rank. Nb. Search of under-13s will not be possible using the MVP Version of the RFR System.		

³ For example, in relation to gender reassignment, see Section 22 of the Gender Recognition Act 2004 which protects disclosures other than in certain specific circumstances which include where the disclosure is necessary for the purposes of preventing or investigating crime.

⁴ For example, in relation to children, see: <https://www.app.college.police.uk/app-content/detention-and-custody-2/detainee-care/children-and-young-persons/#children-and-young-persons> which is in the context of detention and custody but notes children and young people are a protected group with specific vulnerabilities. Their treatment in detention is governed not only by domestic legislation but also by the [UN Convention on the Rights of the Child \(UNCRC\)](#);

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		rank or higher	
Specific Advice			Specific advice must be sought from the MPS FRT team from a technical perspective and, if they deem appropriate, the Directorate of Legal Services. Where approval is then sought, this advice needs to be provided to help inform decision making.
Offence limits in relation to Probe Image Subjects where search is in relation to a suspected offence	Any offence	Recordable Offences, as defined in PACE 1984	Public protection matters ⁵ . (Nb. U-13 searching not possible using MVP RFR System.)
		See para 8.3 and 8.6 of this Policy.	
Necessity	Specific regard needs to be had for the importance of locating the subject on a risk-based approach in line with the MPS RFR Documents with a particular focus on ensuring the necessity case is fully made out.		
Image	There is a particular need to ensure that the image is a current as possible and of a suitable quality for use as a Probe Image.		
		Additional controls on retention apply – see para 7.1 of this Policy.	

4.8 In all cases, the impact on the individual(s) and in particular the expectations of privacy should be balanced against the importance of undertaking the RFR search and the prospects of generating accurate matches against an Image Reference Library to ensure the necessity and proportionality of the RFR Search is fully made out.

5 Image Reference Libraries

5.1 This section covers:

- a) the approval of Image Reference Libraries; *and*
- b) the appropriate selection and use of Image Reference Libraries when undertaking RFR Searching.

Image Reference Libraries - Intrusion

5.2 This Policy outlines the considerations relevant to selecting a Probe Image for RFR Searching. As noted by the MPS RFR Legal Mandate, the act of RFR Searching against an Image Reference Library engages Article 8 privacy considerations and involves biometric data processing.

⁵ MOPI Group 1.

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- 5.3 The level of intrusion caused by RFR Searching against an Image Reference Library is negligible if, and until a Potential Match is returned by the RFR system for consideration by the RFR User. The level of intrusion changes at the point Adjudication is undertaken (see paragraph 8.23 onwards for policy in relation to the Adjudication process). Adjudication involves a human assessment as to the viability of a Potential Match which may be supported by other materials and investigations. This process carries with it a greater level of intrusion than the mere act of RFR Searching against an Image Reference Library both in terms of investigating the Potential Match and the revelatory nature of any Viable Matches. In this light, it is important that any decision to undertake an RFR Search considers if it is necessary and proportionate to undertake the RFR Search process as a whole – including Adjudication. It would not be justifiable to undertake an RFR Search only to conclude that the necessity and proportionality attached to the policing need did not justify the action(s) that could be reasonably foreseen from the outset as being needed to Adjudicate and then act on the results of an RFR Search.
- 5.4 At a policy level, this Policy Document:
- a) has implemented an approval process for all Image Reference Libraries proposed to be made available for RFR Searching; and
 - b) outlines how expectations of privacy should be categorised at a policy level in relation to approving a Reference Image Library for RFR Searching and by RFR Users/Approvers when assessing the necessity and proportionality to undertake an RFR Search;
 - c) implements controls in relation to the 'What' section which implement safeguards and controls as to when Probe Images can be used to RFR Search against Image Reference Libraries.

Types of Image Reference Libraries and who approves their use for RFR Searching

- 5.5 There are two different types of Image Reference Library that may be used for RFR Searching - Substantive Image Reference Libraries and Temporary Image Reference Libraries. Both require an approval to be in place for RFR Searching prior to use.
- a) **Substantive Image Reference Libraries:**
 - i. **What are they?** Image Reference Libraries are standing image libraries made available to MPS personnel (or a unit or team within the MPS) and unlike Temporary Image Reference Libraries, are not created for a specific investigation or operation.
 - ii. An example of a Substantive Image Reference Library which has been approved for RFR Searching by the MPS SRO for RFR at the point of commencing the RFR capability is the MPS custody image dataset⁶.
 - iii. **Who approves the use of a Substantive Image Reference Library approved for RFR Searching?** Substantive Image Reference Libraries require the approval of the MPS SRO for RFR prior to any RFR Searching being undertaken. The MPS SRO will be the deciding authority supported by advice and input from FRT

⁶ The SRO has issued direction as to images that should be ingested should be subject to additional safeguards beyond those adopted under MOPI reflective of the policing use case for RFR and proportionality considerations.

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Strategic Board members (which includes expertise from a technical, legal, personal data, equalities and user perspective). This ensures, at a strategic level the policing need can be balanced against the intrusion that may result from allowing RFR Searching to take place.

b) **Temporary Image Reference Libraries:**

- i. **What are they?** A Temporary Image Reference Library is created for a discrete purpose linked to a specific investigation or operation. Such libraries may see images collated by the MPS including following a public appeal or another investigatory technique. The management and retention of image collections is a distinct undertaking from any RFR Searching against an ingested Image Reference Library and accordingly falls outside the scope of this policy.
 - ii. **Who approves the use of a Temporary Image Reference Library approved for RFR Searching?** Unlike Substantive Image Reference Libraries, Temporary Image Reference Libraries are not available beyond a relatively small number of people involved in a specific investigation or operation. A Temporary Image Reference Library does not meet an ongoing policing requirement generally but is time-limited to meet the needs arising from a specific investigation or operation. Accordingly the privacy considerations, scope and scale of any potential use and safeguards needed are different and relate to a specific operational policing use-case.
 - iii. The use of a Temporary Image Reference Library for RFR Searching requires the prior approval of an officer of at least Superintending rank. They are the deciding authority and may take advice and input from members of the MPS RFR team from a technical perspective, the Directorate of Legal Services from a legal perspective and the Data Protection Officer in terms of the data being processed. They may also seek input from FRT Strategic Board members.
 - iv. Whilst the decision to approve a Temporary Image Reference Library is an operational one, if approval is granted, a copy of the MPS RFR Form 2 should be provided to the Operational Lead for FR and FR Team who will retain for their records and carry out subsequent reviews in line with governance measures.
- Temporary Approval process to use Image Reference Libraries

5.6 Those with a request to make:

- a) a further Substantive Image Reference Library available for RFR Searching should complete a MPS RFR Form 1 and submit it to the FR Technology Board for consideration as to approval by the SRO for RFR;
- b) a Temporary Image Reference Library available for RFR Searching in the context of a specific investigation or operation only should complete a MPS RFR Form 2 and submit it to an RFR Approving Officer of at least Superintending rank.

5.7 The use of the MPS RFR Form 1 and MPS RFR Form 2 ensures that all requests to use an Image Reference Library for RFR Searching are fully articulated with the application and approval process articulating:

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- a) the legal basis for the use of the Image Reference Library and the provisions under which the images are presently lawfully held;
- b) how the images in the Image Reference Library were obtained and the expectations of privacy that attach to them;
- c) the nature and composition of the Image Reference Library including:
 - i. the quality of imagery maintained in the library and its suitability for RFR Searching; and
 - ii. whether elevated expectations of privacy or wider human rights considerations arise;
- d) the necessity and proportionality to make the Image Reference Library available for RFR Searching both in terms of intrusion that is likely to result and the data processing involved;
- e) how the use of the Image Reference Library will be monitored and assured, both in terms of ensuring appropriate access, security and use as well as measuring the benefits of utilising it for RFR Searching; *and*
- f) if the RFR Approving Officer grants approval, their approval will include:
 - i. a rationale for approval;
 - ii. any security and/or access requirements attaching to the Image Reference Library;
 - iii. the applicable Image Level attributed to the Image Reference Library per the Image Matrix at Annex A;
 - iv. any safeguards, actions, conditions or restrictions that attach to the approval and/or use of the Image Reference Library;
 - v. a period after which the approval will fall for review which will be at least annually in the case of Substantive Image Libraries and in the case of Temporary Image Reference Libraries an initial period of 31 days and thereafter, on a not less than 6 monthly basis. A record of reviews which support continued use of an Image reference Library will be provided to the Operational Lead for FR. They will cite the review outcomes to the FRT Board to ensure strategic oversight is maintained in line with the governance measures described in the MPS RFR Policy Document.

5.8 Should a further law enforcement purpose be identified that falls outside of the scope of approval for an Image Reference Library, it is not permissible to undertake RFR Searching in respect of that purpose unless it is further approved in line with this MPS RFR Policy Document. Such approval would need to consider the lawfulness, strict necessity and proportionality of using RFR to search against that Image Reference Library in line with the further approval sought.

Cases of urgency when approving the use of an Image Reference Library

5.9 In cases of urgency, the RFR Approving Officer may approve the use of an Image Reference Library verbally, subject to recording their rationale in writing as soon as reasonably

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practical. In any event the nature of the information provided and the scope of any approval should be consistent with the MPS RFR Form 1 / Form 2 (as applicable) and this MPS RFR Policy Document.

- 5.10 Additionally, in cases of urgency relating to Temporary Image Libraries, an officer of below the rank of Superintendent, but not below the rank of Inspector may approve the use of a Temporary Image Reference Library in support of a specific investigation or operation if they are also satisfied that such approval is required as a matter of urgency. It shall then be the duty of officer granting approval to inform an officer of at least Superintending rank as soon as practicable that a Temporary Image Reference Library has been approved and the reasons why. It is for the officer of at least Superintending rank to then decide whether to continue that approval, vary it, or direct that the use of the Temporary Image Reference Library must stop.

Assessing the nature of an Image Reference Library

- 5.11 This section is relevant to those approving the use of Image Reference Libraries in accordance with paragraphs 5.5 to 5.10 of this Policy Document and those requesting and undertaking RFR Searches. It is necessary in both contexts to ensure both at a policy level and a case-by-case level that the use of an Image Reference Library is relevant to the policing need as well as being necessary and proportionate notwithstanding the intrusion involved and the expectations of privacy that may attach to those whose image is held within it.

- 5.12 In order to provide:

- a) direction to officers approving the use of Image Reference Libraries in order to assess the nature of any intrusion that attaches RFR Searching it; and
- b) a structured approach for those undertaking RFR Searches to minimise intrusion to that which is strictly necessary and proportionate,

the MPS has established a tiered approach to Image Reference Libraries which can be found in the Image Matrix at Annex A.

- 5.13 For RFR Users the level applicable to a particular RFR Image Reference Library will be confirmed as part of the searching process. This process allows an approach which directly informs the safeguards applicable to the RFR Search being contemplated and the approval level which applies. This approach allows for any further contextual points relevant to a particular search to be considered and an opportunity to recognise that elevated privacy considerations attach to an Image Reference Library which, in their judgment, mean its overall intrusiveness is commensurate with being placed in a higher Image Matrix level than would otherwise be the case.

- 5.14 **Approach to RFR Searching:** When undertaking an RFR Search and determining which Image Reference Libraries to search against, it is important to consider:

- a) the relevance of the Image Reference Library;
- b) the expectations of privacy that attached to an Image Reference Library;
- c) the urgency of the requirement to undertake an RFR Search in the context of the policing need.

- 5.15 **Relevance:** Those requesting/undertaking/approving a RFR Search need to consider the relevance of the Image Reference Library to their RFR Search Requirements and ensure

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searches against Image Reference Libraries relevant to the policing need are undertaken. By way of example, there would be little point in searching an Image Reference Library based on custody images if it is already established that the person of interest has not previously been detained by the police.

- 5.16 **Expectations of Privacy:** To ensure the level of intrusion attached to undertaking the use of an RFR Image Reference Library is minimised, searching against Image Reference Libraries with the lowest expectations of privacy should be preferred in the first instance (in addition to the Unresolved Crime Cache). Where an absence of results against less intrusive but relevant Image Reference Libraries and the importance of the policing need justifies the progressive use of RFR Searches against Image Reference Libraries with a higher expectation of privacy, these may be undertaken in line with this Policy Document. This approach and safeguard minimises intrusion by adopting a progressive approach to searching Image Reference Libraries.
- 5.17 **Urgency:** There may be situations of urgency where proceeding to search against relevant Image Reference Libraries from a point of lowest intrusively would not meet the policing need sufficiently quickly. Whilst the majority of cases will not give rise to a 'search all' approach (or an approach nearer to it), this may be justified in cases of urgency notwithstanding the more intensive data processing this involves and the rationale for this action should be recorded as part of the RFR Search.

6 Unresolved Crime Cache

6.1 Image Reference Libraries are managed and updated in order to ensure their currency. Image Reference Libraries are also updated in light of new information received. Accordingly where a Probe Image has been submitted for a RFR Search and:

- a) it does not return a Viable Match; *and/or*
- b) only provides limited policing information – for example a match is deemed viable but it is against image of an unknown person,

in certain circumstances it is permissible for the Probe Image to be added to the Unresolved Crime Cache to provide for ongoing periodic RFR searching against new material added to the relevant Image Reference Libraries. This functionality will not be available in the MVP RFR System at 'go live', however.

6.2 In recognition of the ongoing data processing and further intrusion involved in this action, Probe Images will only be added to the Unresolved Crime Cache where the basis for a RFR Search continues to be made out and at least one of the grounds in paragraph 8.3 continues to apply.

7 Retention of Data

7.1 The MPS must ensure that the processing of any data by the RFR system is conducted in a lawful way and in compliance with the MPS RFR Documents. This means that:-

- a) Information pertaining to the submission and searching of Probe Images and the use of Image Reference Libraries (including the image, associated biometric image template, and meta data relating to that image e.g. crime type) will be retained:

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- i. in accordance with the Data Protection Act 2018, MOPI, the Criminal Procedures and Investigations Act 1996; *and / or*
 - ii. personal data is retained in accordance with the MPS's complaints / conduct investigation policies.
- b) The above provisions represent upper limits. In line with MOPI there is a need for consideration as to the case for retention in the circumstances surrounding the RFR Search, and if elevated privacy of apply such that a lower retention period should be adopted. In this vein, and to support officers and ensure consistent decision making in certain areas, the following additional safeguards apply:

- i. In relation to different age groups and having regard to the currency of images for an RFR Search, the following additional provisions apply when interpreting MOPI in relation to the retention of data in the RFR System:

Subject age		MOPI 3	MOPI 2	MOPI 1
Under 13 years old	Image Reference Library	Not in scope for RFR Searching	Not in scope for RFR Searching	Not in scope for RFR Searching
13 – 15 years old	Image Reference Library		Up to 10 years from image capture	Up to 10 years from image capture
16 – 18 years old	Image Reference Library	Up to 3 years from image capture	Up to 10 years from image capture	Up to 10 years from image capture
Over 18	Image Reference Library	Up to 6 years from image capture		

- ii. In relation to Image Reference Libraries, should an authorisation for use expire, the Image Reference Library will be made unavailable for RFR Searches as of the data of expiry and deleted from the RFR System as soon as possible and in any event, within 31 days.
- iii. In relation to Probe Images where a Viable Match is returned, the purpose for the RFR Search has been completed and subject to paragraph 7.1(a) concerning disclosure obligations as they may arise, the Probe Image is no longer required in the RFR System and as a result deletion will occur within 31 days of the RFR Search.
- iv. In relation to Probe Images, where a Viable Match is not returned:
 - A. Unresolved Crime Cache (when activated): there is a requirement to remove the Probe Image where the policing purpose has been resolved by other means. Personnel will additionally be required to review Probe Images in RFR System every 3 months for Tier 3 offences, 6 months for Tier 2 and 9 months for Tier 1 after submission to ensure the continuing need for the RFR Search. The Tiers are set out in Annex

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C and have themselves been subject to a DPIA assessment as part of the FIMS facial library DPIA.

- B. Where no further RFR Searching is required, deletion from the RFR System will occur within 31 days of the RFR Search.

PART B: 'HOW' – How should an RFR Search be undertaken?

8 Using the RFR System

8.1 This section covers:

- a) the purposes and grounds under which RFR Searching may take place;
- b) the RFR Search process;
- c) the approvals that attach to undertaking a RFR Search;
- d) how results are returned, Adjudicated and the status of any viable RFR Matches in the context of an investigation or operation; *and*
- e) points concerning the dissemination of results.

RFR Search Purposes

8.2 Recognised RFR Search Purposes are those where, if a Viable Match is returned:

- a) it offers an investigative lead to support efforts to advance the process of seeking to identify an individual in a Probe Image;
- b) it places an individual at a particular location, potentially at a particular date/time;
- c) it places an individual in association with other people of significance to policing, and/or
- d) it would otherwise aid confirming the actions or conduct of an individual.

Grounds for the RFR Search

8.3 Probe Images that may be deemed appropriate for RFR Searching comprise those of people who are, or who are suspected of:-

- a) being wanted by the courts; *and/or*
- b) having committed, is committing, or where there is reason to suspect that the individual depicted is about to commit an offence or is otherwise the subject of an active investigation; *and/or*
- c) being subject to bail conditions, court order or other restrictions that would be breached if they were at the location in the Probe Image and the time it was taken; *and/or*
- d) being a missing person deemed increased risk; *and/or*
- e) presenting a risk of harm to themselves or others; *and/or*

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- f) deceased⁷, grievously injured or unresponsive; *and/or*
- g) who are a victim of an offence, a person who the police have reasonable grounds to suspect that person would have information of importance and relevance to progress an investigation, or is otherwise a close associate of an individual and that individual themselves would fall within paragraphs (a) - (f).

Interpretation points

- 8.4 **'Investigation'**. For the avoidance of doubt, where a Probe Image is suspected to be a police officer, staff, contractor 'investigation' may include an investigation conducted by the Department of Professional Standards.
- 8.5 **'Missing persons deemed increased risk'**. This term will be subject to the College of Policing definition of medium risk (or above) contained in Missing Persons APP. That is the risk of harm to the subject or public is assessed as likely but not serious. The harm can apply equally to the subject or any other member of the public.
- 8.6 **'Offence'**. In relation to those aged under 16, 'offence' in this context must be limited to those offences which fall within the definition of a Recordable Offence as set out in PACE 1984. For those under 13, 'offence' in this context must be limited to the most serious offences which fall in MOPI Group 1.
- 8.7 **'Presenting a risk of harm'**. Mitigating the risk of harm to themselves or to others will need to have a legal basis for action. 'Harm' can include a risk of harm arising in relation to a person's welfare and/or a financial harm including as a result of fraud or other dishonesty. It can also include 'Harm' in the context of posing a risk to national security.
- 8.8 The risk of harm will be informed by the investigation/operation and the intelligence which informs:
 - a) how undertaking an RFR Search against the Probe Image is considered to be **necessary** to manage the risk of harm identified; *and*
 - b) why the significance of the harm identified means it is **necessary** for the police to take action in order to manage the risk.
- 8.9 Additionally, undertaking an RFR Search will need a **proportionate** response to the need to manage the risk of harm. This would include considering:
 - a) any other less intrusive methods and whether they would be viable in the circumstance and what other, more intrusive methods would otherwise be necessary if RFR is not used; and
 - b) the importance of progressing the investigation/operation with reference to the threat, harm and risk⁸ which the RFR Search seeks to help address;

⁷ Particular legal considerations relate to the use of RFR Searching in connection with the identification of the deceased and the MPS RFR Legal Mandate should be reviewed.

⁸ Including for the purposes of taking preventative measures against the occurrence (or future occurrence) of the relevant threat, harm and risk.

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- c) whether the significance of the threat, harm and risk identified outweighs any expectations of privacy.

8.10 **‘Victim of an offence, a person who the police have reasonable grounds to suspect that person would have information of importance and relevance to progress an investigation, or is otherwise a close associate of an individual’.** This criteria includes a victim, a person who the police have reasonable grounds to suspect that person would have information of importance and relevance to progress an investigation, or a close associate (partner etc.) of an individual, and that individual who would themselves fall within paragraph 8.3 (a) – (f) of the categories that may be deemed appropriate for RFR Searching.

8.11 The threshold for running searches in relation to this category is necessarily higher to reflect the greater privacy considerations which attach when compared to those who directly fall within paragraph 8.3 (a) – (f). As a result, in addition to points relating to approval, when undertaking an RFR Search, there needs to be a recorded rationale as why RFR Searching in relation to a victim, witness or associate is **necessary** to help achieve the RFR Search Purpose and how a RFR Search generating a Viable Match would aid the progress of an investigation/operation.

8.12 The applicant would also have to be satisfied of the **proportionality** of using any Probe Image for any RFR Search. This would include considering:

- a) any other less intrusive methods and whether they would be viable in the circumstances; and
- b) the importance of using the Probe Image with reference to the threat, harm and risk that the RFR Search seeks to address; and
- c) expectations of privacy, not least as victims and witnesses may have decided not to come forwards to the police. They will also not be the subject of a police investigation themselves and therefore, the information they are believed to have must be assessed to be of value to the police, or it is otherwise critical to ensure their safety and/or the safety of others.

8.13 To assist MPS personnel and the wider public understand and foresee how this category may be used, the following are illustrative examples of where the need to undertake a RFR Search under this category may be made out:

Status	Example Circumstances
Victim	A member of the public has given the police a photo of a violent gang-related knife attack they witnessed. The victim has not been in touch with the police, or from local inquiries, sought medical assistance. RFR may be used to seek to aid the identification of the victim to process the investigation and to ensure the victim’s welfare.
Person reasonably suspected of having information	The angle of the only CCTV from an attempted child abduction does not show the faces of the perpetrators who remain at large. The footage does however show the faces of several witnesses who are reasonably considered to have seen the altercation, including one who appears to have been threatened by the assailants. If those people who are considered to have seen the offence can be identified and spoken to, and they are assessed by the MPS as having

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Status	Example Circumstances
	relevant information that could be vital to progress the investigation and help bring offenders who present a risk to society to justice.
Close associate	The MPS has received information that a person wanted for a serious sexual assault has been receiving phone calls from a close associate. They are using public phone boxes to remain in contact and support the perpetrator whilst they hide from the police. The MPS is seeking to establish who the associate is in order to progress the investigation and locate the perpetrator.

- 8.14 **‘Wanted by the courts’**. This term includes those with outstanding arrest warrants or who are otherwise required by the courts. The courts have already given consideration as to the necessity to locate these persons and given a direction that they should be apprehended.

Pre-Requisites to an RFR Search

- 8.15 To ensure that the necessity case is made out as regards intrusion (and the strict necessity case in terms of data processing), prior to an RFR Search being conducted, other than in cases of Urgency, any other less intrusive methods should have been considered as to whether they would be viable in the circumstances. RFR Searching may only occur where such methods have been exhausted or are otherwise considered unviable in the circumstances.
- 8.16 The process to seek/undertake an RFR Search requires confirmation as to consideration of less intrusive options which may be able to yield results prior to RFR Searching (termed Pre-RFR Checks) or that the case is one of Urgency. Whilst this is not a prescriptive list, as this will be determined by the policing issue at hand, less intrusive options may include:
- Pursuing other lines of investigation: for example, following up on an address given as being relevant to an offence which may resolve the identity of the subject of interest;
 - Local enquiries: to ascertain the identity of person in an image be it via local circulation within a policing team or through enquiries in the community – this does not include public appeals where the scale and impact of such appeal is likely to be more impactful and intrusive than an RFR Search ;
 - Open source checks: seeking to process the investigation by reference to publically available data without the need for biometric processing.

RFR Applications

- 8.17 Each Probe Image will need to be supported by a completed RFR Form 3. This form will be completed either by
- the person tasking the RFR User SPOC/FIMS to undertake the search using the Probe Image; or
 - in cases where the tasking is generated by business-as-usual requirements (e.g. FIMS undertaking searches) by the RFR User.
- 8.18 Prior to using a Probe Images Collection to search a specified Image Reference Library, a request for approval will be made to an officer of inspecting rank (or above) or equivalent

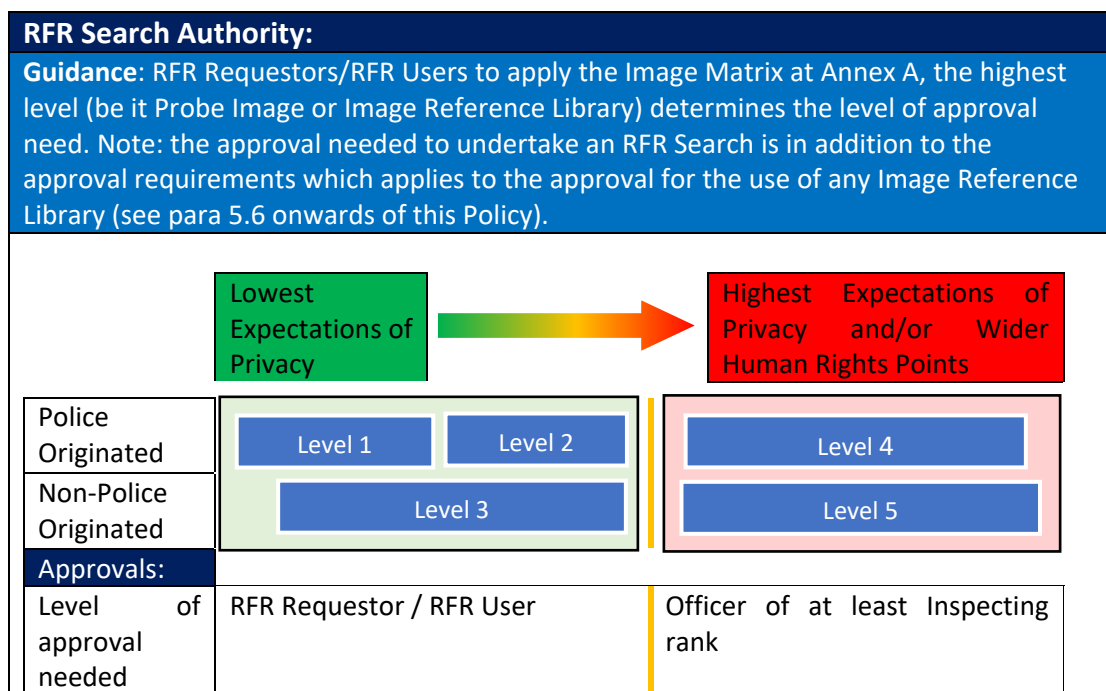
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for RFR Searching, such approval/rejection (made in writing) shall take account of the points set out in Annex A to the this Policy.

- 8.19 In either case the person completing the form will be prompted to consider the necessity and proportionality of the search and any factors which elevate privacy concerns or otherwise engage the Human Rights Act 2000.

RFR Search Approvals

- 8.20 An RFR Search can only occur with (i) a Probe Image and (ii) an Image Reference Library to search against – without this it is not possible to generate results. As a result, all RFR Searches are subject to approval in that the use of any Image Library has been sanctioned by the RFR Approving Officer.
- 8.21 As a further level of assurance, and whilst seeking to balance operational output with due oversight and governance, the MPS has implemented a requirement that Probe Images, (including additions to the Unresolved Crime Cache, when activated) and/or Image Reference Libraries with greater expectations of privacy are subject to individual approval by an officer of at least Inspecting Rank. The below table summarises where approval is required – the approval should be evidenced in the MPS RFR Form 3.



- 8.22 Where the perceived age of the subject is less than 16 years, but more than 13, the RFR Search should only proceed if it is endorsed by an officer of inspecting rank or higher. Where the perceived age of the subject is below 13, no RFR Search should be undertaken, pending further development of the RFR System.

Undertaking the search

- 8.23 **Ingesting imagery:** The process of how to ingest imagery into the MPS RFR system is defined in the MPS Reveal Training Guide (pages 35 – 43 detail how to upload images / videos to a case).
- 8.24 **Face detection:** The RFR Search system has a progressive search function that embeds privacy by design features to minimise unnecessary data processing and intrusion where

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images have multiple faces within them. As a result, when a Probe Image (including a short video) is submitted to the RFR System, it firstly seeks to detect faces displayed within the media. This process is not for the purposes of seeking to uniquely identify subjects and accordingly means biometric processing has not yet taken place during the search process. At this point, the RFR User should select only those faces of relevance to the RFR Search Purpose(s) and RFR Search Grounds in accordance with their justification for searching against an Image Reference Library.

Adjudication and results

- 8.25 **Adjudication:** When a search is undertaken, Potential Matches are returned to the RFR User. The Potential Matches are returned in rank number with the lowest number first. If required, the list of candidates may be ordered by Match number and descending first. Any Potential Match is not a definitive result, and merely presented to the RFR User for their consideration. It is the role of the RFR User to Adjudicate the results and determine if there is a Viable Match.
- 8.26 **Recording results:** If the RFR User determines that there is a Viable Match then a Match Report will be saved and added to the Case.

Dissemination

- 8.27 Where a Viable Match has been made, this is not to be treated as a definitive confirmation of identity; it is an intelligence lead which requires further investigation in order to progress an investigation or operation. Any dissemination should be accompanied with the following standard caveats and information:

This type of identification has come from a Facial Recognition Search (FRS) the FR Operator uploaded and searched the image above through Facial Recognition Software. They believe the suspect shows good likeness to this image. This is not an expert facial comparison and therefore, this does not meet the evidential requirements under PACE Code D for Recognition and an MG11 from the identifying officer will not be provided.

Performance of the RFR System: The MPS has outlined details as regards performance and demographic differential considerations in relation to its FR systems here: <https://www.met.police.uk/SysSiteAssets/media/downloads/force-content/met/advice/lfr/new/understanding-accuracy-and-demographic-differences-v3..pdf>

- 8.28 Where dissemination is considered to be required beyond the MPS, this should only occur to the minimum extent necessary and where there is a legal basis to share the data in a way which complies with applicable data protection and human rights legislation. Given the proprietary nature of facial recognition systems, it is not anticipated that there is a need to share biometric data.
- 8.29 Recipients of any sharing should be obliged to apply equivalent safeguards to the handling of the shared data to the MPS, including in relation to retention.
- 8.30 The Data Protection Officer and the Directorate of Legal Services are available to provide further advice as required.

Part C: Governance and oversight

9 Audit and reporting

- 9.1 The RFR System provides a web-based administration client that includes both real-time and historical reporting on system usage and performance. Structured reports on historical usage can be run from within the solution or scheduled for delivery on a periodic (hourly, daily, monthly) basis to specified administrators.
- 9.2 Audit log data are stored in a read-only database, ensuring that once written, data cannot be modified. Access to review audit data is provided as part of a separate web-based administrative client and only granted to authorised users through the integrated Role Based Access Control (RBAC).
- 9.3 All actions on audit data, including queries and individual item reviews, are also audited as part of the application activity, ensuring full tracking of all data and access within the system.

10 Governance

- 10.1 The following documents and this Policy together comprise the MPS RFR Documents which govern the use of the MPS RFR System:-
- a) MPS RFR Data Protection Impact Assessment (DPIA);
 - b) MPS RFR Appropriate Policy Document;
 - c) MPS RFR Equalities Impact Assessment (EIA);
 - d) MPS Facial Recognition Technology: Understanding accuracy and demographic differences;
 - e) MPS RFR Legal Mandate; *and*
 - f) MPS Reveal Training Guide and NEC Training materials
- 10.2 The MPS RFR Documents are further implemented:
- a) in terms of the use of Image Reference Libraries and Probe Images by:
 - i. the Authorising Officer approving the use of Image Reference Libraries by way the MPS RFR Form 1 / MPS RFR Form 2 (as applicable); *and*
 - ii. the completion of the MPS RFR Form 3 authorising the RFR Search per para 8.17 and Probe Images Collections pursuant to 8.18 of this Policy, and
 - c) in terms of the use of the authorisation of RFR Users.
- 10.3 **Authorised RFR Users:** All users of the RFR System/ system will have completed the requisite training for the role they are required to perform. Access to the RFR system is strictly managed by a limited number of staff who had specialist administrator rights. System usage will be monitored and access rights disabled (or removed) if it is assessed that they any user no longer requires use of the system

11 Engagement, Oversight and Regulatory Framework

- 11.1 **Engagement:** The MPS has engaged with key stakeholders, civil liberties groups and the public around its use of facial recognition technology. This work will continue and inform decisions makers around the use of RFR, notably through the use of independent advisory groups.
- 11.2 **Oversight:** Within the MPS, the senior internal oversight body for RFR is the MPS FR Technology Board, which in-turn answers to the MPS Management Board. In addition, MOPAC provide oversight and scrutiny while the London Policing Ethics Panel provide independent insight and guidance.
- 11.3 The MPS FR Technology Board is empowered by this policy to assist the SRO in relation to the use of Image Reference Libraries, but is also responsible for assuring the suitability of the MPS RFR Policy Documents and assisting the SRO to maintain oversight as to lawful, ethical and effective use of RFR.
- 11.4 **Regulatory Framework:** The MPS RFR Legal Mandate sets out the legal framework for MPS use of RFR technology, whilst this MPS RFR Policy Document supports implementation.
- 11.5 Further oversight opportunities arise in relation to the Information Commissioner's Office, the Biometrics and Surveillance Camera Commissioner and the Equalities and Human Rights Commission.

12 Policy Summary

- 12.1 This document relates to the policing use of the MPS RFR System, and the governance and oversight regimes necessary to use.
- 12.2 It is strongly advised that officers and staff adhere to the document, as this will help ensure that the MPS use of RFR successfully and lawfully serves the public whilst providing necessary safeguards. It is also important to maintaining the trust and confidence of the public as well as our partners and other stakeholders.
- 12.3 This document will no doubt evolve as technology changes and improves, and as learning influences what is recognised as good practice. By exception, if a decision is contemplated which would be outside of the MPS RFR Documents, any such decisions should be supported by legal advice (this being particularly relevant given these documents are published to ensure the use of RFR is accessible and foreseeable to the public). Such decisions will be rare and would typically arise where the circumstances move beyond those contemplated by this policy and give rise to a risk to the public and/or to the police. Any such decision must be fully documented and supported by a detailed rationale. Such decisions will be cited to the RFR SRO for review. This ensures that relevant decision-making features are subject to a debrief and evaluation processes.

Annex A: Assessing images in the context of privacy expectations

1. The MPS has adopted the following to contextualise imagery considered for use in the RFR system against individual expectations of privacy. The structure seeks to provide an operationally viable way to implement safeguards and an approval structure focused on ensuring due scrutiny and justification whilst balanced against the need to progress investigations and use policing resource to best effect.
2. Where there is doubt as to the Level to be adopted, a cautious approach should be adopted which favours greater safeguards and approval requirements.

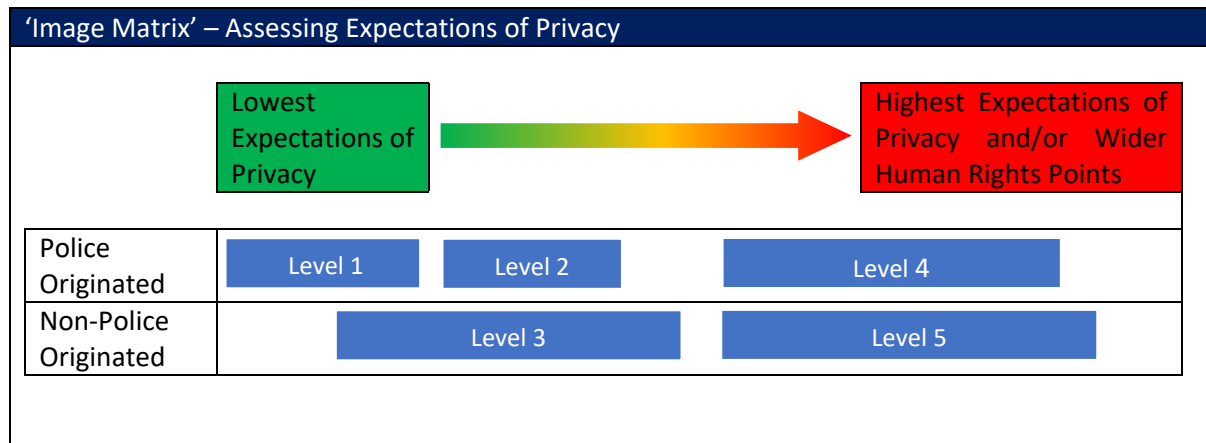


Image Level	Description	Example(s)
Level 1	Police-originated Probe Images / Image Reference Libraries which contain a majority of images obtained: <ul style="list-style-type: none"> • in compliant circumstances where reasonable steps have been taken to ensure the subject was aware that their image was taken; or • the subject of the image is deceased. 	<ul style="list-style-type: none"> • An image taken of a compliant subject in the custody environment. • A parent consents to provide their missing child's image to officers to assist with investigations. Police Body Worn Video footage gathered during an interaction with policing where the subject for RFR Searching is compliant with policing.
Level 2	Police-originated Probe Images / Image Reference Libraries which contain a majority of images obtained in non-compliant circumstances where reasonable steps have been taken to ensure the subject was nevertheless aware that their image was taken.	<ul style="list-style-type: none"> • An image taken of a non-compliant subject in the custody environment. • Police controlled overt CCTV • Police Body Worn Video footage gathered during an interaction with policing where the subject for RFR Searching is non-compliant with policing (for example they were non-cooperative or passed through the footage).
Level 3	Non-police originated Probe Images / Image Reference Libraries which contain a majority of images where it is assessed that the public would expect the law	<ul style="list-style-type: none"> • Imagery provided following appeals to the public. • The Unresolved Crime Cache (when activated).

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Image Level	Description	Example(s)
	<p>enforcement to have access to them (but not including images obtained by covert means).</p>	<ul style="list-style-type: none"> Local authority or other third party controlled overt CCTV (including CCTV from security cameras in domestic settings) The police have obtained the image as a result of a lawful power of search or seizure. Publicly available/open source information, for example, including information supplied by an employer. Information shared by other public bodies e.g. under Section 21 (Supply of information by the Secretary of State) of the immigration and Asylum Act 1999.
<p>Level 4</p>	<p>Probe Images / Image Reference Libraries which contain a majority of images where it is assessed that they:</p> <ul style="list-style-type: none"> raise elevated privacy expectations; raise wider human rights issues; and/or where the images were otherwise obtained covertly without the knowledge of the subject but where the ability of the police to obtain such images can be anticipated by reference to published Codes of Practice. <p>Guidance: 'elevated privacy considerations' and 'wider human rights considerations' benefit from further direction and guidance below.</p>	<ul style="list-style-type: none"> Imagery obtained pursuant to Section 64A of the Police and Criminal Evidence Act 1984 (until such point as the subject has been informed that the image has been taken where such action is required by PACE Code D); Imagery obtained via the Regulation of Investigatory Powers Act or the Investigatory Powers Act 2016. Images which are more sensitive because they were taken at hospitals, places of worship, centres for legal advice, polling stations, schools (and other places particularly frequented by children), care homes or feature persons at a lawful assembly.
<p>Level 5</p>	<p>Non-police originated Probe Images / Image Reference Libraries which contain a majority of images in circumstances where it is assessed that the public would not typically expect their image to be shared to, or accessibly by the police at the point they provided it but there is nevertheless a lawful basis for the police to hold the imagery it has received.</p>	<ul style="list-style-type: none"> Where the public have shared their image with a controller of data for an explicit purpose and it was not in their contemplation at the time of sharing their image that it may be used for a law enforcement purpose. This may be particularly relevant with businesses who promote their privacy-lead approach and take active steps to prevent any form of third party access.

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3. **‘Elevated privacy considerations’: Article 8 ECHR:** Respect for your private and family life, home and correspondence: this is the main right engaged by the use of RFR. Private life is a broad concept, covering a person’s physical appearance and social identity. It extends to afford people a reasonable expectation of privacy, particularly regarding their personal identity. It also protects how people go about their daily lives, particularly where they have an expectation of privacy. In this context, wider human rights considerations relate to intrusion arising beyond that which would typically be associated with an RFR Search.
4. In assessing whether a Probe Image and/or an Image Reference Library should be assessed as attracting elevated privacy considerations (as applicable), relevant contextual points include:
 - a) Where the images were taken / the revelatory nature of image content. Some places/image compositions by their nature can attract greater privacy expectations than others. Photographs featuring hospitals, places of worship, centres for legal advice, polling stations, schools (and other places particularly frequented by children), care homes and persons at a demonstration are examples where those that attend them may have a greater expectation of privacy.
 - b) The composition of the Image Reference Library. This is particularly relevant where an Image Reference Library is assessed to have a significant proportion of data relating to those with greater expectations of privacy and may include data relating to those with Protected Characteristics known to or other reasonably apparent to policing, or where associating a person with a particular Image Reference Library may be revelatory as to a Protected Characteristic.
 - c) By way of examples where elevated privacy expectations arise:
 - i. RFR Searches relating to the particularly young (appearing to be over 13 but under 16 at the time of the RFR Search), those with a relevant disability or those who where is it suspected imagery pre-dates gender reassignment where the approach mandated in paragraph 4.7 relating to the need for inspecting approval is also relevant to Image Reference Libraries and corresponds to a Level 4 approach;
 - ii. should imagery relate to a lawful assembly where criminality has resulted in a public order disorder situation, the association of that individual with the event may involve the processing of more sensitive data that would reveal political opinions, religious or philosophical beliefs;
 - iii. should imagery relate to people attending a hospital, this may be revelatory and then involve processing of more sensitive data concerning health.
5. **‘Wider human rights considerations’:** Beyond points relating to Article 8 ECHR (above,), in assessing whether a Probe Image and/or an Image Reference Library should be assessed engage wider human rights considerations, whilst all human rights should be considered, the following acts as guidance (in addition to the MPS RFR Legal Mandate) as to more commonly relevant issues in order to ensure a consistent approach:

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- a) Article 9 ECHR: Freedom of thought, belief and religion: this means people have a right to put their beliefs into action. This may be wearing religious clothing, talking about their religious beliefs or taking part in an act of religious worship. This right also extends to non-religious beliefs including atheism, agnosticism, veganism and pacifism. The belief needs to be serious, relate to important aspects of human life or behaviour, be sincerely held and be worthy of respect in a democratic society.
- i. **Example:** Investigations/operations may arise which have particular relevance to those who are attending a place for worship. For example a public appeal for information and imagery following a series of assaults outside a place of worship may inevitably capture those who were legitimately attending the place of worship. Whilst the face-detection and selection process minimises collateral intrusion, the nature of the tactic should be considered in the context of Article 9 given the location of the offence be it deterring future attendance or enabling an effective investigation to support such attendance.
- b) Article 10 ECHR: Freedom of expression and Article 11 ECHR: Freedom of assembly and association: Whilst Article 10 and 11 commonly arise together in practical terms, they are distinct and need to be individually considered. Article 10 protects the right for people to hold their own opinions and to express them without interference. This includes the right to express views aloud, for example through public protest and demonstration or by way of journalism. This right also extends to the right to receive information, for example as part of an audience. Article 11 affords people the right to peaceful assembly and the right to associate with others, including the right to come together for a common purpose such as a political party, a trade union or to peacefully protest against a government policy. The right applies equally to prevent a person being pressured into joining an assembly or association.
- i. **Example:** Policing are pursuing an investigation concerning those present at a suspected meeting of a proscribed organisation. An image has been supplied of the meeting and it is necessary to determine who was present. RFR may be considered in the circumstances to seek to help advance the identification of those present, but this raises points relating to freedom of assembly and association under Article 11 and the use of RFR needs to be justified in the circumstances.
 - ii. **Example:** Imagery has been extracted from CCTV following a lawful assembly where the situation deteriorated and violent criminality resulted from public disorder situation. Whilst there would be no RFR Search Grounds (or indeed need to use RFR) to review an entirely lawful assembly, where criminality does arise, those considering RFR to help advance the identification of perpetrators will need to be mindful of collateral intrusion. The nature of the tactic should be considered in the context of Article 10 and 11, with thought be given as to whether the use might have the effect of deterring future attendance/expression as well as enabling an effective investigation to support such attendance.

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- c) Article 14 ECHR: Protection from discrimination in respect of human rights and freedoms. This right provides that the enjoyment of human rights shall be without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, or social origin, association with a national minority, property, birth or other status. Whilst this is not a standalone right, whether it is engaged should be considered for every RFR Search, given the nature of RFR Searching. The 'other status' can have wider application including in relation to discrimination concerning employment, membership of a trade union, education, inheritance rights, and access to children.
- d) Given the high levels of performance of the algorithm used by the RFR System, Article 14 considerations are most likely to arise in the context of RFR should there be an investigatory criteria supporting the selection and need to search Probe Images- i.e. if it can be argued the criteria used for RFR Searching could be discriminatory. This requires careful consideration in the context of Article 14 and equalities legislation. The Directorate of Legal Services is also available to advise on the specific context should the point arise.

Annex B: Facial Recognition Overview

Facial Recognition – Method of use:		The use of facial recognition where all people passing the system’s camera(s) are analysed by the system with results being generated at the same time as events.	The use of facial recognition where: (i) media is directly captured of a subject present; or (ii) media is otherwise acquired in lieu of capturing it, with the intent of subjecting it to analysis by the facial recognition system. The results of such analysis could shape events to which the footage relates in real time.	The use of facial recognition where media is analysed after the event. The result of such analysis would come sufficiently after the event such that they could not shape events to which the media related in real time.
Overt	Name	Live Facial Recognition (LFR)	Operator Initiated Facial Recognition (OIFR)	Retrospective Facial Recognition (RFR)
	How it may be referred to:	<i>“... the use of overt live facial recognition to locate people on a watch list who are sought by the police ...”</i>	<i>“... the use of operator initiated facial recognition which takes an image of a particular person and uses it to either (i) help policing establish who a person in the image is or (ii) establish where a person has previously appeared in other media held by the police ...”</i>	<i>“... retrospective facial recognition may be used after an event to help officers establish who a person is or whether their image matches against other media held on databases ... ”</i>
Covert	Name	Covert Real-Time Facial Recognition Surveillance (CRFRS)	Covert Operator Initiated Facial Recognition Surveillance (COIFRS)	RFR is not a covert capability in itself. It may however use media obtained via covert means.
	How it may be referred to:	<i>... “whilst the then Surveillance Camera Commissioner has recognised a possible application for facial recognition in a covert way, subject to the Regulation of Investigatory Powers Act 2000, policing does not comment on any potential use of covert policing tactics ...”</i>		

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Annex C: Crime Tier Guide

Tier 1:-

Aggravated Burglary
Assault GBH
Death by Dangerous driving
All Robbery Offences
All Arson Offences
Attempted Abduction
Attempted Murder
Possession of Firearm
Kidnap / Abduction / False Imprisonment
Murder
All Sexual Offences

Tier 2:-

Assault - Blackmail / Threats to Kill / ABH / Police
Dangerous Driving
Aggravated TDA / TDA
All Burglary (Apart from Aggravated)
All Criminal Damage (Apart Arson)
Racially Aggravated Assault
Public Order – Riot / Affray / Violent Disorder / Bomb Hoax
Theft Snatch
Drugs – Cultivation / Supply / Trafficking
Theft from Motor Vehicle or of Motor Vehicle

Tier 3:-

All Animal Offences
Common Assault
Drugs Possession
All Fraud
Handling Stolen Goods
Public Order - Racial Aggravated / Harassment / Threatening Behaviour
Interference with Motor Vehicle
Making of without Payment
Offensive Weapon - Points and Blades
Other offence-types not covered in Tiers 1 and 2

Government Protective Marking Scheme

Protective marking:	Official
Publication scheme Y/N:	No
Title:	Policy and Standard Operating Procedures for the MPS Retrospective Facial Recognition System.
Version:	Version 1
Summary:	Establishes policy and procedures for the use of the MPS Retrospective Facial Recognition System.
Branch:	MPS FR
Review date:	24 th August 2025