

DATA PROTECTION ACT 1998

SUPERVISORY POWERS OF THE INFORMATION COMMISSIONER

ENFORCEMENT NOTICE

To: The Commissioner of Police of the Metropolis

Of: New Scotland Yard, Victoria Embankment, London, SW1A 2JL

1. The Information Commissioner ("the Commissioner") hereby issues the Commissioner of Police of the Metropolis, who is the data controller (registration number Z4888193) responsible for the Metropolitan Police Service ("the MPS"), with an Enforcement Notice under section 40 of the Data Protection Act 1998 ("DPA"). The Notice is in relation to a contravention of various of the data protection principles set out in Part I of Schedule 1 to the DPA by the MPS in its processing of personal data in the operation of the Gangs Matrix.
2. This Notice explains the Commissioner's decision and the steps she requires the MPS to take. It also addresses where necessary points made by the MPS in its representations dated 17 October 2018 in response to the Preliminary Enforcement Notice.
3. The Commissioner's investigation commenced in relation to processing under the DPA. Although she understands that the MPS is continuing to use the Gangs Matrix and to process personal data in that context, the focus of her proposed

Enforcement Notice concerns breaches of the data protection principles arising prior to the enactment of the Data Protection Act 2018. Accordingly, this notice is issued under the DPA.

Legal framework for this Notice

4. The DPA contains enforcement provisions in Part V which are exercisable by the Commissioner.

5. Section 40(1) of the DPA materially provides:

“(1) If the Commissioner is satisfied that a data controller has contravened or is contravening any of the data protection principles, the Commissioner may serve him with a notice (in this Act referred to as “an enforcement notice”) requiring him, for complying with the principle or principles in question, to do either or both of the following—

(a) to take within such time as may be specified in the notice, or to refrain from taking after such time as may be so specified, such steps as are so specified, or

(b) to refrain from processing any personal data, or any personal data of a description specified in the notice, or to refrain from processing them for a purpose so specified or in a manner so specified, after such time as may be so specified.

(2) In deciding whether to serve an enforcement notice, the Commissioner shall consider whether the contravention has caused or is likely to cause any person damage or distress.

(3) An enforcement notice in respect of a contravention of the fourth data protection principle which requires the data controller

to rectify, block, erase or destroy any inaccurate data may also require the data controller to rectify, block, erase or destroy any other data held by him and containing an expression of opinion which appears to the Commissioner to be based on the inaccurate data.”

6. Section 4(4) DPA specifies that it “shall be the duty of a data controller to comply with the data protection principles in relation to all personal data with respect to which he is the data controller”.
7. The data protection principles (“the DPPs”) are enumerated in Part I of Schedule 1 to the DPA. The material DPPs to this Notice are:

“1 Personal data shall be processed fairly and lawfully and, in particular, shall not be processed unless—

- (a) at least one of the conditions in Schedule 2 is met, and
- (b) in the case of sensitive personal data, at least one of the conditions in Schedule 3 is also met.

3 Personal data shall be adequate, relevant and not excessive in relation to the purpose or purposes for which they are processed.

4 Personal data shall be accurate and, where necessary, kept up to date.

5 Personal data processed for any purpose or purposes shall not be kept for longer than is necessary for that purpose or those purposes.

7 Appropriate technical and organisational measures shall be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data.”

8. References to any particular DPP will be in the form: DPP1, etc.

The Gangs Matrix

9. The MPS is engaged in an ongoing effort to reduce the incidence of crime arising from gangs in London, to prosecute offenders who commit such crimes and to deter young people from joining gangs. Crime linked to gangs is often of a very serious nature, and is a high law enforcement priority for the MPS. There are a large number, around 200 on the MPS’s own Model (see below), of gangs in London whose membership is primarily of young people aged between 18-23, but children below the age of 18 are also often involved.
10. On any view, gang crime is a serious problem and the prioritisation of a law enforcement response to it is clearly something to be encouraged. Nothing in this Notice is intended by the Commissioner to detract from that recognition. However, for law enforcement measures to have the public and community support which they require to be effective, they must be lawful. That includes compliance with the important rights and obligations set out in the DPA.
11. The MPS approach to tackling gang crime is set out in the ‘Gangs Operating Model’, but the implementation of the Model is the responsibility of the 32 individual Boroughs within the MPS. In its representations on the Preliminary Enforcement Notice, the MPS

informed the Commissioner that it was in the process of restructuring its organisation to amalgamate the 32 Boroughs into 12 Basic Command Units ("BCUs"). Under the new BCU model, it is intended that each BCU will have a single point of contact in relation to the Matrix.

12. The Model requires each Borough to create its own localised Gangs Matrix, through which "gang nominals" are assessed. A gang nominal is defined by the Model as "someone who has been identified as being a member of a gang and this is corroborated by intelligence from more than one source". The Matrix is described by the Model as "the bedrock on which the MPS Gangs Strategy is built". The MPS's representations have accepted the need to revise and update the Model, and that it does not reflect actual working practices within the MPS.
13. According to the Model, individuals should only be included in the Matrix if they meet the threshold definition as a gang nominal, and if they have been assessed through centralised Matrix scoring criteria, and if they reach the set threshold scores. The scoring criteria are intended to classify nominals into three categories which reflect different levels of risk and harm: red, amber and green. The Model requires any nominal who scores below one point and for whom there is evidence that they have exited any gang or not engaging in gang activity to be removed from the Matrix.
14. Individuals who are recorded on the Matrix as gang nominals, and particularly those classified as red, are to be the subject of enforcement and diversion activity.

15. The Model specifically states that it is not the intention of the MPS to “target youths who join gangs, we focus on those who commit criminality or are at risk through being associated with a gang”. However, the Matrix will also include details of victims of gang crime and those believed to be on the periphery of gangs.

16. One of the principal issues raised by the MPS in its representations concerned the inclusion on the Matrix of victims of gang crime. The MPS maintains that any individual recorded on the Matrix will have satisfied the Model’s definition of a gang nominal and should not have been included simply because they were the victim of two gang-related crimes. However, the Commissioner’s investigation – which included reviews of the Matrix and discussions with police officers operating it – has caused her to conclude that the actual practice of the Matrix has not always accorded with the definition of the Model. These points are discussed relevantly below, but the Commissioner also notes that the Model itself explains that the Matrix is to include a “victim matrix”, and that the prescribed scoring system for inclusion on the Matrix as a gang nominal has as one of its elements “crime history” which is explained to include “a section where the subject has been a victim of a gang related incident or been shot or stabbed”. The Commissioner accordingly continues to take the view on all the information available to her that, at the very least, the Matrix does not clearly distinguish between the approach to victims of gang-related crime and perpetrators of gang-related crime. Officers are faced with a confused and confusing approach, and it is not surprising that some have adopted an approach which includes victims on the Matrix (and informal lists, also discussed below) as a result. To the extent that the MPS has sought to suggest that this issue does not arise,

or is less serious than the Commissioner believes, those representations are not accepted.

17. The personal data of individuals recorded on the Matrix will include some or all of the following fields of information:
 - Full name;
 - Nickname;
 - Date of birth;
 - Home address;
 - Identity code (which is used to identify ethnicity);
 - Information on whether the individual is a prolific firearms offender or knife carrier;
 - Rank and score per Matrix criteria;
 - Police intelligence information; and
 - Partner intelligence information.

18. The Model envisages that the MPS will seek to take enforcement action against identified gang nominals across a range of civil and criminal areas. This is known as the 'Al Capone Approach'; i.e. where prosecution for specific gang-related offences is not possible the gang members are targeted more generally.

19. The sorts of routes envisaged to be used include enforcement and/or disruption through: prison licence conditions, increased stop and search, TV licensing, parking enforcement, truancy, benefits sanctions, housing action (including eviction) and immigration enforcement. Many of these enforcement actions will necessarily involve liaison and information sharing with third party bodies and agencies. This includes housing associations and education authorities, which has the potential to have a significant adverse impact on an individual's life.

20. The operation and use of the Gangs Matrix by the MPS has been the subject of widespread public concern, including adverse comment and specific recommendations in The Lammy Review (2017) by David Lammy MP, with particular emphasis on the perceived disproportionate focus on black and ethnic minority individuals. The Commissioner's own investigation into the Gangs Matrix resulted from a complaint made to her by Amnesty International. It is also linked to an ongoing ICO investigation into Newham Council regarding a data loss incident concerning data from the Gangs Matrix, which is not the specific subject of this Notice.

21. The Commissioner does not have statutory responsibilities or powers concerning equality and discrimination law. However, the requirements of the Equality Act 2010 form an important part of the context to her investigation and this Notice. From her investigation she understands that some 80% of the individuals identified on the Matrix identify as black, that 64% of those on the Matrix are classified as low risk (or green), and that there are over 100 children under the age of 16 on the Matrix.

The contraventions

22. In the circumstances, the Commissioner is satisfied that the MPS has committed the following contraventions of the DPPs.

23. Many of the factual matters set out below could be formulated as contraventions of multiple DPPs. This Notice seeks to emphasise the primary concerns in relation to each DPP rather than making every potential finding of contravention possible. That approach should not be taken by the MPS as any acceptance on the part of

the Commissioner of compliance with the DPA, but is rather a focussed and prioritised approach to enforcement.

DPP5

24. The MPS has contravened DPP5 in retaining and processing personal data for longer than is necessary for its stated purposes. It has failed to erase personal data which should have been erased, and it has failed to adopt or apply consistent retention policies.
25. The Model sets no retention period for gang nominal information. The Commissioner was informed during her investigation that to be eligible to be removed from the Matrix an individual must not have been brought to police attention in relation to gang involvement within the previous six months, but this policy did not appear to be set out in writing and the Boroughs had no retention policies in relation to personal data on the Matrix.
26. The Commissioner's investigation discovered that even this informal retention period was not in fact being complied with. In some Boroughs, when a data subject was removed from the Gangs Matrix, their personal data was nonetheless retained on an informal list of 'gang associates' held at local level on the relevant officer's personal system drive. No policies govern such lists, no controls are exercised over them and no restrictions placed on the use of them. No criteria appear to be applied to address the accuracy of the data, or access to it. The data is regulated only by the individual officer(s) controlling the list.

27. Moreover, the Commissioner found a considerable number of examples of green-rated data subjects who had a risk score of zero. The Model indicates that such data subjects, if there is evidence that they have exited any gang or are not engaging in gang activity, should be removed from the Gangs Matrix. They had not been.
28. As a result, data subjects are never truly removed from the Gangs Matrix: their personal data continues to be processed as though they remained connected with gangs. Their personal data and supposed association is shared with third parties and subject to the general policy of the MPS to encourage enforcement against them.
29. Were it necessary to do so, the Commissioner also considers that the retention of these informal lists is also likely to be a breach of DPP1, DPP3, DPP4 and DPP7. It is not necessary to make a formal finding to that effect for the purposes of this Notice.

DPP3

30. The MPS has contravened DPP3 in that its processing of personal data is excessive in relation to the stated purposes.
31. The clear majority (64%) of those data subjects whose data is contained in the Gangs Matrix are rated as green, or low risk. In a considerable number of instances, data subjects with a risk score of zero were nonetheless still retained on the Gangs Matrix. As set out above, even when removed from the Matrix, many Boroughs retained the personal data of data subjects on an informal unregulated list of supposed gang associates.

32. Still further, victims of gang-related crime have their personal data included on the Gangs Matrix where they have been the victim of more than one crime, because they are assumed to have gang associations, and/or because it is counted as part of their crime history. Their data is then equated and processed in the same way as other gang nominals.
33. In all these respects, the Commissioner considers the processing by the MPS to be unjustifiably excessive and lacking in differentiation.
34. In addition, excessive processing occurs because the MPS – despite the assurance in the Model that mere membership of a gang should not render that person a target for enforcement – permits enforcement action to be taken across the full range of its 'Al Capone Approach' measures in respect of all gang nominals, including those rated green (and including those with a zero rating and/or who have only come to the attention of the MPS because they are victims of crime). Such enforcement action is likely to, and indeed intended to, have a significant adverse impact on the affected individual data subjects (for example, the sharing of Matrix Data to housing agencies and education authorities). Enforcement against all gang nominals, regardless of their risk rating, is excessive processing in the face of the very purpose of having a system of graduated risk.
35. Further, information on all gang nominals listed on the Gangs Matrix has been shared with third party agencies (such as the Crown Prosecution Service) regardless of the particular context and whether such sharing is necessary on the facts of the individual case. This unnecessary sharing of information is also excessive processing in contravention of DPP5.

DPP1

36. The MPS has contravened DPP1 in that its processing of personal data on the Gangs Matrix is not fair, lawful or in accordance with a condition in Schedules 2 and 3 DPA.
37. The Commissioner's investigation found that the personal data of data subjects contained in the Gangs Matrix was being shared by the MPS in full, in unredacted form and to a range of public authority and private body third parties with both statutory and non-statutory functions.
38. Such blanket and undifferentiated sharing of personal data and sensitive personal data (because some data concerns criminal convictions or allegations of the commission of criminal offences) is disproportionate: it goes beyond what is reasonably necessary to achieve the MPS's legitimate purposes in preventing and detecting crime and prosecuting offenders. There is no necessity for the MPS to share such large amounts of personal data to such a wide array of third parties.
39. Accordingly, the reliance of the MPS on condition 5(b) of Schedule 2 and conditions 3 and/or 7(a) and (b) of Schedule 3 cannot be accepted. All those conditions are subject to the requirement that the processing is "necessary". It has not been.

40. For the same reasons, such unnecessary processing is also unfair. A data subject would not reasonably expect processing of this type and it is not justified in all the circumstances. The Commissioner's finding of unfairness is further emphasised by:

- The inconsistency in approach between Boroughs and the lack of guidance, governance or audit from the MPS;
- Insufficient differentiation was made between offenders and victims of crime;
- Data of green-ranked gang nominals was shared without differentiation and without regard to the policy statement set out in the Model that membership of a gang is not itself a concern;
- Sharing more data than is required, such as by failing to redact irrelevant or unnecessary data, is excessive processing;
- The MPS has not differentiated between when personal data might justifiably be shared with a public authority exercising statutory functions, and private or third sector bodies who have no such functions;
- Information has been shared without any formal written information sharing agreement being in place to control the purpose of that sharing and subsequent use of the data.

41. The general operation of the Gangs Matrix also fails to comply with the requirement of lawfulness. All the individual acts of processing of the personal data contained in the Matrix – such recording, retention, use for enforcement, disclosure, sharing – are functions of the MPS to which the public sector equality duty in section 149 of the Equality Act 2010 applies. A heavily disproportionate number of the data subjects whose personal data is recorded in the Matrix are black and ethnic minority

(88%). The Commissioner considers that there are obvious potential issues of discrimination and equality of opportunity, as well as issues of fostering good relations, which arise from the operation of the Matrix as defined in section 149(1).

42. No evidence has been provided to the Commissioner during the course of her investigation that the MPS has, at any point, had due regard to these matters as required by section 149. No equality impact assessment has been produced, nor any other record evidencing such due regard in whatever form. The MPS also failed to carry out a data protection or privacy impact assessment of the Matrix at any point. Compliance with section 149 is a legal duty and non-compliance renders the consequent processing of personal data unlawful contrary to DPP1.
43. The Commissioner has considered including in the terms of the Notice at Annex 1 a requirement to conduct an equality impact assessment. Given that section 149 does not prescribe the form of compliance, and given that the Commissioner is not directly responsible for the regulation of compliance with the Equality Act 2010, she has decided against the inclusion of a specific requirement of this sort. However, an ongoing failure to address the public sector equality duty will continue to undermine the ability of the MPS to comply with DPP1.
44. The Commissioner has noted the failure of the MPS to address this issue in its representations. It appears from the Action Plan provided that the MPS does accept the need to produce an equality impact assessment, although the timescale for doing so is given only as by 31 January 2019. Whether this is appropriate in all the circumstances may be a matter for others.

DPP7

45. The MPS has contravened DPP7 in that it has failed to take appropriate technical and organisational measures against unauthorised or unlawful processing of personal data, and against accidental loss of personal data.
46. The Commissioner's investigation has determined a considerable number of failures on the part of the MPS to comply with DPP7.
47. First, information has been repeatedly shared by the MPS (often on an excessive and unnecessary basis, above) with third parties without there being any, or any properly completed, information sharing agreement. Such agreements are a basic necessity to establish what personal data is to be shared, in what circumstances, for what purposes, what use is to be made of the data by the receiving party, and the measures expected to be taken by the receiving party to protect that personal data. The manifest and manifold failures in this respect were not addressed at Borough level or through any central management.
48. Second, the failures on the part of the MPS to properly secure personal data of this sort and to regulate its sharing with third parties appropriately led to a significant data breach incident (which is the subject of separate investigation, as per paragraph 20 above). Such breaches give rise to a very high risk of harm to individual data subjects, given the context and content of the personal data.
49. Third, Gangs Matrix data has been routinely transferred by MPS officers in a variety of unsecured ways. It was not encrypted.

50. Fourth, although the Gangs Matrix is itself stored on protected drives on the MPS system, officers at local level could and did circumvent those protections by saving the same information to local drives. The MPS did not have in place systems to detect and/or prevent such actions.
51. Fifth, officers who moved from gang-related roles to focus on other areas of crime did not routinely have their access rights to the Gangs Matrix revoked.
52. Sixth, the lack of governance and oversight from the central MPS teams meant that instances of poor practice and unlawful processing – such as the retention of informal lists – did not come to the attention of the central controlling command units.
53. Seventh, the inconsistent and poor practice on the part of the Boroughs is partly attributable to the failure of central command to provide appropriate clear and detailed guidance on the requirements of data protection law and practice, and the failure to ensure that such guidance as had been given in the Model was in fact being followed. Had a thorough and detailed privacy/data protection impact assessment on the Gangs Matrix been carried out at any time during the operation of the Model, such failings should have been identified and corrected.

DPP4

54. The MPS has contravened DPP4 in that the personal data it processes in the Gangs Matrix cannot be said to be accurate.
55. The Commissioner recognises and accepts that the MPS is better placed to assess and determine what information and sources of

information will best assist it in the fight against gang-related crime and disorder. However, the DPA nonetheless requires the MPS to ensure to the best of its ability that the personal data it processes is accurate. This is of particular importance in the context of the processing undertaken by the MPS: use of inaccurate data has the potential to have very significant unjustified impacts on the data subject.

56. The Commissioner has not undertaken a detailed review of the personal data recorded in respect of individual data subjects. She has instead focussed on the practices adopted by the Boroughs in collating information and what it then chooses to record on the Gangs Matrix in respect of individual data subjects.
57. A matter of particular concern to the Commissioner is the approach, noted above, of at least some officers within the MPS that a person who is the victim of more than one gang-related crime is presumed to have gang associations themselves and is identified as such in the Gangs Matrix. More generally, the Matrix itself guides officers that being a victim of gang-related violence is part of that individual's crime history for the purposes of Matrix scoring assessments. Whilst the assumption of gang involvement of victims may be accurate in some cases, it cannot be said to be uniformly accurate. The Matrix does not accurately or fairly note that a victim has been included on the Matrix solely or primarily because of their victim status; the context will not be apparent to all officers and still less to the third parties to whom the data is provided. This a contravention of DPP4.
58. One significant source of intelligence relied upon by the Boroughs is social media, including in particular the posting of certain videos on YouTube and the comments associated with them. The

Model indicates that such material is likely to be provided to courts in support of gang-related charges against individuals.

59. However, neither the Model nor any other document seen by the Commissioner purports to give officers any guidance on how social media should be used, what sort of material is indicative of gang membership, what sort of material is indicative of involvement in criminal activity, or how officers should consider and approach the accuracy of such information.
60. As a result, the Commissioner's investigation revealed that different Boroughs took diametrically opposed views as to the relevance and accuracy of such social media information and whether or not it should be recorded on the Gangs Matrix.
61. Accordingly, the failure on the part of the MPS to adopt appropriate guidance and ensure a consistent approach to the relevance of social media information means that the MPS has failed to ensure that the personal data it records and processes on the Gangs Matrix in this respect is accurate in accordance with DPP4.

Issue of the Notice

62. The Commissioner considers that the contraventions are very serious ones which warrant enforcement action. Her reasons for this conclusion include that:
 - A significant number of data subjects are affected, including children and the vulnerable.
 - The contraventions have been ongoing over a number of years, since 2011.

- There is no evidence that the MPS considered at any time the obvious privacy/data protection and equality impacts arising from the processing, whether by formal Impact Assessments or otherwise.
- The failure to provide coherent guidance on the operation of the Gangs Matrix, or proper oversight and governance so as to ensure consistent implementation and operation, has led to damaging local divergence and poor practice.
- Basic data protection practice, such as written information sharing agreements, has not been followed.
- The MPS could and should have foreseen that its implementation of the Gangs Matrix, and the way in which it was governed, created a plausible risk to data.
- There is significant public concern about the processing of personal data in the context of the Gangs Matrix, with particular regard to its impact on black and ethnic minority data subjects.
- Although the focus of the Commissioner's investigation has been on the MPS and London, she is aware that similar models of processing may be in operation by other police forces tackling similar issues of gang crime. An Enforcement Notice in the detailed terms proposed will also serve to remind other forces of the need to ensure DPA compliance.

63. The Commissioner has carefully considered whether the terms of an Enforcement Notice should require the MPS to cease processing personal data through the Gangs Matrix altogether. She does not propose to take that step. She has regard to the important law enforcement purposes for which the Gangs Matrix was established, and the vital need for intelligence on gang membership to be gathered and appropriately shared with relevant agencies. She takes the view that the Gangs Matrix can,

in principle, be operated in compliance with the DPA (and with other legal frameworks of obvious relevance, such as the Human Rights Act 1998 and the Equality Act 2010) when best practice is followed consistently and there is clear and rigorous oversight and governance. The terms of the Notice are accordingly intended to ensure that best practice whilst not preventing the important work of the MPS in tackling gang crime.

64. The Commissioner has considered, as she is required to do under section 40(2) of the Act when deciding whether to serve an Enforcement Notice, whether any of the contraventions have caused or are likely to cause any person damage or distress. The causing of damage or distress is not a pre-condition to the exercise of the section 40 power.
65. Having regard to the serious and multiple nature of the contraventions, the sensitivity of the personal data being processed and the context in which it is processed, and the clear potential (and, in some cases, intended effect) of the processing to adversely affect the data subject in their dealings with other parts of the State, the Commissioner considers that it is likely that at least some data subjects are likely to have been caused damage by the contraventions.
66. For the same reasons, and with particular regard to the processing on the Gangs Matrix, or the informal lists retained by Boroughs, of the personal data of victims of gang crime as though they were actual or potential perpetrators of crime, the Commissioner considers that any data subject aware of such processing would be likely to be caused distress. The invisible nature of the processing undertaken by the MPS renders it unlikely in most cases that data subjects will be aware of the

processing of their personal data in the Gangs Matrix context and so evidence of actual distress is unlikely. The issue of an Enforcement Notice is appropriate precisely to prevent such processing where it is unjustified and such distress being caused.

67. The Commissioner has further considered the matters set out above in the light of the representations provided by the MPS in response to the Preliminary Enforcement Notice. The Commissioner welcomes the constructive approach of the MPS taken in those representations and in discussions with her office. In essence, the Commissioner understands the MPS to accept (or at least not materially to dispute) the findings of contravention set out above, and to accept that all of the required action points contained in Annex 1 are appropriate ones for the MPS to take to address its compliance with the DPA.
68. The Commissioner welcomes the information provided by the MPS that it has, in the light of the Preliminary Enforcement Notice, begun a detailed action plan to address the required action points.
69. She has had regard to the proposal in the representations of the MPS that this Notice not be issued, and that the MPS be given a period of time – six months – to respond to the Preliminary Notice and establish that it has been able to make the necessary improvements and changes. The Commissioner does not agree that that would be the appropriate course of action in all the circumstances. She has set out the serious nature of the contraventions above, and the lengthy period of time over which they have occurred. The view of the Commissioner is that data subjects affected, and public confidence in effective law enforcement, warrants her proceeding to issue this Enforcement

Notice so as to require the MPS to take the corrective action it accepts is necessary.

70. However, she has had regard to the explanations of the MPS concerning the structural re-organisation of the MPS into BCUs, and the detailed work required to improve the computer systems on which the Matrix is contained and access to it controlled. In the circumstances the terms of Annex 1 require compliance in full within a period of six months, and not the three months set out in the Preliminary Enforcement Notice. The MPS is required to provide to the Commissioner a monthly progress report in respect of each of the terms of Annex 1.

Terms of the Notice

71. The Commissioner hereby exercises her powers under section 40 DPA to serve an Enforcement Notice requiring the MPS to take specified steps to comply with the DPPs. The terms of the Notice are set out in Annex 1 of this Notice.
72. A failure to comply with this Notice is a criminal offence.
73. There is a right of appeal against the issue and the terms of this Notice to the First-tier Tribunal (Information Rights), part of the General Regulatory Chamber. Information about appeals is set out in Annex 2.

Dated the **13 November 2018**

Signed: 

Elizabeth Denham
Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

ANNEX 1

TERMS OF THE ENFORCEMENT NOTICE

The Commissioner of Police of the Metropolis shall within six months of the date of this Notice:

- Conduct a data protection impact assessment on the Gangs Matrix.
- Ensure that data subjects retained on the Matrix are clearly identified and labelled so as to distinguish between victims of crime and actual or suspected offenders.
- Implement a retention schedule which addresses how and when data subjects should be removed from the Matrix, and that the personal data of those data subjects is not otherwise to be retained.
- Erase any informal lists which process the personal data of data subjects who no longer meet the criteria for retention on the Matrix.
- Conduct a full review of all data sharing relating to the Gangs Matrix across the MPS in order to evaluate what sharing is occurring, the legal basis for that sharing, whether such sharing is necessary and justified, and whether any sharing is properly regulated by formal written agreements approved by the MPS Information Rights Unit.
- Develop guidance on information sharing relating to the Gangs Matrix, including differentiating information sharing with third parties exercising statutory functions and third parties with no such functions, and addressing the matters in the previous point above.
- Confirm that any and all information sharing of personal data on or derived from the Gangs Matrix will only occur under a formal

written agreement approved by the MPS Information Rights Unit, with third parties similarly so approved consistent with the guidance to be issued.

- Implement compulsory purpose-specific training for all officers and staff responsible for processing personal data on the Gangs Matrix.
- Ensure that all officers and staff deployed within units dealing with gang crime have completed the MPS' mandatory data protection training.
- Introduce data loss software and loss detection software on MPS systems to prevent against personal data on the Gangs Matrix and related documents being inappropriately disclosed.
- Ensure that access restrictions are imposed on officers and staff who no longer need to access the Matrix.
- Ensure that a comprehensive access log is maintained of all those with access to the Gangs Matrix.
- Ensure that all personal data on the Gangs Matrix and any related documents is protected by encryption. This should apply to data held on MPS servers and to any such data being shared with third parties, including in transit.
- Develop guidance in relation to the use of social media as a source of 'verifiable intelligence' in relation to personal data.
- Develop guidance that assists Boroughs and ensures consistent decision-making in relation to:
 - The composition of 'the gang(s)' the MPS is policing for the purpose of the 'gangs strategy';
 - How gang membership is evidenced;
 - How to distinguish between a serious youth violence offender and a gang member; and
 - The appropriate intelligence sources to be used to identify gang membership.

- Conduct regular audits on all Borough Operational Command Units to assess compliance with guidance issued concerning the Gangs Matrix, and with the DPA more generally.

A formal progress report against each of these measures shall be provided to the Commissioner on a monthly basis.

ANNEX 2

DATA PROTECTION ACT 1998

RIGHTS OF APPEAL AGAINST DECISIONS OF THE COMMISSIONER

1. Section 48 of the Data Protection Act 1998 gives any person upon whom an enforcement notice has been served a right of appeal to the (First-tier Tribunal) General Regulatory Chamber (the "Tribunal") against the notice.
2. If you decide to appeal and if the Tribunal considers:-
 - a) that the notice against which the appeal is brought is not in accordance with the law; or
 - b) to the extent that the notice involved an exercise of discretion by the Commissioner, that he ought to have exercised his discretion differently,

the Tribunal will allow the appeal or substitute such other decision as could have been made by the Commissioner. In any other case the Tribunal will dismiss the appeal.

3. You may bring an appeal by serving a notice of appeal on the Tribunal at the following address:

GRC & GRP Tribunals
PO Box 9300
Leicester
LE1 8DJ

Tel: 0300 1234504
Fax: 0870 739 5836
Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

The notice of appeal should be served on the Tribunal within 28 days of the date on which the enforcement notice was sent.

4. The statutory provisions concerning appeals to the First-tier Tribunal are contained in sections 48 and 49 of, and Schedule 6 to, the Data Protection Act 1998, and Tribunal Procedure (First-tier Tribunal) (General Regulatory Chamber) Rules 2009 (Statutory Instrument 2009/1976) (as amended).