



**Press Summary**

**Judgment Date: 21 April 2026**

**The High Court of Justice**

**[2026] EWHC 915 (Admin)**

**King's Bench Division**

**Administrative Court (Divisional Court)**

**The King (Shaun Thompson and Silkie Carlo) v The Commissioner of Police of the Metropolis and The Equality and Human Rights Commission (Intervener)**

**Before:** Lord Justice Holgate and Mrs Justice Farbey

*References in square brackets are to paragraphs in the judgment.*

### **Background to the Claim**

This judicial review challenges the lawfulness of the Metropolitan Police Service's ("MPS") policy governing the overt use of Live Facial Recognition technology ("LFR"), adopted on 11 September 2024 following a review of earlier policy documents ("the Policy"). The claim concerns only the revised Policy and not earlier iterations [1]–[4], [21]–[27].

LFR is used by the police as a tool to assist in the prevention and detection of crime, the location of wanted or missing persons, and the protection of the public. It works by scanning faces in public places and comparing biometric data derived from those images with biometric data held on police watchlists of specified "Sought Persons" [2], [83]–[85].

If no match is generated, biometric data is automatically and immediately deleted. Images of members of the public who are not matched are blurred, and the live CCTV feed is monitored in real time by a trained operator [3], [86]–[88].

The claimants do not contend that the use of LFR is unlawful in principle or that the police do not have powers to use it. Their challenge is directed at whether the Policy leaves too much

discretion to police officers as to *where, why* and *against whom* LFR may be used, contrary to Articles 8, 10 and 11 of the European ECHR on Human Rights (“the ECHR”) [4], [6]–[9].

The court emphasised that it is not concerned with the merits of facial recognition technology as a policing tool. Judicial review is concerned only with whether a public authority such as the Commissioner has acted lawfully within the limits of his powers [5].

## **The Claimants**

The first claimant, Mr Shaun Thompson, is a 39-year-old Black man who lives in London and volunteers as a community worker with Street Fathers, an organisation that supports children and young people in areas affected by youth violence [16], [140].

On 23 February 2024, Mr Thompson was mistakenly identified during an LFR deployment near London Bridge after being matched to an image of his brother, who was on a police watchlist. He was stopped and questioned by police officers and asked to prove his identity. When he declined to provide fingerprints he was threatened with arrest. He says the experience left him distressed, angry, and fearful of being wrongly identified again [17], [141]–[144].

The second claimant, Ms Silkie Carlo, is the Director of Big Brother Watch, a civil liberties organisation campaigning on privacy and surveillance. She has monitored and campaigned against the use of LFR by the MPS for several years and has attended multiple deployments [18], [146]–[147]. Ms Carlo says that the use of LFR, including at political protests and demonstrations, risks a “chilling effect” on lawful assembly and expression. [18], [150].

The Commissioner accepted that both claimants have status to bring their claims under the ECHR [19].

## **The Claim and Grounds of Challenge**

The claimants advance two grounds:

1. The policy breaches Article 8 of the ECHR because it permits interferences with private life which are not “in accordance with the law”; and
2. The policy breaches Articles 10 and 11 because any restrictions on freedom of expression and assembly are not “prescribed by law” [6]–[9].

It was common ground that both grounds raise the same legal issue: whether the Policy has the required “quality of law”, meaning it must be accessible, foreseeable, and provide adequate safeguards against arbitrary decision-making [8]–[15].

The claimants submit that the Policy allows the police, in practice, to deploy LFR across large parts of London, particularly in crowded or high-footfall areas, leaving too much discretion to individual officers. In support of that argument, they rely on the Court of Appeal’s decision in **R (Bridges) v Chief Constable of South Wales Police** [31]–[33], [190]–[192].

The claimants do not raise any challenge to the proportionality of the policy, nor do they challenge the deployment of LFR at major public events or protective security operations as such [15], [183].

### **The Legal Framework**

The court reviewed established domestic and Strasbourg authority on the requirement that any interference with ECHR rights must be “in accordance with the law” or “prescribed by law” [37]–[60].

A law may confer discretion on public authorities, but it must do so in a way that provides sufficient clarity and safeguards to prevent arbitrary decision-making. As Lord Bingham explained in **R (Gillan) v Metropolitan Police Commissioner** ([2006] UKHL 12; [2006] 2 AC 307 at [34], arbitrariness means decision-making based on “*whim, caprice, malice or predilection*”.

The breadth of a power is not determinative. The central question is whether the discretion is constrained by sufficiently clear rules and safeguards [38], [59]–[60].

### **The LFR Policy**

The Policy permits the deployment of LFR only within three defined “Use Cases”:

1. **Use Case A:** Crime hotspots and missing-person hotspots;
2. **Use Case B:** Protective security operations, including major events and critical national infrastructure; and

3. **Use Case C:** Deployments based on specific intelligence indicating that a sought individual is likely to be present at a particular location [92]-[108].

Unless a deployment falls within one of these Use Cases, LFR cannot be used [108].

The policy sets out detailed and objective criteria as to who may be placed on a watchlist, where LFR may be deployed for each use case, and the procedures for authorisation, oversight and review [109]-[131].

Every deployment is subject to a mandatory proportionality assessment, which expressly requires decision-makers to consider the impact on ECHR rights, including the risk of chilling effects on lawful protest, expression, and assembly [118]-[123].

The court observed that the Policy establishes a clear chain of command and oversight, which it described as: *“a far cry from the “hunch” or “professional intuition” of an individual officer”* [200].

## **Evidence**

The court was critical of significant aspects of the evidence relied upon by the claimants.

Large parts of Ms Carlo’s witness statements were not admissible as expert evidence. While the court accepted that she had experience of observing LFR deployments, it held that she had adopted the role of an advocate and that much of her evidence amounted to opinion rather than admissible fact. Substantial portions of her statements were therefore either excluded or given no weight [148]-[149], [152]-[154], [155]-[161].

The court also refused permission to rely on the expert reports of Professor Utley, holding that they did not assist in resolving the legal issues before the court. The reports addressed the geographical reach or effectiveness of LFR rather than the lawfulness of the Policy and were therefore not reasonably required in a judicial review [174]-[185].

The court cautioned that the use of irrelevant evidence wastes court time and resources and places unnecessary burdens on parties [162]-[163].

## **The Court’s Decision**

The Divisional Court unanimously dismisses the claim [217], concluding that:

1. The Policy satisfies the requirement of being “in accordance with the law” and “prescribed by law” for the purposes of Articles 8, 10 and 11 ECHR.
2. The Policy does not confer unfettered or arbitrary discretion on individual police officers.
3. The safeguards, criteria and proportionality framework contained within the Policy are materially different from those criticised in *Bridges* [217]-[218].

Accordingly, neither claimant’s ECHR rights have been breached [214], [217].

## **The Court’s Reasons**

### **(1) Foreseeability and Discretion**

The court rejected the submission that the Policy leaves police officers free to deploy LFR wherever they choose. When read fairly and as a whole, the Policy contains clear, interlocking and cumulative constraints governing why LFR may be used, the persons whom it may be used to detect and where it may be deployed [217]–[218].

Those constraints include the strict limitation to defined Use Cases, the detailed rules on watchlist construction, the specification of permitted locations, and the requirement for authorisation and oversight at senior levels. Taken together, these features mean that decisions are governed by the Policy rather than by individual whim [90]–[91], [217].

The ECHR does not require a policy to eliminate discretion altogether. The legal question is whether discretion is constrained by sufficient legal rules to prevent arbitrary decision-making [38], [59]–[60].

### **(2) “Operational experience”**

The claimants argued that the reference in the Policy to “operational experience” rendered the designation of crime hotspots too vague and subjective. The court rejected that submission. Properly construed in context, the phrase does not refer to the instincts or hunches of individual officers. It refers to the corporate, evidence-based operational experience of the MPS applied within defined criteria and alongside crime data and intelligence reporting [194]–[200].

The court agreed with the Commissioner that the public would expect police decision-making about crime hotspots to draw on specialist operational judgment, and that doing so guards against both arbitrariness and rigidity [196]–[199].

### **(3) Comparison with the decision in *Bridges***

The court explained that the deficiencies identified in *Bridges*; in particular the absence of clear criteria as to who could be included on watchlists and where LFR could be deployed; do not arise under the September 2024 Policy [72]–[77], [217]. The court rejected submissions that LFR is materially more intrusive than at the time of *Bridges*, holding that its position on the spectrum of police powers has not fundamentally changed.

### **(4) Use of LFR in Public and Crowded Spaces**

The court rejected the argument that the Policy permits arbitrary deployment of LFR in crowded or high-footfall locations. Footfall is not a criterion for deployment under the Policy. Crime hotspots are identified by reference to crime data, intelligence and operational experience, not by the number of people passing a camera [179]–[183].

The court accepted evidence showing that both high-footfall and low-footfall areas may qualify as crime hotspots, while many busy locations do not. There is therefore no necessary connection between high footfall and LFR deployment [181].

### **(5) Articles 10 and 11**

The court accepted that the use of LFR may engage Articles 10 and 11 of the ECHR, particularly in the context of protests and demonstrations. However, the court attached weight to the fact that the Policy expressly requires decision-makers to consider the risk of chilling effects on lawful protest as part of the mandatory proportionality assessment [118]–[123].

That structured assessment, together with the possibility of refusing or modifying deployments, provides a real and effective safeguard [217].

### **(7) Equality and discrimination**

The court noted that the claimants did not advance any challenge under the Public Sector Equality Duty in section 149 of the Equality Act 2010 [145]. Although concerns were raised in submissions about the potential for disproportionate impacts on ethnic minority communities if LFR were deployed arbitrarily, those concerns were not developed into a freestanding legal challenge.

The court accepted that, if a policy governing the use of LFR were to authorise discriminatory or arbitrary decision-making, that could undermine its legality. However, on the arguments and evidence before it, the court was not persuaded that discrimination concerns affected the lawfulness of the Policy [210].

## **Conclusion**

Drawing these strands together, the court concluded that the Policy does not authorise arbitrary decision-making, has sufficient clarity and foreseeability, and provides adequate safeguards against abuse. Accordingly, the Policy satisfies the requirements of meeting the required quality of law for the purposes of Articles 8, 10 and 11 of the ECHR, and the claimants' challenges fail [214], [217].

## **NOTE:**

**This summary is provided to assist in understanding the Court's decision. It does not form part of the reasons for the decision. The full judgment of the Court is the only authoritative document. Judgments are public documents and are available at:**

<https://www.judiciary.uk/judgments/>

<https://caselaw.nationalarchives.gov.uk/>