

Guidance: Declarations of Compliance and Non-Compliance with the Code of Practice
FSR-GUI-0001

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1. Introduction

- 1.1.1 This document sets out guidance on declaring compliance with the statutory Forensic Science Regulator's (the Regulator) Code of Practice (the Code) [1] that came into force on 2nd October 2023.
- 1.1.2 This document is issued by the Regulator in line with Section 9(1) of the Forensic Science Regulator Act (the Act) [2], as a guidance document for practitioners on making declarations in relation to the Regulator's requirements as stated in the Code: 'The Regulator may also provide guidance in relation to undertaking [forensic science activities] FSAs (whether covered by this Code or not) in England and Wales. Non-compliance with the guidance does not, by itself, establish non-compliance with the Code, but any forensic unit which does not comply with guidance (e.g. chooses another approach to achieving requirements) shall be capable of showing how the requirements of the Code have been met.'
- 1.1.3 The Code defines a practitioner as someone, whether an employee of the forensic unit or not, who is directly involved in undertaking an FSA. It is not determined by job title, or even whether conducting the FSA as part of a wider role, including but not limited to police officers and staff.
- 1.1.4 The Criminal Practice Directions 2023 [3] (section 7.1.4 (h)) state that 'a lack of an accreditation or other commitment to prescribed standards' requires disclosure to enable full assessment of the reliability of any (expert) evidence. As experts are required to include such information the most appropriate disclosure route for all those reporting forensic science activities whether factual or opinion based is to include such information within the statement/report.
- 1.1.5 The Code (section 37.2 Issue 1) sets the requirement for making declarations and provides wording that should be used (or permits wording that is substantially the same). This guidance outlines various compliance scenarios and suggests standard wording for making such declarations. Practitioners are encouraged to adopt these standard wordings within statements/reports to facilitate consistency and ease of understanding for

those utilising the reports within the criminal justice system (CJS). Where this guidance refers to 'statement/report', this means statements or reports which are intended to support the judicial process, including Streamlined Forensic Reporting 1 (SFR1).

- 1.1.6 The Code requires that a practitioner undertaking an FSA that is subject to the Code shall make a declaration of compliance or non-compliance with the Code in all statements/reports and covering all FSAs referenced in that statement/report.
- 1.1.7 To be compliant with the Code, practitioners shall:
 - meet the requirements detailed in the Code for any forensic science activity (or sub-activity).
 - include the Code on the accreditation schedule, if required in the FSA definition.
- 1.1.8 Any practitioner that has not complied with the statutory Code by fulfilling section 1.1.7 above for all aspects of the work being reported on shall be considered to be non-compliant with the Code and shall declare non-compliance with the Code.
- 1.1.9 If the crime or the scientific activity is outside of England and Wales, it is not an FSA for the purposes of the 2021 Act, even if the in every other respect the activity meets the definition. Therefore, compliance with the Code is not required and consequently the Code cannot require a declaration of compliance or otherwise. Similarly, if an activity is being undertaken outside of England and Wales for a jurisdiction in England and Wales, the Act also does not apply. For the benefit of the Courts in England and Wales, it would be useful for reports to declare that the Code does not apply in these circumstances.
- 1.1.10 This document also outlines how practitioners declaring non-compliance to the Code can provide mitigation detail about the non-compliance through the use of an annex to the report/statement further breaking down to beyond sub-activity level (where required) to detail where there is compliance to the

- Code, where accreditation is held or how they have otherwise addressed the quality requirements in the Code.
- 1.1.11 In cases where more than one party wants to introduce expert evidence, the court may direct experts to produce a joint statement on matters on which they agree and disagree (Criminal Practice Directions 2023 [33]). Such statements are a matter for the courts and their production is not considered an activity covered by the Code therefore do not require a declaration of compliance to the Code.

2. Compliance with the code

- 2.1.1 A declaration of compliance or non-compliance with the Code is required in all statements/reports supplied to support the judicial process, including but not limited to Forensic Information Reports, SFRs, Factual reports, Expert reports and certificates (section 38.1.1 of the Code Issue 1).
- 2.1.2 Compliance with the Code is binary. Therefore, if a practitioner is undertaking any aspect of an FSA that requires compliance with the Code, but is not compliant for that activity, then the practitioner shall declare non-compliance and provide further detail on the mitigations to the non-compliance through the use of an annex, see section 4.1 below.
- 2.1.3 Specialists from outside the forensic profession (infrequently commissioned experts, section 46 of the Code Issue 1) should refer to the requirements and text contained in the Code.
- 2.1.4 From 2nd October 2023, the previous non-statutory codes are withdrawn and cease to be applicable to any FSAs conducted on or after that date and the statutory Code supersedes the requirements of these.
- 2.1.5 Prior to 2nd October 2023 there is no requirement to declare compliance or non-compliance with the statutory Code.

3. Declarations text

3.1.1 The Code (section 37.2.2 Issue 1) sets out the relevant declarations to be made as follows:

- 3.1.2 'All practitioners reporting on FSAs requiring compliance with the Code shall declare/disclose compliance with this Code in reports intended for use as evidence in the following terms, or in terms substantially the same:
 - a. 'I confirm that, to the best of my knowledge and belief, I have complied with the Code of Practice published by the statutory Forensic Science Regulator [insert issue*]; or
 - b. 'I confirm that, to the best of my knowledge and belief, I have complied with the Code of Practice published by the statutory Forensic Science Regulator [insert issue*] for infrequently used methods or new methods. As this method is not within the schedule of accreditation, annex [x] details the steps taken to comply with the specific requirements to control risk'; or
 - c. 'I have not complied with the Code of Practice published by the statutory Forensic Science Regulator [insert issue*]. The details of this non-compliance are included to the best of my knowledge and belief in annex [x], with details of the steps taken to mitigate the risks associated with non-compliance."
- * This refers to the issue/version of the Code. Either term issue or version can be used.

4. Choosing the right declaration

4.1 General

- 4.1.1 This section outlines which declaration the practitioner should use in certain scenarios, depending on their compliance situation.
- 4.1.2 The purpose of the declaration is to ensure a consistent approach to identify to the Court whether the FSA performed meets the required quality standards, as evidenced by compliance to the Code. Therefore, the declarations provided are brief and succinct. The practitioner should ensure that any detail that is relevant to the Court is included in an annex to the statement/report. This includes mitigating actions to ensure quality in the event of non-compliance, and for complex cases involving multiple FSAs, to

stipulate which FSAs are non-compliant with the Code. Further detail of the expectations regarding the annex and mitigations is provided in sections 4.3 and 6.

4.2 Full compliance with Code

- 4.2.1 Practitioners who have complied with the Code for all the forensic science activities/sub-activities being reported, should make a declaration of compliance with the Code, as per section 3.1.2(a).
- 4.2.2 Practitioners should also declare within the statement/report which FSA(s) is being referred to for the benefit of the court.

4.3 Non-compliance with the Code

- 4.3.1 The following scenarios require a statement of non-compliance to the Code as per section 3.1.2(c) where the requirement is to comply with the Code including accreditation to an international standard and outline in an annex details of the steps taken to mitigate the risks associated with non-compliance:
 - Practitioners who have not complied with the Code for some or all of the forensic science activities/sub-activities being reported.
 - When a practitioner's forensic unit does not hold accreditation for some or all of the forensic science activities/sub-activities being reported.
 - c. When a practitioner's forensic unit holds accreditation for some or all of the forensic science activities/sub-activities being reported, but the Code is not yet on their schedule of accreditation.
- 4.3.2 Unless a practitioner has fully complied with the Code, as regards the FSAs or sub-activities referenced in that statement/report, then they shall declare non-compliance. It is possible that forensic units may be compliant for some or even most of the FSAs or sub-activities which they are reporting on even if they are declaring non-compliance to the Code. As compliance is binary, the declaration has to be of non-compliance in this scenario.

4.4 Accredited FSAs

- 4.4.1 UKAS Publication 'GEN 6 Reference to accreditation and multilateral recognition signatory status by UKAS accredited bodies' [4] requires that all accredited forensic units clearly reference accreditation on all reports/statements relating to accredited activities.
- 4.4.2 The reference to accreditation shall without variation be achieved by using the phrase 'a UKAS accredited testing laboratory or inspection body No. XXXX' and include the relevant UKAS accreditation number displayed on the corresponding UKAS schedule of accreditation as per UKAS Publication 'GEN 6 Reference to accreditation and multilateral recognition signatory status by UKAS accredited bodies'. This recognises the legal requirements under Criminal Procedure Rule 19.4 that an expert's report must give details of the expert's accreditation.
- 4.4.3 GEN 6 requires that when reports/statements, incorporating reference to UKAS accreditation, contain results from both accredited and non-accredited forensic activities, the non-accredited work shall be clearly identified. This can be achieved through the use of a mitigations table in the annex to the report.

4.5 FSAs that have delayed compliance requirements

4.5.1 Certain FSAs require compliance to the Code at a later date, rather than when the Code came into force on 2nd October 2023. For example, FSA-DIG 200 'Cell site analysis for geolocation' and FSA-BIO 100 'Forensic examination of sexual offence complainants', are required to comply with the Code within 24 months from when Issue 1 of the Code came into force. Forensic practitioners carrying out these FSAs therefore have no requirement to declare compliance or non-compliance to the Code until 2nd October 2025. Practitioners should, for the benefit of the Court, state that the Code does not apply until the date stipulated in the Code. Suggested wording is as follows:

'FSA-DIG 200 – cell site analysis for geolocation, does not require compliance to the Code of Practice published by the statutory Forensic

Science Regulator [insert issue] until 2nd October 2025 therefore there is currently no requirement to declare compliance or non-compliance to the Code.'

4.5.2 If a practitioner's forensic unit holds accreditation and they have complied with the Code for either of these FSAs before the requirement to be compliant, then the practitioner may declare that they have complied with the Code and state that there is no requirement yet to comply, for example as follows:

'FSA-BIO 100 – Forensic examination of sexual offence complainants, does not require compliance to the Code of Practice published by the statutory Forensic Science Regulator [insert issue] until 2nd October 2025 therefore there is currently no requirement to declare compliance or non-compliance to the Code. However, I confirm that to the best of my knowledge and belief I have complied with the Code'.

4.6 FSAs not yet subject to the Code

4.6.1 FSAs that are not subject to this version of the Code do not require compliance with the Code and therefore practitioners are not required to declare compliance or non-compliance with the Code for these FSAs. However, practitioners should, for the benefit of the Court, declare that the Code does not apply in these circumstances. This does not infer compliance with the Code, just that the Code does not apply.

For example: 'FSA-DTN 104 – Toxicology: alcohol technical calculations, is not subject to the Code of Practice [issue] published by the statutory Forensic Science Regulator. Therefore, there is currently no requirement to declare compliance or non-compliance to the Code.'

4.6.2 If a forensic activity required compliance and declaration of such in the non-statutory codes, but are not subject to the statutory Code, then there is no longer a requirement for compliance and declaration of such. For example, for collision investigation, the non-statutory codes version 7 states 'Any legal entity conducting collision investigation must gain accreditation by October 2022 for at least the lead region, with the remaining regions/sites becoming

accredited by October 2023'. However, there is no requirement for compliance to the statutory Code, so practitioners undertaking collision investigation need not declare compliance or otherwise and should declare the Code does not apply as per section 4.5.2.

4.7 Activities and reports spanning the date the Code came into force

4.7.1 Statements/reports should declare compliance or otherwise to the requirements that were applicable at the time of the analysis. Where forensic work spans the period before the Code came into force and the statement/report being written after the Code came into force, then the practitioner should reflect this in the statement/report and provide two declarations: one stating which work was carried out prior to the Code being in force and declare whether or not it was compliant with the non-statutory codes that were applicable at the time; and another stating which work was carried out after the Code came into force and in terms of the FSAs carried out, declare whether or not it was compliant with the statutory Code.

4.8 Infrequently used methods

4.8.1 If a practitioner is carrying out an infrequently used method as defined in the Code (section 44.3 Issue 1), and is compliant with the requirements of the Code, then declaration 3.1.2(b) should be used. This only applies to infrequently used methods, which are not accredited. New methods that were being treated as infrequently used methods, but have become 'frequently used methods', and do not comply with the requirements of the Code will have to be declared as non-compliant with the Code until they are fully compliant.

4.9 Friction Ridge Detail results generated through IDENT 1 database search

4.9.1 It is understood that most forces will process positive identifications as a result of IDENT 1 searches through their accredited manual comparison process. However, forensic units that operate IDENT 1 without having it in

their scope of accreditation should declare non-compliance with the Code using the following form of words:

'[my organisation] meets the requirements of the statutory Code for macroscopic or magnified comparison of two areas of friction ridge detail, howsoever made and presented, to determine whether or not they originated from the same source. However, [my organisation] does not hold accreditation for the interrogation of IDENT 1, which was used for the initial searching and on-screen comparison(s). All positive outcomes from interrogation of the IDENT 1 database have been subsequently confirmed using an accredited manual comparison process.'

- 4.9.2 Where an IDENT 1 search results in no respondents, the result stays internal to the investigation, and no suspect subsequently comes to light, then a declaration of non-compliance is not required. The Investigating Officer should however be made aware of the limitations inherent in the IDENT 1 process.
- 4.9.3 Where an IDENT 1 search results in no respondents, but a suspect subsequently comes to light, then the suspect's tenprints should be compared to the crime marks as usual. The IDENT 1 aspect of this process does not require a declaration of non-compliance because it is not the reason that the comparison has been carried out.
- 4.9.4 Where an IDENT 1 search results in no respondents and this is reported to the wider CJS, then a declaration of non-compliance is required. Such a declaration can take the same form of words as set out above but omitting the final sentence.

4.10 Changes of compliance status

4.10.1 The Code (section 37.3.1 Issue 1) outlines that forensic units shall promptly and as soon as practicable report to the Regulator any suspension, withdrawal, or change in their accreditation status where the suspension, withdrawal or change in accreditation means that the practitioner is no longer compliant with the Code. If a forensic unit experiences a suspension, withdrawal or change in accreditation status following the provision of the

- report(s) for a case, the practitioner is also obliged to notify the commissioning party "immediately and confirm in writing if for any reason (the) existing statement/report requires any correction or qualification" as per section 7.2.1 (10) of the Criminal Practice Directions 2023.
- 4.10.2 If the suspension, withdrawal or change in accreditation status impacts the case being reported on, for example if accreditation was retroactively withdrawn to a date prior to the analysis was carried out, then this will reflect a change in compliance to the Code pertaining to the case and therefore a declaration of non-compliance will be required.

4.11 Other types of compliance not involving accreditation

- 4.11.1 The Code permits alternative compliance routes in a select number of FSAs, which means there are alternative declarations which may be used if the conditions set out in the Code to use the alternative are met.
- 4.11.2 For example, under FSA MTP 601 Examination, analysis and classification of firearms, ammunition and associated materials, the Regulator has agreed a process in the event that an urgent firearms classification is required to support a remand in custody application where it is not feasible to undertake this to the timescales using an accredited process. The practitioner must declare this as follows:

'To the best of my knowledge, this work has complied with the requirements described in the Code for urgent firearms classification to support a remand in custody application and the firearm will be submitted to a practitioner which holds accreditation for this activity.'

4.11.3 Another example, under FSA – DIG 300 – Recovery and processing of footage from closed-circuit television (CCTV)/video surveillance systems (VSS) where the forensic unit is performing and reporting on findings from this FSA, according to the NPCC's Framework for Video Based Evidence rather than accreditation, the forensic unit should make the following declaration:

'I confirm that, to the best of my knowledge and belief, I have acted in accordance with the NPCC Framework for Video Based Evidence [insert version] as required by the statutory Forensic Science Regulator.' or

'I have not complied with the NPCC Framework for Video Based Evidence [insert version]. The details of this non-compliance are included to the best of my knowledge and belief in Annex [x], with details of the steps taken to mitigate the risks associated with non-compliance.'

4.11.4 Other instances of alternative compliance routes and declarations are outlined within the Code.

5. Declarations whilst subject to enforcement action

5.1.1 The Policy on Enforcement Action by the Forensic Science Regulator (FSR-POL-0003) outlines the declaration requirements in the event that the FSR has taken action under sections 5,6,7 of the Act.

Content of annex to support a declaration of noncompliance

6.1.1 If declaring non-compliance, the Code requires the practitioner to set out in an annex how the risks associated with non-compliance to the Code have been mitigated. This annex allows the complex issue of mitigation to be dealt with in the report rather than as a supplement and could allow forensic units to issue standardised wording while the forensic unit is working towards compliance. Practitioners should be aware this declaration and mitigation annex are also requirements in the Criminal Practice Directions 2023 (direction 7.2.1 (13)) [3].

6.2 Overview of mitigations

- 6.2.1 The Code (section 37.2.3 Issue 1) requires that in instances of noncompliance, the practitioner shall detail mitigations against non-compliance addressing the following issues:
 - Competence of the practitioners involved in the work.

- b. Validity of the method employed.
- Documentation of the method employed.
- Suitability of the equipment.
- e. Suitability of the environment.
- Appendix A provides an example table of mitigations for cases of noncompliance, which addresses the categories listed above as well as a
 mitigation for accreditation. The table allows the practitioner to provide detail
 to sub activity level where required and the quality mitigations for each.

 There are other mitigations such as participation in proficiency trials which
 may provide a level of assurance. The table prompts the user to set out the
 high level mitigations, and is intended to encourage a consistent approach
 across all forensic units.
- 6.2.3 The mitigation table calls for 'yes' or 'no' responses; where 'no' is selected there is a requirement for additional information for the trier of fact to be able to assess the evidence. The level of detail required may be somewhat case specific, factual reports may require less detail than expert reports; section 6.3 below, details the types of supporting information to consider, but also what not to include.
- Appendix A also contains an example table of mitigations for FSA-DIG 300 Recovery and processing of footage from closed-circuit television
 (CCTV)/video surveillance systems (VSS), with compliance to the NPCC
 framework. The Code requires a declaration whether the NPCC framework
 or the Code and accreditation compliance mechanism is used, and noncompliance with either requires the mitigation table. When making a
 declaration practitioners should also select the corresponding table of
 mitigations for their FSA or provide those details in another format that
 satisfies the requirements of the Code.
- 6.2.5 If more than one FSA is being reported on in the report, then there should be one annex/table for each FSA for which the practitioner is declaring non-compliance to the Code. These should be clearly referenced in the statement/report to ensure the correct annex is considered.

6.3 Accreditation to the ISO/IEC 17020/ 17025 as per the Code

- 6.3.1 Some forensic units have a schedule of accreditation to ISO/IEC 17020/
 17025 which explicitly specifies forensic analysis but does not incorporate accreditation to the Code in such instances, a 'yes' should be entered in this column if the scope of accreditation covers the activity being reported.
- 6.3.2 ISO/IEC 17025:2017 accreditation schedules which do not explicitly state forensic analysis, indicate the analytical activity had not been assessed as a forensic process as per the Code (e.g conforming with ILAC G19). Although this analytical process may be accredited for a different purpose, continuity issues and other forensic science specific aspects were not part of the assessment so a 'no' should be returned in this column. The accreditation held may be included in the additional and/or supporting information related to the mitigations.
- 6.3.3 This is about the forensic unit holding accreditation for conducting the FSA being reported. The forensic unit may have calibration certificates for equipment which make reference to ISO/IEC 17025. The organisation that issued a calibration certificate referencing ISO/IEC 17025 holds accreditation for calibration; mentioning it under this mitigation category when the forensic unit performing the FSA does not hold accreditation may be confusing or even misleading and therefore is not advised to be stated under this category.
- 6.3.4 If a forensic unit is in the process of achieving accreditation, caution should be taken on how this status is described. Phrases such as "working towards accreditation" should not be used, the mitigations should set out the components of the quality management system that are in place eg method validation or demonstration of competence in the method.

6.4 Competence of the practitioners involved in the work tested

6.4.1 The Code requires that a forensic unit has a competence framework which sets out the specific skills and knowledge its practitioners need to undertake specific forensic science activities as well as how the forensic unit ensures ongoing competence.

- 6.4.2 Practitioners issuing reports who do not work within a Code compliant competence framework, will need to ensure the required mitigation annex properly reflects the skills and knowledge that mitigate the risks in that specific forensic science activity.
- 6.4.3 A 'yes' under this heading indicates that the practitioner writing the report/statement meets the requirements for competence defined in the Code, meaning the forensic unit has a procedure for assessing initial and ongoing competence and holds records of this competence.
- 6.4.4 If the response is "no" because there is no formal documentation of competence or competence requirements as required by the Code then the mitigations should explain why the practitioner is competent to provide evidence for the court, such as relevant training and experience.
- 6.4.5 It is likely that the practitioner in complying with the Criminal Procedure Rules has set out their experience in some detail, it would be appropriate to restate the specific qualifications in the mitigation, and/ or cross reference it to the main section of the statement/report that deals with such matters.

6.5 Method employed validated

- 6.5.1 A 'yes' under this heading means a validation study has been conducted in line with the requirements of the Code, to demonstrate that the method used to generate the results reported on is fit for purpose. The validation will of course not have had third party review by the accreditation body, practitioners asserting that it does comply in a legal declaration should make sure they are confident it is indeed in line with the requirements.
- 6.5.2 If the validation study is not complete or has not been conducted then "no" needs to be added under this mitigation. Information on validation studies by others (e.g. central validation) is not relevant unless it relates to the method used by the practitioner in the report/statement. If the method has not been validated then mitigations given should explain why the results from this method can be relied on.

6.6 Method employed documented

- This relates to the method used by the practitioner writing the report/statement, rather than the examination notes/records. Putting 'yes' under this mitigation indicates that the method used is documented in the forensic unit (usually as a standard operating procedure or work instruction) and version controlled (i.e. recorded in a document management system).
- 6.6.2 If the method is not documented within a management system the mitigations should explain how the method used can be identified. Use of a method published in training material, textbooks, or from a central body does not meet the requirements for documenting a method but can be given as a mitigation as a means of identifying the method used.
- 6.6.3 The management system is expected to meet all the requirements of the Code, including to have effective procedures to perform the following.
 - a. Review of requests, tenders and/or contracts
 - b. Developing an examination strategy
 - Selection of methods
 - d. Estimation of uncertainty
 - e. Checking and primary review
- 6.6.4 Forensic units may have a range of methods and not all will be suitable for every incident which may be dealt with. In cases using methods where this is likely to be the case, mitigations against several or all of 6.6.3 may need to be addressed in this category of documented method.

6.7 All equipment/software has been tested and is fit for purpose

- 6.7.1 A 'yes' for this mitigation indicates that the equipment and software used has been tested and shown to be fit for purpose, calibrated where necessary and records of this held by the forensic unit.
- 6.7.2 Where the equipment/software has not been tested in the manner expected, the mitigations provided should explain why the results from this equipment/software can be relied on.

6.8 The work is undertaken in a suitable environment

- 6.8.1 A 'yes' under this mitigation indicates that the work is performed in a suitable environment, general requirements for environment and facilities can be found in the Code. This should assist with determining whether the environment is suitable or whether any mitigations are needed.
- 6.8.2 Where the environment is not ideally suited to the work, for example access is not controlled, the mitigations should explain how the aspects of non-compliance are addressed to ensure the reliability of the work produced.

6.9 Further aspects to consider

- 6.9.1 A practitioner declaring non-compliance with the Code and including a mitigation annex with their statement or report should be prepared to explain the mitigations or provide further information if requested.
- 6.9.2 The Criminal Practice Directions (section 7.1.2) also detail other aspects which the court may expect to be able to evaluate from the report/statement:
 - a. The extent and quality of the data on which the expert's opinion is based, and the validity of the methods by which they were obtained.
 - b. If, in drawing their opinion, the expert relies on an inference from any findings, and if so, whether the opinion properly explains how safe or unsafe the inference is (whether by reference to statistical significance or in other appropriate terms).
 - c. If, in drawing their opinion, the expert relies on the results of the use of any method (for instance, a test, measurement, or survey), and if so, whether the opinion takes proper account of matters such as the degree of precision or margin of uncertainty that may affect the accuracy or reliability of those results.
 - d. The extent to which any material upon which the expert's opinion is based has been reviewed by others with relevant expertise (for instance in peer-reviewed publications), and the views of those others on that material.
 - e. The extent to which the expert's opinion is based on material falling outside the expert's own field of expertise.

- f. The completeness of the information which was available to the expert, and whether the expert took account of all relevant information in arriving at their opinion (including information as to the context of any facts to which the opinion relates).
- g. If there is a range of expert opinion on the matter in question, where in the range the expert's own opinion lies and whether the expert's preference has been properly explained.
- h. Whether the expert's methods followed established practice in the field and, if they did not, whether the reason for the divergence has been properly explained.
- 6.9.3 It may be appropriate to detail what the forensic unit is doing to address the non-compliance.
- 6.9.4 Both the initial statement of non-compliance and the annex should use language suitable to be understood by lay persons, it must not mislead or use jargon or cross references to clauses the reader is unlikely to follow up on.
- 6.9.5 Consistently declaring non-compliance with the Code (for any method that is not infrequently used) is not a long-term alternative to adherence to the Code and forensic units should be aiming for full compliance. Forensic units should remain mindful that if the Regulator believes there is substantial risk of adversely affecting any investigation, or impeding or prejudicing the course of justice in any proceedings (as per section 5 of the FSR Act 2021) declaring non-compliance will not prevent a formal enforcement action by the Regulator.

7. Modification

- 7.1.1 This is the second issue of this document under section 9 of the Forensic Science Regulator Act 2021.
- 7.1.2 The PDF is the primary version of this document.
- 7.1.3 Significant changes from the previous version will be highlighted in grey, and significant deletions will be marked as '[deleted text]'. Where sections are

- inserted, moved or renumbered, the subsequent renumbering of sections that follow will not generally be marked.
- 7.1.4 The Regulator uses an identification system for all documents. In the normal sequence of documents this identifier is of the form 'FSR-###-####' where (a) (the first three '#') indicate letters to describe the type of document and (b) (the second four '#') indicates a numerical code to identify the document. For example, this document is FSR-GUI-0001, and the 'GUI' indicates that it is a guidance document. Combined with the issue number this ensures that each document is uniquely identified.
- 7.1.5 If it is necessary to publish a modified version of a document (for example, a version in a different language), then the modified version will have an additional letter at the end of the unique identifier. The identifier thus becoming FSR-GUI-0001-A.
- 7.1.6 In the event of any discrepancy between the primary version and a modified version then the text of the primary version shall prevail.

8. Review

- 8.1.1 This document is subject to review by the Forensic Science Regulator at regular intervals.
- 8.1.2 The Forensic Science Regulator welcomes views on this guidance. Please send any comments to the address as set out at the following web page:

 www.gov.uk/government/organisations/forensic-science-regulator or send them to the following email address:

 FSREnquiries@forensicscienceregulator.gov.uk

9. References

[1] "Forensic Science Regulator Code of Practice," March 2023. [Online].

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10. Appendix A: Examples of 'table of mitigations to non-compliance' to include in the required annex

a. Mitigations table for FSAs which require compliance to the Code and do not permit alternative compliance routes Where a declaration of non-compliance has been made at FSA level, practitioners should outline (1) the FSA, (2) the non-compliance within the FSA, (3) whether the forensic unit holds existing accreditation for this activity (i.e. not including the Code) and (4) the quality mitigations as required in the Code.

			Mitigations to the risk associated with non-compliance						
Forensic Science Activity	Scope of non- compliance within the FSA	Accredited to ISO/IEC 17025/ ISO/IEC 17020 as per the Code	Competence of the practitioners involved in the work tested	Method employed validated	Method employed documented	All equipment / software used has been tested and is fit for purpose	The work is undertaken in a suitable environment		
Enter the FSA definition as set out in the Code	Insert the scope of non-compliant activity	Y/N	Y/N	Y/N	Y/N	Y/N	Y/N		

b. i. Example 1. A mitigations table for FSA – DIG 301 - Specialist video multimedia, recovery, processing and analysis, which may be performed by collision investigators. In this instance, the non-compliance are for two activities within the FSA.

Annex to declaration of non-compliance with the FSR Code (FSA-DIG 301)

The table below sets out the scope of non-compliance for the FSA I have undertaken in this case, and the mitigations to the risks associated with the non-compliance. In all other aspects, I am compliant with the requirements set out in the FSA.

			Mitigations to the risk associated with the non-compliance						
Forensic Science Activity	Scope of non- compliance within FSA	Accredited to ISO/IEC 17025/ ISO/IEC 17020 as per the Code	Competenc e of the practitioners involved in the work tested	Method employed validated	Method employed documented	All equipment/ software used has been tested and is fit for purpose	The work is undertaken in a suitable environment		
FSA – DIG 301 –	The examination and analysis of an image	N	Y	N	Y	Y	Y		
Specialist	to produce an								
video	evidential report								
multimedia,	including pictorial								
recovery,	image comparison								
processing	Speed estimation	N	Υ	N	Y	N	Υ		
and	from video								
analysis									
Enter addition	al and/or supporting info	rmation related to	o the mitigation	s outlined in	section 6.				

ii. Example 2. A mitigations table for FSA – DTN 103 - Examination and analysis to identify and quantify controlled drugs and/or associated materials.

In this case there was one analysis of ketamine and one analysis for cocaine. The forensic unit is compliant with the Code for the analysis of cocaine but not for the analysis of ketamine. The table needs to be completed for only those activities which are non-compliant with the Code. This approach can be adopted for other FSAs where there is mixed compliance.

Annex to declaration of non-compliance with the FSR Code (FSA-DTN 103)

The table below sets out the scope of non-compliance for the FSA I have undertaken in this case, and the mitigations to the risks associated with the non-compliance. In all other aspects, I am compliant with the requirements set out in the FSA

			Mitigati	ons to the ri	sk associated	with non-comp	liance
Forensic Science Activity	Scope of non- compliance within the FSA	Accredited to ISO/IEC 17025/ ISO/IEC 17020 as per the Code	Competence of the practitioners involved in the work tested	Method employed validated	Method employed documented	All equipment/ software used has been tested and is fit for purpose	The work is undertaken in a suitable environment
FSA – DTN 103 – Examination, analysis, quantification and legal classification of controlled drugs, psychoactive substances and/or associated materials	Analysis of Ketamine to determine whether it contains or is a relevant substance or associated material	N	Y	N	Y	Y	Y

Enter additional and/or supporting information related to the mitigations as outlined in section 6.

iii. Example 3. A mitigations table for FSA – INC 100 Incident Scene Examination where there is non-compliance with all activities within that FSA.

Annex to declaration of non-compliance with the FSR Code (FSA-INC 100)

The table below sets out the scope of non-compliance for the FSA I have undertaken in this case, and the mitigations to the risks associated with the non-compliance.

Forensic Science Activity	Scope of non- compliance within FSA	Accredited to ISO/IEC 17025/ ISO/IEC 17020 as per the Code	Mitigatio Competence of the practitioners involved in the work tested	Method employed validated	Method employed documented	with non-comp All equipment/ software used has been tested and is fit for purpose	The work is undertaken in a suitable environment
FSA – INC 100 – Incident scene examination	All	N	Y	N	Y	N	N
Enter additional and	d/or supporting	information relate	ed to the mitigatior	ns as outline	d in section 6.		

c. Mitigations tables for FSA - DIG - 300 Recovery and processing of footage from closed-circuit television (CCTV)/ video surveillance systems (VSS) which permits alternative compliance routes.

In this instance, the forensic unit has chosen to adopt the NPCC framework.

Annex to declaration of non-compliance with the FSR Code (FSA-DIG 300)

The table below sets out the scope of non-compliance for the FSA I have undertaken in this case. In all other aspects, I am compliant with the requirements set out in the FSA.

		Mitigatio	ons to the ris	k associate	d with non-con	npliance
Forensic Science Activity	Scope of non- compliance within FSA	Competence of the practitioners involved in the work tested	Method employed validated	Method employed document ed	All equipment/ software used has been tested and is fit for purpose	The work is undertaken in a suitable environment
FSA - DIG 300 -	The creation of	N	N	Y	Y	Υ
Recovery and processing of footage from closed-	a master using methods approved by,					
circuit television	or on behalf of,					
(CCTV)/video	the SAI					
surveillance systems (VSS)						
Enter additional and/or s	supporting informa	tion related to th	ne mitigations	as outlined	in section 6.	

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