



Forensic Pathology Specialist Group

Note of the meeting held at 14:00 hours on the 1st November 2016 at the Home Office, 2 Marsham Street, London, SW1P 4DF – Subject to changes

1.0 Introductions and Welcome

1.1 The Chair of the Forensic Pathology Specialist Group (FPSG), Dr Patrick Gallagher, welcomed members to the meeting, and asked members to introduce themselves. A full list of attendees is attached at Annex A.

2.0 Apologies

2.1 Apologies had been received from David Green, Russ Jackson and Nigel Meadows.

3.0 Minutes of last FPSG meeting on 25 May 2016

3.1 An edit was needed to section 4.10 on page 3, as the Hutton Review had suggested a reduction only in the number of coronial autopsies; not in all types of autopsies. Subject to this amendment, the minutes of the meeting held on 25 May 2016 were agreed to be an accurate reflection of the discussions held.

Action 1: Secretariat to amend the FPSG May 2016 minutes and publish the minutes.

4.0 Matters arising from the previous minutes

Examination of the Foetus

4.1 The guidance on examination of the foetus had been sent to both Nigel Meadows of the Coroners' Society of England and Wales and to the Home Office legal team for review and their comments were awaited.

Non Accidental Head Injuries (NAHI)

4.2 The Crown Prosecution Service (CPS) had been informed of the need to remove the annex with the link to the contentious meeting minutes on Non-Accidental Head Injuries (NAHI), and had confirmed that these would shortly be taken down from their website.

Action 2: Mark Bishop of CPS to arrange removal of the document on traumatic head injury in children from the CPS website.

2015 Audit of Forensic Pathology Report

4.3 The report of the 2015 audit of forensic pathology had been published on the Forensic Science Regulator (FSR) website on 1 August 2016.

Critical Conclusions Check

4.4 The critical conclusions check formed part of the each forensic pathology case report and had been discussed at the previous meeting. Martin Allix had since proposed some amendments to the 2010 protocol on Critical Conclusions Checking, and the document had been discussed at the Pathology Delivery Board (PDB). The deadline for forensic pathologists to comment on the paper was the end of January 2017.

2016 Audit of Forensic Pathologists

4.5 Dr Lumb had been nominated for the 2016 forensic pathology audit team and had agreed to take part.

Action 3: Dr Lumb to be included in the 2016 audit team.

Legal Obligations of Expert Witnesses

4.6 The previous forensic pathology audit had shown variability across the profession in regards to expert witnesses meeting their legal obligations. Therefore, the FSR had drafted a letter outlining the legal obligations for expert witnesses, which provided links to relevant legislation, and which would be sent to all registered forensic pathologists. The letter had been sent to all forensic pathologists on the Home Office Register, and would also be circulated to the forensic pathologists in Northern Ireland and Scotland.

Medical Examiners Scheme

4.7 The topic of the Medical Examiners scheme was raised for views from members of the FPSG. Following the launch of the Medical Examiners Scheme in two years time, the number of difficult post-operative or nursing home autopsies was expected to increase. It was also expected that coronial pathologists would be reluctant to undertake these complex autopsies.

Archival of forensic pathology records

4.8 Forensic Archive Limited (FAL) in Birmingham had been approached in regards to the archival of forensic pathologist case records. However, a review of FAL had determined that the facility should operate on the basis that the size of the archive would reduce with time and therefore FAL would not store any new material.

4.9 The Group discussed arrangements for the storage of forensic pathology case records. Members were reminded that the fee for forensic pathology cases included a £13 allowance to be used for storage arrangements for live cases. It was suggested that a document should be drafted to specify the minimum standards of storage for forensic pathology records, which could be appended to the Forensic Pathology code¹. When a forensic pathologist retired, their accumulated records would need to be retained. The Forensic Pathology Unit (FPU) would continue to collect these from the home of the Pathologist and offer them to the local police force. Previously the police forces had always accepted them.

¹ Code of Practice and Performance Standards for Forensic Pathology

5.0 Code of Practice and Performance Standards for Forensic Pathology

5.1 The current Code¹ had been circulated to all registered forensic pathologists in England and Wales, to representatives in Scotland and Northern Ireland, and to Forensic Service Providers (FSPs). The consultation had elicited numerous responses, which had been summarised and circulated to the FPSG.

5.2 A sub-group of the FPSG needed to be convened in order to consider any amendments required to the Code of Practice. Paul Johnson volunteered to lead the sub-group and Jack Crane and Andrew Davison agreed to join it. Work revising the Code would start imminently and would be completed by summer 2017.

5.3 The following steps to redraft the Code of Practice were agreed:

- a. Comments from the consultation would be considered by the sub-group.
- b. The Code of Practice would be re-drafted by Jeff Adams reflecting the views of the sub-group and the re-draft would be agreed by the sub-group.
- c. The draft would be reviewed by the FPSG.
- d. The draft would be reviewed by the Specialist Advisory Committee at the Royal College of Pathologists (RCPath) which would also seek views on the updated draft from forensic pathologists.
- e. The updated Code would be agreed by the Home Office and the Department of Justice in Northern Ireland.
- f. The FSR and the RCPath would publish the revised Code on their websites.

5.4 It was suggested that a pragmatic approach was required when re-drafting the Code of Practice including ensuring that the final document took into account the views of the entire forensic pathology community and not single voices. The whole community would need to be satisfied with the Code and take ownership of the document.

5.5 The FPSG discussed how the Code currently dealt with the use of Computerised Tomography (CT) and Magnetic Resonance Imaging (MRI) scanning for forensic pathology cases. Currently the Code stated that scanning was insufficient by itself in a forensic case and should be used only as an adjunct to an invasive post mortem. Either the radiologist or pathologist could report the scan results. While the availability of scanning might have increased, the FPSG did not believe that the current position on the use of scanning had changed. The FPSG went on to consider whether there were any forensic pathology cases where an invasive post-mortem was not required. The Code currently allowed forensic pathologists to undertake the examinations which they considered to be appropriate but they would need to provide an explanation as to the choice of examination which had been undertaken. It was suggested that in cases such as explosion deaths, where the bodies were intact, or mass fatalities, it would not be necessary to carry out full post mortems and instead it would suffice to use scanning, toxicology and DNA sampling. However, other members noted that issues might arise in the future, for example, survivability or the rapidity of death, which required a full post mortem to resolve.

Action 4: Paul Johnson, Jack Crane, Andrew Davison and Jeff Adams to review comments received to the consultation on the Code of Practice and

Performance Standards for Forensic Pathology. Jeff Adams to redraft the document taking into account the views of the sub-group.

6.0 Imaging Standards

6.1 The Group heard that the RCPATH and The Royal College of Radiologists had published documents on the subject of post mortem imaging. It had previously been agreed by the FPSG that it would be useful to develop a set of standards for the use of post mortem imaging in forensic post mortem examinations. Members of the Group were invited to consider whether the issues could be addressed within general standards for post mortem imaging or whether forensic pathology required a specific set of standards. An outline of the standards which were required for forensic pathology post mortem imaging had been prepared and could be used as the basis for a discussion with the Royal Colleges. It was suggested that a separate document for forensic pathology post mortem imaging could be drafted and included as annex to the Code of Practice and Performance Standards for Forensic Pathology. Whilst the Group agreed to this approach, the importance of having the document approved by the Royal College of Radiologists was highlighted. It was also noted that the document would need to consider the intellectual property and data security in relation to scanning, due to the involvement of commercial companies in offering these services.

6.2 Professor Guy Ruttly (a forensic pathologist) and Professor Bruno Morgan had agreed to draft the document and it was suggested that a Radiologist at Barts. Health, National Health Service (NHS) Trust, Curtis Offia, would be a useful contact.

6.3 The FPSG agreed the outline of standards required for forensic pathology post mortem imaging. The authors would be informed that a balanced view on the technique was required and the FPSG would review the full document when drafted.

Action 5: Jeff Adams to inform Professor Guy Ruttly and Professor Bruno Morgan of the approach to be taken with the forensic pathology post mortem imaging document.

7.0 Use of the term “Excited Delirium”

7.1 The issues surrounding the use of the term “excited delirium” had been discussed at a previous FPSG meeting and a form of words had been circulated to members for their consideration. Members agreed that the term “excited delirium” should not be recommended as a cause of death, but it could be included in the comment section of a report. The FPSG was not supportive of completely prohibiting the use of the term, but it was emphasised that it should be used with care as its use could cause confusion.

7.2 A British Association in Forensic Medicine (BAFM) meeting would discuss the issues of deaths in custody, deaths when restraint was used, and excited delirium, and it was agreed that the FPSG would review this topic after this discussion.

Action 6: Secretariat to return “excited delirium” to the FPSG agenda following the BAFM meeting on deaths in custody.

8.0 Retention of “Forensic” Evidence

8.1 A draft document which set out the requirements regarding the storage, retention and destruction of records and materials where a submission had taken place to a FSP had been circulated to the FPSG, and the Group was invited to highlight whether any of the procedures included in the document would be impractical. As background, the FPSG heard that in 2003 the Forensic Science Service (FSS) and Association of Chief Police Officers (ACPO) had published a document which covered this area, which had been agreed by the CPS. The National Policing Improvement Agency (NPIA) had updated the FSS and ACPO's paper in 2012. Now a subsequent version had been prepared. However there was uncertainty as to which organisation would take ownership of the newly drafted document. The College of Policing (CoP) was suggested.

8.2 The document included an assumption that human tissue, and slides created from that tissue, should not be kept indefinitely. It was noted that the police could retain human tissues which were seized for as long as they had authority, but when the tissue was no longer needed for a criminal justice purpose, they no longer had the authority to store it and it should be disposed of in accordance with police guidance.

8.3 In 2013, the McCracken review of the Human Tissue Authority (HTA) recommended that

‘to further reduce the burden of regulation, the Department of Health (DH) should review the legislation governing the use of human tissue and consult on amendments to bring it more into line with the legislation in force in Scotland. Consideration should be given (inter alia) to: reducing the scope so that microscope slides and tissue block samples and bodily products such as saliva, urine, and faeces are excluded’.

Under the current framework, histology samples taken from patients for medical purposes were normally kept indefinitely, but forensic histology samples taken from the bodies of the deceased were subject to the consent provisions of the Human Tissue (HT) Act when they were not needed for the purposes of the police or the coroner. The normal rules about seized material applied and, potentially Article 8 European Convention on Human Rights (ECHR) was engaged.

8.4 The HTA maintained a list of issues arising from the HT Act, about which the DH was aware. It recommended that the FSR should make representations to the DH on the issue of retention of blocks and slides.

9.0 Entomology Samples

9.1 The FPSG discussed appropriate procedures for keeping maggots which had been recovered from a human body alive for the purpose of determining the species of the flies. It was suggested that dog food be used to feed the maggots to keep them alive, and that maggots should only be kept alive until maturity and should then be preserved or destroyed as required. It was agreed that an urgent circular should be sent to all forensic pathologists to recommend that dog food was the appropriate medium to use to sustain maggot samples.

Action 7: An urgent circular to be sent to all Forensic Pathologists with the recommendation that dog food be used to sustain samples of maggots to maturity in order to determine the species of flies.

10.0 2016 Audit of Forensic Pathologists

10.1 The subjects for the 2016 audit of forensic pathologists had been agreed at the previous FPSG meeting. It had proved difficult to procure the contract for the 2016 audit of forensic pathologists. However, this had now been resolved and the contract would be awarded imminently. Trevor Rothwell, who previously coordinated the annual forensic pathology audits, had now retired, and Colin Kettley had agreed to coordinate the 2016 audit. A small group of forensic pathologists would take part in the audit team.

Action 8: The contract for the 2016 audit of forensic pathology to be finalised and issued, and the audit to commence coordinated by Colin Kettley.

11.0 Indicators of Suspicion (2012 Audit of Forensic Pathologists)

11.1 Guidance had been circulated to the FPSG for anatomical pathology technologists and coroner's pathologists to assist in deciding whether a case should be referred to a Home Office Registered Pathologist. The FPSG was invited to discuss the draft.

11.2 Evisceration of a body was discussed, and the Group heard that the HTA's new licensing standards prevented evisceration of a body prior to examination by a pathologist, in line with RCPATH guidance. The HTA had the powers to take regulatory action if licensing standards were not met. Therefore, if evisceration of bodies was known to occur prior to the body being examined by the pathologist, this should be reported to the HTA for it to follow up. The "indicators of suspicion" document required endorsement by the RCPATH, as post mortems in mortuaries were undertaken by members or fellows of this College and the FSR did not have jurisdiction over coroner's pathologists.

11.3 Concerns were raised about the necessity of the document and that it should not replace the RCPATH autopsy guidelines. However, it was suggested that this document highlighted when not to undertake a coroner's autopsy, while the RCPATH guidelines covered how to undertake a coroner's autopsy. It was concluded that the "Indicators of suspicion" guidelines would be submitted to the RCPATH for their comments and approval.

Action 9: The "Indicators of suspicion" guidance to be submitted to RC Path for comments.

12.0 Revalidation and Appraisal of Forensic Pathologists

12.1 The annual assessment of the revalidation process for forensic pathologists was discussed and views of the process for the current year were invited from members of the FPSG. Members agreed that this new revalidation system had worked well. It ensured that colleagues had a licence to practice, and the process had facilitated discussions with the General Medical Council, which had approved the process. The Group expressed challenges in giving individual feedback to

forensic pathology colleagues and finding suitable Continuous Professional Development (CPD) activities, due to the small size of the specialty.

12.2 Those forensic pathologists who had been appraised had been asked for their feedback on the appraisal system, which had proved to be positive, and those being appraised had confidence in the process. A supportive approach to the appraisal process had been adopted by all, with all forensic pathologists participating and cooperating. The system adopted had been effective in raising standards and the number of complaints against forensic pathologists had reduced from a couple a month to a couple a year since the appraisal process began.

12.3 In 2017, a new Board's Independent Responsible Officer (BIRO) would be appointed to manage the appraisal process, and there was an ongoing need to fund this role. While the original specification for the funding of the BIRO only committed to this funding for a limited period, efforts would now be made to fund this position for longer. Funding of the BIRO directly by forensic pathologists was not supported by the FPSG as it was thought it could lead to conflicts of interests and potential bias.

13.0 Hutton Review of Forensic Pathology

13.1 The FPSG discussed the main recommendation from the Hutton Review, which was the establishment of a national autopsy service. A number of Government departments had been consulted on the proposal to establish a national system for coronial pathology and the Minister for policing would consider this proposal. If the Minister was supportive of it, the Cabinet Office would be asked to consider a decision as to which Government department should take responsibility for the national system for coronial pathology. The FPSG thought the obvious choice would be the Ministry of Justice.

13.2 The other fourteen Hutton recommendations had been completed by Home Office action (with a few rejected). The CoP was taking forward training of police in issues related to responding to a scene of death. Training of new forensic pathologists was discussed and it was highlighted that a balance was required to ensure that there were sufficient new entrants to fill all the vacant posts, but also ensuring that there were enough vacancies for all those who were trained. Each forensic pathology group practice would be asked the number of new entrants they needed, and this would assist with calculating the numbers of trainees that were required (action through the Pathology Delivery Board).

14.0 External Quality Assurance (EQA) of Forensic Pathologists

14.1 The first set of eight External Quality Assurance (EQA) cases had been produced by Department of Justice (DoJ) in Northern Ireland (NI) on a Compact Disk (CD), and a colleague at the RC Path had been contacted to agree the process. As the EQA was an extension of the audit, Colin Kettley would be contacted to ask if he would be willing to coordinate the scheme, including oversight of the key to the records and providing anonymity to each forensic pathologist. Jeff Adams would raise the issue with Colin Kettley. Copies of the CD would be sent to all Forensic Pathologists on the Home Office Register.

14.2 The cardiac EQA scheme managed by Dr Goddard at Papworth Hospital was recommended for future use. It cost £70 for four medical practitioners to participate.

Action 10: Jeff Adams to assist, and Colin Kettleby to be invited to coordinate the first EQA scheme for forensic pathologists.

15.0 AOB

15.1 The following AOB items were raised by FPSG members:

15.2 There was a lack of communication between the FSR and the Coroner's Society of England and Wales. While Nigel Meadows represented Coroners on the FPSG, he was not always able to attend FPSG meetings. There was a similar issue with the Chief Coroner's Office. A new Chief Coroner had been appointed and a meeting with him would be arranged.

Action 11: Dean Jones and Jeff Adams to arrange a meeting with the new Chief Coroner in February 2017.

15.3 A consultation was held in 2013 on adopting statutory powers for the FSR. More recently, in the publication of the Forensic Science Strategy, the Home Office had included a commitment to give the FSR statutory powers. The House of Commons Science and Technology Select Committee was supportive of this proposal, and suggested that the FSR should be granted statutory powers as soon as possible. The process of giving the FSR statutory powers was complicated and an appropriate bill needed to be identified to enact the legislation. A bid had been made by the Home Office to Cabinet Office to include the statutory powers in a forthcoming bill.

15.4 The FPSG meeting papers had been received a week and a day before the meeting. It was requested and agreed that papers for FPSG meetings should be circulated two weeks prior to meetings. The next FPSG meeting would be held on 17 May 2017.

Annex A

Present:

- Patrick Gallagher (Chair)
- Jeff Adams Forensic Science Regulation Unit, HO
- Emma Burton-Graham HO Science Secretariat
- Jack Crane Forensic Pathologist - Department of Justice, Northern Ireland
- Martin Bottomley National Police Chiefs' Council Homicide Working Group
- Caroline Browne Human Tissue Authority
- Naomi Carter Forensic Pathologist – British Association in Forensic Medicine
- Nat Cary Forensic Pathologist - Royal College of Pathologists
- Andrew Davison Forensic Pathologist – British Association in Forensic Medicine
- David Green Forensic Pathologist - Crown Office and Procurator Fiscal Service (by phone)
- Dean Jones Forensic Pathology Unit, HO
- Mike Taylor HO Science Secretariat (Secretary)
- Marjorie Turner Forensic Pathologist - Crown Office and Procurator Fiscal Service (by phone)

Apologies:

- Nigel Meadows Coroners' Society of England and Wales
- Russ Jackson National Police Chiefs' Council - Homicide Working Group