

Forensic Pathology Specialist Group (FPSG)

Minutes of the meeting held on 17th May 2017, at the Home Office, 2 Marsham Street, Westminster, London, SW1P 4DF.

1. Welcome and Apologies

1.1 The Chair welcomed all to the meeting. A full list of attendees is available at Annex A. No apologies were received.

2. Minutes of the Last Meeting

2.1 Paul Johnson was missing from the attendees list of the previous meeting. 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.

3. Matters Arising from the Previous Minutes

Non Accidental Head Injuries (NAHI)

3.1 Members were informed that contentious meeting minutes on Non-Accidental Head Injuries (NAHI) had not yet been removed by the Crown Prosecution Service (CPS) but would be progressed before the next meeting.

External Quality Assurance (EQA) of Forensic Pathologists

3.2 The representative from the Forensic Science Regulation Unit (FSRU), Jeff Adams, was in the process checking whether Colin Kettley would be happy to assist with an EQA scheme. Members discussed how the scheme would be run, and where funding would be found.

Action 1: Jeff Adams to check with Colin Kettley on an External Quality Assurance.

Meeting with the Chief Coroner

3.3 The FSRU representative had met with the Chief Coroner of England and Wales, Mark Lucraft QC, providing background to the Chief Coroner on the work of the Home Office and the Regulator. The Chief Coroner was interested in forensic pathology and supportive of many of the future directions for the FPSG. Topics discussed included the retention of bodies and release of bodies for second post-mortems. The representative from the Royal College of Pathologists was to have a meeting with the Chief Coroner in the coming week.

Human Tissue (HT) Act

3.4 It was highlighted that a recommendation from the previous meeting, for the Forensic Science Regulator (the 'Regulator') to make representations to the Department of Health on issues arising from the Human Tissue Act, had not been included as an action. It was agreed that this point would be raised as an action from the current meeting

Action 2: Jeff Adams to discuss potential issues with the Human Tissue Act with the Regulator with the potential for representations to be made.

3.5 All other matters arising were either complete or agenda items for the current meeting.

4. Codes of Practice and Performance Standards

4.1 Members were presented with a draft Code of Practice and Performance Standards for Forensic Pathology in England, Wales and Northern Ireland. Members of the Group, along with the FSRU had revised the draft and the remaining members were asked for feedback.

4.2 Members discussed how to define a 'complex case' and decided that leaving this as a generic reference would be preferable, given the difficulty in precisely defining such cases.

4.3 In the draft document, it stated that practitioners were expected to have full and easy access to a forensic science laboratory; however it was queried to which laboratory this statement was referring. For example, were these labs organised through the police or the practitioner?

Action 3: Jeff Adams to clarify the statement on practitioner access to forensic laboratories in the Code of Practice and Performance Standards for Forensic Pathology.

4.4 It was questioned if consequences for departing from the standards should be included in the document. Members agreed that this was a good idea, and the representative from the Department of Justice, Northern Ireland was asked to provide some draft wording on this.

Action 4: Jack Crane to provide wording on the consequences of departing from the Code of Practice and Performance Standards for Forensic Pathology.

4.5 Members discussed confusion relating to the retention of material, with the draft codes stating that the normal situation was that material was retained for 30 years. However, periods of retention were often determined by case-specific elements. It was clarified that the 30 year rule was a guideline, and that pathologists should follow written instructions from the police when deciding for how long to retain material.

4.6 The FSRU representative informed members that the revised document would be sent to the Royal College of Pathologists and the Department of Justice for further comment, and subject to amendments it would be published by the College. Members were informed that as this was an update to an existing document, a public consultation would not be necessary.

Action 5: FPSG members to forward any further comments on the Codes of Practice and Performance Standards to Jeff Adams.

The representative from the Royal College of Pathologists offered to circulate a reminder to The British Association in Forensic Medicine (BAFM) members to solicit additional feedback on the codes.

Action 6: Nat Cary to circulate an email to the BAFM to solicit feedback on the draft Codes of Practice and Performance Standards.

5. Report Requirements

5.1 Members heard that the incorporation of a new section (Part 19B) into the Criminal Practice Directions (CPD), which supplemented many, but not all, parts of the Criminal Procedure Rules for England and Wales, was to require, for many areas of forensic science, a reference to the Regulator's Code of Conduct. It was therefore an appropriate time to review the wording of the Regulator's Code of Conduct.

5.2 In addition, the Part 19B amendment of the CPD required a series of declarations to be included in the expert's report. This was to ensure compliance with the provisions of Rules 19.4(j) and 19.4(k) of the Criminal Procedure Rules (CrimPR). The introduction of the list of declarations raised questions about the wording of the declarations to be made.

5.3 As a result of these changes the Group was presented with an updated version of the Code of Conduct and statement of declarations.

5.4 The FSRU representative suggested that all the declarations should be incorporated into expert witness statements. There was a discussion as to whether these documents should be referred to as statements, reports or both. The FSRU would consult with the Criminal Justice System (CJS) on this issue.

5.5 Members asked that the declarations be provided in word processor format to facilitate incorporation of the declarations into statements/reports.

5.6 As a result of the most recent meeting of the Forensic Science Advisory Council (FSAC), the declarations were updated to include the wording 'to the best of my knowledge I have complied with the Code of Conduct'. It was thought this would keep the duty to comply with quality standards high whilst also allowing flexibility for expert witnesses in situations where legitimate minor deviances from the code of conduct had occurred.

5.7 Members were asked if, for forensic pathologists, the declarations should refer to the Regulator's generic Code of Conduct, or specifically to the Code of Practice and Performance Standards for Forensic Pathology. Members indicated they would prefer the latter.

5.8 The method of enforcement for adhering to the declarations was queried. The FSRU representative clarified that failure to adhere to the declarations would result in perjury and/or result in the forensic evidence being inadmissible in court.

5.9 The document would be finalised within five or six weeks of the meeting, and would subsequently be circulated to forensic pathologists.

6. Audit 2016

6.1 Members were presented with a report on the 2016 audit of the work of forensic pathologists based in the United Kingdom. Members were happy with the report, but asked that in future auditors should avoid making comments on a practitioner's personal style of working if they were not in breach of professional standards. It was suggested that auditors should meet to agree common standards and practises of auditing.

6.2 It was highlighted that the report did not include comments from a coroner, and the FSRU would contact the FPSG representative from the Coroners' Society of England and Wales to ask for such comments.

Action 7: Jeff Adams to write to Nigel Meadows asking for views on coroners involvement in future audits.

6.3 Pathologists are required to provide a disclosure schedule¹ to the police and Crown Prosecution Service (CPS). The 2016 audit reported that such lists were missing from 27.6% of expert reports. However, members cautioned that this was likely to be due to the circumstances of the cases involved and was not necessarily a breach of good practice. It was asked that the report be updated to make this clear.

Action 8: Jeff Adams will ensure the audit 2016 report to be updated to clarify that the lack of disclosure schedules in some cases is legitimate in certain circumstances.

6.4 Members discussed whether audits should be annual or biannual, and agreed that annual is preferable.

¹Disclosure schedule – a list of materials in the possession of the pathologist whether used or unused during the examination, any of which may be relevant to other interested parties.

7. Audit 2017

7.1 The Group was informed that the remaining auditor from the South West for the 2017 audit would be decided soon. Members were asked to bear in mind the restrictions concerning auditors, such as level of experience.

7.2 The need for less experienced auditors to be fully engaged in the process was emphasised, in order to train expertise for the future.

7.3 It was decided that the topic of the 2017 audit would be cases in which a forensic pathologist had to take over a case already started by a non-forensic specialist (e.g. cases handed over from hospitals). This was last audited in 2012 and members thought revisiting this topic was timely. It was also suggested that the 2017 audit might include a random recent case handled by a forensic pathologist, in order to prevent the exclusion of practitioners whom had not taken on a case from a non-forensic specialist recently.

Action 9: Andrew Davison to decide on the wording for the scope of the 2017 audit of forensic pathologists.

8. Audit 2012

8.1 The Group discussed an issue related to autopsies by non-forensic pathologists, a topic covered by the 2012 audit. The Chair emphasised that the training of non-forensic pathologists has changed considerably over the years, and raised concerns about the level of training for young non-forensic pathologists in post mortem performance.

8.2 The FSRU had written to and subsequently met with a representative of the Royal College of Pathologists to raise concerns regarding post-mortems being carried out by non-forensic pathologists. The College accepted there were some difficulties, but emphasised that non-forensic pathologists rely heavily on the police and coroner to determine if there is a need for a forensic examination.

8.3 The College had suggested that external examinations did not need to be conducted by a pathologist and that they could be carried out by an anatomical pathology technician (APT). Members heard that this was a common practice, but agreed that it was not appropriate. It was suggested that the President of the College be approached to make them aware of this issue.

8.4 It was suggested that the Human Tissue Authority could contact mortuary managers to highlight problems with autopsies being conducted by APTs. It was clarified that this issue was the College's responsibility and that they should be the first point of contact in resolving it.

8.5 Members discussed potential options for improving non-forensic pathologist training. These included encouraging non-forensic pathologists to shadow forensic pathologists and running a training course for non-forensic pathologists. It was noted that similar training courses were run for forensic pathologists.

Action 10: Jack Crane and Jeff Adams to draft a letter to the President of the Royal College of Pathologists on improving practices in relation to post-mortems in potentially suspicious cases by non-forensic pathologists.

9. Toxicology Data Integrity

9.1 The Group discussed a recent issue with a Forensic Science Provider (FSP) manipulating quality control data for toxicology samples. This had resulted in the need for the re-testing of a high number of samples, with priority given to ongoing cases.

9.2 Members highlighted that, due to degradation, the results of the re-tests may well be different from what would have been found if tested immediately prior to the sample being taken.

9.3 The Regulator would be working with members of the CJS to assist in resolving this issue.

9.4 Members were advised to be cautious of results they had received from the FSP in question. It was queried whether this caution applied to toxicology reports supplied by this FSP where the testing had been subcontracted to a different FSP. It was clarified that the caution did not apply in cases where the FSP had subcontracted the testing of samples.

10. Imaging Standards

10.1 Members were presented with a draft guidance document on the use of Post Mortem Computed Tomography (PMCT) as an adjunct to suspicious and homicide death investigations. It was emphasised that this was an early draft.

10.2 The Group expressed several reservations with the document, including its objectivity and focus on natural deaths. It had previously been agreed that the initial draft would have to be developed with the assistance of pathologists who were not part of the team that prepared the outline and this could assist in addressing the concerns. The aim was for the outline to be used to determine whether the issues could be addressed within the documents on imaging being prepared by the Royal College of Pathologists.

10.3 Members were invited to provide broad comments on the draft guidance to the FSRU.

Action 11: Jeff Adams to look into co-opting pathologists to assist in drafting the guidance document and consider the possibility of combining this document with guidance for non-forensic pathologists.

Action 12: FPSG members to provide broad comments on the draft PMCT imaging guidance document by the end of September.

11. Revalidation

11.1 The Group was presented with a document from the Pathology Delivery Board (PDB) on revalidation and appraisal of forensic pathologists, and FPSG members provided positive feedback on the appraisal process.

11.2 It was noted that Guy Ruddy would be joining the FPSG as part of his new role as responsible officer for revalidation on the PDB, taking over this role from Jack Crane.

12. Excited Delirium

12.1 Members were informed that the controversial medical condition of excited delirium², was recently discussed at a meeting of the British Association in Forensic Medicine (BAFM). The BAFM concluded that citing excited delirium as a sole cause of death should be discouraged.

13. Entomology Samples

13.1 Members had previously asked for guidance on the best practise for maintaining maggot populations isolated during forensic examinations. After consultation with Dr Martin Hall of the Natural History Museum, it was confirmed moist dog food was the most suitable substrate on which to maintain the larvae. Members were provided with detailed guidance on sampling and maintenance of entomological samples.

14. AOB

Post-mortem Radiographic Imaging

14.1 This issue of discrepancies between post-mortem findings and post-mortem radiographic imaging was raised. It was decided that this issue was best progressed within the PDB.

Forensic Science Research Digest

14.2 Members had been forwarded a copy of the latest volume of ChemCentre's Forensic Science Research Digest for their information.

Traumatic Shaking Review

14.3 Members had been forwarded a copy of a systematic review of the scientific evidence underlying traumatic shaking, authored by the Swedish

² Excited Delirium symptoms include bizarre and/or aggressive behaviour, shouting, paranoia, panic, violence toward others, unexpected physical strength and hyperthermia.

Agency for Health Technology Assessment and Assessment of Social Services, for their information. The Group agreed that this, together with the forensic science research digest, was a useful document to be made aware of and were supportive for the FSRU to continue to forward items of interest to the Group via email.

15. Date of the next meeting

15.1 The next meeting of the Regulator's FPSG would be on the 9th November 2017.

Annex A:

Present:

Patrick Gallagher	Chair
Jeff Adams	Forensic Science Regulation Unit, HO
Mark Bishop	Crown Prosecution Service
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
Jack Crane	Forensic Pathologist - Department of Justice, Northern Ireland
Andrew Davison	Forensic Pathologist – British Association in Forensic Medicine
Dean Jones	Forensic Pathology Unit, HO
Paul Johnson	Forensic Pathologist - British Association in Forensic Medicine
Marjorie Turner	Forensic Pathologist - Crown Office and Procurator Fiscal Service (by phone)
Thomas Vincent	HO Science Secretariat