



Forensic Science Advisory Council (FSAC)

Minutes of the meeting held on 11th December 2017
at Home Office, 2 Marsham Street, London SW1P 4DF

1. Welcome and apologies

1.1 The Forensic Science Regulator (the 'Regulator') Gill Tully welcomed those present to the meeting. See Annex A for the list of attendees and apologies.

2. Minutes of the last meeting, actions and matters arising

2.1 The minutes of the previous FSAC meeting had already been reviewed by members via e-mail and published on GOV.UK.

Matters Arising

2.2 The actions from the previous FSAC meeting of 7th September were reviewed. The actions were discussed as follows.

- Lorraine Turner would update FSAC members under agenda item 4 on the organisations visited by UKAS since gaining accreditation to the Codes.
- The Regulator to seek an update on whether the guidance on expert reports and non-technical statements had been circulated within the judiciary and CPS.
- The Primers on DNA and gait analysis had been published. Gait analysis would be discussed under agenda Item 1.
- Mark Pearse would feedback to the Regulator on the number of skilled experts in each field to input to the Annual Report. No more comments had been received from FSAC on the Annual Report, which is planned for publication early next year. FSAC will receive a copy the day before.
- David Lewis will continue to work with police practitioners on the DNA safeguarding proposals. The concept of a "living document" following exhibits was considered to be unworkable, but further consideration is being given to the original proposal of a short statement relating to items from which DNA is being relied upon in court. No further feedback had been received about these proposals from FSAC.
- Two candidates had accepted the FSRU positions and were currently undergoing security clearance.

3. Forensic Gait Analysis

3.1 The Council was provided with the draft standard on forensic gait analysis. Following feedback received on previous drafts, it had been decided to make this a standalone document, broadly reflecting the requirements of ILAC G19 and the Regulator's Codes. 3.2 Members heard that there were differing approaches to forensic gait analysis and feedback from the podiatry community suggested that governing bodies and regulators of healthcare professionals would object to a standardised approach. The College of Podiatry was keen for a standardised process on forensic gait analysis. Comments would be sought from FSAC and the College of Podiatry on this draft before it was published for public consultation.

3.4 Members queried what would happen to the primer on forensic gait analysis following implementation of this standard. It was expected that the primer would be updated to include reference to the standard, but the Regulator would check this.

Action 1: Members were asked to provide comments on the draft standard on forensic gait analysis by 8th January 2018.

4. Latent Fingerprint Analysis

4.1 Members were provided with a report from the American Association for the Advancement of Science (AAAS) on Latent Fingerprint Examination. Of particular note was the section on what statements could be made by fingerprint examiners on the strength of the fingerprint evidence. The report considered that use of the term 'identification' does not adequately convey that there is uncertainty involved, which could be misleading to courts about the strength of the fingerprint evidence.

4.2 Consensus amongst fingerprint examiners about what equates to an 'identification' is greatly reduced for complex comparisons. Members suggested that examples of good practice from other jurisdictions would be helpful.

4.3 The Fingerprint Quality Standards Specialist Group (FQSSG) had previously discussed this and fingerprint examiners on that group were more comfortable with the use of the word 'identification', supported with a qualifying statement. The Regulator had raised this with FQSSG again in light of the AAAS report and was collating responses.

4.4 It was emphasised that this relates to the wider issue of how forensic science is perceived by society. There needs to be transparency about how evidence is reported so that involved parties can make informed views and challenge the evidence if necessary. This was a particular concern where outline information from streamlined forensic reports may be presented to vulnerable individuals in custody. It was raised that there are measures to mitigate this, such as through early case management and the 'appropriate adult' scheme.

3. Scenes of Crime – discussion on scope

3.1 The scope included in crime or 'incident' scene examination had grown. Members were provided with Paper 6 which outlined the current scope for crime scene examination and some digital forensics. Members were asked to provide comment on the current scope and whether there was a need for additional guidance for any sub specialities of incident scene examination.

3.2 Members considered that an expanded explanation of the scope may be useful. As there were many different types of scene and recovery techniques it would be difficult to list everything that was included in the scope, therefore listing the exclusions may prove simpler. Additional considerations included 'getaway' cars which were found away from the scene, the transfer of suspects from the scene and post mortems.

3.4 It was raised that forensic science services often sit within larger organisations and the Council should be mindful of differing departmental and organisational arrangements that could have an impact on approach. It was emphasised that the aim was to have quality assurance regardless of the location or the examiners involved.

3.5 Mass disaster scenes posed a different problem as often more people were drafted in who were not day-to-day scene examiners. This was considered to be out of scope for the 2020 deadline.

Action 2: Members were asked to provide feedback on high risk areas in the scope of crime scene examination and Simon Iveson to engage with the expert network on this.

4. Costs, benefits and lessons from accreditation to the Codes

4.1 Lorraine Turner of UKAS gave a presentation to FSAC on issues identified during UKAS assessments following the implementation of the FSR codes of practice and conduct.

4.2 The Codes had been implemented in 2011 and most forensic units had started being accredited from 2016; prior to this date, only 3 forensic units held accreditation to the Codes. UKAS had reviewed the outcomes of 23 compliance visits on accredited services carried out between October 2016 and September 2017. There were 733 findings which equated to an average of 30 per visit.

4.3 The findings related to a range of service providers, consisting of both established and newer companies. The largest number of findings related to control of data, business continuity and test methods and validation. Data vulnerability in particular had been highlighted by these assessments.

4.5 There appeared to be a lack of engagement by some organisations, and some had no plans to implement the Codes. Feedback received indicated that the perception was held that the Codes were expensive to comply with. This was partly related to the cost of the UKAS visits, however it was clarified that the additional costs would be expected to be substantially smaller in the 3 years following the initial assessment.

4.6 UKAS considered that the standards set out in the Codes were achievable, however the number and significance of findings indicated that the assessments had identified issues that should have been addressed when the Codes were published, as opposed to at this stage. This reemphasised the importance of external scrutiny in achieving compliance outcomes.

4.7 Members discussed the outcomes of UKAS' review. There could be difficulties engaging people in compliance - UKAS were in the process of writing to some organisations to increase engagement but wouldn't have the resource to write to every organisation. The Regulator used the Annual Report as a platform to engage people with compliance and would continue with this approach. Small companies had the tendency to be the least compliant and this was unlikely to change until statutory powers to enforce compliance were in place. Having to declare 'non compliance' in statements should be an incentive to organisations to become compliant.

4.8 It should be kept in mind that there were situations where a process had 'not yet been accredited' as opposed to being 'non-compliant', such as where novel drugs have been detected and a new method had to be developed. This also applied to a lot of digital forensics which is new to accreditation.

4.9 Version four of the Codes came out in October 2017 and UKAS would start assessing against this version in February 2018.

Action 3: Lorraine Turner to send members the link to the technical bulletin about Version 4 of the Codes on UKAS webpage.

5. Compliance at the Margins

5.1 FSAC opinion was sought on how best to declare an infrequently used method with respect to compliance. For example, if a document was to be examined at a location other than the accredited laboratory, such as at a client's premises. As accreditation would only be specific for the laboratory, members were asked whether this should be declared as non-compliant or as an infrequently used method. It was considered that it would be best to err on the side of caution and in this instance declare non-compliance.

6. Data Integrity

6.1 Members were provided with Paper 7, a letter from the Regulator to Norman Lamb MP, Chair of the House of Commons' Science and Technology Committee. This letter provided an update regarding the forensic toxicology work at Randox Testing Services since the discovery that quality control data had been manipulated, affecting the results of more than 10,000 criminal cases.

6.2 The Ministry of Justice is coordinating a 'gold group' relating to the issues at Trimega. The NPCC 'gold group' is dealing with CJS issues related to issues at RTS.

6.3 The police investigation into this case was ongoing. Retesting is being undertaken on a priority basis and the high priority cases are expected to be completed later this year. Members were alerted to a news article which reported that West Yorkshire Police had retested 59 samples and had obtained negative results for 27 cases. Members were reminded that sample degradation could affect these results. What was meant by a 'negative' result was not clear.

Action 4: John Beckwith to circulate the story about retesting of Randox samples for West Yorkshire Police.

6.4 The investigation has been further complicated as the individuals involved worked at a previous testing company that was now in administration and police have been trying to determine if there could be more incidents. The results of audits at other forensic providers have been encouraging and the evidence suggested that this problem, in the Criminal Justice System, was contained within Randox Testing Services.

6.5 The motivations of the suspects were of interest to the Council. The Regulator and Jeff Adams would be visiting Randox in January to discuss the results of their root cause analysis and would report back to the Committee.

7. Lack of Adherence to Criminal Procedure Rules (CrimPR) and Criminal Practice Directions (CrimPD)

7.1 The Regulator was keen to ensure that Stage 2 and evidential reports were being commissioned in sufficient time and she had been in discussion with the NPCC Marketplace Strategy Group about this.

7.2 Compliance with the CrimPR and CrimPD in courts and CPS regions was not as good as expected. If processes were developed which adhered to the Rules this would increase assurance that the appropriate evidence was being heard. The Regulator had arranged to hold biannual meetings with the senior Judiciary where this would be discussed and she also planned to raise this with CPS representatives.

7.3 The trial of Streamlined Forensic Reporting (SFR) for casework had just been completed and there were plans to roll this out over the next few months. This

system had been found to be effective at differentiating between source level and activity level.

8. Statutory Powers Legislation

8.1 Jeff Adams provided an update on the steps being taken by the Home Office to provide statutory powers to the Regulator,

8.2 Jeff Adams provided an update on the position on implementing EU Framework Decision 2009/905/JHA and the related process for the Prüm Decisions.

9. Regulators Conference

9.1 The Regulators Conference will be held on 19th March 2018.

Action: Members requested to send any items for the agenda of the Regulators Conference.

10. AOB

10.1 At the previous Regulators Conference there was a presentation querying the requirement to list every assistant in a forensic report as it often required many names. This issue has been discussed with the Criminal Procedure Rules Committee and the relevant provisions may be amended.

Annex A

Present

Gill Tully	Forensic Science Regulator (FSR) (Chair)
Martin Evison	The Chartered Society of Forensic Sciences
Adrian Foster	Crown Prosecution Service (CPS)
Anya Hunt	The Chartered Society of Forensic Sciences
David Lewis	Dorset Police
Tom Nelson	Scottish Police Authority
Mark Pearce	Association of Forensic Science Providers
Lorraine Turner	UK Accreditation Service (UKAS)
John Beckwith	Staffordshire Police (substitute for Karen Smith, who was unable to attend)
Stan Brown (via phone)	Forensic Science Northern Ireland (FSNI)
Roger Robson (via phone)	Forensic Access

In attendance

Jeff Adams	Forensic Science Regulation Unit (FSRU)
June Guinness	Forensic Science Regulation Unit (FSRU)
Linsey Urquhart	Science Secretariat, HO
Simon Iveson (via phone)	Forensic Science Regulation Unit (FSRU)

Apologies

Adrian Foster	Crown Prosecution Service (CPS)
Derek Winter	Senior Coroner