Forensic Science Advisory Council (FSAC)

Minutes of the meeting held on 10 December 2018
Home Office, 2 Marsham Street, London, SW1P 4DF

1. **Opening and welcome**

1.1 The Chair, the Forensic Science Regulator (the ‘Regulator’), welcomed all to the meeting. See Annex A for a list of representatives present.

2. **a. Minutes of previous meeting and matters arising**

2.1 The minutes of the previous meeting held on 04 September 2018 had been approved by members prior to the meeting and were published on the GOV.UK website.

2.2 **Action 3 (September 2018):** The CPS representative to make enquiries within the CPS as to whether external experts could be co-opted to the National Disclosure Improvement Project technology working group. The CPS representative confirmed that the chair of the group had agreed to appoint a Forensic Science Regulation Unit (FSRU) representative to the group.

**Action 1:** FSRU to liaise with CPS representative regarding appointment to the CPS National Disclosure Improvement Project technology working group.

2.3 **Action 4 (September 2018):** The CPS representative to share a copy of CPS expert guidance booklet with the Regulator. This action was outstanding as the guidance had not yet been cleared. This would be signed off before the next meeting in April 2019.

2.4 **Action 1:** FSAC members to send ideas for items to be included in the annual report to the Regulator. The report was currently in progress, and no further comments were received.

2.5 **Action 2:** FSRU to draft wording on organisation integrity and share with FSAC. Following useful discussion at the Quality Standards Specialist Group (QSSG), it had been concluded that the definition of integrity should not go beyond a brief dictionary definition.

2.6 **Action 6:** Judiciary and CPS representatives to provide feedback on the interpretation of case law presented in the Image Enhancement and Image Comparison statement of principles. The CPS representative confirmed they did not have any issues with the case law presented in the document.

---

1 Available from: [www.gov.uk/government/organisations/forensic-science-regulator/about/membership#forensic-science-advisory-council](http://www.gov.uk/government/organisations/forensic-science-regulator/about/membership#forensic-science-advisory-council)
2. **b. Other matters arising not dealt with elsewhere on the agenda**

2.7 **Report Content – Fair Picture of Expertise.** Requirements existed in the Criminal Procedure Rules (CrimPR), and related practice directions for experts, to give a summary of their expertise and training. The Regulator had observed that some expert witnesses were not being balanced in their self-reporting and were leaving out key pieces of information. This issue had been referred to the Criminal Procedure Rules Committee.

2.8 **Judicial Criticism.** The Regulator expressed her concern over the lack of a reporting mechanism to the Regulator when concerns were raised about expert witnesses by the judiciary. In some instances, experts themselves were unaware of the criticism. The Regulator would be meeting with the Lord Chief Justice and the President of the Queen’s Bench Division in December and would raise the issue.

2.9 **Integrity Training.** This issue was discussed by the QSSG at their meeting on 23 November 2018. It was agreed that to assist in delivering integrity training, the FSRU would produce and distribute a set of slides drawing on the examples identified and lessons-learned from investigations into quality failures. It was confirmed the FSRU would be presenting the proposed integrity training to a forensic science provider, and if it were successful then it could be rolled out to other providers and the police forces.

2.10 **Definition of Competence.** This issue was discussed by the QSSG at its meeting on 23 November 2018, and members were strongly of the view that competence was defined in each organisation for each role, and it would be difficult to assess against a specific definition.

2.11 All other actions were complete or would be covered under later agenda items.

3. **Current issues for update and discussion**

   a. **House of Lords Science & Technology Committee Inquiry into Forensic Science**

3.1 An inquiry into forensic science had been launched by the House of Lords Science and Technology Committee. It was confirmed representatives from Forensic Science Northern Ireland (FSNI), Scottish Police Authority (SPA), and others had already provided evidence to the committee. The Regulator would provide evidence to the committee in January 2019.

3.2 There had been over 90 written submissions to the inquiry, and the Committee had so far heard oral evidence from 33 individuals with a wide variation of experience within the forensic science sector. The written and oral evidence contained strong views at opposite ends of the spectrum in relation to forensic science regulation.

3.3 There was strong support from the forensic science sector of the need to grant statutory powers to the Regulator. There were however, other individuals who were not supportive of the forensic science regulatory framework. It was believed these views were held most frequently by those in the small- and micro-business sector, for whom compliance with the standards was viewed, by them, as disproportionately costly.
3.4 The Regulator wished to seek the views of FSAC members on these views. A member was surprised by the views expressed in opposition to the Regulator’s standards and noted that several statements made during the evidence gathering process regarding accreditation and regulation were incorrect.

3.5 Members felt there needed to be more support to small businesses to meet accreditation standards, but that quality should remain as the top priority and that a different standard could not be applied to small businesses. The United Kingdom Accreditation Service (UKAS) was in the process of producing a guide to gaining accreditation for small businesses which would be published on its website. The AFSP is considering whether it can assist small providers, perhaps through associate membership and/or a digital forensics or small business working group. If these considerations lead to setting up of such a group, it may help the Regulator in engaging with small businesses, especially in the digital forensics sector.

Action 2: Scottish Police Authority representative to report back at next meeting regarding AFSP engagement with small businesses.

4. Marketplace issues

4.1 It is clear from evidence to the House of Lords Science & Technology Committee that commercial providers of forensic science are under significant financial pressure. The Regulator was unable to provide further information, and members would be updated if there were any further developments on this issue.

5. Image Analysis and comparison - statement of principles

5.1 The Regulator advised the FSAC that a previous version of the image analysis and comparison statement of principles had been shared at an earlier meeting. The Regulator had since met with companies within the image analysis sector to obtain their views. It was noted that some individuals had been conducting image and analysis comparison that could be considered to be outside of their field of expertise and that the statement of principles aimed to mitigate this.

5.2 The Regulator would work with CPS, policing, and the Home Office on drafting and agreeing the statement of principles. This would ensure when commissioning work or reviewing work for court purposes, it would be clear what expertise people were expected to have and their potential limitations. The statement principles would consist of three main principles which were:

- that the evidence must be admissible as expert evidence;
- that the individual proposing to give the evidence must be an expert in that area (this could include more than one expert if required); and
- that the individual must comply with all legal obligations including setting out limitations on the evidence.

5.3 FSAC members were invited to comment on the statement of principles. A member raised that these issues had become more prominent over the past few years and use of body worn video by the police had added to the complexity of the issue. Additionally, issues were caused by the fact that many individuals working within the image comparison and analysis sector did not have a scientific background.
5.4 A member felt that the statement of principles would be useful for police forces and should be shared with the senior investigative community who were responsible for commissioning forensic services. It was confirmed there would be a senior investigative officer (SIO) conference planned for next year and it was thought that it could be useful to present lessons-learned examples at the conference. The Regulator confirmed they would be happy to present this at the conference.

Action 3: CPS representative to forward the statements of principles to CPS policy team.

Action 4: The Chartered Society of Forensic Sciences to send the Regulator their comments on the document.

Action 5: The NPCC representative to send the document to their board for comments.

Action 6: The Regulator to send a copy to the Home Office Policy representative for their comments.

Action 6: The NPCC representative to find out when the next SIO conference will be and share this information with the Regulator.

6. Medical Forensics consultations for information and dissemination

6.1 Members were presented with an update on the Regulator's Medical Forensics Specialist Group (MFSG). The Group had become active again after the appointment of a new chair in May 2018, and has a good balance of expertise, with representatives from medicine, paediatrics, nursing, the CQC, NHS England, and policing; however, representation from experts in developing standards was less well covered.

6.2 A draft standard and a draft guidance document on forensic medical examination had been developed by the Group. The standard would clarify which areas came within the remit of the Regulator and which were covered by clinical services. The proposed date for accreditation to the standard was by 2021. Both documents were out for public consultation which would close by January 2019.

6.4 A member suggested informing organisations early in the accreditation process to allow them to prepare to build or amend premises if required to meet the standards. The Regulator advised anti-contamination guidance had been issued in 2016 for SARCS and custody suites, and work being conducted on their estates and premises should be to be built to these standards. The Regulator confirmed the possibility of a different implementation date for anything estate versus non-estate related. The Regulator agreed that this issue should be raised with the relevant custody team as soon as possible. The Regulator would be meeting with the NPCC lead for adult sexual offences and would be outlining with the issues to them.

7. Codes of practice and conduct video appendix
7.1 A draft appendix to the Regulator’s Codes of Practice and Conduct (the ‘Codes’) concerning digital video analysis was presented to members for their consideration. It was confirmed this appendix to the Codes had been published some years ago but required updating, including new guidance on facial comparison. Other issues which had been addressed in the update included:

- guidance on the production of video evidence compilations for court. This included risks identified, the omission of frames relevant frames. A piece of work would be conducted to identify why guidance issued to police officers did not encourage video to be provided in a native format to defence and CPS;
- further clarity on the requirements for expert witnesses; and
- issues with height estimation from video footage. Feedback had been received estimations were not always clear about the uncertainty associated with the estimate.

7.2 The appendix would now be presented to the Regulator’s Digital Forensics Specialist Group (DFSG), along with the image analysis and comparison statement of principles.

7.3 FSAC members were invited to comment on the appendix. A member queried whether the scope included devices such as digital still camera images and still images captured using mobile phones. It was explained images from these devices were not analysed in the same way and would be outside the scope of the appendix. The original scope for the document was based on still-frames from CCTV, although the same principles would apply to still frames captured from any video evidence; could the scope will be made clearer. A member raised concerns over the use of body worn video (BWV) by police to capture CCTV footage. This would only be acceptable to use for investigative purposes, but certainly not for evidential purposes, where original footage was required.

8. **Codes of practice and conduct update**

8.1 The Codes were being updated to draw the appendices in to the main document and make them more visibly part of the codes. This was in preparation for if or when the Regulator was granted statutory powers and the Codes laid before Parliament.

8.2 The main updates to the document included:

- removing the word ‘specialist’ from photography within the crime scene scope. It was explained photography would not be included within the scope on its own and would be part of a process for a specific purpose, for example recovering fingerprints; and
- references to individual clauses of the ISO standard 17025 had been removed from the body of the document and pulled into a cross reference table.

8.3 Members were invited to comment on the updated Codes and were advised that if they had additional comments after the meeting had concluded, these could be sent to FSRU. If the Regulator was granted statutory powers, another review would need to be conducted before the Codes would be laid before Parliament. The members were also asked to highlight any requirements in the Codes that were not strictly necessary, so they could be removed.

**Action 7:** Members to send any further comments to FSRU by mid-January 2019.
9. **AOB**

9.1 The NPCC representative provided members with a status update on police force accreditation. Accreditation to the Regulator’s fingerprint standards was required by October 2018 but this was still outstanding for some forces. According to EU law, police forces would need to be accredited for fingerprint comparison by March 2019. There had been more staff and funding provided by the Transforming Forensics programme (TF), who were developing guidance and supporting the forces on gaining fingerprint accreditation. It was thought beneficial if the TF ‘hub’ model were to be adopted by police forces that were significantly behind the required timescale. The Regulator would write to the Chief Constables concerned, to urge them to outsource to an accredited force (e.g. as part of TF) unless or until they were compliant.

**Action 8: The Regulator to write letter to chief constables of forces which have not yet applied for fingerprint comparison accreditation.**

9.2 There had not been much activity in digital forensics accreditation, due to focus on fingerprints and crime scene investigation (CSI) accreditation. It was confirmed 50% of forces had been accredited for some form of digital forensics. It was confirmed two applications had been submitted for CSI accreditation. The UKAS representative confirmed the crime scene project management had moved from operations to development. It had found different size forces will present different challenges.

9.3 The UKAS representative confirmed ILAC G-19 guidance was currently being revised. When a draft was available this would be circulated to the members for their review.

**Action 9: UKAS to share the revised ILAC G-19 once it had been completed.**
Annex A

Representatives present:

- Gill Tully - Forensic Science Regulator
- Anya Hunt - The Chartered Society of Forensic Sciences
- David Lewis - NPCC Forensic Science Portfolio
- Lorraine Turner - UK Accreditation Service
- Roger Robson - The Chartered Society of Forensic Sciences
- Ruth Bowskill - Crown Prosecution Service
- Stan Brown - Forensic Science Northern Ireland
- Tom Nelson - Scottish Police Authority
- Jeff Adams - FSRU
- Simon Iveson – FSRU
- Penny Carmichael - HO Science Secretariat

Apologies received from:

- Abigail Bright - Criminal Bar Association
- Andrew Rennison - Criminal Cases Review Commission
- Derek Winter - Coroners' Society of England and Wales
- Jamie Grieve - British Association in Forensic Medicine
- Karen Smith - NPCC National Quality Managers Lead
- Mark Lucraft - Chief Coroner
- Mark Pearse - Association of Forensic Science Providers
- Mark Wall - Judiciary