



Forensic Science Advisory Council (FSAC)

Minutes of the meeting held on 30th April 2019
Park Plaza London Waterloo, 6 Hercules Road, London, SE1 7DP

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 10 December 2018 had been approved by members prior to the meeting and were published on the [GOV.UK website](https://www.gov.uk).

2.2 Action 2: The Scottish Police Authority (SPA) representative to report back at next meeting regarding Association of Forensic Science Providers (AFSP) engagement with small businesses.

This would be discussed in the meeting as an agenda item.

2.3 Action 7: National Police Chiefs' Council (NPCC) representative to find out when the next SIO conference will be and share this information with the Regulator. The NPCC representative would confirm the date with the Regulator and arrange for a slot to present at the conference.

Action 1: NPCC representative to confirm the date of the next Senior Investigating Officer (SIO) conference with the Regulator and arrange a slot for the Regulator to present at the conference. The action has now been completed.

2.4 Action 9: The Regulator to write a letter to chief constables of forces which have not yet applied for fingerprint comparison accreditation. This action has been completed. All police forces who had not yet achieved accreditation are required to have potential fingerprint identifications checked and reported by an accredited bureau prior to charge requests to the Crown Prosecution Service (CPS). It was confirmed 14 bureaux accredited, nine recommended, five awaiting initial assessment.

2.5 Action 10: UK Accreditation Service (UKAS) to share the revised ILAC G-19 once it had been completed. This action was carried forward as ILAC G-19 review was still in progress. A meeting was to be held in June 2019 to discuss the technical detail of the ILAC G-19 update. Members were asked to send any feedback on ILAC G-19, they would like considered, and to send their comments to the UKAS representative before the second week in June.

Action 2: FSAC members to send UKAS representative any feedback regarding ILAC G-19 update before the second week in June.

2.6 All other actions were complete.

3. Current issues for update and discussion

a. Codes of Practice and Conduct update

3.1 Members were presented with a draft of the codes of practice and conduct. It was explained this would be published before the next FSAC meeting. Members were invited to provide feedback and approve the document for publication.

3.2 It was confirmed digital forensics still required more definition. There were currently discussions on-going concerning performing digital forensic activities at crime scenes. The current deadline for incident scene accreditation was 2020, however there were concerns raised that if this included digital forensics the 2020 deadline may not be achieved.

3.3 There had been some minor amendments made to the auditing integrity sections within the document. There may be a requirement for additional guidance to be issued, and a possibly an appendix. This had not yet been decided.

3.4 An issue was raised with an NPCC publication that had been referenced in the codes of practice and conduct document. It was unclear who had published the NPCC Retention document.

Action 3: FSRU to contact the Forensic Information Database Service (FINDS) to discuss including FSP's feedback in the review of the NPCC retention document.

3.5 The Regulator raised an issue concerning evidence retention by the defence; the retention of fingerprints and DNA profiles where they had made their contemporaneous notes on the marks or electropherograms. This meant the fingerprint marks and DNA profiles could not be destroyed as the notes would also be destroyed. This process did not align with the current guidance in the codes on destruction and retention by the defence. The Regulator had requested for this to be considered by the Forensic Policy Steering Group.

3.6 There had been minor amendments made to the codes within the document. An issue raised was concerning the General Data Protection Regulations (GDPR) and confirming who the data controller was. For example, for all evidential samples received from police forces, the police force would be considered to be the data controller under GDPR. The Forensic Science Providers (FSP's) who process the evidential samples could also be considered as the data processor. The data controller would still be the police force, and the data controller should decide what happens to the evidential sample and decide if it should be destroyed. The document did highlight this, and this section may be expanded.

3.5 Members were invited to comment on the draft Codes of Practice and Conduct document. A member queried if the Forensic Science Regulation Unit (FSRU) had received any feedback from FSP's concerning the term integrity. The member confirmed they would forward this feedback onto the FSRU. A member also queried the following information within the document: "The forensic unit appointed by the prosecution shall make available to the defence's forensic unit only what has been deemed by the prosecutor or court to be relevant". It was confirmed in England and Wales that the prosecution decide what information was relevant and must disclose all evidence used in the case. The prosecution must also disclose unused material if it could potentially assist the defence or undermine the prosecution. The codes document would be amended to confirm who would decide what was considered relevant. It was also suggested including a footnote of examples to reflect what was considered relevant.

Action 4: SPA representative to forward FSP's feedback concerning integrity to the FSRU.

Action 5: FSRU to check with colleagues in the Crown Office to see if the rules regarding determining what to disclose were different in Scotland.

3.6 Fire scene examination was discussed by members. The date for achieving accreditation was set for October 2020. In 2018 a pilot study for fire and investigation accreditation with UKAS commenced. The pilot study had identified a few areas of concern within the fire investigation community on how to best validate its methods. The guidance provided to the participating organisations advised them to produce a risk assessment of their methods. Fire investigators often referred to textbooks and would use these books to assist in their fire interpretation. The guidance for the risk assessment encouraged fire investigators to review the literature they relied on, and identify information that was not relevant, missing information, and potential risks in the methods. All participating organisations found this was a challenge. It was confirmed two organisations had submitted risk assessments so far.

3.7 The next phase of the pilot would determine how to best demonstrate that the participating organisations were able to do what they say they can do based on their methodology. Conducting multiple controlled fires/burns was considered costly, environmentally damaging, and if conducted in a container would not show the full range of everything that could occur during a fire. It was also seen as a challenge for UKAS to assess competence of an organisation to conduct fire investigations if there was not a controlled fire to assess it against. It was suggested organisations could produce a live video recording of a scene with a controlled fire.

There were concerns raised that opening the accreditation scheme for general applications could take some time and gaining accreditation by October 2020 may not be achievable. The Regulator asked members for their views on potentially extending the accreditation date. Members favoured extending the accreditation date, to allow the fire community to achieve accreditation. A member suggested the assessment could be completed in two stages. The first stage could include recording, note taking and photographing a fire scene, and the second stage would be the interpretation by fire investigators of the fire scene. The Regulator considered this to be a good suggestion and would investigate this to see if it could be achieved.

3.8 Digital forensics activities performed at incident scenes was discussed by the FSAC. It was agreed that there had been little progression in this area toward achieving accreditation. The Regulator preferred not to extend the deadline for accreditation but was aware that there may be some organisations who may not be accredited by the deadline of October 2020.

3.9 The FSAC approved the version of the codes of practice and conduct document, after some minor amendments, and consented for it to be published.

4. Forensic Collision Investigation

4.1 It was confirmed that the deadline for accreditation for forensic collision investigation was set as October 2020. A national programme had been developed. The programme would support the forensic collision investigation community, on moving toward successful accreditation. The programme had identified areas of concern within forensic collision investigations in England and Wales.

4.2 The programme proposed creating a single legal entity providing a networked service. Police forces could join the single legal entity for accreditation, or progress with accreditation on its own. A business case was being developed for forensic collision investigation, to be run as a regionally delivered and locally delivered service. Members of the FSAC were presented with a draft proposal and were asked to provide feedback on the proposal. The proposal set out activities and milestone dates for police forces joining the single legal entity, and for police forces not joining the single legal entity. The FSAC was supportive of the proposal.

5. AFSP small business representation

5.1 The Scottish Police Authority representative provided the members with an update on this item. At the previous FSAC meeting the members had discussed how to provide more support to small businesses in obtaining accreditation, and how to reduce costs of accreditation. The members had agreed small businesses should still be subject to the same quality standards as other providers. The Regulator was keen to assist these small businesses in achieving the quality standards, in a manner that would be cost effective.

5.2 The Association of Forensic Science Providers (AFSP) held a meeting in March 2019. The AFSP group members consisted of public and private FSP's. The AFSP had agreed it would invite a representative of the Chartered Society of Forensic Sciences to represent small and medium sized FSP's. This would ensure the views of the small and medium FSP's were being represented in the AFSP group.

6. Annual report: issues for the FSAC consideration

6.1 The Regulator's Annual Report was published on 15 March 2019. Many of the issues raised in the report were being dealt with through the Regulator's Specialist Groups and/or other routes. The report identified other key issues, and members views were sought on how to solve these issues.

6.2 Culture and the effectiveness of quality management was one of the issues raised. Statutory enforcement of standards was effective in driving at least minimal compliance, as demonstrated by the impact of the Accreditation of Forensic Science Regulations 2018. However, the effectiveness of quality standards in improving forensic science was partially dependent on the way in which quality, and quality management were viewed within each organisation, and it was clear that not all organisations delivering forensic science yet had a culture that drove improvement.

6.3 Members were asked how they could assist in improving the quality culture in policing and develop a quality culture in small business and new entrants. The FSAC commented that it was important for the management of these organisations to have an understanding of the scientific ethos and ensuring reviewing and monitoring quality remained as a priority. It was also suggested when the Regulator receives statutory powers this could encourage providers to review their quality culture. Engaging with providers and explaining what would be expected of them, and the importance of maintaining quality was also suggested by members.

6.4 The FSAC discussed evaluating the impact of quality standards. The simplest way to quantify change brought about by quality standards was to evaluate the nature and distribution of mandatory actions raised by UKAS. Since each action must be addressed before accreditation is granted, each action is a proxy measure for improvement. The nature of the referrals to the Regulator could also identify issues with quality systems within the organisation. Comments from the courts, particularly the Court of Appeal, could be useful in assessing how well a forensic science service was being carried out, and the extent to which it was meeting the needs of the end users. The members were asked if there were any further methods that should be considered to address this issue. The members had no further methods that should be considered.

Action 6: Members to send any further suggestions to the Regulator.

6.5 The previous FSAC meeting had considered again, in the light of comments made in evidence to the House of Lords Science & Technology Committee, whether or not there was an alternative arrangement for quality standards that could be considered for small businesses. The view of the FSAC, and of the Regulator, was that the size of a business should not determine what quality standards would apply, since the requirements of the Criminal Justice System (CJS) for reliable evidence were universal. A pilot study that had examined the suitability of ISO 17020, as a standard for defence review (a sector dominated by small businesses) had been completed. The results of the pilot study had been reviewed, and a proposal would be presented for assurance of the quality of defence review at the next FSAC meeting. The Regulator asked the members if there were any further actions they should take to ensure that quality standards do not have the effect of driving organisations out of business.

6.6 The members discussed mapping delivery against compliance in forensic science. The Regulator had been tasked with establishing, and monitoring compliance with quality standards in the provision of forensic science services in the Criminal Justice System (CJS). However, the Regulator currently had no way of determining which organisations were supplying forensic science services to the CJS. Therefore, although it was possible to identify which organisations held accreditation for a certain discipline, it was not possible

to report on an overall landscape of compliance. The National Police Chiefs' Council (NPCC) had been asked both by the Regulator and by the Forensic Policy Steering Group to produce an overall compliance landscape for policing. It was easier to see the level of compliance of the larger commercial forensic science providers, since they were required by contract to hold accreditation for the vast majority of forensic services. The major gap remaining was in the small business sector, where there was no full picture of what organisations (and individuals) were providing forensic science services. The Regulator asked members what should be done to identify what services were being provided, by whom, and their level of competence. A member suggested developing a register for qualified and accredited individuals/organisations providing forensic science services.

6.7 The development of skills for the long-term health of forensic science was discussed by the members. A significant number of the most highly skilled forensic scientists, who have benefited from a broad training and experience base over many years when funding was not as constrained as it is currently, were approaching retirement age. The Regulator asked members of the FSAC what could be done to promote broader training and development to support future leaders. A member suggested ensuring organisations were being encouraged to collaborate with research organisations, and universities. It was also suggested that the academic community working with forensic science practitioners and the police could also support the development of skills for forensic scientists.

7. Forensic pathology audit

7.1 The members discussed the seventh forensic pathology report of the 2017 annual audit. Members agreed it was a good report, which highlighted the good work performed by the country's forensic pathologists.

8. Legal Obligations and Expert Report Guidance

8.1 It was confirmed that the latest Legal obligations guidance, and an updated version of the expert report guidance, had been published. Members were asked if they had any specific comments on the two documents. The Regulator encouraged members to read the documents and circulate them to their contacts. The reports included updates on what the courts have said in relation to expert witness testimony.

8.2 A member queried streamlined forensic reporting. It was confirmed that police forces were still using abbreviated statements, and this was still seen as an issue. The Regulator confirmed this had been raised this with the Transforming Forensics team to stop this practice.

Action 7: Association of Forensic Science Providers representative to share their "heat map" of streamlined reports they are still receiving with The Regulator.

9. AOB

9.1 None

Annex A

Representatives present:

- Forensic Science Regulator
- The Chartered Society of Forensic Sciences
- NPCC Forensic Science Portfolio
- UK Accreditation Service
- The Chartered Society of Forensic Sciences
- Crown Prosecution Service
- Forensic Science Northern Ireland
- Scottish Police Authority
- FSRU
- FSRU
- HO Science Secretariat
- Association of Forensic Science Providers

Apologies received from:

- Criminal Bar Association
- Criminal Cases Review Commission
- Coroners' Society of England and Wales
- British Association in Forensic Medicine
- NPCC National Quality Managers Lead
- Chief Coroner
- Judiciary