



Forensic Science Regulator Guidance

**Joint Statements Under Part 19.6 of the Criminal
Procedure Rules**

FSR-G-233

Issue 1

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1. Purpose

- 1.1.1 This guidance sets out the legal requirements and Regulator’s requirements for the generation of joint statements under the provisions of Part 19.6 Criminal Procedure Rules (CrimPR). It also provides advice in relation to the application of those requirements and more generally.
- 1.1.2 This guidance has been issued to support the operation of the Codes of Practice and Conduct for Forensic Science Providers and Practitioners to the Criminal Justice System [1] (the Codes). In particular the provisions with regard to section on Reporting the Results of the Codes and the Code of Conduct.
- 1.1.3 This guidance provides support for, and clarification of, the operation of the Codes. In the event of any conflict with the provisions of the Codes then the Codes shall prevail.
- 1.1.4 As a result of its status as guidance this document avoids the use of prescriptive language. This should not be taken to suggest that requirements set out in the Codes are not mandatory. Similarly it does not suggest legal obligations are not mandatory.

2. Scope

- 2.1.1 This guidance is applicable to joint statements produced by experts for use in the Criminal Justice System (CJS) in England and Wales. General guidance on the legal obligations applying to expert witnesses has been issued [2] and on the content of expert reports [3].

3. Reservation

- 3.1.1 This guidance is believed to be accurate at the time of publication but it is the duty of each forensic unit to ensure it meets the legal obligations and to keep up to date with those obligations.

4. Issue

- 4.1.1 Issue 1 of this guidance was issued on 16 February 2021.

5. Modification

- 5.1.1 This is the first issue of this document.
- 5.1.2 This document has been drafted, in part, to ensure compliance with The Public Sector Bodies (Websites and Mobile Applications) (No. 2) Accessibility Regulations 2018.
- 5.1.3 The Regulator uses an identification system for all documents. In the normal sequence of documents this identifier is of the form 'FSR-#-####' where (a) the '#' indicates a letter to describe the type or document and (b) '####' indicates a numerical, or alphanumerical, code to identify the document. For example, the Codes are FSR-C-100. Combined with the issue number this ensures each document is uniquely identified.
- 5.1.4 In some cases, it may be necessary to publish a modified version of a document (e.g. a version in a different language). In such cases the modified version will have an additional letter at the end of the unique identifier. The identifier thus becoming FSR-#-####.
- 5.1.5 In all cases the normal document, bearing the identifier FSR-#-####, is to be taken as the definitive version of the document. In the event of any discrepancy between the normal version and a modified version the text of the normal version shall prevail.

6. Legal Information

- 6.1.1 The information provided in this guidance related to legal issues is based on the legal position, or at least those provisions which apply beyond expert witnesses, set out in the document FSR-I-400 [2].

7. General Requirements

7.1 CrimPR Provisions

- 7.1.1 The CrimPR, in Part 19.6 allow the judge to direct a meeting of expert witnesses. The provisions are worded as follows.

“19.6.—(1) This rule applies where more than one party wants to introduce expert evidence.

- (2) The court may direct the experts to—
 - (a) discuss the expert issues in the proceedings; and
 - (b) prepare a statement for the court of the matters on which they agree and disagree, giving their reasons.
- (3) Except for that statement, the content of that discussion must not be referred to without the court's permission.
- (4) A party may not introduce expert evidence without the court's permission if the expert has not complied with a direction under this rule."

7.1.2 These provisions mean that the court can direct that the following must occur.

- a. The expert witnesses, or any sub-set of the expert witnesses, in the case discuss the expert issues (within their area of expertise).
- b. The format of the discussions is not dictated by the CrimPR so that, absent a specific direction by the court, the discussions can be in person, by telephone or by online communications.
- c. The discussions must lead to a joint statement which, in relation to all areas within their expertise, sets out all issues addressed in expert evidence in the case and states which parts the experts agree on and which parts they do not agree.
- d. The joint statement must, for each area addressed in expert evidence, contain an explanation for the agreement or disagreement. Pragmatism suggest that an explanation of the areas of agreement may be relatively brief while the explanation for areas of disagreement must be more comprehensive.

7.2 Approach

7.2.1 This section provides guidance on the approach to such a discussion.

Preparation

7.2.2 To ensure the discussions address all relevant issues and, as consequence, offer the maximum assistance to the court the experts should, before the discussions begin in earnest, prepare a list of all of the issues addressed in expert evidence (or the expert evidence relevant to the discussions) in the case. This can be achieved by one expert preparing a list for review and modification

by the other experts. Alternatively, each expert can generate a list and these lists are then used to prepare a comprehensive list.

7.2.3 If there is a disagreement as to whether an issue has been addressed in expert evidence, and should thus be on the list, it should be added to the list.

Discussion

7.2.4 The discussion is between the experts, or some sub-set of the experts, in the case. There is no reason for anyone else (e.g. solicitors or police) to be involved. Indeed, other parties should not be present.

7.2.5 The discussions should not be recorded (e.g. by video or audio) unless all involved agree. The experts should make and retain notes of the meeting. Any record of the discussions, other than the joint statement, must be kept confidential unless the court directs otherwise.

7.2.6 The purpose of the discussion is to:

- a. Identify, and record, the areas of agreement and disagreement between the experts; and
- b. Record the explanations for the agreement or disagreement.

7.2.7 The purpose of the meeting is not to debate the expert evidence, to attempt to change minds or achieve a consensus. However, if the discussions to clarify and explain areas of disagreement can lead to an agreement or a narrowing of the areas of disagreement this is worthwhile as it will focus the work of the court on the actual issues in the case.

7.2.8 For each issue addressed by expert evidence in the case, and within the areas of expertise of those involved, the discussion should lead to a conclusion as to:

- a. What opinions have been expressed and which experts agree and disagree with each opinion;
- b. The reasons for any agreement (pragmatism suggests this could be quite brief); and
- c. The extent of any disagreement and the reasons for the disagreement.

7.2.9 In the event that there has been a disagreement as to whether an issue has been addressed in expert evidence this should be recorded in the joint statement as an area of disagreement.

7.2.10 Before the discussions are concluded and the joint statement produced there should be a review to ensure all areas of expert issues listed before the discussions have been addressed.

Output

7.2.11 The CrimPR states the output from the discussions must be a joint statement. It follows that the output must be a document formatted to comply with the provisions of s9 Criminal Justice Act 1967 and Part 19 CrimPR.

7.2.12 It is for the experts involved in the discussions to determine a pragmatic approach to the production and finalisation of the statement.

7.2.13 All experts who have participated in the discussions must sign the statement. The signature can be physical or electronic [3].

8. Review

8.1.1 This guidance is subject to review at regular intervals.

8.1.2 If you have any comments or suggestions please send them to the address or e-mail address set out on the Regulator’s Internet site. The URL is: ¹
www.gov.uk/government/organisations/forensic-science-regulator.

9. References

[1] Forensic Science Regulator, “Codes of Practice and Conduct for forensic science providers and practitioners in the Criminal Justice System,” [Online]. Available: www.gov.uk/government/publications/forensic-science-providers-codes-of-practice-and-conduct-2020. [Accessed 07 11 2020].

[2] Forensic Science Regulator, “Legal Obligations,” FSR-I-400.

[3] Forensic Science Regulator, “Expert Report Guidance,” FSR-G-200.

¹ This URL was accessed on 10 February 2021.

10. Abbreviations and Acronyms

Text	Meaning
CJS	Criminal Justice System
CrimPR	Criminal Procedure Rules
URL	Uniform Resource Locator

Published by:

The Forensic Science Regulator

5 St Philip's Place

Colmore Row

Birmingham

B3 2PW

www.gov.uk/government/organisations/forensic-science-regulator