

FORENSIC SCIENCE ADVISORY COUNCIL

Note of the thirteenth meeting, 7 June 2010, conference room 2, Home Office, 2 Marsham Street, London SW1P 4DF

Present:

Andrew Rennison	Forensic Science Regulator (Chair)
Steve Allen	Association of Forensic Science Providers
Jane Beaumont	United Kingdom Accreditation Service
Roger Coe-Salazar	Crown Prosecution Service
John Fletcher	ACPO
Andrew Goymer	Judiciary
Adrian Jackson	Skills for Justice (sitting in for Alan Woods)
Kath Mashiter	Lancashire Police
Basil Purdue	British Association in Forensic Medicine
Brian Rankin	Forensic Science Society (FSSoc)
Soheel Joosab	Forensic Science Regulation Unit (Secretary)

1. Welcome

1.1 Andrew Rennison welcomed those present to the thirteenth meeting of the Forensic Science Advisory Council (FSAC).

2. Apologies

2.1 Apologies were received from:

Stan Brown	Forensic Science Northern Ireland
Julie Goulding	Criminal Cases Review Commission
Julie Mennell	UK Forensic Science Education Group
Tom Nelson	Scottish Police Services Authority
Ann Priston	Forensic Science Society
Roger Robson	Forensic Access
Alan Woods	Skills for Justice

3. Minutes of the last meeting

3.1 FSAC members agreed the note of the meeting of the FSAC held on 1 March 2010.

4. Matters arising from the minutes of the last meeting

4.1 Andrew Rennison advised the Council that he recently had discussions with colleagues from the FBI who, given the recommendations made in the

US National Academy of Science Report (NAS Report), suggested it would be value if they were to further meet with the Regulator to discuss possible handling issues, particularly around potential resource/budget issues. This will be left open for consideration.

5. Roger Coe-Salazar: National Standards

5.1 To contextualise this item the Regulator advised the Council that discussion should consider how the Codes of Practice and associated standards might most usefully be disseminated across the police, the Crown Prosecution Service and the courts.

5.2 Roger Coe-Salazar advised the Council that across the CPS groups there are Case Management Panels which are chaired by the Group's Chief Crown Prosecutor's. The Panels best ensure that the prosecution strategy being developed for any substantial/complex case is sound and provides the reviewing lawyer with an opportunity to seek guidance on proposed strategies and tactical considerations.

5.3 Therefore, in reaching the CPS and the courts, it was suggested that the panels would be positive forums in which to embed, the Codes of Practice. Although the Panels only consider and review the most high impact cases, it was felt that initially introducing the codes at that level would result in the codes filtering down to cases at lesser levels.

5.4 The point was raised that there should be a case for a listing of all forces which are accredited relative to ISO standards. John Fletcher advised the Council that such a gap analysis was currently underway by ACPO. Once completed, the findings will be shared with the Regulator. Separately, UKAS maintain a public facing register of accredited organisations and to what standards they are accredited against.

6. Success, Impacts and Benefits: Discussion Document

6.1 Dave King introduced the paper. Given that the work of the Regulator in establishing forensic standards is fluid, the purpose of the document is to provide a starting point for discussion on defining what expectations might be the success criteria and how it can be measured.

6.2 The document was an amalgam of several sources of reference drawn from across reports and statements produced by the Regulator covering the drivers for quality standards, vision and mission. Therefore the document, at this stage, sets out a prospective framework around which success criteria might be integrated, measured and built upon.

6.3 As a possible precursor to provide the Regulator with a reference for setting and appraising quality processes and priorities, Mr King referred the Council to the Quality Management Maturity Model (QMMM) within the

document. Although the model is one developed for the Ministry of Defence, it was suggested that, in principle, it might be exactly right for the purposes of the Regulator's work. It was emphasised, however, that no work had yet been undertaken to adapt this model for that purpose.

6.4 A question was raised about the phraseology of the title of the standards document '*Codes of Practice*' (CoP). It was felt the title suggested the document had a statutory basis, and, as it does not, could be construed as misleading. The Courts Code of Practice and The Police and Criminal Evidence Act 1984 (Codes of Practice) were cited as examples whereby any breaches could lead to evidence being excluded in a court.

6.5 Mr Rennison advised that many regulatory processes commonly use a code of practice which practitioners voluntarily agree to work by. To support this, it was highlighted that the Royal College of Pathologists Code of Practice and Performance Standards operate on a voluntary basis. However, Andrew Rennison agreed that he would make clear in the foreword of the document that the Codes of Practice are not statutory based but are mandatory and will influence conduct. A revised foreword will be circulated to the Council for their note.

¹Action: Andrew Rennison

6.6 To supplement the CoP, Mr Rennison advised that the initial appendices relating to specific forensic disciplines (which will be ready in the coming months) will be digital, DNA, toxicology and pathology. As further annexes are developed, they will also become addendums to the CoP. In addition to the forensic disciplines, there will also be appendices on interpretation and presentation of evidence.

6.7 Mr Rennison advised that, primarily, the CoP would be made available on his website and revised as necessary, with revisions recorded. Although available electronically, there was a question on the scope of hard copies being made available, primarily for use in the court environment. This was acknowledged by Mr Rennison; however consideration would need to be given as to how hard copies of the CoP would be updated and the possible cost implications.

6.8 In discussing the significance of the CoP there was some uncertainty - given that the codes are not statutory based - that defence practitioners may not necessarily adhere to the codes and whether there might be merit in discussing this point with the Legal Services Commission to consider, for example, that if the codes are not adhered to that legal aid might be withdrawn. Mr Rennison advised that he had a meeting arranged with the Legal Services Commission to discuss the CoP and possible implications, but that this had been deferred pending publication of the CoP and stakeholder consultation. Mr Rennison undertook to feedback to the Council the outcome of that meeting.

Action: Andrew Rennison

¹ Action Completed

6.9 To contextualise the work of the Regulator, It was agreed that (drawn from page 10 of the document, 'Summary of Aims') that five success aims/measures should be chosen and distilled down and that these should be set into the QMMM. These success measures should, in turn, have a number of sub-levels, relating to accreditation, adoption of measures and take-up levels by FS providers.

Action: Andrew Rennison

7. Role of the FSAC: Assistance to the Crown and the Courts

7.1 Andrew Rennison felt that both the papers for this item reflected well on the work of the Regulator and the FSAC in looking to establishing forensic quality standards. In particular, it was felt by members (as acknowledged in the appeal case judgement) that there is considerable scope for the Regulator and FASC to lend assistance to the courts on matters as to whether forensic evidence is sufficiently reliable to be admitted.

7.2 Given the welcomed advice provided by the Regulator/FSAC, which was in turn clearly set out in the appeals paper, it was agreed that it was a key role of the Regulator and FSAC to continue to produce (and contribute to) general guidance which would inform judges, courts and lay jurors of the processes and applied techniques of the various forensic disciplines. However, the Council emphasised that in providing such advice, it would not be within the Council's or the Regulator's remit to comment on individual cases, other than responding to requested advice on the merits of the forensic approaches involved.

8. R v Weller, implications for forensic science experts

8.1 In forming findings and presenting evidence in court, the Council discussed the references made within the judgement on the question of expert witnesses often relying upon unpublished papers (which may have not been peer-reviewed) having limited field experience and unable to reference or draw upon the work of other expert witnesses to test, if challenged their testimony.

8.2 It was considered, therefore, that there needs to be a practice whereby an expert witness's credentials can be tested and demonstrated to those instructing them, or to a judge, that the expert witness is sufficiently experienced to give evidence.

8.3 An option put forward was the possibility of guidance being produced which would set out useful questions/checklist to determine that the expert has the expertise, experience and training relative to the issues on which an opinion is sought.

8.4 It was also felt that there may be scope for feeding back to the CPS Case Management Panels occurrences where there have been significant or continual failings by an expert presenting testimony. It was agreed that this was an option worth re-visiting at a later date.

9. Update from Andrew Rennison on the future of forensic science regulation.

9.1 Andrew Rennison advised the Council that, as with all government departments, the Home Office was embarking on a period of rationalisation which may well have direct impact on the Regulator's budget. Accordingly, the Regulator is working through a range of options with Home Office officials and will shortly be submitting papers to the Minister, James Brokenshire, to inform him of future plans for a quality standards framework and seeking authority for continued contracts with key stakeholders. The Regulator also advised the Council that his initial appointed term of three years ends in February 2011 and that he has contacted Home Office officials to seek to extend his term of appointment.

9.2 Similarly, the Regulator said that a number of members of the council will shortly complete their initial three year terms and that he will be in contact on an individual basis to discuss membership of the Council.

²Action: Andrew Rennison

9. Any other business

9.1 Brian Rankin advised the Council that universities, QAA, Skills for Justice, the Forensic Science Society and forensic employers are to work closely to develop a subject benchmarks for Forensic Science. This work will strongly support the Forensic Skillsmark, developed by the FSSoc and Skills for Justice and previously discussed by the Council.

10. Date of next meeting

- 8 November 2010, 11:00am Conference room 2, Home Office, 2 Marsham Street, London, SW1P 4DF

² Completed