THE FORENSIC SCIENCE REGULATOR

BUSINESS PLAN 2008/09 – 2010/11

Introduction

Overview

1. This is the first Annual Business Plan for the Forensic Science Regulator, henceforward described simply as "the Regulator". The Business Plan has been approved by the Forensic Science Advisory Council and authorised by Home Office Ministers.

2. The purpose of the Regulator is to support and enhance the important contribution made by suppliers of forensic science services to the effectiveness of the Criminal Justice System (CJS). The CJS requires, of all suppliers:

i). The delivery of forensic science services, using the appropriate available scientific techniques, according to the highest professional standards;

ii). With efficiency, integrity, impartiality and accuracy at every stage throughout the process;

iii). At a cost which represents best value for money, within timescales which meet operational needs;

iv). Reflecting an understanding of the needs of the specific customer and the requirements of the CJS as a whole; thereby

v). Maintaining and enhancing public confidence in the quality and reliability of forensic science in the CJS.

3. The role of the Regulator, in support of those overarching objectives, is as follows:

- To establish, and monitor compliance with, quality standards in the provision of forensic science services to the police service and the wider CJS;
- To ensure the accreditation of those supplying forensic science services to the police, including in-house police services and forensic suppliers to the wider CJS;
- To set and monitor compliance with, quality standards applying to national forensic science intelligence databases, beginning with the National DNA Database (NDNAD) and the National Ballistics Intelligence System (NBIS) and extending to others as they arise;
- To provide advice to Ministers, CJS organisations, suppliers and others as seems appropriate, on matters related to quality standards in forensic science; and
- To deal with complaints from stakeholders and members of the public in relation to quality standards in the provision of forensic science services.

See also the Written Ministerial Statement by the Parliamentary Under-Secretary of State for the Home Department (Meg Hillier MP) on 12 July 2007. Official Report, Column 67WS.

4. In carrying out this role, the Regulator will not approach the task with a view to regulating the market through direct economic measures, though the existence of common quality standards should have a beneficial indirect effect in that those responsible for procuring forensic services should be able to do so in a way that achieves value for money.

5. The appointment of a Regulator to develop and oversee quality standards in the provision of forensic science services to the CJS breaks new ground. In the absence of an established model to follow, we are starting largely from scratch in establishing the principles, processes and structures through which the Regulator will operate. Nevertheless, the Regulator will be anxious to learn from other disciplines in which Regulators operate and will identify and adopt best practice wherever possible. The Regulator will adopt the Regulators' Compliance Code published by the Department for Business, Enterprise and Regulatory Reform in December 2007.

6. This work has already begun and healthy progress has been made. The Plan begins by summarising what has been achieved during the establishment phase from June 2007, then moves on to describe what we aim to achieve during the three year period beginning on 1 April 2008 and ending on 31 March 2011.

7. The first year's key delivery objectives are at Annex A. They are described explicitly while the plan for the following two years (Annex B) is described in outline. Given that the function is a new one it is sensible to allow an opportunity, during the first year, to complete and refine the development of the role and to review in greater detail the priorities for future years.

Progress to Date

8. The process of establishing the office of the Regulator, which was managed by the Interim Regulator, included the recruitment of the substantive Regulator through open competition. The Regulator took up post on 11 February 2008.

9. A Forensic Science Advisory Council (FSAC) has been established to advise and support the Regulator. The terms of reference and membership of the FSAC are at Annex C. The FSAC met on three occasions in 2007-08.

10. A new Advisory Non-Departmental Public Body (NDPB), the National DNA Database® (NDNAD) Ethics Group, has been established under the sponsorship of the Regulator. Its membership and terms of reference are at Annex D. The Ethics Group acts independently in the exercise of its functions: the function of the Regulator is to ensure that it is capable of doing so and to advise the Minister on its findings and recommendations. The Ethics Group will in due course present its work programme for 2008/09 to Ministers.

11. Two specific reviews have been undertaken by the Interim Regulator during the establishment year. Both relate to the application of forensic DNA profiling technology. In the interests of commercial confidentiality the details are not being made public. Additionally, a review of low template DNA analysis was carried out by a team of experts established for the purpose. The review was expected to have reported at the end of February.

12. Two conferences were held during the course of the year: one for police force scientific support directors and managers and one for key stakeholders.

13. Three foundation projects have been commissioned with the aim of providing a sound basis for the future work of the Regulator:

i). A review of the quality standards landscape, covering applicable standards, guidance and relevant law. This work has been completed and serves as a point of reference for future activity, mapping existing requirements and helping to identify gaps in existing coverage;

ii). Research with key stakeholders, supported by the administration of a questionnaire to a wide range of those involved in the supply and use of forensic science services. This, together with the results of the landscape survey and the contribution of the FSAC, has

provided the evidence base for this Plan;

iii). The production of a "Manual of Regulation". The Manual will build upon the review of the quality standards landscape and provide the means by which the work programme will be delivered. The aim is to produce a consolidated set of guidance which describes, in some detail, why (covering strategic aims and objectives) how (including statement of principles to be adopted) the Regulator, advised by the FSAC and supported by Specialist Groups, will manage the whole regulatory process. Thus, while the Business Plan describes what the Regulator will set out to achieve: the Manual will describe in much greater detail why and how this will be achieved.

Approach

14. The landscape survey described at paragraph 15 (i) above shows that there is already a large number of standards covering various aspects of forensic science provision. But the research described at paragraph 15 (ii) demonstrates a substantial requirement for new or improved standards covering the whole range of regulatory activity: laboratory processes, validation of scientific products and competence of individual practitioners. This represents a large programme of work which is likely to take some years to complete. It is, therefore, important to take a risk-based approach, identifying the priority issues on the basis of the risk to the overarching objectives for forensic science listed at paragraph 2 above.

15. In order to deliver the objectives established for the first year of the planning period the Regulator will:

i). Ensure that the FSAC is able to operate effectively as a strategic advisory board, and draw upon the advice of the Council;

ii). Support and guide the specialist groups which will be key to the delivery of objectives 2 to 7;

iii). Establish and support other specialist groups as required;

iv). Plan and deliver any special reviews required in pursuit of objective 8. This will require the Regulator to maintain a capability to deal with unexpected demands and will involve drawing on the expertise and resources of the stakeholder community as required;

v). Maintain and further develop a close and constructive relationship with the stakeholder community, to sustain the widest possible support for the development of, and compliance with, the regulatory regime. This will include establishing an effective stakeholder forum, comprising representatives of the forensic science provider community;

vi). Secure ACPO approval for plans to ensure that forensic science services provided in-house by police forces comply with the same quality standards as apply to commercial providers;

vii). Develop business processes and working practices which provide a sound basis for the effective development and delivery of relevant quality standards;

viii). Develop and sustain an effective communications strategy, including a fully up-to-date web presence;

ix). With advice from the FSAC, and in consultation with stakeholders, refine the proposed objectives for years 2 and 3 of the Plan.

16. The Regulator will need to be up to date and aware of weaknesses and failings across all the forensic processes. A level of awareness will be generated from the comprehensive risk assessment to be undertaken, this will be supplemented by the development of continuous intelligence and evidence gathering across all stakeholders. This could include a requirement for forensic suppliers and users to report failings. This is a new approach that will start with a discussion paper to gather views.

17. In the absence of a statutory basis for regulation, the Regulator will need to rely on a range of indirect measures to secure compliance with the requisite quality standards. This will include:

i). Harnessing active support from key stakeholders, including:

- The Police Service
- The courts and those serving the courts, including the Crown Prosecution Service and defence lawyers
- CJS Government Departments
- Suppliers of forensic science services

ii). Utilising informal sanctions at the disposal of CJS users of the services; for example:

- Developing a climate within which suppliers who are unable to evidence compliance with quality standards will find it difficult to secure contracts to supply forensic science services to police forces and others;

- Encouraging courts and counsel to expect testimony given by expert witnesses to be underpinned by evidence that the science complies with the requisite quality standards.

18. Although the remit of the Regulator does not extend to Scotland and Northern Ireland, their respective authorities have agreed to join in the work of the Regulator and the FSAC as full partners and, accordingly, to implement the resulting standards in their own jurisdictions. This will beneficially ensure the existence of common UK-wide standards in forensic science.

0ther objectives

19. In addition to the key objectives listed at Annex A, the Regulator will address the following issues during the first year of the Plan.

Quality standards applying to forensic science services delivered in-house by police forces

20. Some 50% of forensic science services (measured by cash value) are delivered within police forces' own scenes of crime operations and scientific support services. These services must be subject to the same quality standards regimes as apply to commercial providers: differential standards would operate against the public interest and increase the risk of challenge in the courts. At present few of the scientific processes delivered by police scientific support services are subject to accredited quality standards. The Regulator will work with forces and the National Policing Improvement Agency and ACPO who are developing a national Strategic Framework for forensic science, and delivery partners, including United Kingdom Accreditation Services (UKAS) and the Council for the Registration of Forensic Practitioners (CRFP), to establish and define the standards which should apply to in-force services, including crime scene examination, and develop plans for forces to move towards compliance with these standards.

Mapping the forensic market

21. The market for the supply of forensic services is changing. However, it is still not difficult to establish the volume and share of the market held by the leading suppliers. However, there are a number of small 'niche' suppliers and individuals who offer forensic expertise. It is important and relevant that the full supply map is understood and the changing picture monitored. The Regulator will work with the NPIA to develop and maintain an up-to-date map of the forensic market used by the criminal justice system.

Complaints handling

22. The existence of the Regulator will provide a new focus for complaints about the provision of forensic science services from CJS stakeholders and from members of the public. During the first three months of the planning period the Regulator will establish, in consultation with key stakeholders, procedures for dealing with such complaints, including referring them to other bodies when they relate to issues which fall outside the Regulator's remit or where the other body is better placed to deal with the complaint.

Resources

23. The following resources have been allocated to the Regulator by the Home Office:

Budget

	£K
Admin	742.5
Programme	571.5
Total	1,314

24. The budget will be allocated from the Home Office Departmental Expenditure Limit (DEL) and delegated to the Regulator by the responsible director (see below). The Regulator will account for management of, and expenditure from, the budget in accordance with Home Office departmental policy.

Staff

Regulator [1]	1
Grade 7 [2]	2
SEO/SSO [2]	3
EO [2]	1
PS/Admin [2]	1
Total	8

Notes:
1 Public appointment
2 Civil Service staff

25. There is a risk that the resources under the direct control of the Regulator are insufficient to deliver against the expectations of the key stakeholders during the period covered by this plan. This will largely depend on the extent to which the Regulator is asked to undertake activity beyond that envisaged in this plan. There is a further risk that the Regulator will be unable to engage people with the necessary specialist expertise to deliver across the range of the core objectives and to undertake special reviews. Both risks are likely to be most effectively mitigated by ensuring

that as much of the implementation activity as possible is delivered through new or existing delivery partners. The existing delivery partners, with whom the Regulator will continue to engage closely, include:

The Association of Chief Police Officers
The Crown Prosecution Service
The National Policing Improvement Agency
The UK Accreditation Service
The Council for the Registration of Forensic Practitioners
Skills for Justice
The Legal Services Commission
Professional bodies (including, for example, the Forensic Science Society; the Expert Witness Institute and the Royal College of Pathologists)

26. The new delivery partners include:

The FSAC
Specialist Groups (see Annex A)
The Suppliers' Forum (a forum to be established of forensic suppliers).

Accountability

27. In relation to the exercise of his regulatory responsibilities, the Regulator will report to the Home Secretary. He will also account to the Lord Chancellor and Secretary of State for Justice and to H.M. Attorney General. While the Regulator is not bound by it, he will at all times comply with the requirements of the Regulators' Compliance Code.

28. For line management and reporting purposes, the Regulator will report to the Home Office Chief Scientific Adviser.

Annual Report

29. The Regulator will, by 1 June 2009, submit to CJS Ministers the first annual report on the achievement of the objectives set out in this Plan.

ANDREW RENNISON
Forensic Science Regulator
March 2008

Annex A: Objectives for 2008/09

The objectives for 2008/09 are based on (a) the need to establish the processes used by the Regulator and (b) an initial assessment of risk to the CJS of forensic science processes.

1. Manual of Regulation
2. Comprehensive risk assessment
3. The User Requirement from the Court Perspective
4. Validation Standards
5. Forensic DNA Profiling
6. Digital Forensics
7. Forensic Pathology
8. Special Reviews
9. Review of Operation of the Regulatory Function

Annex B: Outline objectives for 2009/10 and 2010/11

Annex C: Terms of reference and membership: the FSAC

Annex D: Protocol and membership governing the National DNA Database Ethics Group

ANNEX A

OBJECTIVES FOR 2008/09

1. Manual of Regulation

1.1 Requirement

1.1.1 To develop the detailed processes through which the need for quality standards in forensic science will be identified; and new or improved standards developed, validated, approved, implemented and monitored. The processes need to be clearly described and readily available to all who are likely to be affected by the regulatory process.

1.2 Approach

1.2.1 The Manual of Regulation will describe how the Regulator, advised by the FSAC and supported by Specialist Groups, will manage the regulatory process. The Manual will provide a freely available account of the business processes which the Regulator and the FSAC will follow in order to:

i). Identify the areas where scientific quality standards are needed, using risk assessment methodologies and prioritising accordingly;

ii). Draw up appropriate standards;

iii). Consult upon and validate the new standards;

iv). Implement the standards;

v). Support, monitor and enforce the standards.

1.2.2 The Manual will be produced under the direction of the Regulator, assisted by a former senior forensic scientist working under contract. The FSAC will oversee the production of the Manual and will approve it before release.

1.2.3 The Manual will be a living document and will need to be kept under constant review by the FSAC. It is likely to be developed and refined throughout the currency of this Plan.

1.3 Deliverables

First draft of the Manual of Regulation by 31 March 2008

Final draft issued for consultation by 6 June 2008 (followed by a 12 week consultation period).

First edition promulgated by 31 October 2008

1.4 Success criteria

1.4.1 Success will be measured against the following criteria:

- Scope – the extent to which the Manual effectively covers the relevant business processes. Measured by a stakeholder survey.

- Acceptability – the extent to which the Manual secures the overall approval of the key stakeholders. Measured by consultation with the key stakeholders.

- Clarity – the accessibility and intelligibility of the finished product. Measured by a key stakeholder survey.

2. Comprehensive Risk Assessment

2.1 Requirement

2.1.1 The use of forensic science in the Criminal Justice System involves long chains of activity stretching from preparatory work before a crime is committed, for example the manufacture and supply of equipment for collecting forensic samples, through to the presentation of evidence at court (see the next section on the court perspective). Many different people, difference forensic techniques, and different suppliers of forensic services are used within these chains of activity. This all adds up to complex patterns of forensic activity that may or may not present risks to the delivery of impartial and objective forensic science to the high standards demanded by the criminal justice system.

2.1.2 To be effective it is important that the Regulator is able to identify any risks in the forensic processes and to be able to establish the impact of each risk. The combination of the likelihood of it occurring and the impact of a particular risk should it occur would help the Regulator to make best use of limited resources and to regulate in the areas of high risk.

2.2 Approach

2.2.1 This requires the development of a risk model that will work within the forensic context along with the identification and assessment of risks involving those best placed to identify and assess the risks. This will therefore involve practitioners and consultation across the broad range of forensic activity. The Regulator intends to work during the first year to design an effective risk model that will drive effective decision-making based on a comprehensive risk assessment process.

2.3 Deliverables

2.3.1 A risk-methodology researched and developed by 31 August 2008.

2.3.2 A risk model in place with risks identified across the forensic process that need addressing through quality standards.

2.4 Success criteria

2.4.1 Stakeholders able to agree to the risks identified and to support work to develop quality standards and processes to manage the risks.

3 The User Requirement from the Court Perspective

3.1 Requirement

3.1.1 Most forensic science services are used by the police service to assist in detection of crime. Only a relatively small proportion of forensic science work culminates in evidence before the courts. However, this can be most significant in terms of its impact on the CJS as a whole. That is why the Regulator intends to take a court-centric view of forensic science, metaphorically

standing in the courtroom and looking back through the evidential chain, from crime scene through laboratory process to the delivery of evidence by the forensic scientist. This requires a thorough understanding of what the courts (including the prosecution and defence) need from forensic science. To our knowledge, however, this perspective has never been comprehensively examined.

3.2 Approach

3.2.1 An ad hoc Specialist Group will be established to undertake a one-off study leading to the specification of an End-User Requirement for forensic science services. For the purposes of this study, the end user will be taken to comprise those interests which are regularly engaged in contributing to criminal proceedings in courts, and the study will deal only with requirements relating to court proceedings.

3.2.2 The study will:

i). Identify the "end users" of forensic science services in England and Wales;

ii). Identify the individual requirements of the end users in relation to:

   a. The quality of forensic science services provided;

   b. The quality of forensic practitioners contribution to criminal proceedings and inquests;

   c. Other requirements.

iii). Establish how those requirements are currently met in terms of:

   a. Compliance with formal quality standards;

   b. Compliance with standards established by the service providers;

   c. Compliance with legal provisions;

   d. Compliance with other formal requirements established by the user;

   e. Compliance with other norms and values (including those inculcated by education and training, membership of professional bodies and regulatory bodies).

iv). Identify any shortcomings in the extent to which the requirements are currently met;

v). Propose means of remedying the shortcomings, distinguishing between measures which fall within the remit of the Regulator and those which do not;

vi). Make such other recommendations as appear appropriate.

3.3 Deliverables

Interim report to FSAC by 30 June 2008 (followed by a 12 week consultation period).

Final report to FSAC by 30 November 2008.

3.4 Success criteria

3.4.1 Success will be measured against the following criteria:

- Scope – the extent to which the report effectively addresses the above specification. Measured by peer review.

- Acceptability – the extent to which the report secures approval of CJS Ministers. Measured by response to its publication.

- Making a difference – the extent to which the report produces proposals for beneficial, realistically achievable, change. Measured by the quality of proposals received.

4. Validation standards

4.1 Requirement

4.1.1 Advances in science and technology, applied to the forensics field, have brought great benefits to the CJS, particularly in the fields of DNA profiling, chemical analysis and digital forensics. Before any new scientific technique is introduced into the service of the CJS it is important that it is subject to detailed examination to ensure that it is based on sound science, is reliable and repeatable and that any limitations and constraints are identified and communicated. This process, known as "validation" is currently devised and managed by individual providers. However, the lack of overarching validation standards and guidance raises the risk that unreliable techniques are marketed and used in the CJS, with potentially serious consequences. The need for validation standards extends both to the scientific basis of any new service and to any technology applied to give effect to it. The latter aspect, which frequently concerns the use of IT applications, can be particularly demanding.

4.2 Approach

4.2.1 A Quality Standards Specialist Group established with a wider remit to provide advice on all matters related to the preparation, implementation and monitoring of scientific quality standards within the remit of the Regulator. The Specialist Group will:

- Establish the processes employed by the Regulator to develop and implement quality standards;
- To investigate processes employed by other organisations, including but not limited to professional and regulatory bodies, to inform the advice provided to the Regulator.
- Receive, in draft, standards developed by other specialist groups to ensure appropriate processes have been followed and that the standards are consistent in format and approach;
- Support the work of other specialist groups by providing advice and assistance with regard to the production of standards;
- Advise on arrangements for validation and testing of processes, techniques or equipment to ensure the prescribed regimes are effective and proportionate;
- Oversee the processes for monitoring and enforcing quality standards, including relationships with other bodies, within forensic science;
- Propose means of remedying any shortcomings, distinguishing between measures which fall within the remit of the Regulator and those which do not;
- On request from the Regulator, review validation exercises and advise as to the adequacy of the validation;
- Make such other recommendations as appear appropriate.

4.2.2 In order to deliver the validation objective the Quality Standards Specialist Group will initially be tasked with a one-off project to:

- Review existing practice and sources of guidance on validation standards;

- Develop interim guidance on the principles to be followed in validating new scientific techniques;

- Design a programme of work to deliver substantive guidance on validation processes and standards.

4.3 Deliverables

Report on existing sources of guidance by 31 May 2008

Develop interim guidance by 31 August 2008 (followed by a 12 week consultation period).

Submit proposals for work programme to develop substantive guidance by 31 January 2009.

4.4 Success criteria

- Scope – the extent to which the first report identifies available relevant sources of guidance. Measured by stakeholder review and publication.

- Acceptability – the extent to which the second report delivers interim guidance that is recognised as fit for purpose by suppliers and users of forensic science services. Measured by consultation with relevant stakeholders

- Making a difference – the extent to which the second and third reports deliver products and proposals enabling beneficial, realistically achievable, change. Measured by consultation with stakeholders.

5. Forensic DNA Profiling

5.1 Requirement

5.1.1 Many of the most significant advances in recent years have related to forensic DNA profiling, which is now one of the most important scientific tools available to the police service. A number of recent developments have further increased its capability and value to the CJS. However, these advances have brought their own challenges: each of the three priority reviews undertaken, or commissioned, by the Interim Regulator during the establishment phase related to new forensic DNA profiling techniques. This picture seems unlikely to change in the foreseeable future.

5.1.2 The NDNAD is the resource which unlocks the value of forensic DNA profiling. It represents a significant national capability but the retention of large quantities of personal data raises sensitive questions around individual liberties and data protection, and places a premium on compliance with the highest quality standards. Oversight of quality standards relating to the NDNAD is explicitly within the Regulator's remit.

5.2 Approach

5.2.1 A DNA Specialist Group established to provide advice on all matters related to quality standards applicable to DNA analysis including its interpretation and use in the CJS. The Specialist Group will:

- Review the standards in place (and the factors influencing those standards) as they apply to the National DNA Database and forensic DNA analysis more generally. The review will consider, but not be limited to, the following.
  - Legal provisions (including common law, statute and subsidiary legislation) in as much as they impact on the requisite quality standards;
  - ISO Standards;
  - National Occupational Standards;
  - Standards established by the NPIA Custodian Management Unit;
  - ENFSI Standards/Guidance;
  - Existing supplier quality standards;
  - Standards employed in other jurisdictions;
  - Standards set out in published literature; and
  - Other norms and values (including those inculcated by education and training, and membership of professional bodies).
- Report to the Regulator and Council on the scope, suitability and effectiveness of the existing standards and their application.
- Report to the Regulator and Council on the effectiveness of quality monitoring processes;
- Report to the Regulator and Council on means of influencing international standard setting
- Propose means of remedying any shortcomings, distinguishing between measures which fall within the remit of the Regulator and those which do not.
- Make such other recommendations as appear appropriate.

5.3 Deliverables

Report on review of NDNAD standards by 31 May 2008

Report on review of standards relating to forensic DNA profiling by 30 June 2008 (followed by a 12 week consultation period).

Recommendations for future action by 31 October 2008.

5.4 Success criteria

- Scope – the extent to which the first and second reports effectively review the existing standards relating to the NDNAD and forensic DNA profiling respectively, and identifies areas requiring action.
- Acceptability – the extent to which the recommendations for future action secure the approval of CJS Ministers.

Making a difference – the extent to which the reports produce proposals for beneficial, realistically achievable, change.

6. Digital Forensics

6.1 Requirement

6.1.1 Digital Forensics is defined, for this purpose, as follows:

> The process by which information is extracted from data storage media associated with computing and communications devices; rendered into a useable form and otherwise processed and interpreted for the purpose of obtaining intelligence for use in investigations, or evidence for use in criminal proceedings.

6.1.2 This is a growing area of police business and this growth is likely to continue. However, it is an area of forensic science which is governed by few scientific quality standards. The view has been strongly expressed, by police service representatives, by digital forensic practitioners and by academic scientists, that there is a pressing requirement both for process standards, governing the production of digital forensic evidence and standards of individual competence.

6.1.3 There is a similar requirement to contribute to the Digital Forensics Project in the Strategic Framework for Forensic Science programme managed by the NPIA.

6.2 Approach

6.2.1 A Specialist Group established to:

- Identify requirements for new or improved quality standards applying to the provision of digital forensics services to the police service and the wider CJS. This will include the quality of the techniques employed and of closely associated processes such as evidential integrity, interpretation and presentation of results;
- Draw up proposals for such quality standards, following a risk-based assessment of priority, for approval by the FSAC;
  - Advise on how to accredit those supplying digital forensics services to the police, including in-house police services and forensic suppliers to the wider CJS;
  - Advise on how to monitor compliance with digital forensics quality standards;
  - Develop procedures for validating and approving new technologies and applications in the field of digital forensics;
  - Monitor the availability of training and guidance in digital forensics and make proposals to the FSAC for approaches designed to improve the availability of, and standards in the quality of, training in digital forensics;
  - Advise on measures to ensure the competence of individual practitioners in digital forensics;
- Create, task, oversee and manage the output of any working groups required to advise the Specialist Group on specific matters within its remit;
- Monitor international developments relevant to quality standards in the provision of digital forensics and foster co-operative links with relevant international fora;
- Advise on any other issues concerning quality standards in digital forensics which are referred to Specialist Group by the Regulator or the FSAC.

6.3 Deliverables

6.3.1 A landscape review, identifying the nature of the problems, recommending appropriate priorities and drawing together existing sources of guidance and initiatives in the domestic and international arena. By 31 July 2008

6.3.2 Recommendations for a work programme to develop the necessary:

- Guidance on processes and process standards
- Individual competence standards
- Training and development requirements and provision

By 31 July 2008.

6.4 Success criteria

- Scope – the extent to which recommendations for action effectively address the shortcomings identified in the landscape review. .

- Acceptability – the extent to which the proposals secure approval of CJS Ministers.

- Making a difference – the extent to which the proposed work plan promises to deliver beneficial, realistically achievable, change.

7. Forensic Pathology

7.1 Requirement

7.1.1 In 2005 the Home Office-chaired strategic forum for forensic pathology, the Policy Advisory Board for Forensic Pathology (PABFP), was effectively wound up and a new body, the Pathology Delivery Board (PDB) was established. In 2006 this was transferred to NPIA management.

7.1.2 The PDB, inter alia, assumed some of the PABFP's responsibilities, but not those relating to professional and scientific standards. The PABFP's Scientific Standards Committee (SSC) was transformed into the Professional Standards Committee (PSC), but the resulting Committee was left "in limbo" with the disbandment of the PABFP.

7.1.3 The Regulator's remit covers quality standards in pathology as in other forensic disciplines, giving rise to the requirement to establish the appropriate machinery to achieve this. It seems sensible that this machinery should subsume the existing PSC.

7.2 Approach

7.2.1 A Forensic Pathology Specialist Group (FPSG) will be established to advise the Regulator in relation to:

i) Quality standards to be applied in forensic pathology – taking account of:

- Standards established by the Home Office and Royal College of Pathologists (RC Path);

- Standards established by the General Medical Council (GMC);

- Legal obligations placed on forensic pathologists; and
- National/International standards.

ii) These standards to cover, inter alia:

- The performance of the post-mortem examination;
- The use of other scientific disciplines (e.g. neuropathology and toxicology) in pathology;
- The legal standards applied; and
- The requirements of the users of the service insofar as they affect quality standards.

iii) Standards to be applied to those seeking, or holding, registration as forensic pathologists on the Register published by the Home Office and NPIA.

iv) Provisions for monitoring the standards of those on the Register of forensic pathologists.

v) Dealing with issues raised ad hoc by pathologists and those within the CJS on matters related to forensic pathology quality standards.

7.3 Deliverables

To be developed in the light of the response to ongoing consultation.

7.4 Success criteria

To be developed in the light of the response to ongoing consultation.

8. Special reviews

8.1 Requirement

8.1.1 Experience to date has shown that concerns about specific forensic science services are likely to continue to result in the requirement for the Regulator to undertake ad hoc reviews of quality standards. The risk-based approach described at paragraph 2 above should ensure that the Regulator will be able to identify the need for such reviews proactively but the need for special reviews may also arise in response to requests from Ministers or following pressing concerns raised by key CJS stakeholders. The Regulator will need to retain the capability to undertake or commission such reviews.

8.2 Approach

8.2.1 The number and nature of such reviews will depend upon the availability of expertise and resources. The Regulator may be able to conduct a limited number of reviews in-house (perhaps as many as four reviews of moderate complexity in the course of a year) but will need to commission external experts to conduct studies which fall outside the capability of his office. This will require funding and a supply of suitably qualified experts able to devote the necessary time to the work.

8.2.2 The Regulator will determine which special reviews to undertake or commission, advised by the FSAC. Each review will be launched on the basis of:

- Clear terms of reference, agreed with the CJS stakeholders most closely concerned;
- Identified source of funding and other support requirements.

8.3 Deliverables

Dependent on requirements.

8.4 Success criteria

- Scope – the extent to which resulting reports effectively discharge the terms of reference for the studies. .
- Acceptability – the extent to which resulting reports secure approval of CJS Ministers. .
- Making a difference – the extent to which the resulting reports produce proposals for beneficial, realistically achievable, change. .

9. Review of the operation of the regulatory function

9.1 Requirement

9.1.1 Ministers have agreed that a review should be carried out, one year after the appointment of the Regulator, to establish whether the role is operating effectively, particularly in the absence of any explicit statutory provision.

9.2 Approach

8.2.1 The Regulator will launch a formal review, according to terms of reference agreed with CJS Ministers, by the beginning of 2009. The conclusions of the Review will be reported to Ministers in time to influence the shape of the business plan for 2009/10.

9.3 Deliverables

The deliverables will be set out in the terms of reference.

9.4 Success criteria

- Scope – the extent to which the resulting report effectively discharges the terms of reference for the study. .
- Acceptability – the extent to which resulting report secures approval of CJS Ministers.
- Making a difference – the extent to which the resulting report produces proposals which strengthen the effectiveness of the regulatory regime while promoting Government policy in relation to innovation, competitiveness etc., and complying with Better Regulation Principles.

ANNEX B

Outline Objectives for 2009/10 and 2010/11

- Set standards for forensic imaging
- Set standards for Scenes of Crime Investigation
- Together with the CPS, deliver guidance on what obligations specialist witnesses must meet
- Consider setting standards for accident investigation
- Set standards for forensic telephone analysis
- Provide guidance to the judiciary, courts and the CPS about quality standards applicable to expert witnesses.

ANNEX C

Terms of Reference

for the

Forensic Science Advisory Council

Status

The Forensic Science Advisory Council ('the Council') is a body established to advise and support the Forensic Science Regulator ("the Regulator") in the exercise of his/her duties.

Background

2. Recent developments in the forensic science market have aimed to create a fully functioning market with the right services, at the right price, delivered to the appropriate standard. To achieve this it is essential to ensure that the integrity of, and confidence in, the Criminal Justice System (CJS) is maintained, that a level playing field exists for all suppliers and that quality standards are maintained in the face of the growing market and increased competition.

3. Quality standards for forensic science were historically established by the Forensic Science Service (FSS), which both provided most of the outsourced forensic science services to the CJS and acted as the Government's adviser on forensic science issues. The FSS is now a limited company, wholly owned by the Home Office, competing in the marketplace with other forensic service providers. In this new landscape there is a need for a central authority to establish common quality standards in the provision of forensic science services to the police and the wider CJS.

4. Home Office Ministers have agreed that this function should be discharged by a newly created office of the Forensic Science Regulator ("the Regulator"). The Regulator will be established within the Home Office and will be accountable to the Home Secretary in the discharge of his/her regulatory function.

5. By establishing, and enforcing, quality standards for forensic science used in the investigation and prosecution of crime, the Regulator will reduce the risk of quality failings impeding or preventing the identification, prosecution and conviction of offenders. This will contribute to the Home Office objective of preventing, detecting and deterring crime and improving public confidence in the police and other CJS agencies.

6. The role of the regulator will be as follows:

i). To establish, and monitor compliance with, quality standards in the provision of forensic science services to the police service and the wider CJS;

ii). To ensure the accreditation of those supplying forensic science services to the police, including in-house police services and forensic suppliers to the wider CJS;

iii). To set and monitor compliance with, quality standards applying to national forensic science intelligence databases, beginning with NDNAD and the National Ballistics Intelligence System (NBIS) and extending to others in due course;

iv). To provide advice to Ministers, CJS organisations, suppliers and others as seems appropriate, on matters related to quality standards in forensic science; and

v). To deal with complaints from stakeholders and members of the public in relation to quality standards in the provision of forensic science services.

7. The Regulator will not be expected to deliver all these activities directly. It will be the function of the Regulator to ensure that the standards exist, that they are fit for purpose, that they are subject to accreditation and that they are monitored. Where organisations exist to deliver the above activities[1], the expectation will be that this will continue and that the Regulator will operate through the established processes unless these processes are unable, for some reason, to deliver the required outcome.

8. Subject to that, the remit of the Regulator will encompass:

i). Scientific quality standards relating to **organisations** providing forensic science services to the CJS;

ii). **Processes** carried out within those organisations which affect the quality of the forensic science services provided to the CJS;

iii). New **scientific techniques** introduced in, or adopted by, such organisations, before those techniques are introduced;

iv). The competence of **individual forensic scientists**.

Remit

9. The Forensic Science Advisory Council (FSAC) will support the Regulator by considering, and offering advice on, matters related to:

i). The setting of, and monitoring compliance with, quality standards in the provision of forensic science services to the police service and the wider CJS. This will include the quality both of the "science" and of closely associated processes such as exhibit tracking and integrity. Implementation will generally be managed through, or with the support of, existing specialist bodies, for example UKAS;

ii). The accreditation of those supplying forensic science services to the police, including in-house police services and forensic suppliers to the wider CJS;

iii). The procedures for validating and approving new technologies and applications in the field of forensic science;

iv). The setting of, and monitoring compliance with, quality standards applying to national forensic science intelligence databases, beginning with the National DNA Database

[1] For example UKAS in relation to accreditation services for processes; CRFP in relation to the accreditation of expert witnesses.

(NDNAD) and the National Ballistics Intelligence System (NBIS) and extending to others in due course;

v). The quality of academic and educational courses in forensic science;

vi). International developments relevant to quality standards in the provision of forensic science services;

vii). Complaints from stakeholders and members of the public in relation to quality standards, and their application, in the provision of forensic science services[2];

viii). Any other issues concerning quality standards in forensic science which are referred to the Council.

10. The responsibilities of the Council will include the following:

i). Contributing to the identification of requirements for new or improved quality standards;

ii). Advising on prioritisation of requirements for quality standards;

iii). Creating, tasking and overseeing the work of Expert Working Groups (EWG) established to advise on or develop quality standards;

iv). Assessing the recommendations of EWG (or other sources) and advising the Regulator on how to respond to them;

v). Assisting the Regulator in responding to requests for advice from Home Office Ministers and others;

vi). Advising on, and monitoring the operation of, the process for reviewing existing standards and recommending development of new/modified standards;

vii). Monitoring the development of academic and educational courses in forensic science and, through the responsible authorities, promoting approaches to maintain and improve quality standards;

viii). Monitoring international developments and fostering co-operative links with relevant international fora;

[2] Where such complaints are not more appropriately dealt with elsewhere: eg by professional bodies.

ix). Advising on, and monitoring the operation of, the processes by which new standards are created.

11. The Council will also, through the Regulator, advise the Police Science and Technology Strategy Group on any matters within its remit which may, from time to time, be referred to the Council.

12. The remit of the Council may from time to time be modified by the Regulator following consultation with the Council.

Composition

13. The Council will be chaired by the Regulator.

14. Membership of the Council will comprise one person in each of the following categories. Where stated, the relevant organisation will normally be invited to nominate a suitable person to the post:

Area of expertise	Person description	Nominating authority	
Accreditation and registration	A person experienced in accrediting forensic science laboratories and processes to recognised international and domestic standards	UKAS	1
	A person with experience in accreditation and registration of individual practitioners, ideally in the field of forensic science.	CRFP	2
Forensic science	A fully qualified forensic scientist who has achieved eminence in the practice of forensic science, including holding a senior management position in a forensic science laboratory or a police service forensic science department.	Forensic Science Society	3
Pathology	A senior practising, or recently retired, Home Office registered pathologist.	BAFM, in consultation with Royal College of Pathologists	4
Academic training and qualification	A person from the academic field with experience in, and responsibility for, feeder training for the forensic science and crime scene examination professions. The responsibilities to be national rather than local.	UK Forensic Science Education Group	5
Forensic science providers	A senior manager from a commercial or Government-owned forensic science laboratory	Forensic Science Providers Group	6
CJS	A senior manager or lawyer with experience of prosecuting, or managing the prosecution of, cases in which forensic science has been at issue; or a senior manager with responsibility for setting policy in this area	CPS	7
	A member of the judiciary with responsibilities relevant to forensic science in the courts, or a particular interest in this area	LCJ	8

	A member of the Bar with significant experience of acting for both the prosecution and the defence	Criminal Bar Association	9
Scotland	A senior forensic manager with extensive knowledge of the Scottish legal system and the provision of forensic services in Scotland.	Scottish Police Services Authority (SPSA)	10
Police	A senior police officer or member of police staff with responsibilities in relation to the provision of forensic science services to the police, or a closely related field, and with knowledge of the application of forensic science in the investigation of major crime	ACPO	11
Lay member	A person, not a member of a government department or organisation within the CJS, with experience of operating at an influential level alongside the CJS on behalf of the public. This might, for example, involve working on behalf of victims and witnesses. Knowledge of relevant legislation would be an advantage.	OCJR	12

15. The organisations invited to nominate representatives to the Council may, from time to time, be amended by the Regulator following consultation with the Council.

16. Each organisation shall submit its proposed nomination for approval by the Regulator before appointment is confirmed.

17. Each organisation will be invited to appoint an additional person to deputise for their nominee in his or her absence.

18. Each appointment to the Council will be reviewed before the expiry of three years following the date of appointment. With the consent of Regulator and the appointee the appointing body may renew the appointment for subsequent three year terms.

19. The Regulator may, following consultation with the Council, add to the membership of the Council or invite other individuals to serve on the Council for limited periods of time where additional skills, knowledge or experience are required.

20. The Regulator may appoint (a) one of the members of the Council or (b) a senior member of his or her staff to deputise for him or her as Chair of the Council in his or her absence.

Operation

21. The Council shall meet at least four times per year and otherwise as required.

22. The Regulator, following consultation with the Council, may establish such other procedures as s/he considers appropriate for the operation of the Council.

23. In the interests of public accountability, the Council will carry out its work as openly as possible, within the terms of the Code of Practice on Access to Government Information, subject to any conditions set by Ministers or agreed by the Council. Council meetings will not be open to members of the public but minutes of the meetings may be published, subject to any redactions considered to be necessary. Reports produced by the Council will be published at the discretion of the Regulator who will, where appropriate, seek Ministerial approval.

24. Membership of the Council is unremunerated, but members will be entitled to claim travel and subsistence allowances in reimbursement for expenses actually and necessarily incurred in the course of Council business. The relevant rates will be determined by the Home Secretary and notified to the Council from time to time.

25. Support for the Council will be provided by the Regulator's Office. No budget is delegated to the Council but such assistance as is reasonably required to enable the Council to undertake its duties will be provided, within available resources.

Committees and Working Groups

26. The Council may, with the approval of the Regulator, institute such committees and working groups as it considers from time to time necessary for the efficient and effective conduct of its business. Such working groups and committees may be standing or ad-hoc. Each will be constituted with clear written terms of reference and will report to the Council.

27. The membership of working groups and committees shall not be limited to members of the Council.

Conduct

28. Members of the Council are required to observe the Seven Principles of Public Life endorsed by the Nolan Committee on Standards in Public Life. Each member must at all times act in good faith and observe the highest standards of impartiality, integrity and objectivity in relation to the conduct of the Council's business.

29. Any Council member has the right to bring to the attention of Chief Scientific Adviser to the Home Office any matter, which he or she believes raises important issues relating to his or her duties as a member. In such cases the member should, before approaching Chief Scientific Adviser, raise their concerns with the Regulator to establish whether they might be resolved within the Council.

Confidentiality

35 In accepting appointment to the Council, members are required to accept that they will not disclose any information or documents presented to the Council without the approval of the Regulator. This includes any documents marked with any GPMS security classification (including RESTRICTED) and the content of any discussions relating to such information. Members undertake not to make copies of any such documents, and to follow the advice provided by the Regulator and Secretariat about the handling of such documents.

ANNEX D

Protocol

governing the

Ethics Group: National DNA Database

Status

1. The Ethics Group for the National DNA Database (NDNAD) is an advisory Non-Departmental Public Body (NDPB) established under the authority of the Secretary of State for the Home Department, who is answerable to Parliament for the performance of the Committee.

Remit

2. The purpose of the Ethics Group is to advise Ministers on ethical issues concerning the NDNAD. This is to include ethical issues relating to:

- Services provided, and techniques employed, by approved suppliers of DNA profiles to the DNAD, comprising those currently provided and employed, and proposals for new services and techniques;
- Considering applications for research involving access to NDNAD samples or data;
- Other matters relating to the management, operation and use of the NDNAD.

3. The Ethics Group may also, at the request of Ministers, conduct inquiries into other ethical issues relating to scientific services provided to the police service and other public bodies within the criminal justice system.

Composition

4. The Ethics Group will comprise a Chair and up to ten members who shall be recruited through open competition via the public appointments process. The Chair of the Ethics Group shall, ex officio, be appointed to membership of the NDNAD Strategy Board.

5. The Chair may, with Ministerial approval, invite other individuals to serve on the Group for limited periods of time where additional skills, knowledge or experience are required.

6. The Chair may, in consultation with the Home Office Sponsor and with Ministerial approval, appoint one of the members of the Ethics Group to deputise for him or her in his or her absence.

7. The Chair and members of the Ethics Group will serve in accordance with the terms and conditions appended to this Protocol. Appointment to the Ethics Group will be for a period not exceeding three years: this may be renewed for a second term of up to three years by mutual consent of the Minister and the appointee and subject to a satisfactory appraisal.

Operation

8. In the discharge of its functions the Ethics Group may undertake inquiries:

- At the request of Ministers;
- At the request of the NDNAD Strategy Board;
- On its own initiative.

9. The Ethics Group may, of its own volition, undertake inquiries in relation to matters falling within its remit if a simple majority of the Group resolves in favour of doing so. In the case of a tie, the Chair will have a casting vote.

10. The Ethics Group will normally aim to meet at least quarterly, and otherwise as agreed by the membership.

11. Support for the Ethics Group will be provided by the Home Office. No budget is delegated to the Group but such assistance as is reasonably required to enable the Group to undertake its duties will be provided, within available resources.

12. A member of the Home Office Senior Civil Service will be appointed as sponsor for the Group. The Sponsor will appoint a Committee Secretary, with responsibility for planning and arranging meetings, setting agendas in consultation with the Ethics Group Chair; ensuring that papers are prepared and circulated on time and in good order; minuting meetings and assisting members in the discharge of their functions.

Reporting

13. By the end of April each year, the Ethics Group will submit to Ministers a report on its work during the preceding year.

14. Where the Ethics Group is invited to advise Ministers on a particular issue, or where the Group decides to undertake an inquiry of its own volition, it will submit a report through the Home Office Sponsor. Ministers will respond to the Ethics Group following such further inquiries, or the seeking of such advice, as may be required.

15. Where the Ethics Group is invited to advise the NDNAD Strategy Board on a particular issue, it will submit a report to the Board, with a copy to the Minister, through the Home Office Sponsor. Any response will be provided by the Board, unless the Minister is minded to intervene.

16. In the interests of public accountability, the Ethics Group will carry out its work as openly as possible, within the terms of the Code of Practice on Access to Government Information, subject to any conditions set by Ministers, or agreed by the Group. Meetings of the Group will not normally be open to members of the public, but minutes of its meetings will be published, subject to any redactions considered to be necessary. Reports produced by the Group will be published at Ministerial discretion.

Conduct

17. Members of the Ethics Group are required to observe the Seven Principles of Public Life endorsed by the Nolan Committee on Standards in Public Life and to comply with the contents of this Protocol. The Nolan Principles are set out in the Appendix detailing the terms and conditions of the members.

18. Each member must at all times act in good faith and observe the highest standards of impartiality, integrity and objectivity in relation to the conduct of the Committee's business. In particular, members should:

i). familiarise themselves with the terms of reference of the Committee;

ii). undergo any required induction training;

iii). declare any personal, professional or business interest which may, or may be perceived (by a reasonable member of the public), to influence their judgement. This should include, as a minimum, personal direct and indirect pecuniary interests, and should normally also include such interests of close family members and of people living in the same household. A register of interests will be kept up-to-date and will be open to the public;

iv). not participate in the discussion or determination of matters in which they have a personal or business interest, and should normally withdraw from the meeting (even if held in public) if their interest is direct and pecuniary;

v). make a declaration of interest at any Ethics Group meeting if it relates specifically to a particular issue under consideration, for recording in the minutes (whether or not a member of the Group withdraws from the meeting);

vi). not misuse information gained in the course of their public service for personal or professional gain or for political purposes, nor seek to use the opportunity of public service to promote their private interests or those of connected persons, firms, businesses or other organisations;

vii). not hold any paid, or high-profile unpaid, posts in a political party, and not engage in specific party political activities on matters directly affecting the work of the Ethics Group. When engaging in other political activities, members should be conscious of their public role and exercise proper discretion; and

viii). understand and accept that they are appointed as individuals and not as representatives of organisations by which they are employed or with which they have significant contacts.

19. The Chair has particular responsibility for providing effective leadership to the Ethics Group and for:

i). ensuring that the Group meets at appropriate intervals, and that the minutes of meetings and any reports to the Secretary of State accurately record the decisions taken, and where appropriate, the views of individual members;

ii). representing the views of the Group to Ministers;

iii). representing, where appropriate, the views of the Group to the general public;

iv). ensuring that new members are briefed on appointment; and

v). sitting on the panel which advises Ministers on new appointments and re-appointments.

20. Any Ethics Group member has the right to bring to the attention of Ministers any matter, which he or she believes raises important issues relating to his or her duties as a member. In such cases the member should, before approaching Ministers, raise their concerns with the Chair to establish whether they might be resolved within the Group.

Liability and confidentiality

21. Provided that a member of the Ethics Group acts honestly, reasonably, in good faith and without negligence in the conduct of the Group’s business, the member will not have to meet out of

their own personal resources any personal civil liability which is incurred in execution or purported execution of their duties.

22. Members of the Ethics Group may, however, be held personally liable if, in the performance of their duties, they knowingly make a fraudulent or negligent statement, which results in a loss to a third party. They may also commit:

i). a breach of confidence under common law; or

ii). a criminal offence under insider dealing legislation.

if they misuse information gained through their position on the Ethics Group.

23. In accepting appointment to the Ethics Group, members are required to accept that they will not disclose any information or documents if they are marked with any GPMS security classification (including RESTRICTED) or the content of any discussions relating to such information, without the approval of the Chair. Members also undertake not to make copies of any such documents, and to follow the advice provided by the Chairman and Secretariat about the handling of such documents.