

Forensic Pathology Specialist Group

**Notes of the meeting held on Monday 28 June 2010, Home Office,
2 Marsham Street London SW1P 4DF**

Present:

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| Harry Millward-Sadler | Chair |
| Jeff Adams | Forensic Science Regulation Unit |
| Caroline Browne | Human Tissue Authority |
| Nat Cary | BAFM |
| Linda Cockburn | COPFS |
| Jack Crane | NIO |
| Anne Harrison | NPIA |
| Colin Kettley | NPIA |
| Nigel Meadows | Coroners Society |
| Trevor Rothwell | Consultant |
| Charlie Wilson | BAFM |
| Soheel Joosab | Forensic Science Regulation Unit (Secretary) |

1. Introduction and welcome

1.1 Harry Millward-Sadler welcomed all to the seventh meeting of the Forensic Pathology Specialist Group. He advised that as Basil Purdue had recently relinquished the office of President of the BAFM that his successor, Nat Cary, was joining the group as the BAFM representative. Dr Cary was welcomed to the group.

2. Apologies

2.1 Apologies were received from:

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| Martin Bottomley | ACPO |
| James Grieve | Scottish Executive |
| Paul Johnson | RCPATH |

3. Minutes of the last meeting

3.1 Minutes of the meeting held on 29 March 2010 were agreed.

4. Matters arising

4.1 Certificate of Completion of Specialist Training. The Stage1 application will be submitted to the DoH toward the end of 2010.

5-6. Code of Practice & Mortuary Standards

5.1 Jeff Adams, Charlie Wilson and Paul Johnson are to meet on 12 July to further review the draft Code of Practice

5.2 The group considered the responses from the Royal College of Pathologists to the draft Code of Practice. It was agreed that peer review of cases dealt with by forensic pathologists was important and that there should be an associated standard.

5.3 In the Royal College's response, it is stated that the use of fluoroscopy is out of date; the group considered that this statement was inaccurate.

5.4 The group did not accept the comment about 'Record Keeping' that as long as transcripts of post-mortem reports are retained, there was little advantage to be gained in the retention of original tapes. The group felt this view was contrary to the Criminal Procedure and Investigation Act 1996 which states that expert witnesses are under a duty to ensure that statutory disclosure obligations are met; this would include the retention of physical, written and electronically captured material, until otherwise instructed.

5.5 There was discussion as to whether the Codes of Practice should not only apply to all pathologists on the Home Office list but that it might also be desirable where a hospital pathologist might be asked to carry out a post mortem on a RTC. This should be considered further.

5.6 It was agreed that the FPSG sub-group should consider the overall response from the College, the further comments made by the Group, and then re-circulate the revised document to the FPSG and the College.

Action: Jeff Adams, Charlie Wilson, Paul Johnson

7. Audit

7.1 Trevor Rothwell provided the group with an update on the latest position of the audit. He advised that despite a reminder letter that to date around a third of the pathologists had not responded with cases for the audit. He therefore suggested that the FPSG may need to give consideration as to what actions/sanctions could be applied to those practitioners whom may choose not to participate in the audit. It was recommended that a final letter be sent from the Chair of the FPSG to those who had not yet responded. The letter should highlight that the audit has a vital role in the continuance of high standards and is a requirement for continued registration on the Home office.

Action: Chair

7.2 As the audit is designed to be entirely anonymous, the group agreed that on receipt of the cases the practitioner will be allocated a unique identifier code which would be held solely by the audit administrator with each auditor

having the identifier code as the only reference to each audit case. In this way, with practitioners details logged only with the administrator, it will still allow for a participant to:

- a) receive feedback on an individual basis; and
- b) more generally, also allow for feedback relative to other colleagues performances (redacted as necessary).

If, on auditing a case, it were considered that there were follow-up actions required the identification code could be cross referenced to an individual by the audit administrator.

7.3 To further best ensure anonymity, Jeff Adams said that he would provide Trevor Rothwell will a software package which would remove all meta data/identifiers (including those built in to the WORD template) from electronic material provided by participants.

Action: Jeff Adams

7.4 Agreement is being sought for pathologists from Scotland and Northern Ireland to take part in the audit. This will be on a purely voluntary basis with no sanctions if they decline to participate. Linda Cockburn and Jack Crane agreed to explore this approach with the Scottish and Northern Ireland pathologists, respectively. In including Scotland and Northern Ireland, a question was raised about funding; Jeff Adams said that the costs for this should be relatively minor but nonetheless would be factored in the overall audit costings.

Action: Linda Cockburn/Jack Crane

7.5 The group was advised that, once all cases had been received, it would take between 6-8 weeks to complete the assessments – but this would be dependent on whether the funding was made available.

7.6 Following the recent change in Government, new guidance for the procurement for services and expenditure had been set in place. In order to secure funding for the audit there are now a number of new steps which must be actioned before approval could be given - including Ministerial approval. A business case was about to be put forward which would make clear the necessity for an audit and the implications if funding were not agreed to.

7.7 The possibility of comparing the findings from this audit to those of the last one was left open for further consideration.

8. Coroners Legislation

8.1 Following suggested revisions made by the group at the previous meeting, the proposed draft response to the MoJ's consultation document in relation to the secondary legislation had been modified. Accordingly, the group was asked to consider the latest draft of the paper before it was sent to the MoJ.

8.2 The suggested amendments to the draft response were:

- Page 6, 2.10.2: that Section 14(5) CJA09 should determine the content rather than simply the 'format' of the report;
- Page 2, 1.2.6 (d): to disagree that pathologists run the risk of prosecution;
- Page 4, 2.1.4: This paragraph needed to be clarified to say whether the police should have the final say as to location of the examination, or the pathologist;
- Page 12, 3.6.4 (a): legal issues potentially arose when second post mortems were performed. Caroline Browne agreed to consider the issues with Jeff Adams.

Action: Caroline Browne/Jeff Adams

8.3 The response would be redrafted to take into account the above comments and then sent to the MoJ, copying in the group.

Action: Jeff Adams

9. Tissue Retention (FPSG-280610-5 & FPSG-280610-6)

9.1 Jeff Adams introduced the paper 'Legal Issues Relating to Forensic Pathology and Tissue Retention'. He advised that the paper had been produced in consultation with the Association of Chief Police Officers, Coroners Society, and the MoJ.

9.2 Following input from the group, Jeff Adams said that the paper had been redrafted and that he sought concluding comments and agreement on the paper before circulating to ACPO, the Coroners Society, MoJ and the Human Tissues Authority for developing the paper further.

9.3 The latest draft now reflects that any tissue sample taken from the main sample should have a unique identifier which can be listed and cross referenced and traced to individual cases. The list of samples taken could then be incorporated as an annex to the post-mortem report.

9.4 Retention of a tissue sample can currently be retained for an indefinite period of up to 30 years, but only if it related to a criminal investigation (PACE, section 19). However, this would not be the position if it were a non-criminal case where the maximum period of retention is considerably less (other than where consent form next of kin has been given).

9.5 Given the above, a possible way forward might be to approach the MoJ and the DoH to discuss the possibility of introducing legislation whereby a sample could be retained ad infinitum (as with NHS autopsies). It was felt that as a new chief executive and a relatively new chair had recently been appointed to the HTA, that timing might now be favourable to revisit the issue. As a first step, Caroline Browne agreed to consider the possible issues and share these with the group.

Action: Caroline Browne

9.6 There was also discussion on the merit of including in the paper considerations around adopting the Scottish method, where legislation allows for retention of small samples after post mortem as part of the medical record.

10. Any Other Business

10.1 Caroline Brown advised the group that the HTA are undertaking an audit and inventory of establishments which currently retain sample materials on their premises (including blocks and slides); the results of the audit will be shared with the group.

10.2 Jeff Adams reported that the Forensic Science Regulator recently spoke at a BAFM where he took the opportunity share his views in support of creating new training centres of excellence to share best practice in forensic pathology, and cited the Victorian Institute Melbourne as a good example of this practice.

11. Date of next meeting

The next meeting will be held on 20 September 2010, 11:00am, Conference room 2, Home Office, 2 Marsham Street, London SW1P 4DF