



National DNA Database Strategy Board

Governance Rules for the National DNA Database Strategy Board



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Presented to Parliament pursuant to Section 63AB(6) of
the Police and Criminal Evidence Act 1984

June 2014



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This publication is available at www.gov.uk/government/publications

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Tel: 020 7035 4848

Print ISBN 9781474106412

Web ISBN 9781474106429

Printed in the UK by the Williams Lea Group on behalf of the Controller of Her Majesty's Stationery Office

ID 09061401 06/14 40923 19585

Printed on paper containing 75% recycled fibre content minimum

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1. Governance Rules of the NDNAD Strategy Board

- a) With effect from the date of these Rules, THE NATIONAL DNA DATABASE STRATEGY BOARD (referred to in this document as the “NDNAD Strategy Board”) shall be governed in accordance with these Rules and any previous Rules shall cease to have effect.
- b) The NDNAD Strategy Board is established under section 63AB of the Police & Criminal Evidence Act 1984 (PACE), as inserted by section 24 of the Protection of Freedoms Act 2012. These Governance Rules are issued under section 63AB(6) of PACE and are laid before Parliament by the Home Secretary in accordance with that subsection. The NDNAD Strategy Board is an unincorporated association of its members and is accountable to the Home Secretary on a statutory footing.

2. Application of the Governance Rules, Definitions and Interpretation

- a) The NDNAD Strategy Board shall be administered and managed in accordance with the provisions of these Governance Rules.
- b) References in this document to:
 - i) *“ACPO” shall mean the Association of Chief Police Officers of England, Wales and Northern Ireland (company no. 3344583) and any successor body;*
 - ii) *“APCC” shall mean the Association of Police and Crime Commissioners (company no. 5214716) and any successor body;*
 - iii) *The Forensic Science Regulator shall mean the person appointed by the Home Secretary who is responsible for the setting of and compliance with national quality standards for the provision of forensic science services to the Criminal Justice System in the United Kingdom, including, but not limited to, those relating to the National DNA Database;*
 - iv) *“NDNAD Delivery Unit” shall mean the unit responsible for the delivery and operation of the NDNAD services, including the notification to police forces of any matches between DNA profiles, against agreed standards and procedures and which is administered by the Home Office;*
 - v) *“NDNAD” shall mean The National DNA Database®, a police intelligence database of DNA profiles obtained from individuals and crime scenes and held solely for the purposes set out in Part V of the Police and Criminal Evidence Act 1984, as amended; DNA profiles of individuals loaded onto the NDNAD may be speculatively searched against existing profiles of known individuals and DNA profiles retrieved from scenes of crime; matches between DNA profiles may be used to identify suspects and to eliminate individuals from further police enquiries;*

- vi) *“DNA profile” shall mean a numeric representation made from targeting the non-coding regions of DNA known as Short Tandem Repeats or STRs. The chemistry of these STRs will be validated and approved by the NDNAD Strategy Board;*
- vii) *“Home Secretary” shall mean the Secretary of State for the Home Department;*
- viii) *“Ethics Group” shall mean the Advisory Non-Departmental Public Body appointed to advise Ministers and the NDNAD Strategy Board on ethical issues concerning the NDNAD and related matters;*
- ix) *“Clauses” are to clauses of these Governance Rules and the headings to clauses shall not affect their interpretation.*

3. Strategic Aim

- a) The strategic aim of the NDNAD Strategy Board, as set out in section 63AB of PACE, is to provide governance and oversight for the operation of the NDNAD. This includes the issuing of guidance to chief officers of police on the destruction of DNA profiles; the Board may also issue guidance on the making of applications to the Biometrics Commissioner under section 63G of PACE.
- b) The NDNAD Strategy Board’s oversight includes the application of the powers conferred under Part V of PACE for the taking, use, retention and destruction of DNA samples and the information derived from them (the DNA profile), including the role of DNA evidence and its contribution to national security, the prevention and detection of crime, the investigation of an offence, the conduct of a prosecution, or the identification of a deceased person or body part.
- c) The strategic direction for the NDNAD is shaped and determined by wider policing strategies and Government policy rather than the NDNAD Strategy Board owning and delivering a separate strategy.

4. Objectives

The objectives of the NDNAD Strategy Board shall be to implement strategy and policy to ensure:

- a) The most effective and efficient use of the NDNAD to support the interests of national security, the purposes of a terrorist investigation, purposes related to the prevention and detection of crime, the investigation of an offence or the conduct of a prosecution, or purposes related to the identification of a deceased person or of the person to whom the material relates i.e. the specific purposes for which the NDNAD may be used as set out in section 63T of the Police and Criminal Evidence Act 1984 as amended and no other.

- b) That the public are aware of the governance, capability and limitations of the NDNAD and that confidence is maintained in its use across all communities.
- c) That the future use of the NDNAD takes account of developments in science and technology and delivers improvements in efficiency and effectiveness across the Criminal Justice System.
- d) The most proportionate, ethical and transparent use of the NDNAD across the Criminal Justice Service.
- e) The most ethical and effective use of international searching of UK DNA profiles.

5. **Composition**

- a) Core membership (quorum) of the NDNAD Strategy Board (“Members”) shall be the nominated representatives of:
 - i) *ACPO as a representative of the police service as the primary user of the NDNAD;*
 - ii) *The Home Secretary; represented as agreed between the interested groups within the Home Office.*
 - iii) *The Association of Police and Crime Commissioners;*

These three organisations provide the principal accountability and responsibility of the Board to the police service, Ministers and the public respectively.

- b) Other additionally appointed Members as determined by the core membership, representing organisations or functions critical to the achievement of the objectives at Clause 4 who currently comprise:
 - i) *The Chair of the DNA Ethics Group (who has separate accountability to Ministers).*
 - ii) *The Information Commissioner (or representative). The Information Commissioner will help to ensure that the Board gives due weight to the demands of the Data Protection Act and other privacy legislation to ensure that the NDNAD retains the confidence of all communities. Attendance is in the capacity of an observer.*
 - iii) *The Forensic Science Regulator (or representative).*
 - iv) *Representatives from the police service and the devolved administrations of Scotland and Northern Ireland, where they participate on the basis of:*
 - *Making available all DNA profiles collected and retained within their respective jurisdictions to the NDNAD,*

- *Meeting the scientific and ethical standards that are agreed and endorsed by the NDNAD Strategy Board for DNA profiling for the NDNAD and*
 - *Accepting that changes or developments in the DNA profiling methods or DNA databasing technology of the NDNAD will be agreed by the NDNAD Strategy Board.*
- c) Such other persons that shall be appointed from time to time in accordance with Clause 7 (Appointment of Additional Members).
- d) The core membership of the Home Secretary, ACPO, and the APCC and the other Members shall agree and undertake with each other that, in consideration for their being appointed Members and being permitted to take part in the proceedings of the NDNAD Strategy Board, they shall comply with the Governance Rules as may be amended from time to time.

6. Representation at Meetings

6.1 Appointment and Removal

- a) Any Member may:
- i) *authorise such person or persons as it thinks fit to act as its representative or representatives at any meeting of the NDNAD Strategy Board;*
 - ii) *remove any of such representatives who are so authorised by the relevant Member and appoint another representative in its place; and*
 - iii) *appoint and remove any such representatives to and from any committee of the NDNAD Strategy Board.*
- b) Subject to Clause 12.6 (Decision Making), a person so authorised is entitled to exercise the same powers on behalf of the body which he represents as that body could exercise if it were an individual Member.

6.2 Notice of Appointment

- a) Any appointment or removal of a representative appointed in accordance with Clause 6.1 above shall be effected by notice in writing to the NDNAD Strategy Board given by the relevant party, which shall take effect on delivery to the Secretary or Chair of the NDNAD Strategy Board at their usual location or at any meeting of the NDNAD Strategy Board.
- b) Where the relevant notice is delivered to the Secretary, including by electronic means, the Secretary shall distribute such notice to the Members as soon as reasonably practicable.

7. Additional members and invitees

7.1 Invitations to Attend Meetings

- a) The NDNAD Strategy Board may subject to a resolution approved by the core Members as set out in Clause 5a above (such approval to be given either at a meeting or in writing in accordance with Clause 12.9) approve additional members from time to time as it shall think fit to attend meetings of the NDNAD Strategy Board on such terms as it shall deem appropriate.
- b) No additional members or persons invited to attend such meetings shall be entitled to vote at any meeting of the NDNAD Strategy Board.

7.2 Resignation

Any additional Member appointed pursuant to Clause 7.1 may resign by giving notice in writing to the Secretary or Chair of the NDNAD Strategy Board at their usual location or at any meeting of the NDNAD Strategy Board.

8. Responsibilities of the NDNAD Strategy Board

8.1 Specific Responsibilities

Subject to any financial restraints, the NDNAD Strategy Board shall be responsible for:

- a) Developing policy and procedures and implementing the strategy for the direction of:
 - i) *the NDNAD;*
 - ii) *the Police Elimination Database and any other national elimination DNA databases in the future e.g. Suppliers Elimination Database);*
 - iii) *any separate DNA-related database(s) created for the purposes of the identification of a deceased person or body part (such as the Vulnerable Persons Database and the Missing Persons Database).*
- b) The oversight of the scientific operation of the Counter Terrorism DNA database, held by the Metropolitan Police Service as the lead force for CT operations.
- c) Developing, maintaining and updating the statement of requirements (the "Statement of Requirements") provided by ACPO in relation to the functionality and services to be delivered by the NDNAD Delivery Unit as amended and updated from time to time.

- d) Evaluating and reporting (when required) on the Delivery Unit's performance of the matters set out in the Statement of Requirements.
- e) Considering applications for the release of data from the NDNAD for use in research, including the consideration of requests from Forensic Service Providers testing new products or processes relating to DNA Profiles on the NDNAD. Such data shall be released only after taking advice from the NDNAD Ethics Group and if (as a minimum requirement) the proposed use of the data:
 - i) *is within the law, taking into account in particular the requirements of PACE, as amended, and the Data Protection Act 1998;*
 - ii) *conforms to ethical guidelines for the use of genetic information and any other applicable guidelines in force; and*
 - iii) *is not likely to prejudice the integrity or reputation of the NDNAD nor infringe the human rights of individuals or specific groups,*

If the proposed use is approved, the NDNAD Strategy Board will authorise the NDNAD Delivery Unit to manage the release of data and its recall on its behalf on completion of the research.

- f) The Chair of the NDNAD Strategy Board will act as Data Controller in Common with the relevant Chief Officers of Police¹ for all data held within the NDNAD, the Police Elimination database and any separate DNA-related database(s) created for the purposes of identification of a deceased person or body part (the Missing Persons and Vulnerable Persons databases). The data owner remains with the Force that completed the DNA sampling. The Chair will confirm the boundaries for the various data processors within the end to end DNA processes: from collection, labelling, transmission, analysis, searching, reporting and any other process deemed necessary. This will include an oversight of the contracts, Service Level Agreements and data and security exchange protocols.
- g) Defining (and keeping under review):
 - i) *the level of security required and the arrangements for storage and access to the samples provided by law enforcement agencies for the creation of DNA profiles for loading onto the NDNAD; and*
 - ii) *the level of physical and technical IT security required for the data held on the NDNAD and by suppliers.*
- h) Ensuring that access arrangements to information on the NDNAD are controlled by the NDNAD Delivery Unit and provide the protection required for individuals under the law including Data Protection Act 1998, the Freedom of Information Act 2000 and the Human Rights Act 1998.

¹ As defined in section 101(1) of the Police Act 1996

- i) It is the responsibility of the NDNAD Delivery Unit to provide the Board with a report of the operation of the NDNAD and any other relevant issues at each meeting. The provision of this report is critical to the Strategy Board discharging its responsibilities in having oversight of the NDNAD, it is also equally important as a vehicle to raise issues and support future development.
- j) The production of an Annual Report, in accordance with section 63AB(7) of PACE, as inserted by section 24 of the Protection of Freedoms Act 2012.
- k) The production of guidance in relation to the Early Deletion policy.
- l) To provide information as required for statements and bulletins in connection with the NDNAD and replies to Ministers' questions, parliamentary questions and media enquiries.
- m) It is the responsibility of the Home Office representative to provide the Board with a live Policy Equality Statement (PES) for the NDNAD. The PES may include recommendations in areas of potential impact on equality that the Board will seek to implement. The Home Office will be responsible for monitoring and updating the PES. The Board will be responsible for monitoring the NDNAD and providing data as required in the PES.
- n) Where DNA Databases are maintained outside the NDNAD under devolved responsibilities or legislative provision for justice and policing, such as exist in Scotland and in Northern Ireland, the operational policies, procedures and management of those databases will be a local responsibility.
- o) It is the responsibility of the Chair of the Strategy Board to assess requests from the police to carry out a familial search of the NDNAD, and where they consider the circumstances justify such a search, to approve the request in writing.

The Home Office Chief Information Officer shall be accountable for the integrity i.e. security, storage and access, of information held on the National DNA Database.

8.2 Additional Powers

The NDNAD Strategy Board shall have such other powers and duties as are generally, specifically, expressly or implicitly vested in the NDNAD Strategy Board under statute (including section 63AB of PACE, as inserted by section 24 of the Protection of Freedoms Act 2012) and these Governance Rules.

9. Chair

9.1 Appointment and Removal

- a) The Core Members shall nominate one of their representatives to be the Chair of the NDNAD Strategy Board.
- b) The Core Members shall have the right to remove the Chair from time to time and to appoint another Chair in their place.
- c) The Chair will provide the Secretariat role for the Board.

9.2 Notice

- a) Any appointment or removal of the Chair shall be effected by notice in writing to the NDNAD Strategy Board, which shall take effect on delivery to the Secretary of the NDNAD Strategy Board at their usual location or at any meeting of the NDNAD Strategy Board.
- b) Where the relevant notice is delivered to the Secretary, the Secretary shall distribute such notice to the Members.

10. Audit

Each Member agrees to provide to the House of Commons Public Accounts Committee (or any other committee of a House of Parliament or the Houses of Parliament themselves), the Controller and Auditor General, the Biometrics Commissioner and any other governmental organisation charged with the supervision of the NDNAD Delivery Unit all reasonable assistance as may be necessary in order to enable such bodies to carry out fully and promptly any inspection, audit, check and/or monitoring of the NDNAD, including, but not limited to:

- a) Providing written responses and explanations to any questions or issues raised by such persons; and
- b) Providing access to any personnel engaged at any time in connection with the NDNAD and using all reasonable endeavours to procure that such personnel co-operate in such matters.

11. Delegation

11.1 Delegation of Functions

- a) Subject to Clause 11.2, the NDNAD Strategy Board may refer any aspect of its functions for discharge by any committee including one or more of its Members.

- b) The composition of any committee of the NDNAD Strategy Board shall be those committee members appointed by resolution of the NDNAD Strategy Board to serve on such committee, pursuant to Clause 6.1.

11.2 Conditions of Delegation

Any such delegation may be made subject to any conditions the NDNAD Strategy Board may impose and, subject to any such conditions or any provision to the contrary in these Governance Rules, the proceedings of a committee consisting of two or more members shall be governed by the provisions of Clause 12 of these Governance Rules so far as they are capable of applying and subject to a quorum of two, unless the NDNAD Strategy Board specifies any alternative arrangements.

11.3 Reserved Powers and Delegated Powers

The Strategy Board will hear and act upon risks and take decisions in respect of key strategic aspects of NDNAD. Where the issue has a high risk rating it will usually be a matter reserved for the Board. The Board as a whole will, in certain circumstances, delegate detailed work on some issues to committees or working groups. These committees will report to the Board and will bring recommendations to the Board, save for some situations where the committee will have delegated powers to make decisions and inform the Board of the decisions made. Where a committee or a working group has delegated powers, it will be made clear in Terms of Reference for that committee or working group. The Board reserves the right to periodically alter issues which are reserved and delegated but decisions in this regard will be set out within the minutes.

12. Proceedings of the NDNAD Strategy Board

12.1 General

Subject to the following provisions of this Clause, the NDNAD Strategy Board shall determine the form and manner of its proceedings.

12.2 Meetings

The Chair shall convene meetings of the NDNAD Strategy Board at least four times in each year, either at the Chair's own volition or on being requested to do so by one of the other core Members as set out in Clause 5a above.

12.3 Notice

- a) At least 14 days' notice must be given of a meeting of the NDNAD Strategy Board (or a committee of the NDNAD Strategy Board); if due to urgent business a meeting must be convened at less than 14 days' notice, any decisions taken shall only have effect with the written agreement of all core Members set out in Clause 5a above. The Chair shall ensure that a full agenda for a meeting of the NDNAD Strategy Board, together with all information a Member would reasonably require to make an informed decision about the matters to be discussed

at such meeting, are sent to the Members at least 5 working days prior to the meeting.

- b) Any Member may waive the requirements of Clause 12.3(a) in relation to any notice being given to him and if so waived, such Member will be deemed to have duly received notice.

12.4 Chair

- a) If the Chair is present, he or she shall be the Chair of meetings of the NDNAD Strategy Board (or a committee of the NDNAD Strategy Board, unless otherwise provided for in these Governance Rules).
- b) If the Chair is not present, a temporary Chair shall be nominated by those Members present at the NDNAD Strategy Board Meeting.

12.5 Quorum

The core attendance for a meeting of the NDNAD Strategy Board must include representatives of the Home Secretary, ACPO and the APCC. Where this is not met, the Board will not take strategic decisions (e.g. decisions of principle or ethics), though the Board meeting will be permitted to proceed and take operational decisions.

12.6 Decision Making

- a) While Board core Members represent various different stakeholder organisations and may speak at Board meetings to represent the views of that organisation, for Board decision-making the Board's core Members are responsible collectively for all decisions made and therefore each Board core Member has equal responsibility for the collective decision making on all issues.
- b) Unless expressly stated elsewhere in these Governance Rules, all issues arising at a meeting of the NDNAD Strategy Board shall be decided by unanimity of the Core Members present at that meeting.
- c) In the event that the core Members are unable to reach such a decision, a vote will be held. Each core member will have one vote each. The result of the vote shall be recorded in the minutes.

12.7 Conflicts of Interest

- a) A Member (or any representative of that Member appointed in accordance with Clause 6) who has any personal or business interest or duty which conflicts or may conflict with the interests of the NDNAD in relation to any matter which is to be discussed at a meeting of the NDNAD Strategy Board (or any committee thereof) shall disclose full details of such interest or duty to the meeting and such disclosure shall be noted in the minutes of the meeting.

- b) A Member (or as the case may be) their representative shall not vote at a meeting of the NDNAD Strategy Board (or any committee of a NDNAD Strategy Board) upon any a matter in which he has, directly or indirectly, a personal interest and may (at the discretion of the Chair of the meeting) be asked to absent himself from that part of the meeting where such matter is discussed.
- c) A Member shall nevertheless be counted in the quorum present at a meeting of the NDNAD Strategy Board (or any committee of a NDNAD Strategy Board) in relation to a resolution on which he is not entitled to vote by virtue of Clause 12.7.b).
- d) The provisions of Clause 12.7 may be suspended or relaxed to any extent, either generally or in respect of any particular matter, by a unanimous decision of the Members.

12.8 Meetings by Video and Telephone Conferencing

Any Member may participate in a meeting of the NDNAD Strategy Board (or a committee of the NDNAD Strategy Board) by means of a conference telephone, video conferencing facility or similar communications equipment, which allows all persons participating in the meeting to hear each other. A person so participating shall be deemed to be present in person at such meeting and shall be entitled to vote and be counted in the quorum. Such meeting shall be deemed to take place where the largest group of those participating is assembled, or, if there is no such group, where the Chair of the meeting is located.

12.9 Written Resolutions

- a) A resolution of the NDNAD Strategy Board (or a committee of the NDNAD Strategy Board) in writing, signed by all the Core Members (or by such committee members as deemed appropriate by the Strategy Board), shall be as valid and effectual as if such resolution had been passed at a meeting of the NDNAD Strategy Board (or a committee of the NDNAD Strategy Board).
- b) A written resolution for the purposes of Clause 12.9.a) may consist of an electronic document signed by email by each of the Core Members (or by committee members as appropriate).
- c) Any Strategy Board or Committee member not required to sign a resolution must be consulted on its contents.

12.10 Minutes of Meetings

- a) The NDNAD Strategy Board shall keep minutes of all proceedings at meetings of the NDNAD Strategy Board and of any committee of the NDNAD Strategy Board which shall include:
 - i) *the names of the Members present at the meeting;*

- ii) the decisions made at the meeting and, the views or statement of any persons present at such meeting; and*
 - iii) where appropriate, the reasons for the decisions.*
- b) Any such minute, if purporting to be signed by the Chair of the meeting at which the proceedings were held, or by the Chair of the next succeeding meeting, is evidence of the proceedings.
- c) Minutes of each Strategy Board meeting will be published on the Home Office website following their ratification by Board Members.

13. Amendment of Governance Rules

- a) These Governance Rules may be added to, repealed or amended by the agreement in writing of the Home Secretary.
- b) All such changes shall be notified to the Members in writing in accordance with Clause 12.3 (Notice) not less than 14 days prior to the changes taking effect.