

FSR Regulatory Notice 01/2019	
Image Enhancement and Image Comparison: Provision of Opinion	
Issue date: 17.07.2019	Effective date: 17.07.2019
Previous notice(s) which are amended/withdrawn by this notice being issued: None	

Issue

1. This Regulatory Notice is issued by the Forensic Science Regulator (the Regulator) to emphasise certain of practitioners' legal obligations by setting out specific principles based on case law which apply when presenting opinion in relation to image enhancement and/or comparison.¹
2. The Regulator has been made aware of incidents where image analysis experts appear to have failed to stay within the bounds of their expertise and non-experts appear to have provided opinion evidence on footage which they were not qualified to do.
3. Imagery experts have also presented to the Regulator a number of errors caused by comparison experts failing to understand the limitations of imagery and artefacts that may be present and/or failing to communicate effectively to the courts the limitations of work carried out.
4. The following general principles must apply when presenting expert opinion in relation to image enhancement and/or image comparison when the images are derived from video footage.

Statement of Principles

5. **Principle 1:** The evidence containing opinion must be admissible in this jurisdiction as expert evidence.²

¹ Further legal obligations applicable to all forensic science practitioners working in the Criminal Justice System are available from: www.gov.uk/government/collections/fsr-legal-guidance.

² Recognition of individuals known to the observer in stills and video footage is subject to the provisions of PACE Code D and is not expert opinion evidence.

- a. The evidence must be capable of being expert evidence.
 - b. The evidence must be necessary.
 - c. The evidence must be based on sound science.
 - d. The individual who proposes to give the evidence must be an expert in all relevant aspects (see below).
6. **Principle 2:** The person proposing to give opinion evidence must be an expert in all relevant aspects they intend to give an opinion on.
- a. The proposed expert must be an expert in the subject matter on which opinion is expressed.
 - b. Expertise in CCTV, video, imaging, enhancement etc. does not equate to expertise on the content of the image.
 - c. Unless they are also an expert in the content of the images, imagery experts must not attempt to give expert opinion evidence on the meaning of a comparison between the objects in question.
 - d. An expert in a class of comparison (e.g. facial comparison) or in a specific field (e.g. Nike training shoes or Ford cars) but who does not have expertise in imagery must ensure that, in any case where the quality or nature of the image may affect the interpretation, an imagery expert has assessed the imagery in question to identify any artefacts or issues that could affect the comparison.
7. **Principle 3:** The person giving evidence must comply with all legal obligations including setting out limitations on the evidence.³
8. **Principle 4:** If the expert's opinion relies on the results of any method the report shall take proper account of matters such as the degree of precision or margin of uncertainty, affecting the accuracy or reliability of those results.

³ For forensic science practitioners working in the Criminal Justice System these include, but are not limited to, those set out in the Regulator's publication Legal obligations (www.gov.uk/government/collections/fsr-legal-guidance) and the Criminal Procedure Rules and Criminal Practice Directions (www.justice.gov.uk/courts/procedure-rules/criminal/rulesmenu-2015).