



Home Office



Implementation Plan

For the joint review of forensics provision
(2018)

April 2019



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Introduction

The Review was commissioned to evaluate the provision of forensic science to criminal investigations and criminal court proceedings in England and Wales, following Key Forensic Services' entry into administration in January 2018 and persistent stakeholder concerns regarding quality.

The Review's primary focus was the operation and management of the market, but Ministers and the Review team recognised that a broader set of issues have a significant impact on stakeholder's confidence in the system's ability to deliver high quality forensics into the CJS.

Given that there is a mixed model of provision in England and Wales, the Review considered both 'in-house' and commercial forensic services. It considered the quality, cost and delivery of all forms of forensic science including digital forensics and its impacts on outcomes for the criminal justice system. Investment in research and development incentives and structures, governance and accountabilities in the Home Office and policing were also in scope.

Recommendations and actions

The Review resulted in four recommendations, which are addressed below.

Recommendation 1: Ensure police forces and their contracted providers adhere to the quality standards set by the Regulator. This is needed to ensure scientific and methodological rigour across provision and a level playing field between providers of forensic services. We must maintain confidence in the quality of forensic science provided to the criminal justice system from all sources.

Actions:

- 1. The Government will continue to support Chris Green MP's Private Members Bill to give the Regulator statutory powers of enforcement.** The regulation of quality remains a critical component of the model of delivery set-out in the 2016 strategy. Whilst accreditation is not a panacea, we recognise that the admission of unaccredited evidence to the Court increases the risk of failed prosecutions and mis-carriages of justice. Given that the success of this Bill cannot be guaranteed, the Home Office will explore alternative legislative opportunities in the next parliamentary session. In parallel the Government will continue to support the Regulator's accreditation timetable¹.
- 2. From April 2019 the Criminal Procedure Rules will change so that commissioning parties have a duty (if serving an expert's report) to disclose anything which might reasonably undermine the reliability of an expert's opinion or detract from their impartiality.** The defence do not have to disclose a report if they do not want to use it. The Criminal Procedure Rules provide that experts must give details of their qualifications, relevant experience and accreditation and the associated Criminal Practice Direction requires that experts confirm they have acted in accordance with the code of practice or conduct for experts of their discipline, and that they identify the code in question. For forensic scientists that will be the Regulator's Code of Conduct. Where laboratories are not accredited the Forensic Science Regulator's guidance recommends that any evidential submission should include such information as the court may need to decide whether the expert's opinion is sufficiently reliable to be admissible as evidence. From 1 April 2019, experts will also have to make a declaration to those commissioning them if they have been subject to criticism by a relevant body. It is for the Crown Prosecution Service (CPS) to decide whether to include the evidence in the prosecution case and for the Court to decide whether it is admissible.
- 3. We will place the Forensics Capability Network (FCN) on a sustainable footing.** The FCN has been established by the police-led Transforming Forensics Programme to serve all 43 territorial police forces. It will transform forensics capability in policing by growing and sharing expertise around quality, scientific, commercial and delivery pillars.

¹ The Minister wrote to Chief Constables in November 2018 and March 2019 and will do so periodically.

- 4. The development of a team in the FCN to support quality management has been accelerated since the Review.** This resulted in additional support to ensure fingerprint bureaus are compliant with EU framework requirements by the end of March 2019. This support will be replicated and expanded to accelerate compliance with accreditation requirements including digital forensics and in crime scene investigation activities. We will also consider how best to support other government organisations in this regard.

Recommendation two: Ensure funding and commercial models are sustainable and encourage investment. This is required to stabilise the market, encourage investment and ensure the needs of the CJS are met.

Actions:

- 5. A specialist team was established within the Forensics Capability Network during the Autumn of 2018.** The team will manage and develop the market; manage commercial strategy; manage contracts; co-ordinate capability building and provide long-range demand forecasts so that all provision needs can be met efficiently and sustainably. By the Summer of 2019, the FCN will develop a long-term commercial strategy, addressing issues with the fragility of some niche services and the need to build capacity so that all digital forensic services can be provided by accredited sources.
- 6. The Forensics Capability Network will develop a workforce strategy to preserve and develop skills across policing and the private sector across all disciplines by April 2020.** This will focus on scientific training, business training and training for front line staff as well as providing an education programme for the wider CJS stakeholders as defined within the forensic science capability roadmap.
- 7. The Home Office will support police forces' participation in the FCN.** Participation is voluntary but buy-in is getting stronger across forces. Much has been learnt since the Review completed in June 2018 and the benefits of a national approach to risk management have been underscored. There is growing recognition that the FCN is better placed than forensic units in individual forces to manage risk, ensure services are sustainable and make the case for investments in quality. However, the funding for the FCN and the approach to budget setting for forensics will be considered in advance of the Spending Review.

8. **To ensure effective representation of stakeholders in policy making, the Forensics Policy Steering Group will be jointly chaired by the Home Office and Ministry of Justice (MoJ) from March 2019.** Its terms of reference will be refreshed to ensure they align to the government's objectives for the CJS and that there is representation from all stakeholders. The implementation of this plan will be overseen by the steering group on behalf of the Criminal Justice Board.

9. **On 10 December 2018, the MoJ announced a fundamental review of all criminal legal aid fee schemes. Beginning in January 2019, the review will consider criminal legal aid throughout the lifecycle of a criminal case.** This will include pre-charge advice at the police station, advice and advocacy services in the Magistrates' Court, and litigation and advocacy services in the Crown Court through the Advocates' Graduated Fee Scheme (AGFS), the Litigators' Graduated Fee Scheme (LGFS) and Very High Cost Case (VHCC) Scheme. The first phase of the review is a design phase to determine its scope and remit, and the MoJ is working closely with the criminal defence profession to determine the specific issues that the review should consider. MoJ will seek to deliver a final report, including any recommendations, towards the end of the Summer in 2020.

Recommendation three: Ensure policing and the CJS benefits from advances in science and technology by developing and implementing new forensic techniques more coherently. Change is needed to bring about structured engagement across CJS partners, industry, science and academia in the testing, evaluation and development of new forensic techniques, improving the case for investment and helping forensic science providers to bring new innovation to market.

10. **The Home Office and the Ministry of Justice will work with national bodies, such as UK Research and Innovation to establish an effective co-ordination and oversight mechanism to serve the whole research and development spectrum in the UK.** We recognise that forensics is a multi-disciplinary field with interests and opportunities stretching beyond policing and the criminal justice system and that national oversight and co-ordination of funding is required to deliver better outcomes.

11. **We will also focus police efforts by creating a specialist scientific team and a Chief Scientist role will be established in the Forensics Capability Network.** The team will act as an intelligent customer for policing within the

research and development eco-system, co-ordinating research and development across policing, academia and industry. This will enable more efficient engagement with the national oversight and co-ordination mechanism when it is set-up. The team will also identify grants and funding opportunities and a panel of experts to support the independent review of scientific methodology.

12. The FCN will also create a five-year roadmap by autumn 2019, which will prioritise DNA and digital innovation. This work will complement the police-led Digital Investigation and Intelligence (DII) programme which is developing capabilities to enable the extraction, analysis, storage and sharing of digital data. The creation of the roadmap will be overseen by the co-ordination and oversight mechanism.

Recommendation four: Ensure practitioners and policy makers have stronger evidence and data to support decision making and facilitate more effective working with partners. This is needed to maximise the opportunity for forensic science to fulfil its role as an enabler of robust outcomes and strengthen investment cases.

Actions:

13. The Home Office and the Transforming Forensics Programme will work with the Ministry of Justice and CJS partners to develop metrics to illustrate the impact of forensic science on police work, CJS outcomes, public confidence and costs – both to the CJS and the wider economy. Whilst important, spending levels, accreditation rates and provider stability are only proxy measures of system-health and do not address outcomes. Relevant activity already exists at organisational level and separate studies have elucidated the impact of forensic techniques in specific circumstances. However, A framework, such as a balanced scorecard, is needed to efficiently assess the impact of forensic science on outcomes. The needs of the Court and the defence will be given equal weighting to police investigations and prosecutions in the design. This may also need to be supplemented by continuous review of real cases by multi-disciplinary teams.

Links with the Disclosure Review (November 2018):

- 14.** Given that the Review took place not long after the Attorney General's Disclosure Review, some of the findings overlap. It is important to note that the implementation plan for the Disclosure Review has increased dialogue between forensic scientists, investigators, prosecutors and defence teams within its scope and objectives. Whilst the initial focus on the Disclosure Review was on specific types of cases, the principles could be expanded across different case-types and we will explore this with the implementation team.

- 15.** The implementation plan also covers the development and piloting of a police Digital Evidential Transfer System (DETS) which will enable policing to easily share digital material with criminal justice system partners. Once the pilots are completed in April 2019, the national service will be available from June 2019.