



Forensic Science Regulator Newsletter

No. 31

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Contact Details

If you have any comments or feedback on this newsletter, please contact the Regulator via the following routes:

The Forensic Science Regulator, 5 St Philip's Place, Colmore Row, Birmingham, B3 2PW

Email: FSREnquiries@homeoffice.gov.uk

Web site: www.gov.uk/government/organisations/forensic-science-regulator

Message from the Forensic Science Regulator

I would like to congratulate those organisations that have achieved accreditation to the relevant quality standards recently and to encourage those still working towards the standards to keep going. I appreciate that when there is a long list of standards to reach and some are well behind target, it may seem that there is little recognition of success. So to all those practitioners, quality managers and leaders who have been working tirelessly to achieve the standards, my thanks and congratulations.

Of course, compliance with the standards is just the first step, enabling organisations to manage their own quality more effectively. I would like to encourage ever greater transparency and learning from errors and near misses. That is why I have now started to publish a series of Lessons Learnt documents. The intention is not to point the finger at anyone for making an error, but to enable the wider forensic science community to learn from each other, as well as from their own experiences.

Those who have been following the evidence to the House of Lords Science and Technology Committee will no doubt share my hope that the Committee's report, when it is completed, will assist with laying out a clearer path forward for forensic science. It is critical to ensure that scientists are supported with the appropriate resources to improve, and that skills are preserved for the effective administration of justice.



Dr Gillian Tully

Forensic Science Regulator

Whistleblowing Update

The FSR and the Home Office are working in partnership to commission a formal whistleblowing system for those who work within forensic science to be able to refer concerns anonymously to the FSR.

As stated in the FSR Newsletter No. 30, individuals with a concern about quality ought to try raising the issue directly with their organisation's management using the internal whistleblowing procedure that should be in place. If this is ineffective or not practical, individuals may wish to refer issues to the FSR in confidence, or even anonymously.

Although it is not possible to confirm the details of the new FSR whistleblowing system the FSR and the Home Office are working towards an April 2019 'Go-Live' date. The project is currently on track to hit this target and once ready, further information will be provided. In the meantime, complainants could contact the FSR by telephone, post or by setting up an anonymous web-based email address (e.g. Hotmail).

The overall message is that the FSR wants to hear genuine concerns from people with first-hand knowledge about forensic science quality failings in the criminal justice system.

Forensic Science Regulator's Annual Conference

5 March, 2019

Villa Park, Birmingham, UK.

This is an invitation-only event. If your organisation delivers forensic science in the UK and did not receive an invitation to the conference this year, please ensure you are on our mailing list by emailing: FSREnquiries@homeoffice.gov.uk

The theme of this year's FSR annual conference is the role of quality within the criminal justice system and the FSR has an exciting and informative programme.

Presentations will include the following.

- a) The Minister of Policing, the Rt Hon Nick Hurd MP, will be talking about how the Home Office can support the provision of high-quality forensic science.

- b) A presentation on the Crown Prosecution Service's expectations of forensic science quality from Mr Max Hill QC, Director of Public Prosecutions.
- c) Andrew Price, who is the Head of EMSOU-FS (East Midlands Special Operations Unit – Forensic Services) will be giving a presentation on compliance with quality standards from a policing perspective.
- d) There will be a presentation on the interpretation of scientific evidence by Professor Christophe Champod (Professor of Forensic Science at Université de Lausanne, Switzerland).
- e) Mark Stokes (Head of Digital Forensics, Metropolitan Police Service) will be giving a presentation on the future of digital forensics.
- f) Professor Jim Fraser (Professor of Forensic Science, Strathclyde University) will present on the role of forensic science in homicide investigations.

In addition, other topics covered will include integrity, the benefits of compliance with ISO 17025 and, of course, there will be case examples throughout. One major difference to previous FSR annual conferences is that this year the FSR will be holding an afternoon parallel session focusing on medical forensics, specifically relating to sexual assault referral centres (SARCs). This is an excellent opportunity for members of this community to come together. The areas to be presented and discussed in this afternoon parallel session include the following:

- a) The NHS England's Strategic Direction for Sexual Assault and Abuse Services.
- b) An introduction to the United Kingdom Accreditation Service (UKAS) and the accreditation process.
- c) The practical implications of the draft appendix on examinations in SARCs (see page 6).
- d) The central DNA elimination database.

Changes to the Criminal Procedure Rules

Part 19.3(3)(c) of the Criminal Procedure Rules requires that a party wishing to rely on expert evidence must provide the other party with a notice setting out any information that "might reasonably be thought capable of detracting substantially

from the credibility” of the expert they wish to rely on. This matter is discussed in section 7.17 of the document Legal Obligations (FSR-I-400).

The FSR has always taken the view that this obligation on the instructing party imposed an obligation on the expert to provide any relevant information to the instructing party.

The Rules are to be modified in April to make clear that the expert is required to provide information potentially detracting from their credibility to the instructing party.

The information should not be incorporated in the report as it will be for the instructing party to determine what needs to be disclosed to the other party and to make that disclosure. There is then the matter of whether, the information having been disclosed, it is deployable in the case.

The document Legal Obligations (FSR-I-400) will be updated to reflect the new provisions.

Fingerprint Accreditation

As the October 2018 deadline passed for accreditation of fingerprint bureaux to ISO 17025 in England and Wales, only three bureaux (East Midlands Special Operations Unit, Dyfed Powys Police and the National Crime Agency) had achieved accreditation; Thames Valley Police followed shortly afterwards.

In preparation for Brexit, one of the statutory instruments being implemented was the secondary legislation transposing into UK law Council Framework Decision 2009/905/JHA (see page 7 of this newsletter). This legislation comes into effect on 25 March 2019, and will set a legal requirement for all forensic providers of fingerprint services to have achieved accreditation to ISO 17025 by that date.

As of the end of December 2018, six further bureaux and collaborations have been recommended for accreditation pending actions and are expected to be granted their accreditation by the March 25 deadline. A further ten bureaux and collaborations have assessment visits scheduled before the March deadline and have been receiving support from Transforming Forensics and already accredited organisations to minimise the likelihood of their requiring an additional inspection. Eight additional

bureaux and collaborations have assessment dates scheduled between April and June 2019 whilst one is still to initiate an initial assessment.

The consequences for bureaux not achieving accreditation are not yet fully understood; however, the FSR will continue to provide support and assistance to those bureaux and organisations working towards accreditation. With targeted support, it is currently anticipated that the majority of bureaux will achieve accreditation by the legislative date set, when it is estimated that approximately 80% of fingerprint capacity for England and Wales will be accredited.

Cell Site Analysis

The FSR would like to thank all of the organisations that expressed an interest in taking part in a UKAS-based relaunch of the cell site analysis accreditation programme.

Once feedback and views have been fully assessed you will be contacted to discuss the next steps.

Crime/Incident Scene Photography

The whole process of scene examination is intended to be in the crime/incident scene scope, including the activity of photography. The term 'specialist crime scene photography' in the Statement of Standards and Accreditation Requirement section of the FSR's Codes of Practice Conduct was not intended to rule out any other photography by crime/incident scene specialists. Its purpose was to differentiate the activity as part of their specialist role from that of the first officers attending the scene and imaging using their body worn cameras. Crime scene photography is explicitly ruled out of the ISO17025 scope of digital forensics only. The creation of a master copy from a memory card is part of the standard operation procedure for incident scene and not a hi-tech crime unit activity. The intention is for all activities conducted by incident scene specialists to fall under the ISO17020 standard by October 2020 and this includes (but is not limited to) scene evaluation, strategy setting, search, process and recording. Part of a typical scope is outlined in the box below.

<p>Assessment, Search, Identification, Recovery, Recording, Selecting, Examination and Interpretation of Body Fluids and Tissues and Physical Material and Associated Items from Scenes of Crime for Forensic Purposes.</p>	<p>Body Fluids:</p> <ul style="list-style-type: none"> – blood; – semen; – saliva; – cellular material. <p>Chemistry:</p> <ul style="list-style-type: none"> – footwear marks; – toolmarks; – glass; – paint; – hairs and fibres. <p>Photography</p>	<p>Documented In-House Method (XXXXX) and associated policies and procedures using:</p> <ul style="list-style-type: none"> – visual examination; – recovery of body fluids, selected stains by swabbing or cutting; – recovery of chemistry element detailed below; – tests (XXXX).
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Methods need to be demonstrated to be fit for purpose, and what is fit for purpose is captured in the end-user requirement/acceptance criteria. What is considered fit for purpose for general contextual scene recording is different to what is required for evidential capture of fingerprints using photography (for example, see section 10.2 Image Capture in Fingerprint visualisation and imaging (FSR-C-127) available from the following web site:

www.gov.uk/government/publications/fingerprint-visualisation-and-imaging

UKAS: Accreditation of Collision Investigation

UKAS is developing an assessment approach for the accreditation of collision investigation at the request of the FSR. Accreditation is planned to be progressed using the international standard ISO/IEC 17020 Conformity assessment –

Requirements for the operation of various types of bodies performing inspections. This standard has already been confirmed applicable and used for the assessment of traditional scenes of crime activities.

The technical assessment of collision investigation will also take into consideration the requirements of ILAC G19 Modules in a Forensic Science Process, the Forensic Science FSR's Codes of Practice and Conduct and the principles of UKAS document RG201 Accreditation of Bodies Carrying out Scene of Crime Examination. As UKAS has not accredited this specific scene activity before, it plans to establish a pilot assessment programme to confirm that the standards above are applicable to collision investigation and to determine a robust and proportionate assessment approach.

UKAS will be inviting expressions of interest from UK-based bodies that undertake collision investigation at the scene and the subsequent evaluation work that enters the criminal justice system, to participate in a pilot assessment programme. A scope of collision investigation activities has been produced (available via the following link: www.ukas.com/download/development_pilot_programmes/Technical-Scoping-for-Collision-Investigation-Accreditation-22_01_19.pdf) in consultation with the FSR and the National Police Chiefs' Council Specialist Capability Programme, which covers the following:

- a) Inspection of the scene in order to reconstruct the collision and establish a vehicle's, object's and pedestrian's speed and movement, using some or all of the following processes.
- b) Inspection of the scene and vehicles, objects and pedestrians to establish external factors for the collision.

The pilot programme will look to identify four to six organisations, which will apply for accreditation and have their assessment within an agreed timeline. A summary of the pilot assessment approach can be found via the following link:

www.ukas.com/download/development_pilot_programmes/Information-on-UKAS-Pilot-Assessment-Programme-Approach.pdf. Further details relating to pilot expectation and timescales will be provided at a meeting of the interested parties later in the year.

As this is an initial announcement to gauge demand please provide feedback to UKAS (via the following email address: Emily.Robinson@ukas.com) by 15 March 2019. It would also be helpful to UKAS if you could provide the following information.

- a) Does your organisation hold accreditation to ISO/IEC 17025 or ISO/IEC 17020?
- b) Who has been identified ('job title') as top management responsible for collision investigation and accreditation?
- c) Will collision investigation activities fall under the management system control and responsibilities of an assisting accreditation?
- d) Do you have draft or implemented documented procedures covering collision investigation activities?
- e) Do you have a validation plan in place for demonstrating the validity of your methods?
- f) When would you expect to be ready for a UKAS assessment?

Further information on the pilot assessment programme can be obtained from David Compton (via the following email address David.Compton@ukas.com)

FSR Publications

New publications

Forensic pathology: Audit report 7

The FSR commissions an audit of the work of forensic pathologists on a regular basis. This is the report of the seventh audit, which was commissioned in 2017. It looks at case reports about the following:

- a) A case where a forensic pathologist had been asked to take over a case initially assigned to a non-forensic pathologist.
- b) The following case undertaken by the forensic pathologist.

The report can be found via the following link:

www.gov.uk/government/publications/forensic-pathology-audit-report-7

Lessons Learnt Issue 1 and Lessons Learnt Issue 2

The FSR is introducing an ad hoc series of documents to publicise lessons that the community can take from investigations conducted as a result of quality failures referred to her as required in the Codes of Practice and Conduct. With so many cases worked on professionally, objectively and diligently in the criminal justice system each year, occasionally errors occur and it is important that these errors are learnt from. The intention is that Lessons Learnt documents will be produced in the light of specific issues that have been brought to the FSR's attention, where the findings of the investigation might provide guidance or clarity to other organisations and practitioners.

The documents can be found via the following link:

www.gov.uk/government/organisations/forensic-science-regulator

Expert report guidance, Issue 2 (FSR-G-200)

This guidance sets out the legal requirements for expert reports and requirements imposed by certain prosecuting authorities. It also provides advice in relation to the application of those requirements.

This guidance has been issued to support the operation of the Codes of Practice and Conduct for Forensic Science Providers and Practitioners to the Criminal Justice System (the Codes). In particular the provisions with regard to section on Reporting the Results of the Codes and the Code of Conduct. This guidance provides support for, and clarification of, the operation of the Codes. In the event of any conflict with the provisions of the Codes then the Codes shall prevail.

The document can be found via the following link:

www.gov.uk/government/publications/expert-report-content-issue-2

Relevant Events

ICFMT 2019: 21st International Conference on Forensic Medicine and Toxicology

21 to 22 March, 2019

Prague, Czech Republic.

This conference aims to bring together leading academic scientists, researchers and research scholars to exchange and share their experiences and research results on all aspects of forensic medicine and toxicology. It provides a premier interdisciplinary platform for researchers, practitioners and educators to present and discuss the most recent innovations, trends and concerns. It will also cover the practical challenges encountered and solutions adopted in the fields of forensic medicine and toxicology.

CSFS Fingerprint Division Conference 2019

17 May, 2019

Radisson Blu Hotel, 12 Holloway Circus, Queensway, Birmingham, B1 1BT

This conference aims to review current fingerprint practices and share good practice.

The objectives for the conference are as follows.

- To explore fingermark methodologies that are suitable for use at crime scenes.
- To examine current issues faced by modern fingerprint bureaux.
- To share good practice in both practitioner and researcher communities.

Further information is available via the following web site:

www.csofs.org/Events/CSFS-Fingerprint-Division-One-Day-Conference-2019/63775

The Chartered Society of Forensic Sciences Past Presidents Summer Ball

15 June, 2019

The Majestic Hotel, Ripon Road, Harrogate, HG1 2HU

Further information is available via the following web site:

www.csofs.org/Events/The-Chartered-Society-of-Forensic-Sciences-Past-Presidents-Summer-Ball/60686

Annual Meeting of the International Association of Forensic Toxicologists

2 to 6 September, 2019

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The ICC, Birmingham Broad Street, Birmingham, B1 2EA

The theme of this conference is 'Application of Toxicology in the 21st Century'. Topics will include post-mortem, clinical, occupational and human behaviour toxicology as well as drug-facilitated crime and analytical toxicology.

More information can be found via the following link: www.tiaft2019.co.uk/

EU Framework Decision 2009/905/JHA

In 2009 the EU adopted Council Framework Decision 2009/905/JHA on 'Accreditation of forensic service providers carrying out laboratory activities'. While the title suggests a decision of general applicability, it actually applies only to the areas of DNA analysis and fingerprint examination.

The UK withdrew from this Decision as part of the 'bulk' withdrawal from Justice and Home Affairs provisions. In 2016 the UK re-adopted the Decision. This required the transposition of the requirements of the Decision into domestic legislation. This has now been achieved through The Accreditation of Forensic Science Provider Regulations 2018. These will become effective on 25 March 2019. Further information is available via the following web site:

www.legislation.gov.uk/ukSI/2018/1276/made

The Regulations will require those commissioning DNA analysis or fingerprint analysis work for the criminal justice system to instruct only organisations that hold the required accreditation.