



Forensic Science Regulator

O v e r s e e i n g Q u a l i t y

Forensic Science Regulator Newsletter

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Contact Details

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

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Email: FSREnquiries@homeoffice.gov.uk

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

Message From The Forensic Science Regulator

I am writing this message a few days after the end of my second 3-year term as Regulator. The process of recruiting my successor is underway but is not yet complete and so I have accepted a 3-month extension of my term to enable a smooth transition. My final day as Regulator will now be 16 February 2021.

It has been a more tumultuous 6 years than any of us in forensic science would have liked. Nonetheless, as a profession we have improved the quality of our science, with many more experts now having objective evidence of their competence and experimental data to demonstrate the reliability and limitations of their methods. Quality failures are investigated to determine the root causes and lessons are disseminated to ensure that we avoid repeating the same issues. There is further to go; increased transparency and a standardised, robust approach to evaluation of scientific findings are on the way and more disciplines are progressing with the implementation of quality standards. For the disciplines where achieving compliance with standards has introduced inefficiencies, there is work to do to improve systems and build on what has been achieved.

We may not all agree on the details of the right way to achieve sustainable improvements in quality, but I am greatly impressed by the commitment to deliver just outcomes shown by practitioners across the broad spectrum of forensic science.

I was delighted to have been honoured, along with my colleague Dr Jeff Adams, in the Queen's Birthday Honours. But both of us would say that we can only make a contribution to forensic science by working with many others in the profession, so our

thanks go to all of you for the work you do, day in and day out, and the practical ways in which you help the work of regulation. Forensic science does not feature frequently in the Honours list, so I encourage all to consider whether there is a colleague who contributes above and beyond the call of duty and to consider making a nomination (see www.gov.uk/honours).

Thank you for your support and I wish you a very Merry Christmas and a Happy New Year.

A handwritten signature in black ink, appearing to read 'Gillian Tully', with a stylized flourish at the end.

Dr Gillian Tully CBE

Forensic Science Regulator

Incident Scene Investigation

The original deadline, set in 2014, for organisations performing incident scene investigation to achieve accreditation was October 2020. The disruption to the assessment process due to the COVID-19 pandemic led to the Regulator resetting the deadline to 1st October 2021, as outlined in FSR Regulatory Notice 03/2020 available at the following link: www.gov.uk/government/publications/regulatory-notice-032020-deadline-for-accreditation-of-incident-scene-investigation.

Uncertainty Of Measurement (UoM) For Reporting Of Results Of Controlled Drugs In Relation To S5a Road Traffic Act 1988

The Regulator has been asked when the document FSR-C-133, which deals with the analysis and reporting of forensic specimens in relation to s5A Road Traffic Act 1988 will be published. Several interim versions of the document FSR-C-133 were issued to forensic units undertaking s5A analysis. These interim documents record an agreement between the forensic units and stakeholders as to the handling of uncertainty of measurement (UoM) in the reporting of results; they list the expanded uncertainty for each drug and the current common threshold. The documents were not published as the information contained within them would have been reflected in the procedures and reports of the forensic units. However, in response to several requests, the table setting out the uncertainty and reporting threshold for each drug is included in table 1.

Table 1: Uncertainty And Reporting Threshold By Drug.

Controlled Drug	Limit (µg/L)	Expanded uncertainty (99.7% confidence level) (%)	Common Reporting threshold (µg/L)
Amphetamine	250	20	314
Benzoylecgonine	50	20	64
Clonazepam	50	20	64
Cocaine	10	35	17
Delta-9-Tetrahydrocannabinol	2	30	3
Diazepam	550	20	689
Flunitrazepam	300	25	402
Ketamine	20	20	27
Lorazepam	100	25	135
Lysergic Acid Diethylamide	1	45	2
Methadone	500	25	668
Methylamphetamine	10	40	19
Methylenedioxymeth- amphetamine	10	25	15
6-Monoacetylmorphine	5	35	8
Morphine	80	25	108
Oxazepam	300	20	377
Temazepam	1000	20	1252

The documents were described as 'interim' because it was recognised that the recoding of the agreement with regard to UoM was the first stage in developing a more comprehensive standard for the area. The process of developing that more comprehensive standard is ongoing. It has proved to be more complicated than expected but will be completed soon.

The standard will be published as FSR-C-133 issue 5 when it is completed and issued. Until that time the draft document does not set any requirements for the area.

Toxicology Drug Driving s5A - Certified Reference Material Referral

In October, a number of laboratories received notification, from the supplier of a certified reference material (CRM), that an issue had been identified with the CRM. While the initial communication was not absolutely clear we were, within a couple of days, able to have a virtual meeting with the supplier and establish the nature of the issue. In essence, the supplier had determined the uncertainty provided in the certificate of analysis had to be re-calculated.

This led to a suspension of reporting of results from affected laboratories.

There was a slight delay before the supplier could provide the new value. The new value was issued late on a Friday night. The next stage was for laboratories to establish what effect the new CRM uncertainty had on the total uncertainty of measurement for their method. All laboratories determined the new values by Wednesday of the next week.

In s5A analysis all laboratories make a deduction from the results based on the highest uncertainty of the laboratories plus a safety margin. The recalculated uncertainties from all the laboratories were less than the figure used to set the deduction. As a result there was no impact on the results in casework.

At a time when forensic toxicology laboratories, and the staff within them, are under significant pressure it is notable that the issue was identified, the cause clarified, and the necessary steps identified and implemented within 10 days. This was largely due to the commitment of the forensic toxicologists in the laboratories involved and this is worthy of recognition.

Sexual Assault Referral Centre Accreditation Update

Following the publication of the Regulator's Codes documents on standards and guidance for the forensic science elements of sexual assault examination, which set a requirement for accreditation by 01 October 2023, the United Kingdom Accreditation Services (UKAS) held a meeting for parties interested in joining a pilot accreditation scheme. This meeting was held in May 2020 and 6 applications from

Sexual Assault Referral Centres (SARC)s wishing to join the pilot have now been received. Accreditation will be granted to SARC)s meeting the requirements of ISO 15189, the Regulator's Codes and the standards set out in FSR-C-116, Sexual Assault Examination: Requirements for the Assessment, Collection and Recording of Forensic Science Related Evidence www.gov.uk/government/publications/sexual-assault-examination-requirements-for-forensic-science-related-evidence.

In a first for UKAS, an assisted application scheme for organisations has been developed to provide more information and background on accreditation, the standards to be used and the interim requirements that will need to be met. Access to the scheme will be available to each organisation that registers with UKAS. The scheme includes access to the UKAS project team for the review of documentation in preparation for formal assessment. Technical experts have been recruited by UKAS for the assessment of the SARC)s. Project progress is reported to the Regulator at regular intervals.

Registration for the assisted application scheme will include the UKAS application fee, saving each organisation £1500. SARC)s can register now to take advantage of this saving and start the accreditation process. Further information on this project can be found on the UKAS website. This includes frequently asked questions, which were collated during UKAS meetings with interested parties, workshops and at the monthly drop in sessions that were held over the summer. If you have any questions or would like to register your interest and join the assisted application scheme, please contact the project team to discuss further at: DevelopmentEnquiries@ukas.com.

Fingerprint Accreditation Update

The Accreditation of Forensic Science Providers Regulations came into effect in March 2019, since which time the provision of fingerprint evidence in England and Wales is required by law to be delivered by organisations with accreditation to ISO 17025. With one exception, fingerprint bureaux are accredited to that standard, which represents a significant effort on the part of policing.

The Regulator has revised and reissued the suite of fingerprint-related documents covering visualisation and enhancement, through to comparison. A document setting out fingerprint R&D opportunities and priorities was published and forms part of the input for the Forensic Capability Network's R&D road map. A document on algorithm validation and verification was published, providing guidance for the proposed new Automatic Fingerprint Identification System (AFIS) due to be introduced in 2021.

The majority of enhancement laboratories and bureaux have participated in a collaborative exercise being run by Defence Science and Technology Laboratory (Dstl). The results are being analysed in detail and a report on the outcomes will be issued in due course. Dstl has a dedicated web page for its publications www.gov.uk/government/publications/dstl-forensic-publications and has issued an October Newsletter.

Referrals About The Quality In Digital Forensics Cases Involving Indecent Images Of Children (IIOC)

There has been an increasing number of referrals about quality in digital forensics cases involving indecent images of children (IIOC). The Regulator does wish to hear about quality issues pertaining to the screening, capture and preservation of data for the Criminal Justice System. Issues related to the specificity of tools, the locating of images in general and effectiveness of de-duplication of images are within her remit. However, the manual grading of IIOC aspect of the case is rule rather than science based. The Regulator does not, therefore, recognise it as a forensic science discipline and, as a consequence, it is not considered within her remit. Referrals solely about the manual grading aspect will not be pursued further by the Regulator. However, it is recognised that when an issue does occur, the root cause may be a composite of underlying issues, therefore if there is any doubt, organisations should continue to refer issues to the Regulator and they will be reviewed on a case-by-case basis. Please note, in considering complaints and referrals, the Regulator's remit is to achieve sustained improvements in practice and she has no role in reviewing the judgment of a court, professional or a regulatory body.

Monitoring Of Registered Sex Offenders

Screening of devices either at scene or away from the scene is within the Regulator's remit if it is for the purpose of the Criminal Justice System. However, if the purpose of the activity is for the monitoring of registered sex offenders with some form of triage tool (or manually for that matter) as opposed to the investigation or potential prosecution of a crime, then it does not fall within the remit of the Regulator, and by extension the scope of accreditation. It would, however, be sensible to adopt similar quality assurance measures, including ensuring that the limitations of the methods are understood, that there is objective evidence of staff competence and that there is a risk-based approach to quality control of the work.

Forensic Science Regulator Bill

On 5th February 2020 Darren Jones MP introduced a private members bill in the House of Commons to provide a statutory basis for the work of the Regulator and to provide certain powers to the Regulator. The bill is similar to one introduced by Chris Green MP in the previous Parliament. Information about the bill (including the bill, the explanatory notes and a briefing by the House of Commons Library) is available at: <https://bills.parliament.uk/bills/2616>.

The debate on the second reading of the bill was delayed due to the pandemic but it took place on the 25th September. The debate lasted for over 4 hours and featured contributions from Mr Jones, Mr Green and a number of other members. Both the Minister for Policing and Crime (Rt Hon Kit Malthouse MP) and the Opposition Front Bench spokesperson for crime and policing (Bambos Charalambous MP) spoke in support of the bill. The text and video of the debate are available on the Parliament Internet site.

The bill achieved second reading on 25 September 2020

<https://hansard.parliament.uk/commons/2020-09-25/debates/A9E26854-CBB6-4832-A461-78E94D7E4015/ForensicScienceRegulatorAndBiometricsStrategyBill>.

As the bill would require expenditure by the Government a money resolution was required in the House of Commons. That was approved on 10 November 2020. The Committee stage of the bill took place on 11 November 2020. The Bill, as updated

during Committee stage, is available at:

<https://publications.parliament.uk/pa/bills/cbill/58-01/0211/20211.pdf>.

Criminal Procedure Rules

Historically, the Criminal Procedure Rules were re-issued every year. As a consequence, the name changed each year. In 2015 a new version of the Rules, following a re-structuring, was issued. A new convention was adopted; the Rules would be amended rather than re-issued and, as a consequence, for some time the Rules would be 'The Criminal Procedure Rules 2015'.

On 5th October 2020, a new version of the Rules came into effect. In the first change since 2015, the name has been changed to 'The Criminal Procedure Rules 2020'.

Forensic units should review their documents, particularly reports/statements issued to the Criminal Justice System, to ensure any reference to the 2015 Rules are updated.

Unpaid Expert Fees

Issues have been raised to the Regulator about late payment and non-payment of expert fees. Bond Solon has also carried out a survey on payment issues affecting expert witnesses. The results of that survey can be found on the Bond Solon website at the following link: www.bondsolon.com/payment-issues-affecting-expert-witnesses-survey-results/

The Regulator has been liaising with the Ministry of Justice and the Solicitors Regulation Authority (SRA) to determine how such issues can be resolved. The SRA has provided the following advice.

"Where experts are experiencing significant difficulties with obtaining payments from a particular firm of solicitors then the route to make a complaint is through the SRA report function at report@sra.org.uk.

All reports received through this route will be assessed to see whether they are sufficiently serious to warrant formal regulatory action to be taken, in line with the SRA's enforcement strategy available at www.sra.org.uk/sra/corporate-strategy/sub-strategies/sra-enforcement-strategy/.

The most serious allegations received are passed through to the main investigation and supervision team for further regulatory action. Where, for example, there is a clear and persistent pattern of non-

payment from a particular firm, or clear evidence that a particular firm has consistently received payments from the Legal Aid Authority but has not passed these on to the expert, it is more likely that regulatory action will be taken.

However, the action taken will depend on the range of aggravating or mitigating factors present. Such a pattern of behaviour reported might also on some occasions, prompt the SRA to look more closely at a firm as non-payment may be a flag for underlying financial difficulties, or other issues within the firm which warrant further investigation.

Where the SRA has closed a firm, in certain circumstances experts may currently make a claim on the SRA compensation fund for the consideration of payment of unpaid professional fees. Details of this can be found at www.sra.org.uk/consumers/problems/solicitor-owes-money/claim-professional-fee/. However, the SRA recently consulted on making some changes to eligibility to apply to the fund, and this position may therefore be subject to change in the future.

Forensic Science Regulator Publications

Accessibility

The exercise to make all active documents published since September 2018 accessible, in line with Regulations,¹ was completed on 22nd September, though some minor changes to web pages continued after that date.

The accessibility statement has been updated on GOV.UK, www.gov.uk/government/organisations/forensic-science-regulator/about/accessible-documents-policy

New and Updated Publications

Documents published on 22 September contained minor editorial and format changes. Documents published since the last newsletter, which are new or have been significantly modified are as follows:

Legal Obligations, FSR-I-400, issue 8 www.gov.uk/government/publications/legal-obligations-issue-8

Expert Report Guidance, FSR-G-200, Issue 4
www.gov.uk/government/publications/expert-report-content-issue-4

¹ www.legislation.gov.uk/uksi/2018/952/contents/made

Non-Expert Technical Statement Guidance, FSR-G-225, Issue 2

www.gov.uk/government/publications/non-expert-technical-statements-issue-2

Sexual Assault Examination: Requirements for the Assessment, Collection and Recording of Forensic Science Related Evidence, FSR-C-116, Issue 1

www.gov.uk/government/publications/sexual-assault-examination-requirements-for-forensic-science-related-evidence

Guidance for the Assessment, Collection and Recording of Forensic Science Related Evidence in Sexual Assault Examinations, FSR-G-212, Issue 1

www.gov.uk/government/publications/sexual-assault-examination-guidance-for-forensic-science-related-evidence

Planned update for the “Control of Data” section of the Forensic Science Regulator Codes of Practice, RN 02/2020 www.gov.uk/government/publications/update-to-the-control-of-data-section-of-the-codes-of-practice

Deadline for Accreditation of Incident Scene Investigation, RN 03/2020,

<https://www.gov.uk/government/publications/regulatory-notice-032020-deadline-for-accreditation-of-incident-scene-investigation>

Case Submission and Staff Elimination Database (SEDs), FSR-L-

B09 www.gov.uk/government/publications/forensic-science-lessons-learnt-issue-9

Legal Issues in Forensic Pathology and Tissue Retention, FSR-G-203, Issue 4

www.gov.uk/government/publications/legal-issues-in-forensic-pathology-and-tissue-retention-issue-4-guidance

Information to be Included in the ‘History’ Section of a Forensic Pathologist’s Report,

FSR-G-210 Issue 2 www.gov.uk/government/publications/completing-the-history-section-of-a-forensic-pathologists-report

Validation, FSR-G-201, Issue 2 www.gov.uk/government/publications/forensic-science-providers-validation

Method Validation in Digital Forensics, FSR-G-218, Issue 2

www.gov.uk/government/publications/method-validation-in-digital-forensics

Fingerprint Research and Development Considerations, FSR-I-409, Issue 1
www.gov.uk/government/publications/fingerprint-research-and-development-considerations

Friction Ridge Detail (Fingermark) Visualisation and Imaging, FSR-C-127, Issue 2
www.gov.uk/government/publications/fingermark-visualisation-and-imaging

Friction Ridge Detail (Fingerprint) Comparison, FSR-C-128, Issue 3
www.gov.uk/government/publications/fingerprint-comparison

Friction Ridge Detail (Fingerprint) Examination – Terminology, Definitions and Acronyms, FSR-C-126, Issue 2
www.gov.uk/government/publications/fingerprint-examination-terminology-definitions-and-acronyms

Proficiency Testing Guidance for DNA Mixture Analysis and Interpretation, FSR-G-224, Issue 1
www.gov.uk/government/publications/proficiency-testing-guidance-dna-mixture-analysis-and-interpretation

DNA Analysis, FSR-C-108, Issue 2
www.gov.uk/government/publications/dna-analysis-codes-of-practice-and-conduct

The Interpretation of DNA Evidence (Including Low-Template DNA), FSR-G-202, Issue 2
www.gov.uk/government/publications/the-interpretation-of-dna-evidence

Allele Frequency Databases and Reporting Guidance for the DNA (Short Tandem Repeat) Profiling, FSR-G-213, Issue 2
www.gov.uk/government/publications/allele-frequency-databases-and-reporting-guidance-for-the-dna-17-profiling

The Control and Avoidance of Contamination in Scene Examination involving DNA Evidence Recovery, FSR-G-206, Issue 2
www.gov.uk/government/publications/crime-scene-dna-anti-contamination-guidance

The Control and Avoidance of Contamination in Forensic Medical Examinations, FSR-G-207, Issue 2
www.gov.uk/government/publications/sexual-assault-referral-centres-and-custodial-facilities-dna-anti-contamination

Bloodstain Pattern Analysis, FSR-C-102, Issue 2
www.gov.uk/government/publications/bloodstain-pattern-analysis-codes-of-practice

The Use of 'Excited Delirium' as a Cause of Death, FSR-G-231, Issue 2
www.gov.uk/government/publications/forensic-pathology-excited-delirium

Relevant Events

Due to the current pandemic plans to organise the next Forensic Science Regulator conference is on hold.