

## **Forensic Pathology Specialist Group (FPSG)**

**Note of the meeting held on 2 June 2021, via teleconference.**

### **1. Welcome and introductions**

- 1.1 The Chair welcomed all to the meeting, and welcomed two new members to the group. The new members represented the Human Tissue Authority (HTA), and a forensic pathologist from Scotland. A full list of the attendee organisations and apologies is provided at Annex A.
- 1.2 The Chair recorded the Groups thanks for the work of the previous representatives of the HTA and the forensic pathologists in Scotland.

### **2. Minutes of the last meeting**

- 2.1 The minutes of the previous meeting held on 21 May 2019 had been approved by members prior to the meeting and were published on Forensic Science Regulator's [website](#).
- 2.2 It was noted there were no corrections or amendments to the minutes.

### **3. The Forensic Science Regulator Act 2021**

- 3.1 The FPSG was informed The Forensic Science Regulator Act 2021 had now received Royal Assent. The implementation of the Act (2021) would require the Forensic Science Regulator (FSR) to determine whether forensic pathology should be within the remit of the FSR. The FSR sets the Forensic Pathology Code jointly with the Home Office, Department of Justice, and The Royal College of Pathologists.
- 3.2 The FPSG members were asked for their views on whether the FSR should maintain or change the level of involvement in forensic pathology.

3.3 The Pathology Delivery Board (PDB) Responsible Officer (RO) highlighted the following concerns:

- The General Medical Council (GMC) already provided regulation of forensic medicine.
- Forensic pathology was also overseen by the Home Office (HO) appointed Responsible Officer (RO), and there was a robust HO process for dealing with complaints.
- Forensic pathology was not considered forensic science.
- The PDB RO recommended the current statutory medical bodies should continue to regulate disciplinary issues and complaints in relation to forensic pathology.

The FPSG members agreed with the PDB RO that there was sufficient regulation oversight in place for forensic pathology. The Crown Prosecution Service (CPS) representative agreed with the other members but noted some courts may challenge the remit of forensic science defined in the Forensic Science Regulator Act, and whether this should include forensic pathology for example in Court of Appeal cases. The FSRU representative replied if it was decided forensic pathology was not within the remit of forensic science, and there was a challenge received from the Judiciary on the FSR's decision on what is included within their remit, it could be justified if all forensic medicine was excluded from the FSR's remit.

3.4 The FSRU representative noted within the Act the FSR could define their own scope within the statutory definition of forensic science. The Act defined forensic science activity broadly and could include anything that could be construed as forensic science. The FPSG agreed the existing system offered considerable regulation, and additional regulation would be unnecessary.

## **4. Audit 2021**

4.1 One of the auditors provided the FPSG with an update on the forensic 2021 pathology audit which was almost complete.

- 4.2 The forensic pathology audit 2021 was examining cases of strangulation, asphyxia, and cases in which an autopsy was taken on by a forensic pathologist after being conducted by a general pathologist.
- 4.3 The report was expected to be published later in 2021.

## **5. Forensic Pathology Audit - Protocol**

- 5.1 The audit of the work of forensic pathologists is undertaken in line with the protocol FSR-P-304. The Protocol had been recently updated.
- 5.2 The Protocol had been updated to reflect the role of the Responsible Officer (RO) appointed by the Pathology Delivery Board and those in similar roles in Scotland and Northern Ireland.
- 5.3 The FPSG members were asked if they were satisfied with the current draft and proposed changes for the Forensic Pathology Audit Protocol. The RO commented that if a doctor had believed there was an issue with the practice of another doctor it was their duty to refer them to their RO, or the GMC.
- 5.4 The State Pathologist for Northern Ireland's representative highlighted the audit team criteria in the protocol stated auditors must be registered with the Home Office, and this would exclude pathologists from Northern Ireland and Scotland. The FSRU representative responded the protocol does state forensic pathologists from outside England and Wales would be eligible to join the audit team provided their status, experience and current working practice were deemed equivalent to that of a Home Office registered practitioner.
- 5.5 The Scottish pathology representative also highlighted that forensic pathologists in Scotland worked slightly differently to the rest of the UK. For example, they conduct the equivalent of coronial autopsies, as well as the equivalent of Home Office autopsies. This could result in difference in reporting styles and the representative suggested the audit team should include forensic pathologists who have experience in performing both types of autopsies.
- 5.6 The Chair asked the FPSG members if they were aware of any similar audit process conducted in other countries where learning and knowledge could be shared. The members confirmed they were not aware of similar audits being conducted in other countries. The HO Forensic Pathology Unit representative

mentioned Canada may have a similar type of audit system and were hosting an international conference on Forensic Pathology Audit. The representative would be happy to circulate the details of the conference.

Action 1: The HO Forensic Pathology Unit representative to send FSRU representative details on the Canadian Forensic Pathology Audit Conference.

## **6. The Code of Practice and performance standards for Forensic Pathology**

6.1 The draft Code was shared with the Royal College of Pathologists Speciality Advisory Committee for Forensic Pathology. While a number of minor changes were proposed to the Code no significant changes were proposed.

6.2 The Code had been reviewed by the FPSG. There was one outstanding section in the document: dealing with less invasive post mortem examinations.

6.3 This issue was discussed at the last meeting of the Forensic Pathology Specialist Group (FPSG). Following that meeting a proposed text for the section was circulated.

6.4 The Chair commented the FPSG was not satisfied with the original statement within the Code that the use of non-invasive post-mortems were insufficient in cases where there may be a criminal prosecution and needed to be re-worded. The RO commented the first murder case where a full internal post-mortem examination was not performed on the victim, and a CT scan was conducted along with an external examination to identify cause of death, had taken place in the UK and passed through the criminal courts.

Action 2: FSRU representative to contact the lead Pathologist on the case where a CT scan was used to identify cause of death.

6.5 Two options for the wording for non-invasive post-mortems had been circulated to the FPSG for comment.

- 6.6 The following proposed wording was suggested: “The forensic pathologists involved in the decision must be able to justify the decision taken”, could be updated to include “The forensic pathologist involved in the decision must be able to justify the decision taken not to conduct a full invasive post-mortem examination.”
- 6.7 The FSRU representative commented the relevant stakeholders including the defence counsel would need to be content with the course of action proposed for conducting non-invasive post-mortems mentioned within the Codes. One of the forensic pathologists also highlighted that there should be a formal record of the reasons why a full post-mortem was not performed. The members were asked to send their views on recording reasons.

Action 3: The FPSG to send comments on whether the Codes should recommend keeping a formal record of less invasive post-mortems decisions made.

- 6.8 The FSRU representative asked the FPSG if the views of a second pathologist (independent to defence counsel and CPS) should be sought if a forensic pathologist decided not to conduct a full-post-mortem examination, and this could be included in the proposed wording within the Code. The Crown Office and Procurator Fiscal Service representative noted all forensic pathologists in Scotland were contracted to the Crown, and therefore seeking an independent forensic pathologist could be a challenge. The FSRU representative clarified it would be an independent forensic pathologist who was not involved in the case. The FPSG were asked to send their comments on whether the code should include, seeking views from a second forensic pathologists when considering performing a less invasive post-mortem.

Action 4: The FPSG to send comments on whether the Code should include that views should be sought from a second forensic pathologist if considering performing a less invasive post-mortem.

- 6.9 It was suggested the proposed wording could be amended to include further clarification on the decision not to perform a full post-mortem examination and include some examples of cases where a less invasive post-mortem examinations could be considered.
- 6.10 The FSRU representative informed the FPSG that feedback received on the Code from the Royal College of Pathologists Speciality Advisory Committee for Forensic Pathology, had suggested adding “forensic” in front of any references to pathologists. It was decided not to include this, as the scope of the document stated that these rules applied to forensic pathologists, and other pathologists who may only occasionally undertake forensic pathological investigations.

## **7. AOB**

- 7.1 The Human Tissue Authority representative informed the FPSG that interviews were being conducted for the role of Head of Regulation for the post-mortem sector.

# **Annex A**

## **Organisation Representatives Present:**

University of Bristol (Chair)

Forensic Science Regulation Unit

Human Tissue Authority

The Crown Office and Procurator Fiscal Service

The Pathology Delivery Board (PDB) Responsible Officer

National Police Chiefs' Council - Homicide Working Group

British Association in Forensic Medicine

Forensic Pathology Unit, HO

Crown Prosecution Service

Forensic Pathologist, Scotland

State Pathologist for Northern Ireland, Department of Justice

Forensic Pathologist - British Association in Forensic Medicine

HO Science Secretariat

## **Apologies:**

HM Senior Coroner for Manchester

Forensic Pathologist - British Association in Forensic Medicine