



**Forensic Science  
Regulator**

# **The Forensic Science Regulator Act 2021**

## **Consultation: Draft Statutory Code of Practice**

Information and response guidance

August 2022

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## About this consultation

Topic of this consultation:	This consultation seeks views on a draft Code of Practice ('the Code') to be issued under the Forensic Science Regulator Act 2021. The draft Code sets quality standard requirements for forensic science activities undertaken for matters related to the investigation of crime and the Criminal Justice System in England and Wales.
Representations welcome from:	<ol style="list-style-type: none"> <li>1. Forensic units from the 43 territorial police forces</li> <li>2. Commercial forensic science units</li> <li>3. Professional bodies</li> <li>4. Government departments</li> <li>5. Interested groups</li> <li>6. The wider public</li> </ol>
Duration of consultation:	The consultation will be open for 12 weeks from the 8 <sup>th</sup> of August 2022 to 11.45pm on the 31 <sup>st</sup> of October 2022.
How to respond:	<p>Please send your response by 11.45pm on the 31<sup>st</sup> of October 2022:</p> <p>Through the online survey available at the following link:  <a href="https://www.homeofficesurveys.homeoffice.gov.uk/s/G20V5A/">https://www.homeofficesurveys.homeoffice.gov.uk/s/G20V5A/</a></p> <p>By email to: FSRConsultation1@homeoffice.gov.uk</p> <p>By post to:  The Forensic Science Regulator,  c/o Home Office Science  Long Corridor 14th Floor Lunar House  40 Wellesley Road  Croydon  CR9 2BY</p>
Geographical scope:	The draft Code applies to England and Wales, but the Regulator welcomes views from stakeholders from across the UK. The Regulator also welcomes views from forensic science units outside of England and Wales but to whom the Code will apply in so far as they carry on activities within England and Wales.
After the consultation:	Following the consultation period, responses will be analysed, and the draft Code will be revised as necessary. The Code will then be sent to the Secretary of State for the Home Department for approval. Following this, the Code will then be laid before Parliament for approval. A response to this consultation exercise will be published on Gov.uk.
Enquiries:	Please email any enquiries (including requests for alternative formats) to: FSRConsultation1@homeoffice.gov.uk

## Background

Forensic science is a critical and important part of criminal investigations and the administration of justice, not only to identify offenders and provide expert evidence to the courts, but it is one of the strongest safeguards against false allegation and wrongful conviction. Forensic science examinations carry significant risks, and the consequences of a quality failure can be profound, particularly where there is a system rather than an individual failure. The former could lead to the review of hundreds or even thousands of results generated by a flawed technique or method. The purpose of forensic science regulation is to ensure that accurate and reliable scientific evidence is used in criminal investigations, in criminal trials, and to minimise the risk of a quality failure.

The model for regulation of forensic science in England and Wales is based on each forensic unit implementing and operating an effective quality management system that meets the requirements of the Code. This will provide the necessary control of processes and minimise the risk of quality failure.

The Forensic Science Regulator Act 2021 ('the Act') received Royal Assent in April 2021. The Act makes the role of the Forensic Science Regulator ('the Regulator') a statutory one and requires the Regulator to prepare and publish a Code of Practice. The Act also introduces new statutory powers for the Regulator to investigate and issues compliance notices where they have concerns about how a forensic science activity is being conducted. The Regulator will be able to issue compliance notices, which will require forensic practitioners who pose unacceptable risk to the Criminal Justice System to take remedial action or be prohibited from carrying out a forensic science activity.

There is broad support for the introduction of statutory powers, with many reviews and reports over the past decade recommending that the Regulator have statutory powers to enforce compliance with quality standards.

## What is the Code of Practice?

The draft Code of Practice ('the Code') is required under Section 2 of the Act. The Code sets out requirements that apply to forensic science activities subject to the Code, which provides a framework for forensic units to provide assurance that the forensic science they provide is of an appropriate quality standard.

This Code is based on the regulatory model that existed for forensic science in England and Wales prior to the introduction of the Act, which requires each forensic unit to operate an effective quality management system and, where required by this Code, achieve and maintain accreditation to a suitable international standard and this Code.

The draft Code therefore is largely based on issue 7 of the Code of Practice and Conduct, but also contains additions to cover the provisions set out in the Act including Regulator's investigations, issuing of compliance notices, issuing completion certificates, appeals and other functions of the Regulator.

The Code applies to all those undertaking forensic science activities subject to the Code, whether individual practitioners, academics, public or private sector or forensic science units. These can be small teams in larger organisations, sole practitioners, or large providers, and can be commissioned by the prosecution or the defence.

The Code applies to forensic science activities undertaken for matters related to the Criminal Justice System in England and Wales.

## **Why are we consulting?**

Section 3 of the Act requires that the Regulator consult such persons as the Regulator considers appropriate before publishing a Code of Practice. The Act specifies that the persons consulted must include persons appearing to the Regulator to be representative of persons who are, or are likely to be, carrying on activities to which the proposed Code will apply.

This consultation is to fulfil the requirements of the Act for a statutory consultation.

Following consultation, the Regulator will consider representations made about the draft Code. The Code will be given to the Secretary of State for the Home Department for approval, and then laid before Parliament for approval before it will come into effect.

## **Supporting information**

In preparing the draft Code, the Regulator has engaged with stakeholders and technical experts, including from forensic science providers, the United Kingdom Accreditation Service (UKAS), and the Forensic Science Advisory Council. The Regulator also made two drafts of the Code available for informal comment in January 2022 ('Version 1.0') and April 2022 ('Version 2.0'). Version 1 was a draft of the core Code, and Version 2 was an updated core Code and the first drafts of the FSA definitions.

The purpose of the Regulator's engagement was to be transparent in the progress to develop the draft, and to utilise the expertise of the community to refine the draft. The draft statutory Code is largely based on the previous non-statutory Code of Practice and Conduct, and the underlying regulatory model of requiring organisations to have an effective quality management system is the same. The Regulator has provided comment on the common themes of the informal feedback comments in the Forensic Science Regulator Newsletter: Number 1.

Information about changes made between issue 7 of the Code of Practice and Conduct and Version 1.0 of the draft Code made available during informal engagement (e.g. the introduction of the concept of the Senior Accountable Individual) can be found in the 'Note of Changes' at the following link:  
<https://www.gov.uk/government/publications/forensic-science-regulator-draft-core-statutory-code-for-comment>

The table below provides a summary of changes between the Version 2.0 draft of the Code and the Consultation Draft 08.08.2022 version of the Code:

<b>Change</b>	<b>Relevant Clauses</b>
Text has been added on the role of the Regulator in issuing guidance.	3.1.4
Text has been added to reflect that a commencement order has been laid to make the Regulator a statutory Regulator.	4.1.1
Text discussing territorial extent has been combined into one section for clarity.	7
The section on International Obligations has been added.	8
The summary of requirements table has been added.	9
Text has been altered throughout the draft Code to reflect the position that compliance is with the whole Code (rather than to parts such as the Standards of Conduct).	Throughout, but for example in 15.1.2, the reference to compliance with the Standards of Practice has been deleted.
The section on developing an examination strategy has been added.	21.1.5
Text has been added to the section on externally provided services, to add detail about how assurance of compliance and competence is received.	22.1.2
Text has been added about examination facilities and non-dedicated work areas, for clarity and to address increases in home working.	27.1.1 and 27.1.5
The text of the Reference Database section has been edited for consistency.	31.1.1
Text has been added to address temporary storage facilities	34.4.2
A requirement has been added to cover the impact on disclosure of activity by the Regulator.	36.1.5

The text of declarations has changed, to reflect that compliance is to the whole Code (rather than parts).	36.1.10
Requirements have been added to inform the Regulator, and investigation and prosecution authorities, of any suspension, withdrawal or change in accreditation and the impact of such a situation on cases and reports.	36.1.13
Text has been added to require SFR1 reports to include a declaration of compliance or non-compliance with the Code.	36.2.1
Text has been added to explain the position of UKAS as the national accreditation body.	39.2.13
Text has been added to set out the Regulator's interpretation and application of the Standards	41.2
The forensic science activities have been separated into those subject to this Code and those not subject to this Code, for clarity.	F3 and F4
The text in the required compliance section of each FSA has been edited to better reflect the Regulator's intended position.	Across FSAs
The sub-activities within FSAs have been split into those required to be on an accreditation schedule if done, and those not required to be on the schedule, to reflect that not all sub-activities can be accredited at this point.	Across FSAs
The titles of some FSAs have changed, to standardise the language and ensure consistency throughout the Code.	Across FSAs
Two drug FSAs (Section 70 and 71 in Version 2.0) have been combined.	56.1
The forensic database FSAs from Version 2.0 (Sections 105 and 106 previously) have been combined to have one Database FSA.	97.1
The appendices with specific requirements have been added to the Code.	F5
The Glossary has been added	109

The comparison with normative references section has been added.	110
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Further supporting information that may inform your response to this consultation can be found in:

- a. The Forensic Science Newsletter: Number 1. Available at: <https://www.gov.uk/government/publications/statutory-forensic-science-regulator-newsletter-number-1>
- b. The UKAS schedule alignment with forensic science activities. Available at: <https://www.ukas.com/resources/technical-bulletins/the-ukas-summary-forensic-master-schedule/>

## Contact details and how to respond

Please send your response by 11.45pm on the 31<sup>st</sup> of October 2022.

There are a variety of ways in which you can provide your views.

Responses can be submitted online through the survey which can be accessed at the following link:

<https://www.homeofficesurveys.homeoffice.gov.uk/s/G20V5A/>

Responses can be submitted by email to:  
FSRConsultation1@homeoffice.gov.uk

Responses can be submitted by post to:

The Forensic Science Regulator,  
c/o Home Office Science  
Long Corridor 14th Floor Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY

## Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Regulator at the above address.

## Extra copies

Further paper copies of this consultation and alternative format versions of this publication can be requested from FSRConsultation1@homeoffice.gov.uk

## Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

## **Consultation principles, disclosure of responses and data protection**

The principles that government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles. These can be found at the following link: <https://www.gov.uk/government/publications/consultation-principles-guidance>

The Regulator is the data controller in respect of any information you provide in your answers. Any response that you provide will be processed by the Regulator pursuant to the functions set out in the Forensic Science Regulator Act 2021. The data you provide will be held for a maximum of 2 years. Further information can be found within the Regulator's Personal Information Charter, which is available at the following link: <https://www.gov.uk/government/organisations/forensic-science-regulator/about/personal-information-charter>

The names, addresses, and email addresses provided by respondents, and information about which organisations respondents belong to will be processed where this is provided. The information that you provide in relation to your responses will also be processed. When the consultation ends, a summary of the key points raised will be published on Gov.uk.

This will include a list of the organisations that responded, but not any individual's personal name, address, or other contact details. All responses and personal data will be processed in compliance with the Data Protection Act 2018 and the UK General Data Protection Regulation.

If you want some or all of the information you provide to be treated as confidential, please clearly identify the relevant information and explain why you consider it confidential in your response. Please note that the Regulator may be required by law to publish or disclose information provided in response to this consultation in accordance with the access to information regimes: primarily the Freedom of Information Act 2000 and the Data Protection Act 2018 and the UK General Data Protection Regulation. If the Regulator receives any request to disclose this information, full account of your explanation will be taken, but the Regulator cannot give you an absolute assurance that disclosure will not be made in any case. We will not regard an automatic disclaimer generated by your IT system as a relevant request for these purposes.

Once you have submitted your response to the consultation you will not be able to withdraw your answers from the analysis stage. However, under the Data Protection Act 2018 (and the UK General Data Protection Regulation), you have certain rights to access your personal data and have it corrected or erased (in certain circumstances).



You have the right to lodge a complaint to the Information Commissioner's Office about the Regulator's practices. To do so please visit the Information Commissioner's Office website or contact the Information Commissioner at [casework@ico.org.uk](mailto:casework@ico.org.uk), or:

Information Commissioner's Office  
Wycliffe House  
Water Lane  
Wilmslow  
Cheshire  
SK9 5AF  
Telephone: 0303 123 1113  
Textphone: 01625 545860  
Monday to Friday, 9am to 4:30pm.

If you need any further information, please contact us at:  
[FSRConsultation1@homeoffice.gov.uk](mailto:FSRConsultation1@homeoffice.gov.uk)

## Questionnaire

The Regulator welcomes comments on any aspect of the Code and has also set out some specific questions to understand the positions and concerns of a range of providers and stakeholders.

The structure of the questions is:

- a. Questions 1-6: Questions about the respondent
- b. Questions 7-13: General questions about the Code and Regulation
- c. Questions 14-87: Questions about specific parts of the Code

You do not need to answer every question.

## About the respondent

Please use this section to tell us about yourself

**Q1.** Full name

**Q2.** Job title or capacity in which you are responding to this consultation (for example, member of the public)

**Q3.** Company name/Organisation (if applicable)

**Q4.** If you are a representative of a group, please give the name of the group and a summary of the people/organisations that you represent.

**Q5.** Email address

**Q6.** Postal address

## General questions about the Code and Regulation

**Q7.** Do you support the regulatory model for forensic science described in the statutory Code?

Yes	No

Please explain your answer.

**Q8.** To what extent do you agree or disagree with the following statements:

	Strongly agree	Agree	Neither agree nor disagree	Disagree	Strongly disagree
Forensic units will comply with the statutory Code of Practice.					
The statutory Code of Practice sets out suitable requirements to provide the necessary control of processes and minimise the risk of quality failure.					
The statutory powers of the Forensic Science Regulator will improve the quality of forensic science used in the investigation of crime and the Criminal Justice System.					
Forensic Science Regulation supports the provision of reliable evidence to the CJS.					

**Q9.** If you are a practitioner, do you think the Code is sufficiently clear to allow you to develop the actions necessary to comply with the Code?

Yes	No

**Q10.** Do you have any suggestions on how the Code could be made clearer?

**Q11.** What do you see as the main challenges in achieving compliance with the Code?

**Q12.** What risks do you identify in the implementation of the Code and how should these be mitigated or eliminated?

The Act sets out at Section 4 that the Code is admissible in proceedings in England and Wales, and a court may take into account a failure by a person to act in accordance with the Code in determining a question in any such proceedings.

**Q13.** How do you see the admissibility provisions being applied in criminal proceedings?

### **Specific questions about the content of the Code sections**

When answering the questions in this section, please be explicit about which sections of the Code you are discussing by using the paragraph number (e.g. 6.1.1). Please also suggest alternative text where appropriate.

**Do you have any specific comments to make about the text and content of:**

**Q14.** the Introduction?

**Q15.** Part A – Legal Position?

**Q16.** Part B – Summary of Requirements?

**Q17.** Part C – The Code?

**Q18.** Part D – Standards of Conduct?

- Q19.** Part E – Standards of Practice, sections 15-20?
- Q20.** Part E – Standards of Practice, sections 21-26?
- Q21.** Part E – Standards of Practice, sections 27-33?
- Q22.** Part E – Standards of Practice, sections 34-39?
- Q23.** Part F – Infrequently Commissioned Experts?
- Q24.** Part F– FSA Definitions - General Provisions?
- Q25.** Section 46: FSA Definition – Incident Scene Examination?
- Q26.** Section 47: FSA Definition – Forensic Examination of Sexual Offence Complainants?
- Q27.** Section 48: FSA Definition – Human Biological Material Examination?
- Q28.** Section 49: FSA Definition – Human Body Fluid Distribution Analysis?
- Q29.** Section 50: FSA Definition – Human DNA Analysis?
- Q30.** Section 51: FSA Definition – Human Kinship Analysis?
- Q31.** Section 52: FSA Definition – Non-Human Biological Examination: Vertebrates?
- Q32.** Section 53: FSA Definition – Toxicology: Analysis for Drug(s), Alcohol, and/or Noxious Substances?
- Q33.** Section 54: FSA Definition – Toxicology: Analysis for Drugs and Alcohol under the Road Traffic Act 1988, Transport and Works Act 1992, and Railways and Transport Safety Act 2003?
- Q34.** Section 55: FSA Definition – Toxicology: Analysis for Drugs in Relation to s5A of the Road Traffic Act 1988?
- Q35.** Section 56: FSA Definition – Analysis to Identify and Quantify Drugs and/or Associated Materials?
- Q36.** Section 57: FSA Definition – Friction Ridge Detail: Visualisation and Enhancement?
- Q37.** Section 58: FSA Definition – Friction Ridge Detail: Comparison?
- Q38.** Section 59: FSA Definition – Footwear: Coding and Scene Linking?
- Q39.** Section 60: FSA Definition – Footwear: Screening?

- Q40.** Section 61: FSA Definition – Footwear Mark Comparisons?
- Q41.** Section 62: FSA Definition – Marks Visualisation and Enhancement?
- Q42.** Section 63: FSA Definition – Marks Comparison?
- Q43.** Section 64: FSA Definition – Damage and Physical Fit?
- Q44.** Section 65: FSA Definition – Taggant Analysis?
- Q45.** Section 66: FSA Definition – Analysis of Corrosives and/or Noxious Substances?
- Q46.** Section 67: FSA Definition – Analysis of Residues of Lubricants used in Sexual Offences, Including Oils, Greases, and Lubricants?
- Q47.** Section 68: FSA Definition – Analysis of Ignitable Liquids and their Residues?
- Q48.** Section 69: FSA Definition – Examination and Analysis of Particulate Trace Materials?
- Q49.** Section 70: FSA Definition – Examination and Analysis of Gunshot Residue (GSR)?
- Q50.** Section 71: FSA Definition – Examination and Classification of Firearms, Ammunition, and Associated Materials?
- Q51.** Section 72: FSA Definition – Firearms: Ballistics?
- Q52.** Section 73: FSA Definition – Examination and Analysis of Vehicle Components?
- Q53.** Section 74: FSA Definition – Examination and Analysis of Hazardous Chemical and Biological Agents and Associated Materials?
- Q54.** Section 75: FSA Definition – Examination and Analysis of Explosives, Explosives Precursors, and Explosive Residues?
- Q55.** Section 76: FSA Definition – Data Capture and Processing from Digital Storage Devices?
- Q56.** Section 77: FSA Definition – Digital Data Analysis?
- Q57.** Section 78: FSA Definition – Geolocation Analysis?
- Q58.** Section 79: FSA Definition – Recovery and Processing of Footage from CCTV/VSS?

- Q59.** Section 80: FSA Definition – Specialist Video Multimedia, Recovery, Processing, and Analysis?
- Q60.** Section 81: FSA Definition – Technical Audio Operations?
- Q61.** Section 82: FSA Definition – Document Handwriting?
- Q62.** Section 83: FSA Definition – Document Authenticity and Origin?
- Q63.** Section 84: FSA Definition – Examination of Incidents Involving Vehicles?
- Q64.** Section 85: FSA Definition – Examination of Fire Scenes?
- Q65.** Section 86: FSA Definition – Examination to Establish the Origin and Cause of an Explosion?
- Q66.** Section 87: FSA Definition – Forensic Examination of Detainees?
- Q67.** Section 88: FSA Definition – Forensic Examination of Deceased Individuals?
- Q68.** Section 89: FSA Definition – Non-Human Biological Examination: Plants, Microbes, and Invertebrates?
- Q69.** Section 90: FSA Definition – Toxicology: Alcohol Technical Calculations?
- Q70.** Section 91: FSA Definition – Examination and Analysis relating to the Preparation and Production of Drugs and/or Psychoactive Substances?
- Q71.** Section 92: FSA Definition – Examination and Analysis of Radioactive Material?
- Q72.** Section 93: FSA Definition – Examination and Analysis of Suspected Explosive Devices and Associated Material?
- Q73.** Section 94: FSA Definition – Network Capture and Analysis?
- Q74.** Section 95: FSA Definition – Speech and Audio Analysis?
- Q75.** Section 96: FSA Definition – Case Review?
- Q76.** Section 97: FSA Definition – Control and Management of a Forensic Database Service?
- Q77.** Section 98: Sexual Assault Examination: Requirements for the Assessment, Collection and Recording of Forensic Science Related Evidence?

- Q78.** Section 99: DNA Analysis?
- Q79.** Section 100: Blood Pattern Analysis?
- Q80.** Section 101: Friction Ridge Detail: Visualisation?
- Q81.** Section 102: Friction Ridge Detail: Comparison?
- Q82.** Section 103: The Analysis and Reporting of Forensic Specimens for s5A of the Road Traffic Act 1988?
- Q83.** Section 104: Digital Forensics?
- Q84.** Section 105: Video Analysis?
- Q85.** Section 106: Geolocation - Cell Site Analysis?
- Q86.** Part F – General Information?
- Q87.** Do you have any further comments to make?