



# Forensic Science Regulator

## Firearms Specialist Group

### Note of the meeting held on 31 January 2023 held in person in Birmingham.

#### 1. Welcome, and Introduction

- 1.1 The Chair welcomed all to the third meeting of the Firearms Specialist Group (FSG).
- 1.2 Members introduced themselves to the group and apologies were noted. A full list of the attendee organisations and apologies is provided at Annex A.
- 1.3 The minutes of the October meeting, the last meeting of the FSG, had been circulated and agreed by members.

**Action 1:** Secretariat to publish the minutes of the October meeting on the website of the Forensic Science Regulator (FSR).

- 1.4 The actions from the last meeting were reviewed. Action 2, “Chair to review whether the control and management of forensic data-based service should be included within the FSA” was carried forward. All remaining actions were marked as complete and closed.

#### 2. Workplan update

- 2.1 Ahead of the meeting, an updated workplan was circulated to members of the FSG. The Chair summarised the update to the group. The updates were noted, and no objections raised.

### **3. Update from the Office of the Forensic Science Regulator (OFSR)**

3.1 The representative from the OFSR provided an update to members of the FSG. The main points were:

- There had been an uplift in staffing of the OFSR and the FSAs have now been categorised and divided so each FSA has a dedicated scientific lead in the OFSR. This information was available in the Forensic Science Regulator newsletter: number 2.
- The Forensic Science Regulator Code of Practice (henceforth 'the Code') had been laid in parliament. It was expected to be approved in March 2023. There would be a 6-month transition period following approval before the Code would come into force on 2 October 2023.
- The OFSR was working on the analysis of the results of the Baseline Compliance Survey which would provide an initial overview of the compliance landscape, to inform the Regulator in determining the compliance and enforcement process. The Regulator was developing a secure portal for organisations to log compliance and the Ministry of Justice was developing a risk categorisation model.

3.2 The representative from the OFSR explained that for organisations already accredited to the non-statutory Code, a gap analysis would need to be conducted against the statutory Code and organisations would need to provide evidence for any additional requirements so that the United Kingdom Accreditation Service (UKAS) can transition to the new Code.

3.3 The group discussed that following the Code coming into force on the 2 October 2023, if an organisation was not accredited that would have to be declared.

3.4 The representative from Helston Forensics asked if the Code would impact CrimPR section 19 or whether the requirements would remain. The OFSR representative agreed to confirm but outlined the expectation was that the CrimPR would remain.

**Action 2:** OFSR representative to obtain confirmation that experts would still be required to comply with CrimPR part 19.

3.5 The group debated the possible impact of the Code on expert selection. The OFSR representative confirmed that case review did not currently require accreditation but any testing or analysis by a defence expert would need to comply to the Code and be accredited. The group debated that the courts would have the final decision on both the use of an expert and the admissibility of evidence. Experts would, however, be required to declare if they were not accredited for an activity which requires compliance with the Code.

3.6 It was discussed that guidance on regarding defence expert selection could possibly be included in version 2 of the primer for courts but agreed that the next steps for this would depend on a clarification of expectations and guidance decisions.

3.7 The OFSR rep commented that there is no plan to develop a competence scheme and the FSG raised that there was not enough demand to produce this, noting it may be necessary in the future. The group discussed what measures could be used to assess competence of an individual including ISO accredited peer review or obtaining chartered status. The group discussed that while peer review is not a perfect solution, it was likely to be a requirement.

**Action 3:** Chair to discuss defence expert selection and accreditation with the Regulator.

**Action 4:** The Crown Prosecution Service (CPS) representative to liaise with firearms prosecutors regarding their view on accreditation of defence experts.

**Action 5:** Secretariat to add the topic of defence expert selection and accreditation to the workplan for the FSG.

3.8 The group reflected that while there were challenges to still be resolved, the introduction of the Code was a positive step forward.

## 4. Update from UKAS

- 4.1 The UKAS representative was unable to attend and so this item could not be discussed.

**Action 6:** Secretariat to follow up with the UKAS representative for a written update regarding UKAS approach to transitioning organisations which are already accredited to the statutory Code. This update is to be circulated to members of the FSG.

## 5. Kinetic Energy Determination

- 5.1 The Chair introduced the item, noting to members of the FSG that this was initially raised in the July 2022 meeting and discussed again in October 2022. An action resulted from discussions for the Chair to speak to the organisers of the air rifle kinetic energy test programme (collaborative exercise). Initial thoughts were shared to members of the FSG ahead of the meeting. The Chair reflected on the apparently wide range of kinetic energy (KE) results recorded between forensic service providers that participated in this exercise.
- 5.2 FSG members discussed the validity of testing. It was noted that the pellet type can influence the KE produced by an air rifle, although this aspect was controlled in the collaborative exercise. The storage and transportation of an air rifle, and the environmental conditions during testing, may also affect the KE produced by the rifle. The members also discussed the possibly changing performance of the test rifle during the exercise.
- 5.3 It was discussed that repeated testing with clear guidance on the procedure and recording of the storage and testing would be ideal.
- 5.4 The representative from Key Forensics noted that long-term lab monitoring of KE results using a high-quality reference air rifle had shown a relatively wide KE range despite using the same air rifle, pellet type, measuring equipment and tester. However, it was noted that the shot to shot variation is not the same as the uncertainty of measurement applicable for each single shot, which is the

relevant uncertainty for the legal classification (see 5.5). The group deliberated this.

- 5.5 It was discussed that the legislation states to assess 'capability' and that as an expert it would be important to note when a 'capable' firearm is likely to have been sold as under 12 foot pounds. The group discussed that given the range of variables which influence the testing results, provision of guidance to CPS would be important.

**Action 7:** CPS representative to liaise with firearms prosecutors regarding what their views are with regard to the uncertainty of measurement in relation to kinetic energy.

**Action 8:** Chair to speak to UKAS regarding their concerns and to see if they had any suggestions to achieve greater consistency.

- 5.6 The representative from Staffordshire University questioned whether it would be beneficial for data held by different laboratories across the UK to be collated, suggesting this could help laboratories compare variability.

**Action 9:** Chair to enquire about the possibility of combining the data on uncertainty of measurement on air weapon testing held by different laboratories.

## 6. Data Collection

- 6.1 The Chair introduced the item, explaining that it would be useful collect 'snapshot' data reflecting where there could be improvements in the use of a firearms experts' time, or data which could inform good decision making.
- 6.2 The group shared examples of useful data to collect including, but not limited to, the number of times firearms experts appear in court, how frequently evidence is given or how often a firearms expert gives evidence for a SFR1 when it should be for an SFR2.

**Action 10:** Chair to develop and distribute a list of possible sets of data for collection. The list is to be distributed to members of the FSG for additional suggestions.

6.3 It was discussed by the group that it would be important for data to be collected with context, so it is not mis-communicated.

6.4 The group discussed who would hold this data. The group broadly agreed it would not be appropriate to be held by the Regulator and agreed that it should not be held on the cloud. The group discussed that agreements regarding the sharing of such data would be required.

**Action 11:** Chair to speak to colleagues in the Home Office regarding the possibility of collecting and holding such information.

## **7. Firearms Safety Consultation**

7.1 The Chair outlined to members that the Home Office had conducted a consultation into firearms safety for high energy rifles, possession of ammunition components etc. It was noted that certain elements of the consultation would form legislation as a private members bill.

7.2 It was noted that of most relevance to the FSG was the review of possession of components of ammunition with intent to produce ammunition to which section 1 of the Firearms Act 1968 as amended applies. The group discussed that this could result in a large increase in workload. It was pointed out, however, that proving intent was problematic and such legislation on converting firearms had not caused a significant increase in work.

## **8. Triage Classification**

8.1 The OFSR representative shared a draft copy of the Forensic Science Activity (FSA) definition “MTP 601 – Examination, analysis and classification of firearms, ammunition and associated materials” which was laid before parliament on 16 January 2023. This version of the FSA included a statement regarding urgent classification of firearms to support a remand in custody

application. The Chair explained that the Regulator was of the view a 'framework' should be developed to support this section of the FSA and set out the criteria. The FSG were asked for their initial reflections on what this framework could include.

- 8.2 It was noted that suggestions should not be for amendments to the FSA.
- 8.3 It was discussed that the intention was to prevent non-accredited individuals producing remand statements.
- 8.4 It was discussed that the 72-hour window (mentioned within the FSA at 78.2.2.b) should be for the firearm to be presented to the laboratory, rather than for completion of full testing. The group discussed that 72 hours for full testing was not a reasonable time frame and it would be important for guidance to define the meaning of the word 'examined' in this instance.
- 8.5 The group discussed whether review and classification of a firearm through packaging would be sufficient. It was discussed that scene examiners should be trained to package evidence in a manner which allows for review, but that a statement should not be made unless the examiner is satisfied that they can examine sufficiently.
- 8.6 The CPS representative confirmed that, at a minimum, what was required by the prosecutors for remand on threshold is determination that it is or is not a firearm, subject to further testing.
- 8.7 The CPS representative highlighted that the CPS had processes for remand on threshold for other crime types.

**Action 12:** All to send suggestions and comments on a framework to the OFSR representative and FSG Chair by the end of February.

## 9. AOB

- 9.1 The representative from Helston Forensics queried if UKAS would be able to develop a classification for individuals to confirm they comply with the Code and demonstrate competence (specifically in relation to individuals who do not have a laboratory). (This is covered in Actions 3 and 4).

9.2 The next meeting of the FSG was determined to take place in May.

**Action 13:** Secretariat to schedule the next meeting of the FSG.



## Annex A

### **Representatives present:**

Chair

Helston Forensics

Crown Prosecution Service (CPS)

Key Forensics

Merseyside Police

Metropolitan Police Service Forensic Firearms Unit (MPSFFU)

The National Ballistics Intelligence Service (NaBIS)

Principal Forensic Services

Staffordshire University

Office of the Forensic Science Regulator (OFSR)

Home Office Science Secretariat

### **Apologies received from:**

United Kingdom Accreditation Service (UKAS)