



**Forensic Science
Regulator**

Forensic Science Regulator Guidance

**Firearms Urgent Classification Process (non-
accreditation)**

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Issue 1.0

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1. Executive Summary

- 1.1.1 Within the statutory consultation on the Code of Practise prepared by the Regulator under section 2 of the FSR Act 2021 concerns were raised regarding the forensic science activity; FSA-MTP601-Examination, Analysis and Classification of Firearms, Ammunition, and Associated Materials. Some respondents commented that the need for accreditation would create a risk by increasing timelines for examinations to support an application to remand a detainee in custody. In response to this the Regulator amended the Code to allow for urgent legal classification of firearms to be undertaken outside of accreditation in agreement with the Regulator. This amendment sought to balance the operational needs and risks against the risks of an incorrect classification resulting in an individual being remanded in custody when this was not justified.
- 1.1.2 Organisations who undertake the forensic science activity of Examination, Analysis and Classification of Firearms, Ammunition, and Associated Materials and are compliant with the Code including the requirement to achieve accreditation will provide a range of services, advice and reports. As this work is undertaken within a quality management system that meets the requirements set out in the Code then the arrangements and requirements for the initial classification of firearms outside of accreditation do not apply to these organisations.
- 1.1.3 For organisations who wish to undertake the initial classification of firearms outside of accreditation the Regulator has set out in the Code the basis on which this work should be undertaken including the requirement for the firearm to be examined by a forensic unit that holds accreditation as soon as practicable and in any event within 72 hours of the remand decision being made. The Regulator encourages organisations who wish to use this provision to work closely and collaboratively with accredited organisations in the design of their processes, demonstration of competence and the management of workflow such that the requirement for an accredited provider to examine firearms subject to initial classification is completed in a

timely manner that minimises the risk and consequences of an incorrect classification.

- 1.1.4 The Regulator has received a number of representations that the 72 hours requirement may be difficult to achieve for logistical and operational reasons. The Regulator wishes to be pragmatic about this and the 72 hour requirement will be clarified in the next version of the Code as a target to be achieved and organisations should keep data on achievement against this target. Any action taken by the Regulator will be based on this approach rather than an absolute requirement to meet a 72 hour time scale.
- 1.1.5 The Regulator does not prescribe a specific process, it is for organisations to use this guidance to put in place a process that will mitigate the risk of an error in the initial classification examination to satisfy immediate CPS requirements and inform the charging decision making process.

2. Introduction

- 2.1.1 Compliance with the Code is required from the date the Code comes into force on 2nd October 2023. Compliance is demonstrated generally by having accreditation to ISO/IEC 17025 for a given forensic science activity (FSA), with the Code and the relevant FSA or sub-activities of the FSA that the organisation undertakes on the schedule of accreditation.
- 2.1.2 The Regulator has responded to representations made in the statutory consultation that such accreditation may be restrictive in some circumstances and that response is laid out in this guidance document.
- 2.1.3 In exceptional circumstances, such as where an urgent firearms classification is required to support a remand in custody application, it may not be feasible to undertake the classification in the required timescales using an accredited process. To accommodate this, the Regulator will enter into a general agreement with an organisation to put in place a process where accreditation will not be required for the support of such applications provided that, in each instance it is carried out, the activity is subsequently

carried out by a forensic unit that holds relevant accreditation. This process will be based on:

- a. the SAI making an application to the Regulator to put the process in place;
- b. all firearms that are dealt with according to this process shall, without exception, be examined by a forensic unit that holds accreditation for this FSA as soon as practicable and in any event within 72 hours of the remand decision being made;
- c. there is an operating framework in place which has been agreed with the Regulator and covers the procedures, competency of personnel involved and internal audit;
- d. the Regulator can conduct an audit of this process and the agreement with the forensic unit carrying it out at any time;
- e. the organisation will make an annual return to the Regulator setting out the number and types of firearms examined and other information specified by the Regulator;
- f. the organisation will make a declaration defined by the Regulator; and
- g. the Regulator can terminate the arrangement at any time, defaulting to a requirement for accreditation to ISO/IEC 17025.

2.1.4 To confirm, or otherwise, the conclusion from the initial classification examination, the FSA requires that a full classification examination be carried out by a provider that holds appropriate accreditation within 72 hours of the remand decision being made.

2.1.5 The provision in the Code for an initial classification to support a remand in custody is on the basis that the individual who is subject to the remand poses a significant risk to public safety and may gain access to other firearms if released. The provisions in the Code including the 72 hours are to mitigate the risk that an individual has been denied their liberty on the basis of a flawed or erroneous classification of a firearm.

2.1.6 On this basis, the initial classification provision does not apply to a situation where bail is granted and the individual is released.

2.1.7 That 72 hour period is considered to start when the remand in custody has been agreed and the individual will be held in custody. Forensic units may, however, choose to initiate the submission process at the point that the report on the initial classification is issued.

3. Scope

3.1.1 This guidance covers any object which is suspected of being a firearm subject to controls under the Firearms Act 1968 as amended, and other relevant legislation, and includes imitation firearms and weapons such as electric stun guns. It is for the forensic unit to specify the range of items that will be considered for urgent classification.

3.1.2 The 'make safe' process is not discussed in this document and does not necessarily form part of the initial classification examination, but it is an important part of the workflow and should be carried out by practitioners competent to preserve other potential evidence types on an item/exhibit.

3.1.3 Where activities that are specified as other FSAs are performed at an incident scene, those FSAs apply. Consequently, the dispensation from accreditation as allowed by the Regulator for urgent initial classification examinations will apply if such classification is required at a scene.

3.1.4 The following forensic science activities which are related to FSA-MTP 601- Examination, analysis and classification of firearms, ammunition and associated materials, are not covered by this document, but set out their own requirements for compliance with the Code within their own definitions.

- a. FSA – MTP 600 – Examination and analysis of gunshot residue (GSR) (section 77).
- b. FSA – MTP 602 – Firearms: ballistics (section 79).
- c. FSA – DTN 200 – Examination and analysis of corrosives and/or noxious substances (section 63).

4. Process elements

4.1 Application to employ a process other than accreditation to ISO/IEC 17025

4.1.1 If a forensic unit intends to exploit the Regulator's dispensation to carry out urgent initial classification examinations by a process other than achieving accreditation to ISO/IEC 17025 to control risk, then the SAI of the forensic unit should write to the Regulator, making an application to put such a process in place.

4.1.2 That communication should set out at least the following:

- a. The procedures that are in place to define the process, to include:
 - i. The continuity of an item/exhibit at the forensic unit;
 - ii. The methodology employed for the initial classification; and
 - iii. Details of any specific tests used.
- b. The training and competency requirements for practitioners, which could include;
 - i. Academic qualifications;
 - ii. Training courses attended;
 - iii. Relevant experience;
 - iv. Proficiency tests; and
 - v. Legal awareness.
- c. Details of any internal governance and audit mechanism, such as;
 - i. Any peer review;
 - ii. Any collaboration with an accredited provider;
 - iii. Any engagement with existing QMS system; and
 - iv. Any means of identifying and addressing issues.
- d. Details of the mechanism by which a forensic unit which holds relevant accreditation revisits the examination carried out by the non-accredited forensic unit. This could include such as:

- i. The name of the accredited provider(s) that will carry out the classification;
- ii. Relevant details of any contract or MoU with the accredited provider(s) to ensure time-based requirements are met;

4.2 Documented methods

- 4.2.1 The forensic unit should have in place documented methods for the examination, analysis and classification of firearms.
- 4.2.2 These methods should encompass the whole process from receipt of the item/exhibit into the forensic unit, to reporting the outcome of the examination.

4.3 Training

- 4.3.1 The Regulator does not specify who should provide training; this might be from an in-house forensic unit or from a commercial provider holding relevant accreditation.
- 4.3.2 The training should be proportionate to mitigate the risk presented by the initial classification examination being undertaken.
- 4.3.3 Training should cover, but not necessarily be limited to, the following topics.

Firearms classification

- 4.3.4 The training should cover the examination of an item/exhibit, to determine its classification under the provisions of the Firearms Act 1968 as amended and other relevant legislation.
- 4.3.5 It should be provided by a suitable body. This could be one which holds accreditation to ISO/IEC 17025 for FSA-MTP601- Examination, analysis and classification of firearms, ammunition and associated materials

Responsibilities

4.3.6 The practitioner should be aware of their responsibilities under Criminal practice Directions and Criminal Procedure Rules in force at the time of the examination and the limit of scope of the examination they are carrying out.

Forensic awareness and evidence handling

- 4.3.7 The practitioner should have awareness of:
- a. The potential for other evidence types, such as DNA or particulate trace materials before carrying out their examination. The practitioner should also be able to mitigate against compromising those evidence types according to the forensic unit's policies for them.
 - b. Continuity, security and integrity of items/exhibits;
 - c. Preservation, packaging and labelling of items/exhibits;
 - d. Submission requirements including the information required;
 - e. Criteria for the rejection of submissions.

4.4 Competence

- 4.4.1 The Code describes competence as: The skills, knowledge and understanding required to carry out a role, evidenced consistently over time through performance in the workplace. The ability to apply knowledge and skills to achieve intended results.
- 4.4.2 The Code requires that a forensic unit shall determine and document the requirements for competence for each role, including competence for reporting findings.
- 4.4.3 It is for the forensic unit to determine the appropriate competence requirements for practitioners carrying out firearms classifications.
- 4.4.4 Processes to demonstrate achieving and maintaining competence, as well as how to regain lost competency, may be reflected in the forensic unit's QMS.

Initial

4.4.5 The forensic unit should have in place a process to assess the competence of practitioners carrying out the classification of firearms to the requirements of the Code.

4.4.6 Practitioners should demonstrate that they satisfy the requirements of that assessment before being considered as competent to carry out firearms classification.

Ongoing

4.4.7 Once competence has been demonstrated, the forensic unit should have in place a process to assess the continued competence of practitioners carrying out firearms classification.

Loss

4.4.8 The forensic unit should have in place a process to address the situation where a practitioner is deemed to have lost competence. This could be for many reasons, such as where the practitioner has had an extended absence and competence has lapsed, where issues have been identified with their work, or where they have not carried out sufficient casework to maintain competence. Actions could include such as refresher training, supervision, or monitoring depending on the reason for loss of competence.

Records

4.4.9 The forensic unit should maintain records of competence for all practitioners.

4.5 Internal audit/governance

4.5.1 The forensic unit should have in place a process to identify and address issues that arise. This should be proportionate to the perceived risk associated with the examination and could include:

- a. An internal checking process to identify and address any issues;
- b. An assessment to ensure that the forensic unit is applying the process appropriately;

- c. An assessment of outcomes of classification examinations against the outcomes from the accredited forensic unit;
- d. An assessment of the reasons for any variance in opinion between practitioners in the respective forensic units;
- e. A process for resolution and escalation of any issues identified;
- f. A process for notifying the Regulator of instances where issues have arisen.

4.5.2 Firearms classification could be considered as part of any existing Quality Management System.

4.6 Recording and reporting the process

4.6.1 To provide necessary transparency, records of examinations should include recording thought processes that inform critical decisions/opinions, rather than recording just those decisions/opinions. The method of that recording is for the forensic unit to determine and could be informed by a QMS where one is in place.

4.6.2 A report should state:

- a. Whether or not the item is considered to be a prohibited or controlled firearm; and
- b. The section(s) of the Firearms Act that the firearm is in contravention of, if any.

4.6.3 Records of examinations as well as a report will be subject to rules of disclosure.

4.6.4 It should be made clear to the reader of any report produced under this process that the forensic unit which issued it does not hold accreditation to ISO/IEC 17025 and that the report is not intended for court use.

4.6.5 Any report should include a declaration made according to the Regulator's guidance on declarations.

Examination by a forensic unit holding accreditation

- 4.6.6 The proviso under which accreditation requirements for firearms classification may be waived, in favour of a process outside accreditation, is that all firearms that are dealt with according to this process shall, without exception, be examined by a forensic unit that holds accreditation for this FSA as soon as practicable and in any event within 72 hours of the remand decision being made.
- 4.6.7 The provision in the Code for an initial classification to support a remand in custody is on the basis that the individual who is subject to the remand poses a significant risk to public safety and may gain access to other firearms if released.
- 4.6.8 On this basis, the initial classification provision does not apply to a situation where bail is given and the individual is released.
- 4.6.9 The provisions in the Code, including the 72 hours, are to mitigate the risk that an individual has been denied their liberty on the basis of a flawed or erroneous classification of a firearm. So on this basis the clock should start when the remand in custody has been agreed and the individual will be held in custody.
- 4.6.10 It follows that the forensic unit should have in place a procedure that facilitates the examination of an exhibit/item within that time frame.
- 4.6.11 The period of 72 hours:
- a. Commences once the initial classification examination is complete and a decision is reached to remand. In practice that means that the 72 hours commences once the initial classification is complete.
 - b. Includes time for the forensic unit which holds accreditation to complete a full classification and report their conclusion.

4.7 Records

- 4.7.1 The forensic unit should have in place a process to record the firearms classification examinations that are carried out. These records should:

- a. allow for the Regulator to conduct an audit of the process being carried out; and
- b. contain sufficient detail to provide an annual return to the Regulator.

4.7.2 The return to the Regulator should include:

- a. The types of items/exhibits examined;
- b. The numbers of each type of item/exhibit examined;
- c. The outcomes of the initial classification examinations carried out;
- d. Details of any variance in opinion between the forensic unit carrying out the initial classification examination and the accredited forensic unit.

4.7.3 To facilitate 4.7.2.d above, there should be a mechanism by which the forensic unit carrying out the initial classification and the accredited forensic unit can compare and discuss outcomes.

4.8 Termination of agreement

4.8.1 Either the agreed process or accreditation to ISO/IEC 17025 is required to carry out FSA-MTP 601- Examination, analysis and classification of firearms, ammunition and associated materials. One of these must be in place.

4.8.2 The Regulator reserves the right to withdraw the dispensation of allowing firearms classification to be carried out outside the requirements of accreditation to ISO/IEC 17025.

4.8.3 If the Regulator determines to withdraw the dispensation, the requirement for accreditation to ISO/IEC 17025 is reinstated.

4.8.4 The Regulator will not withdraw the dispensation, nor reinstate the requirement for accreditation to ISO/IEC 17025 without consultation with the forensic unit.

5. Modification

5.1.1 This is the first issue of this document under section 9 of the Forensic Science Regulator Act 2021.

5.1.2 The PDF is the primary version of this document.

- 5.1.3 The Regulator uses an identification system for all documents. In the normal sequence of documents this identifier is of the form 'FSR-###-####' where (a) (the first three '#') indicate letters to describe the type of document and (b) (the second four '#') indicates a numerical code to identify the document. For example, this document is FSR-GUI-0027, and the 'GUI' indicates that it is a guidance document. Combined with the issue number this ensures that each document is uniquely identified.
- 5.1.4 If it is necessary to publish a modified version of a document (for example, a version in a different language), then the modified version will have an additional letter at the end of the unique identifier. The identifier thus becoming FSR - ### - #### - #.
- 5.1.5 In the event of any discrepancy between the primary version and a modified version then the text of the primary version shall prevail.

6. Review

- 6.1.1 This document is subject to review by the Forensic Science Regulator at regular intervals.
- 6.1.2 The Forensic Science Regulator welcomes views on this guidance. Please send any comments to the address as set out at the following web page: www.gov.uk/government/organisations/forensic-science-regulator or send them to the following email address: FSREnquiries@forensicscienceregulator.gov.uk.

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