



Forensic Science Regulator

Issuing of Regulator's Notification

1. The Forensic Science Regulator Act 2021 (the “Act”) requires the Regulator to prepare and publish a Code of Practice about the carrying on of forensic science activities in England and Wales. The Regulator must publish the Code in a way that the Regulator considers is likely to bring it to the attention of persons likely to be interested in it. The Regulator must also;

- (a) must keep the Code under review, and
- (b) may from time to time prepare and publish alterations to the Code or a replacement Code.

Before publishing a Code of Practice, or any alterations to the Code, the Regulator must consult such persons as the Regulator considers appropriate. 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 or the Code as proposed to be altered will apply.

2. The Act also makes provision for the Regulator at Section 9 to prepare and publish guidance or reports on any matter relating to forensic science activities carried on in England and Wales and provide advice or assistance relating to forensic science activities carried on in England and Wales to any person, including any person in a country or territory outside the United Kingdom. Section 9 also sets out that the Regulator may do anything (except borrow money) the Regulator thinks necessary or appropriate for the purposes of, or in connection with, the Regulator's functions.

3. The Regulator receives referrals regarding the undertaking of forensic science activities and may instigate an investigation under Section 5 of the Act if there is reason to believe a person may be carrying on a forensic science activity to which the Code applies in a way that creates a substantial risk of adversely affecting any investigation, or impeding or prejudicing the course of justice in any proceedings. Referrals will not always lead to an investigation, but they may cause the Regulator to clarify or change the statutory Code or guidance documents.

4. All of the above could lead to change or clarification in the Code, guidance or policies and procedures operated by the Regulator. The Regulator is committed to ensuring that any significant changes and clarifications are published at the earliest opportunity. To achieve this the Regulator will issue a Notification document so that

there is a clear and transparent mechanism for setting out the change or clarification. This will include major changes to the Code and any policy decisions or action that impact on the effective regulation of forensic science. Minor changes such as formatting and updating references, will be published on the Regulator's website but will not be subject of a Notification document. In line with the Act, alterations to the Code will be subject to formal consultation and approved by the Secretary of State and a resolution of each House of Parliament.



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Regulator's Notification: No. 01-2023

Issue

Accreditation requirements for activity level interpretation and opinion and making a declaration of compliance with the Code of Practice.

Background

In some FSAs, provision of activity level interpretation and opinion is included in the sub-activities, with accreditation a requirement to demonstrate compliance with the Code.

Accreditation for activity level interpretation and opinion is not currently available in all the instances where the Code sets a requirement for it. Consequently, it is not possible for forensic units to demonstrate compliance with the Code in these instances.

As reported in the first FSR Newsletter I intend to issue the Development of Evaluative Opinions Appendix as a guidance document under Section 9 of the Act. Now that the Code is approved by Parliament, I have instigated work to develop detailed requirements for each FSA where evaluative opinion is appropriate. I will seek to add these requirements to a future version of the Code and at that point compliance will be required.

Changes

To allow for the development of requirements and guidance for activity level interpretation and opinion for all FSAs, all requirements for accreditation for activity level interpretation and opinion are suspended as of the date of this notice in accordance with the provisions set out at paragraph 14.1.1 of the Code of Practice.

Therefore, where a forensic unit reports on activity level interpretation and opinion, there is no requirement to declare non-compliance with the Code of Practice.

Process and Date of Implementation

A Specialist Group has been established to consider interpretation in all forensic science activities subject to the Code. This Specialist Group will address both a general approach to opinion and interpretation and approaches tailored either to

each FSA, or to groupings of FSAs. The group will consider the issue identified in this notice as part of the work it is carrying out on my behalf.

The group has representation from policing, commercial providers, the legal profession, academia, and UKAS and has representation from all FSA areas.

This notice takes effect from the date below and remains in force unless otherwise stated.

A handwritten signature in black ink that reads "G Pugh". The letters are cursive and slightly slanted to the right.

Mr Gary Pugh OBE

Date: 26 Sept 2023