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# Forensic Science Regulator

## Interpretation Specialist Group (SG) Meeting

**Note of the meeting held on 3 June 2024 in 23 Stephenson Street, Birmingham and Online via MS Teams**

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

- 1.1. The chair welcomed the members to the fifth meeting of the Interpretation Specialist Group. A list of attendees by organisation is available in annex A.
- 1.2. As there were new members to the group, the chair asked the members to briefly introduce themselves and the organisations they are representing.

### **2. Actions from the previous meeting**

- 2.1. The action log was reviewed with relevant updates provided to the group. Resulting in a review of the actions.
- 2.2. A log of the remaining outstanding actions is provided as annex B.
- 2.3. The minutes from the last meeting were agreed with no corrections.

**ACTION 48:** Secretariat to publish minutes from the previous meeting, held in March.

### **3. Review of progress**

#### **[Paper 3] Guidance: Interpretation for Forensic Science Activities**

- 3.1. Prior to the meeting an updated draft of the guidance was circulated to the members of the group. The Chair provided a brief update to members that drafting suggestions from previous meetings had been introduced along with new comments and questions for review and consideration.

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- 3.2. The Chair opened the discussion to members to discuss the questions and comments which had been added to the draft.
- 3.3. The legal academic led the discussion on the redrafted sub-section 'Levels of issue'. The group discussed at length the order in which the levels of issue should be addressed within the sub-section, it was agreed that the ordering should be changed from 'sub-source → source → activity → offence' to '*offence → activity → source → sub-source*'.
- 3.4. One of the AFSP representatives (EFS) highlighted to the group that within this section there should be a sentence regarding addressing 'attribution', specifically when linking DNA to a body fluid which would assist addressing the transition from 'sub-source' to 'source'.
- 3.5. The chair highlighted that care would need to be taken as this draft guidance is the overarching document and that any additions should be generalised and not FSA specific.
- 3.6. Within the discussions regarding the redrafted sub-section 'Levels of issue', the following key points were raised:
- The Firearms Specialist Group representative highlighted to the group the need for a wider range of definitions or types of work carried out in relation to 'source' and potentially 'activity', as currently certain FSAs are not included within this scope.
  - The Digital Specialist Group representative noted that the redraft has bias towards 'traditional forensic science activities', which could result in practitioners who carry out 'non-traditional forensic science activities' to believe that the work they carry out does not fit within this section. It was highlighted by the Chair, that this categorisation was originally designed around the traditional forensic science activities, and it can be applied widely. However, caution would be necessary to make it more widely applicable.
  - The Biology Specialist Group representative noted that the example of DNA transference by direct touching within the 'activity' section would either need to be reworded or a more appropriate example would be

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necessary. This was discussed and noted that the DNA transference is the mechanism of the activity, and the touching would be the activity.

- An incident examination specialist group representative (fire investigation), highlighted to the group that the reporting within fire investigation is kept at source level and shouldn't push towards activity level as that would require accreditation.
- An AFSP representative (Eurofins) highlighted the potential to address and clarify 'contact, close proximity to the activity' as a 'sub-activity or pseudo activity level' within the guidance, as it is something that people can mistake.
- Regarding the statement 'activity level propositions typically go further and require more information' the CSoFS representative suggested an addition to this addressing that activity level opinions are susceptible to change if conditioning information changes. This was agreed by the members.

3.7. The Chair moved onto section 5 within the updated draft of the guidance, it was emphasized to the members that this section was important to get right as this would link in with the next issue of the Regulator's Code.

3.8. The chair asked a representative from the OFSR when the next issue of the Code would be published. It was noted that the next issue should hopefully be issued by October 2024 and that there is still ongoing work to address the consultation comments. However, this section within the guidance document has been accepted within the newer issue of the Code.

3.9. Members highlighted to the Chair and the OFSR representative that further clarification is needed to ensure the readers know that this section has been copied over from the new Code and contains references to that.

3.10. The group then discussed at length the 'calibration of expertise' sub-section within section 5 of the draft guidance document, which was led by the chair. The main points of the discussion were:

- Clarification for what 'calibration of expertise' means and how it would be applied and assessed.

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- Determining how to address this within the guidance.
- Practicality for forensic organisations to carry out these tests, whether they are big or small is difficult to achieve.
- Concern that there will be 2 tier experts which will be problematic and costly.
- Risks around practitioners giving opinions that are reliable and robust.
- It is a key discussion point within the case review group commissioned by the Regulator as they are also trying to address this within the work they are producing.

3.11. The members all agreed that calibration of expertise needed to be demonstrated to the courts to minimise risk of practitioners providing opinions that are not reliable and robust.

3.12. Chair mentioned that it would most likely be the final decision of the Regulator regarding how calibration of expertise should be set out, however, in the meantime the members could think and feedback what calibration looks like within their discipline.

3.13. The chair asked the members if within the guidance there was anything substantive missing from the 'investigative interpretation' section of the guidance. the members raised the following key points:

- The need to address how to manage limitations and uncertainties.
- There repetition within the section needs to be consistent as there is differentiation.
- Needs an addition to address the purpose of the investigative interpretation approach, i.e., how, when, and where has this incident occurred?
- Better use of generic language rather than the use of the statement 'how has the fire started?' as an example of investigative interpretation.
- The transition between investigative and evaluative interpretation is difficult for a practitioner to not show cognitive bias.

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- 4.1. The chair then led the group onto the next sections within the guidance and asked the group how to address analytical interpretation, factual interpretation, and categorical interpretation within the guidance document and if currently there is anything substantive that may be missing.
- 4.2. There were no comments from the members regarding the 'analytical interpretation'.
- 4.3. For the 'factual interpretation' section it was raised by the chair that for certain disciplines, i.e., digital and collision investigation, technical explanations may be given within a factual statement. The Digital Specialist Group representative raised a concern that in some cases an interpretation may not be required but has been presented to the jury as factual.
- 4.4. The chair shared the concern and suggested an additional point to address this issue regarding the presentation of an opinion within a report when there are hidden inferences, which would require further interpretation to understand it.
- 4.5. Members raised the following points when discussing the 'categorical interpretation section':
  - There was a discussion regarding the inclusion of 'activity' within the section as that could be used a way of exclusion which was highlighted by an AFSP representative (Eurofins).
  - The legal academic suggested a wording change to '*categorical opinions may only be excluded to...*' this is to ensure that there are categorical exclusions as that is the basis of categorical interpretation.
  - It was noted that categorical opinions are often addressed at sub source or source level but can also be addressed as activity sometimes. The collision investigation representative highlighted that often addressed as activity within their investigations.
  - The chair suggested a wording change to '*categorical opinions are generally expressed at source levels but there may be occasions when*

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*activities can be excluded...* to address the raised points by members of the SG.

- 4.6. The members discussed the topic of 'range of opinion' at length, it was questioned whether other sources of variability are needed to cover all disciplines. It was suggested that this could be addressed within discipline specific groups.
- 4.7. The legal academic suggested to change the phrase, 'range of opinion' to '*range of scientific opinion*' as currently it can be interpreted as canvassing any practitioners view, they also highlighted some grammatical and wording suggestions which were addressed and corrected during the meeting.
- 4.8. The chair then asked the group to focus on the section 'expressing a conclusion', they opened the discussion to the group whether the best approach was to give generic guidance that applies to all disciplines and then ask the discipline specific groups to address this from their perspective.
- 4.9. The CSoFS representative highlighted to the members that the conclusion should answer the question set out in your purpose, the chair suggested an addition of a set of details that should be addressed within the conclusion.
- 4.10. The following questions were raised by the members to include in the set of details:
- Has uncertainty been addressed?
  - Has the right level been addressed?
  - Has the discriminatory power of your findings been addressed?
- 4.11. An AFSP representative (Eurofins) asked if there was something within the Code that addresses concluding with statistical data. The chair highlighted that in the previous version of the guidance depending on the data set the conclusion was being drawn from, the opinion could be expressed in the following ways:
- If a sufficient reliable dataset was used, then the opinion should be expressed quantitatively.

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- If there was some data used which is not robust statistically, then the opinion should be expressed at an order of magnitude level.
- And if you have not used a data set and are drawing a conclusion from your personal experience, then the opinion should be expressed qualitatively.

The members of the interpretation SG liked this approach as it supports understanding.

- 4.12. The legal academic highlighted to the group that the communication of that conclusion is the important factor as you do not want the numerical data to be misconstrued to hold more evidential weight than has been calculated. This view was agreed with by the members of the SG.
- 4.13. The Digital Specialist Group representative asked to the group how to address situations with multiple evidence types that assist with expressing a conclusion within the guidance.
- 4.14. An incident examination specialist group representative (collision investigation) suggested the need to address difference between overall conclusion and individual conclusion within the document, as different methods could be used to draw conclusions.
- 4.15. The chair asked, how currently an overall conclusion is calculated from individual conclusions. An incident examination specialist group representative (collision investigation) answered that all individual conclusions are calculated and combined to reach an overall conclusion. Which is then added to the propositions that are there to determine what the conclusions address, whether that is the prosecution or defence.
- 4.16. The members discussed the challenges faced when drawing overall conclusions from individual conclusions within their discipline specific areas. The chair stated to the group that there would be multiple iterations of this section within the guidance along with a lot of feedback from the members the best approach to address 'expressing a conclusion'.
- 4.17. The Chair thanked members for their comments and raised that there would be further amendments ahead of the next meeting with further additions of text and

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editorial changes, encouraging the members to send through any further comments.

4.18. The chair summarised the next steps. These are identified in the actions below:

**ACTION 49:** One of the AFSP representatives (Eurofins) to draft a sentence regarding body fluid attribution.

**ACTION 50:** members to send comments to OFSR representative regarding redrafted guidance section 3.3.

**ACTION 51:** The Chair and OFSR representative to speak to the Regulator regarding Calibration of expertise.

**ACTION 52:** The Chair and OFSR representative to expand on categorical interpretation section within the guidance.

## 5. FSR conference 2024

5.1. An OFSR representative mentioned to the group the FSR conference will be held in Leeds on the 9<sup>th</sup> and 10<sup>th</sup> October 2024. It was highlighted that day one of the conference was intended to be a workshop based around interpretation with day two being a standard conference regarding the regulatory aspects within forensic science.

5.2. It was stated that FSA specific sub-groups would be required to focus on discipline specific issues of interpretation and the interpretation SG members are required to attend as volunteers to facilitate the sub-groups for their FSAs.

5.3. It was posed to the group if they had any ideas how to run the workshop, ideas for setting up the groups and how to task the sub-groups. The OFSR representative highlighted that most of the discipline specific groups are already set up and that representation from each would be necessary.

5.4. It was suggested that the FSA specific sub-groups would initially answer the following set of questions which were shared with the members of the SG as a paper prior to the meeting ahead of the conference:

- Specify the main case types covered by the FSA.



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- How do you see interpretation in your discipline fitting with the overall guidance?
- What problems can you foresee?
- How might you apply it in your field?

5.5. The members of the Interpretation SG all had questions regarding the itinerary for the FSR's two-day conference, the required number of practitioners for the FSA specific sub-groups and when the draft guidance document would be published, which was responded to by an OFSR representative.

**ACTION 53:** The OFSR representative to set up working groups for FSR conference 2024.

**6. AOB**

- 6.1. No other business was raised by the members.
- 6.2. The date for the next meeting was not yet agreed.
- 6.3. The chair thanked all for coming and closed the meeting.
- 6.4. A log of the actions recorded during this meeting is provided as annex C.

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## **Annex A – meeting attendees**

### **Representatives present:**

#### **In person**

Chair

Two representatives from the Office of the Forensic Science Regulator (OFSR)

Digital Forensics Specialist Group

Firearms Specialist Group

Two representatives from the Association of Forensic Service Providers (ASFP) (Eurofins and Cellmark)

Chartered Society of Forensic Science (CSoFS)

Bar council

Incident Examination Specialist Group (collision investigation)

#### **Online**

Two representatives from the Royal Statistical Society (RSS)

A legal academic

Biology Specialist Group

Incident Examination Specialist Group (scenes)

Medical Forensics Specialist Group

Incident Examination Specialist Group (fire investigation)

#### **Apologies received**

Digital Forensics (policing)

United Kingdom Accreditation Service (UKAS)

Fingerprint Quality Standards Specialist Group (FQSSG)

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**ACTION 15:** Chair to look at identifying a representative from the judiciary.

**ACTION 23:** OFSR representative to speak to OFSR Digital lead to look at forming a digital working group/subgroup.

**ACTION 39:** Secretariat to publish minutes from the previous meeting, held in January.

**ACTION 44:** The Chair and the representative from the OFSR to review C-118 and guide 4 by Jackson, Aitken, and Roberts.

**Annex C – Summary of meeting actions**

**ACTION 48:** Secretariat to publish minutes from the previous meeting, held in March.

**ACTION 49:** One of the AFSP representatives (Eurofins) to draft a sentence regarding body fluid attribution.

**ACTION 50:** Members of the Interpretation SG to send comments to the OFSR representative regarding redrafted guidance section 3.3.

**ACTION 51:** The Chair and the OFSR representative to speak to the Regulator regarding 'Calibration of Expertise'.

**ACTION 52:** The Chair and OFSR representative to expand on the 'categorical interpretation' section within the draft guidance.

**ACTION 53:** The OFSR representative to set up working groups for FSR Conference 2024.