

Meeting	Forensic Services Committee – Public Session
Date	24 Oct 2022
Location	MS Teams
Title of Paper	Forensic Science Regulator Code of Practice – Impact in Scotland
Item number	Item 4.1
Presented By	Fiona Douglas (SPA Forensic Services)
Recommendation to Members	For information
Appendix Attached	A

PURPOSE

To update members on progress on:

- Considerations relating to the Forensic Science Regulator’s Act 2021 and regulatory outcomes for forensic science in Scotland.

1. BACKGROUND

- 1.1 The role of Forensic Science Regulator (FSR) was created by the UK Government in 2007, with the first Regulator confirmed in post in Feb 2008.
- 1.2 The FSR role was implemented to ensure that the provision of forensic science services across the Criminal Justice System in England & Wales complied with an appropriately high standard of scientific quality and is carried out with objectivity and impartiality.
- 1.3 Whilst the FSR only has jurisdiction over England and Wales, both Scotland and Northern Ireland voluntarily agreed to work in partnership with the Regulator and continue to work within the same guidelines, where practicable.
- 1.4 In Dec 2011, the first FSR Codes of Practice and Conduct; for forensic science providers and practitioners in the Criminal Justice System was published.
- 1.5 The Forensic Science Regulator Act 2021 (Apr 2021) is intended to provide the FSR with statutory powers, with the Home Secretary appointing Gary Pugh OBE as the new Forensic Science Regulator in May 2021.
- 1.6 A draft of the new statutory Code of Practice was published on 08 Aug 2022 for consultation in line with the provisions of Section 2 of the Forensic Science Regulator Act 2021. Forensic Services is providing a coordinated response to this consultation.

2. The FSR Codes of Practice, version 1.0 (2011)

- 2.1 Version 1.0 of the Codes of Practice (CoP) was the first attempt to create a supporting document that reflected the good practice that forensic providers with accreditation were already capable of demonstrating through achieving/maintaining accreditation.
- 2.2 The CoP added the UK context to the relevant ISO International Standard, including ISO 17025 which is the internationally accepted laboratory testing standard for the forensic science sector.
- 2.3 The document included greater direction for topics that the FSR felt required improved standardisation, such as validation, contamination control and information security.

- 2.4 This edition of the Codes focused on laboratory activities in order to create a level playing field across all providers - but with the intention to cover crime scenes and ISO 17020 at a later date.

3. FSR appointments and FSR Codes of Practice

- 3.1 Following on from the first FSR, Andrew Rennison, Dr Gill Tully was appointed as Regulator, taking up the role in Nov 2014.
- 3.2 Through subsequent issued versions of the Codes (see appendix A), the documented requirements have transformed to directly referencing CPS rules and requirements with a more England & Wales focus.
- 3.3 In addition to the core CoP, a suite of supporting documents and appendices have been developed through technical working groups, in which, many Forensic Services staff have been involved (see appendix A).
- 3.4 The main principle of the FSR CoP is that all activity undertaken will be accredited by the United Kingdom Accreditation Service (UKAS) to ISO 17025/17020 and assessed against the CoP and is a core requirement through the tendering process for forensic science work in England and Wales, driving consistency and compliance in commercial forensic laboratories.

4. The FSR and Forensic Services

- 4.1 From the initiation of the Regulator's office and development of the FSR CoP, Forensic Services, as SPSA and then SPA, have supported the work undertaken by the FSR.
- 4.2 Collaboration with Scotland and Northern Ireland was included for reference on the FSR About us web page: <https://perma.cc/Y95J-FMC7>, but with the appointment of the new Regulator, this has been removed as a core priority.
- 4.6 On occasion and when required, Forensic Services has voluntarily asked for support from the Regulators office to independently investigate issues that have arisen.
- 4.7 As the focus of the CoP became more Crown Prosecution Service oriented, it has become more difficult for Forensic Services to apply the CoP directly to COPFS and to the work undertaken in Scotland.

- 4.8 Where the CoP clearly provides a more robust and assured process for Forensic Services Management System, these elements are incorporated into Standard Operating Procedures and methods.

5. FSR Statutory role and Code of Practice

- 5.1 All of the Forensic Science Regulators who have been in post have expressed frustration at the lack of power of their role to improve the quality of forensic science by implementation of the Codes of Practice.
- 5.2 This was ultimately addressed through a Parliamentary Private Members bill that saw publication of the Forensic Science Regulator Act 2021.
- 5.3 The establishment of the role with the associated statutory power will see the CoP transform from an un-enforceable guidance document to law, with non-compliance in England & Wales being subject to sanction.
- 5.4 The Regulators office remains very small in comparison to other Home Office departments and how this will be achieved is still to be defined but UKAS remain the method of assessment for the FSR.
- 5.5 It is expected that the statutory Code of Practice will be put to the Parliamentary Houses in January 2023 for approval and formal issue in Q1 next year.
- 5.6 Unlike previous versions of the CoP, Forensic Services have not been involved directly in its creation as they it will not apply in the devolved jurisdictions.

6. Application to Forensic Services

- 6.1 The FSR has stated that, due to limitations on resource at his disposal and the legislative focus of his role being England & Wales, it is unlikely that there will be capacity to provide support for independent investigations, should Forensic Services require this in the future. This will be considered further alongside other bodies that can undertake additional independent investigation, scrutiny and assurance should this be required in the future such as HMICS and the Scottish Biometrics Commissioner.

- 6.2 The establishment of a statutory CoP that is only applicable to England & Wales has the potential to create the perception of a 'two-tier' assurance framework for forensic science in the UK, with Scotland and Northern Ireland being seen as less robust. Following on from the publication of the first version of the CoP there will be opportunities to add a Scotland specific appendix to subsequent versions should this be deemed appropriate. This would allow assessment of Forensic Services activity against the relevant areas of the CoP by UKAS, however, the statutory powers of the FSR would not apply in Scotland.
- 6.3 It should be noted that the CoP relates to the retrieval of forensic evidence through any process and as such is not only relevant to Forensic Services. Provision of Digital Forensic testing, as well as items retrieved via medical suites, are all included under the scope of the FSR and the CoP.

7. FURTHER DETAIL ON THE REPORT TOPIC

- 7.1 Further detail on the role of the Forensic Science Regulator's office can be found at: [Forensic Science Regulator](#).
- 7.2 The enacted 2021 legislation can be found at [Forensic Regulator Act 2021](#).
- 7.3 The draft FSR Code of Practice which is available for consultation until 31 Oct 2022 can be found at: [FSR Code of Practice Consultation Draft 08.08.2022](#).

8. FINANCIAL IMPLICATIONS

- 8.1. There are no additional financial implications associated with this paper.

9. PERSONNEL IMPLICATIONS

- 9.1. There are no personnel implications associated with this paper.

10. LEGAL IMPLICATIONS

- 10.1. There are no legal implications associated with this paper.

11. REPUTATIONAL IMPLICATIONS

- 11.1. There may be reputational implications of this paper, if forensic science in Scotland is seen as different to than that of England & Wales.

12. SOCIAL IMPLICATIONS

12.1. There are no direct social implications associated with this paper.

13. COMMUNITY IMPACT

13.1. There are no community impact implications associated with this paper.

14. EQUALITIES IMPLICATIONS

14.1. There are no equality implications associated with this paper.

15. ENVIRONMENT IMPLICATIONS

15.1. There are no environmental implications associated with this paper.

RECOMMENDATIONS

Members are requested to note:

- The planned introduction of the CoP and statutory powers by the FSR and how this applies to Scotland.

APPENDIX A

OFFICIAL

A.1 Following on from the first issue of the FSR CoP, there have been 6 subsequent versions issued as noted below:

Version	Issued	FSR	Pages
1.0	Dec 2011	Andrew Rennison	53
2.0	Aug 2014	Andrew Rennison	56
3.0	Feb 2016	Dr. Gill Tully	58
4.0	Oct 2017	Dr. Gill Tully	67
5.0	Apr 2020	Dr. Gill Tully	83
6.0	Feb 2021	Dr. Gill Tully	113
7.0	Mar 2021	Dr. Gill Tully	114

A.2 Each subsequent issue of the CoP has seen the document grow, from 53 pages in 2011 to 114 some 10 years later in 2021.

A.3 Appendices and supporting guidance to the FSR Codes of Practice:

Appendices to the Codes	
Blood Pattern Analysis	FSR-C-102
Digital	FSR-C-107
DNA	FSR-C-108
Sexual Assault Examination: Requirements For The Assessment, Collection And Recording Of Forensic Science Related Evidence	FSR-C-116
Video Analysis	FSR-C-119
Fingerprint Examination - Terminology, Definitions and Acronyms	FSR-C-126
Friction Ridge Detail (Fingermark) Visualisation and Imaging	FSR-C-127
Fingerprint Comparison	FSR-C-128
The Analysis and Reporting of Forensic Specimens in Relation to S5a Road Traffic Act 1988	FSR-C-133
Speech and Audio Forensic Services	FSR-C-134
Cell Site Analysis	FSR-C-135
Development of Evaluative Opinions	FSR-C-118

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