



# Forensic Science Regulator

## Interpretation Specialist Group (SG)

### Note of the meeting held on 17 January 2024 in Birmingham and online via videoconference

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

- 1.1. The chair welcomed the members to the third meeting of the Interpretation Specialist Group. A list of attendees by organisation is available at annex A.

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

- 2.1. The action log was reviewed with relevant updates provided to the group. Resulting from a review of the actions, the following relevant actions were agreed:
  - 2.1.1. Regarding action 7 from September 2023 “Chair to speak to colleagues at the Defence Science and Technology Laboratory (DSTL) regarding interpretation activities for DTN 500, 501, 502 and 503” the Chair was to update the main table to reflect the outcome of this discussion.

**ACTION 29:** Chair to update the table outlining the types of interpretation activities for each forensic science activity (FSA) to reflect discussions with stakeholders.
  - 2.1.2. Action 20 from November 2023 was updated to reflect the need from “Chair to look at getting a taggant analysis group formed” to “Chair to consider types of interpretation for taggant analysis”.
- 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 30:** Secretariat to publish minutes from the previous meeting.

**Minutes – Minutes – Minutes – Minutes – Minutes – Minutes – Minutes – Minutes****3. Review of progress****[Paper] Guidance: Interpretation for Forensic Science Activities**

- 3.1. Prior to the meeting an updated draft of the guidance was circulated to membership of the working 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.
- 3.2. Suggestions from a subgroup of the interpretation specialist group regarding the positioning of the streamlined forensic reporting had also been incorporated into the draft.
- 3.3. The Chair informed the group that work of the no-comment subgroup was ongoing.
- 3.4. The Chair opened the discussion to members to discuss the questions and comments which had been added to the draft.
- 3.5. It was reflected that the guidance seemed to have the right level of detail as an overarching document and any more specific comments could/should be addressed in more subject specific guidance.
- 3.6. The use of 'reasonable alternative' had been included within the draft guidance to identify when it is suitable to give a categorical opinion, the legal academic raised that the definition of 'reasonable' could be subjective. The group discussed this, and it was agreed that the wording would be considered by various disciplines in the subgroups and assuming the term 'reasonably plausible' works, the document would be updated from 'reasonable alternative' to 'reasonably plausible alternative'.
- 3.7. Regarding the statement "The legal limit cannot be said to have been exceeded unless it falls above the maximum of the interval of uncertainty" within the draft guidance, it was agreed by the group 'it' would be updated to 'the range'.
- 3.8. The draft guidance included a table identifying the classification of types of interpretation for each FSA. The Chair question whether the guidance should include a recommendation for the interpretation of each FSA or included as a list of current interpretations (as it was currently drafted).

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- 3.8.1. The representative from the Chartered Society of Forensic Science (CSFS) questioned whether it was possible to include both and noted concern that publishing recommendations may raise concern and anticipatory questions within the community. This was agreed.
- 3.8.2. The Chair reflected that they felt the direction for travel was currently missing from documentation presently available.
- 3.8.3. The group agreed that consideration of how the interpretation may be expected to change in the future could be included, potentially in additional comment highlighting how it may be expected to change rather than in a separate table, but the current categorisation list should not be excluded.
- 3.8.4. The representative from Royal Statistical Society (RSS) requested the addition of a line regarding the context to the guidance in order to consider the potential implications.

**ACTION 31:** Representative from the Office of the Forensic Science Regulator (OFSR) to draft a line for addition which reflects on when to use categorical conclusions (depending on inherent variability and completeness or adequacy of the dataset).

**ACTION 32:** The Chair and representative from the OFSR to speak with the Regulator about whether 'direction of travel' for categorisation of interpretation should be included within the guidance document.

- 3.8.5. It was agreed that the current wording which stated, "The following represents how different FSAs are currently *interpreted*" would be updated to "The following represents how different FSAs are currently *categorised*".
- 3.8.6. The Chair asked the group to consider whether the Interpretation specialist group should make recommendations to the Regulator to consider regarding when certain types of interpretation should/should not be used (including where interpretation should only be included if it is an exclusionary activity). It was agreed this should not be done within the guidance but would be a useful activity for the specialist group to complete.

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- 3.9. It was highlighted that tool marks and physical fit were both missing from the current table. Both would be currently categorical interpretation. The Chair requested members to share any additional activities which are not listed.
- 3.10. The group discussed the heading 'communication' as it was currently presented within the draft guidance. One member raised suggestions with regard to wording around use of the CAI model however, it agreed that no corrections were required to this or the broader communication section. The Chair thanked the sub-group for their work.
- 3.11. The representative from the Firearms Specialist Group confirmed with the chair that regarding the section of the guidance on the determination of the likelihood ratio (LR) that this was referring to a verbal scale. The Chair confirmed and noted that as a result of previous discussion with the judiciary, it was known that this was all the judiciary would accept on the basis that any use of formula or perceived use of formula where numbers are not justifiable may lead the jury to believe there is more substance or accuracy than may be the reality.
- 3.12. 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 editorial changes.

**[Paper] Considering the situation where there is no defence proposition, as presented by a 'No Comment' interview.**

- 3.13. Prior to the meeting, a sub-group of the Interpretation Specialist Group was tasked with addressing the issues presented by a 'No Comment' interview and the subsequent absence of a line of defence. The group exchanged emails initially and met virtually to discuss various points. A summary of findings, possible recommendations for wording and problematic types of wording were circulated to the interpretation specialist group for consideration prior to the meeting.
- 3.14. The Chair summarised to the group the progress and outlined the summary paper which had been circulated. The Chair invited members of the interpretation specialist group to share comments and/or suggestions on the presented document.

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- 3.15. The representative from the RSS suggested that it may be of benefit for a comment to be included indicating that where it is only possible to provide several likelihood ratios and a range of possibilities, that the possibilities could be judged as most to least incriminating. The Chair noted this and raised that the working group had had similar discussions. The Chair reflected to the group that the two main concerns from the discussions of the working group were a) that a scientist should be seeking to identify different defences and b) without the level of detail behind the propositions the scientist might not have enough data to assign probability to the alternatives. The Chair gave an example scenario.
- 3.16. The representative from the Medical Forensics Specialist Group highlighted to the group the issue of case management and consideration of feedback loops as a medical expert often is required to give an expert statement of fact with no proposition. The legal academic representative reflected on comments and noted the need to consider what kind or type of opinion is being expressed by an expert. The Chair reflected based on the discussion that often-various pieces of evidence are not conjoined and it is then unclear how these are perceived; it should be considered how different evidence is presented.
- 3.17. The legal academic representative commented on the statement “The expert should set out clearly what propositions have been addressed” and requested the addition of “, and their status,”. This was agreed.
- 3.18. The Chair requested members review the paper and share any comments over email. The representative for the Biology Specialist Group noted that it would be beneficial for explanation of what the various wording might mean for users (lawyers and senior investigating officers for example).

**ACTION 33:** All to share any comments (including for example what members do or don't like), amendments and/or specific wording preferences over email.

**ACTION 34:** The Bar Council representative to share the “no comment” paper with lawyers and collate feedback.

**ACTION 35:** Chair to circulate the “no comment” paper with senior investigating officers and the judiciary and collate feedback for consideration.

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- 4.1. The Chair reflected that there is a need to define the meaning of source and activity level. This is to be circulated to the group for consideration.

**ACTION 36:** The Chair and the representative for the OFSR to consider definitions of/what is meant by source and activity level.

- 4.2. The Chair noted that there is a need for subgroups to be developed to consider discipline specific guidance. The Chair suggested the development of a template document to be used by each group. This would have headings and reflections of what could be considered.

- 4.2.1. The legal academic representative proposed an alternative approach which would be around consideration of specific questions on the current draft guidance, such as

- Can you identify in this document what would work for you? And what would be problematic to apply in your subject?
- Can you identify any areas of this generic approach that will be problematic in your disciplinary field? If you can, explain why.
- Do you have anything to add specifically in relation to your disciplinary area that we haven't covered in this generic document?

- 4.2.2. This approach was agreed.

**ACTION 37:** The representative from the Firearms Specialist Group and the Digital Forensics Specialist Group to consider a design for a template/specific questions for the discipline specific guidance.

- 4.3. The representative from the OFSR noted that the discipline specific guidance should follow the same template and structure.

- 4.4. There was a discussion regarding how development of guidance may be approached by the various specialist groups of the Forensic Science Regulator (each specialist group had a representative present on the interpretation specialist group).

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**ACTION 38:** The Chair and the representative for the OFSR to speak with the Regulator to ensure that the relevant subgroups are sufficiently defined to carry forward work of the interpretation specialist group.

**5. Any other business**

- 5.1. The Chair commented that it had previously been raised to conduct cross referencing to the criminal procedure rules. The Chair suggested members consider this while providing comments.
- 5.2. No other business was raised.
- 5.3. The date for the next meeting was agreed.
- 5.4. A log of the actions recorded during this meeting is provided as annex C.

## **Annex A – Meeting Attendees**

### **Representatives present:**

#### **In person**

Chair

Office of the Forensic Science Regulator (OFSR)

Digital Forensics Specialist Group

Firearms Specialist Group

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

Chartered Society of Forensic Science (CSFS)

#### **Online**

Bar Council

Royal Statistical Society (RSS)

A legal academic

Chartered Society of Forensic Science (CSFS)

Fingerprint Quality Standards Specialist Group (FQSSG)

Biology Specialist Group

Incident Examination Specialist Group (scenes)

Medical Forensics Specialist Group

Home Office Science (secretariat)

#### **Apologies received**

Incident Examination Specialist Group (collision investigation)

Incident Examination Specialist Group (fire investigation)

Royal Statistical Society (RSS)

Digital Forensics (policing)

United Kingdom Accreditation Service (UKAS)

## **Annex B – Log of outstanding actions from previous meetings**

**ACTION 5:** AFSP representative (GE) to speak to colleagues regarding interpretation activities for DTN 105 and 200

**ACTION 10:** OFSR representative to identify a representative from the DTN specialist group to join to the interpretation SG.

**ACTION 13:** OFSR representative to speak with the regulator regarding the approach that will be taken when an old case requires a new opinion.

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

**ACTION 20:** Chair to consider types of interpretation for taggant analysis

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

**ACTION 24:** OFSR representative and the chair to talk to regulator and other chairs of the specialist groups to have groups ready to be formed by February 2024

**ACTION 26:** OFSR representative and chair to speak to regulator about the access of database data across different constituents.

## **Annex C – Summary of Meeting Actions**

**ACTION 29:** Chair to update the table outlining the types of interpretation activities for each forensic science activity (FSA) to reflect discussions with stakeholders.

**ACTION 30:** Secretariat to publish minutes from the previous meeting.

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