



CONSULTATION PAPER

A REVIEW OF THE OPTIONS FOR THE ACCREDITATION OF FORENSIC PRACTITIONERS

January 09

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Appendix I ILAC G19 (reproduced with permission from the ILAC Secretariat)

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CONSULTATION

This document sets out the Regulator's proposals for the accreditation of forensic practitioners. The proposals offer an alternative method for the independent assessment of the on-going competence of practitioners that are different to those currently in operation.

This consultation follows the Government's Code of Practice on Consultation.

The six consultation criteria are:

- Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation at least once during the development of the policy.
- Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
- Ensure that your consultation is clear, concise and widely accessible.
- Give feedback regarding the responses received and how the consultation process influenced the policy.
- Monitor your department's effectiveness at consultation, including through the use of a designated consultation co-ordinator.
- Ensure your consultation follows better regulation best practice, including carrying out a Regulatory Impact Assessment if appropriate.

The full code of practice is available at:

www.berr.gov.uk/bre/consultation%20guidance/page44459.html

The consultation period for this document will be 12 weeks and the consultation period will close on 9 April 09.

You are welcome to comment on any aspect of this paper. Within the paper the paragraphs in italics are points that the Regulator would particularly welcome views on, they are reproduced in section 9.

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Confidentiality & Disclaimer

The information you send us may be passed to colleagues within the Home Office, the Government or related agencies.

Furthermore, information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic

confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

Please ensure that your response is marked clearly if you wish your response and name to be kept confidential.

Confidential responses will be included in any statistical summary of numbers of comments received and views expressed.

The Department will process your personal data in accordance with the DPA - in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

A summary of the responses received will be published in one month of the closing date for this consultation, and will be made available on our website.

SUMMARY

This paper reviews the registration of forensic practitioners. It explains the history behind the Council for the Registration of Forensic Practitioners (CRFP); registration was established following calls in the 1980s for the regulation of quality standards in the use of forensic science. The solution, at the end of the 1990s, to the forensic science regulatory vacuum was to tackle standards through the single dimension of assessing and registering individual forensic practitioners.

Since then the regulatory vacuum has been further filled by creating the post of Forensic Science Regulator supported by a Forensic Science Advisory Council, the Criminal Procedure Rules, wider acceptance and use of ISO standards and independent accreditation by the United Kingdom Accreditation Service, independent certification of quality management systems, Skills for Justice and the new forensic National Occupational Standards, move by the Forensic Science Society to become a professional body, the National Policing Improvement Agency and its programmes of work to develop the use of forensic science, the forensic science procurement framework with stipulations on standards, and the Law Commission examination and proposals for rules governing expert witnesses.

Modern regulation of practitioner competence must take place in light these advances and the quality standards framework that is being developed to regulate quality standards at three levels: provider (all law enforcement and commercial suppliers of forensic services), practitioner and method (forensic science techniques). Assessment of practitioner competence is best achieved as part of an assessment of standards across-the-board, not as a stand-alone evaluation.

The recommendation is for regulation of practitioner competence to be integrated into the accreditation of broader standards. Such accreditation is in use now, it is international best practice for forensic laboratories and provides a model that could work effectively for all sections of the forensic community.

1. INTRODUCTION

- 1.1. The main role of the Forensic Science Regulator (the Regulator) is to set and maintain quality standards for the use of forensic science for the Criminal Justice System (CJS) in England and Wales so that the courts and the public can have confidence in the reliability of forensic science evidence. The authorities in Scotland and Northern Ireland have agreed to contribute to and adopt the regulation of forensic science quality standards meaning that the standards will apply to all three Criminal Justice Systems across the United Kingdom.
- 1.2. The Regulator's aim is to develop a comprehensive framework of quality standards for all:
 - providers (companies and law-enforcement bodies who provide any forensic service),
 - practitioners (any forensic specialist or expert), and
 - methods (forensic techniques).
- 1.3. The Regulator currently has domain experts working on developing quality standards as well as protocols for the scientific validation of methods. A framework built on: international standards (ISO), the International Laboratory Accreditation Cooperation (ILAC) standards for forensic science laboratories, United Kingdom Accreditation Service (UKAS) supplementary standards, the OECD Good Laboratory Practice standards, and ISO information security standards has been agreed in principle by an expert group chaired by the Regulator. Work on developing the framework, and within that a set of 'industry specific standards, is advancing and will be available for consultation and consideration by the end of January 2009.
- 1.4. In May 2008, Meg Hillier MP, Parliamentary Under-Secretary of State at the Home Office asked the Regulator to conduct a review, with recommendations, of the available options for the registration of practitioners involved in forensic science (excluding pathologists and

forensic medical examiners). The Regulator formed a specialist group to assist with the review; the terms of reference of the group are attached at Appendix IV.

- 1.5. This paper sets out the background, the issues, current context with regard to regulation of forensic science and makes recommendations on the approach to achieving competency standards for forensic practitioners, taking into account the wider standards framework that is planned and is emerging.
- 1.6. In this paper we examine the options for the regulation of forensic practitioners working in the CJS. Our focus is primarily the presentation of scientific evidence in the criminal courts. However, our proposals could equally apply to scientific evidence used in civil and family courts.
- 1.7. We have taken the view that the term 'forensic practitioner' encompasses all those involved with the discovery, collection and analysis of scientific evidence from crime scene to court. It includes anyone who works in different areas of forensic activity and whose evidence can vary from evidence of fact, to evidence based on their professional judgement and experience through to 'expert witnesses' whose opinion is allowed in evidence. This covers a broad spectrum of activity but is not intended to include any non-specialists who play a generic role, for example a police officer who is the first person at the scene of a crime and has to make professional decisions regarding the preservation and use of forensic evidence; the focus here is on forensic specialists (crime scene examiners, fingerprint officers, forensic scientists and other forensic experts). Later phases of the Regulator's work will look at forensic science quality standards for those involved at the more generic levels of law enforcement.
- 1.8. In reaching our views in this paper we have consulted with a wide range of interested parties and stakeholders.

- 1.9. This paper explores the options and makes recommendations for the desired goal. It does not address the transition which may be required to move from the current situation in order to achieve that goal.
- 1.10. Having considered, in Part 2, the genesis of the current registration of forensic practitioners through the Council for the Registration of Forensic Practitioners (CRFP), we then go on, in Part 3, to examine the current environment in which the 'register' now operates. Since the creation of CRFP in 1999, the Criminal Procedure Rules have been introduced; the independent Forensic Science Regulator has been established in order to set and monitor forensic science quality standards; the UK Accreditation Service has expanded its role into more forensic science areas; relevant ISO standards and forensic sector guidance have been developed; Skills for Justice has been created as a Sector Skills Council focussing on National Occupational Standards in the forensic sector; the Forensic Science Society has obtained professional body status; the 1999 Local Government Act has required changes in the way police procure forensic services; the National Policing Improvement Agency has been created; and the Law Commission is proposing reform in the way that admissibility of expert scientific evidence is determined in Criminal Courts. Each and every one of these has had an impact on the regulation of the quality of the provision of forensic science to the courts.
- 1.11. In Part 4 we cover the Council for the Registration of Forensic Practitioners (CRFP), in Part 5 we explore the matters to be considered and in Part 6 address a number of possible options for reassuring the prosecution authorities and courts that the witnesses giving scientific evidence are suitable, and appropriately and properly qualified to do so. At the same time we consider the benefits and problems with each option.
- 1.12. In Part 7 we include a partial impact assessment followed, in Part 8, by recommendations.

2. BACKGROUND

- 2.1. The initiative for the establishment of a body which would set down and implement consistent high standards of competence and integrity in forensic science had its genesis in public concern over the part played by forensic science in miscarriages of justice as far back as the 1970s¹.
- 2.2. The House of Commons Home Affairs (Select) Committee First Report on the Forensic Science Service² (FSS) concluded in 1989 that a statutory body to regulate standards was premature in the light of the limited development of forensic science outside the Forensic Science Service. At this time the FSS was a division of the Home Office and not an Agency and was responsible, through the Chief Scientist, for setting and maintaining quality standards within the forensic science sector.
- 2.3. The Royal Commission on Criminal Justice³ which reported in 1993 recommended a Forensic Science Advisory Council. This followed a recommendation to establish an Advisory Board and a register for forensic scientists made earlier in 1993 in the Report on Forensic Science by the House of Lords Select Committee on Science and Technology⁴. Conclusion 8 of this report recommended:

"...a system of individual registration of all forensic scientists. Scientists should be registered according to speciality, and at one of two levels. Anyone should continue to be allowed to practise, but it should be an offence to purport to be registered when not, and expert evidence from unregistered persons should become exceptional. Registration should depend on qualifications, experience, references and a casebook; it should be subject to review and withdrawal. It should be administered by the

¹ These miscarriages are described in Appendix 5 of the Report on Forensic Science by the House of Lords Select Committee on Science and Technology. See footnote 4 below.

² House of Commons Session 1988-89. Printed 13 February 1989.

³ Report of the Royal Commission on Criminal Justice. Cm 2263. Published July 1993

⁴ House of Lords Session 1992-93 5th Report. HL Paper 24 Printed 3rd February 1993

Government, with the help of a small Board, and delegated to the appropriate professional body wherever possible".

- 2.4. Professor Brian Caddy's Report on Contamination at the Forensic Explosives Laboratory at Fort Halstead⁵ published in December 1996 recommended the establishment of an Inspectorate of Forensic Sciences. As an alternative model of control, the report advocated consideration of the registration of individuals with an Institute for forensic science practitioners.
- 2.5. In its response⁶ to conclusion 8 of the House of Lords Select Committee Report, the Government undertook to consider its recommendations in the context of the Royal Commission's recommendations.
- 2.6. In its response to the Royal Commission's recommendations⁷ on the setting up of a Forensic Science Advisory Council, the Government said:

"...it did not see the need for an Advisory Council with as broad a remit as recommended by the Royal Commission. Many of the tasks recommended could not be fulfilled effectively without some form of statutory regulation which the Royal Commission itself did not see as justified. It nevertheless saw some value in the establishment of a non-statutory body. Before coming to a final view on the precise role, composition and powers of such a body, the Government wished to take account of recent changes in the forensic science industry, including the merger on 1 April 1996 of the Forensic Science Service and Metropolitan Police Forensic Science Laboratory, and the finding of the enquiry into the contamination at the Forensic Explosives Laboratory."

⁵ Assessment and Implications of Centrifuge Contamination in the Trace Explosive Section of the Forensic Explosives Laboratory at Fort Halstead by Professor Brian Caddy. CM 3491 Published December 1996

⁶ House of Lords Session 1992-93 6th Report HL Paper 24-III Printed 5th May 1993

⁷ Final Government Response. Published June 1996. Government statement Hansard col 185 27.6.97. House of Commons

2.7. In its response⁸ to Professor Caddy's report, the Government said it would consider the establishment of a Forensic Science Inspectorate. It noted that the Royal Commission on Criminal Justice did not see the need for statutory regulation, but proposed instead the establishment of a Forensic Science Advisory Council with a range of functions similar to those of the proposed Inspectorate. The then Home Secretary Rt. Hon. Michael Howard QC MP said in his statement to the House of Commons⁹:

"I shall now consider both proposals before deciding how to proceed. In this context, I welcome the proposals that are under consideration to set up a professional body for forensic science. I understand that preliminary meetings have now taken place involving representatives from various forensic science and other organisations. Lord Dainton - the Chairman of the Science and Technology Committee in another place, which reported on forensic science - is leading the initiative as president elect. I believe that this could be a useful initiative, and I shall therefore take a close interest in the progress made".

2.8. The meetings the Home Secretary referred to were those of forensic science providers and representative bodies in November 1996 which resulted in a small working group (The Forensic Science Working Group) chaired by Lord Lewis BSc, MSc, PhD, CChem, FRSC, FRS and comprising Lord Dainton CChem, Hon FRSC, FRSE, FRS, Mr Peter- Cobb CChem, FRSC and Mr Alan Hall OBE, CChem, FRSC which was set up 'to examine whether a system of self-regulation could be devised which would ensure and safeguard standards of professional competence and integrity for forensic scientists'.

2.9. The initial purpose of the meetings was to discuss the setting up of a professional body for forensic science whose primary concern was an oversight of quality and standards in forensic science. This in turn led

⁸ The Government Response. Published December 1996

⁹ Government statement Hansard cols 767-775 17.12.96. House of Commons

to discussion about a professional body and a register of professional forensic scientists. The working group developed this further and decided to confine its work to devising a system of self-regulation through a registration system for participants.

- 2.10. In essence, the calls at the time for regulation of standards in forensic science were addressed through the recommendation by the working group for a registration council for forensic practitioners. The regulation of forensic science quality standards was, at that time, intended to be managed through the single dimension of practitioner registration.
- 2.11. The report of the Forensic Science Working Group was a well researched and informed piece of work, many of the principles established in the report hold true today¹⁰.
- 2.12. The working group concluded that a well structured registration system would be welcomed by all parts of the profession. It went on to say that any system recommended needed to satisfy a number of criteria:
- It must be virtually self-financing at a reasonable cost to registrants. This is a practical response to the facts of life - there would be no funds from the public purse on a continuing basis. The cost to individual registrants should not be so high as to deter registration.
 - It must set high standards of competence and integrity. The standards of competence must be high on entry to the register and there must be clear commitment to maintenance of that competence which must be tested regularly. With respect to integrity there would be a need for strict code of conduct and disciplinary powers which would extend to exclusion. For the latter reason this register must be "the only game in town" if it is to be credible.

¹⁰ Report of the Forensic Science Working Group. Published November 1997. ISBN 0 85404 905 3.0

- The register must cover all the principal individuals with their diverse activities in the forensic science process i.e. from crime scene to court.

2.13. The working group had been impressed by the approach used by scientists in health care and that model lead them to propose a three tier structure:

A Forensic Science Registration Council chaired by a senior member of the wider scientific community and should include representatives of the law enforcement, legal and scientific communities. The representatives were not to be regarded as delegates in the sense of being there to further their members' interests. The working group expected this Council to take the broad view on registration policy in laying down the general principles to be followed by the subordinate groups and exercise an oversight of their performance. They saw this Council as the main deliberative forum with a long term aim to become the Advisory Body envisaged in the House of Lords Select Committee and Royal Commission reports.

A Forensic Science Registration Board / Executive which would have the main responsibility for making the system work. The working group expected the membership to have a majority of forensic practitioners with a leavening of scientists not engaged in the forensic field.

Registration Panels which would undertake two responsibilities:

1. Formulate the registration requirements within their area of expertise;
2. Assess the suitability of applicants for registration and recommend their admission for ultimate approval by the Board / Executive.

- 2.14. Its proposal for a three tiered Council for the Registration of Forensic Practitioners (CRFP) was 'based on offering the possibility of filling the vacuum which exists for all those forensic practitioners who have no 'body' which sets and maintains consistent standards of practice. It also offers an independent registration system for wider public approval. To the public it offers high and consistent standards of performance by all those involved in the collection, examination, interpretation and presentation of evidence in the judicial process. It would be establishing a new approach without 'reinventing the wheel'.'
- 2.15. Jack Straw, Secretary of State for the Home Department, announcing the establishment of CRFP in May 1998, said:

"The setting up of the Registration Council will be a significant step forward in further raising quality and standards in the forensic science industry. Taken together with the other measures already taken by the industry, the Council will do much to enhance the standing of forensic science in the criminal justice process. It is important that any new arrangements for oversight command the support not only of forensic practitioners but also the end users of their services."

- 2.16. At the official launch of CRFP in October 2000 Professor Evelyn Ebsworth, Chairman said:

"Today represents the culmination of many years' hard thinking and hard work by a wide range of people both within and outside the forensic community. The enterprise is supported right across that spectrum. Forensic practitioners, their users and their employers recognise the value of registration. And we have received strong support from others with a key interest in the quality of forensic work. CRFP is not a professional body and will have no trade union or other representational responsibilities. We aim to make a real contribution to effective justice by ensuring the current competence of forensic practitioners, measured against defined standards. We

want the public to feel comfortable with, and confident about, the increasingly important role of science in the courtroom.”

3. THE CHANGING ENVIRONMENT

- 3.1. In Part 3, we examine the changing environment in which the ‘register’ now operates and identify what we consider to be the issues or problems with the current approach.

The situation in 1999

- 3.2. As Lord Lewis reported at the time there was a ‘vacuum which exists for all those forensic practitioners who have no ‘body’ which sets and maintains consistent standards of practice’. His proposal for a three tiered Council for the Registration of Forensic Practitioners (CRFP) was ‘based on offering the possibility of filling the vacuum’.
- 3.3. **Council for the Registration of Forensic Practitioners (CRFP).** The Council for the Registration of Forensic Practitioners (CRFP) was established in 1999 as a company limited by guarantee and is non profit making. CRFP¹¹ is an independent regulatory body, set up by the forensic science community, to establish, uphold and encourage high standards for forensic practitioners. Its aim is to promote public confidence in forensic practice in the UK. It seeks to accomplish this by issuing a code of practice, by publishing a register of competent forensic practitioners and by requiring periodic re-validation to ensure that practitioners keep up to date and maintain their competence. That is, it seeks to achieve ‘regulation’ or the achievement of standards of competence through the process of registration. It has procedures for dealing with registered practitioners who fail to meet the necessary standards. The CRFP is independent of Government but accountable to the Lord Chancellor and Secretary of State for Justice. Registration is voluntary.

The situation in 2008

- 3.4. The world and the UK in particular, have moved on in many fronts since the creation of CRFP in 1999. There have also been further

¹¹ www.crfp.org.uk

quality failures in the delivery of forensic science to the police and courts¹². Many of these changes directly influence the setting, monitoring and delivery of quality standards in forensic science, all previously the sole domain of CRFP. The main influences in recent years are detailed below.

3.5. **Introduction of Criminal Procedure Rules**¹³ in 2005 and, in particular, the addition of Rule 33 in 2006. These mirror the Civil Procedure Rules and built upon case management practice direction by the Attorney General¹⁴. Of particular importance are Rule 33 references to the expert's duties to the court.

3.6. **Establishment of an independent Forensic Science Regulator -**
The post of the Forensic Science Regulator was announced by the Parliamentary Under-Secretary of State for the Home Department (Meg Hillier MP) in July 2007, she included the statement¹⁵:

“..... we have put in hand to establish the post of forensic science regulator, whose role will be to advise the Government and the criminal justice system on quality standards in the provision of forensic science. This will involve identifying the requirement for new or improved quality standards, leading on the development of new standards where necessary; providing advice and guidance so that providers will be able to demonstrate compliance with common standards, in procurement and in courts, for example; ensuring that satisfactory arrangements exist to provide assurance and monitoring of the standards; and reporting on quality standards generally.”

3.7. The principal role of the Regulator is to set and monitor quality standards for the use of forensic science in the CJS. Quality standards can be applied at three levels: provider (supplier of forensic services), practitioner (any person working in a role involving the collection,

¹² [Ref Caddy Report]

¹³ Ref CP rules

¹⁴ built from the CoA(CD) judgments in Harris and Bowman.

analysis or presentation of forensic science evidence), and method (any forensic procedure or technique). The Regulator will identify where standards are needed; commission new or revised standards; assign priorities; monitor effectiveness, performance and compliance; and work with other organisations to achieve these goals.

- 3.8. The scope of regulation spans the whole investigative and judicial process from the supply and use of suitable materials, through the crime scene, collection and analysis of forensic exhibits, to the presentation of evidence in court. It will encompass the independent accreditation of operators, the competence, development and registration of practitioners and the validation of methods.
- 3.9. The Forensic Science Advisory Council (FSAC) is an independent body established to advise and support the Regulator in the exercise of his duties. The FSAC was established by Ministerial Statement on 10 January 2008¹⁶ and its members are drawn from key stakeholders, delivery partners, practitioners and expert bodies as well as other parties with a particular interest in the provision of forensic science services to the CJS. The role of its members is to advise and support the Regulator; they do not represent the interests of their parent body.
- 3.10. Specialist groups have been established by the Regulator to provide advice and expertise in key areas. They are the principal workforce for the development of standards that are fit for purpose. The membership of these groups is drawn from practitioners, experts and stakeholders across the full spectrum of forensic activity, people best placed to advise on and develop quality standards. There are currently six standing groups:
 - **Quality standards** with a strategic role to develop high level standards and generic validation protocols;

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<http://www.publications.parliament.uk/pa/cm200607/cmhansrd/cm070712/wmstext/70712m0002.htm#07071262000011>

- **The user requirement** for forensic science from the court perspective (end user group) – to identify the needs of the courts with regard to forensic science and to ensure that standards are structured to meet those needs;
- **DNA profiling** to develop quality standards and interpretation models for all forensic DNA profiling methods;
- **Digital forensics** to develop quality standards and interpretation models for the forensic examination of computers and telephones;
- **Forensic pathology** to monitor standards currently in place; and
- **Practitioner quality standards** to review practitioner competency standards and related processes.

3.11. As work progresses and resources allow, the Regulator will form new groups to look at other specific areas, for example fire scene standards and the forensic recovery and examination of CCTV images.

3.12. The Regulator has also established a process to manage complaints about forensic science quality standards. There has, until now, been no mechanism to deal with concerns about quality standards other than concerns about an individual practitioner.

3.13. **The UK Accreditation Service** has expanded its role and is routinely accrediting UK and overseas forensic laboratories. The United Kingdom Accreditation Service (UKAS)¹⁷ is recognised by the UK Government as the sole national body responsible for assessing and accrediting the competence of organisations in the fields of calibration, testing, inspection and in the certification of systems, products and personnel. Assessment is against internationally agreed standards and

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<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080110/wmstext/80110m0001.htm#08011061000014>

¹⁷ www.ukas.com and www.ukas.org

accreditation by UKAS demonstrates the competence, impartiality and performance capability of these organisations to deliver specified services. UKAS is a non-profit-distributing company, limited by guarantee, and operates under a Memorandum of Understanding with the Government through the Secretary of State for Innovation, Universities and Skills. As a company limited by guarantee, UKAS has Members instead of shareholders. The Members represent those who have an interest in all aspects of accreditation, namely: national and local government, business and industry, purchasers, users and quality managers.

- 3.14. UKAS accredits to the standards of the International Organization for Standardisation (ISO). UKAS both accredits laboratories directly and accredits other organisations to be certification bodies.
- 3.15. UKAS works with other national accreditation bodies so that certificates and reports by UKAS-accredited organisations are accepted widely. Thus in Europe UKAS is a member of European cooperation for Accreditation (EA) and globally it is a member of International Laboratory Accreditation Cooperation (ILAC) and International Accreditation Forum (IAF). Maintaining this status of mutual recognition is subject to regular peer evaluation to accepted international standards. For example EA carries out audits on its constituent accreditation bodies to ensure that they meet the agreed standards. UKAS is accredited to ISO 17011 in this respect. UKAS thus accepts evidence of competence and traceability of calibration or testing provided by laboratories that have been accredited by another member of one of these international bodies and vice versa.
- 3.16. There are many UKAS accredited certification bodies in the UK. These bodies issue certificates to organisations that can demonstrate compliance with standards such as ISO 9001.
- 3.17. **International standards (ISO) and forensic sector guidance have developed** - The International Organisation for Standardisation (ISO) defines accreditation as:

“Third-party attestation related to a conformity assessment body conveying formal demonstration of its competence to carry out specific conformity assessment tasks.”

- 3.18. ISO 17025 is now widely acknowledged as the most appropriate standard, to date, to govern the work of forensic science laboratories but it is a general standard and it has not been tailored specifically to the needs of forensic science. However, UKAS also issues supplementary standards under its LAB series which may include additional more specific requirements made by other bodies. For example, LAB 32 governs “Accreditation for Suppliers to the UK National DNA Database” and includes criteria specified by the Custodian of the National DNA Database. Furthermore, UKAS also uses published guidance to assist organisations achieving accreditation. For example ILAC G.19 (guidance to help in the assessment of forensic science laboratories to ISO 17025).
- 3.19. Most commercial forensic providers involved in traditional laboratory based forensic work are accredited to ISO 17025 for their analytical work and a number are also certificated to ISO 9001 for their quality management systems.
- 3.20. Increasingly, police forces have quality management systems for their in-house forensic services and are certificated to ISO 9001. All police forces, except for 2, have ISO 9001 certification for their fingerprint functions, 5 forces have extended this to cover all their forensic functions. Some forces are moving towards accreditation to ISO 17025 for their in-house forensic laboratory functions.
- 3.21. Certification to ISO 9001 provides evidence that an organisation’s management system complies with the requirements of this standard. ISO 9001 is not concerned with the demonstration of technical competence.

- 3.22. ISO 17025 is specifically written for laboratories and is concerned with technical competence. It also includes all of the management system components of ISO 9001 that are relevant to laboratories.
- 3.23. ISO 17020 is an existing standard governing organisations carrying out “inspection”. UKAS and other European accreditation bodies working with the European Network of Forensic Science Institutes (ENFSI) have developed this standard for scenes of crime work and issued, jointly, a guidance document on its application¹⁸.
- 3.24. In 2002 the International Laboratory Accreditation Cooperation (ILAC) published guidelines for laboratories involved in forensic analysis and examination by providing guidance on the interpretation and application of ISO 17025 for the forensic context. UKAS has adopted the ILAC guidelines as part of their accreditation process for UK forensic science laboratories. A full copy (reproduced by permission of the ILAC Secretariat) is attached at Appendix I.
- 3.25. The guidance includes the following section:
- The laboratory should have a defined policy that ensures that staff working in the laboratory are competent to perform the work required. The term ‘competent’ implies possessing the requisite knowledge, skills and abilities to perform the job. The laboratory’s policy should also include procedures for retraining and maintenance of skills and expertise.
- 3.26. The guidance continues with requirements for statements of competence for all jobs and for detailed records of staff training, performance and assessment of performance.
- 3.27. Through the implementation of these guidelines, UKAS assesses and accredits forensic providers on the ongoing competence of their practitioners.

¹⁸ Ref ENFSI/ UKAS Guidance for ISO 17020 for CSI

- 3.28. The Regulator, in conjunction with UKAS, and with the support of the Quality Standards Specialist Group, is currently undertaking a detailed comparison of all these other standards and supplementary guides, to be followed by a gap analysis to identify areas, for forensic practice across the UK, where additional supplementary standards are required.
- 3.29. The outcome of this work will be a single set of 'industry specific' standards, based on the ISO standards, but bespoke to the use of forensic science in the UK. This is ground breaking work that will lead to a set of standards that:
- are in a common language that is understood across the UK forensic sector,
 - encompass all the quality management, laboratory, practitioner and methods standards into one document,
 - can be used by law enforcement bodies, commercial providers and sole practitioners, and
 - can be the forensic science standards used by UKAS for assessment and accreditation of organisations, partnerships and sole practitioners.
- 3.30. *In the meantime, all providers with any laboratory function will be expected to be accredited to ISO 17025. Any law-enforcement body with an in-house laboratory function will be expected to work to the same standard and to apply for ISO 17025 and / or ISO 17020 accreditation. This, along with the full adoption of the National Occupational Standards (see the next section), means that each organisation will have to maintain a high level of practitioner competence.*
- 3.31. **Investment in quality.** Both the commercial and non-commercial providers of forensic laboratory analytical services invest considerable sums in achieving high quality services. The regulator is informed by

members of the Forensic Science Advisory Council, who are also members of the Association of Forensic Science Providers, that the investment in quality systems is 10% to 15% of overall costs. This is confirmed by independent analysis conducted for the Regulator.

3.32. **Skills for Justice** is one of twenty five Sector Skills Councils in the UK and is part of the Alliance of Sector Skills Councils¹⁹ - a body that was launched on 1 April 2008 to replace the Sector Skills Development Agency. Skills for Justice is the Council covering all employers and employees in the UK Justice Sector. It was formed by a collaboration of the Community Justice National Training Organisation, the Custodial care NTO and the Police Skills and Standards Organisation. Skills for Justice is registered in England and Wales as a company limited by guarantee. The services within its remit are:

- Community Justice;
- Courts and Tribunals Services;
- Custodial Care;
- Policing and Law Enforcement;
- Prosecution Service; and
- Forensic Science.

3.33. These are referred to as the “strands” of the Sector. There is an Occupational Committee overseeing each strand and the Forensic Science Occupational Committee oversees the Forensic Science strand. Its role is to represent the needs of forensic science organisations and help Skills for Justice prioritise its work. It is also acting as the Steering Group for the project to create a comprehensive set of National Occupational Standards (NOS).

¹⁹ www.sscalliance.org.uk

- 3.34. The initial phase of the project identified priority work areas for NOS review and development. Three areas were prioritised to be taken forward by working groups looking at:
- Forensic Identification (fingerprints, shoeprints, DNA, marks, etc);
 - Crime Scene Investigation (evidence recovery from the crime, CSIs, SOCOs etc); and
 - Forensic Laboratories (conducting forensic laboratory investigations).
- 3.35. The objective is a recognised framework of competence standards for all forensic science practitioners. The NOS have been agreed and are ready for implementation.
- 3.36. The National Occupational Standards:
- Describe competent performance in terms of outcomes. They allow a clear assessment of competence against nationally agreed standards of performance, across a range of workplace circumstances for all roles.
 - Define the skills, knowledge and understanding required of practitioners.
 - Provide a clear benchmark against which individual practice can be assessed in appraisal and can used to formally assess individuals' on-going competence, and also for the award of national qualifications.
 - *Are viewed by managers as an indispensable tool for managing a highly skilled workforce. They are used widely to support individual and organisational development and quality assurance at all levels. They provide benchmarks of good practice across the UK.*

- Form the basis of qualifications, most commonly National Vocational Qualifications (NVQs) and Scottish Vocational Qualifications (SVQs).
- 3.37. The development of the NOS has ensured that the identification of the skills, knowledge and understanding needed by forensic practitioners is far easier than has previously been the case. Skills for Justice develop NOS through widespread consultation with leading practitioners. NOS within the sector now offer the opportunity for individuals to gain meaningful credit for the skills developed throughout their careers. By specifying exactly what skills, knowledge and understanding are required in order for an individual to be considered competent these standards can be used as a basis for recognition when competence is achieved.
- 3.38. Most importantly, by starting with the skills needed for competence in the job, any recognition is firmly based on operational requirements. These set out clearly and succinctly what skills, knowledge and understanding an individual needs to be considered competent in their job.
- 3.39. Skills for Justice is the guardian of the NOS for forensic science and the wider justice sector. Skills for Justice develop and review NOS, keeping them up to date to reflect the skills and standards needed. The benefits of using NOS are that they are nationally recognised common standards of competent performance, developed with the sector and are applicable across the UK.
- 3.40. *Skills for Justice recommend that NOS are used as a ‘common language’ and that they are the key test of practitioner competence.*
- 3.41. **The Regulator recommends that the NOS are fully adopted by all providers and practitioners and are used for the on-going assessment of work-based competence.** The NOS are designed for on-going assessments of competence to be made by each practitioner’s line managers who will be trained as assessors and have

the necessary professional and practical knowledge to constantly assess practitioner competence.

- 3.42. This on-going assessment by trained assessors can be documented as part of an organisations quality management systems and assessed as part of the organisations external independent accreditation.
- 3.43. **The Forensic Science Society** is an international body with members in over 60 countries. The Society was founded in 1959 and with over 2500 members it is one of the oldest and largest forensic associations in the world. It achieved professional body status in 2004. It publishes a peer reviewed journal, a newsletter, awards qualifications and prizes, arranges scientific conferences in the UK and abroad and is engaged in setting standards and accreditation in forensic sciences. Most of its members are UK scientists but there is a significant minority of other forensic professionals involved such as police officers and crime scene investigators. The Society has a Code of Conduct, membership / ethics committee and disciplinary regulations in common with other professional bodies.
- 3.44. The broad scope and definition of forensic science mean that, potentially, almost all the professional or regulating bodies representing (or supervising) scientific, technical and medical professions could be listed as being a possible resource within the regulatory function. There are, for example, twelve or more British Royal Medical Colleges and various engineering institutes. The following is therefore only an incomplete list:
- Fingerprint Society;
 - Forensic Science Society;
 - General Dental Council;
 - General Medical Council;
 - Institute of Fire Engineers;

- Institute of Physics;
- Institution of Traffic Accident Investigators;
- The Academy of Experts;
- The Bar Council;
- The British Computer Society;
- The Expert Witness Institute;
- The Institute of Biology;
- The Law Society;
- The Royal Academy of Engineering;
- The Royal Pharmaceutical Society;
- The Royal Society;
- The Royal Society of Chemistry;
- The Royal Statistical Society; and
- The Society of Expert Witnesses.

3.45. **Local Government Act 1999 and Police Procurement.** In 2003 guidance was issued by the Home Secretary under section 26 Local Government Act 1999 in relation to Best Value; section 6A(6) Police Act 1996²⁰ in relation to three year strategy plans and section 8(4A) Police Act 1996²¹ in relation to local policing plans. It provided guidance on best value and planning for police authorities and forces in England and Wales.

3.46. A basic tenet of this guidance was that good 'best value reviews' deliver improvements by following a simple set of principles. Reviews should:

²⁰ as inserted by s92 Police Reform Act 2002

²¹ as inserted by s107 & Sched 7, para 14 Police Reform Act 2002

- challenge why, how and by whom a service is being provided;
- compare processes and performance with others across a range of relevant indicators, taking into account the views of service users and potential suppliers;
- consult local taxpayers, service users, partners, the wider business community and staff and trade unions;
- compete using fair and open competition wherever practicable as a means of securing efficient and effective services; and
- be fully costed.

3.47. As a result of which, the supply of forensic science services is now through a competitive market with police external suppliers subject to a procurement process and contracts that stipulate compliance with quality standards set by the Regulator.

3.48. **The National Policing Improvement Agency.** Established in 2007 the NPIA is police service owned and led²². Its aim is to contribute to improving public safety by:

- driving improvement and leading-edge practice where it matters, fostering self-improvement and helping to shape the future of policing.
- delivering and developing critical essential services and infrastructure to support policing day-in and day-out.
- providing accessible, responsive and joined-up solutions, enabling the police services to put more time into front line police work.

3.49. The drivers for change in forensic science were identified in 2006 Strategic Framework for Forensic Science which was developed by a jointly sponsored project team drawn from the Association of Chief

²² Ref NPIA website: <http://www.npia.police.uk>

Police Officers, Association of Police Authorities and Home Office. At the request of the sponsors, the Strategic Framework was adopted by the NPIA and formally commissioned on 28 February 2008 as the 'Forensics 21' programme with the specific aim to challenge current forensic practices to provide greater efficiencies, value for money and to ensure consistency and transparency of processes and standards across the police service.

- 3.50. NPIA research has confirmed (amongst other issues) a lack of competency assured forensic practitioners and the need for greater public reassurance in the wake of high profile quality failures and adverse publicity.
- 3.51. As a response to this, an NPIA Forensic Science Competence project aims to improve forensic skills and knowledge for all police officers, police specialist forensic practitioners, and other relevant staff, to ensure effective use of forensic science in the investigation of crime. This will be achieved through a series of work streams, which will address all aspects of forensic science learning and competence, including crime scene investigating, fingerprinting and footwear training.
- 3.52. The NPIA currently holds a number of competent practitioner registers. For example, the National Financial Investigators database which is backed by statute and requires demonstration of competence.
- 3.53. The NPIA has recently published a framework for the procurement of forensic services. This follows the procurement project by a group of police forces in the South West and North West of Great Britain, both provide a route to establishing quality standards for the supply of forensic services.
- 3.54. **The Admissibility of Expert Evidence** - The Law Commission is due to publish a consultation paper entitled 'The admissibility of expert evidence in criminal proceedings in England and Wales'. This paper proposes a new approach to the determination of evidentiary reliability

particularly focussed on scientific evidence tendered for admission in Crown Court trials before a judge and jury.

- 3.55. The rationale for the Law Commission's paper is explained in their summary of this work:

In every trial, juries are required to make determinations of disputed factual issues. Where to do so requires specialised knowledge, experts in the relevant field are called upon to help the jury interpret the evidence. This is to ensure that jurors do not draw mistaken inferences from the evidence. Although juries should not defer to experts' knowledge and opinions, there remains the danger that they will do so, especially if the field of expertise is particularly difficult to comprehend. This gives rise to a real danger if there are legitimate questions about the validity of the expert's opinion. This may be because the expert's field is a new or developing science with little in the way of peer review, or because there are doubts as to the validity of the methodology employed. The problem is accentuated if there is no available expert in the same field who can be called by the opposing party to provide an effective criticism. In such cases, the jury may have no option but to defer to the view of the expert. A related problem is that judges, advocates and jurors may not appreciate the limitations of expert – and particularly scientific – evidence. A number of cases in recent years have suggested that these are real difficulties which require a solution. In this project we are seeking to address the problems outlined above associated with the admissibility and understanding of expert evidence in criminal proceedings.

- 3.56. The Regulator is liaising with the Law Commission and has been invited onto an advisory group involved in this project that clearly may have an impact on the admissibility and management of scientific evidence by the Courts.

3.57. In reaching the decision to include this project in the Law Commission's programme of work, the Office for Criminal Justice Reform (OCJR) explored the possibility of changes to the law to introduce compulsory registration of forensic practitioners and expert witnesses. They decided against seeking changes to the law to introduce mandatory registration, preferring to leave registration as a matter of policy rather than law. Their reasons for this include the complexity and cost to achieving a large inclusive list of experts.

4. COUNCIL FOR THE REGISTRATION OF FORENSIC PRACTITIONERS

- 4.1. In spite of a stated commitment to supporting CRFP by the Association of Chief Police Officers (ACPO) and the major forensic science providers the current registrants²³ number 2755. The pool of potential registrants was initially placed by Lord Lewis at over 10,000. In 2004 CRFP calculated the pool to be 7,570²⁴ and have recently revised that figure to 5,000. Skills for Justice, based on data from the NPIA, Forensic Science Northern Ireland and the Scottish Police Services Authority estimate there to be about 8,700 practitioners.
- 4.2. Regardless of the true figure, there has never been full take up of CRFP registration. Approximately 71% of registrants are employed by the police; some forces register all their practitioners, with a mixed take-up down the range, to one police force with one person registered. Overall, 55% of police employed forensic practitioners who are eligible and able to register are registered or are applying for registration.
- 4.3. CRFP believes that the fundamental factor in the limitation on the growth of the register is that registration is not mandatory in order to give expert evidence. This matter is dealt with elsewhere in Part 5.
- 4.4. Regardless for the reasons why there is incomplete registration of forensic practitioners we are left with the current situation where at best 60%, but more likely 50% or less, of the practitioner population chooses to register. Currently, in any case involving forensic evidence, the crime scene examiner may or may not be registered, the junior forensic scientist undertaking the examination of exhibits probably will not be registered, the senior scientist, or 'reporting officer', probably will be registered.

²³ CRFP newsletter No 22, December 2008

²⁴ Financial and Business review of the CRFP 4 May 2004

- 4.5. It was recognised that, during its initial years, there would be a need for public funding for CRFP whilst it built up the list of registrants. On the creation of CRFP, the Home Secretary agreed to financially support the organisation, initially for two years. This funding was subsequently extended. In September 2005, Home Office set out a five year funding agreement following which they will look to CRFP to become self-sufficient. The final year of the funding agreement is 2009/10.
- 4.6. To date, CRFP has received some £2.9m of Home Office grant in aid with a further £0.3m committed for the two year period ending 31 March 2010. This is now administered through the National Policing Improvement Agency (NPIA).
- 4.7. CRFP remains dependent upon Home Office funding (now administered through the NPIA). Its ability to reduce costs and/or increase revenues from existing registrants are limited.
- 4.8. Had the full take up of registration across the practitioner population been achieved, CRFP would have achieved financial independence and still could do if registration was compulsory.
- 4.9. CRFP believes that the current uncertainty over its future has adversely affected the financial and reputational standing of CRFP, so that the possibility of achieving self-sufficiency after the current round of grant-in-aid funding ends has been compromised. CRFP inclines to the view that bodies acting in the public interest should retain an element of public funding, for reasons of accountability, but feels that the current funding route – via the National Policing Improvement Agency - is unhelpful in terms of public perception.
- 4.10. The cost of registration for the vast majority of forensic practitioners is met by their employers, this is certainly the case for the police practitioners and those employed by the forensic science companies. The total annual cost to the police service of registering forensic practitioners, if all were registered, would be £661,000.

- 4.11. The CRFP system provides that any professional who is involved in providing evidence to a court – so long as there is sufficient casework on which to assess competence – is potentially capable of registration²⁵. CRFP also sees itself as the ‘principal body recognised by the UK courts for the accreditation of forensic practitioners and expert witnesses’²⁶.
- 4.12. Views about CRFP and the registration process are mixed. Many practitioners see little or no benefit in registering; this is evidenced by the partial take-up of registration and the many comments received in the process of preparing this paper. There is not the level of support expected by the Home Secretary when CRFP was launched in May 1988. However, there is support among the smaller providers and sole traders.
- 4.13. *The Regulator would welcome views on the current assessment and registration processes conducted by CRFP to be sure that all views and experiences are heard and considered.*
- 4.14. The CRFP Board have produced their own paper in response to this review; it is attached in full at Appendix II.

²⁵ CRFP’s submission to this review Para 6.2

²⁶ CRFP Strategic Plan 2008 – 2013 (Draft 2)

5. CONSIDERATIONS

- 5.1. **Is registration the best method of achieving the aim?** Lord Lewis concluded in the 1997 Forensic Science Working Group Report that 'The Working Groups impression from most of the submissions and from the oral presentations was that a well structured registration system would be welcomed by all parts of the profession'.
- 5.2. It is a commonly held belief that some form of register is required in order to manage any skilled workforce. Entry onto a register ensures that an individual's skills and competences are accredited in a quality assured manner, that the individual maintains the competence and that only people with the right level of skills undertake specific tasks for which they are qualified.
- 5.3. The concept of professional registers underpins nearly all professions. Taking the definition of a profession at its most basic: a specialist role whose practice is controlled, the use of professional registers can be seen as a similarly basic requirement.
- 5.4. A public register can also provide a source of reference for those trying to find a suitable expert. A common problem raised by defence solicitors is the ability to identify independent and suitable experts across the range of forensic specialties that they need advice on.
- 5.5. **What is 'independence'?** The need for the register to be transparently independent has been highlighted above. Several other sources have also pointed to independence being a fundamental requirement of the register, not least CRFP themselves who cite independence as a main plank in their retention of the registration process. Skills for Justice and the Forensic Science Society also hold their independence to be their strength in this matter (both have submitted papers to the Regulator setting out their willingness to be involved in managing a register of practitioners).

- 5.6. The Forensic Science Regulator and Forensic Science Advisory Council are both independent in operation although funded through the Home Office. UKAS is a national and independent accreditation body.
- 5.7. If independence is taken to mean free from direct political influence or that of prosecution, investigation or defence, then each of the above organisations can justify a claim to be independent.
- 5.8. **Assessment.** Registration simply confirms that at a single point in time a person had the knowledge and skills to perform a role competently and that they had demonstrated that competence in the very recent past. The possession of qualifications and registration does not guarantee a person's future competence. Qualifications and registration indicate that a person has the potential to perform competently in the future.
- 5.9. A key requirement in retaining the status of a competent practitioner is for a person to demonstrate that they have continued to perform competently in their role. Evidence of this will be captured in an individual's work-place assessment and annual appraisal. It is assumed that unless there is evidence to the contrary within the annual appraisal that an individual has continued to perform competently.
- 5.10. Annual appraisals need to be quality assured at a local level and dip sampled at national level to ensure consistency both in quality and assessment. In addition, each employer needs to meet minimum standards for their annual appraisal system.
- 5.11. For continued competence of individuals to be effectively assessed it is generally considered that assessment should be done in the workplace by competent line managers. This is covered further in the earlier section on the National Occupational Standards.
- 5.12. **‘Forensic science’ and ‘forensic practitioner’?** What is meant by the term ‘forensic science’ is open to considerable debate and even argument. For the purpose of the regulation of forensic science it is taken to be any scientific or technical knowledge that is applied to the

investigation of crime and the evaluation of evidence to assist the courts in resolving questions of fact in criminal cases. The term ‘forensic scientist’ covers only one section of those people involved in the forensic process and for our purposes the term ‘forensic practitioner’ is used in order to include the work of all those who contribute to the collection, analysis and reporting of the evidence. The term is widely used and covers a number of different roles within the CJS:

- The forensic scientist practitioner who is currently employed by one of the larger providers. These make up approximately 16% of the CRFP register.
- The forensic technical practitioner who is generally employed by a police service or other law enforcement agency (crime scene examiners, in-force High-Tech crime units, fingerprint experts). These make up approximately 71% of the CRFP register.
- Independent forensic consultancies who are generally small businesses or sole traders who earn their living providing advice on forensic science within the CJS. There are also expert witnesses whose income is not primarily derived from their role in the CJS. These may be occasional witnesses due to their knowledge of their own particular profession. Together, this group make up about 13% of the register.

5.13. **Can the functions of the registration process be separated?** Lord Lewis’ working group thought that ...’using work already done on categorisation (of the forensic science sector), for example by the S/NVQ Lead Body in forensic science (now Skills for Justice) and the Forensic science Society, it may be possible to achieve the creation of such a body over time by using the existing structures...’ He went on to say that ‘the working party was much impressed by the existing infrastructure and by the number of witnesses who took the firm view that harnessing and creating consistency out of existing structures would have a better chance of achieving a harmonious result than

creating a completely new structure. Acceptance by the majority of potential registrants is clearly vital for a voluntary body if it is to succeed.'

5.14. He clearly recognised different components in the registration process being carried out by different bodies, although saw merit at the time of an umbrella body.

5.15. The Forensic Science Society recognises two components to registration:

- the management and maintenance of a formal register, which includes relevant data, to which the public have access, and
- the processes by which a person is accepted to be placed upon and removed from the register.

5.16. Skills for Justice expand the components to:

- determining the entry requirements to the register;
- determining what needs to be assessed and then certificated;
- embedding reliable and consistent assessment procedures; and
- the certification process itself.

5.17. In summary, registration can be considered to consist of:

- setting the standard (determining the entry requirements);
- assessing to the standard (most effectively in the workplace); and
- maintaining a formal register.

5.18. Given the remit of the Regulator to identify where standards are needed; commission new or revised standards; assign priorities; monitor effectiveness, performance and compliance; and work with other organisations to achieve these goals, we were not persuaded

that any benefit arose from all of these components being carried out by one umbrella body.

- 5.19. **What is meant by ‘mandatory’?** The term has been used by CRFP, Skills for Justice and the Forensic Science Society as a requirement for a (cost) effective register.
- 5.20. If mandatory means a ‘licence to practice’ as in the medical profession, then it has to be enshrined in statute and removal from the register means that it is illegal for the individual to practice.
- 5.21. Clearly the courts will admit expert opinion evidence based on individual circumstances and introduction of mandatory registration could be seen to threaten the principle of judicial discretion.
- 5.22. Early in 2008, the Office for Criminal Justice Reform explored the issue of mandatory registration of expert witness. They reached the view, after consultation with the senior judiciary, that it is not appropriate to mandate the registration of expert witnesses and decided against recommending any changes to the law to make registration mandatory. They concluded that registration of experts is a matter for policy, not for the law.
- 5.23. Probably the best that can be achieved is by using the market to demand registration. If purchasers of forensic expertise (police service contracts for the investigation, CPS for the prosecution and Legal Services Commission for the defence) insisted that providers (including police in-house provision) were registered, the market would dictate commitment to the register. This has already been shown to work to a large extent with Home Office Registered Forensic Pathologists.
- 5.24. The NPIA procurement framework for forensic science does state that providers must comply with the standards set by the Regulator. It has been agreed that this requirement will be expanded to include any requirements to establish practitioner competence. In effect, the police as purchasers of forensic services will require a level of regulation of some practitioners.

6. OPTIONS

- 6.1. Here we address a number of possible options for reassuring the Courts that the witnesses giving scientific evidence are appropriately and properly qualified to do so, and are competent. In the next section we consider the benefits and problems with each option.
- 6.2. **Retain CRFP.** This is an obvious option to be considered. It effectively means continued public funding of CRFP and would require a significant drive to increase registration.
- 6.3. However, we must recognise the changing quality standards landscape and take into consideration the new National Occupational Standards, the wider standards framework being developed by the Regulator, the expanding use of accreditation to ISO standards (which incorporate practitioner competence) and the development of 'industry specific' standards.
- 6.4. The modern regulation of quality standards across all sections of the forensic community will involve some form of independent assessment of a broad range of standards at a level that goes beyond the single dimension of practitioner competence. CRFP is not equipped or established to address these broader requirements.
- 6.5. **Skills for Justice proposal.** Skills for Justice have submitted a detailed proposal to take over the CRFP register and to significantly remodel it around the National Occupational Standards. The full proposal is attached at Appendix III.
- 6.6. This option will still require initial public funding and retains a separate level of practitioner competence assessment, but, like the CRFP register, does not cover the need for assessment of standards at others levels.
- 6.7. **Combined approach.** In its deliberations, the Regulator's Practitioner Standards Specialist Group concluded that 'one size does not fit all.' The need for a register of forensic practitioners was recognised but

there should be different routes to achieve registration, as opposed to the current single route via external paper based assessment. Each route should recognise the wider standards context that each practitioner is working in.

- 6.8. The view of the Regulator is that there should be a comprehensive standards framework operating at three levels: provider, practitioner and method. This framework allows for the regulation of practitioners that recognises the appropriate quality systems that many practitioners will be employed within. In line with the principles of good regulation, provided that there is independent oversight of such quality systems, then it is not appropriate to demand another layer of practitioner assessment and regulation.
- 6.9. Equally, a practitioner who is self-employed or employed by an organisation that is not accredited to suitable ISO standards will require a route to the register that involves independent assessment of competence, with revalidation on a regular basis.
- 6.10. This option requires the maintenance of a register, with two routes to that register. Entry to the register could also require agreement to a code of practice.
- 6.11. UKAS accreditation of an organisation against the appropriate standards would lead to the practitioners within that organisation being allowed onto the register.
- 6.12. There would need to be another process for the independent assessment of practitioners choosing not to take the UKAS accreditation route.
- 6.13. **Single accreditation approach.** Accreditation to ISO 17025 and / or ISO 17020, and adoption of the National Occupational Standards will provide a comprehensive standards framework. The future development of a set of 'industry specific' standards will offer additional options for all operators, be they large companies, small companies, partnerships, sole traders, or law enforcement bodies. All will be able

to apply for accreditation by UKAS against the standard. However, this is yet to be consulted on.

- 6.14. Accreditation by UKAS results in a copy of the accreditation schedule being placed on the UKAS public facing database that is accessible and searchable via the internet. The schedule makes it clear what is accredited, for example the methods used within a particular laboratory.
- 6.15. Individuals would be registered under their name; organisations would be registered under the organisations name and would have to be in a position to identify their practitioners.

7. PARTIAL IMPACT ASSESSMENT

- 7.1. The costs and benefits of each of the above options can be assessed. In doing so it is necessary to recognise some a difference in the approaches taken by CRFP, Skills for Justice and UKAS.
- 7.2. CRFP rely on teams of specialist assessors to assess each applicant's portfolio of work and to decide on competence. This is overseen by lead assessors.
- 7.3. Assessors receive a £40 fixed fee for each assessment. Assessments take varying lengths of time to complete, typically between 2 to 8 hours. Assessors approach this work in different ways, some undertake the work in their own time, some are allowed time by their employers to undertake the work with the fee being paid to the employer. Others use a combination of work time and their own time.
- 7.4. This process therefore relies on the good will of the assessors and sometimes their employers, the fee most often does not cover the time spent on each assessment.
- 7.5. The good will offered by assessors is evidence of their commitment to the whole process of assessing competence of their peers. However, it does not allow for equal comparison with the other options where the effort of assessment is fully costed and charged for.

CRFP

- 7.6. CRFP charge registrants £165 per annum. This is set to increase to £170 but the lower figure is used in this assessment. For the year 2009 it is estimated that CRFP will undertake 1,100 assessments (registrants are assessed on application then every 4 years thereafter).
- 7.7. The current half-year accounts for CRFP have been used to calculate a set of full year accounts from which we can assume (based on an examination of CRFP processes and accounts by independent consultants):

Income (£000)	
Grant	158
Registration fees	503
Total	661

Expenditure (£000)	
Assessments	190
Running the register	134
Expanding the register	174
Governance	159
Total	657

- 7.8. The registration process involves assessment by a CRFP assessor of evidence submitted by an applicant. Assessors are paid £40 for each assessment. The time taken to complete an assessment varies and ranges from approximately 2 to 8 hours. CRFP are unable to provide a breakdown of this or any substantive data other than to estimate the average true cost of an assessment at £190. Suffice to say that the registration process is supported by the good will of the assessors and the CRFP processes.

Skills for Justice

- 7.9. The Skills for Justice model has been evaluated and would require grant income of £430,000 and £350,000 for years one and two respectively.
- 7.10. The costs of the model, are forecast as:

S4J Costs (£000)	Year 1	Year 2	Year 3	Year 4	Year 5
Grant income	430	350			
Registration income	351	298	658	573	592
Total income	781	648	658	573	592
Set up costs	398	226	69	51	46
Assessments	105	98	232	168	146
Running the Register	67	70	74	77	81
Expanding the Register	115	125	135	140	147
Governance	131	137	107	112	116
Total costs	815	656	619	548	536

7.11. The forecast is based on achieving 4,200 registrations by year 5. Skills for Justice propose to offer two routes to the register, either as a practitioner with a 'recognised' body (one assessed by Skills for Justice as maintaining competent practitioners), or as a single practitioner assessed as competent by Skills for Justice.

7.12. An initial fee of £5,000 is proposed for each recognised organisation (regardless of size) followed by an annual registration fee of £500. A re-registration fee would be required every 4 years. Each practitioner within the recognised organisation that is placed on the register would be charged £125 per year.

- 7.13. Individuals would be charged at initial fee of £550 followed by an annual fee of £170 and a re-registration fee of £550 after 4 years.

UKAS

- 7.14. UKAS currently accredits most of the commercial providers. A small number of police forces are preparing for accreditation against ISO 17025 on top of the ISO 9001 certification they have in place.
- 7.15. UKAS can accredit organisations, including sole traders, against ISO 17025. The costs shown below are those estimated for an organisation with a moderate range of activities.

Cost of accreditation (£000)	Year 1	Year 2	Year 3	Year 4
Application fee	1	-	-	-
Pre Assessment	7	-	-	-
Initial assessment	12	-	-	-
Surveillance visits	9	9	9	
Full assessment	-	-	-	9
Total cost	29	9	9	9

- 7.16. For ISO 17025 UKAS operate an application process, followed by pre-assessment work to review quality management documents, then an initial assessment visit after which accreditation can be achieved. About 6 months after accreditation the first annual surveillance visit is made. Every four years a repeat full-assessment is made.
- 7.17. UKAS do not yet know the costs for accreditation to ISO 17020 or any other standards for forensic work but the costs for ISO 17025 can be taken as a likely benchmark.

7.18. Accreditation against the Regulator's 'industry specific' standards are expected to be slightly more than that for ISO 17025 because of the additional work required.

Examples

7.19. A police force employing 82 forensic practitioners has been assessed as an example. The force currently has ISO 9001 in place for all its forensic functions.

7.20. The example assumes that all 82 practitioners are registered and shows the costs to the force of each of the above models:

	Year 1	Year 2	Year 3	Year 4	Total
CRFP	13,530*	13,530**	13,530	13,530	54,120
S4J	15,250	10,750	10,750	10,750	47,500
UKAS	30,000	10,000	10,000	10,000	60,000

7.21. The force currently spends £2,400 per year as fees to the certification body for its ISO 9001 certification.

7.22. The figures for the UKAS costs have been marginally increased to allow for some additional work to assess against the 'industry specific' standards, if and when they are adopted.

7.23. It must be noted that law enforcement bodies will be expected to meet the same standards as commercial suppliers for any in-house forensic activity that, if done by a commercial provider, would require accreditation by UKAS. Also, there is a growing expectation that crime scene examination should be accredited. All of this is taken into account in the Regulator's 'industry specific' standards.

7.24. Therefore, the costs shown for the CRFP and Skills for Justice models do not include any costs for UKAS accreditation that will still be required over and above the practitioner registration.

- 7.25. The costs for commercial organisation are less complicated. All providers are currently accredited to ISO 17025 or are applying for accreditation. A number also have ISO 9001 certification or are applying for certification and all have some practitioners registered with CRFP.
- 7.26. In order to obtain and retain their UKAS accreditation commercial suppliers will be assessed across a range of issues, including the competence of their staff. This is a robust assessment, directed by the ILAC G19 document. It involves examination of individual training records, individual performance and competence, and interviews with some staff members, usually by technical assessors.
- 7.27. A medium sized forensic company, employing 82 scientists currently registered with CRFP will achieve savings of £54,120 over a four year period.
- 7.28. UKAS are currently unable to give detailed costs for the assessment of sole traders against any standards. Such assessments are possible, but detailed costs are not yet available. The best estimate UKAS can give for the assessment of an individual forensic practitioner against any standards are:

	Year 1	Year 2	Year 3	Year 4	Total
UKAS	£1,625	£650	£1,300	£650	£4,225

- 7.29. The same practitioner registered with CRFP would have to spend £660 (or £825 if adjusted for the true assessor costs). However, the UKAS assessment will provide a broader assessment over and above practitioner competence and will include: quality systems, equipment, and a range of aspects covered by the broader standards.

Benefits analysis

	Advantages	Disadvantages
CRFP registration	<p>Currently in existence</p> <p>Covers sole traders</p> <p>Public facing register</p> <p>Low first year costs</p> <p>Supported by sole traders and small companies</p>	<p>Unlikely to become self-funding</p> <p>Single competence assessment with no consideration of wider quality issues</p> <p>Remote, paper based assessment</p> <p>Not currently built on the National Occupational Standards</p> <p>Lacks support from law-enforcement bodies and large commercial providers</p>

Skills for Justice Registration	<p>Work place assessment</p> <p>Based on the National Occupational Standards</p> <p>Lowest cost option for practitioner competence</p> <p>Skills Councils experience in managing practitioner registration</p>	<p>Requires start-up funding</p> <p>Single competence assessment with no consideration of wider quality issues</p>
UKAS accreditation	<p>Sole national accreditation body</p> <p>Will assess and accredit against all the required standards</p> <p>Includes assessments of individual competence</p> <p>Can accredit sole traders</p> <p>Established and already assessing many forensic providers</p> <p>Workplace assessments</p> <p>Self financing</p>	<p>High first year costs</p> <p>Public facing register of accredited bodies and sole traders but not all practitioners</p> <p>Accreditation does not currently involve the National Occupational Standards</p>

8. RECOMMENDATION

- 8.1. The majority of forensic practitioners work within organisations that will be required to be assessed against ISO standards. These standards already include robust assessments of practitioner competence that will be enhanced further by the roll-out of the new National Occupational Standards and the publication of the Regulator's industry specific standards. An important component of the assessment process will be the on-going assessment of individual competence in the work-place overlaid by accreditation as evidence of compliance with the standards.
- 8.2. This approach is designed to move standards and the accreditation against them to a new level, with accountability for standards clearly placed on the shoulders of top management. This approach is supported by ACPO and major providers who between them make up the large majority of the practitioner population. It also has the support of the Forensic Science Advisory Council, the NPIA and the Crown Prosecution Service.
- 8.3. *The Regulator takes the view that it is unnecessary and disproportionate to demand further levels of practitioner assessment through the CRFP process, and questions what additional benefits, if any, registration with CRFP can add.*
- 8.4. The overwhelmingly sensible and most viable option is to use UKAS to assess and accredit against all the standards that are expected, standards that include more than adequate assessment of practitioner competence.
- 8.5. The weakness in this recommended option is the increasing costs that are likely to be placed on sole traders or individual practitioners who opt to become accredited. However, UKAS accreditation will assess them to a wider and higher standard than the current process can. It must also be remembered that a section of this group are expert

witnesses who are not full-time forensic practitioners (see paragraph 3.54).

- 8.6. The figures provided by UKAS are provisional; **it is recommended that UKAS works with the Regulator to develop a fees structure that covers all types of forensic practitioners.**
- 8.7. *It is important to recognise that individual competence is a product of the culture and quality management approach of the organisation in which someone works, as much as it is a reflection of individual ability. It seems logical, whenever possible, to assess individual competence within the overall assessment of an organisation. This is the standard adopted internationally for forensic science practitioners.*

9. CONSULTATION QUESTIONS

You are welcome to comment on any aspect or part of this paper. Within the paper paragraphs in italics are points that the Regulator would particularly welcome views on. These are reproduced below:

3.30. In the meantime, all providers with any laboratory function will be expected to be accredited to ISO 17025. Any law-enforcement body with an in-house laboratory function will be expected to work to the same standard and to apply for ISO 17025 and / or ISO 17020 accreditation. This, along with the full adoption of the National Occupational Standards means that each organisation will have to maintain a high level of practitioner competence.

3.36. National Occupational Standards (NOS) - Are viewed by managers as an indispensable tool for managing a highly skilled workforce. They are used widely to support individual and organisational development and quality assurance at all levels. They provide benchmarks of good practice across the UK.

3.40. Skills for Justice recommend that NOS are used as a 'common language' and that they are the key test of practitioner competence.

4.13. The Regulator would welcome views on the current assessment and registration processes conducted by CRFP to be sure that all views and experiences are heard and considered.

8.3. The Regulator takes the view that it is unnecessary and disproportionate to demand further levels of practitioner assessment through the CRFP process, and questions what additional benefits, if any, registration with CRFP can add.

8.7. It is important to recognise that individual competence is a product of the culture and quality management approach of the organisation in which someone works, as much as it is a reflection of individual ability. It seems logical, whenever possible, to assess individual competence within the overall assessment of an organisation. This is the standard adopted internationally for forensic science practitioners.