



# Science and Technology Committee

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From Rt Hon Greg Clark MP, Chair

Kit Malthouse MP and Baroness Williams of Trafford  
Ministers of State, Home Office  
(By e-mail)

20 July 2021

Dear Ministers,

## **Forensics and biometrics: follow-up**

Thank you for appearing before the Committee on 30 June. We appreciate your willingness to attend and to engage with the Committee's questions.

Much has changed in the forensics and biometrics landscapes since our predecessor Committee published its 2019 Report on [The work of the Biometrics Commissioner and the Forensic Science Regulator](#). We welcome the progress made since that Report, including the Government's support for the now Forensic Science Regulator Act, which has given the Forensic Science Regulator long-awaited statutory powers.

Nonetheless, the Committee has serious concerns about the lack of progress that has been made by the Government in the areas of forensic market sustainability, laboratory accreditation, biometrics governance, and custody image management. These issues are long-standing and have serious implications for the effective functioning of the justice system, yet there appears to be a lack of urgency in Government to address them. The pace of progress in addressing issues in biometrics and forensics must pick up.

We highlight a number of concerns in this letter and ask a number of questions.

## **Forensic market sustainability**

When the Government announced that it would close the Forensic Science Service (FSS) in 2010, a predecessor Science and Technology Committee issued a [Report](#) in 2011 warning that the closure risked:

- losing international scientific leadership and innovation;
- reducing the capacity and capability of the forensic system; and
- limiting the capability to conduct cold case reviews.

During our session, Professor Gillian Tully told the Committee that the closure of the FSS had led to the loss of significant research funding: "that money was lost. It was not then taken and given to anyone else to do research." Whilst Professor Tully was able to reassure the Committee that material already in the FSS archive is being properly retained, questions remain about the accessibility of archival material and plans for its retention in the future.

- 1. Has the Home Office made an assessment of the impact of the closure of the FSS on i) forensic science research and development ; ii) the availability of forensic services to the criminal justice system; and iii) access to and the integrity of forensic archives?**

- 2. How does the Government intend to replace the funding for forensics research that was lost with the closure of the FSS?**
- 3. Is the Home Office confident that evidence in the national archive is i) being properly managed, stored, and catalogued now, and will be so in the future; ii) equally accessible to all police forces across the country; and iii) subject to a long-term management policy to ensure its integrity and accessibility in the future?**

Predecessor Science and Technology Committees have repeatedly expressed concerns about the sustainability of the forensic science market.<sup>1</sup> At our recent session, Professor Tully told the Committee once again how steps must be taken to ensure that “we have the sustainable capacity to meet the needs of the whole Criminal Justice System”. We also heard about ongoing shortcomings in ensuring system capacity, particularly in toxicology and digital forensics provision, and about the lack of “a clear, balanced, and effective national decision-making structure”.

Professor Tully raised concerns about the stability and sustainability of the forensics market during her time as Forensic Science Regulator both with predecessor Science and Technology Committees and in her Annual Reports. These concerns were, in turn, reflected in previous Reports by our predecessors. It is concerning that the Government has taken little action to stabilise the forensics market and to ensure that the system has capacity to meet current and future demand.

We acknowledge that the Government has encouraged some collective decision-making through the Transforming Forensics Programme and the Forensic Capability Network. However, in our session Professor Tully suggested that attempts to “work through persuasion rather than any form of mandate” have run their course. She stated that “there are some areas on which these should be national decision making”, including the setting of research priorities and stimulating increases in capacity.

- 4. Does the Government intend to establish a national decision-making body for forensic science with the authority to set research priorities and stimulate increases in capacity?**

#### **Laboratory accreditation**

It is not clear whether the Home Office appreciates the scale of the challenge facing police laboratories in seeking accreditation. In our session, Minister Malthouse stated his “hope is that everybody would hit” the October 2022 deadline for ISO accreditation in Incident Scene Examination. We heard from Professor Tully that “it seems, frankly, impossible” that this deadline will be met. The former Regulator warned as early as February 2020 that this deadline would be missed by the majority of forces.<sup>2</sup> Currently, only one police force holds accreditation for volume crime activity only.<sup>3</sup>

When asked when 100% of police laboratories would have 100% accreditation, Minister Malthouse replied: “I am hoping as soon as possible”. In a [letter to the Committee](#),

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<sup>1</sup> Science and Technology Committee, [The work of the Biometrics Commissioner and the Forensic Science Regulator](#), p7

<sup>2</sup> Forensic Science Regulator, [Annual Report](#), p31

<sup>3</sup> United Kingdom Accreditation Service, [Schedule of Accreditation](#), Chief Constable of Bedfordshire Police

Professor Tully clarified that in order to be fully compliant, organisations must be accredited for every activity they undertake which is listed in the Forensic Science Regulator's (FSR) 'Statement of Standards and Accreditation Requirements', which is contained in the Codes of Practice and Conduct (Codes). We drew your attention during the session to the fact that two organisations can hold the same ISO accreditation but to different scopes. This means that an organisation can hold an ISO accreditation to a lesser standard than that specified in the Codes, and thus that organisation would not be fully compliant. Minister Malthouse said he "would be concerned about a lack of consistency across policing" when it comes to accreditation.

We understand that the Government has also been attempting to drive accreditation and compliance through the Transforming Forensics programme (launched in 2017) and the Forensic Capability Network (FCN; launched in April 2020). When asked in a previous letter to provide an estimate of the number of in-house police laboratories that have reached full accreditation, you stated that the Home Office "does not hold this information centrally" but that the FCN "monitors the progress forces are making on each discipline".<sup>4</sup> We are concerned that without data on accreditation and compliance, the Home Office will not be able to evaluate the success of the Transforming Forensics programme or the FCN.

- 5. Does the Home Office or any of its agencies keep a record of the number of police forces conducting forensic activities which are fully or partially compliant with the FSR's Codes?**
- 6. Is the Government taking any steps to improve police compliance with the standards set out in the FSR's Codes?**
- 7. When the Transforming Forensics programme was launched in 2017, how many police forces held ISO accreditation and in which disciplines?**
  - a. How many new ISO accreditations were gained per year by police forces in each discipline from 2017–2020?**
  - b. How many of these new ISO accreditations are i) fully compliant; ii) partially compliant with the standards specified in the FSR's Codes?**
- 8. How many police forces have joined the FCN since April 2020?**
  - a. How many new ISO accreditations have members of the FCN been awarded to date and in which disciplines?**
  - b. How many of these new ISO accreditations are i) fully compliant; ii) partially compliant with the standards specified in the FSR's Codes?**

During our session, Minister Malthouse suggested that the Regulator might compel an organisation to seek accreditation by issuing "a prohibition notice that [a laboratory] cannot continue. That may be that they cannot continue in the absence of accreditation". We share your hope that "when the first compliance notice is issued, that will have an impact culturally", but we query whether this 'case-by-case' approach will have a meaningful impact on the overall rate of accreditation or on driving compliance with the FSR's Codes. Further, we are concerned that using accreditation effectively as a sanction sends the wrong message that accreditation is a punishment for poor performance rather than a necessary step in building and developing the culture of

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<sup>4</sup> [Letter from Kit Malthouse MP and Baroness Williams of Trafford](#) to the Chair of the Science and Technology Select Committee, 19 May 2021

continual learning and improvement necessary to maintain professional standards in all laboratories.

- 9. Has the Home Office specified targets for how many new ISO accreditations it would like to see police forces gain?**
- 10. Is the Home Office targeting particular activities/forensic disciplines in its attempts to increase ISO accreditation?**
- 11. How and when will the success of the new regime in driving accreditation be measured?**

### **Biometrics governance**

During our session, Professor Paul Wiles expressed concern that the governance framework for the police use of biometrics “has not kept up with the development of new biometrics”. He suggested that the Home Office has not developed adequate evidence bases for the use of new biometrics; not updated biometric and general databases; and not “grasp[ed] the strategic significance of these new technologies”.

Minister Malthouse made repeated references to the Conservative party’s “manifesto commitment” in this area. That commitment was:

We will embrace new technologies and crack down on online crimes. We will create a new national cybercrime force and empower the police to safely use new technologies like biometrics and artificial intelligence, along with the use of DNA, within a strict legal framework. We will also create a world-class National Crime Laboratory.<sup>5</sup>

- 12. Please will you provide more detail on what progress has been made on creating a legal framework to guide the police use of biometric and artificial intelligence, including who has been consulted and when we can expect legislation to be introduced to Parliament.**

We heard both from Professor Wiles and in [written evidence](#) about the gaps in the current legal framework around automatic facial recognition (AFR; also known as Live Facial Recognition (LFR)) technology. In your [Response](#) to our predecessor Committee’s 2019 [Report](#), you described AFR’s legal framework as “strong” but “complex” to an extent which “could arguably inhibit the confident adoption of technologies” .

- 13. We note with interest your reference to forthcoming “national guidance on the use of LFR” and would be grateful if you could write to us with further details on what that guidance will include and when we can expect its publication.**

- 14. Does the Government intend to introduce a clarified legislative framework for automatic facial recognition technology?**

In your [Response](#) to our predecessor Committee’s Report, you stated that you “will watch with interest how the Scottish Government’s legislation, which created a Biometrics Commissioner for Scotland, evolves”. The Scottish Biometrics Commissioner has now been appointed following an [independent review](#) of options for the use and

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<sup>5</sup> [The Conservative and Unionist Party Manifesto 2019](#), p19

retention of biometric data not currently covered by the Protection of Freedoms Act 2012.

**15. Does the Home Office intend to commission a UK-wide independent review of options for the use and retention of biometric data not currently covered by the Protection of Freedoms Act 2012?**

**16. What assessment has the Home Office undertaken of Scotland's approach to the use and retention of biometric data?**

### **Custody image management**

When Baroness Williams appeared before the then Committee in 2019, she reported that the Home Office was undertaking another Custody Image Review that she expected to conclude in 2020 ([Q175-177](#)). This Review has not been published, and when questioned, you were unable to commit to a date for publication.

**17. Can you please confirm that i) the custody image review will be published; and ii) a date on which we can expect the review to be published.**

In a letter to the Committee in 2018, Baroness Williams described the weeding and deletion of the custody images of unconvicted people as “complex” and wrote that the new platform being delivered by the National Law Enforcement Data Programme (NLEDP) was expected to “resolve this in the medium term by enabling a considerably more flexible approach to automatic deletion than is possible at present”.<sup>6</sup> The NLEDP plans to replace the Police National Computer and Police National Database with the Law Enforcement Data Service. During our session, you indicated that the replacement of the Police National Computer is expected to be completed by Autumn 2024.

**18. Please can you clarify whether Autumn 2024 is also the date on which we can expect a fully automated deletion system for custody images, including legacy images.**

I would be grateful if you could provide us with this information by Tuesday 31 August. As is usual with the Committee's correspondence, I will place this letter and your response in the public domain.

With best wishes,



**Rt Hon Greg Clark MP**  
*Chair*

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<sup>6</sup> [Letter from Baroness Williams of Trafford](#) to the Chair of the Science and Technology Committee, 28 March 2018