

Baroness Williams  
Minister of State for  
Countering Extremism

**By email only**

Kit Malthouse MP Minister of State for  
Crime and Policing



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## LETTER TO GREG CLARK MP, CHAIR OF THE COMMONS SCIENCE AND TECHNOLOGY COMMITTEE

Thank you for your letter of 21 July, following-up the evidence session on 30 June. We set out your questions and our responses in the attached, which cover similar ground to the Government's response to the predecessor Committee, subsequent correspondence, and the evidence session itself.

### Forensics and biometrics follow-up questions

#### Forensic market sustainability

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?*

The Forensic Science Strategy, 2016<sup>1</sup>, and the Review of the provision of forensic science to the criminal justice system in England and Wales, 2019<sup>2</sup>, considered all these issues which are also being monitored on a continual basis through the Forensic Science Reform Programme overseen by stakeholders on the CJB Forensics Sub-Group.

Since the Review was published we have passed legislation to give the Regulator statutory powers, put the Forensic Capability Network on a sustainable footing, set up the CJB Forensic Sub-Group jointly chaired with the MoJ, and made good progress on a project to illustrate the impact of forensic science on criminal justice outcomes. More remains to be done to ensure the longer-term health and stability of forensic science, and the actions

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<sup>1</sup> <https://www.gov.uk/government/publications/forensic-science-strategy>

<sup>2</sup> <https://www.gov.uk/government/publications/joint-review-of-forensics-2018-and-implementation-plan>

set out in the implementation plan, including work on research and development priorities and CJS capabilities, have been absorbed into the Forensic Science Reform Programme.

*2. How does the Government intend to replace the funding for forensics research that was lost with the closure of the FSS?*

The Government fully agrees that funding for forensic research is vital, but that it must come with a full understanding of the research landscape. That is why the Forensic Science Reform Programme has a Research and Development pillar, led by Home Office Science officials. It is working to identify current and future research needs, and coordinate research priorities across the CJS. They have been working in conjunction with UKRI to help improve the understanding of the current funding landscape. The guidance document will be hosted by UKRI and made publicly available, enabling the forensic science research community to identify suitable funding routes.

*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?*

The preservation of relevant material from providers is critical to the continuity and legitimacy of evidence. The Forensic Archive Ltd (FAL) is a Government owned company and Home Office arm's-length body, set up in 2012 to archive forensic materials. All forces are able to request access to historic case files as necessary. We are unaware of any concerns raised by the Regulator or other stakeholders as to the propriety of work conducted by FAL. This, combined with oversight of FAL via its Board appointed by the Home Secretary, gives us confidence that it properly manages all its archived material. FAL is represented on the CJB Forensic Sub-Group and has regular contact with Home Office officials.

Forces are responsible for maintaining their own archives. Some materials are returned from private providers to forces and some is kept by the provider in line with legal requirements set out in PACE. In maintaining their archives, forces are bound to follow the guidance on storage, retention and destruction of records and materials seized for forensic examination. This guidance is produced by the National Police Chiefs' Council with input from the Crown Prosecution Service and the Forensic Science Regulator and is referred to in the Regulator's Codes.

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?*

We have no plans to establish a new decision-making body specifically for forensic science. However, the Forensic Capability Network (FCN) sets research priorities for policing, and is working with academia, industry and funding bodies, such as UKRI, to maximise funding opportunities and to prioritise research and innovation more effectively. This is complimented by work that Home Office Science is conducting as part of the Forensic Science Reform Programme, working to identify current and future research needs and design and implement a research and development model to meet the needs of the sector.

The FCN has also helped to stabilise the market for forensic science provision by providing national oversight, monitoring and management of the commercial forensics marketplace. Many forensic disciplines are currently operating within current contracted turnaround times and provision is considered by the NPCC to be stable with most demand being met.

On the subject of toxicology. Since the Road Traffic Act was amended in 2014, courts data shows that convictions increased from fewer than 1000 in 2014 to around 12,500 in 2019. In recent months supply has had to be managed very carefully and it is therefore important that the Transforming Forensics programme has agreed a marketplace plan with the NPCC that will seek to address backlogs and meet future demand.

We are also aware that the demand for digital evidence and the complexity of its requirements continue to grow. That is why the NPCC published its Digital Forensic Science Strategy last summer, and we invested over £28m in 20/21 in the Transforming Forensics Programme and a further £25.6m in 21/22 to continue to strengthen forensics services for policing, including digital forensics.

We are particularly concerned by the continued persistence of backlogs in the examination of digital devices and the impact on victims and investigations. As part of the Rape Review therefore we have announced: the directing of £5m investment from the Transforming Forensics Programme into digital forensics technology for forces to increase capacity and reduce backlogs in Digital Forensics Units; a commitment to deliver technological improvements in the way rape cases are progressed; and increasing the number of officers receiving digital capability training from the College of Policing.

## **Laboratory accreditation**

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?*

The Government strongly agrees on the need for a comprehensive view of the accreditation held by all forensic providers. This is available on the UKAS website. It is ultimately for ongoing assessments by UKAS to determine whether forces conducting forensic activities are compliant or remain compliant. To date 75% of forces or force collaborations have been successfully assessed as compliant with the Regulator's Codes.

The powers in the Forensic Science Regulator Act will now allow a statutory Regulator to issue compliance notices where they have a concern about quality standards at any forensics supplier.

Any work that is presented into the CJS without accreditation, and where the Regulator's deadline has passed, has to be declared.

Taken together this represents a robust system to ensure that the forensic science presented to Court meets requisite quality standards transparently.

6. *Is the Government taking any steps to improve police compliance with the standards set out in the FSR's Codes?*

The Forensic Science Regulator Act, which the Government actively supported, will empower the Regulator to produce a statutory Code and issue compliance notices against any provider the Regulator believes "*is carrying on a forensic science activity to which the Code applies in a way that creates a substantial risk of adversely affecting any investigation, or impeding or prejudicing the course of justice in any proceedings*". This Act, more than any other recent measure, will help drive up quality standards and encourage providers to adhere to the Codes. In addition, the FCN is helping forces to meet and maintain accreditation, prepare for UKAS assessments and adhere to the Regulator'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?*

The following data on accreditation has been provided by the police led FCN. Details on accreditation status is also available on the UKAS website.

All forces or force collaborations had accreditation for DNA Recovery Labs by 2017 and Fingerprint Enhancements by 2019.

In addition, despite only three forces achieving accreditation for Fingerprint Comparison by October 2018, all forces (except for City of London) had achieved this accreditation by 2019, not least because of work done by Transforming Forensics to assist forces in this endeavour.

Digital Forensic accreditation remains a concern. In 2019, 12 of 36 force or force collaborations had accreditation for Mobile Phones, rising to 15 in 2021. 23 of 36 had accreditation for Computers in 2019, rising to 29 in 2021.

No force or force collaboration has yet achieved accreditation in CSI, Digital Forensics Scene Investigation, Fire Scene Investigation or Sexual Assault Referral Clinics, but it should be noted that the deadlines set by the Regulator for these disciplines has not yet expired. The FCN is working on a variety of projects to assist forces in these areas.

It is ultimately for the independent Regulator to decide whether accredited providers are adhering to the Codes, but 75% of forces or force collaborations have been successfully assessed as being compliant with the Codes. The powers in the Forensic Science Regulator Act will enable the Regulator to investigate providers and take appropriate action if necessary.

*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?*

The FCN section 22 collaboration agreement has been signed by 16 forces in England and Wales by the end of July 2021 which enables them to get advice and support, and access innovative new services when they come online from the FCN. In addition, the FCN has delivered services that have benefited all 43 forces. This includes helping forces gain accreditation for their forensic services, strategic engagement with the forensic marketplace and most recently delivering a national capability uplift that will deliver quality-assured and accredited frontline technology, additional kiosks and digital infrastructure by the end of March 2022 in response to the Rape Review.

As stated above, it is for UKAS and the Regulator to decide whether accredited providers are adhering to the Codes, but 75% of forces or force collaborations have been successfully assessed as being compliant with the Codes.

9. *Has the Home Office specified targets for how many new ISO accreditations it would like to see police forces gain?*

The Home Office has always supported the independent Regulator's timetables for accreditation and expects that forces should become accredited in all disciplines required by the Regulator.

10. *Is the Home Office targeting particular activities/forensic disciplines in its attempts to increase ISO accreditation?*

No. Forces should strive for accreditation in all disciplines mandated by the Regulator. It is for the Regulator to decide on timetables for accreditation and which disciplines are mature enough to necessitate accreditation. The Quality pillar of the Forensic Capability Network has a national coordination role in helping forces to prioritise and meet their obligations.

11. *How and when will the success of the new regime in driving accreditation be measured?*

Commencement of the powers in the Forensic Science Regulator Act could take up to 18 months. We would expect all forensic providers to use this time to ramp up their accreditation activities, and work closely with the FCN to achieve this. We would therefore expect to see many more forces achieving accreditation by the time the Regulator's powers are live.

## **Biometrics governance**

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.*

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?*

As set out in detail in the Government's response to the predecessor Committee's report, there already is a comprehensive legal framework, which we are taking measures to improve.

The Court of Appeal judgment in *Bridges v South Wales Police* in 2020 clarified the law around police use of live facial recognition and by extension similar technologies. As required by the judgment, we have worked with policing to clarify the categories of people the police are looking for and the criteria for its use, which is incorporated in [draft College of Policing guidance](#), which they recently consulted on. They plan to issue the guidance, following consideration of the responses to the consultation, in the next few months.

We are updating the Surveillance Camera Code accordingly, and are consulting the relevant organisations set out in the governing legislation including policing, local authorities, the Information Commissioner's Office and the Biometrics and Surveillance Camera Commissioner. The revised Code should be introduced in parliament towards the end of this year.

The Police Crime Sentencing and Courts Bill contains clauses making it easier for the police to recall people to take their biometrics if they were not taken at the first opportunity.

We have simplified oversight arrangements for the police and the public by appointing one person to replace the previously part-time Biometrics and Surveillance Camera Commissioners in accordance with the rules on public appointments rules, including consultation with the Office of the Commissioner for Public Appointments.

As the Chair's letter of 5 May noted, unfortunately there have been delays to an automatic deletion solution for custody images. However, the police have approved new guidance developed by the Home Office describing the right to request deletion under the Management of Police Information (MOPI) rules, which complements the information that is already available via gov.uk and police forces' own websites. The police have now established a working group, with Home Office representation, to explore issues such as police and public awareness of the MOPI rules, the retention of images, and potential technical solutions at local and national level.

As we said at the hearing on 30 June, we aim to set out further plans in relation to the commitment this Parliament.

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?*

The Government does not intend to commission an independent review, but as set out above we aim to set out further plans this Parliament in relation to the Manifesto commitment, empowering the police to use these technologies within a strict legal framework, making the framework simpler and more adaptable to rapid technological development.

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

As set out in the Government's response to the predecessor Committee's report, Scotland's approach replicates many of the principles that already exist in data protection and human rights legislation across the UK, and we have been looking to simplify rather than extend the crowded oversight landscape. The Biometrics Commissioner for Scotland has only just been appointed, and not yet produced any codes of practice, but we will continue to watch developments with interest.

### **Custody image management**

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.*

Baroness Williams told your predecessor Committee in 2019 that she expected a review to be completed in 2020. Since then, aside from other pressures such as the pandemic, as she pointed out at the recent session we have had the General Election with the much broader Manifesto commitment to empower the police to use new technologies like biometrics, including facial images, within a strict legal framework. As such, the management of custody images has been absorbed into the wider piece of work to implement the commitment, described in response to Q12 above.

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.*

As set out in our letter to the Chair of 19 May it remains the Government's ambition to deliver an automatic deletion system for custody images and to deliver it this Parliament.

Yours sincerely



**Kit Malthouse**



**Baroness Williams of Trafford**