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Forensic Science Regulator
Home Office Forensic Science Regulation Unit
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26 September 2013

Dear Mr Rennison,

Forensic Science Codes of Practice: Guidance on validation consultation

Thank you for the opportunity to comment on this draft Guidance. I am writing to you in my capacity as the Chair of the Forensic Archaeology Expert Panel of the Institute for Archaeologists.

Since the first use of archaeological evidence in Crown Court (*R v Jennings* 1989) the use of archaeological expertise has steadily grown in the Criminal Justice System. Forensic Archaeology as a distinct discipline has grown and adapted standard archaeological methods and protocols to work appropriately within a criminal investigation. As a professional group we have embraced regulation, in the first instance as a distinct discipline under the now defunct Council for the Registration of Forensic Practitioners, and latterly in consultation with your office we have set up a mechanism for accreditation within the professional body for Archaeology: The Institute for Archaeologists (IfA). Many of us who are academics as well as practitioners regularly publish in peer review publication and participate in national and international conferences. Currently forensic archaeologists can be found working for large and smaller Forensic Service Providers but also as independent experts (usually attached to Universities, National Museums and Commercial Archaeological Organisations).

The Institute for Archaeologists

The Institute for Archaeologists (IfA) is a professional body for the study and care of the historic environment. It promotes best practice in archaeology and provides a self-regulatory quality assurance framework for the sector and those it serves.

IfA has over 3,000 members and more than 70 registered practices across the United Kingdom. Its members work in all branches of the discipline: heritage management; planning advice; excavation; finds and environmental study; buildings recording; underwater and aerial archaeology; museums; conservation; survey; research and development; teaching, and liaison with the community, industry and the commercial and financial sectors.

In 2011 the IfA established a Forensic Archaeology Special Interest Group with an operational working group of forensic archaeologists practising as expert witnesses: the IfA Forensic Archaeology Expert Panel ('the Expert Panel'). The Expert Panel provides the mechanism for accrediting and regulating the work of those forensic archaeologists acting or seeking to act as expert witnesses, as well as considering issues arising in the course of such work. Membership of the Expert Panel is open to all practising forensic archaeologists who are members of IfA at Member level (MIfA) and who demonstrate competence against IfA's forensic archaeology competency matrix.

A working party was also set up to develop *Standards and guidance for forensic archaeologists* (written by Natasha Powers and Lucy Sibun: <http://www.archaeologists.net/sites/default/files/node-files/Forensic2010-v1.pdf>). These were approved on an interim basis at the IfA's 2011 AGM and subsequently confirmed in

2012 and are also endorsed by you as Forensic Science Regulator. As an essentially field based discipline the authors of this document deliberately avoided being too prescriptive when it came to method statements due to the variability of scenes in terms of target and depositional context. Part of our central premise is that forensic archaeology needs to be conducted by professionally trained and experienced archaeologists who can intelligently apply the guidance of these method statements to a specific set of circumstances, and thus focusing on ensuring the outcomes of those methods instead. This is in contrast to most areas of laboratory science, where work packages can easily be broken down into smaller components and thus procedures of work, calibration and measurement can be regularised to a series of standard operating procedures.

This response has been informed by the input of members of the Expert Panel.

Guidance: Validation Consultation draft

The IfA is wholly supportive of the Forensic Science Regulator in seeking to ensure that the provision of forensic science services across the criminal justice system (including those relating to forensic archaeology) is subject to an appropriate regime of scientific quality standards. However, the Institute is concerned that the Regulator's expectation *'that all methods routinely employed within the criminal justice system (CJS), whether for intelligence or evidential use, will be validated prior to their use on live casework material'* (paragraph 1.1.2 of the consultation document) may not be appropriate in all areas of forensic work in the manner envisaged in the draft Guidance.

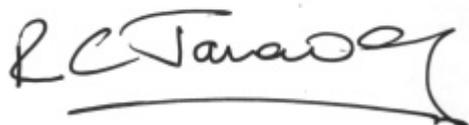
Indeed, the draft Guidance appears largely to address the need for demonstrable technique validation for replicable laboratory analysis and interpretation, but seems less well-suited to forensic archaeologists and related disciplines whose work to a large extent involves the gathering of different types of evidence under a range of variable conditions and environmental circumstances at scenes of crime. Nevertheless, section 3.1 of the consultation document makes clear that such activities are intended to be covered by the guidance and adopts an extremely wide definition of 'laboratory' (*'the organisation that conducts the work, not simply the area where white coats are worn'* paragraph 3.1.2).

Moreover, in an archaeological context, this approach brings into question the relationship of the draft Guidance to the IfA Standards and guidance (most notably the *Standards and guidance for forensic archaeologists* referred to above) and its accreditation of individuals (through membership of the Institute and of the Expert Panel) and of organisations (through registration as an IfA Registered Organisation). In this latter regard we note that the proposed approach to validation of methods involves consideration of organisational competence – *'demonstrating it works in your hands'* (paragraph 4.3.2 of the consultation document).

The IfA is concerned to see that there is no divergence between its own requirements (developed through its Expert Panel and endorsed by the Regulator) and those in the draft Guidance. The IfA remains committed to working with the Regulator to ensure that forensic archaeological work is carried out by accredited practitioners to appropriate professional standards and would welcome the opportunity further to discuss these issues.

I hope that it might be possible to discuss some specific ways forward when we have our meeting scheduled for the 25th October. In the meantime, if there is anything further that I can do to assist please do not hesitate to contact me.

Yours sincerely,



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Chair of Forensic Archaeology Expert Panel, Institute for Archaeologists

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