



RAI Forensic Anthropology Committee
British Association for Forensic Anthropology
c/o 50 Fitzroy Street
London
W1T 5BT
United Kingdom

31 July 2013

Dear Sir / Madam,

Consultation on a Code of Practice, Ethics and Professional Standards in Forensic Anthropology

Thank you for the opportunity to comment on this document.

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 IfA established a Forensic Archaeology Special Interest Group with an operative working group of forensic archaeologists practising as expert witnesses: the IfA Forensic Archaeology 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 recognised by the Home Office Forensic Science Regulator and 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 a *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>). This was approved on an interim basis at IfA's 2011 AGM and subsequently confirmed in 2012 and is also endorsed by the Home Office Forensic Science Regulator.

A Code of Practice, Ethics and Professional Standards in Forensic Anthropology

General

IfA endorses the aims of the British Association for Forensic Anthropology (BAFA) and the Royal Anthropological Institute (RAI) in seeking *to address professionalism and accreditation of the*

discipline to ensure that Forensic Anthropologists engaged by the Criminal Justice System work with integrity and fulfil the requirements of an expert witness' and compliments those bodies for the significant progress that has been made in achieving those aims and, in particular, in producing the draft Code.

IfA, as a professional body for archaeologists, does not seek to comment specifically on matters of anthropological expertise, but proffers some more general comments drawing upon its own experience in setting up the Forensic Archaeology Expert Panel and developing *Standards and guidance for forensic archaeologists*. The Institute would be happy to discuss further any matters upon which it might be able to assist

Technical and Ethical Competence

The draft Code seeks to combine a code of ethics and conduct (section 3) with professional standards (section 4). Paragraph 25 of the section on ethics and conduct (page 10) provides that *'Misconduct should be dealt with under the code of conduct of the professional body and/or employer.'* However, no professional body or bodies are specified and there appears to be no obligation to join any professional body. (Thus, for instance, the obligation at page 11 to maintain professional expertise through CPD is stated as one which *'may include joining a professional organisation'* (my underlining).)

This is potentially significant. In the first instance, the code of conduct of any professional body may differ in some respects from the obligations set out in section 3 (so that misconduct under the latter may not in some instances constitute actionable misconduct under the former). More fundamentally, if membership of a specified professional body (presumably RAI and/or BAFA) is not a pre-condition of accreditation, how are forensic anthropologists to be held accountable and what are the mechanisms for enforcement? I note that paragraph 25 cited above goes on to refer to the involvement of the Forensic Science Regulator in some circumstances, but unless the Regulator is willing in all cases to investigate and adjudicate upon allegations of misconduct, there appears to be a lacuna. In any event, such a role is best filled by professional bodies albeit with the support of the Regulator.

The position with forensic archaeology is that membership of the Expert Panel requires membership of IfA at a senior level (MIfA). IfA membership provides accountability and an enforcement mechanism since members are bound by a separate Code of conduct¹ and other regulations (including Standards and guidance such as the *Standards and guidance for forensic archaeologists*). Disciplinary proceedings pursuant to IfA Disciplinary Regulations² ensure that the practitioner has the opportunity to contest any allegation and can lead to sanctions including expulsion from the Institute (in which case the archaeologist would no longer meet the requirements for Panel membership).

Consequently, when the draft Code states at page 18:

'A FA should only act in place of a forensic archaeologist, i.e. undertake both roles, if the FA has sufficient training and experience to meet the requirements set out by the Forensic Archaeology Expert Panel and the IfA'

it is not sufficient merely to be able to meet the criteria for IfA and Expert Panel membership - the practitioner must actually be a member of IfA and the Expert Panel in order to be accountable for archaeological work through IfA and Panel procedures. It would be helpful to make this clear in the text.

Some of these issues may already have been addressed outside this document, but, if it would be of assistance, IfA would be happy to share its experience in this regard.

Detailed Comments

(1) The requirement at page 8 that the *'FA should be aware of the differences between the criminal justice systems both within the UK and internationally ...'* is, without further qualification, potentially

extremely onerous given the number and variety of criminal justice systems throughout the world.

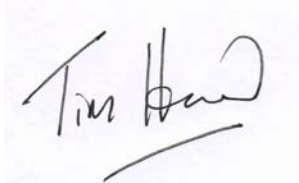
(2) There is a typo in the first word of the last line of page 8 which should read 'practice'.

(3) Paragraph 16 at page 10 requires practitioners to charge reasonable fees for services. Does there need to be a provision allowing for pro bono work?

(4) The reference at page 27 to potential changes to the law may become misleading and/or cause confusion if the Code remains in force for some years. There may need to be some future proofing of the document. (There is, for instance, another reference to future changes to the law at page 33)

If there is anything further that I can do to assist please do not hesitate to contact me.

Yours faithfully,

A handwritten signature in black ink, appearing to read "Tim Howard", with a horizontal line underneath.

Tim Howard LLB, Dip Prof Arch
Policy Advisor

¹ <http://www.archaeologists.net/sites/default/files/node-files/Code-of-conduct-Nov-2012.pdf>

² http://www.archaeologists.net/sites/default/files/node-files/Disciplinary_by-law_revised_Oct_2012.pdf