

Forensic Pathology Specialist Group

Note of the meeting held at 14:00 hours on the 3rd November at the Home Office, 2
Marsham Street, London, SW1P 4DF

1.0 Introductions

1.1 The newly appointed Chair of the Specialist Group Dr Patrick Gallagher welcomed the Forensic Pathology Specialist Group (FPSG) members to the meeting, and gave a brief background to his career and specialist skills.

1.2 Members then gave a brief introduction of themselves. A full list of attendees is at the end of this note.

2.0 Apologies

2.1 Apologies had been received from Jack Crane, Marjorie Turner and Russ Jackson.

3.0 Forensic Science Regulator

3.1 Dr Gill Tully (GT) gave her thanks to the Group for its work so far. GT paid particular note to the work involved in running the audit and keeping the standards under review to ensure appropriate standards are in place.

4.0 Minutes of last meeting

4.1 Dean Jones (DJ) noted that item 7.1 of the previous minutes need to be amended to read; '15 of these cases were suspicious'. Of these 15, 10 were...', replacing 16 with 15.

4.2 Andrew Davison (AD) noted that the title given to Guy Ruddy in item 4.3 needs to be amended from Dr Ruddy to Professor Ruddy.

4.3 AD noted in the third bullet point of item 5.1, 'The Chair' should be 'The President' of the British Association in Forensic Medicine (BAFM).

4.4 Trevor Rothwell (TR) raised a point on the second bullet point of item 5.1. 'The Chair' of FPSG's Audit Group should be 'The lead', rather than Chair.

4.5 AD noted a grammatical error in item 7.5; Royal College of Pathology should be Royal College of Pathologists.

4.6 AD also raised an error on item 16.3 of the previous minute; 'approach top scanning' should read 'approach to scanning'.

4.7 AD noted a typo in item 17.1. The name of Kirsty Potter. This needs to be amended from Kirtsy Potter.

4.8 A final typo in item 22.9 was raised by AD. 'Dr Grieves' should be Dr Grieve.

Actions 4.1 - 4.8: Mike Taylor

5.0 Matters arising from the previous minutes

5.1 Jeff Adams (JA) explained that the initial aim had been to circulate a Public Health England (PHE) document. That document has been superseded by a document entitled Guidance for Emergency Services Personnel Responding to Individual Chemical Exposure (ICE) Events. This has now been circulated to all members, and all Pathologists on the Home Office Register. The document is well written for professions such as police officers and ambulance staff, however PHE still receive phone calls from mortuary managers and mortuary technicians asking for guidance. PHE therefore suspects that perhaps the document is not effective for some areas of work. As a result PHE is seeking comments. JA invited comments from members on this document to feedback to PHE.

Action: Members of FPSG

5.2 JA explained that PHE is available to provide guidance before proceeding with suicide cases by chemical methods. Faced with any issues around deaths related to chemical agents PHE should be the first point of contact, as it has the structures in place to deal with this.

5.3 AD noted that the guidance does not specify what appropriate protective equipment is needed when dealing with bodies exposed to these chemicals. It states 'as appropriate' but does not specify what this is, which could be why mortuary technicians and managers are calling for guidance.

5.4 JA will collate comments on this document and circulate to PHE.

Action: Jeff Adams

5.5 The PDP had supplied £10,000 to aid the setup of an external quality assurance process involving remote examination of slides, related to Continuing Professional Development for forensic pathologists. Jack Crane (JC) has been involved in this. DJ will obtain an update from JC and send this on to members.

Action: Dean Jones

5.6 Non Invasive Post Mortems will be covered in the main agenda.

5.7 A document produced as draft guidance on collection of post mortem samples has been revised with comments to address contentious issues such as the use of a speculum in obtaining samples. The updated version of the document has been sent to the Group with the agenda and papers for this meeting. It has been marked as joint publication of the Regulator and the Royal College of Pathologists. Any additional points before publication need to be sent to JA within the next few days.

Action: FPSG members

5.8 A comment was made by Nat Cary (NC) on the kit referred to in the document. NC questioned whether it would be possible to have a standardised kit across users, so the same items and items of a good quality were available to everyone. Currently the kits used in different areas vary, and some have more suited items than others, which can make obtaining samples difficult. GT advised that she agrees this needs to be considered, but is

unsure who should be responsible for this. Both GT and JA have discussed this topic with the Centre for Applied Science and Technology (CAST), and asked whether they can be involved in this. JA and GT will follow this up with Home Office Science and Home Office Commercial by checking the current position and reporting back.

Action: Jeff Adams & Gill Tully

5.9 It was noted that in Appendix 2, section 11.1.2a, there are named decontaminant solutions, which will need to be double checked to see if they are still the recommended ones, as it is an area which has changed recently.

Action: Jeff Adams

5.10 A letter was due to be sent to the Chief Coroner on histology. JA explained that this letter has been drafted, but not yet sent. The letter has been delayed being sent as there are further issues to be included in the letter, which will be better to raise together. Some of these issues will be discussed later today. When all relevant information is available, this letter will be redrafted and sent to the Chief Coroner.

Action: Jeff Adams

5.11 Making use of the National DNA Database® (NDNAD) as a tool for identification of a deceased person was questioned. After the 2004 Tsunami, legislation was amended to allow for this to happen. This has been verified as correct with the relevant Unit within the Home Office. Advice has been sent out to all Pathologists to confirm that the Database can be used to check identities of deceased persons. There are two other databases available for this purpose; they are the vulnerable person's database and the national missing person's database. A paragraph detailing this information will be added to the police practice advice guidance.

Action: Jeff Adams

6.0 Non-invasive post mortems

6.1. Imaging Standards

6.1.1 There has been an increase in the use of non-invasive post mortem examinations which can have implications for forensic cases. In the last meeting a discussion was held on setting specific standards for non-invasive techniques, the equipment used, selection of cases and also places where these can be performed. GT has met with the President of the Royal College of Pathologists which is planning to review guidelines. These guidelines will be prepared jointly with the Royal College of Radiologists.

6.1.2 Concern was raised by NC that there have already been cases in forensic examinations using non-invasive techniques and non invasive post mortems. Is this ever appropriate as a sole investigation for forensic examinations?

6.1.3 NC has met with the Chief Coroner and Dr Suzi Lishman (President of the Royal College of Pathologists). The Chief Coroner recognises the problem if he issues guidance that is at odds with other guidance. The only people who should be able to suggest that a forensic post mortem can be undertaken with a non-invasive methodology should be the

body of the forensic pathologists nationally, which has never been agreed. It should be the whole profession outlining parameters, not individuals.

6.1.4 JA met with Prof Guy Ruty and his radiologist colleague, Dr Morgan, who are happy to be involved in the drafting of standards/guidance on this. They need to start from the beginning and see when it is appropriate to use these techniques and when not, also to set parameters surrounding this and what would be reasonable to conclude from these examinations.

6.1.5 Charlie Wilson (CW) outlined the view of the British Association in Forensic Medicine, which he stated is in agreement with the vast majority of forensic pathologists. Its view is that a non-invasive method alone is not appropriate in suspicious death cases. Non-invasive autopsies can fail to identify omit finding key evidence. If someone is stabbed or shot, resulting in an obvious injury, it does not mean they have not suffered from other episodes of restraint or violence against them. Unless there are major advances in cross sectional imaging, then these types of injuries will be missed in non-invasive methods.

6.1.6 AD furthered this thought by stating the default position should be that if it is a suspicious death, then an invasive post mortem is required, however there might be exceptional circumstances where it is not appropriate, such as the Dunblane shootings.

6.1.7 The Chair noted that if guidelines are drawn up related to this, it is important that the Group are able to contribute to this due to the strongly held views from all members.

6.1.8 CW outlined a concern related to the skills required to correctly evaluate results of a non-invasive post mortem. A radiologist or a pathologist acting alone to conduct a CT scan, would most likely not hold the relevant qualifications to determine results in the areas outside their expertise. This would need to be addressed in the standards produced by the relevant parties.

6.1.9 It was noted that Prof Ruty is the most experienced forensic pathologist in this area, and it is imperative he is involved in the drafting of any standards of procedures. CW will contact Prof Ruty to obtain his deliberations on this. It was also noted that there needs to be representatives from the wider forensic pathology community in this process. CW recommended that the Royal College Committee take this work forward with an input from the BAFM which FPSG members agreed to.

Action: Charlie Wilson

6.1.10 Concern was voiced by forensic pathologists who have already acted on coroner's advice to conduct non-invasive post mortems, when they personally felt that an invasive procedure was warranted. CW will include on the agenda for the next BAFM council meeting that carrying out solely imaging autopsies in suspicious deaths is against the Code of Practice, to reiterate this for pathologists and make them aware. CW will also ask for pathologists to report cases where they have been asked to do this to the BAFM.

Action: Charlie Wilson

6.2 Rotsztein Case

6.2.1 The judgement for the Rotsztein case has now been given, and there is concern over how the judgement might affect future practice if not current practice. The summary of the case was circulated before the full judgement became available. The Group is aware of some instances where a coroner has looked at the summary, and thought it provided a general set of rules which they have instructed pathologists of. Since the full judgement has been released it is clear that nothing which was said applies to suspicious death cases, and the rules set out should never be used in a suspicious death case. The judgement has been circulated to coroners who have had time to digest the information and so decisions now made should be more informed.

6.2.2 The judgement will not affect suspicious death cases. Now pathologists are aware of what the judgement says if a coroner does recommend a course of action, the pathologist can explain that these rules do not apply in suspicious death cases.

6.2.3 It is important to note that if a coroner asks a pathologist to conduct work which is against the Code of Practice (CoP), then the pathologist should explain the position to the coroner but, absent agreement, should decline to do the work. Under the current legislation a coroner cannot instruct a pathologist to do work, they can only make a request.

7.0 Code of Practice

7.1 This was published in 2012. There have since been a few changes to the Criminal Procedure Rules which were communicated to the Royal College. The Rules have been restructured in some areas. One of these is that the previous part 33 is now part 19. Due to references in the CoP, which refer to part 33 now being out-dated, they need to be amended for legal reasons.

Action: Jeff Adams

7.2 The Chair asked whether there were any other aspects of the document which require modification, which are not for legal reasons, for example in areas such as pathology and toxicology.

7.3 CW explained that there have been no major changes in pathology since the creation of the CoP, other than in radiology imaging which was discussed in 6.1 earlier. Once recommendations have been made by the Royal Colleges related to this, then the CoP can be looked at on this matter.

7.4 JA noted that the current CoP section related to toxicology was based on a 2004 version of the document, meaning it is currently roughly 10 years old. JA highlighted the need for there to be a review of this by toxicologists, and recommended that this take place concurrently with the Royal College Committee and the BAFM work on imaging standards discussed earlier, to bring the end recommendations together for the CoP.

Action: Jeff Adams

7.5 The Chair asked whether there had been any police changes which might impact on Forensic practice. Dean Jones (DJ) explained that a new manual guidance (MG) form had been created to help manage expectations related to court deadlines for pathologist's

reports. It is often the case that a pathologist needs to obtain sub speciality expert knowledge, which can delay a pathologists report. The new MG form can be completed and sent to the Court advising them of a delay. DJ will send this form to CW for circulation to the BAFM.

Action: Dean Jones & Charlie Wilson

7.6 Any further comments on the CoP were requested to be sent to Jeff Adams.

8.0 Audit

8.1 2015 Audit

8.1.1 The decision was made in the previous meeting for an audit to take place in two separate areas of work.

A) Falls from a height

B) Death in custody

8.1.2 All the documentation is now in place and letters inviting pathologists to submit reports on the items are due to go out within the week. These will be sent to Home Office registered pathologists, as well as those in similar positions in Scotland and Northern Ireland.

8.1.3 Trevor Rothwell (TR) advised that he is hopeful to have a draft report ready by the end of March 2016.

8.1.4 NC was concerned with the wording 'death in custody' and feels this should be changed to 'death in police custody' to avoid submissions being sent through related to prison deaths, which could overwhelm the audit with deaths not related to the custody. This was agreed by FPSG members.

Action: Trevor Rothwell

8.2 FPU work following the 2012 audit

8.2.1 Concerns highlighted in the 2012 audit led to further work by the Forensic Pathology Unit. The initial concerns, the report by FPU and the recommendations made have been presented to Government Ministers. The initial audit report was drafted with the intention to publish, but the report prepared by FPU was prepared without a clear decision with regard to publication. Publication of the audit report without the publication of the FPU report (or a redacted version of it) would present an incomplete picture. It is therefore intended to publish a redacted version of the FPU report. DJ stated that the report is currently with the Minister and he is waiting for acknowledgement.

8.2.2 GT believes it should be published as it links into guidance and the annual report. The aim is to publish by the end of 2015; however this is dependent on when acknowledgement is received from Ministers.

8.2.3 It was noted that the Chair of the National Police Chief's Council (NPCC), and the NPCC lead for forensic pathology, would want advance warning prior to publication.

8.3. Dr Trevor Rothwell

8.3.1 TR also advised the Group that this would be the last audit which he will be conducting. Thanks were given to TR for his excellent work on these over the years on behalf of the Group. CW, on behalf of the BAFM, and NC, on behalf of the Royal College, also noted the gratitude of those organisations.

9.0 Hutton Review of Forensic Pathology

9.1 The Hutton Review has been completed and is currently with Ministers. The recommendations made by the report may impinge on the forensic standards which the FPSG are concerned with. Standards to which forensic pathologists perform their work could be altered by the recommended change in practice and the recommended larger numbers of forensic pathologists. The concept of a death investigation service was also put forward as a recommendation.

9.2 BAFM published a formal response to the Hutton Report. The main concerns were with the associated means of funding, for the integrated death investigation service. The FPSG agree with the broad principles of this service, however proper consideration has not been given to the costs involved in the establishment of the service.

9.3 Reduction in experience and training of forensic pathologists is also a major concern. The recommendation made by Hutton to increase the number of forensic pathologists to more than double the existing number, will limit the cases each forensic pathologist gets to see, therefore limiting their experience and on-going learning. In short, with increased numbers of forensic pathologists how much will they be able to see in light of a diminishing number of cases that they are being asked to do?

9.4 GT commented that establishing fewer better mortuaries was a good recommendation.

9.5 A fully integrated, properly funded national death investigation system is desirable but must not erode the standards or quality of forensic pathologist and must be integrated with a system that works from the ground upwards.

9.6 There is a recommendation about reviewing the Code of Practice to allow more flexibility about the nature of the examination and the additional tests undertaken. There was general agreement that there was a need for a mandatory core examination (subject to some restricted exceptions) which must be undertaken. Jeff Adams to draft a response to the recommendation on behalf of the Regulator.

Action: Jeff Adams

9.7 Recommendation number 11, concerned with the minimum standards of storage and retention related to paperwork of forensic pathologists casework. Currently there is no process or guidance which records and retains this information, and it is down to the forensic pathologist to store all of their items, which is often in unsecure areas such as home lofts. Once a forensic pathologist retires, they may destroy these documents and then cannot be used for future criminal investigations.

9.8 DJ made a suggestion to have this submitted to the disclosure officer, along with the other material which is sent to them.

9.9 The triennial review of the forensic archive is underway, and there is provision to see whether this should include pathologists' material which will be properly archived and run by archivists, reducing the potential risks of the information getting lost. JA will take this forward with the archive to see whether this can be achieved. JA has already written to the NPCC about storage standards to see if they affect this.

Action: Jeff Adams

10.0 Excited Delirium

10.1 Has been subject of numerous articles in the USA, and it may or may not be medically justifiable as a cause of death. The Chair asked for the FPSG's views on this.

10.2 NC takes issue with the term excited delirium, as it describes a mode of behaviour, and can distract people from the fact that someone could have been restrained and at the height of restraint died of a heart attack or something similar. He stated that you cannot die of behaviour; you die of the consequences your behaviour brought on, such as taking cocaine resulting in extremely high temperatures. Delirium is a result of becoming medically unwell, and the cases sighted related to excited delirium are in fact medically unwell due to other factors such as drugs.

10.3 FPSG members noted that if a cause of death is unknown to them, then preference is made to list the cause of death as unascertained rather than excited delirium, which is not viewed as a cause of death.

10.4 A suggestion was made to produce a short piece of guidance detailing what phraseology is better to use than excited delirium, in cases where excited delirium could theoretically be used. NC and JA volunteered to draft a form of wording for circulation to the FPSG which once agreed can go to the BAFM outlining this.

Action: Nat Carey & Jeff Adams

11.0 Examination of a Foetus

11.1 A paper has been set out, in response to a number of cases where the examination of a foetus might have caused problems for forensic pathologists. The Chair asked the FPSG to make suggestions or modifications related to this guidance, in light of their own experiences.

11.2 JA explained that coroners, as a matter of course, have declined any jurisdiction over a foetus on the basis that it is not a dead person; however police have wanted to pursue a prosecution.

11.3 NC raised a general issue concerning a woman who is murdered when pregnant, and the foetus "dies" also as a result. Clear guidance is needed for situations where the foetus is still in the womb. Conducting examinations on the foetus can lead to child destruction charges being brought against the accused, however there are no clear standards when this can and cannot be conducted.

11.4 JA suggested modification on the current position, to state that the police have the authority to order examinations under PACE, in suspicious death cases. Jeff can modify

guidance to reflect this change, to include that if there is any suggestion of an independent existence, then the coroner should assume jurisdiction until is proved otherwise.

Action: Jeff Adams

12.0 Pathology Delivery Board

12.1 The Pathology Delivery Board was due to be held this morning but it was cancelled at short notice.

12.2 There are two issues of note. Firstly a meeting was held for all forensic eye pathologists, as there is a chronic shortage across the UK. Currently there are 3 forensic eye specialists and 2 of these are due to retire soon. The meeting held was to address this shortage and discuss options for the future.

12.3 The existing eye pathologists are going to produce a standard operating procedure manual for the examination of eyes.

12.4 A brief presentation on this topic will be held on the 20.11.2015 at the BAFM, which is yet to be formalised.

12.5 The next criminal justice course will be devoted to eye pathology modular training, which will be widely advertised. The aim will be to increase the number of such pathologists who are willing to act in criminal investigations.

12.6 Secondly JA and DJ met with officers related to Operation Yewtree and discussed a case of a child who was shaken when young, and subsequently died years later as a result of the shaking. The person who shook the child was charged with GBH when the incident occurred and later with murder when the victim died years later. The attacker was not convicted of murder and one issue which came to light was that the defence barrister referred to a document available on the Royal College of Pathologists website which summarises a meeting in 2009 chaired by Prof Peter Furness. This was used to indicate that the victim could not have had the triad, as the definition of the triad in that document is incorrect. The document is still available on the RCP site. DJ has spoken to three eye pathologists who agree that the definition is wrong and the suggestion is to either take the document down or add an addendum to correct this definition.

12.7 Martin Bottomley was asked to take this to the Homicide Working Group and make them and SIO's aware that if they are involved with a case and the defence use this it should be robustly defended.

Action: Martin Bottomley

12.8 The Met Police have estimated there are over 100+ cases of historic shaking where the victim is likely to die in later life as a result of the injuries sustained. There needs to be in place a process where this can be flagged on an individual's medical record for the future. This will allow pathologists to know that the fatality has occurred as a result of historic shaking.

13.0 Human Tissue Authority Review

13.1 Has been subject to a triennial review, the report has been delayed for publishing until the spring 2016. No further updates relevant to FPSG at this time.

14.0 AOB

14.1 Chief Coroners Guidance. The Chief Coroner has been in discussions with various parties about potential guidance on second post mortem examinations. JA will contact the Chief Coroner and see what stage this is at and then circulate for comment.

Action: Jeff Adams

15.0 Date of Next FPSG Meeting

15.1 The next FPSG meeting is to be held in six months.

Action: Mike Taylor

List of Attendees

Present:

Patrick Gallagher (Chair)
Gillian Tully Forensic Science Regulator
Jeff Adams Forensic Science Regulation Unit, HO
Martin Bottomley National Police Chiefs' Council Homicide Working Group
Caroline Browne Human Tissue Authority
Nat Cary Forensic Pathologist - Royal College of Pathologists
Naomi Carter Forensic Pathologist – British Association in Forensic Medicine
Andrew Davison Forensic Pathologist – British Association in Forensic Medicine
Dean Jones Forensic Pathology Unit, HO
Charlie Wilson Forensic Pathologist - British Association in Forensic Medicine
Trevor Rothwell Consultant (by phone)
Mike Taylor HO Science Secretariat (Secretary)
Adam Qureshi HO Science Secretariat

Apologies:

Jack Crane Forensic Pathologist - Department of Justice, Northern Ireland
Russ Jackson National Police Chiefs' Council - Homicide Working Group
Marjorie Turner – Consultant Forensic Pathologist University of Glasgow