

FIND Strategy Board

Protective Marking	Not Protectively Marked
Suitable for publication Scheme (Y/N)	Yes,
Title & Version	FINDS Strategy Board Minutes – 28th September 2017
Purpose	Record of meeting
Author & Warrant/Pay No	Caroline Goryll, Home Office
Date Created	22/11/17
Date Review	22/11/19

Open Minutes of Meeting

28th September 2017

11.00-13.30

MPS, Lambeth Road

Present:

CORE MEMBERS

ORGANISATION	MEMBER
NPCC	Gary Pugh (GP) (Chair)
Home Office, representing the Home Secretary	Rod McLean (RMcL)
Association of Police and Crime Commissioners	James Huges (JH) (Deputising)

APPOINTED MEMBERS (as set out in the Governance Rules)

ORGANISATION	MEMBER
Commissioner of the Retention & Use of Biometric material	Paul Wiles (PW)
Biometric and Forensic Ethics Group Chair	Chris Hughes (CH)
Forensic Science Regulator	Gill Tully (GT)
Information Commissioner's Office	Meagan Mirza (MM)
Devolved Administration – Northern Ireland	Graham Kissock (GK) Stephen Campbell (SC)

FIND Strategy Board

APPOINTED MEMBERS

ORGANISATION	MEMBER
NPCC – CT Forensic Database	Leigh Williams (LW)
NPCC – Homicide Working Group	Martin Bottomley (MB)

SECRETARIAT

Home Office Forensic Information Databases Service (FINDS)	Kirsty Faulkner (KF)
Home Office Forensic Information Databases Service (FINDS)	Caroline Goryll (CG) minutes

IN ATTENDANCE

ORGANISATION	MEMBER
Home Office, Policy	Carl Jennings (CJ)
Home Office, Policy (observer)	John Harper (JH)
Home Office, Policy (observer)	Amanda Fried (AF)
Home Office, HOB Programme	Carrie Golding (CGold)
NPCC Transforming Forensics Programme	Jo Ashworth (JA)

APOLOGIES:

ORGANISATION	MEMBER
Association of Police and Crime Commissioners	Mark Burns-Williamson
Commissioner of the Retention & Use of Biometric material representative	Gemma Gyles

FIND Strategy Board

1.0 1. Welcome, Introduction and Strategic Developments

1.1 GP, welcomed everyone to the meeting, he acknowledged that it was RMcL's last meeting as he is moving to a new post. He thanked Rod for his input and contribution to the board.

3.0 Previous Minutes

3.1 The Board members accepted the minutes of the June meeting.

4.0 Action Review and rolling 12 month timetable.

Action Register

4.1 GP took the board through the outstanding actions.

03/17 Para DNA Pilot – GT said that she received some further information on this the previous day and that on the basis of the information she is likely to sign off the pilot.

16/17 Research request proposal – KF said that she needs to find a way to circulate the proposal as wide as possible. GT and PW to give KF contacts in academic bodies who can circulate.

17/17 CT databases statement of requirement – GP said that his ambition is to get the basics in place to formalise the governance of the CT databases to bring them under this board and that the drafting of the CT databases statement of requirements is the first step. PW said that he welcomed this approach.

12 month Timetable.

4.2 The 12 month forward plan was discussed and agreed.

5.0 Risks and performance

5.1 KF presented the risk register paper 0917/03.

The 4 risks have remained level. She said that risk STRAT02 on data handling errors remains high red but that the risk is level. PW said that this risk would need to be reviewed if CT governance comes under the Board. The risk relating to database security (STRAT 05) has remained level at black and that work is ongoing to regain accreditation for the NDNAD. GT raised that there is an issue because if the NDNAD is out of accreditation it does not meet the FSR codes of standards. MM said that it is also worth noting that that one of the data protection bill changes require audit logging. JH asked whether the introduction of audit logging and regaining accreditation for the NDNAD would mean that the risk would go away. KF confirmed it would.

KF said that in recent meetings the risk register has been reviewed and only active risks are being identified. Although the level of risks remain static the need to review these following the discussions at the meeting was agreed. It was agreed that there may be cause to increase the risk relating to the strategic development as there is no clear funding route to progress the databases following on from HO Biometrics programme.

FIND Strategy Board

Action:-

20/17 – Board members to send views on risks to KF so she can then review and update risk register.

- 5.2 CJ took the Board through paper 0917/04, the legislative update. A key point to note was that although the legislative instrument for the statutory powers for the Forensic Science Regulator has been agreed and a statutory instrument is still be pursued and they are still awaiting a member of parliament to take on the bill.

A second point of note was that the case of Gaughran is continuing in the ECtHR. The Supreme Court held in 2015 that a DNA profile, fingerprints and custody image could be retained indefinitely but Mr Gaughran has now applied to the ECtHR. The Home Office are currently working on their observations. The implications of this case were discussed. GP asked for HO policy to consider the steps that would be taken if a negative judgement was obtained. RMcL asked how. CJ confirmed that England and Wales would have 2 years to implement changes if a negative judgement is received.

MM said that ANPR data retention has been reduced to 12 months and that the ICO thinks that indefinite retention, particularly for cautions, is disproportionate. MM noted that under the new powers introduced through GDPR in May 2018, the ICO will have the powers to step in and force a change in retention regime. PW reflected that modelling had been done in the past one model showed that after 6 years the likelihood of reoffending drops right off. GP reiterated that a firm evidence base would be required for reviews into retention regimes.

CJ had received a query from a forensic laboratory as to whether they can obtain a DNA 17 profile from a sample and then use the sample to derive a Y-STR profile. CJ noted that it is an appropriate action if both tests are performed on the sample at the same time but not if the tests are done in stages. CJ would confirm this position and it will be added to the access and use policy.

PW noted that there is a large variation in what forces are holding under CPIA; some are holding thousands and some very few. From talking to forces he says there needs to be a proper policy on this. GT said there has also been errors in what has been retained/destroyed by FSP's. MM said the ICO had flagged concerns about this when the policy was written.

GP asked to meet with the new HO policy team to map out the future legislative and policy changes and to look at the need for practical guidance for CPIA. This will enable the legislative update to take a forward view and separate out what can be done through policy change rather than legislative change.

Action:-

21/17 –GP to meet with Jess Bonnington and Jeremy Jones and CJ to set out the future legislative and policy framework timeline.

- 5.3 KF took the Board through papers 0917/05 A& B FINDS highlight report and services scorecard. As part of the Governance Rules, there is an expectation that reports are provided on the provision of services delivering the Forensic Information Databases Service. The report has been simplified to give board members an overview of the health of the databases and would be expanded to include additional information on the other databases.

KF said Forensic Information Databases Service were working closely with HO Biometrics Programme (HOB) and users to ensure that the service supports the developments in DNA and Fingerprint databases

FIND Strategy Board

that will be implemented by 2020. This includes working with stakeholders to ensure the relevant standards are being adopted within the supply chains.

Update from Biometrics Commissioner

- 5.4 PW said he has released his 2016 annual report, which was laid before Parliament on Wednesday 13th September 2017. He thanked CJ for his efforts in getting the report published. He said Section 8 of the report talks about the emergence of 2nd generation biometrics (facial images). He is concerned about the emergence of these and thinks it could lead to a reduction in public confidence in policing and is concerned about the lack of guidance for policing on this. He is awaiting the publication of the Biometric Strategy. He also outlined his concerns that the introduction of the HOB databases is getting nearer and there is no governance on who will access what and when.

PW noted that Scotland were reviewing the governance of 2nd generation biometric data; a report should be published by the end of the year. GP said facial imaging was challenging because of the size and scale of it. MM said a firm legal basis was needed; this currently isn't there, she confirmed the ICO position that facial imaging falls under the definition of biometric in the new legislation. GT raised concerns that there is a greater likelihood of errors with 2nd generation biometrics. CGold said that HOB have picked up pace with looking at the governance and are looking at how review can happen with not much room for legislative change.

Action:-

23/17 –GP to meet with the new HO policy lead to discuss what the direction of facial should be.

Project highlight reports

- 5.5 HOB

CGold took the Board through paper 0917/06 on the HO Biometrics Programme. She said the Privacy Impact Assessments are progressing well and that she would like these adding to the December meeting agenda. The issue with the test datasets was discussed and a formal proposal for the new test sets, outlined in the paper, was put to the board.

Decision: The FIND strategy board unanimously approved the proposals drafted by HOB for the making the new test sets PoFA compliant and for phasing out the old pre-PoFA test sets.

LW asked if there was going to be guidance for forces. KF said that the data protection unit in force should deal with this. PW asked if the new Livescan units will be rolled out to just police or ports too. LW said it was still being discussed. JH asked whether because the timescales are so tight that the IDENT1 contract would need extending. CGold responded that there legally could not have another contractual extension meaning that the project would have to deliver on time.

- 5.6 Prüm

CGold gave an update on Prüm paper 0917/07. She updated that MPS are on track for recommissioning the technology and process. The decision from ministers is currently awaited. The October DAPIX meeting would now be missed. MM asked if the final decision was at the DAPIX committee. CGold said

FIND Strategy Board

it wasn't; once through DAPIX it has to go to the European Parliament; she also noted that fingerprints and DNA were treated separately. She also said that countries do not have to be part of the EU to be in Prüm. A decision on what it means to search records from convicted persons for fingerprints is currently awaited.

5.7 Contamination Elimination Database

KF presented paper 0917/08 on CED. As reported last time, progress continues to review the data from Officers, removing any crime scene records identified as a contamination event on the database. It should be noted that all forces have had positive matches to investigate and forces are not responding in a timely manner to complete the investigation. As reported last quarter a force is currently being challenged through a misconduct trial which challenges the approach of this project and the change to Police Regulations. The outcome of this is awaited.

Further work is still in progress to consider searching Police Staff in the same way and searching Sexual Referral Centre staff and staff from manufacturers of consumables used in the DNA processes within force and within the DNA laboratories within the external market.

MM raised that she thinks there is an issue with the regulations for special constables. Issues around not needing consent to do a speculative search as it is in the regulations was also discussed.

Action:-

23/17 –MM to send KF details of the query the ICO has received on this.

6.0 **Substantive papers**

6.1 PoFA Review

The required 5 year review of the legislative change resulting from Protection of Freedoms Act 2012 was discussed. A submission on this, outlining the areas of the legislation that had to be amended, will be put in the next week. GP said it would be useful to see the points of this submission so he could include it in his meeting with Jess and Jeremy.

Action:-

24/17 –CJ to provide the Board the points from the review and the submission to ministers.

6.2. YSTR

KF presented paper 0917/09; a request from the Association of Forensic Service Providers with regards the establishment of a national Y-STR database, with centralised governance as per other forensic information databases. KF said that it was discussed at the recent Biometric and Forensic Ethics Group and a need for a legislative and governance framework was discussed. There were concerns about the intelligence database impacting on individuals. MM asked if there had been a privacy impact assessment carried out around this work. GT said from a quality perspective she really supports the frequency database aspect of it. CH felt it was now time to engage with the public on Y-STR databases.

GP said it is logical to start with the Y-STR frequency database but that there should then be consideration before each further step. JA said one of the main question is around funding. An application could be made through PRTB. PRTB has a lot of applications for funding; they are going to look at gaps in policing. GP

FIND Strategy Board

said when in development the work sits with Transforming Forensics but then when it is BAU it will sit with FINDS.

Decision:-

The board all agreed the approach put forward by the paper and that a Y-STR database should be set up and form part of the suite of databases considered by the FIND Strategy Board to provide the relevant governance. The progression was agreed up to the inclusion of subject samples.

6.3 Transforming Forensics.

JA gave an update on the Transforming Forensics programme. She noted that a proposal for the future DNA database (previously referred to as stage 3 HOB work) with KF. She said the programme has gone through the initiation phase and is focusing on a series of initiatives which will consider capacity as well as capabilities. Fingerprints will be first to make the operation as effective as possible; looking at the quality and standards. The formal proposal will be written by the end of the calendar year. 41 forces have signed up. The programme is carrying out work looking at the contribution of forensics And JA noted that the programme is looking at how to take forward the research and development study that was produced earlier this year.

PW said we need to look at the value of all forensics so can compare lack of technical development across service.

6.4 EU directive.

RMcL gave an update on the GDPR with regards to databases. It was introduced into parliament on 14th September. It is a large bill with 4 parts and 3 sets of standards. It is being introduced for 2 reasons. In 2018 the current standards in data protection will be 20 years old and we need to have high data protection standards because of Prüm and Brexit. The data policy team has been working closely with the NPCC leads on this. They are aiming for royal Assent March 2018. MM said the ICO have produced guidance on this change “12 steps on how you should start preparing for it”.

Action:-

25/17 –MM to circulate guidance to members of the Board.

PW said he would like a presentation on the GDPR adding to the agenda for the December Board.

6.5 Access and use policy for FINDS.

KF presented paper 0917/10 she said that work to expand the Strategy Board’s access and use policy is underway following the expansion of the Board. This policy will consider DNA, footwear and fingerprints, but will enable other forensic information databases to be considered in the future, if required. The expansion of this policy aims to ensure consistency of approach for all data being loaded and reported through the databases.

6.6 Skeleton Annual report.

FIND Strategy Board

KF presented paper 0917/11. This provided a high level approach for the publication of the annual report for DNA which is set out in PoFA. It described how data from IDENT1 will also be added to the report, albeit the requirement is not required by legislation.

Decision

The board agreed this approach for the Annual Report.

6.7 Immigration Criminal Investigation Unit access to the NDNAD.

KF presented paper 0917/12 The Immigration Criminal Investigation Unit has requested access to DNA match reports from their incidents – which is similar to the request from the Department of Work and Pensions. MM asked what the process would be and whether they have a process to take a sample. KF said they do but they need an LEA to load and receive match reports. MM also asked how it would work with PoFA. KF said they would be loaded through PNC so the usual procedures would apply.

Decision

The board agreed the use of DNA profiles and the NDNAD for this purpose and that match reports should be provided to IE CFI investigators.

6.8 DNA leaflet

CH said that this is in hand.

6.9 Policy update GP 10 (international).

KF said this will be added to the agenda for the next meeting.

7.0 **Any Other Business**

LW noted that she had received a request from international partners. GP asked that this topic be discussed at the next board.

Action:-

26/17 –LW to produce a paper for December Board.