

Response to NCFS Commission consultation

Ethics

These comments are with reference to requirements [7] and [13] of the proposed Code.

7. Conduct full, fair and unbiased examinations, leading to independent, impartial, and objective opinions and conclusions.

13. Present accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and validated methods.

The Royal Statistical Society agrees in principle with these requirements but we would like to add the following comments.

1. The first comment refers to requirement [7] of the proposed code.

7. Conduct full, fair and unbiased examinations, leading to independent, impartial, and objective opinions and conclusions.

We think ‘full’ is not necessarily a meaningful or useful word here. The examination is more to do with providing results which are fit-for-purpose, explaining the limitations of the examination and the impact on the interpretation. Thus the phrase could be rewritten as

Conduct fair and unbiased examinations that are fit-for-purpose, leading to independent, impartial, and objective opinions and conclusions.

2. This comment is with reference to requirement [13] of the proposed code.

13. Present accurate and complete data in reports, oral and written presentations and testimony based on good scientific practices and validated methods.

We agree with this requirement. We refer the Commission to the recent comments on the presentation of reports provided by a document prepared by a group within the European Network of Forensic Science Institutes on the topic of a Guideline for Evaluative Reporting in Forensic Science. See [http://www.unil.ch/esc/files/live/sites/esc/files/Fichiers 2015/ENFSI Guideline Evaluative Reporting](http://www.unil.ch/esc/files/live/sites/esc/files/Fichiers%202015/ENFSI%20Guideline%20Evaluative%20Reporting)

Guidance note 1 is of particular relevance:

The reporting of the value of scientific findings shall conform to four requirements: Balance, Logic, Robustness and Transparency. These requirements are met by following the principles of forensic evaluation. The framework set out in the ENFSI Guideline describes the mechanism by which these requirements are met in formulating evaluative reports.

Balance

The findings should be evaluated given at least one pair of propositions: usually one based upon one party’s account of the events and one based upon an alternative (opposing party’s) account of the events. If no alternative can be formulated, the value of the findings cannot be assessed. In that case, forensic practitioners should state clearly that they are not reporting upon the value of the findings.

Logic

Evaluative reports should address the probability of the findings given the propositions and relevant background information and not the probability of the propositions given the findings and background information. The report should not contain statements that are transposing the conditional.

Robustness

The reporting should be capable of sustaining scrutiny and cross-examination. It should be based upon sound knowledge and experience of the trace type(s) and the use of data. The forensic practitioner will be satisfied that the results of the observations and analyses upon which inferences and conclusions are drawn are robust. When there are insufficient data, the likelihood ratio approach provides the practitioner with a framework for structured and logical reasoning based on his experience, as long as he can explain the grounds for his opinion together with his degree of understanding of the particular trace type.

Transparency

The reported conclusions should be derived from a demonstrable process in both the case file and the report. The report should be written in such a way that it is suitable for a wide audience of readers (i.e., participants in the justice system). It may include supplements explaining the technical background.

These four properties could be made part of the National Code of Professional Responsibility.

It should be noted that the focus of the ENFSI Guidelines is on what is termed ‘evaluative reporting’. However, there is a significant area of forensic scientific work that does not fall within this definition and is more appropriately termed ‘investigative reporting’. This form of work should be accommodated within the Code of Ethics and we refer the Commission to Jackson et al (2014) for a description of what is meant by ‘investigative reporting’.

Jackson, G, Aitken C., Roberts, P. Case Assessment and Interpretation of Expert Evidence: Guidance for Judges, Lawyers, Forensic Scientists and Expert Witnesses, Practitioner Guide No. 4, Working Group on Statistics the Law of the Royal Statistical Society, 2014,

<http://www.rss.org.uk/statsandlaw>.