IntaForensics Limited – Written evidence (FRS0036)

Submitted by: Andrew Frowen, Chief Executive Officer

In this evidence, I will limit my responses to areas where I (we) have domain expertise (Digital Forensics) and can add value to the select committee. Whilst my experience in this sector spans the last 15 years our organisation has been providing Digital Forensic services to law enforcement in the UK for 11 years and one of the largest providers in this area. IntaForensics are an ISO/IEC 17025 accredited provider with a full scope of accreditation and the Forensic Science Regulators Codes of Practice and Conduct.

1. Is forensic science contributing to the delivery of justice in the UK?

   No evidence provided

2. What are the current strengths and weaknesses of forensic science in support of justice?

   No evidence provided

Understanding and use of Forensic Science in the Criminal Justice System

3. What is the scientific evidence base for the use of forensic techniques in the investigation and prosecution of crimes? Are there any gaps in that evidence base?

   No evidence provided

4. How can the Criminal Justice System be equipped with robust, accurate and transparent forensic science? What channels of communication are needed between scientists, lawyers and the judiciary?

   No evidence provided

5. What is the level of understanding of forensic science within the Criminal Justice System amongst lawyers, judges and juries? How can it be improved?

   No evidence provided

6. Is the current training available for practitioners, lawyers and the judiciary appropriate?

   No evidence provided

Standards and regulation
7. Is the current market for forensic services in England and Wales sustainable? Are changes needed to ensure forensic science provision is maintained at the level required? What are the risks of a market approach, for example what happens if a provider goes out of business? And what is the impact on quality?

I will respond to this question and limit the response to Digital Forensic science, the area in which our organisation operates and have domain expertise. The introduction of ISO/IEC 17025 has been a challenge to digital forensic providers, both large and smaller operations in addition to law enforcement agencies providing similar scientific services to support criminal investigations and ultimately the criminal justice system. The challenges are multi-faceted in that cost, change and inability to remain competitive being the most reliable and demonstrable issues.

The private sector has been quicker to respond to calls for accreditation by the Regulator, as can be seen by the public records of accredited organisations via UKAS, however this is largely due to private firms having a commercial interest and not wanting to be unable to deliver services post the accreditation deadline that has long past in October 2017. To date only three private firms, have anything near to a full scope to deliver the broad range of digital forensic accredited activity to the CJS. There is a feeling that the larger private organisations have embraced regulation and invested in accreditation, whilst law enforcement agencies have been slow to respond with a significant number having only limited accreditation success and a large number still to even start.

During this same period it has been a very challenging economic climate, where law enforcement has commoditised forensic science to support reducing budgets, leaving those organisations that have embraced accreditation, unable to compete in an unfair supplier market, today we still see large government and law enforcement organisations still using unaccredited suppliers offering abnormally low-cost services and no demonstrable quality, this is a serious risk to the CJS. Of the 3 private firms able to support law enforcement with fully accredited services, all have seen financial instability in the last two years. We have seen many smaller Digital Forensic organisations citing ‘It (17025) doesn’t fit’ and ‘it’s too expensive’ amongst other objectionable remarks, largely driven by fear of change and costs.

As of today, only a small handful of providers both public and private, have achieved this minimum standard. IntaForensics can attest that it does fit and can be economic, only if the organisation being assessed is prepared for assessment and has embraced the value in accreditation and delivery of quality forensic science. Much of the cost of accreditation is in failed attempts at assessment by UKAS resulting in the organisation having to start again or rewrite hours of Standard Operating Procedures (SOPs) or lack of understanding and engagement from the top down. In most instances, we have seen Quality managers and accreditation teams within organisations having little understanding of the standard or how it can and should apply, leaving organisations to either provide a best effort or simply make presumptive decisions. Most quality teams are assembled from Digital Forensic analysts and are reluctant participants with many leaving organisations to escape accreditation. In our organisation we have seen a number of highly experienced
scientists leave to seek employment in another related field that does not require accreditation such as e-discovery and or cyber security. This has a significant impact of sustainability within the market as experienced skill fails to meet demand.

The same was experienced in the past before financial services regulation and the standards required in that sector. Regulation in the digital forensic sector is in its infancy and I suspect that many smaller providers may fall by the wayside or acquired by larger organisations provided there is a sustainable business. Although this is a shame for the industry to lose that smaller boutique specialism, it is absolutely necessary to continue to restore faith in the criminal justice system, for the small but significant part we now play, in all manner of investigations.

The ability of non-accredited commercial providers to charge unrealistically and abnormally low prices because they do not have to meet the ongoing costs of accreditation is a real danger to those organisations who have committed themselves to accreditation. This is an area that must be scrutinised by government as this presents a real risk of accredited providers being unable to sustain provision of services in the future and exiting for more sustainable and profitable work, which would be catastrophic to the criminal justice system.

8. Is the system of accreditation working successfully to ensure standardised results and the highest quality analysis and interpretation of significance of evidence?

The introduction of ISO/IEC 17025, and perhaps more importantly the Forensic Science Regulators Codes of Practice and Conduct, has provided a baseline of compliance against robust testing requirements. Accredited organisations can demonstrate that results generated from their laboratories are accurate, technically valid and produced by competent analysts using validated forensic tools and test methods. This can only bring benefits to the criminal justice system, providing evidence that will withstand scrutiny and challenge, evidence that can be relied upon and deliver confidence in an investigation.

Yes, the system of accreditation works successfully and should be utilised to the maximum by the criminal justice system and any organisation producing forensic evidence; it is pivotal to ensuring the quality of forensic investigations in the United Kingdom.

9. What role should the Forensic Science Regulator have? If the Forensic Science Regulator is to have statutory powers, what should these be?

Regulation and accreditation to ISO/IEC 17025 standard and the Codes of Practice and Conduct provides minimum levels of assurance that evidence has been generated by competent experts utilising scientifically tested and valid methods.

Regulation requires a strong lead to enforce the requirements of the schedule of accreditation and importantly, address those organisations who choose to ignore those requirements. Before standards were adopted, for digital forensics, any person wishing to work for the CJS in this capacity, could do so with a powerful
computer, some basic IT knowledge and a (possibly free) forensic software tool! There have been and unfortunately continue to be many media reported instances of failed prosecutions or wrongful convictions based on flawed expert forensic evidence.

The Forensic Science Regulator urgently needs statutory powers to be able to enforce accreditation throughout the forensic industry, to create a common standard of high-quality evidence that will assist the CJS in achieving successful outcomes in court. It seems inconceivable that evidence can be supplied to the CJS without any form of verified proof that the evidence is accurate and valid; the Forensic Science Regulator can stop that. Most participants in the criminal justice system have little or no understanding of digital evidence and rely heavily on experts to decipher the data in a useful and understandable manner, unfortunately because of this vital requirement in the court process and without powers, the Regulator is unable to prevent unaccredited, self-professed experts. The powers suggested by the Regulator in my view do not go far enough and should also consider market stabilisation, whilst this is not in the regulators remit, unlike other regulatory bodies, this is vital to maintain standards and sustainability in the market.

10. What lessons can be learned from the use of forensic science in Scotland and Northern Ireland? What can be learned from the use of forensic science overseas?

No evidence

11. Is the 'Forensic Science Strategy’ produced by the Home Office in 2016 suitable?

No evidence

**Forensic Science research landscape**

12. How should further research funding for forensic science be justified? What should be the focus of such research? What is the role of UK Research and Innovation, especially considering the interdisciplinary nature of much forensic science?

No evidence

13. Where are the gaps in research and understanding of forensic science? How and by whom should the research questions be articulated to fill these gaps?

No evidence

14. How can a culture of innovation in forensic science be developed and sustained?

No evidence
15. Are there current or anticipated skills gaps? Who should have responsibility for and/or have oversight of training?

No evidence

**Digital Forensics**

16. Are there gaps in the current evidence base for digital evidence detection, recovery, integrity, storage and interpretation?

17. Is enough being done to prepare for the increasing role that digital forensics will have in the future? Does the Criminal Justice System have the capacity to deal with the increased evidence load that digital forensics generates?

No. The sector is on a ‘cliff edge’. The level and complexity of digital evidence has grown exponentially over the last 10 years in the same period the scientists in this area has reduced markedly, with organisations both private and public resulting to having to employ recent graduates that have an undergraduate degree that are wholly unprepared, lack effective knowledge or have any experience, most of which are very young and not appropriately skilled for the adversarial system for many years. The economic downturn has impacted profitability in organisation and have no real desire to invest capital in a failing market. The lack of investment in the CJS has had a significant impact on the available funds for research and development, a vital component in Digital Forensics due to the speed at which technology evolves and the pace at which the same is adopted by the population. I am reminded of an article I read some months ago that discusses the advent of technology adoption in UK households, 10 years ago most households had a single computer and parents had a mobile device, now each member of a family has many devices and is now a part of everyday life. Our readiness as a nation to deal with this seismic change has been woefully hampered by lack of investment and whilst I remain upbeat I fear we are very close to falling off the cliff edge!

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