

Forensic Science Regulator Declaration Guidance Frequently Asked Questions (FAQs)

Question	Answer
How do you complete the Annex B in cases where you have part ISO accreditation for an FSA?	If you are partially compliant for a FSA and the work being reported on extends beyond the scope of the compliance held, then you would need to declare non-compliance overall in the statement and then detail in the table where accreditation is held and other mitigations. The table can be broken down to sub-activity level and the mitigations, including accreditation held, can be detailed for each.
Is the scene an environment and if so a) can you tick the box if you do not hold accreditation to scenes and b) what environmental requirements are needed to enable a tick in the box?	It is for forces to decide whether they believe the method used has been carried out in a suitable environment and to be prepared to justify why. A “yes” under the environment mitigation indicates that the work is performed in a suitable environment, requirements for the environment can be found in the Code (section 29.1 and 29.2, see also 48.2.2a and c) to assist with determining whether the environment is suitable or whether any mitigations are needed.
Can an explanation of the 5 risk mitigation steps and what the requirements are to select ‘Yes’ be added to the declaration guidance document?	This will vary between disciplines and FSAs, so it will be up to the unit to determine the level of mitigations, in reference to the requirements for each of these in the Code.
The Guidance reads that a separate Annex B is required per report and per FSA and not just an overall annex per casefile meaning several Annex Bs could exist in the same case. As the Annex B is a separate document, how do we ensure that it can be linked back to the relevant report?	One Annex can contain multiple tables, with one table per FSA advised.
There seems to be no requirement to highlight what <u>is</u> accredited; the assumption being it is accredited unless otherwise stated. Is there an expectation of the CJS to have awareness of what FSAs exist?	CPS have been involved in discussions as part of the drafting process. For compliant activities the report would contain a declaration of compliance to the Code and the declaration should refer to which FSAs are being reported on. CPS have been involved in discussions as part of the process.
Is a declaration required in all forensic reports?	A declaration of compliance/ non-compliance is required for all FSAs that require compliance to the Code, for all types of report
Would there be any requirement to declare a recent PT failure?	PT failures should be dealt with as non-conformances and reported to the FSR, there is no requirements from FSR to declare failed PT (unless it leads to compliance notice) and as per CPD disclosure there is a requirement to disclose failed PT results. It is for forces to declare anything they feel is of concern and could undermine their investigation. At the same time highlighting these sorts of issue without a thorough investigation into the circumstances could undermine valid results so care should be taken.

<p>How is competency determined for the purpose of mitigation under the Code?</p>	<p>It is for forces to satisfy themselves on whether staff are competent to carry out FSAs in particular situations and to be prepared to justify this.</p>
<p>Where Police Officers or others outside of the Forensic Unit will be conducting FSAs are we expecting them to accurately produce their statements with declarations including annexes and mitigations?</p>	<p>The Code applies to anyone carrying out a FSA. Anyone writing a statement can refer to the declarations guidance to ensure the correct declaration is made. There is an expectation that forces will ensure all relevant staff are made aware of the requirements.</p>
<p>1) What happens if an investigation includes processes covered by different declarations? i.e., accredited work has been completed, infrequently used and unaccredited methods have been used.</p> <p>If we just choose the non-compliant declaration, that is suggesting the whole job is non-compliant. Which declaration are we then to use in our SFR's?</p> <p>2) Where an FSA is outsourced and then an MG22b is required which is produced in force do we have to make a declaration?</p>	<p>1) Compliance is binary so if there are aspects of a FSA which are not Code compliant then a declaration of non-compliance need be made and the mitigations to the non-compliance detailed in the annex. There can be more than one declaration per report however, and declarations can be made per FSA if there is a mixture of compliant/ non-compliant (noting infrequently used methods may be considered compliant if the criteria of the Code is met), for clarity.</p> <p>2) No declaration required as you have not undertaken any of the FSA yourselves. The report from the external supplier should contain the right declaration, and it can be made clear in the force statement that this was done elsewhere (if not compliant). The same would apply for instances where the analysis is started somewhere else and completed in house.</p>
<p>Will examples of completed mitigation tables be provided so that forces can see the level of expected detail required?</p>	<p>The FSR office has said it is for forces to decide upon how they mitigate their compliance and will not be supplying example guidance. It is for forces to decide if they comply and whether or not they need to provide mitigation in their annexes. There is an expectation that forces will satisfy themselves as to how to complete the mitigation table and be able to justify any entries made.</p> <p>The OFSR have stated that they will look to provide further information in version 2 of the Declarations Guidance however there will still be a requirement for forces to assess if the mitigation is sufficient or otherwise.</p>
<p>The following queries were included in Version 1 of the Declaration Guidance FAQs and are reproduced for easy reference.</p>	
<p>How should I complete the 'Accredited to ISO 17025 / ISO 17020 without accreditation to the Code?' column within the mitigation table?</p>	<p>If your Forensic Unit is accredited to ISO/IEC 17025 or ISO/IEC 17020 for the FSA (Forensic Science Activity) undertaken but has not incorporated the Statutory Code within that accreditation, then you select 'Yes'. For all other scenarios, you select 'No.'</p>
<p>Do I need to state where I am compliant within the mitigation table?</p>	<p>No, only non-compliance is required to be stated in the mitigation table, anything not stated in the mitigation table should be assumed to be compliant by the reader. The following sentence taken from the FSR (Forensic Science Regulator) Declarations Guidance document should be included alongside the mitigation table 'The table</p>

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	below sets out the scope of non-compliance for the FSA I have undertaken in this case, and the mitigations to the risks associated with the non-compliance. In all other aspects, I am compliant with the requirements set out in the FSA.'
Can I select 'Yes' in the environment column when working at a scene?	It is possible to select 'Yes' in the environment column when working at a scene. It is accepted that a scene is not a fully controllable environment so if the appropriate precautions are taken 'Yes' can be selected.
For the five mitigating steps highlighted in the mitigation table, is there standardised criteria for when to select 'Yes.'	No there is not. Currently, it is for each Forensic Unit to define this themselves. The practitioner making the declaration needs to be confident of defending any mitigations should they be challenged in Court at a later stage.
What should I enter in the 'Additional Comments' section of the mitigation table?	This is for your Forensic Unit/each individual practitioner to determine, there is no set guidance. However, it should be relevant to the results reported. It could include satisfactory PT (Proficiency Testing) results, QC (Quality Control) checks, peer reviews etc. The FCN (Forensic Capability Network) has prepared Mitigation Guidance, which is available on the FCN website .
Do I need to use the full FSA title in the mitigation table or just the code?	Full title e.g., INC 100 – Incident scene examination.
What do I write in the scope of non-compliance section of the mitigation table?	This is for your Forensic Unit/each individual practitioner to determine; it should have resemblance to the sub-activity stated in the FSA, but a bespoke definition may be required so it more closely reflects the content of the report. Alternatively, 'all' can be used where relevant, and the mitigations are all the same.
Do DNA Match Reports require a declaration of compliance with the Code?	No. The OFSR (Office of the Forensic Science Regulator) has agreed a declaration of compliance or non-compliance is not required for DNA Match Reports.
Following the recent FSR Notification 01-2023, do I still need to provide a declaration of non-compliance in relation to opinions and interpretations?	As there is not the possibility to attain accreditation for activity level interpretation and opinion in certain instances where the Code requires it (BIO-300, MTP-500 & MTP-602), the FSR notification suspended the requirement for all activity level interpretation and opinion requirements for accreditation, whilst this is worked through by the Specialist Group. Therefore, there is no need to declare non-compliance to the Code for any activity level opinions and interpretations.