Forensic Science Service closure

“The Government did not consider enough evidence in its decision-making… Examining the possible impacts of a decision after the decision has been made contradicts the concept of evidence informing policy.” House of Commons Science and Technology Committee report into the closure of the Forensic Science Service.

In December 2010, the Government announced it would be closing the Forensic Science Service (FSS)1. This action, which came as a surprise to many, was swiftly followed by launch of an inquiry by the House of Commons Science and Technology Committee. Some of you may be aware that the Biochemical Society submitted evidence to this inquiry2, highlighting the FSS’s achievements, and expressing its concerns over the consequences of a fully privatized service (operationally, in regulation, training, archiving and reputation). Fundamentally, there was concern – aired both in the UK and abroad4–6 – that the wind-down would have a lasting and negative effect on the administration of justice.

The Committee’s report took account of the Society’s evidence (along with that of around 100 other organizations and individuals) and was damning of the process – or lack of process – that led to the decision to close the FSS. With the submitted written evidence, discussions having taken place in Westminster and oral evidence also taken, the flaws are made clear in the report7.

The enquiry

The FSS is a Government-owned company. Since the early 1990s, it has progressed from a public to a commercial organization and a market has developed in forensic services. Despite this, in December 2010 the FSS still held a 60% market share2. During the debate, Damien Green MP, a Minister of State in the Home Office, laid out the Government’s current thinking: “The Government wants the UK’s forensic science industry to operate as a genuine market, with private sector providers competing to provide innovative services at the lowest cost.

“A competitive market can help drive down prices and improve turnaround times, meaning that serious crimes can be cleared up more quickly and efficiently. Ultimately, I am sure that that is what we all want.”

Following the inquiry, it seemed to many that there was far too much of this focus on the market. The public, and the scientists among it, recognize the need for austerity (although many have wearied of the word). However, eyebrows were raised when the decision to wind-down the FSS was taken on financial grounds – remember, this is an organization which retained a 60% market share – and further so when the report revealed that important sources of potentially valuable advice had been bypassed entirely4.

Prospect, the union for professional scientists, engineers and other specialist professionals, has been consistently critical of the decision to close the service (and has followed developments in the emerging argument closely)8. It reported that it had been trying to engage with the Home Office regarding the decision, but had been unable to meet the Minister until months after it was taken. But possibly the greatest cause for concern is that the Home Office’s Chief Science Advisor, Professor Bernard Silverman, was disengaged from the process, along with the government’s chief scientist, Sir John Beddington. The Committee report is strongly critical of this, given that, although it may not be within the CSAs remit to advise on legal and commercial matters, “it is certainly within his remit to advise on scientific matters relating to the closure of the FSS”9. With the drive towards evidence-based policy continually advocated, it is disappointing to see that not all of the sources of evidence and expertise were considered or accounted for in the decision to close the FSS.

Developments later in the year

As of late 2011, the government still faces fresh calls to rethink the ruling. At Prime Minister’s Questions (PMQs) on 12 October, Andrew Miller MP (who chairs the Commons Science and Technology Committee) called for David Cameron to review the decision10. With scientific staff being lost from the UK and the profession – and evidence that many of those who leave the FSS leave either the industry or the UK – Miller also pointed to the inaccuracy of the original financial justification for the closure. In May, before the publication of the review, Damien Green said that “the FSS had monthly operating losses of about £2 million and faced the prospect of further shrinkage in demand for forensic services”11 and cited the challenging forensics market. Since then, it has been revealed that this figure failed to take into account the more recent savings following a programme applied by the previous administration, which cut this figure by around one-half12.

Promisingly, the Home Office has at least now agreed that the FSS’s archive ought to be safeguarded13. These substantial records hold a vast amount of material and are used in the investigation of cold cases. In the May discussion14, Jonathan Reynolds MP stated that, “the application of advanced forensic techniques to archive material by FSS scientists...

Who was consulted?

Of the Association of Chief Police Officers (ACPO), the Crown Prosecution Service (CPS), private forensic science providers (FSPs), the Home Office’s Chief Science Advisor (CSA), the Criminal Cases Review Commission (CCRC) and the Forensic Science Regulator (FSR), advice was only sought from ACPO (the CPS was engaged via the Attorney-General, who was only engaged himself after the initial decision to wind-down had been taken). Even the FSS itself were surprised at the decision, with their statement to the Committee stating: “The announced closure of FSS has been a huge shock and disappointment to staff, and to the forensic science community in the UK and overseas.”7
jeopardizes justice

has helped to secure convictions for more than 220 historical crimes.” When the closure was first announced, it was unclear what the fate of the archives would be. The report presented a considerable body of expert opinion about the importance of the archives, which has been important in securing their future.

Despite promising news on the archives, at the time of writing the original deadline for the wind-down of the FSS still stands at March 2012, and the option of a restructuring remains out of favour. Although David Cameron was dismissive of Miller’s question at PMQs on 12 October, he did say he would look at the financial point raised. On the other hand, this appears too little too late and we should expect the original decision to stand. Prospect continues to apply pressure, and Parliamentary figures such as Andrew Miller and Jonathan Reynolds maintain their critical stance. If unsuccessful, proposals to soften the blow to future criminal justice include the Home Office and Research Councils developing a new national research budget for forensic science, and the maintenance of a shadow FSS as a research and development, training, quality standards and archive maintenance agency3. We are seeing many former FSS employees joining the police services to work in-house (raising concerns about conflict of interest, and that the police are not required to maintain the quality standard ISO17025 for testing laboratories) and private forensic service providers (FSPs) are working hard to boost their recruitment1. This will be important if the UK is to retain its forensic service capacity, issues associated with the new market notwithstanding.

Still not completely clear

All things considered, numerous questions remain cause for anxiety. Can we be sure that the market will replace the services carried out by the FSS? How will the current standards of the FSS be monitored and ensured in the private sector? If the forensic market has decreased due to increased in-house police forensic work, how can we be sure this process won’t continue, further shrinking the forensics market? What will the future be of research into forensic science – will there be an incentive for private companies to invest in innovative research? If forensics firms are driven by a desire to decrease costs, might that not have some effect upon accuracy of the results? Fundamentally, will the removal of the FSS have an impact on justice in the UK, why was the decision taken with so little consultation, and why was the wind-down deadline so early? The public are right to be concerned, with DNA evidence still defining the turning points of many criminal cases, such as the recent Amanda Knox appeal in the Italian courts. As the report states, forensic resources may become lost to the UK with the closure of the FSS, with the organizational memory and intellectual wealth being fragmented or lost.

Private FSPs now really need to step up to the plate and the situation will need to be monitored closely over the coming year.

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What the House of Commons Science and Technology Committee report said about the FSS archives

“The FSR stated that: an equally important issue for me is the many research papers and validation papers locked up in that archive which have never been published. They have to remain accessible and available.” Andrew Rennison, Forensic Science Regulator

“The archives are important for a number of reasons, but particularly for cold case reviews. We have had over 220 successful convictions from very old material based on using new methods and new techniques.” Dr Gill Tully, Research and Development Manager, FSS

“The impact ([that distribution of archives] will have on our work should not be underestimated and will be nothing short of disastrous for the Commission’s casework, for those who may have been suffering a miscarriage of justice and for the wider CJS. “The Criminal Cases Review Commission (CCRC)

“You could move the archive… from one place to another and have someone else run it, but if you don’t transfer the skills and the knowledge that have been built up… which understand how the original methodology was used and what should be given reconsideration when technology advances, you lose that link.” Steve Thomas, Officer for the FSS, Prospect

Intellectual capability “is even more important than where the physical archive is located” and that “if that skill set is broken up, that would be of huge damage to the criminal justice system.” Dr Gill Tully, Research and Development Manager, FSS

“The FSS archive needs to be maintained. Its existence is essential to reinforce confidence in the [criminal justice system]. If the archive is broken down and distributed to police forces, which may be one possible option, the degree of fragmentation will be huge, and undoubtedly very expensive to manage… Once fragmented, the archive will also be lost forever in terms of its research and development potential.” The Criminal Cases Review Commission (CCRC)3."