COMPUTER FORENSICS LAB

London digital forensics & e-discovery · Established 2007

How Lawyers Should Instruct a Digital Forensic Expert

Selection, Instruction, the Forensic Science Regulator's Code and the Report the Court Will Accept

Ninety-nine guides in this series have described what digital forensic examiners do; this one describes how to instruct them so the work is admissible, useful and proportionate. The instruction is where cases are quietly won or lost: the wrong expert for the question, a scope that misses the issue, a letter that reads as advocacy, a report that fails CPR Part 35's independence test or, in criminal work in England and Wales, one that omits the statutory declaration the Forensic Science Regulator's Code now requires of every practitioner. This guide covers the full relationship for UK lawyers: choosing an expert by competence and accreditation, drafting instructions that produce a defensible scope, managing the engagement without compromising independence, the CPR 35 and CrimPR 19 report requirements, the FSR Code's compliance and non-compliance declarations with their mitigation annexes, single joint experts, and the handling of adverse findings when they come.

⏱ Estimated reading time: 25 min read

§ ABOUT THE AUTHOR

PREPARED BY COMPUTER FORENSICS LAB E-DISCOVERY TEAM

Computer Forensics Lab is a London-based digital forensics and electronic disclosure practice established in 2007. Its examiners are instructed under CPR Part 35 and CrimPR Part 19 across civil, criminal, family and tribunal proceedings, as party experts and as single joint experts, and report under the declaration regime of the statutory Forensic Science Regulator's Code of Practice for criminal work in England and Wales. This guide draws on what good instruction looks like from the receiving end.

ESTABLISHED 2007 · LONDON | ISO 17025-ALIGNED PROCEDURES | FSR CODE DECLARATIONS | SINGLE JOINT EXPERT APPOINTMENTS | CPR 35 / CRIMPR 19 REPORTS | FULL CHAIN-OF-CUSTODY DOCUMENTATION

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In this guide

§ 0 1 · ORIENTATION

Executive summary

THE HEADLINE POINT: INSTRUCT FOR THE QUESTION, NOT THE ANSWER: CHOOSE BY COMPETENCE AND ACCREDITATION, SCOPE PRECISELY, PROTECT INDEPENDENCE, AND IN CRIMINAL WORK MAKE SURE THE FSR CODE DECLARATION IS THERE AND HONEST

Selection (§3): digital forensics is a family of specialisms: computer, mobile, cloud, network, vehicle, media authentication: and the expert is chosen for the specific question, with competence evidenced (qualifications, casework, court experience, peer review) and, for criminal work in England and Wales, the accreditation and Code position that the Forensic Science Regulator's statutory regime now makes visible in every report. **Instruction (§4):** the letter states the issues, the questions (neutral, answerable, ordered), the materials and their custody, the scope boundaries and the timetable: the document the court may see, so it reads as an instruction to find out, never to find. **The FSR Code (§5):** since the Forensic Science Regulator Act 2021 the Code of Practice is statutory; version 2 has applied since 2 October 2025; every practitioner reporting forensic science activities in the criminal justice system in England and Wales must declare compliance or non-compliance with the Code in their report (and in SFR1/SFR2 streamlined reports), non-compliance requiring an annex of mitigations addressing competence, method validity, documentation, equipment and environment: the Regulator's declarations guidance (FSR-GUI-0001, Issue 3, March 2026) supplies the wording. Lawyers instructing for criminal work must ask the Code question at selection and check the declaration on receipt. **The report and the relationship (§6-§7):** CPR Part 35 and PD 35 (civil) and CrimPR Part 19 and the Criminal Practice Directions (criminal) fix the report's form, the expert's overriding duty to the court and the declarations of truth; the engagement is managed so independence survives (no drafting the opinion, no suppressing the adverse finding), and single joint expert appointments follow their own rules on instruction and communication.

- **Specialism first:** the mobile examiner is not the network examiner: match the expert to the question, evidenced.
- **The letter is disclosable:** in civil work the instructions' substance is stated in the report; draft every instruction as if the judge reads it.
- **Criminal work: the Code declaration is mandatory:** compliance or non-compliance stated, mitigations annexed where required: checked before service.
- **Independence is the asset:** an expert who found what you wanted is worth less than one who found what is there.
- **Adverse findings are managed, not buried:** the discipline that keeps the lawyer, the expert and the case on the right side of the rules.

§ 0 2 · FIRST PRINCIPLES

The problem in plain English: the instruction shapes the evidence

An expert answers the question asked, on the materials supplied, within the scope set. Instruct for "whether the defendant sent the messages" and you get a narrow attribution report; instruct for "the full history of the device's messaging activity around the relevant dates" and you may get the exculpatory context or the second, worse thread. Supply the extraction but not the device and the expert cannot test the extraction; omit the counterparty's handset and the corroboration route closes. Set no timetable and the report arrives after exchange; set no scope boundary and the fee arrives with it.

The stakes have risen on the criminal side. The Forensic Science Regulator's Code of Practice, once guidance, is now statute-backed: forensic science activities in the criminal justice system of England and Wales are regulated, practitioners must declare their compliance position in every report, and a report without the declaration: or with a declaration that does not match the work: is an admissibility and weight problem the opponent will find. The instructing lawyer is now part of the quality system: choosing practitioners whose Code position fits the case, and checking the declaration before the report is served. This guide is the instruction discipline across both jurisdictions: the same care, the same letter, with the criminal-side additions made explicit.

§ 0 3 · THE RIGHT EXPERT

Choosing the expert: competence, accreditation and the right specialism

- **Match the specialism:** this series' catalogue is the map: computer and macOS forensics, mobile (iOS, Android), cloud and M365/Google estates, messaging platforms, network and intrusion, vehicles and IoT, media authentication, cryptocurrency: the question named first, the discipline second, the individual third: a generalist report on a specialist question is the commonest avoidable weakness.
- **Evidence competence:** qualifications and tool certifications, casework volume in the relevant discipline, court and cross-examination experience, published or peer-reviewed work, and references from instructing solicitors: asked for, not assumed from a website.
- **Accreditation and the Code position (criminal work):** whether the forensic unit holds UKAS accreditation (ISO/IEC 17025 for laboratory activities, ISO/IEC 17020 for scene-type activities) for the relevant forensic science activity, and what Code declaration the practitioner will be able to make: compliance, non-compliance with mitigations, or Code-not-applicable: established at selection, because it will appear in the report regardless.
- **Civil-side quality markers:** accreditation is not mandated for civil work, but ISO 17025-aligned procedures, documented methods, chain-of-custody discipline and tool validation are the questions CPR 35 cross-examination asks: the same markers, asked for the same reason.
- **Capacity, conflicts and independence:** the expert's availability against the timetable, a conflicts check across parties and related matters, and any prior relationship with the instructing party disclosed: the independence the report will assert, verified before the engagement.

§ 04 · THE LETTER

Drafting the instruction: scope, questions, materials and boundaries

- **The issues and the role:** the proceedings, the parties, the pleaded or charged issues the expert's evidence goes to, and the capacity (party expert, single joint expert, adviser): so the expert's duty and the report's form are correct from the first line.
- **Questions that can be answered:** neutral, specific, ordered: "What does the device evidence show about the creation, modification and transmission of [file] between [dates]?" rather than "Confirm the defendant did not send it": questions the expert can answer either way, because the court will see them (in civil work, CPR 35.10 requires the report to state the substance of all material instructions).
- **Materials and custody:** what is supplied (images, extractions, devices, logs, productions), in what form, with what chain-of-custody documentation (guide 1's disciplines), and what the expert may need that is not yet available: including the counterparty and platform sources this series' source-architecture sections map.
- **Scope boundaries and proportionality:** what is in and out, phased where sensible (preliminary view before full examination), with fee estimates against the scope: the budget and the timetable stated, and the court's proportionality expectations (CPR 35.1: expert evidence restricted to what is reasonably required) respected in the design.
- **The practical framework:** timetable against directions, reporting format required, confidentiality and UK GDPR handling of the materials, privilege structure over preliminary work (guide 91's cautions), and the communication channel: with the standing reminder that the letter is written for the judge who may read it.

§ 0 5 · THE STATUTORY LAYER

The Forensic Science Regulator's Code: declarations of compliance and non-compliance

- **The regime:** the Forensic Science Regulator Act 2021 placed the Regulator on a statutory footing and empowered a Code of Practice for forensic science activities in the criminal justice system in England and Wales; version 1 took statutory effect in October 2023 and version 2 replaced it from 2 October 2025: digital forensic activities (computer, mobile, network and related examinations) fall within the regulated activities, subject to the Code's definitions and any activities the Regulator has designated as not yet subject.
- **The declaration requirement:** every practitioner reporting a forensic science activity must declare in the report whether the activity is one to which the Code applies and whether the practitioner and forensic unit have complied with it: the declaration sits alongside the CrimPR Part 19 declaration of truth and the Criminal Practice Directions' requirements, and applies to streamlined forensic reports (SFR1 and SFR2) as well as full statements.
- **Non-compliance and mitigations:** where compliance cannot be declared, in whole or part, the practitioner declares non-compliance and annexes mitigations addressing the competence of the practitioners, the validity of the method, its documentation, the suitability of equipment (including maintenance and calibration) and the suitability of the environment: the Regulator's declarations guidance (FSR-GUI-0001, Issue 3, March 2026) provides the template wording and mitigation table: and the court weighs the evidence with the declaration in view.
- **What instructing lawyers must do:** ask at selection which declaration the practitioner will make for this activity; understand what non-compliance means for weight and for the opponent's cross-examination; check that the served report contains the declaration in the current form; and, for defence work in particular, recognise that the regime applies to defence-instructed practitioners too: the Code does not distinguish by instructing party.
- **Jurisdictional and civil boundaries:** the statutory Code applies to the criminal justice system in England and Wales; Scotland and Northern Ireland have their own arrangements; civil, family and tribunal work is outside the statutory regime, though the same quality markers inform CPR 35 weight and many practitioners apply Code-standard procedures across their casework: which is worth asking about.

§ 0 6 · THE REPORT

The report: CPR 35, CrimPR 19 and what the court expects

- **The overriding duty:** the expert's duty is to the court, overriding any obligation to the instructing party (CPR 35.3; CrimPR 19.2): the principle every other requirement serves, and the one an instruction must never be drafted against.
- **Civil form (CPR 35, PD 35):** the report addressed to the court; qualifications stated; literature and materials relied on identified; facts and assumptions distinguished from opinion; who carried out examinations and under whose supervision; the range of opinion where it exists; a summary of conclusions; the substance of all material instructions; and the statement of truth and expert's declaration in the prescribed form: with the Guidance for the Instruction of Experts in Civil Claims as the practical companion.
- **Criminal form (CrimPR 19, CPD):** the parallel content requirements plus the criminal-specific elements: the declaration of truth in the prescribed terms, disclosure of anything that might undermine reliability or credibility (the expert's duty to reveal), and, per §5, the FSR Code declaration and any mitigations annex: served within the disclosure timetable the rules and directions set.
- **Method transparency:** in both jurisdictions the report explains what was done, with what tools and versions, on what materials, with what chain of custody (guide 1), and what the limitations are: this series' standing honesty rule expressed as the report's structure: conclusions graded, alternatives addressed, uncertainty stated.
- **Readable for the tribunal:** technical findings translated without dilution, illustrated where guide 96's timelines or the metadata lattices of guide 87 help, and structured so a judge or jury can follow the reasoning from artefact to conclusion: the report's persuasive power is its clarity, not its length.

§ 07 · THE RELATIONSHIP

Managing the engagement: independence, adverse findings and single joint experts

- **Communication that preserves independence:** factual clarifications, additional materials and timetable management flow freely; opinion is never drafted, suggested or negotiated by the instructing side: comments on a draft are confined to accuracy, completeness and comprehensibility: the line courts police and opponents probe.
- **Adverse findings:** when the examination hurts the client's case, the expert must say so and the lawyer must handle it lawfully: advising the client, reconsidering strategy, and never suppressing a served-expert's material findings or shopping for a second opinion to bury the first: the expert's duty to reveal in criminal work and the disclosure obligations in civil work both reach the inconvenient result.
- **Preliminary advice versus expert evidence:** the adviser role (privileged, exploratory, guide 91's structures) is distinct from the CPR 35 or CrimPR 19 witness role: the transition managed explicitly, because material instructions and materials considered become disclosable once the expert reports.
- **Single joint experts (CPR 35.7-35.8):** instructions agreed or served on both sides simultaneously, communications copied, questions under CPR 35.6 available, and the SJE's independence from both parties absolute: the appointment that serves proportionality and requires the most disciplined instruction of all.
- **Experts' discussions and joint statements:** CPR 35.12 meetings and the criminal equivalents (CrimPR 19.6) narrow issues expert-to-expert without lawyers steering: the agenda drafted neutrally, the joint statement recording agreement and disagreement with reasons: the process that often decides whether the dispute is technical at all.

§ 0 8 · THE WIDER MAP

Source architecture: where else the evidence lives

Per this series' source-architecture discipline, applied to the expert relationship: an instruction's quality is judged by whether it gave the expert access to the evidence's full architecture, and an expert's quality by whether they asked for what was missing. The instruction maps: the primary sources supplied (devices, images, extractions, productions, logs) with their custody records; the associated sources this series catalogues for the topic (the counterpart device, the cloud account, the platform audit trail, the backup: the guide-specific tables from 44 onward); the opponent's expert material (reports, methodology, tool logs) for review and challenge; and the quality-system layer that governs the expert's own work: method documentation, validation records, tool versions, competence records, and, in criminal work, the accreditation scope and Code declaration basis. When the primary source is unavailable: the device lost, the extraction disputed, the image unverifiable: the instruction's map names the alternates; when the expert's method is challenged, the quality-system layer answers. The §8 table below is the instruction's own checklist: each row a class of source the letter should address, each column a place the class may be found.

SOURCE CLASS	SUPPLIED BY INSTRUCTING PARTY	HELD BY OPPONENT / THIRD PARTY	PLATFORM / CLOUD	EXPERT'S QUALITY-SYSTEM RECORDS	COUNTERPART DEVICE	DELETED/ RECOVERABLE
Primary evidence (device, image, extraction)	Y: with custody records	Often: sought by disclosure	Y: account exports	n/a	Y: corroboration	Varies: guide 95
Verification material (hashes, tool logs, acquisition notes)	Sometimes	Y: the opponent's expert's file	n/a	Y: the expert's own	n/a	n/a
Contextual sources (logs, backups, versions)	Limited without prompting	Y: disclosure route	Y: audit trails	n/a	Sometimes	Varies
Method and validation evidence	n/a	Y: for challenge	n/a	Y: the Code basis	n/a	n/a
Competence and accreditation records	n/a	Y: for cross-examination	n/a	Y: scope + declaration	n/a	n/a

Fallback strategy in one line: instruct against the full map, ask the expert what is missing, and hold the quality-system layer ready: when the primary source or the method is attacked, the alternates and the records answer.

§ 09 · IN THE WILD

Worked examples

EXAMPLE 1 · THE DECLARATION THAT WAS MISSING

Defence solicitors in a Crown Court fraud instructed a well-regarded computer examiner to challenge the prosecution's timeline. The report was thorough and, on its merits, damaging to the Crown's case. It was also served without any statement of the practitioner's position under the Forensic Science Regulator's Code: the examiner's unit was not accredited for the activity and had not prepared a non-compliance declaration or mitigations annex. Prosecution counsel's first question at the admissibility hearing was whether the Code applied to the activity and what the declaration was; the answer required an adjournment, a supplementary statement with the declaration of non-compliance and a mitigations annex addressing competence, method validation, documentation, equipment and environment per the Regulator's guidance, and a costs argument the defence lost. The evidence was admitted and weighed with the declaration in view. The lesson is §5's whole content: for criminal work in England and Wales, the Code question is asked at selection and the declaration checked before service: the substance of the report is not the only thing the court reads.

EXAMPLE 2 · THE LETTER THE JUDGE READ ALOUD

In a commercial claim over an allegedly backdated agreement, a party's instruction to its expert asked for "a report demonstrating that the document's metadata is consistent with creation on the stated date". The expert obliged with a narrow report; CPR 35.10 required its material instructions to be stated, and the opponent's counsel read the sentence to the judge. The report's reasoning was not wrong, but its framing was fatal to weight: the court preferred the opposing expert, whose instruction had asked what the metadata showed about creation and modification history, and whose report had addressed the anachronistic PDF library the first expert had been directed away from. The instruction had shaped the evidence, and the evidence had shaped the finding. §4's rule is that the letter is written for the judge because sometimes the judge reads it.

EXAMPLE 3 · THE ADVERSE FINDING HANDLED CORRECTLY

An employer's expert, instructed neutrally per §4 in a data-theft claim, reported that the USB artefacts on which the claim was built matched a firm-issued encrypted drive on the asset register, connected in a pattern consistent with years of sanctioned home-working (guide 97 Example 3's facts, from the instructing side). The finding was adverse. The solicitors did what §7 requires: advised the client candidly, withdrew the USB-based allegation, and re-scoped the instruction to the cloud-egress evidence the same examination had surfaced, where a personal sync client's manifest told a different story. The narrowed claim succeeded; the credibility banked by conceding the USB point was visible in the judgment. The expert who found the bad news early saved the case that the expert who had been asked to confirm the good news would have lost.

§ 10 · WHERE IT GOES WRONG

Common mistakes and technical limitations

Common mistakes

- **The generalist on the specialist question:** the wrong discipline instructed: the cross-examination writes itself.
- **Leading instructions:** Example 2's sentence: the letter asking for the answer, disclosed under CPR 35.10.
- **The Code question never asked:** Example 1's adjournment: criminal-work reports served without the declaration or with mitigations unprepared.
- **Materials incomplete:** extractions supplied without devices, primary sources without the source-architecture alternates: the expert answering on half the estate.
- **Scope unbounded or unphased:** the fee and the timetable both discovered at exchange.
- **Drafting the opinion:** comments on drafts that shade into authorship: independence forfeited, and detectable.
- **Burying the adverse finding:** the second expert shopped, the first report suppressed: professional-conduct exposure on top of the case risk.
- **SJE instructed like a party expert:** unilateral communications, one-sided materials: the appointment's protections thrown away.

Technical limitations

- **Accreditation is scoped:** a unit's UKAS accreditation covers listed activities, not everything the unit does: the scope checked against the actual examination.
- **The Code's coverage evolves:** activities subject to the Code, and those not yet subject, change between versions and designations: verified per matter against the current Code and the Regulator's guidance (FSR-GUI-0001 at its current issue).
- **Experts answer what the sources allow:** this series' standing rule: gaps, ceilings and grades are stated in every honest report, and a report without them is the suspicious one.
- **Timetables constrain method:** late instruction forces preliminary views and phased reporting: stated as such, with what a fuller examination would add.
- **Cross-border and multi-forum work:** Scottish, Northern Irish, arbitral and regulatory settings carry their own expert rules: the report's form confirmed per forum, not assumed from the civil-or-criminal binary.

§ 11 · INTERROGATORIES & DRAFTING AIDS

Questions to ask · Suggested wording

Ask your client

- What is the actual technical question the case turns on: so the specialism, not the brand, is selected?
- What do we hold, what does the other side hold, and what sits on platforms: the §8 map, before the letter is drafted?
- Are we prepared for the answer to be unhelpful: and is the privileged-adviser phase structured before the witness phase begins?

Ask the prospective expert

- What is your casework and court experience in this specific discipline, and can you provide references from instructing solicitors?
- (Criminal work:) Is this activity one to which the FSR Code applies; is your unit accredited for it; and what declaration will you make: compliance, non-compliance with mitigations, or Code-not-applicable?
- What materials will you need beyond those listed, and what preliminary view can you give within [timescale] and budget?

Ask the opponent (of their expert evidence)

- Please provide the expert's material instructions, the materials considered, tool identities and versions, and the acquisition and chain-of-custody records underlying the examination.
- (Criminal work:) Please confirm the FSR Code declaration made, the accreditation scope relied on, and, where non-compliance is declared, the mitigations annex.

SUGGESTED WORDING · CORE PARAGRAPHS OF AN INSTRUCTION LETTER

> "We instruct you as [party-appointed expert / single joint expert] in [proceedings], to provide expert evidence in [discipline] on the questions set out in Schedule 1. Your overriding duty is to the court [CPR Part 35 / CrimPR Part 19], and your report must comply with [PD 35 and the Guidance for the Instruction of Experts in Civil Claims / CrimPR 19.4 and the Criminal Practice Directions], including [the statement of truth and expert's declaration / the declaration of truth and, where applicable, the declaration of compliance or non-compliance with the Forensic Science Regulator's Code of Practice with any annex of mitigations in the form of the Regulator's current guidance]. The materials supplied, with chain-of-custody records, are listed in Schedule 2; please identify any further materials you consider necessary. The scope, phasing, timetable and fee estimate are at Schedule 3. Please state the methods and tools used, the limitations of the examination, the range of reasonable opinion where it exists, and any matter that might undermine the reliability of your evidence. Nothing in these instructions should be read as indicating the answer sought; we ask you to report what the evidence shows."

§ 12 · QUICK CONTROL

Checklist and red flags · When to involve a digital forensic expert

The instruction checklist

- ☐ Technical question defined; specialism matched; competence evidenced
- ☐ Conflicts checked; independence and capacity confirmed
- ☐ (Criminal) Code applicability, accreditation scope and declaration established at selection
- ☐ Questions neutral, specific, ordered; the letter written for the judge
- ☐ Materials listed with custody records; §8 alternates addressed
- ☐ Scope bounded and phased; fees and timetable stated
- ☐ Adviser and witness roles distinguished; privilege structured
- ☐ Draft comments confined to accuracy and clarity
- ☐ Report checked against CPR 35 / CrimPR 19 form and declarations before service
- ☐ Adverse findings advised on candidly; strategy adjusted lawfully

Red flags

- Instructions that state the conclusion sought: Example 2's sentence.
- Criminal reports with no Code declaration, or mitigations unprepared: Example 1's adjournment.
- Experts who never ask for missing materials.
- Reports without limitations, grades or alternatives.
- Accreditation claimed generally, scope unstated.
- Draft opinions that change after "comments".
- Second experts instructed after a first reported inconveniently.

When to involve a digital forensic expert

Early, in the privileged-adviser role, so the technical question is framed before evidence is exchanged; formally under CPR 35 or CrimPR 19 once the issues and materials are known, with the instruction drafted per §4 and the Code position settled per §5; as single joint expert where proportionality favours it; and in reviewing the opponent's expert evidence against the same standards. Through **cflab.uk** and **e-discovery.uk**, examiners are instructed across every discipline this series has covered, report under both procedural regimes with the FSR Code declarations criminal work requires, and treat the instruction conversation as the first step of the examination rather than the paperwork before it.

§ 13 · COMMON QUESTIONS

Frequently asked questions

Does the Forensic Science Regulator's Code apply to a defence-instructed expert?

Yes: the Code regulates forensic science activities in the criminal justice system of England and Wales regardless of who instructs, and the declaration requirement applies to every practitioner's report: Example 1's defence expert learned this at the admissibility hearing. Ask the Code question at selection; check the declaration before service.

Our preferred expert cannot declare full compliance. Can we still instruct them?

Often yes: non-compliance is declared, not concealed, with the mitigations annex (competence, method validity, documentation, equipment, environment) prepared per the Regulator's guidance: and the court weighs the evidence accordingly. What is fatal is the missing declaration or the unprepared annex, not honest non-compliance in an activity where accreditation is still building.

Will the court see our letter of instruction?

In civil work the report must state the substance of all material instructions (CPR 35.10), and the court can order disclosure of the instructions themselves where there are reasonable grounds to think the statement is inaccurate or incomplete: Example 2's sentence reached the judge that way. Draft every letter on the assumption that it will be read.

Can we comment on the expert's draft report?

On accuracy, completeness, comprehensibility and compliance with the rules, yes; on the opinion, no: the line between clarifying and authoring is the independence the report asserts, and opposing counsel will probe draft history and communications where they suspect it was crossed. The Guidance for the Instruction of Experts in Civil Claims sets out the permitted scope.

Our expert's findings hurt our case. What are our options?

Advise the client candidly, reassess strategy on the true position, and re-scope lawfully where other evidence exists (Example 3's turn to the cloud-egress route): not suppression, not shopping for a friendlier second opinion to bury the first. The expert's duties and your own professional obligations both reach the inconvenient finding; handled properly, it is often the moment the case becomes winnable on what is actually there.

Is a single joint expert right for digital evidence?

Frequently, on discrete technical questions where proportionality matters (CPR 35.7's default in smaller claims): with the disciplines of joint instruction, copied communication and CPR 35.6 questions. On contested, case-deciding technical issues, parties often need their own experts and the CPR 35.12 discussion to narrow the dispute: the choice made on the question's weight, with the court's permission governing either way.

§ 14 · REFERENCE

Glossary

Code declaration
The practitioner's statement of compliance or non-compliance with the FSR Code.

CPR 35.10
The requirement that a civil expert report state material instructions.

CrimPR Part 19
The criminal procedure rules governing expert evidence.

Forensic science activity (FSA)
An activity the Regulator has made subject to the Code.

FSR-GUI-0001
The Regulator's declarations guidance, at its current issue.

Mitigations annex
The table accompanying a non-compliance declaration.

Overriding duty
The expert's primary obligation to the court, above the instructing party.

SFR1 / SFR2
Streamlined forensic reports, both requiring Code declarations.

Single joint expert
One expert instructed jointly by the parties under CPR 35.7.

UKAS accreditation
Assessment against ISO/IEC 17025 or 17020 for scoped activities.

Sources and authoritative references

The instruction disciplines in this guide draw on materials published by our laboratory and e-discovery practice, referenced here as sources:

- cflab.uk, digital forensics services (expert instruction, CPR 35 and CrimPR 19 reporting, FSR Code declarations): cflab.uk/digital-forensics-services · guides library: cflab.uk/guides
- e-discovery.uk, EDRM Phase 07 · Analysis and Phase 08 · Presentation (expert evidence preparation as practised): e-discovery.uk/edrm/analysis · e-discovery.uk/edrm/presentation
- e-discovery.uk, practice method and Knowledge Centre: e-discovery.uk · e-discovery.uk/knowledge
- Forensic Science Regulator, Code of Practice version 2 (statutory, in force 2 October 2025): gov.uk, FSR Code v2 · Declarations guidance FSR-GUI-0001 (Issue 3, March 2026): gov.uk, Forensic Science Regulator · Forensic Science Regulator Act 2021: legislation.gov.uk
- CPS guidance on the FSR Act 2021 and Code: cps.gov.uk · CrimPR Part 19: justice.gov.uk, CrimPR 19
- CPR Part 35 and PD 35: justice.gov.uk, Part 35 · Guidance for the Instruction of Experts in Civil Claims (Civil Justice Council): judiciary.uk · ISO/IEC 27037: iso.org, 27037

§ HOW A SPECIALIST LABORATORY CAN ASSIST

Working with Computer Forensics Lab

The laboratory is instructed the way this guide describes: a scoping conversation that frames the technical question before the letter is drafted; a candid statement at selection of the specialism, the competence evidence and, for criminal work in England and Wales, the accreditation scope and the FSR Code declaration the examiner will make; instructions that read as instructions to find out; phased scope with fee estimates; reports in CPR 35 and CrimPR 19 form with methods, limitations, grades and alternatives stated and the declarations in their current form; and the professional handling of adverse findings that Example 3 describes, because an examiner who reports what is there is the only kind worth the fee. Single joint expert appointments and reviews of opposing expert evidence run under the same disciplines. Conflicts checks, confidential scoping discussions and fixed-fee estimates are routine; and if the instruction is being drafted now, the scoping call is the first paragraph: the question decided together is the question the court will find answered.

INSTRUCT THE LAB

Speak to a forensic examiner, not a salesperson.

Describe your matter in confidence and an examiner will respond the same working day. Conflicts checks and scoping calls with US counsel are routine.

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