

**STATEMENT BY THE MINISTER OF JUSTICE ON THE POLICE HUMAN TISSUE
AUDIT 2010-2012**

MONDAY 21 MAY 2012

I wish to make a statement concerning the publication of a report today by the Association of Chief Police Officers, with the assistance of the National Policing Improvement Agency, into the retention of human tissues by police forces in England, Wales and Northern Ireland.

I would like to acknowledge the hurt and pain that some families have suffered as a result of the issues brought to light by this report. In this statement I will not be referring to any individual cases and I would ask members to take the same approach.

Whilst the police acted within the law, and there would have been both important evidential and medical reasons for the retention of human tissue, it is an issue of deep regret and concern that families were not always involved in decisions affecting their loved ones.

Although the retention of human tissue following a post mortem examination without informing families was common practice prior to 2006, not just in Northern Ireland but across the UK, I share the views expressed by ACC Hamilton that there is a great difference in acting legally and doing what is morally and ethically right. I know that these views are shared by the Chief Constable who is today holding a press conference on the matter.

The families affected must be uppermost in our thinking and it is a matter of deep concern that those who have already suffered bereavement, have now had to endure further distress and upset.

In terms of the background to the report, the Human Tissue Authority issued a direction in 2010 requiring all mortuaries holding post mortem tissue samples to undertake an audit of that material.

To ensure a consistent approach, the Association of Chief Police Officers advised Chief Constables in England, Wales and Northern Ireland to conduct an audit of all human tissue held in connection with suspicious deaths and murders. This included human tissue held by, or on behalf of, police following post-mortem examinations.

Given the sensitivity of this issue, and the impact across the justice system, I wanted to make this statement to the Assembly today.

The PSNI established a dedicated team to carry out the audit in Northern Ireland. That audit identified 71 significant body parts that have been retained, originating from 64 victims. The cases go back as far as 1960.

It should be borne in mind, however, that this is not unique to Northern Ireland as retained material has been identified in the audit returns from the majority of police forces in England and Wales. While the audit did not strictly extend to the Office of the Police Ombudsman, that Office has identified seven significant body parts belonging to four victims that have been held as part of its investigations. That information has been included in the ACPO report.

Today I can confirm that 51 families resident in Northern Ireland, where the next of kin could be identified by the PSNI, have been contacted. The Office of the Police Ombudsman has also confirmed that three of the four families affected by its findings have been contacted. In all of these cases the family liaison process is an ongoing one. The specially trained Family Liaison Officers remain available to the families in the weeks ahead. Steps are being taken to inform the next of kin in ten cases where they are resident outside Northern Ireland and to identify the next of kin in a very small number of outstanding cases.

It was the intention that those visits would have taken place before details of the audit became public. Unfortunately that wasn't possible because the outcome of the audit was leaked. This made an already difficult situation worse, as it created undue worry and concern for families – including specifically those families not affected by the findings, but who will have feared they might have been. The distress caused to those families is a matter of grave concern.

The samples identified as part of the audit were retained at post mortem examinations to assist the police investigation into establishing the cause of death as well as for evidential purposes. Further analysis or re-examination of such samples can often prove vital in identifying evidence to bring an offender to justice.

This is normal practice and I must stress that all samples were taken under the appropriate legal powers.

Prior to commencement of the Human Tissue Act in 2006 there was, and indeed still is, no legal requirement to obtain consent for the taking and retention of human tissue at a Coroner's post mortem examination if it is required to help determine the cause of death. However, the Human Tissue Act put in place strict requirements for dealing with that tissue after the Coroner's investigation has concluded. Those requirements, however, do not extend to samples retained under the powers in the Police and Criminal Evidence (NI) Order on behalf of the PSNI.

Whilst not bound by the terms of the Human Tissue Act, in 2006 the PSNI decided to implement the spirit of its intentions, which require all families to be informed if material is retained. That has made an important difference to the handling of recent cases and remains current practice. The PSNI will review the reason for the continued retention of samples and ensure appropriate liaison with families.

I am extremely mindful that while these body parts were kept for good and valid reasons, they relate to families who have lost loved ones, and who have suffered further hurt since this issue has come to light.

I want to turn now to the points raised by the audit.

The report makes a number of recommendations to ensure that best practice is followed in future. These recommendations cover police practice but also extend to both the Coroners Service and the State Pathologist's Department. A copy of the ACPO audit report is being placed in the library.

I will be considering the most appropriate mechanism for ensuring that the recommendations are fully implemented in consultation with relevant stakeholders. That is important to ensure public confidence.

There is a range of organisations with an interest and I want to ensure there is a clear, coherent and co-ordinated approach. My officials and I have already been in contact with the Human Tissue Authority, Criminal Justice Inspection Northern Ireland and Her Majesty's Inspector of Constabulary to open discussion on the best approach.

Members of the Justice Committee have asked if any tissue was destroyed prior to 2006 without a family's consent. I believe it is both entirely natural and sensible to pose this question.

On Friday, I met the State Pathologist and a senior representative of the Coroners Service. The State Pathologist has clarified to me that there were in the past, occasions when human tissue was taken without the families' knowledge and subsequently disposed of without family consent or knowledge. To many that may seem a shocking statement.

However, I need to put in context the substantive body of work that was done in Northern Ireland prior to 2006 to help build public confidence in post mortem procedures and to recognise the proper place of families. That was primarily in response to events at Alder Hey and Bristol Hospitals. This work included the establishment of an independent human organs inquiry which critically reviewed post mortem procedure and practice in Northern Ireland. That work covered all post mortems – whether conducted by hospital pathologists or the State Pathologist.

The recommendations of the inquiry were far reaching and led to a public information leaflet being widely distributed across Northern Ireland which explained how families could enquire if organs had been removed or retained at a post mortem carried out for a member of their family.

A dedicated Human Organs Enquiry Line was also available which was promoted via an extensive media campaign. I understand over 300 families made enquiries through that line and were able to have their concerns addressed as a result. In addition, I know that a series of public meetings was held at which professionals, including the State Pathologist, explained the practices they had followed and apologised for any distress caused.

When the Inquiry team's report was presented to this House on 5 June 2002, the then Minister of Health, Bairbre de Brún, apologised for the hurt caused to families as a result of organs being retained. I add, on behalf of the Criminal Justice System, my own apologies to those of the then Health Minister.

Today, and indeed for the last number of years, there has been a very different approach to such sensitive issues around post mortems. Medical practice is more centrally focused on the needs and interests of families whilst also meeting the requirements of the Coroner and PSNI who have legal responsibility for the investigation of such deaths.

In the light of all that has been done in response to the Human Organs Inquiry and the current audit, I believe that a further review of how post mortems were conducted in the past would only result in further pain and distress for many families. However, I know from the PSNI and the State Pathologist that any family that has outstanding concerns in this area can raise those concerns with either organisation and have them responded to in a sensitive and open way.

In the first instance, the helpline established by the police in conjunction with the Victims Service and Victim Support will be an appropriate point of contact and will refer individuals to the organisation that can assist them best. I have spoken to both the Commission for Victims and Survivors and Victim Support Northern Ireland and will review these arrangements with them in two weeks time. That will provide an opportunity to assess whether anything further needs to be done to support victims.

In terms of my responsibilities looking forward, my focus is on ensuring that the recommendations of today's review are implemented fully in Northern Ireland. I am currently discussing with relevant organisations how best to achieve that, taking note of the approach to be adopted in England and Wales.

In conclusion, I want to repeat that I deeply regret the fresh pain that families have had to suffer since this issue became known. I appreciate that this will be difficult for families to deal with, both in terms of the shock of hearing that body parts were retained without their knowledge, and also that their views were not sought on how the remains should be dealt with when the police investigation had concluded.

We cannot change the past, but lessons have already been learned on how we need to deal with such sensitive issues. I want to assure Members that I fully appreciate the gravity of this issue and will ensure that the recommendations of the audit are implemented fully.