Northern Ireland
Assembly

COMMITTEE FOR JUSTICE

OFFICIAL REPORT
(Hansard)

Departmental Briefing on DNA Retention Policy

30 September 2010

NORTHERN IRELAND ASSEMBLY

COMMITTEE FOR JUSTICE

Departmental Briefing on DNA Retention Policy

30 September 2010

Members present for all or part of the proceedings:
Lord Morrow (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Lord Browne
Mr Thomas Buchanan
Mr Paul Givan
Mr Alban Maginness
Mr Conall McDevitt
Mr David McNarry
Ms Carál Ní Chuilín
Mr John O'Dowd

Witnesses:
Mr Gary Dodds)
Mr David Hughes) Department of Justice
Mr Alan Tipping)

The Chairperson (Lord Morrow):

I welcome the witnesses from the Department of Justice (DOJ): David Hughes, head of the policing policy and strategy division; Alan Tipping, head of police powers and custody branch, and Gary Dodds of the police powers and custody branch. You are very welcome, and I invite you to make your presentation.

Mr David Hughes (Department of Justice):

The issue that we have brought to the Committee is the introduction of a new DNA and fingerprint retention policy in Northern Ireland. I will say a few words about the current law on the retention of DNA and fingerprints, give an outline of what changes the Minister is minded to make to that legislation and set out the process that the Department is proposing to follow to make the necessary changes.

The Police and Criminal Evidence (Northern Ireland) Order 1989, which I shall refer to as PACE, makes provision for the framework of police powers in Northern Ireland. At present, police may take a DNA sample and fingerprints from a person arrested and detained in custody in connection with a recordable offence. The current law allows police to retain the DNA sample, the DNA profile and fingerprints obtained from an arrested person indefinitely, irrespective of whether the person is subsequently acquitted or the case is not proceeded with. The law restricts the use of such material to use for the purposes of the prevention and detection of crime, the investigation of an offence or identifying a deceased person or body part. Nevertheless, there is nothing at present on the statute book to prevent that material being kept indefinitely.

The police currently hold offender and crime scene profiles on a local DNA database. The data in that database is owned by the police, but the database is operated and maintained on their behalf by Forensic Science Northern Ireland. Northern Ireland offender and crime scene profiles are also shared and retained on the UK's national DNA database, which presently holds in excess of five million profiles. Separate databases are maintained by the PSNI for the retention of fingerprints in Northern Ireland.

In December 2008, the European Court of Human Rights found in the case of S. and Marper v the UK that the blanket policy in England, Wales and Northern Ireland of retaining indefinitely the fingerprints and DNA of all people who have been arrested but not convicted was in breach of article 8 of the European Convention on Human Rights, which deals with the right to privacy. You will appreciate the significance of that judgement. In the judgement, the court made specific reference to the Scottish model of retention as one that it was particularly struck by as providing a balanced and proportionate approach.

Since the court's judgement, significant policy development work has taken place to address the identified breach. In May 2009, the Home Office issued a consultation paper entitled

'Keeping the Right People on the DNA Database: Science and Public Protection', which outlined proposals to replace the current retention framework with one aimed at achieving the proportionate balance between the rights of the individual and the protection of the public. Those policy proposals were also to be extended to Northern Ireland, and a simultaneous public consultation was carried out here. Following that consultation, new retention provisions for England, Wales and Northern Ireland were introduced in the Crime and Security Bill. That Bill, including the DNA clauses, was passed in the wash-up negotiations prior to the dissolution of Parliament on 12 April 2010. However, those provisions have not been commenced and have not been brought into force.

The Crime and Security Act 2010 sets out a policy of retention for six years following non-conviction. Following the 2010 general election, the UK Government indicated their intention to legislate in England and Wales in a forthcoming freedom Bill for a new retention framework that is broadly in line with the Scottish model of retention. They set aside the Crime and Security Act 2010 provisions rather than commencing them.

I will say a few words about the Scottish model. Scottish law requires DNA samples and profiles to be destroyed if a suspect is not proceeded against or is acquitted, except in cases in which the person is arrested on suspicion of certain serious sexual and violent offences. Even in the case of such serious offences, samples and profiles must be destroyed after three years, unless a Chief Constable applies to a sheriff to extend the period for a further two years. There is no limit to the number of times that the police can seek an extension.

The options for putting in place a Northern Ireland policy are set out in the paper provided to the Committee. Option A is for the commencement of the Northern Ireland provisions of the Crime and Security Act 2010, which are still available to be commenced. Option B is to seek a legislative consent motion for the inclusion of Northern Ireland provisions in the freedom Bill. Option C is to shelve the Crime and Security Act 2010 provisions pending the introduction of an Assembly Bill. Option D is to make some form of administrative arrangements pending the introduction of an Assembly Bill in due course.

The Minister has indicated that, although his preference will always be for Northern Ireland-specific legislation, he is minded to proceed with option B and seek a legislative consent motion in order to introduce Northern Ireland provisions in the freedom Bill in parallel with those for

England and Wales. The benefit of using a legislative consent motion is simply that we will be able to address the breach of article 8 of the European Convention on Human Rights, as identified by the European Court of Human Rights, as quickly as possible. Furthermore, a judicial review of a decision not to destroy a profile is currently before the domestic courts. It is important to demonstrate that we are addressing the issue in time for that. Option B would also be potentially less costly than making an interim retention arrangement to stay in line with the judgement before commencing work on legislating for a new policy. It would avoid the police and Forensic Science Northern Ireland having to incur the cost of adjusting their database parameters a second time in order to realign with a further revised retention regime.

The policy that is being proposed for Northern Ireland is a devolved matter, and the Minister has been giving consideration to the policy to be adopted and legislated for here. The policy that we propose to adopt is closely modelled on Scottish practice, but with some additional detail. I will run through some of the highlights, but the papers that were provided previously set those out in more detail.

There will be indefinite retention of prints and DNA of convicted adults. For juveniles who have been convicted and have received a custodial sentence of five years or more or who have been convicted of a second offence, there will be indefinite retention. For juveniles convicted of a first offence carrying a custodial sentence of under five years, there will be retention for five years or the length of the sentence plus five years. For adults and juveniles arrested for, but not convicted of, a serious offence, there will be retention for three years and a single extension for two years from the courts on tightly defined grounds.

Destruction of fingerprints and profiles taken from an adult or a juvenile for a minor offence will take place once a decision is taken not to charge or where a decision is made to discontinue proceedings or following acquittal. Those who have accepted a caution should be treated as if they were convicted, although there will be guidance to allow the Chief Constable to order deletion if he or she is satisfied that the individual poses no risk of reoffending.

The intention has been to work in parallel with Home Office policy development for England and Wales for a number of reasons, primarily because it provides an immediate solution to the challenge posed by the European Court of Human Rights judgement. The provisions, when enacted, will comply with that judgement. That is an observation that the court itself has made.

Option B offers a broadly consistent approach to DNA and fingerprint retention across all UK jurisdictions, bringing England, Wales and Northern Ireland in line with Scotland. It ensures that implementation in Northern Ireland, particularly of the destruction processes and procedures, is consistent with the procedures used elsewhere so that there is consistency in the national DNA database. It ensures that retention regimes for PACE and Terrorism Act 2000 material are consistent. Therefore, we are seeking the Committee's agreement, in principle, for the Minister to promote a legislative consent motion that will enable the introduction of equivalent DNA retention provisions for Northern Ireland within the freedom Bill.

The Chairperson:

Thank you, Mr Hughes. You said that the Minister would like to take the proposals forward by way of a legislative consent motion. Why can that not be done by way of a Bill?

Mr Hughes:

It is a matter of doing it as quickly as possible. If they were brought forward by means of a Bill, presumably it would not be possible to include them in Assembly legislation until the next session. That would be the beginning of a legislative process, the conclusion of which would be some way off. There is an imperative to address the breach that has been identified, and this is a way of doing so very quickly.

The Chairperson:

Is it not for the Minister to decide what priority he wants to give such a Bill? Surely it should not take until 2012.

Mr Hughes:

I am working on general advice on bringing legislation through the Assembly. My understanding is that a considerably longer lead-in time and process would be involved.

The Chairperson:

If this is to be done through a legislative consent motion, how would Northern Ireland-specific public consultation be carried out?

Mr Hughes:

As you will be aware, there has been no public consultation on the specific proposals, but there

was public consultation on addressing the issue raised through the European Court of Human Rights judgement. Stop me if I am wrong, but I believe that public consultation took place in May 2009. So the issue has been subject to public consultation previously; it is just the specifics that have not.

The Chairperson:

Hopefully, there will be a — "massive" might be the wrong word — big justice Bill going through the Assembly very soon. Why are the proposals not included in that?

Mr Hughes:

My understanding is that there have already been observations about the size of that Bill as well as on the time pressures in getting it through the Assembly.

The Chairperson:

Would another 100 pages make a lot of difference?

Mr Hughes:

I am taking advice from the Department on the size of the Bill and the possibility of adding anything more to it. I know that there have also been observations about the consistency of what the Bill is trying to achieve.

The Chairperson:

Do you not feel that a trick has been missed and that the proposals should have been part of it?

Mr Hughes:

We are coming to the finalisation of a policy quite late as far as the timetable for the completion of the drafting of the justice Bill and its introduction are concerned. We have been given every indication that we are too late to join that particular vehicle because it has gone through a lot of its processes and is almost on the verge of being introduced.

Mr Alan Tipping (Department of Justice):

The difficulty is that, at the time of devolution, the Crime and Security Act 2010 was made law. It was still unclear at that time whether, post-devolution and post-election, even with the new Government, the Act and the provisions within it, which were already Northern Ireland

provisions, would be commenced. There was a time right through the summer when there was no clarity about whether existing legislation would be brought forward or whether we would have to look at new legislation. It is simply a timing issue. I think that we would concede that, in an ideal world, the preferred course would be to work through a local Bill, but if we do not take action now, we will simply be out of time as regards complying with the European court, and we will be separate from England, Wales and Scotland.

The Chairperson:

I hear what you are both saying, but I find it difficult to accept that it is too late to make the proposals part of the justice Bill. That Bill has not even come to the Committee yet. We have not had sight of it, so it must still be feasible that this could form part of it.

Mr McDevitt:

I want to help to put this in its full context. What is the situation in the Republic?

Mr Hughes:

My understanding is that they are currently legislating to create a retention framework. I do not think that there is a statutory retention framework at present.

Mr McDevitt:

So they are currently going through a legislative process.

Mr Hughes:

Yes.

Mr McDevitt:

Have you had any conversation with officials in the Department of Justice and Law Reform about their proposed approach?

Mr Gary Dodds (Department of Justice):

A couple of weeks ago, I had conversations with the Department of Justice and Law Reform on what stage its Bill was at. The Republic does not have a DNA database, and the specific purpose of its Bill is to establish a database and framework for the retention of data. It is at Committee Stage, and I know that officials in the Republic are closely monitoring developments in England,

Wales and Northern Ireland to find out what our inclination is as regards introducing legislation here. The Republic's proposals are much stricter than what is being proposed for England, Wales and Northern Ireland.

Mr McDevitt:

I want to pick up on the substantial issue of local accountability. If we were to opt for a legislative consent motion, would an equality impact assessment (EQIA) be conducted?

Mr Hughes:

I am not sure. The policy would certainly be screened.

Mr McDevitt:

The NIO always screened, and the Department of Justice screens. Everything screens. Would there be an EQIA?

Mr Hughes:

I do not know. Until the screening exercise takes place, it would be hard to say.

Mr McDevitt:

I have sympathy for colleagues present because of the change of Government and the fact that they have been caught in the new ConDem approach to life in the epically named freedom Bill, whatever that is to mean. One would worry about anything that goes into a piece of legislation that is called a freedom Bill; God knows what will come out the other side. However, the matter goes to the heart of our approach to human rights at a regional level and to a lot of the issues that we would want to debate thoroughly amongst ourselves.

Like you, Mr Chairman, I am happy to give my party's commitment to putting in the extra hours for scrutiny of any piece of legislation that needs to be brought forward regionally. The matter is one that we should be looking at ourselves, and I am not at all comfortable with the idea of letting it slip below the radar where it will bypass a lot of the mechanisms that we rightly have in place at a regional level.

Mr Tipping:

The intention is that any proposals in legislation will be brought to the Assembly and debated on

the Floor so that there will be proper Assembly consent.

Mr McDevitt:

There is no opportunity to scrutinise such measures properly; it is a fast-track approach. Having had something devolved to us, it now seems that we are being offered an NIO solution to what is a DOJ problem. I would love us to be working at it as a DOJ problem, and, if that takes a little more time and some administrative processes have to be put in place in the short term, so be it. I think that the Committee has the capacity to deal with it, and we should get the opportunity to debate it properly.

The Chairperson:

We certainly have a big workload, but I think that we would still be up for this one. If we were to go down the route that the Department wishes us to go, the process will carry the aroma of being rushed. Perhaps that is not the best route to take on this type of stuff.

Mr McCartney:

I agree. Option B almost seems to suggest that the transfer of power has not taken place; it is saying that this is the way that it was done in the past and that the Assembly has no role. We feel that we have a role. Is there provision under PACE for the retention of DNA samples?

Mr Dodds:

Under the law in PACE, all DNA fingerprints, profiles and samples are retained indefinitely.

Mr McCartney:

Is there no procedure to allow them to be destroyed?

Mr Tipping:

There is an exceptional case procedure, but it is exactly that, and it is used at the Chief Constable's discretion. For material to be destroyed, there must be exceptional specific circumstances.

Mr McCartney:

There is a role to examine that. That would not involve legislation; it is an administrative thing.

Mr Tipping:

There is a possibility of taking an administrative route. The difficulty is that that would leave the Chief Constable exposed as he would be taking steps that are ultra vires, as it were. He would have no legislative cover for removing DNA and that would separate him from the chief officers throughout the rest of the UK. Therefore, he would be following a path that he might be reluctant to follow. Advice from the PSNI and Forensic Science is that the preferred option is to have a single step toward implementing a solution rather than a disruptive two-step process.

Mr McCartney:

The single step does not necessarily have to be option B. The single step could be legislation that is framed and passed here.

Mr Tipping:

It could be, but the difficulty is that there would have to be guidelines and a framework through which the Chief Constable would work administratively. If the Assembly does not bring forward exact proposals, he would have to fall back on something else, and the only thing that he could possibly fall back on is the provision in the Crime and Security Act 2010, using that as a yardstick for destruction of DNA.

Mr McCartney:

He could use the administrative provision within PACE.

Mr Tipping:

The Chief Constable cannot just arbitrarily destroy records. He would have to have some guidance on what records he could destroy and on what basis he could destroy them.

Mr McCartney:

If the Department were to begin to put legislation in place, he would have that in his mind in the meantime; it is not as if you would be saying to him that he would be in that position for time immemorial. The option that you are proposing says to the Assembly that you do not want it to have a role.

Mr Dodds:

The danger is that, if the Chief Constable decided to destroy a significant amount of material

under some kind of administrative arrangement and the Assembly then went on to legislate on the framework, he could have destroyed samples that would have been retained under the new framework. There is a danger there.

Mr Hughes:

To return to the point that Mr McDevitt made, that would be circumventing the principle that the detention period should be determined legislatively rather than administratively or, indeed, by the courts. Although there is an argument to be made about the speed with which it could be determined legislatively through the Assembly or at Westminster, there is also an argument about whether it should be determined legislatively, determined administratively by the Chief Constable on the basis of guidance from a Minister or determined through a court judgement. I would imagine that the preference would always be to achieve a legislative solution rather than a non-legislative one.

Mr McCartney:

Leaving this proposal aside, you could come here next week and make the case for treating another piece of legislation in exactly the same way, the contention being that the Assembly does not really need to have a role and that we can take a piece of legislation from Westminster and transplant it here. You could make the same case again and again. If we are here to legislate, let us legislate.

Mr Hughes:

The underlying concern is that we would remain in breach of the European Convention on Human Rights for a further period, depending on the time it takes to legislate through the Assembly. We have an opportunity to act immediately to fulfil the human rights requirement placed upon the jurisdiction in a way that we believe is proportionate. The fundamental concern is the time it would take.

The Chairperson:

Perhaps the fault lies with me — I suspect that it does, but you will put me right — but why can you not use the framework and the way forward outlined in the appendix to your submission? The freedom Bill proposals are all laid out there. Can you not use those?

Mr Hughes:

The appendix clearly sets out a policy, but we do not have any drafted legislation. As far as I am aware, procedures would still be required to get approval for the inclusion in the justice Bill of any proposals, and the Bill is very, very close to being introduced. I am not aware that there is an easy way of including those things in the justice Bill. There is a very clear message that the size of the justice Bill is already substantial.

The Chairperson:

Is the policy not a good head start?

You are concerned about the legislative timetable. You feel that that just could not be fitted in, but you have most of the other work done on it. Is that what you are saying?

Mr Tipping:

At the policy end, yes. The advice from the Bill's business managers to us has been that we are coming with too much too late. As I understand it, the intention is to introduce the Bill to the Assembly on 18 or 19 October.

Mr McCartney:

Is there a provision for an emergency Bill? Have you explored that?

Mr Tipping:

We have not explored that option.

Mr McCartney:

If we are going to be outside the ruling of the European Court, that would put the onus on the Assembly to have some sort of emergency provision. That would show everybody that the Assembly, as a legislature, is on top of those issues instead of seeking the easy way out all the time.

Mr McDevitt:

We are all sympathetic to the fact that nobody wants to remain in breach of the ECHR judgement, but my understanding of other cases that I can think of is that, once a legislature indicates that it is acting to address a shortcoming, the courts tend to respond by not prosecuting that legislature for its breach. Therefore, if we were able to get a policy statement into the House, which is pretty

much what you have drafted here, and an indication, as Mr McCartney said, that we are determined to legislate locally to address the breach, I do not think you would be in breach of your duty as public officials and would not be exposing us to unnecessary risk. My understanding is that the courts would always respond positively as long as the legislative process had been started and there is evidence of that.

Ms Ní Chuilín:

The Minister for Social Development wants to piggyback on the justice Bill and is prepared to rush stuff through about the responsible sale of alcohol, and yet, a whole contingent of the NIO cannot get its act together with regard to the justice Bill. I find that strange, but that has been well covered. We are looking at legislation here. Conall's point is that there is concern about a breach, but other options are available. However, for us to accept a motion without proper scrutiny is totally unacceptable. There is no point in getting into it; it has all been said.

Lord Browne:

Am I right to say that, even if the Assembly was to go through the time and expense of creating its own Bill on this important issue, any such Bill would be essentially identical in substance to the provisions in the freedom Bill in England? The Bill would have to satisfy the same judgement.

Mr Hughes:

The most likely outcome is that it would be very similar because it is within the same parameters. However, we also know that the policy that is set out is not precisely the same as that in Scotland, for example. England and Wales have one policy and Scotland has a policy that is very similar but not identical. It would be perfectly possible for the same to apply to Northern Ireland. The parameters would be pretty close but not necessarily identical.

The Chairperson:

Are you saying that we would lose the opportunity to tweak it for Northern Ireland if we were to lift it straight from the English law?

Mr Hughes:

There would still be the opportunity to look at the particular policy that is being proposed here. If there were an agreement to make changes to what was being proposed here, it would still be

perfectly possible to use a Westminster Bill as a vehicle and to include something that is not precisely the same as the preceding paragraph for England and Wales. Therefore, it would still be a Northern Ireland provision. It could be different for Northern Ireland even in the Westminster Bill, but there would be a greater opportunity to make differences because of the length of time involved.

Lord Browne:

There was legislation in Scotland pertaining to DNA retention, which they have stopped. Is there any firm empirical evidence that the police in Northern Ireland solve more crimes than the police in Scotland because they have that legislation?

Mr Hughes:

I am not aware of what the specific outcomes of having the difference in retention periods would be.

Mr Tipping:

The courts found that the case made for indefinite retention was not justified in evidential terms. There was no correlation between the level of crime and the indefinite retention of DNA.

Mr McNarry:

When I read all the stuff, I came to much the same conclusion that I have heard from other members. I am in a quandary about the idea of "needs must". It seems that we are being pushed into something. I wonder whether you would have moved on with this had we not devolved policing and justice powers. Were you in the throes of it anyhow?

Mr Hughes:

If the devolution of policing and justice powers had not taken place, the responsibility would have fallen to the Secretary of State for Northern Ireland, who, I presume, would have taken a decision in line with Cabinet colleagues.

Mr McNarry:

Had the Secretary of State for Northern Ireland been charged with that responsibility, would he have been in receipt of the same papers that you have provided to your Minister? In other words, the legislation would still be applicable to Northern Ireland and whatever variances needed to be

applied to Northern Ireland would be incorporated. What I am trying to say is that there would have been no difference to what a Secretary of State would have wished to introduce on your advice, except that it would have been scrutinised in Parliament.

Mr Hughes:

In effect, that is right. However, the difference would be that the Secretary of State for Northern Ireland would not have been able to consider the other options that the Minister here has been able to consider.

Mr McNarry:

I appreciate that. I can see the needs in this, but I am in a bit of a quandary, and I need a bit more time. I do not want to move away from the subject, but it begs the question about whether there are any other bits and pieces that the Department of Justice is hanging onto and may load onto us? Is in order to ask that? We need to know, to be honest, because we need to be able to programme what we are doing.

The Chairperson:

That begs another question. The justice Bill is substantial, and I wonder whether every item in it is a priority.

Mr Hughes:

It is not for us to comment on that. *[Laughter.]*

The Chairperson:

I suspect that it is all important. I do not mean all-important; I mean that all of it is important. However, I suspect that some aspects of the Bill are a higher priority than others. I believe that Committee members have been taken aback that this is the route that is being proposed. The issue is about the extent of consultation that will happen. I believe that you have got the message that there is not a lot of enthusiasm for the route that you are proposing to take or the method that you propose to use.

We have to remember that a Bill that originates here allows for the full exercise of the scrutiny role by the Statutory Committee and that the Assembly has the power to amend, pass or reject the Bill. If we go with what we are being asked to go with today, we have to put an X through that

scrutiny role. I just want to flag that up to members.

Mr McNarry:

I understand that the Minister will come to the Assembly with a proposal for new additional elements of the Justice Department's role under the Programme for Government. Is this in it?

Mr Hughes:

I am not aware that this is a priority in the Programme for Government.

Mr McNarry:

Therefore, this still is not a priority, because, otherwise, when he comes in front of the Assembly on 12 or 13 October to ask for additions to his parts of the Programme for Government — some things have been omitted, and I understand that — he would include it.

Mr Hughes:

I do not want to put on record the degree to which dealing with the issue in the way that is being discussed is a comment on the degree to which it is a priority or whether it is a necessity because of the ECHR judgement.

Mr McNarry:

If it is not really the priority that it may appear to be, do not rush it.

The Chairperson:

On that point, have you not said that there is an urgency to comply with the directive from the European Court of Human Rights?

Mr Hughes:

Yes, the Department believes that it is very important. The judgement in the S. and Marper case was made in 2008, and work had been going on to address that breach for some time. If there had not been devolution and if there had not been a general election in May, I am sure that it would have been resolved some time ago. We are conscious that there is a continuing need to address this breach, and we believe that we have found a way of addressing it in good time and quite quickly through a legislative consent motion and by using the legislative vehicle that is available to us.

The Chairperson:

Now you do confuse me. You said that it is urgent. However, it was not deemed urgent enough to be included in the justice Bill.

Mr Hughes:

For the large part, the things that went into the Bill were about policy development, and consultation and prioritisation had been taking place for some time prior to devolution. After devolution, it was quickly apparent that there was enough material that would go into a justice Bill and be brought forward before the end of the current mandate. We did not know precisely when devolution would take place, and everything was pretty much on track to reach a conclusion on this particular piece of work anyway. It was not expected that that would need to go into an Assembly Bill, so that is why it was not flagged for inclusion at the time.

Mr Dodds:

Northern Ireland provisions are contained in the Crime and Security Act 2010, which prescribes the DNA retention policy of six years. Following the general election, the coalition effectively shelved that. That was the legislative provision that we could have run with if that decision had not been made. Effectively, there is a legislative provision, and the local Bill was not in consideration at that stage because of that legislative provision. The coalition Government have decided to shelve the provisions, and the Minister could move unilaterally with the Northern Ireland provisions of the Act if he wished. He would have to move unilaterally and the framework would be outside of that which the new Government intend to introduce — the Scottish model.

Mr McNarry:

We hate surprises, and the way that this has been handled has resulted in one of the things that I do not like: a surprise. You told us that the thinking is that the Minister might wish to bring this Bill to the House sometime in the middle of October. Did you say it was the 14 October or 17 October?

Mr Tipping:

As I understand, it will be either 18 or 19 October.

Mr McNarry:

Yet, in a sense, we are hearing about it only now. What would be the ramifications if the Minister were not to come on 19 October? Have you another date?

Mr Tipping:

Sorry, let us be clear: 18 and 19 October are the dates for the existing justice Bill, not for the legislation on DNA.

Mr McNarry:

So, he is not going to talk about that? He will address specifically the Bill as it stands?

Mr McDevitt:

He will introduce the justice Bill.

Mr McNarry:

If it is not in that and not in his part of the Programme for Government, we are being rushed here. I am totally confused.

The Chairperson:

The team has made it clear that it will sit outside the Bill; it is a piece on its own.

Mr McDevitt:

I do not want to drag the conversation on, but I think Mr Dodds put his finger on it when he said that we could have implemented old new Labour policy or we can offer up new Con/Dem policy, but at no point are we given the choice to do our own policy. I think the message is, "thanks very much, but this is a devolved matter." We may have a big argument amongst us about which way we will go with this, but we feel that we have a duty to have the debate amongst ourselves, and you have a duty to facilitate that. That is how I feel about this debate.

The Chairperson:

It is my duty now to say that we are stopping there. *[Laughter.]* I thank the departmental officials for coming. They are quite clear on what has been said.

Mr Hughes:

Thank you.