

FROM THE OFFICE OF THE JUSTICE MINISTER

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JCP\25\285

Kathy O'Hanlon
Clerk to the Committee for Justice
Room 242
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11 November 2025

Dear Kathy,

JUSTICE BILL – FINGERPRINT AND DNA REVIEW MECHANISM

I refer to your letter dated 31 October 2025, which outlines a number of questions raised by the Justice Committee regarding the Department's review mechanism proposals relating to the new DNA and fingerprints retention framework outlined in Part 1 of the Justice Bill.

Responses to the queries are provided below.

Stakeholder views

The development of proposals for an appropriate review mechanism was informed by stakeholder engagement, including input from the Northern Ireland Human Rights Commission, the Information Commissioner's Office, and the Northern Ireland Commissioner for Children and Young People. This was an iterative process, during which the Department incorporated feedback at various stages, resulting in the proposals paper submitted to the Committee on 1 October 2025.

On 27 August 2025, the Northern Ireland Human Rights Commission confirmed that they had no further comments on the proposals paper. Similarly, the Information

Commissioner's Office indicated on 18 September 2025 that they had no additional suggestions regarding the proposals paper. The Department subsequently assured the Information Commissioner's Office that a Data Protection Impact Assessment relating to the review mechanism would be reviewed and updated as required.

Clarification on several aspects of the proposals was provided to the Northern Ireland Commissioner for Children and Young People on 2 September 2025. No additional feedback has been received to date.

Independence - PSNI review and reconsideration process

Initial review requests submitted to the PSNI will be considered by a review team appointed by the Chief Constable. Should an individual be dissatisfied with the outcome of that review, they may submit a request for reconsideration. It is understood that these requests will be considered by a separate individual, designated by the Chief Constable, with each case considered on its own merits.

In line with practices under the Freedom of Information framework, it is intended that reconsideration requests will be handled by a more senior member(s) of staff who was not involved in the original decision-making process. In this way, it is the Department's view that the process can operate with internal independence and impartiality. It also creates a process that is manageable, recognises the role of the PSNI as data controller, and mitigates any risks of disclosure of material retained on the grounds of counter-terror or national security.

Involvement of the Magistrates' Court and concerns regarding the lack of independence in the review

Provision will be made for the Magistrates' Court to consider applications for the extended retention of DNA and fingerprints beyond its scheduled destruction date (i.e. the maximum retention period). However, it is not considered proportionate to include applications to the Magistrates' Court (during a retention period) for the review of a decision to retain biometric material, given the arrangements proposed under the review mechanism.

The proposed redress procedure is anticipated to operate as follows:

- Reconsideration – If an individual is dissatisfied with the PSNI's initial decision to retain their DNA profile and fingerprints, they may request a reconsideration. It is intended that this will be undertaken by a more senior member of staff who was not involved in the original decision-making.
- Escalation to the Biometrics Commissioner – Should the individual remain dissatisfied following the conclusion of the PSNI process, they can make a complaint to the Northern Ireland Biometrics Commissioner. The Commissioner will assess whether the retention is lawful and complies with Part 6 of PACE NI.
- Commissioner's Powers – If retention is deemed to be unlawful, the Commissioner will have the authority to direct the PSNI to reconsider its decision or to delete the retained DNA profile and fingerprints.
- Additional Avenues – Individuals may also, at any stage, raise concerns with the Information Commissioner's Office or pursue a Judicial Review, should they choose to do so.

The redress procedure as outlined above is considered to be a fair and proportionate approach.

Reviews regarding short-term retained material

The proposed review mechanism introduces a requirement on the PSNI to review the continued need to retain long-term material given the long-term nature of the retention period. This was considered to be a graduated and proportionate approach that also ensures the review arrangements are manageable and not overly burdensome for PSNI.

Although automatic statutory reviews dates will not apply to DNA and fingerprints being retained for a period of 10 years or less (short-term retained material), this does not preclude the possibility of a review. Individuals will be able to request a review at any time, and the PSNI will be required to consider such requests on a case-by-case basis, taking into account the specific circumstances. Regarding under 18s, the review mechanism proposals include specific provision for individuals under the age of 18 to make a request in their own right or for an appropriate person to do so on their behalf.

The redress procedure outlined above will also apply in full to material retained on a short-term basis.

How a request for a review is submitted

It is anticipated that individuals will be able to submit a request for review either online or by post; again, this is in line with arrangements under the Freedom of Information Act 2000. Requests should be made by the individual concerned, except in cases where the individual is under the age of 18, lacks capacity, or is otherwise unable to make decisions, in accordance with sections 3 and 4 of the Mental Capacity Act (Northern Ireland) 2016. In such circumstances, a request for a review may be submitted on the individual's behalf by a person with power of attorney, a legal guardian, or a nearest relative, as defined under Article 32 of the Mental Health (Northern Ireland) Order 1986.

Oversight of the review process / role of the Biometrics Commissioner

The Chief Constable will have responsibility for ensuring the effective operation of the review mechanism. The Biometrics Commissioner will have responsibility for the independent oversight and scrutiny of the operation of the review mechanism (as part of the broader oversight function regarding the operation of the new retention framework for Northern Ireland), as set out in the paragraphs above and in the paper provided by the Department. The Commissioner will be required to prepare an annual report on the discharge of their functions, to be laid before the Assembly. It is expected that the Commissioner's involvement will enhance public confidence and promote transparency, by helping to ensure that the PSNI operates in accordance with the new retention framework.

Regarding the question of whether the Biometrics Commissioner should have the power to adjudicate on the outcome of a review, this was considered carefully by the Department, and it was concluded that a case handling function would not be appropriate or workable. This is because advice from the Home Office indicates that the Commissioner would be unable to make decisions where matters of national security are involved. Furthermore, a separate arrangement (such as involving the UK Biometrics Commissioner) for decisions where matters of national security are involved would result

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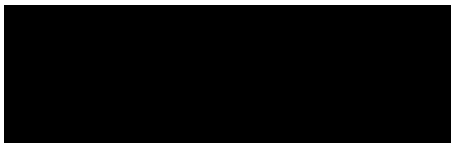
in the risk of an individual inadvertently becoming aware that the PSNI has a national security interest.

Therefore, the Biometrics Commissioner will have a complaints function rather than a case-handing function, aligning with the models used by the Information Commissioner's Office and the Scottish Biometrics Commissioner. This complaint's function will involve assessing whether the retention of an individual's DNA and fingerprints is lawful and compliant with Part 6 of PACE NI.

The Committee will also note that the proposals will be published for consultation in due course and the Department will consider the feedback received.

I trust you will find this helpful.

Yours sincerely,



**DAVID GRAHAM
DALO**



**Northern Ireland Assembly
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31 October 2025

Justice Bill – Fingerprint and DNA review mechanism

Dear David

At its meeting on 23 October 2025, the Committee for Justice consider your letter of 1 October 2025 (JCP\25\213) regarding the DNA and fingerprints retention framework – review mechanism and the associated paperwork.

The Department provided details of the engagement with the Northern Ireland Human Rights Commission (NIHRC), the Northern Ireland Commissioner for Children and Young People (NICCY), and the Information Commissioners Office (ICO) in the development of the proposals, and stated that the PSNI was content with the proposals. The Committee agreed to ask the Department to confirm if NIHRC, NICCY and the ICO were also content with the final proposals for the review mechanism or, if not, what further concerns they had.

The Committee also requested further information on the following points:

- whether the review mechanism can operate independently and impartially if the reviewer of a decision that has been taken by PSNI Officer or member of

staff who was designated by the Chief Constable is also designated by the Chief Constable;

- what consideration has been given to the suggestion that applications for a review of the decision to retain biometric material could be made to the Magistrates' Court;
- how concerns regarding the lack of independence in the review and reconsideration process can be addressed;
- the rationale for why the reviews only relate to long-term retained material and not to retention periods of 10 years or less and the impact that this may have on individuals, particularly those who are under 18;
- if requests for reviews can only be submitted online or whether an individual can submit a review request by another route e.g. through a legal representative or by phone etc;
- who, apart from the Chief Constable, will have oversight of the process to ensure it is accountable, proportionate and lawful;
- what the role and power of the Biometrics Commissioner will be in relation to the review mechanism and how that fits with the Chief Constable's role; and
- whether the Biometrics Commissioner should have the power to adjudicate on the outcome of a review, as well as on the process.

I should appreciate a response by 14 November 2025.

Yours sincerely

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