

FROM THE OFFICE OF THE JUSTICE MINISTER



Department of  
**Justice**

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Our ref: JCP\25\69  
28 March 2025

Dear Kathy,

## **JUSTICE BILL – BIOMETRICS**

I refer to your letter dated 12 March 2025, which outlined a number of questions raised by the Justice Committee in relation to the DNA and fingerprints provisions contained in Part 1 of the Justice Bill. Responses to the queries are provided below.

### **IT systems**

1. It is anticipated that commencement of the new retention framework will not take place until 18-24 months after Royal Assent to allow time for the PSNI and other criminal justice organisations (such as Causeway, Forensic Service NI) to develop, test and implement appropriate software systems.
2. The PSNI is setting up the Justice Bill (Biometric Retention) Project Board to manage their preparations for implementation. Officials from the Department, along with other criminal justice organisations, will attend meetings in an observer capacity to ensure that there is a co-ordinated implementation plan.

3. In relation to the estimated costs of the required IT systems, information was provided in paragraphs 53 and 54 of the Department's response to the Committee regarding JCP\25\64 and JCP\25\65.

### **Exchange of information / deletion of data across jurisdictions**

4. The ICO, in their submission to the Committee, enquired at paragraph 4.19 if there were any requirements, as part of the Justice Bill provisions, for international transfers of DNA and fingerprints. New Article 63N (persons convicted of an offence outside of Northern Ireland) does not involve the transfer of DNA or fingerprints internationally. This provision will mean that DNA profiles and fingerprints taken in Northern Ireland can be retained by virtue of a conviction outside of Northern Ireland (including England, Wales or Scotland). The legislation makes it clear that only convictions relating to recordable offences will be applicable (it has to be the equivalent of a recordable offence in Northern Ireland).
5. In relation to the Committee's query regarding North-South co-operation in terms of international databases and the exchange of information, there are no specific arrangements between the Department and the Republic of Ireland.
6. However, there is a law enforcement treaty, entitled the Prüm Convention, which enables participating countries to exchange biometric data, including anonymised DNA and fingerprint data, certain vehicle registration data, and associated policing information for the prevention and investigation of criminal offences. Prüm is a significant tool employed by law enforcement agencies aimed at stepping up cross-border cooperation, and, in particular, in combating terrorism and cross-border crime.
7. This Treaty has no impact on the DNA and fingerprints provisions contained within the Justice Bill and has no relevance to new Article 63N, which relies on criminal record information.
8. In relation to the deletion of data from databases across UK jurisdictions, when an individual's DNA profile is required to be deleted under the new retention framework,

all DNA profiles relating to that individual held on the Northern Ireland DNA Database and the UK National DNA Database will be deleted. Representatives from FSNI explained this process during their oral evidence to the Committee on 13 March 2025.

9. In relation to fingerprints, these are retained on a national fingerprints database called IDENT1. The Northern Ireland collection is contained in that national database, along with the rest of the UK fingerprints. When an individual's fingerprints are required to be deleted under the new retention framework, all electronic copies of fingerprints relating to that individual retained on IDENT1 will be deleted. Any original paper sets retained in PSNI's Identification Bureau will also be destroyed manually.
10. Different retention regimes are already operating across the other UK jurisdictions. Officials are liaising with Home Office colleagues regarding the content of the new provisions and the estimated timelines for commencement. No significant difficulties are expected when the new retention framework for Northern Ireland is commenced.

### **Proposed retention periods**

11. Information, including the rationale for each of the retention periods contained in the Justice Bill, was provided in paragraphs 1 – 25 of the Department's response to the Committee regarding JCP\25\64 and JCP\25\65.

### **Biometrics Commissioner**

12. "Keep under review" in the context of the Biometrics Commissioner's proposed functions relates to the independent oversight and scrutiny role the Commissioner will undertake regarding the taking, retention and use of DNA and fingerprints in Northern Ireland. It is anticipated that the Northern Ireland Commissioner undertaking this role will increase public confidence and transparency in ensuring that the PSNI are operating in compliance with the new retention framework for Northern Ireland.
13. The Biometrics Commissioner will be independent and there will be no interference from the Department in the conduct of their oversight role. The Department anticipates

that the Commissioner will monitor, assess and advise on both how the legislation is working in practice and any issues that need to be addressed. This may involve identifying trends from complaints they receive and engagement with key stakeholders. For example, a new Commissioner may carry out visits to locations such as Forensic Science NI and PSNI custody suites to understand, advise and report on issues such as compliance on the taking of DNA and fingerprints from individuals, retention, and also the destruction of DNA and fingerprints, in line with the statutory framework contained in Part 6 of PACE NI.

14. Due to advancements in technology which has seen developments in opportunities for the use of other emerging biometrics, the Commissioner will also be required to undertake an independent oversight role regarding the use and development of existing and new biometric technologies. This may involve keeping abreast of the latest developments and providing advice to the Minister and guidance to the PSNI on any amendments needed to legislation and the appropriate use of new technologies. There are likely to be a number of memoranda of understanding (MOU) required to ensure there is a clear understanding of respective roles and responsibilities and to reduce duplication of effort between the relevant oversight bodies. These may include memoranda between the NI Biometrics Commissioner and bodies such as the Biometrics and Surveillance Camera Commissioner, the NI Biometrics Commissioner and the Information Commissioner.

### **The commencement of the new retention framework / transparency obligations under the Data Protection Act 2018**

15. The ICO, in their submission to the Committee, enquired at paragraph 4.17 as to the interim position between the enactment of the Justice Bill and the making of regulations regarding the review mechanism, and how the PSNI will ensure full compliance with the fifth data protection principle during this time. As per paragraph 46 of the Department's response to the Committee regarding JCP\25\64 and JCP\25\65, no gaps will exist as all elements of the new retention framework will be commenced together. PSNI's current practice will continue until commencement of the new retention framework.

16. With regard to transparency obligations, PACE Code C sets out the safeguards, treatment and questioning of persons by police officers. PACE Code D sets out the safeguards of the identification of persons by police officers. Code D will require some extensive amendments before the retention regime can be commenced. The updating of the Codes will require a public consultation exercise, equality screening and the completion of a Data Protection Impact Assessment. The Department will work closely with the ICO to ensure Data Protection compliance is embedded into the regime.

#### Awareness Raising and Safeguards

17. The PSNI will be the main point of contact for providing individuals with information regarding what will happen to their DNA and fingerprints, including how long they may be kept for and how they will be used. The PSNI have advised that they recognise the need for individuals to be made aware of their rights and appeal options. Consideration of how this will be achieved will form part of the PSNI project to implement the new DNA and fingerprints retention regime.

18. Furthermore, vulnerable adults and juveniles are supported in police custody by an Appropriate Adult (AA). The role of the AA is to safeguard the rights, entitlements and welfare of vulnerable adults and juveniles. The role includes making sure the person understands what is happening to them and why. There are no planned changes as a result of this legislation.

19. There will also be a role for the Biometrics Commissioner in raising awareness of the new retention framework to ensure that the public are aware of their rights and the circumstances in which a complaint can be made to the Commissioner, and the process for making a complaint.

### **Automated decision making**

20. The IT system required to operate the new framework will not involve the use of automated decision making. A database will be created based on the retention rules set out in the legislation. There will be a number of areas that will require human input indicating reasons to retain DNA and fingerprints and the setting of manual review dates.
21. The final decision authorising the deletion of material will be taken by a police officer or member of staff. When an individual's material is due for deletion, it is anticipated that the IT system will produce a report that will issue to targeted officers and police staff, whose role will be to decide whether there are any other lawful reasons to retain the material or whether the material should be authorised for deletion.

### **Custody images**

22. The PSNI have advised that they are aware of the Home Office project to develop a national facial recognition database and is considering the possibility of using this technology. This project is not focused on live facial recognition but rather retrospective facial recognition, with the database, on which searching will take place, composed of images that have been taken in custody suites in the same environment as DNA and fingerprints. The project remains in development stage only and is not operational for the PSNI at present.

### **Live link technology**

23. The Department notes the points raised in section 6 of the ICO submission to the Justice Committee regarding the use of live links in police custody. In response to paragraph 6.3, the Department has received assurances from the PSNI that the Chief Constable is satisfied that the PSNI has taken steps to ensure a secure IT solution across the PSNI Estate to facilitate the live links function proposed in the Justice Bill.
24. Further safeguards will be included in the PACE Code updates that are required to be made before the primary legislation is commenced. A consultation will be carried out

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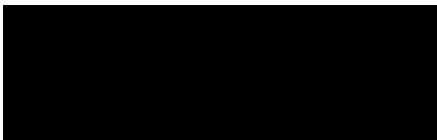
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and a Data Protection Impact Assessment will be completed. The Department will work closely with the ICO to take this forward.

I trust you will find this helpful.

Yours sincerely,



**DAVID GRAHAM  
DALO**



**Northern Ireland Assembly  
Committee for Justice**

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12 March 2025

**Justice Bill - Biometrics**

Dear David

At its meeting on the 6 March 2025, the Committee for Justice received oral evidence from the Information Commissioners Office (ICO) regarding the Biometrics provisions in the Justice Bill.

In its written submission, the ICO has raised a number of issues and recommendations that it suggests the Committee may wish to follow up with the Department. The Committee agreed to forward the ICO submission to the Department for a response to the points raised (these are extracted at Appendix A for ease of reference).

The Committee also agreed to ask the Department for further information on the following:

- How long it is expected to take to develop the IT systems necessary to support the biometrics provisions;
- The estimated costs of the require IT systems and details of any engagement between the Department and the PSNI on this matter;
- When the Department expects to commence the biometrics provisions and how it will ensure that the necessary systems and processes are in place;
- Whether there has been North-South co-operation in relation to international databases and the exchange of information; and
- Details of any protocols regarding the deletion of data from databases across jurisdictions, including clarification of which jurisdiction will take precedence where retention periods vary across jurisdictions, either nationally or internationally.

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I should appreciate a response by 28 March 2025.

Yours sincerely

*Kathy O'Hanlon*

**Kathy O'Hanlon  
Clerk to the Committee for Justice**

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