



Northern Ireland  
Assembly

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JOINT MEETING OF THE  
COMMITTEE FOR HEALTH, SOCIAL  
SERVICES AND PUBLIC SAFETY  
AND THE COMMITTEE FOR JUSTICE

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**OFFICIAL REPORT**  
(Hansard)

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**Evidence Session with the Minister of  
Health, Social Services and Public Safety  
and the Minister of Justice on the  
Implications of the McDermott Case**

30 September 2010

**NORTHERN IRELAND ASSEMBLY**

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**Members present for all or part of the proceedings:**

Mr Jim Wells (Chairperson)

Lord Morrow (Deputy Chairperson)

Mr Mickey Brady

Mr Thomas Buchanan

Dr Kieran Deeny

Mr Alex Easton

Mr Tom Elliott

Mr Tommy Gallagher

Mr Sam Gardiner

Mr Paul Girvan

Mr Paul Givan

Mr Alban Maginness

Mr John McCallister

Mr Conall McDevitt

Mr Raymond McCartney

Mr David McNarry

Ms Carál Ní Chuilín

Mr John O'Dowd

Mrs Michelle O'Neill

**Witnesses:**

Mr Michael McGimpsey	)	Minister of Health, Social Services and Public Safety
Dr Maura Briscoe	)	Department of Health, Social Services and Public Safety
Mr Sean Holland	)	
Mr David Ford	)	Minister of Justice
Ms Maura Campbell	)	Department of Justice
Mr David Lavery	)	Northern Ireland Courts and Tribunals Service

**The Chairperson (Mr Wells):**

The witnesses include the Minister of Health, Social Services and Public Safety, and the Minister of Justice, whom we all know. They are joined by David Lavery, director of the Northern Ireland Courts and Tribunals Service, Maura Campbell, deputy director of the justice development division in the Department of Justice; Sean Holland, chief social services officer at the Department of Health, Social Services and Public Safety (DHSSPS), who was with us last week; and Dr Maura Briscoe, director of mental health and disability policy in DHSSPS. You are welcome.

I understand that the Ministers have been alerted that they have five minutes at the start of today's evidence to clarify anything that arose last week or add anything that they think is required at this stage. I ask the Health Minister to lead off, and, this time, I will make certain that the Minister of Justice gets his slot as well.

**The Minister of Health, Social Services and Public Safety (Mr McGimpsey):**

Thank you, Chairperson. Colleagues, I am pleased, once again, to have the opportunity to address the joint Committee meeting on the issues arising out of this case. First, I want to reiterate my sympathies to all the survivors of sexual abuse and to the wider Donagh community. As a society, we all have a responsibility to ensure that our children and our most vulnerable people are protected from violence and abuse. It is vital that individuals and families who have been affected by sexual abuse have the space, time and support they need to come to terms with what has happened. I know that every member here would agree with that.

At last week's meeting, the Committees asked me to provide further written evidence in relation to a number of issues. That information has, as far as possible, been provided, along with information from Minister Ford. Members will appreciate that it is not appropriate or, indeed, possible to share detailed information about individuals who are or were receiving treatment from a health and social care trust. However, I assure members that my Department has striven to give full answers where possible and when appropriate to do so.

I advise the Committees that it would be inappropriate for me, as Health Minister, to comment on court proceedings or, indeed, the judgement of the court. In that regard, I must be conscious of the Pledge of Office that I took when I was appointed Minister, which requires me to uphold the rule of law. For a Minister to discuss how a court undertook its responsibilities in an individual case would be inconsistent with the independence of the judiciary and respect for the court's role in the administration of justice. It would also cross the constitutional boundary between the role of the Executive and the role of the judiciary.

My officials and I have already communicated to the Committees that a comprehensive multi-agency plan is in place to help and support the community. That plan covers many areas, including child protection, support for survivors of sexual abuse and their families, and robust supervision and treatment arrangements for perpetrators. I, with David Ford, have indicated the short-, medium- and long-term legislative actions that we intend to take. They include a detailed look at unfitness to plead arrangements, which will inform the new mental capacity legislation to be introduced in the Assembly in 2011.

I have given detailed consideration to the need for a review of the trust's handling of this case and how best it should be carried out. I now believe that the best way forward is to have the Regulation and Quality Improvement Authority (RQIA) provide an independent review of the clinical and social care aspects of this case. I have already written to the chief executive of the RQIA, and he has agreed to take that forward as a matter of urgency. I expect an interim report to be submitted to me in four weeks.

Should the review identify any actions, I will ensure that they are addressed immediately across all health and social care organisations. I will, of course, seek to keep the Committees advised of progress and of any significant lessons or actions that emerge.

**The Minister of Justice (Mr Ford):**

I do not think that I have anything to add to the opening statement that I made last week, except to say that my officials and I are here to answer questions that may arise.

**The Chairperson:**

Have you finished? Sorry, I was taking advice.

**The Minister of Justice:**

For your benefit, Chairman, I repeat; I do not think that I have anything to add to the opening statement that I made last week, except to say that my officials and I are here to answer questions that may arise.

**The Chairperson:**

That was short and sweet, Mr Ford. Thank you.

We were in the middle of substantive question 3 from Mr Gallagher at the end of last week's meeting. However, before that, Minister McGimpsey, an issue was raised last week, and we thought that you would have maybe clarified that in your opening statement but you did not. It is the schedule of reports prepared by the health and social care professionals for the court. We understood from Linda Brown's evidence that a schedule was available. In fact, we believed that she may have been reading from a schedule, and we expected that to be tabled. We now understand that that schedule may not be available, and we want a bit more clarification on that issue.

**The Minister of Health, Social Services and Public Safety:**

She referred to it as a schedule, but it was an aide-memoire. It was not an official document; it was an internal aide-memoire for herself. You asked for reports of all health and social care professionals. Not all health and social care professionals who gave evidence to the court were, in fact, employees of the Western Health and Social Care Trust. Therefore, although there almost certainly is a schedule, that schedule will be with the court, and it will be for the court to release that schedule. I have tried to be as helpful as I can in my reply, but when Mrs Brown referred to a schedule, it was, in fact, an aide-memoire.

**The Chairperson:**

I think that you gave a commitment, Minister, to provide that document to us. That indicates that you felt that there was a schedule. That would have been extremely helpful to the Committee, but it has not appeared. You are now saying that it does not exist.

**The Minister of Health, Social Services and Public Safety:**

I am saying that it was an aide-memoire. Although it was referred to as a schedule, that was Ms Brown's shorthand for what she had in front of her. You have also asked for a schedule of reports that was requested by the court and provided to it by health and social care professionals. That is a matter for the courts, because not all of them will have been provided by employees of the Western Trust. It is difficult for me to be helpful on that. It was an aide-memoire for internal use, and, indeed, I believe that it contained confidential information. I am not trying to be unhelpful; I want to be as helpful as I can. However, when Mrs Brown referred to having a schedule, it was her own personal aide-memoire.

**The Chairperson:**

Can we have access to the document that Mrs Brown had?

**The Minister of Health, Social Services and Public Safety:**

There will be confidential information in that, and that is not for release. However, I suggest, Mr Chairman, that if you are looking for a schedule, it is a matter for the court. The court will have that. It will be a matter of asking the court for that document.

**Lord Morrow:**

To ensure that we do not misquote anybody, I draw your attention to the Hansard report from last week's meeting, which says:

"I want to make one correction. I said that I had provided a schedule of reports. As I understand it, that schedule has not been provided. However, there is a schedule of reports, and I will make it available."

Are you now saying that that is not the case?

**The Minister of Health, Social Services and Public Safety:**

I am saying that what we are referring to, or what Mrs Brown was referring to, is an aide-memoire. I do not have a schedule of reports.

**Lord Morrow:**

So the information that you gave last week was incorrect?

**The Minister of Health, Social Services and Public Safety:**

The information as far as a schedule of reports is concerned is that I do not have a schedule of reports.

**Lord Morrow:**

So the information was incorrect again?

**The Minister of Health, Social Services and Public Safety:**

The schedule of reports would be available to you from the Court Service.

**Lord Morrow:**

That is not the first time that we have had incorrect information from you.

**The Minister of Health, Social Services and Public Safety:**

In an effort to be as helpful as I can and to give as much information as I can, I certainly try to answer the questions that are asked. At that point in time, yes, I understood that Mrs Brown was referring to a schedule. When she referred to a schedule, she was referring to a personal aide-memoire or a document that she was using, not an official document.

**Lord Morrow:**

Minister, if you could help us out: how do we weave our way around all of this when we hear that there is a schedule and then we hear that that was not what was meant and that something else was meant? Do you see the complications and difficulties that that provides?

**The Minister of Health, Social Services and Public Safety:**

I see complication and difficulties in the fact that you are asking me for information on, effectively, what is evidence in a court. That is not a matter for me.

**Lord Morrow:**

I am only quoting what you said last week.

**The Minister of Health, Social Services and Public Safety:**

What is evidence in a court is not a matter for me. You have asked for a schedule of reports. A schedule of reports is no doubt something that the courts possibly have access to. But, as I said, when Mrs Brown referred to the schedule, she was referring to her own aide-memoire.

**Lord Morrow:**

That is not what it says here. It says something totally different here. You are telling me that really we should not pay much attention to what is said here; this is really what we mean. Can you help us at all?

**The Minister of Health, Social Services and Public Safety:**

I think that I have just helped you.

**Lord Morrow:**

Not very well.

**The Minister of Health, Social Services and Public Safety:**

No, I think that I have. I think that I have helped you; I have explained it to you. It is a matter for you to determine whether you are prepared to accept that or not; clearly you are not.

**Lord Morrow:**

I am only looking at what is in front of me. Are you saying that this should now be corrected, that it was incorrect and that you want it taken out and reworded with what you have said here today?

**The Minister of Health, Social Services and Public Safety:**

I have said that what Mrs Brown was referring to was not an official document. It was a document for her internal use; an aide-memoire.

**Lord Morrow:**

I will allow other members to make up their minds on that.



**The Chairperson:**

I do not want to labour this too much, but John O'Dowd has a point on this particular issue.

**Mr O'Dowd:**

I am not sure whether another public brawl is going to assist this inquiry or these discussions any further. We have the Courts and Tribunals Service in front of us and the Justice Minister here, so to short-circuit this: is the schedule available from the Courts and Tribunals Service, and, if it is, can it be provided?

**The Minister of Justice:**

It is my understanding that we have a list of reports that were supplied to the court. Those are reports that, as I understand it, were largely, if not entirely, prepared by health and social care professionals. Indeed, paragraph 29 of Judge McFarland's judgement refers to those who supplied reports, and although it does not name the social workers individually, it names the psychiatrists and psychologists. It is certainly my understanding that those reports were supplied by the Western Trust to the court. There is a degree of ownership there. I would have no objection to them being released, but I am not sure that it is the role of the Courts and Tribunals Service to deal with the request in the way that it has been made. I will check up on that and come back to the Committee on it.

**Mr McNarry:**

On the same point, whether it was an aide-memoire or a schedule, is there a question in anybody's mind that what Mrs Brown said to us was not factual? Was what Mrs Brown said as a witness in order, or are we doubting what she said?

**Lord Morrow:**

We are only quoting.

**Mr McNarry:**

But are we doubting what she said? I see that she is not here today; I do not know why, but, irrespective of that, are we challenging any of what she said to us? I would be interested to know whether we are challenging any of what she said. Do we have any doubts over what she said, whether it was on the basis of something that she was reading as an aide-memoire, a schedule or

whatever?

**The Chairperson:**

Page 25 of last week's Hansard report shows that Mrs Brown said:

"I have the schedule that the Minister has said that he will circulate to you."

**Mr McNarry:**

I understand that, Chairman, but if you take what she actually said in her evidence, are we challenging anything that she said? Whether it was from a schedule, an aide-memoire or whatever remains to be sorted out, but I am more interested in what she actually said in her evidence.

**The Chairperson:**

It is quite clear that the Committee took it that this document was available, because we then wrote and asked for it, and we would have found it to be very helpful, had it existed.

**Mr McNarry:**

I agree with that, but even without it, are we challenging what she said because it may or may not be a schedule or it may be an aide-memoire? Are we being a bit picky about it? I am more interested in what she actually told us.

**The Chairperson:**

Either way, we are not getting the document, no matter what it is, unless the Courts and Tribunals Service agrees to supply it.

**Mr McNarry:**

But we are not challenging what Mrs Brown told us?

**The Chairperson:**

We are in the sense that we were led to believe that there was a schedule available and it is not there. We are not impugning the integrity of Mrs Brown, but the evidence is quite clear that she led us to believe that there was a document available, and it has not arrived as yet.

**Mr David Lavery (Northern Ireland Courts and Tribunals Service):**

If it is of any assistance, I take it that the Committees are not asking for the contents of the report; you simply want a list of all reports submitted. We can undertake to go through the court file and make such a list, with the agreement of the Health Department. I think that we should clear the lines with the Lord Chief Justice's office, as you will understand, but I do not anticipate that that will be likely to delay matters very much. If it will be of assistance to the Committees, we can go through the court file and identify all the reports that were submitted in the course of the case. With the agreement of our colleagues in the Health Department, we can release that information to the Committee Clerks.

**The Chairperson:**

That would be helpful. I do not want to spend any more time on the issue.

Michelle, do you wish to come in on Tommy Gallagher's substantive question?

**Mrs O'Neill:**

No.

**The Chairperson:**

We will now move on to Mr Narry's question and then members' supplementary questions. Mrs O'Neill will then ask her substantive question.

**Mrs O'Neill:**

I was due to ask my question after Tommy and before Mr McNarry.

**The Chairperson:**

The next member in line to ask a question was Conall McDevitt, but he is not here. I do not wish to cause any internal strife in the Health Committee as that could lead to all sort of problems. Mrs O'Neill, you indicated last Thursday that you wished to come in at that point. David, are you happy enough to let Michelle O'Neill go first? We will then come to you.

**Mr McNarry:**

Chairperson, I am sure that you know that I am always a gentleman.

**The Chairperson:**

In the absence of any other supplementary questions on Tommy Gallagher's question, we will go to Mrs O'Neill's substantive question.

**Mrs O'Neill:**

In his opening comments, the Health Minister referred to the RQIA report and inquiry. Will he tell us what the terms of reference are? Will that be different from or run alongside the original review that he talked about the last time?

**The Minister of Health, Social Services and Public Safety:**

Last week, I talked about wanting to get an independent report done as quickly as possible, with a preliminary report within four weeks. At that stage, I had the view that the best way to do that would be to use the director of social services from the Health and Social Care Board. There was a suggestion from one of my colleagues — it might have been Carál— that we use the RQIA. When I reflected on that, I thought that it was a very useful suggestion. My permanent secretary has, therefore, written to the RQIA, and it has agreed to undertake the report on those terms. The terms of reference are being drawn up, but the aim is to have an independent review done as quickly as possible. I anticipate getting a preliminary report within four weeks and then a final report. As I indicated last week, what flows or ensues from that will depend on what that report says. I am content to share that report with the Committee when I get it.

**Mrs O'Neill:**

So the report will look generally at the Western Trust's handling of the case.

**The Minister of Health, Social Services and Public Safety:**

That is right.

**Mrs O'Neill:**

Will you ensure that the Hansard report of the all the Health Committee and Justice Committee meetings are forwarded to the RQIA for its report?

**The Minister of Health, Social Services and Public Safety:**

The RQIA will get all the relevant information.

**Mrs O'Neill:**

I also think that it is important that the RQIA talks to the victims in Donagh. The victims must be at the core of all of this. They feel that they have been drip-fed information and that they had to learn about a lot of developments in the case through the media. That is not good enough; they should be central.

**The Minister of Health, Social Services and Public Safety:**

I agree.

**The Chairperson:**

Will the case review papers be given to the RQIA? Will it see that material?

**The Minister of Health, Social Services and Public Safety:**

The RQIA will be given whatever information it requires. As we draw up the terms of reference, the aim will be to do as fundamental a review as possible and, as I say, to report within four weeks. On reflection, the RQIA is the body best able to take that forward.

**The Chairperson:**

Members wish to ask some supplementary questions on the RQIA proposal. First to speak is Tommy Gallagher and then Conall McDevitt. Is he here yet? I am sorry; it is supposed to be Carál. I just saw the "Cs".

**Ms Ní Chuilín:**

Please do not get us confused. *[Laughter.]*

**The Chairperson:**

I should have gone to Specsavers.

**Mr Gallagher:**

My question is on the review of the trust's role. Has the Health Minister discussed with his colleague the Justice Minister whether there is any possibility of a review of any aspects of the court decision? Has the Minister considered the possibility that the RQIA report might raise some issues that could raise the question of a review of the court decision? If that happens, would it be possible to do that at that stage?

**The Minister of Health, Social Services and Public Safety:**

As I said in my opening statement, it would not be proper for me to in any way review the court decision in respect of the evidence and on how the judge came to his determination. What I am asking the RQIA to do is to carry out a case review. We will specifically draw up the terms of reference, and I am happy to share those with you. We will ensure that the actions and recommendations emerging from the review will be actioned. That will be through a preliminary report after four weeks and a final report. It will look at health and social care professionals and ensure that they discharge their duties and responsibilities properly.

It would not be appropriate or proper for me to be enquiring in any way into how the court came to its decision. That is not an issue for me. As a Minister, through protocols and by statute, I am not permitted to do that and I am not able to do that. The court's changing its decision or mind is outwith any review or consideration that I have. I am the Minister of Health, Social Service and Public Safety; I am not in any way governing a court decision.

**Mr Gallagher:**

What is the view of the Minister of Justice on the possibility of a review of any aspects of that court decision in the future?

**The Minister of Justice:**

I agree entirely with what Michael has just said. The court decision is not something that is open to review by Ministers. It might be open to appeal to a higher court, but there is no question of anyone reviewing the court's decision.

**Mr Gallagher:**

No aspects of it whatsoever?

**The Minister of Justice:**

Not of the court's decision, no. As you are aware, we are looking at outcomes of the administration that flowed from that, but you asked specifically about the court decision, and there can be no question of Ministers reviewing the decision of the judge.

**Ms Ní Chuilín:**

I do not believe that any organisation should investigate itself, so if the RQIA is to investigate at this stage, and I emphasise at this stage, that is fair enough. I will follow on from Michelle's point. Will we see the terms of reference that are going to the RQIA? Michelle also asked a couple of questions about the Hansard report of the joint meeting of the Health and Justice Committees. What will the terms of reference be? The Criminal Justice Inspection (CJINI) has already produced a schedule of immediate steps to try to remedy the situation. Will that information be available only after four weeks or will it be available before then?

Tommy alluded to my second point, if he did not say it specifically. If the RQIA report were to conclude that more questions need to be asked, what, potentially, would the next steps be for the Department of Health, Social Services and Public Safety and, possibly, the Department of Justice? At this stage, it is really the Department of Health, Social Services and Public Safety that will contemplate how to move the issue forward.

My sense is that, although the victims and survivors want some sort of resolution, the fear is that, by the time something comes out of this, we could, potentially, be talking about the brothers' release and where they go next. All of that is in the round. Will we be told what the RQIA's terms of reference are, will we see them and what will happen in the event that what is produced leaves more questions than answers for the potential next steps? On the brothers' release, I would like to reserve the right to ask that question, or something similar to it, at a later stage.

**The Chairperson:**

Minister, there is quite a bit there.

**The Minister of Health, Social Services and Public Safety:**

I will share the terms of reference with you. I have no problem with that at all. Four weeks for a preliminary report is a tight timetable, and it would be wrong to start picking bits of that until we get to that point. After that, I expect a final report, and that final report may or may not require us to go further. We will make that decision at that time. I am happy to share that with the Committee. It would be wrong to pre-empt or prejudge what will come out of the RQIA report. It is independent, and it will produce a report accordingly.

**Ms Ní Chuilín:**

What is it is a damning report, Minister? That is what I am getting at.

**The Minister of Health, Social Services and Public Safety:**

We face everything as we come to it. It may be that the report will say that health and social care services did nothing wrong or it could be a damning report or it could be something much less than that. It is a matter of waiting to see what the report says.

**Ms Ní Chuilín:**

In the event that the report says that health and social care services did not serve the people of Donagh, which, in my view, would be a damning indictment, and I know it is hypothetical, but —

**The Minister of Health, Social Services and Public Safety:**

We cannot write the ending of a report that it is independent until we see it.

**Ms Ní Chuilín:**

What I am trying to get at is that, last week, according to the Hansard report, you said that you would not rule anything out. I am just looking for further commitment on that.

**The Minister of Health, Social Services and Public Safety:**

That commitment is there; as I said, we will have our RQIA report. The only difference is that, instead of having a case review done by the board, you suggested that it should be done by the RQIA. On reflection, I thought that that was a good suggestion, so the RQIA will go in and do that, but the same parameters will apply. If there is a need for other steps to be taken or for more investigation, inquiry or consideration, we will take those steps, but I need to see the preliminary report first. That will give confidence to the local community and the wider community that the review is happening promptly and swiftly. After the preliminary report, a final report will be brought forward as quickly as possible. That will have conclusions and recommendations that I will consider, but I will take this a step at a time.

**Mr Easton:**

I think that the idea of the RQIA doing the review is a good one. The preliminary report is to be ready in four weeks. Do you envisage that there will be a huge timescale between the issuing of the preliminary report and the issuing of the final one? It is important that we get this done as



quickly as possible.

I believe that the Justice Minister is to carry out a review. Can he outline what it will involve? Is somebody independent doing that review? What are the timescales involved?

**The Minister of Health, Social Services and Public Safety:**

I agree with Alex; there cannot be a long time lag between the preliminary report and the final report. They will be ready as swiftly as possible.

**The Minister of Justice:**

I have asked the Courts and Tribunals Service to conduct an internal review of aspects of the handling of paperwork that flowed from the court decision and its implications elsewhere. My request was for an interim report by the end of this month, which is 30 September, and I have, this morning, been promised that I will have that report this afternoon. I hope that we will have the full report internally within a couple of weeks or so. I am being slightly vague on the timing, but it will be within a fairly short period of time.

I have also asked Dr Michael Maguire, as the Chief Inspector of Criminal Justice, to provide what is, in effect, an independent validation of that process. I believe it is necessary for public confidence that we do not just do the work internally but that we bring in the external expert.

**Mr Easton:**

Will we be able to see the interim report?

**The Minister of Justice:**

I am quite happy to share the internal report when I get it, and Dr Maguire's inspection reports are always public documents.

**Mr Gardiner:**

What discussion has the Justice Minister had with the Police Service or the Probation Service in relation to this case?

**The Minister of Justice:**

I have not had any discussion with the police or the Probation Service on it. I have not seen it.

**Mr Gardiner:**

That is most unfortunate.

**The Minister of Justice:**

Chairperson, I am not aware of what Mr Gardiner is suggesting I should have discussed with the police or the Probation Service.

**Mr Gardiner:**

Well, you are the Justice Minister, after all.

**The Minister of Justice:**

I am not sure what I am supposed to have discussed with them.

**Mr Gardiner:**

Have you seen the two letters from the Office of the Lord Chief Justice, and did you or your officials see a draft of those letters?

**The Chairperson:**

I am just trying to tease out how this is relevant to the announcement of an RQIA report on the issue. We are taking supplementary questions on that issue.

**Mr Gardiner:**

It was raised by Tommy Gallagher, and I am just following through on it.

**The Chairperson:**

Just for the sake of the Committees, we will get this out of the way, but I do not see the relevance of that question to the RQIA.

**The Minister of Justice:**

The answer is that I have seen both the letters that came from the principal private secretary to the Lord Chief Justice, and I saw a draft of the first one.

**Mr Gardiner:**

Do you think that it was unfortunate that there was an error in the first letter?

**The Minister of Justice:**

It was clearly unfortunate that there was an error.

**Mr O'Dowd:**

I understand and agree with the point that it is not within the remit of any Department to review a judgement from any court. However, my question is slightly different. First, will there be a review of the judgement in the sense of the powers it gave to social services, how those powers have been implemented and what scope of powers such a judgement will give to a body? Will the review consider how the judgement is used? Secondly, will the RQIA speak to Dr Maguire, who leads the Criminal Justice Inspection? Will those two bodies speak to each other about the reviews or will they operate separately?

**The Minister of Health, Social Services and Public Safety:**

The RQIA review is case-specific, but I will not lay down tight parameters as far as the RQIA is concerned. It might consider it necessary to talk to Michael Maguire. I was not aware of the Maguire report, and I was not consulted about that step. That was a matter for the Minister of Justice. However, if the RQIA feels the need to do that — I am almost certain that it will — it will take the steps that it believes are necessary to furnish a comprehensive report.

Mr O'Dowd asked about reviewing powers, and so on. Under the Bamford review, we will introduce new mental capacity legislation. Therefore, changes are envisaged. We are also looking at, through the way forward, interim changes to the Mental Health (Northern Ireland) Order 1986. David Ford and I have agreed to those interim changes and to changes that state that supervision and treatment orders (STOs) can be changed from two years to three years. The judge expressed the view that those should be changed. We are also looking at a proposal for a renewable supervision and treatment order. In other words, when that expires after three years, the court can be asked to review and reassess it. That will give the court a more flexible approach. Those are some of the things that we will be doing as we move forward.

When this issue first came up, there appeared to be a loophole in fitness to plead arrangements. The Health Department, in partnership with the Department of Justice, has set up a

working group to convene and consider current arrangements around unfitness to plead.

**Mr O'Dowd:**

I accept all that and am aware of all those steps. Will the RQIA look at the powers that were contained in the judgement from the McDermott case and at how those powers were used by social services? That is the point that I am trying to make.

**Dr Maura Briscoe (Department of Health, Social Services and Public Safety):**

The RQIA will not look at anything to do with the judgement or the powers in relation to the legislation. It will look at the health and social care aspects of the case, including implementation of the social work responsibilities under the McDermott case.

**Mr O'Dowd:**

Maybe I am not making myself clear; I am not trying to be flippant. I accept that neither body can review the judgement. The judgement handed down a number of rulings, and those rulings gave powers to statutory bodies, namely social services and health bodies, to deal with the McDermott brothers. Surely how the judgement was implemented is at the centre of this case. That is the point I am trying to make. Will the RQIA look at how the judgement was implemented?

**Mr Sean Holland (Department of Health, Social Services and Public Safety):**

Mr O'Dowd, you are absolutely right. Yes, the review will consider how the responsibilities that have been conferred on the Western Trust by the judgement have been discharged subsequently.

I think the Minister was trying to make the point that a number of process are in place to consider the broader policy issues, to which you also referred in your question. I imagine that, as that consideration goes forward, the people considering the policy will look at the RQIA report as well and be informed by it. However, the RQIA report, in itself, will not be about reviewing the judgement or existing law.

**Mr O'Dowd:**

Yes, I understand. That is fair enough. Mr Ford, will your Department have any difficulty with the Maguire inquiry talking to the RQIA or the two liaising with each other?

**The Minister of Justice:**

Absolutely not. The terms of reference, which are nearly finalised with Criminal Justice Inspection, concentrate very much on the administrative procedures in the Courts and Tribunals Service. However, Dr Maguire has co-operated with the RQIA in the past and I am quite sure that, if he wishes to speak to the RQIA, he will do so, whatever I may say to John.

**The Chairperson:**

The next substantive question is from David McNarry, followed by Tom Elliott and Alex Easton. We still have not got into the three or four outstanding issues. Mr McNarry is going to deal with some of the matters that involve the Department of Justice.

**Mr McNarry:**

It goes without saying that everyone here has a genuine feeling for the victims. We are really discussing their and the public's reaction to a judgement and how it was implemented. Minister of Justice, if anyone has any concern about the outcome of that trial and the orders made by the court, to whom should they be directing those concerns?

**The Minister of Justice:**

I am not entirely sure what you mean by concern about the outcome of the trial, because, it appears to me that some of the concerns are that some of the victims, some of the people of Donagh and some public representatives did not get the outcome to the trial they wished, and that is a matter of judicial independence. It seems to me that the key area of people's concern about the outcome was that they disagreed with the judgement.

**Mr McNarry:**

Hang on. This is our second joint Committee meeting. For goodness' sake, if we were to meet when people did not get the trial outcome that they wanted, we would be here every day and you would have no time to do any work. Is there something missing, in that those concerns are, perhaps, not being addressed? The outcome of the trial is not in dispute here and not why we are meeting. Do you concur?

**The Minister of Justice:**

I am not sure that that is entirely accurate. I think that a large measure of the concern is because people were not happy with the outcome of the trial. Other issues clearly affected that, but a large

part of the public response has been around the fact that people did not like the judgement.

**Mr McNarry:**

So, if people are not happy with the outcome of the trial, and you are saying that that is, perhaps, why some people are here, what recommendations could you make to this joint Committee to address the concerns of those who are unhappy? What steps would or will you take as Minister?

**The Minister of Justice:**

I am not sure that I make recommendations to this joint Committee. However, the all-but-finalised terms of reference for Dr Maguire's work include the key issue of looking at the area of communications, particularly with victims. Those are the kind of issues that we seek to address about how information is conveyed. However, I repeat that we can convey information as best we can, but it is very difficult to deal with the concerns of people do not accept the court's verdict.

**Mr McNarry:**

But, people who are not happy with judgements can seek legal redress. I would not feel comfortable in this Committee — joint Committee as it is — in being part of any method to assert some kind of legal redress. I cannot see that in our remit, as yet. If it falls on our table, we will look at it. On the basis that some people are not happy, will Michael Maguire, as part of his inquiry, interview the judge to determine his views on the proceedings and to establish whether the judge felt that he had all the information that he needed to arrive at his judgement?

**The Minister of Justice:**

That is not the purpose of the inquiry that I have set in motion. The purpose is to look at administrative procedures in the Courts and Tribunals Service. I think —

**Mr McNarry:**

In light of what you just said, do you not think that, if we want to make people happy, perhaps Michael Maguire might take on board what I just said? Perhaps you might ask him to take on board what I just said? We have no way of getting to the judge.

**The Minister of Justice:**

I think that you are coming perilously close to suggesting that Criminal Justice Inspection has a

role of invigilating judicial decisions in a way that the two Ministers before you have said that we do not. I think —

**Mr McNarry:**

I am not coming close to anything; I am just saying that you asked him to set up an inquiry and I am suggesting it could be expanded. The crux of the matter is that we and the public need to know that, in making his determination, the judge felt that he had the necessary information to arrive at his judgement. Nobody is challenging that, but there are innuendoes, and we cannot get to the bottom of that.

**The Minister of Justice:**

With respect, the issues that you raise concern the information that was put before the judge and the context in which the expert witnesses submitted oral or written reports. That is not a matter for the Courts and Tribunals Service; it is a matter for the judge to depend on the expert witnesses placed before him. My concerns are over the issue that we raised before — that of administrative errors — which, although they did not affect the outcome of the McDermott case, caused concern in the community. My concern is to see that we tighten those up.

**Mr McNarry:**

I respect that.

**The Minister of Justice:**

But, I can have no part in how reports are presented to the judge and how disposal should occur in cases such as this.

**Mr McNarry:**

Finally on this line of questioning: what role did the PPS have in this case?

**The Minister of Justice:**

Again, I do not answer for the PPS, but my understanding is that the PPS had the role of considering the evidence that was placed before it by the Police Service and taking decisions as to prosecutions and information to be put before the court.

**Mr McNarry:**

In conclusion, have you, or do you know whether the PPS has, briefed the Attorney General, and does the Attorney General have a role in what we are discussing?

**The Chairperson:**

I think that we are getting into very dangerous water, Mr McNarry.

**The Minister of Justice:**

I can answer that very simply, Chairperson. I do not know what discussions are taking place between the PPS and the Attorney General, nor do I ever wish to. I believe that that would be entirely improper.

**Mr McNarry:**

And, you have not had any discussions with him either?

**The Minister of Justice:**

It would be entirely improper of me to have any discussions with a trial judge, the Public Prosecution Service or the Attorney General about any aspect of handling a case.

**The Chairperson:**

You had a good run there, Mr McNarry.

**Mr Lavery:**

Can I just make one point for absolute clarity? There is a statutory prohibition on the Chief Inspector of Criminal Justice in investigating an individual case. That is one of the obstacles that we face in the present situation. However, the Chief Inspector was able to look at the systemic issues arising, for example, from the Attracta Harron case, and provided an important report on the issues that emerged from that case. That is essentially what the Minister has asked the Chief Inspector to do in this case. Although he cannot review the individual case because there is a clear statutory bar on him doing so as Chief Inspector, he can look at the systemic issues. The terms of reference that are being proposed for that would include how the criminal justice agencies, including the PPS and the Courts and Tribunals Service, interact and how we communicate with victims and administrative aspects.



**The Chairperson:**

I ask Mr McCartney —

**Mr McNarry:**

Sorry —

**The Chairperson:**

Sorry, Mr McNarry, I think you have asked seven questions. You have had a very good run. If you wish to come back later on, you can.

**Mr McNarry:**

It is important that I —

**The Chairperson:**

There are two more supplementary questions, and members have been waiting to ask them for a long time. I do not know where this is getting us, to be quite honest, but I want to wrap this up very quickly because we have still not got on to the core issues, which were left over from last week. That is beginning to worry me, because we do not have much time left. Mr McCartney will ask a question very briefly, followed by Mr Girvan.

**Mr McCartney:**

You made the point about the verdict in response to one of David's questions. It is right to say that there were varying views and that people have different ideas, but it is what transpired afterwards that we are dealing with.

There was a gap there, and I do not know whether that had to do with a case review or whether there is a role for the Department of Justice. When Sean gave his evidence last week, he told us:

“If ... someone chooses to live at an address other than that which is approved, the supervising officer has no power to enforce their approval or disapproval. You cannot force them to move back to the address at which you think they should be living or away from an address at which you think they should not be living.”

It is about how we address that situation. That has to be one of the things that we look at for the future. How do we strengthen our response to someone who says that they will not adhere to what has been agreed by the court? How do we move that forward? Do you have any intentions in that regard, or is it something that will have to be addressed through legislation?

**The Minister of Justice:**

A few minutes ago, Michael outlined the issues that are to be addressed through legislation, whether it is the short-term issue of extending the supervision and treatment orders from two years to three years or the much wider issues that are to be encompassed in the mental capacity Bill. The simple answer is that all those issues are under consideration; some lie with the Health Department and others lie with the Justice Department, but the two Departments are co-operating on how to administer them.

**Mr McCartney:**

Is the specific issue one of your priorities?

**The Minister of Justice:**

You can take it that everything that has been raised is a priority.

**Mr Girvan:**

I will address the matter in layman's terms. I see that the judgement was made on evidence presented by health officials. Those officials were steered by what was said in the court about reports. Social workers could state the address that the brothers could not go back to, but could not state where they would go. That is the point, which is evident. Did a social worker, at any time, indicate to the court that the address in Donagh was unsuitable? From what I have read, I see that that does not appear to be the case. The social worker should have had that responsibility and should have made it evident in court that it was unsuitable that the brothers went back to the community where the abuse took place. That is what we want to get to the crux of.

The court had only certain evidence presented to it and was never, at any time, told that the address in Donagh was unsuitable. The judge was able to make a judgement only on the evidence that was presented to him. My understanding is that the social worker has a responsibility to decide which address is not suitable, rather than which address is suitable. I would like clarification from the Health Minister on that issue. I do not see where the line of questioning on the justice issue is taking us; it needs to go back to where the evidence was coming from and how it was presented.

**The Minister of Health, Social Services and Public Safety:**

I think it is for the judge to decide whether he has proper evidence in front of him. If he requires

more evidence, it is not for me to enquire into that. There was more evidence provided than simply that given by health and social care experts. There were more reports provided than simply those given by employees of the trust. Other independent health and social care experts were involved. That is a matter for the judge: he weighs the evidence and comes to his determination. In this instance, his determination was that a supervision and treatment order should be made. A supervising official was then put in place.

Under the statute, the supervision and treatment order does not provide a supervising officer with the power to decide whether the brothers should live at a particular address or not. They can approve or disapprove. If the individuals or an individual concerned decide that they will live at an address that is not approved by the supervising officer, the supervising officer has recourse to the court. The supervising officer has no power other than that. Determining the address comes under the sexual offences prevention order (SOPO), which is a matter for the police, who take the lead in that. The social worker takes the lead on treatment. The lead role in the protection of the community falls to the police.

**The Chairperson:**

We will move on to the next substantive question, which is from Tom Elliott, and then take supplementary questions.

**Mr Elliott:**

Thank you for your presentation. If it is OK with you, Chairman, I will roll one of your questions in with mine. I will concentrate on the victims, because once you meet some of them, a whole new light is shone on the situation. I know there is an issue about what happened during the trial. However, I am wondering what happened before that. This has been going on for an awfully long time. How much cognisance was taken of the historical nature of the case in Donagh? What advice and evidence did the Police Service give during the process and the trial? How were the victims kept informed during the trial? What lines of communication were there from the police in particular and, indeed, social services throughout the trial? The Donagh case has a huge history, and I am wondering how much of that was taken into account during the trial and since.

**The Minister of Justice:**

In the context of the question being phrased around the police, the simple answer is that I do not what contact there was between the police and the victims, and I do not know how the usual

family support operation worked in the period leading up to the trial. That is an operational duty for the police.

**Mr Elliott:**

It is important that we get some clarification on that, because there has been little talk of the police's role in all this. It is important that we get some insight into that. I appreciate the Minister's issue about the operational role of the police. However, some issues can be explained, such as the historical issues and how the case has been dealt with down through the years. I fail to understand why there was not an earlier link-up with that and the actions that were taking place. This is almost a follow-on question from Michelle O'Neill's point: if the Health Department is instigating an independent investigation, why is the Department of Justice only initiating —

**The Minister of Justice:**

Before that question goes on, Criminal Justice Inspection is entirely independent of the Department.

**Mr Elliott:**

OK, but you did say that there was an internal process.

**The Minister of Justice:**

I said that I asked David Lavery to instigate an internal process. I think that I said exactly the same thing in my opening statement last week. In order to provide public confidence, I have also asked Dr Maguire, as Chief Inspector of Criminal Justice, to carry out an investigation.

**Mr Elliott:**

At some stage, can we get clarification on the police's role and about the information that was given, because I think that that is as equally important as the social services' role?

**The Chairperson:**

I think that I know what the answer to that question will be, but will you say it anyway, Mr Ford?

**The Minister of Justice:**

The answer is that I can only refer the Committee to the police. Go directly to them and ask them

what information they feel able to give to the Committees.

**The Chairperson:**

You see this as an entirely operational issue.

**The Minister of Justice:**

It is an operational issue as to how they handled it.

**The Chairperson:**

Mr Elliott, do you have any other comments, or will I open it up to other members?

**Mr Elliott:**

I have no other questions at the minute.

**Mrs O'Neill:**

I wish to pick up on that point. The victims are obviously at the centre of this. They submitted a number of questions to the Health Department and the Justice Department. However, I am led to believe that they still have not received the answers to those questions. At a meeting of the Health Committee a number of weeks ago, Dr Briscoe said that the responses to the questions were completed at that stage and that it was hoped that those would be with the victims very shortly. However, I am led to believe that, as of this morning, the victims still have not received the answers to questions.

**Dr Briscoe:**

I am very surprised to hear that. The questions straddled two Departments — the Justice Department and the Health Department. My understanding was that the letter has been issued.

**Ms Maura Campbell (Department of Justice):**

My understanding is that the letter was issued on 9 September.

**The Minister of Justice:**

After I received the answers to the Health Department's part of the questions, I wrote to the MP for the area, Michelle Gildernew, because she had handed me the questions at a meeting on 14 July. My letter included the Department of Justice's answers and the paper that I received from

the Health Department. Maura assures me that that letter was issued on 9 September. I am quite happy to share that paper with the Committees if you want. That was with the intention that Michelle Gildernew, as MP, would share it with the victims.

**Mrs O’Neill:**

Maybe there has been a breakdown in communication. I know that, as of this morning, one victim did not have that information.

**The Minister of Justice:**

At the meeting of 14 July, Michelle Gildernew handed me the questions, so I wrote back to her with the answers.

**The Chairperson:**

Kieran Deeny has indicated that he wishes to ask a question. We have asked Kieran to carry out some duties on behalf of the Health Committee, which start at 12.45 pm. Given the unusual circumstances, I will let him ask his question before Alex Easton asks his.

**Dr Deeny:**

It is connected Tom’s question, and it is on a procedural matter. Michael, I agree entirely with you that health matters are confidential. That is sacrosanct; they should not be discussed here. However, as a doctor, I am still not clear why, when the prosecution rightly called for an independent doctor to do the work for the report, another doctor presented the report to the judge. That is similar to my being asked to look independently at a patient from another practice and, on the morning of the court case, giving that evidence to another health professional to present. Who made the decision or gave the direction that the independent doctor should not present to the court?

**The Minister of Health, Social Services and Public Safety:**

It is a matter for the judge to decide what evidence he listens to and to ensure that he has the evidence that he requires.

**Dr Deeny:**

Does it not make sense and make for good medical and legal practice for the person who does the work and compiles the report to be the person to give the evidence as they would be best

qualified?

**The Minister of Health, Social Services and Public Safety:**

Again, that is a matter for the judge to decide. As I understand it, for a supervision and treatment order, the court requires the evidence — oral and written — of more than one doctor. Again, that is a court procedure.

**Dr Deeny:**

Was that a judicial decision?

**The Minister of Health, Social Services and Public Safety:**

The judge is the master of his court, and it is not for me to query or question how he comes to his decisions and what his decisions are.

**Dr Deeny:**

David, can you help on that? You are not a judge and nor am I, but do you find it strange that someone who did what I am sure was very detailed and confidential work and research and who became closely associated with this very sad case was not the person who was asked, on the day, to report to the judge? Someone else was asked to do that.

**The Minister of Justice:**

My understanding is that Dr C — since we do not seem to be using names, even though they are in the public domain — submitted a written report as a consultant psychiatrist from the Western Trust and gave oral evidence on that. He was probably asked about the issue of what was contained in Dr B's reports. Dr B is the consultant who was not employed by the Western Trust and, as I understand it, he is something of a specialist in forensic psychiatry. In the sense that Dr C was also speaking about his own report, I do not think that that was particularly unusual. It may simply have been that Dr B was unavailable that day. He may have had duties in Belfast and was not in a position to be in court in Omagh. His written report was there as well as Dr C's written report.

**Dr Deeny:**

Can the Committees be informed as to who made that decision?

**Mr Lavery:**

Almost certainly it will have been the prosecution.

**Dr Deeny:**

So, the prosecution can say that it wants Dr B to do all the work but, on the final day of the report, it can say that it does not want him to report. Although he is the one who has all the knowledge of it, the prosecution can say that it wants someone entirely different.

**The Minister of Justice:**

The point was that both doctors had knowledge, but, perhaps, in slightly different areas. That is the way that I read the transcript and, indeed, the judgement.

**Mr Lavery:**

In introducing Dr C, the prosecution counsel said that Dr C had been furnished with a copy of the report from Dr B. Therefore, the prosecution obviously set up the evidence in that way and, as you may have read in the transcript, the judge asked Dr C several questions about Dr B's written report. It is a decision for the prosecution what evidence and witnesses it brings to court.

**Dr Deeny:**

David, can you surmise why the independent doctor would not have been asked to provide the report to the judge, taking on board that that doctor was very well in touch with and informed of all the issues in this very sensitive and sad case?

**The Minister of Justice:**

I really cannot help you on that, Kieran. As I read it, they had both submitted written reports. It may have been simply because of availability or whatever the timings were that the prosecution decided to ask only one of them to give oral evidence on the day and to refer to the other's reports. But, both of them appear to be doctors who were acquainted with the case adequately enough that the court was presumably happy that one commented on the other's report as well as his own.

**The Chairperson:**

We will now move to Alex Easton, who is going to ask a substantive question. Apart from Tom Elliott drifting into those areas briefly, we have not come to the core issues; they are still hanging



over from last week. So, after Alex's question, I will give the option for members to ask those questions or, if they do not, I and Lord Morrow will. We simply have to get answers on two or three crucial issues.

**Mr Easton:**

My question is to the Health Minister. I cannot get my head around how the brothers ended up in Lakewood. My understanding is that the brothers did not have to go to Lakewood but the trust suggested it to them and they took that offer up. If that is the case, why were they able to go into Lakewood at that stage, yet, under the social worker's report, they should have been at home? Are we saying that the trust got it wrong in the first place at the court case? The brothers ended up in Lakewood anyway at the trust's suggestion. That then begs further questions.

Why was the trust putting in place an STO before a judgement was in place? The judgement had not been in place but there is clear evidence that the trust was preparing for that, so who suggested before the case was over that the judgement was going to be to put an STO in place? My main worry is that, if the trust recommended to the brothers that they should go to Lakewood for treatment, why did they not do that in the first place, instead of going home to, basically, the scene of the crime?

**The Minister of Health, Social Services and Public Safety:**

I will ask Maura to take you through that. I do not want to get into specifics about patients; it is not appropriate. Individuals do have rights here, and they have the right to confidentiality. However, in that situation, under a supervision and treatment order, it was a voluntary act, but Maura can take you through those steps.

**Dr Briscoe:**

The judgement was made on 18 June, and that was a matter for the courts. There would have been evidence produced to the court across all the disposals options available to the judge. The judge chose the supervision and treatment order based on evidence. The judgement was made on 18 June. The brothers did not admit themselves voluntarily until, I think, 22 July. So, I am not clear where you are coming from with the question on the STO.

**Mr Easton:**

In its evidence and what it was putting in front of the judge, the trust was quite clearly preparing

itself for the brothers getting an STO.

**Dr Briscoe:**

As was said and, I think, confirmed in the letter from the Office of the Lord Chief Justice, it was clear at the time of the judgement on 18 June that the brothers would return home. It was only after that that the circumstances changed and the brothers admitted themselves voluntarily to hospital.

**Mr Easton:**

Yes, but that was at the suggestion of somebody in the Western Trust. Someone approached them and asked them to voluntarily go to Lakewood. If they approached the brothers to say that, why did that not happen in the first place? Why did they go into Lakewood after they had been told that they could go home? Why did they change their minds? Why did somebody in the trust ask them to go to Lakewood?

**Dr Briscoe:**

The point is — I want to be absolutely crystal clear on this — that the brothers admitted themselves voluntarily to hospital.

**Mr Easton:**

At the suggestion of the trust.

**Dr Briscoe:**

The brothers admitted themselves voluntarily to —

**Mr Easton:**

At the suggestion of the trust.

**Dr Briscoe:**

You will be aware that there was a potential application for judicial review early on in the system after the judgement was made in respect of admitting the patients to hospital. It is absolutely vital that you understand that the brothers admitted themselves to hospital on a voluntary basis. The trust has no power to compel the brothers to live at a specific address. It can approve an address, and, yes, there must have been consultation with the patients. However, the brothers admitted

themselves voluntarily to hospital.

**Mr Easton:**

If the trust felt that it was important for them to get treatment in Lakeview in the first place, why did it say that they should go home in the first place? Surely, under the ruling, they should have gone to Lakeview in the first place.

**The Minister of Health, Social Services and Public Safety:**

I will ask Sean to come in here, Alex. That was a matter for the judge who made the determination. The trust's role is to ensure that the individuals get appropriate treatment as laid down under the supervision and treatment order. That appropriate treatment could be provided at their home or at Lakeview. Following the judge's determination, there was an issue about the address and the treatment that the trust was required to provide. However, if the question is simply about the trust, the trust's role is to provide the treatment. It can disapprove an address if it believes that it cannot provide appropriate treatment at that address. We went through some of that last week. The police take the lead on a sexual offences prevention order. That is about protecting the local community or, indeed, the individuals. The police can apply to the courts, as I understand it, for a specific address. The trusts are not able to do that.

**Mr Holland:**

I have a few points. First, I want to go right back to the point about STOs being granted on the recommendation of the trust. It is very important to be clear that the doctors provided expert evidence that related to the capacity and susceptibility to treatment of the two men. On that basis, the judge then determined what was a proper legal order. It was not a question of having this or having that. It was a case of, on the basis of medical evidence, that this is, legally, the right order. That is the determination of the judge.

Secondly, people say that the brothers were sent home to Donagh. It is probably worth remembering that, on the morning of the court date, they left Donagh. They were living in Donagh because they had been bailed there. That is where they had been. Therefore, their address was the home address. They had been living there all along. They went to court where a supervision and treatment order was granted. Approval then had to be given. Under the law, the trust believed that there was no reason to disapprove the address. As we said last week, even had it done so, it has very limited powers. In fact, there are no powers to subsequently force someone

to live at that address.

The third point is that the social worker, who has been mentioned a number of times, did not make any recommendation on residency and, incidentally, did not appear in court to give evidence. They provided a social history report. The contents of that report are confidential, but it covered a number of areas. Once the brothers were living at home, it is perfectly reasonable that there was discussion about where they might also reside. They went into hospital on a voluntary basis.

**The Chairperson:**

Did you ever suggest to the brothers that they go to Lakeview? Did anybody from the Western Trust make that suggestion to the brothers?

**Mr Holland:**

We are straying very, very close to discussing —

**The Chairperson:**

I need a direct answer to that question, Sean. Did anybody from the Western Trust suggest to the two brothers that they go to Lakeview? Yes or no?

**Mr Holland:**

I am not going to discuss the detail —

**The Chairperson:**

That is an absolutely crucial question that you have to answer, Sean, because if you suggested that to them, we need to know. Why did they end up there? Did they suddenly decide themselves to go the whole way up to Londonderry to Lakeview in Gransha or did you suggest that to them?

**Mr Holland:**

Bear in mind that there was a judicial review application that was significant to that. I think that if I could take the case away from —

**The Chairperson:**

You could answer the question.

**Mr Holland:**

I would like to take the case away from the individuals and talk about the principle. It is not uncommon for someone to be residing at a particular address, and a social worker may, indeed, say that it would be in their best interests to live somewhere else, but they do not have the authority to make them live somewhere else —

**The Chairperson:**

Did you do that?

**Mr Holland:**

The STO did not give them the authority —

**The Chairperson:**

Did you do that? Did you suggest —

**Mr Holland:**

The STO did not give them the authority to make the brothers live somewhere else. Subsequently, they chose to move voluntarily.

**The Chairperson:**

You are ducking and diving. You do not want to answer the question, and it is crucial: did any of your staff recommend or suggest to the two McDermott brothers that they go to Lakeview? Did they even know where Lakeview was? They probably did not have a clue. They could not have suddenly decided of their own volition, “Let us go to Gransha”. There must have been a suggestion from the trust officials or the social worker.

**Dr Briscoe:**

In any clinical case — and I am conscious of what Kieran said earlier about patient confidentiality — clearly what happens at the time of a court judgement — in this case, it was 18 June — can change. That is recognised within the supervision and treatment order, which states that treatment can be provided in different settings. I should say that that is in the legislation. So,

circumstances change, and, of course, as part of the plan for supervision and treatment of an individual, there would be ongoing discussions between clinicians, social workers, the individuals concerned and their family. Beyond that, I think the technical detail of why the individuals admitted themselves to hospital is really a confidential matter. I would be uncomfortable talking about it further.

**The Chairperson:**

That says it all.

**Mr Girvan:**

That dancing around indicates that the answer is yes. There were four and a half weeks between the end of the trial and the admission to Lakeview. That is one issue, and we have clarified that issue. That is where I wanted to go, but the next question is; what action has the Western Trust put in place to deal with them if they discharge themselves from that facility?

**Dr Briscoe:**

First, the brothers are not detained patients, and I repeat that they admitted themselves voluntarily to hospital. The brothers must live at an address that is approved by a social worker, so, if another address were offered, it would be for the supervising officer to consider whether that address is approved or not. As I understand it, the trust would then be obliged to notify the court.

The brothers are not detained patients, and I want to move away from the specifics of the case and talk generally. If a patient wanted to leave hospital, consideration would be given by the staff to their current clinical circumstances and, yes, to the potential risk to themselves and others. The clinical and social care circumstances of any patient can change from day to day and from week to week. Those would be the steps. If there were no change in, for example, the clinical circumstances or the risk to themselves or others, then the individual who was under a supervision and treatment order would be obliged to offer an address to the supervising officer, who would then consider it.

**Mr Girvan:**

I want a yes or no answer: if they discharge themselves from the facility that they are in, sign out this weekend and say that they are going back to Donagh, will they be allowed to go back to that address?

**The Minister of Health, Social Services and Public Safety:**

That would be a matter for the court.

**Dr Briscoe:**

It would be for the supervising officer to approve or disapprove the address based on the circumstances.

**The Chairperson:**

That is a very significant comment.

**Lord Morrow:**

It is a different answer.

**The Chairperson:**

It is a very significant comment. Will you repeat that, Dr Briscoe? Did you say that it was a matter for the supervising officer?

**Dr Briscoe:**

It is a matter for the supervision and treatment order. That applies to any patient who is under a supervision and treatment order and where it is clear that the judge said in the order that the supervising officer has to approve the address of an individual.

**The Chairperson:**

Which he or she could have done in the first place.

**Dr Briscoe:**

No, no, no.

**The Chairperson:**

No? Why not?

**The Minister of Health, Social Services and Public Safety:**

No. If they decide to leave Lakeview and offer an address that the supervising officer does not

approve of and they insist that they are still going there, the supervising officer's recourse is to go back to the court. It is for the court to come to a view on that.

Again, we covered this last week, and I have to warn colleagues that there is a treatment care plan under way with individuals. I do not believe that this very public discussion in any way helps that treatment; in fact, it compromises that treatment, and I have good evidence to say that it is compromising that treatment. As I said last week, it is entirely voluntary. It was not for the supervising officer to tell the judge, "No, I do not approve of a particular address." The supervising officer's role is to ensure that wherever they live is appropriate, that they can get the treatment they require, that they are amenable to treatment and that that treatment will provide support and help. As regards an address that in some way threatens the community or puts the individuals concerned at risk, that comes under a sexual offences prevention order and is a matter for the police, who take the lead in all matters around public safety and protection.

**Mr McNarry:**

Do the Ministers think that the fact that people were perhaps unhappy with the decision that two of the brothers were unfit for trial could have or did compound or influence the final judgement involving the supervision and treatment order at home?

**The Minister of Health, Social Services and Public Safety:**

The court came to a determination, and it was clear in the determination that the residence where they were going to be was their own home. Through discussion with the family, an alternative address was agreed. I do not want to get into the detail of this, because, as I said, this is about a care plan. Individuals have rights, and discussing these issues in such an open way could, in my view — and I am advised — compromise the treatment being provided.

**Mr McNarry:**

It is fair to say that we had a situation where two men were deemed unfit for trial. I understand that there was quite a long period of bail at the same residence that is under discussion and that their unfitness for trial might have influenced or compounded what happened to them in the absence of being able to be put on trial. Was there such an influence, Justice Minister? Could the Minister see any influence being brought to bear on how the judge arrived at his supervision order as regards the mental stability of the two people about whom we are talking?



**The Minister of Justice:**

I do not know that I am in any position to give a formal answer, but it seems to me that there is no indication on the transcripts or the judgement that the judge did anything other than judge on the facts that were placed before him and the reports from the expert witnesses that he had the benefit of. Mr McNarry appears to suggest that he was being influenced by public opinion. I would have thought that the outcome indicates that he was anything other than influenced by public opinion.

**Mr McNarry:**

I am not going down that route with you. You said earlier that a lot of people were unhappy, and I am just wondering where the unhappiness started. It would appear that people may have been unhappy — I do not know the ins and outs of it — that those two men were not fit to go to trial. Had they been able to go to trial, a lot of solutions might have been arrived at. The fact is that they were not: we had two different cases — two different human beings — that the court had to deal with. The court had to take on board the expert advice that it was given. Did the fact that it was ruled that they were unfit for trial influence the way in which the judge prepared and made his final supervision order, which was to send the two men home? I do not know whether you would take that into account.

**The Minister of Justice:**

I am not the Court of Appeal on Judge McFarland's decision, but I see absolutely no reason to suggest that there was any evidence of that.

**Mr McNarry:**

That is very helpful. Thank you.

**The Chairperson:**

I will give priority to folk who have not had an opportunity to ask questions at all. Paul Givan and Mickey Brady have not had a chance, so I will allow them to ask supplementary questions. The next substantive question is Conall McDevitt's. We have to leave some time at the end for a discussion about where we go from here.

**Mr Gallagher:**

May I have clarification, Chairperson? I asked a question earlier to which I received a clear

answer, which was that no aspects of this case were open to review. However, later in the discussion, the words “going back to court” were used. I am not at all clear now, in light of those two conflicting pieces of information, about a review of aspects of this case.

**The Chairperson:**

Can anyone briefly offer clarification on that point?

**The Minister of Health, Social Services and Public Safety:**

When I talked about a review, I meant a review by the RQIA, which is certainly not there to review the judge’s decision.

**Mr Gallagher:**

I asked about reviewing the court’s decision.

**The Minister of Health, Social Services and Public Safety:**

That will not be happening. The RQIA is not in a position to review the court’s decision.

**Mr Gallagher:**

My question was not linked to the RQIA. It was a simple question about whether any aspects of the court’s decision could be reviewed. I was told no, yet the remarks made by the Health Minister and Dr Briscoe indicate that the case could go back to court.

**Dr Briscoe:**

I think that we are confusing the judgement of 18 June with a change of circumstances afterwards. Clearly, if there were a breach of the supervision and treatment order, that would represent a change of circumstances. However, the RQIA review that the Minister talked about is a review of the health and social care aspects of the McDermott case. If the circumstances change, that is a very different matter.

**Mr Givan:**

I apologise that I cannot see all the people who are here. Dr Briscoe said that circumstances changed, which, to me, indicates that the trust got it wrong in the first place. The transcript, which Dr Briscoe can perhaps clarify for me, gives details of the discussion on how the matter would be disposed of and in what order the options would be taken up. On page 8, Doctor C,

responding to the judge's asking him about Doctor B's report, says:

"The Western Trust has given considerable scrutiny to all these matters and there's been a number of multi disciplinary case conferences. We have brought in an external expert in forensic learning disability to provide a risk assessment, and we have deliberated on these matters. And have come to a very similar conclusion to [*Doctor B*] in the means of disposal".

That suggests to me that, when you say that circumstances have changed, they got it wrong. Earlier in the transcript, in relation to Doctor B's report — perhaps the Minister could clarify this — Doctor C says:

"I have only seen the report this morning."

So Doctor C committed not just himself but the Western Trust to a report that he had only seen that morning. I do not know how much time he had to look over that report, but can the Minister give an assurance that he is satisfied that the Western Trust gave the report due consideration and gave their best opinion, and can Dr Briscoe clarify whether the trust got it wrong, now that she indicates that there are changed circumstances?

Picking up on another point, Dr Briscoe touched on the judicial review in relation to Lakeview and Sean touched on the brothers having been in Donagh before they left for the court case. It seems to me that there is a mindset of there being a lot of rights around these two individuals, but the rights of the community seem to come second, and the balance, in my view, does not seem to be correct. Perhaps the witnesses would like to pick up on that.

**The Minister of Health, Social Services and Public Safety:**

As far as the transcript that you are reading from is concerned, that is the evidence in front of a judge. It is a matter for the judge to make those decisions, and the judge has done so. As far as the individuals are concerned, you may agree or disagree on what happened and the outcome, and certainly, as I indicated last week, I, as a representative from South Belfast, have concerns about how local communities engage in this type of issue. However, it is important to reflect that the two individuals concerned were not found guilty, because they were not fit to plead. Maura will deal with the other point.

**Dr Briscoe:**

I think that you are confusing what I said. Any patient's condition can change: it can improve; it can deteriorate. The judge made his decision on 18 June and, as I say, no matter what patient it is, circumstances can change. Clinical circumstances can change in respect of any patient: that is all that I am saying. The judge made his decision based on the evidence before him, which

included a number of reports. The judgement, as determined by the judge, was for a supervision and treatment order and was made on the evidence before him, which was given by the professionals and, indeed, others involved.

**The Chairperson:**

We will now move on to supplementary questions from Mickey Brady and Carál Ní Chuilín, and then that is that question finished with. The final question will be from Conall McDevitt.

**Mr Brady:**

I want to make a point of clarification, following on from Alex Easton's question. David McNarry has already stated that these individuals were found not fit to plead. On 22 July, the brothers admitted themselves to Lakeview, and you said that they voluntarily admitted themselves. Given the particular circumstances of the individuals, would they have been able to, of their own volition, admit themselves to that particular establishment? Would they even know the logistics of doing that? I would presume that, as was suggested earlier, someone, possibly a trust employee or social worker or whatever, may have suggested that that was a suitable and appropriate establishment for them to go into. If they were not fit to plead, it would be a reasonable assumption that the individuals themselves would not have known how to admit themselves. As has been suggested, they may not even have known where Lakeview was. It seems to me that somebody somewhere had to make that decision for them. I am just wondering about that.

**Dr Briscoe:**

I do not wish to get into the details of this case; I think that we are straying into very difficult territory. All that I would say is that the brothers were supported at home by a number of others, including their family, etc. I would have thought that, as they were supported, there was involvement of others in the decision-making process. However, in respect of your question on the difference between unfitness to plead and their decision-making ability at the time they admitted themselves to hospital, I would not be in a position to answer that. That is about the discussions that took place and, really, those are confidential issues.

**Mr Brady:**

I accept that, but that needs clarification. As I said, logistics are involved in admitting yourself to hospital; presumably, you have to go through procedures. Were those individuals capable of

going through those procedures of their own volition?

**Dr Briscoe:**

As I said, there would have been discussions with the family.

**Ms Ní Chuilín:**

In general, when it is obvious that an STO is not working, what mechanisms are in place to change that? Who has the power to revisit it?

**Dr Briscoe:**

The STO is a matter for the court, and the content of the STO is a matter for the judge.

**Ms Ní Chuilín:**

How does a judge know that an STO is not working?

**Dr Briscoe:**

If there were a variation in circumstances, for example, if an individual were found to be non-compliant with the STO, the supervising officer would discuss that with the police and refer, presumably, to the Courts and Tribunals Service and inform the judge of that.

**Ms Ní Chuilín:**

You would almost need a case review. Is it standard practice that, with an STO, the treatment is revisited to see whether it is working? If it is decided, for reasons other than attitude and non-compliance, that, from a medical perspective, the treatment is not working, is there a case review, including the PSNI, that goes back to the court?

**Dr Briscoe:**

The issue of treatment is a matter for the clinician and his patient.

**Ms Ní Chuilín:**

I am sorry. I am not from a medical background, and I am asking a straightforward question. I do not want to know about physicians. If an STO is not working and a review has shown that the treatment is not working, can that be brought back to court only on the basis of non-compliance or can it be done on the basis that treatment is not working?

**Dr Briscoe:**

As I understand it, the detail of the treatment is not specified in the STO that is produced.

**Mr Holland:**

I really appreciate that you have framed the question in general rather than specific terms. That is very helpful. If someone is subject to an STO, they are supervised by the supervising officer. In addition, they receive treatment. If, for example, they were to become acutely mentally ill and the treatment that they required was not being provided under the terms of the STO in that they were not prepared to accept that treatment, there would be the option for other provisions in the Mental Health (Northern Ireland) Order 1986 to apply for other steps to be taken. Therefore, someone might, for example, become eligible to be detained under mental health legislation.

**Ms Ní Chuilín:**

They could be sectioned?

**Mr Holland:**

If that person's treatment needs were to change significantly, that could happen. The STO would not prevent alternative treatment being provided as required under the provision of the mental health legislation.

**Dr Briscoe:**

That is what I mean by saying that the treatment is not specified in the supervision and treatment order.

**Mr Holland:**

Likewise — again, I am trying not to talk about the particular case — if, for example, an STO were in place on someone who had a history of offending of a nature that posed a public threat and, because of their behaviour and the things that they were doing, the supervising officer became concerned that they perhaps did now pose a threat to the community, the supervising officer would liaise with the police. The police could seek a variation of a sexual offences prevention order, which could restrict the person's liberty in certain regards.

**Ms Ní Chuilín:**

What would that involve?

**Mr Holland:**

That would require a variation in court.

**Mr McDevitt:**

Thank you, Chairperson. I apologise to colleagues and witnesses for being unavoidably delayed.

Minister McGimpsey, following last week's meeting, a number of the victims contacted me and were keen to make it clear that in October 2009 — eight months before the hearing at which the supervision and treatment order and the SOPOs were granted in court — they were quite clearly told that the brothers would be returned to Donagh. They told me that they made it clear to public officials that that would not be a desirable outcome. They made it clear to public officials that returning the brothers to Donagh after a final hearing would be unwise.

I have re-read the Hansard report, Minister McGimpsey, and I understand your official position. What I do not think that any of us believe is that the trust played no role in determining the residence of those gentlemen when all the information suggests that it did. It played a clinical role and it played a good role, because it did its job. I think that we would like you to be honest about the fact that it did its job. We may not agree with the decision it took, but it did its job. I want you to tell me and the Committee why you think the victims were being told in October 2009 that the two gentlemen would be returned to Donagh once the process was over.

**The Minister of Health, Social Services and Public Safety:**

In October 2009, the unfitness to plea decision was taken by the court. As far as their residency was concerned, again, that was a determination made by the court. It is not for me to comment on the court —

**Mr McDevitt:**

That was —

**The Minister of Health, Social Services and Public Safety:**

No. It is not for me —

**Mr McDevitt:**

That was eight months before then. I understand that we may be confused here.

**The Minister of Health, Social Services and Public Safety:**

In October 2009 —

**Mr McDevitt:**

The supervision and treatment order was not granted until 18 June 2010. I am talking about October 2009, which was eight months before the supervision and treatment order and the sexual offences prevention orders were granted. That was before the hearings and before the medical evidence was presented to the court. That was at a time when, as I read the chronology of the case, all we had was an unfitness to plea situation. I want to know how public officials were able to tell the victims, with some certainty, that the brothers would be returned to Donagh.

**The Minister of Health, Social Services and Public Safety:**

The determination of the court in 2009 was that they were unfit to plea.

**Mr McDevitt:**

Minister, that was not my question.

**The Minister of Health, Social Services and Public Safety:**

Allow me to answer the question, will you? If you want me to answer the question, I will, or if you want to help me to answer it, do so. The unfitness to plea decision was made in October 2009. The supervision and treatment order came through from the court and, again, there was a determination, in June, the brothers were bailed to their home address.

**Dr Briscoe:**

In 2008.

**The Minister of Health, Social Services and Public Safety:**

In 2008.



**Mr McDevitt:**

So, Minister, the trust played no role whatsoever in advising, counselling, supporting, or opining that the home address was the most suitable place for those gentlemen to reside.

**The Minister of Health, Social Services and Public Safety:**

A range of evidence was presented to the court and the court came to its determination.

**Mr McDevitt:**

Yes or no, Minister. We have used up six hours of the Assembly's time trying to understand a simple, basic question. I think we all know the answer to that question: officials of the trust were doing their jobs. No one is criticising them for doing their jobs. We may question the conclusions that they came to, but it is pretty obvious, on the basis of the information that has been presented to this Committee, and, frankly, on the basis of much of what you have presented, that decisions were taken that the most appropriate place for those gentlemen to reside was the family home and that those decisions were taken on the basis of clinical advice and other advice provided in good faith by trust officials.

**The Minister of Health, Social Services and Public Safety:**

Again, I have covered this on a number of occasions. It was a court procedure —

**Mr McDevitt:**

No. In October 2009, Minister, we did not have the court decision. That was before the court decision on residency.

**The Minister of Health, Social Services and Public Safety:**

Every time I try to speak, you interrupt. That is a difficulty. Chairperson, is that normally a procedure that we wish to follow?

The other issue is that the court case was ongoing from 2008, and the individuals we are talking about were bailed to their own home. The supervision and treatment order did not come through until June 2010. The role of the trust's employees and health and care experts was to provide evidence to that court, and it was a matter for the judge to determine the decision based on that evidence, which he did.

**Mr McDevitt:**

Do you have any idea why the victims were told in October 2009 that, after all the hearings had been concluded, the brothers would return to Donagh?

**The Minister of Health, Social Services and Public Safety:**

I cannot speculate on hearsay. I can repeat —

**Mr McDevitt:**

Do you find that concerning?

**The Minister of Health, Social Services and Public Safety:**

Sorry, you are interrupting me again.

**Mr McDevitt:**

I am asking whether you find that concerning.

**The Minister of Health, Social Services and Public Safety:**

I am not sure that I want to speculate on hearsay, and you are presenting me with hearsay.

**Mr McDevitt:**

Are you questioning what the victims told me?

**The Minister of Health, Social Services and Public Safety:**

I am not questioning —

**Mr McDevitt:**

Are you, Minister? It is not hearsay. I mean —

**The Minister of Health, Social Services and Public Safety:**

Chairperson, I do not think there is any point. When he asks me a question and I try to answer, he talks me down.

**The Chairperson:**

I do not think that you are getting very far, Mr McDevitt.

**Mr McDevitt:**

Last week, I asked whether any guidelines were available to trust officials in their preparation for dealing with supervision and treatment orders. Can you confirm whether any guidelines are in place?

**The Minister of Health, Social Services and Public Safety:**

Sean Holland can help with that.

**Mr Holland:**

There are no specific guidelines on supervision and treatment orders in Northern Ireland. Last week, you pointed to the extant Scottish guidelines. Those guidelines could not be applied in Northern Ireland because of the different arrangements for the delivery of services. There are, however, several guidelines that inform the conduct of supervising officers in the discharge of their responsibility.

**Mr McDevitt:**

I have a final question. Minister, are you happy that there are no guidelines to support or inform the work of trust officials in preparing to advise a court on the suitability or otherwise of supervision and treatment orders in cases such as this?

**The Minister of Health, Social Services and Public Safety:**

I have answered that, but Sean can elaborate.

**Mr Holland:**

To date, an incredibly small number of supervision and treatment orders have been put in place and discharged by the health and social care trusts or, indeed, the Probation Board, which also oversees and supervises supervision and treatment orders. We have a mechanism for monitoring the discharge of relevant statutory functions and, to date, we have not had any indication that there have been difficulties with the discharge of supervision and treatment orders. Therefore, it was not a priority area for us to develop guidelines. However, given the public concern that has arisen from this case and given that, as the Minister indicated earlier, we will review the provisions of supervision and treatment orders, we have an opportunity to look at developing guidelines. We will probably seek to do that in partnership with our colleagues in the Department

of Justice, who also supervise those orders. I am not aware whether they have had any difficulties in discharging STOs, but that is a question for our colleagues from the Department of Justice.

**The Chairperson:**

Mr Ford, do you want to add anything?

**The Minister of Justice:**

I have nothing to add.

**Lord Morrow:**

We heard about what could or could not happen before the trial and what could or could not happen after the trial. Could Mr McGimpsey or any of his team tell us what consultation took place with the victims and survivors during the trial? You then knew it was on, as everybody else did.

**Mr Holland:**

During the trial?

**Lord Morrow:**

Yes.

**Mr Holland:**

That is primarily a question for the Department of Justice to answer. However, it is fair to say that the trust has no responsibility or, indeed, authority to consult with the community during the trial. I draw members' attention to a recent judgement by Judge Hart that addressed the issue of consultation with communities during trials. I do not want to answer on behalf of colleagues from the Department of Justice but, in a murder trial earlier this year, the judge made it very clear that consultation with communities could undermine the independence of the judiciary.

**Lord Morrow:**

We are talking about the victims and survivors, not the community.

**Mr Holland:**

There are certainly victim impact statements, but again, they are a matter for the Department of Justice. The responsibility for collecting victim impact statements —

**Lord Morrow:**

Hold on a second. Maybe I am misunderstanding you. Are you telling me that your Department and your trust had no concerns about the effect of the outcome of that case on the victims and survivors? Was there no onus on you at all —

**Mr Holland:**

I apologise, Lord Morrow. I clearly misunderstood the point that you were making. Services would be available to the victims of abuse. Maura can talk about the detail of the services that would be available.

**Lord Morrow:**

Do not talk to me about what would be available. Tell me what you actually did with the victims during the trial.

**Dr Briscoe:**

Sean referred to another case. A comprehensive plan is in place for the community and the victims. I do not wish to discuss the detail of that plan. However, it would relate to not just supervision and treatment but to the promotion of support and services for the victims, the promotion of information for the community, and issues about child protection. Survivors of sexual abuse would also be included in that plan, and a range of services is available for them.

**Lord Morrow:**

With regard to what was going on in the court at that time, you were preparing the victims and survivors for the return of the brothers to their own home. It was a known fact that that was going to happen. So, you were there giving support to the victims and survivors?

**Dr Briscoe:**

As we discussed earlier, following the bail hearing, the brothers have been in the Donagh community since 2008.

**Lord Morrow:**

We understand that, but we are just trying to get a grip on what support your Department was giving during the trial, knowing what was going to happen, or likely to happen.

**Dr Briscoe:**

A range of comprehensive services is available in the Western Trust area for victims of sexual abuse, regardless of the perpetrator.

**The Chairperson:**

Were you proactively trying to help the people in the community by engaging with them and saying what was available, or are you just saying that, if they had come to you, this is what you could have done for them?

**Dr Briscoe:**

I think we need to be careful here. We already discussed the process during the court proceedings. The trust has met the Donagh community and, yes, that was after the court judgement. However, I re-emphasise that a range of services is and always was available to the survivors in Donagh. Do not forget that those acts, if you like, occurred over a very long period.

**Mr Gallagher:**

The Minister's letter mentions the survivors and victims of the abuse in the last paragraph, and talks about support, space and time for them to come to terms with their experiences. It is helpful to know that, and I hope that that will be strengthened. Does the Minister plan to meet the victims as part of that support, space and time?

**The Minister of Health, Social Services and Public Safety:**

I have indicated that I am happy to do so if the community believe that that will be helpful in allowing them to move forward. I think that I indicated that in response to a question that Michelle or Carál asked me last week.

**The Chairperson:**

I thank the Ministers and their officials for their time. It is a very difficult case. You will be glad to know that you are in the clear.

**A Member:**

I do not know about that. *[Laughter.]*

**The Chairperson:**

For now, anyhow.

Before we, as a joint Committee, make a decision, we need to place on record that we acknowledge the pain and anguish that the Donagh community has suffered as a result of this entirely unfortunate case. Some of what we have said and done may have opened up old wounds and caused a bit of pain. However, I hope that the community understands why we needed to do it. It is important that that issue is always taken as a priority and, from what we have seen in our own papers today, those folk have gone through an awful lot.

What came out of the discussions today was the announcement about the proposal, which none of us knew about, that the RQIA will be brought in to carry out the review. The Health Committee is very aware of the work of Glenn Houston and his team in the RQIA. I assume that the Justice Committee is, to some extent, also aware of the work of the RQIA. It is not a new body; it regulates nursing homes, hospital cleanliness, child protection and a whole series of issues. It is very experienced in those matters. Its most recent high level report was on the hospital-acquired infections in the Royal and the clostridium difficile outbreak. The Health Committee is very aware of its work and has no problems with it whatsoever.

**Mr Gallagher:**

That is right. We have some confidence in the RQIA based on the work it has done to date.

**The Chairperson:**

Yes, and it is entirely independent of any Department and is funded separately. I have a lot of confidence in its work and have no problems suggesting support for the initiative. We have had the opportunity to sound out a few members, but that seems to be a sensible way forward. It does not, of course, preclude the joint Committee from meeting again if we are unhappy with the outcome of that review, when it could move towards something more rigorous. Nevertheless, it is a step forward.

**Lord Morrow:**

I have no problems with what you have said at all. However, I have one slight amendment. Could we add that the RQIA inquiry co-operates and co-ordinates with the Department of Justice/Dr Maguire inquiry at this time also?

**The Chairperson:**

Yes. It was suggested that that would happen.

**Lord Morrow:**

As a result of what we have been hearing of late, I want to add a separate proposal. It has been extremely difficult to get precise and concise answers, although, in fairness to the team, some of the questions were lengthy. However, it raises and we need to get a look at the wider policy issue. If there is agreement round the table, I would like the Committee to consider the issue of public protection and the extent to which the views of individual victims and the wider community could or should be taken into account. I would like to see some work done on that issue. I know that it will be a wider issue and will take longer, but it should also be initiated. I believe that it would benefit the victims, the survivors and the whole community.

**Mr Gallagher:**

From now on, it will surface much more prominently in such cases that it has heretofore.

**Lord Morrow:**

I put forward that proposal and hope for the Committee's agreement.

**The Chairperson:**

As a second proposal, is the Committee happy to let the RQIA carry out the inquiry into the health aspects in conjunction and in co-operation with the Maguire review? We will also ask for a review of the wider policy context.

*Members indicated assent.*

**The Chairperson:**

Indeed, any good that could out of it is that people will know exactly where they stand with regard to future cases. That means that the joint Committee can remain on the shelf, as it were,



ready to come back if needed. Tom, do you have a problem with that?

**Mr Elliott:**

I have no problem in broad terms. I would like each Committee to see the terms of reference at an early stage. I have just been reading the letter that was sent to the Committee by the victim and I have met some of the victims. I am hugely concerned that the terms of reference may just look at the case and the outcome and what happened immediately before it. I am extremely concerned about some of the context of that letter and about how long the situation has been going on. It may only be scratching the surface. Therefore, I would like to see the terms of reference. I do not think that the two Committees have to meet in formal session.

**Lord Morrow:**

I think that is an important point. We need to see the terms of reference at an early stage.

**The Chairperson:**

Again, that undertaking was given. I presume that we are happy that the two Committees look at the terms of reference. However, I do not think that we need to meet jointly, unless some big issue arises as to the extent of the inquiry.

**Mr McDevitt:**

You are aware that I had sight of the victim's letter earlier this week. Tom made an important point. Although we have a duty to scrutinise the specific aspects of the case, we must understand and ensure that there are deep wounds in that community that need healing. We should not sell the community or the victims short, and we should ensure that our report contributes positively to that healing.

**The Chairperson:**

I have no doubt that, had it not been for the existence of the joint Committee, the undertaking for the RQIA inquiry would not have happened. We can take that as being a significant development. We seem to have unanimity on the way forward, which is good news. Are members content?

*Members indicated assent.*