

CONSULTATION ON PROPOSALS FOR THE RETENTION AND DESTRUCTION OF FINGERPRINTS AND DNA IN NORTHERN IRELAND

NICCY recently responded to a consultation by the Department of Justice on proposals for the retention and destruction of DNA and fingerprints. The proposals emerged in response to a judgement by the European Court of Human Rights in 2008. This held that the current legislation allowing police to retain indefinitely fingerprints and DNA samples of persons arrested but not convicted for any recordable offence, was in breach of the right to a private life under Article 8 of the European Convention on Human Rights. The proposals sought to differentiate between 'adults and juveniles' and between 'convicted' and 'non-convicted' persons.

NICCY has expressed concern for some time about DNA retention and particularly indefinite retention of DNA samples. In 2009, NICCY, along with the other UK Children's Commissioners submitted proposals outlining reforms to the National DNA Database, highlighting the Government's failure to respect children's right to privacy and family life under Article 16 of the UNCRC. They also called on Government to ensure that the retention regime was compliant with Article 40 of the UNCRC and the UN Standard Minimum Rules for the Administration of Juvenile Justice ('Beijing Rules'), by establishing clearer differentiation and stronger support for the desirability of reintegration. In relation to the current proposals, NICCY made a series of recommendations¹, including the following;

- NICCY strongly advocated that human rights principles of proportionality, necessity and presumption of innocence should underpin the policies and therefore impose strict limits on data retention.
- NICCY expressed concern as to how the retention of DNA from young people charged, but not convicted of serious offences, for a period of at least 3 years, is in their best interests, recommending that this proposal be reviewed.
- NICCY believes that young people should be afforded maximum protection under the law and was therefore concerned by a proposal that on first conviction for a minor offence, a young person should have their DNA retained for at least 5 years. NICCY recommended that for a first minor offence, consideration should be given to not retaining their DNA at all.

¹ For a full list of recommendations, see the full consultation response.



- NICCY proposed that consideration be given to removing the DNA profiles and fingerprints of young people once they reach 18 years so they are given the opportunity to enter adulthood with a 'clean slate' (NICCY recognises that depending on the seriousness of the crimes and the number of offences committed, this may not be appropriate for all young people,). NICCY believes that young people's lack of maturity should be considered and they should not be stigmatised by actions undertaken before they reach full maturity.

