



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

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Have your say

The Department of Justice are amending Article 53A of
the Police and Criminal Evidence (Northern Ireland) Order
1989

We want your feedback!



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This consultation begins on 1 May 2025
This consultation ends on 6 August 2025

Department of Justice
Safer Communities Directorate

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1. Introduction

1.1. The Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI) and its associated Codes of Practice (the Codes) is the legislation that gives the police powers to investigate crime.

1.2. A qualifying offence is an offence listed under [Article 53A](#) of PACE NI. The current qualifying offences list contains serious offences such as murder, rape, grievous bodily harm, serious assaults, robbery and burglary, sexual assault, indecency and firearms offences.

1.3. These offences are considered to be the most serious and those convicted of such offences are of greatest risk to the public.

1.4. If an offence is a “qualifying offence” it means:

- that DNA profiles and fingerprints can be kept for longer.
- that any review of the need to keep DNA profiles and fingerprints will be further away.
- that if you are charged but not convicted of a qualifying offence your DNA profile and fingerprints can be kept for three years.
- that if you have been arrested but not charged with a qualifying offence (only if certain rules are passed by the NI Assembly) the Northern Ireland Biometrics Commissioner can order that your DNA profile and fingerprints can be kept for three years.
- the police can order you back to a police station to have a DNA sample and fingerprints taken if you have been convicted of a qualifying offence, no matter how long ago, and not had a DNA sample and fingerprints taken before.



Background

1.5. The current list of qualifying offences contains the most serious sexual, violent and terrorism related offences. DNA profiles and fingerprints from these types of offenders could prove useful in solving crimes that the same individual might commit in the future. This is because the offender may leave DNA and fingerprints on the victim or at the crime scene in the form of blood, saliva or semen traces from which a DNA profile could be extracted.

Review of qualifying offences

1.6. The Department of Justice (DoJ) has completed a review of the current qualifying offences list and considered what other offences might be helpful to add to the list. The DoJ asked for help from the Police Service of Northern Ireland (PSNI), the Departmental Solicitor's Office (DSO), the Public Prosecution Service for Northern Ireland (PPSNI), the Home Office and the Northern Ireland Office (NIO), to ensure that the list is as complete as possible. The DoJ has also asked for the thoughts of the Scottish Biometrics Commissioner and the office of the Biometrics and Surveillance Camera Commissioner.

Historic offences

1.7. The current qualifying offences list is mostly made up of offences that are in current legislation. However, if you are arrested today for an offence that happened many years ago you would be charged in line with the legislation that was in place at the time the offence was committed. The DoJ wants to make sure all offenders are treated equally so old legislation is being added to the qualifying offences list.

Serious offences – wider considerations

1.8. The DoJ looked at offences that are contained in other serious offences legislation for example;

- Schedules 1, 2 and 2A of the Criminal Justice (NI) Order 2008,
- Schedule 1 Part 2 of the Serious Crime Act 2007, and
- Schedule 3 of the Legal Aid for Crown Court Proceedings (Costs) Rules (NI) 2005.

The DoJ also looked at the list of serious and violent offences used by Access NI. Access NI is a branch of the DoJ who process applications from people needing a criminal record check when applying for a job. Access NI use a list of serious and violent offences that always have to be included on a standard or enhanced criminal record certificate.

1.9. The DoJ also considered offences that could be serious because of their impact on our community in particular, vulnerable individuals or children. For example, offences created by recent or proposed legislation, such as:

- the Domestic Abuse and Civil Proceedings Act (NI) 2021,
- the Protection from Stalking Act (NI) 2022 and
- the proposed Adult Protection Bill.

Non-devolved offences

1.10. The DoJ can only consider offences that are considered devolved (within the control of the Northern Ireland Assembly). For some offences such as terrorism or drugs offences, we need help from the UK Government and DoJ officials have spoken with officials from the Home Office and the Northern Ireland Office regarding these offences and they are considering their next steps as a separate piece of work.

Monitoring and Further Updates

1.11. In future the Northern Ireland Biometrics Commissioner will be responsible for keeping Northern Ireland biometric related legislation under review, including the list of qualifying offences.

2. Summary of Proposals

2.1. This consultation provides details of the proposed changes to the qualifying offences list set out in Article 53A of PACE NI.

2.2. In summary, the DoJ proposals involve the updating of Article 53A of PACE NI to include:

- historic offences.
- offences very similar to offences already contained in Article 53A of PACE NI.
- offences considered serious because of their impact on society.

2.3. A summary of the main devolved offence types to be included in the proposed updated list of qualifying offences is provided below. We would appreciate your views on the proposals and would therefore welcome answers to the following questions:

A. Do you agree with the proposed changes to the list of devolved qualifying offences? If you don't agree please provide reasons for your answer providing evidence where possible.

B. Are there any other offences you think should be included in the list of devolved qualifying offences? If you are suggesting the addition of an offence, you must provide reasons for the addition including evidence to support your suggestion.

Qualifying Offences

- ❖ Murder and manslaughter
- ❖ Kidnap, false imprisonment, child abduction
- ❖ Offences against the person, such as assault, assault occasioning grievous or actual bodily harm, wounding, choking, poisoning
- ❖ Rape
- ❖ Incest
- ❖ Sexual offences, including those committed against young or vulnerable people
- ❖ Offences related to indecent images/unwanted sexual images
- ❖ Controlling prostitution and sexual exploitation for gain
- ❖ Voyeurism
- ❖ Offences involving abuse of a position
- ❖ Stalking, threatening or abusive behaviour
- ❖ Domestic abuse
- ❖ Child cruelty, causing or failing to prevent the death of a child or vulnerable adult
- ❖ Blackmail
- ❖ Safeguarding (working with children or vulnerable people)
- ❖ Human trafficking
- ❖ Robbery and burglary
- ❖ Arson causing damage to a property
- ❖ Hijacking an airplane, spacecraft or ship
- ❖ Firearms offences – possession, carrying and use of a weapon
- ❖ Possession and carrying of offensive weapons (including explosives, blades and crossbows)

- ❖ Public order – riot, unlawful assembly and affray
- ❖ Incitement to hatred
- ❖ Possession and supply of psychoactive substances
- ❖ Harassment and intimidation (including of witnesses)

The offences the DoJ has asked the UK Government to help with relate to:

- ❖ Terrorism
- ❖ National Security offences (providing support to a foreign threat)
- ❖ Breaches of the Geneva Conventions
- ❖ Hostage taking
- ❖ Organised crime – concealing the proceeds of organised crime
- ❖ Production and supply of drugs

3. Policy Proposals

3.1 This section sets out the proposed new offences to be added to Article 53A of PACE NI, similar offences have been grouped together.

A. Offence Detail - Sexual Offences

- Rape (Common law)
- Rape (S48 – Offences Against the Person Act 1861)
- Assault with intent to commit rape (S2 – Attempted Rape, Etc. Act (NI) 1960)
- Rape (S18 - Criminal Justice (NI) Order 2003)
- Buggery (Article 19 – Criminal Justice (NI) Order 2003)
- Assault with intent to commit buggery (Article 20 – Criminal Justice (NI) Order 2003)
- Indecent assault on a male (Article 21 – Criminal Justice (NI) Order 2003)
- Attempted indecent assault on a male (S62 – Offences Against the Person Act 1861)
- Gross indecency (S11 – Criminal Law Amendment Act 1885)
- Attempt to carnally know a girl under 12(S52 – Offences Against the Person Act 1861)
- Unlawful detention with intent to have carnal knowledge (S8 – Criminal Law Amendment Act 1885)
- Defilement with intent to have unlawful carnal knowledge (S4 & 5 – Criminal Law Amendment Act 1885)
- Indecent conduct towards a child (S22 – Children and Young Persons Act (NI) 1968)
- Householder permitting defilement of a girl under 17 with intent to have carnal knowledge (S6 – Criminal Law Amendment Act 1885.
- Meeting a child following sexual grooming (S15 – Sexual Offences Act 2003)
- Arranging or facilitating commission of a child sex offence (S14 – Sexual Offences Act 2003)
- Sexual communication with a child (S15A – Sexual Offences Act 2003)
- Possession of paedophile manual (S69 Serious Crime Act 2015)
- Paying for sexual services of a child (S47 – Sexual Offences Act 2003)
- Causing or inciting child prostitution or pornography (S48 – Sexual Offences Act 2003)
- Causing girl under 17 to become prostitute (S21 – Children and Young Persons Act (NI) 1968)
- Controlling a child prostitute or a child involved in pornography (S49 – Sexual Offences Act 2003)
- Procurement and exportation of girls (S2 – Criminal Law Amendment Act 1885)
- Arranging or facilitating child prostitution or pornography (S50 – Sexual Offences Act 2003)
- Seduction or prostitution of girl under 17 (S12 Children and Young Persons Act (NI) 1950)

- Allowing a child or young person to reside in/frequent a brothel (S14 Children and Young Persons Act (NI) 1950)
- Procuring defilement of women by threats or fraud or administering drugs (S3 – Criminal Law Amendment Act 1885)
- Causing or inciting prostitution for gain (S52 – Sexual Offences Act 2003)
- Offences relates to a man living on the earnings of prostitution (S1 – Vagrancy Act 1898)
- Living on earnings of a male prostitute (Article 8 - Homosexual Offences (NI) Order 1982)
- Controlling prostitution for gain (S53 – Sexual Offences Act 2003)
- Brothel-keeping (S13 – Criminal Law Amendment Act 1885)
- A woman directing prostitution (S7 – Criminal Law Amendment Act 1912)
- Keeping a brothel used for prostitution (Article 64 – Sexual Offences (NI) Order 2008)
- Protection of women suffering from severe mental handicap (Article 122 – Mental Health (NI) Order 1986)
- Protection of patients (Article 123 – Mental Health (NI) Order 1986)
- Inciting a girl under 16 to commit incest (Article 9 – Criminal Justice (NI) Order 1980)
- Incest by males (S1 – Punishment of Incest Act 1908)
- Incest by females (S2 – Punishment of Incest Act 1908)
- Indecently exposing his person (S28 – Town Police Clauses Act 1847)
- Indecent exposure with intent to insult a female (S4 Vagrancy Act 1824 – Indecent exposure with intent to insult a female)
- Indecent exposure (Common law)
- Acts Outraging Public Decency (Common law)
- Exposure (S66 – Sexual Offences Act 2003)
- Voyeurism (S67 – Sexual Offences Act 2003)
- Possession of an extreme pornographic image (S63 – Criminal Justice and Immigration Act 2008)
- Disclosing private sexual photographs and films with intent to cause distress (S51 – Justice Act (NI) 2016)
- Sodomy and Bestiality (S61 – Offences Against the Person Act 1861)
- Intercourse with an animal (S69 – Sexual Offences Act 2003)
- Sexual Penetration of a corpse (S70 – Sexual Offences Act 2003)
- Possession of Prohibited Images of Children (S62 (1) Coroners and Justice Act 2009)
- Possession of indecent photograph of child (Article 15 - Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988)
- Importing indecent or obscene article (Customs Consolidation Act 1876 – Section 42)
- An offence under S170 of the Customs and Excise Management Act 1979 in relation to goods prohibited to be imported under section 42 of the Customs Consolidation Act 1876 (prohibitions and restrictions relating to pornography) where

the prohibited goods included indecent photographs of children under the age of 16 (Section 170 – Customs and Excise Management Act 1979)

- Abuse of position of trust– sexual activity with a child (S16 – Sexual Offences Act 2003)
- Abuse of position of trust (sexual activity / intercourse) (S3 – Sexual Offences (Amendment) Act 2000)
- Abuse of position of trust, causing or inciting a child to engage in sexual activity (S17 – Sexual Offences Act 2003)
- Abuse of position of trust– sexual activity in the presence of a child (S18 – Sexual Offences Act 2003)
- Abuse of position of trust– causing a child to watch a sexual act (S19 – Sexual Offences Act 2003)
- Prohibition of Female Circumcision (S1 – Prohibition of Female Circumcision Act 1985)
- Offence of Female Genital Mutilation (S1 – Female Genital Mutilation Act 2003)
- Offence Of Assisting A Girl To Mutilate Her Own Genitalia (S2 – Female Genital Mutilation Act 2003)
- Offence Of Assisting A Non-UK Person To Mutilate Overseas A Girl’s Genitalia (S3 – Female Genital Mutilation Act 2003)

Rationale

These offences are being proposed as they are consistent with sexual offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

B. Offence Detail - Violence against the person

- Infanticide (S1 – Infanticide Act (NI) 1939)
- Child destruction (S25 – Criminal Justice Act (NI) 1945)
- Murder (S1) Offences against the Person Act 1861
- Causing death, or grievous bodily injury, by dangerous driving (Article 9 – The Road Traffic (NI) Order 1995) (limited to death)
- Causing death, or grievous bodily injury, by careless driving when under influence of drink or drugs (Article 14 – The Road Traffic (NI) Order 1995) (limited to death)
- Cruelty to persons under 16 (S11 – Children and Young Persons Act (NI) 1950)

Rationale

These offences are being proposed as they are consistent with murder, manslaughter and assault offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

C. Offence Detail – Abduction

- Abduction of a woman against her will, for motives of lucre (S53 – Offences Against the Person Act 1861)
- Abducting a female with intent to carnally know her (S54 – Offences Against the Person Act 1861)
- Abducting unmarried girl under 16 (S55 – Offences Against the Person Act 1861)
- Abduction of a girl under 18 with intent to have carnal knowledge (S7 – Criminal Law Amendment Act 1885)
- Child stealing (S56 – Offences Against the Person Act 1861)
- Child Abduction by Parent (Article 3 – Child Abduction (NI) Order 1985)
- Abduction of child in care (Article 68(1)(a) Children (NI) Order 1995)

Rationale

These offences are being proposed as they are consistent with kidnapping and false imprisonment offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

D. Offence Detail - Robbery / Theft / Fraud

- Hijacking of vehicles or ships (S2 – Criminal Jurisdiction Act 1975)
- Possession of false identity documents etc. with improper intention (S4 – Identity Documents Act 2010)
- Apparatus designed or adapted for the making of false identity documents etc. (S5 – Identity Documents Act 2010)

Rationale

These offences are being proposed as they are consistent with hijacking and theft offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

E. Offence Detail – Weapons

- Making or possession of explosive under suspicious circumstances (S4 (1) – Explosive Substances Act 1883)
- Making or possessing petrol bombs, etc. (S2 – Protection of the Person and Property Act (NI) 1969)
- Use of petrol bombs, etc. (Throwing petrol bomb) (S3 – Protection of the Person and Property Act (NI) 1969)
- Possession of firearm(s) with intent to injure (S14 – Firearms Act (NI) 1969)
- Possession of firearm with intent to injure (Article 17 – Firearms (NI) Order 1981)
- Possession of a firearm or imitation firearm with intent to cause fear of violence (Article 17A – Firearms (NI) Order 1981)

- Prohibition of possession of a firearm or ammunition by certain persons (Article 63(1) – Firearms (NI) Order 2004)
- Use of firearm to resist arrest (S15 – Firearms Act (NI) 1969)
- Use of firearm to resist arrest (Article 18 – Firearms (NI) Order 1981)
- Carrying a firearm with criminal intent (S16 – Firearms Act (NI) 1969)
- Carrying a firearm with criminal intent (Article 19 – Firearms (NI) Order 1981)
- Firearm certificate required (Article 3 – Firearms (NI) Order 2004)
- Requirement for Firearm Certificate (S1 – Firearms Act (NI) 1969)
- Requirement for firearm certificate (Article 3 – Firearms (NI) Order 1981)
- Carrying firearm in a public place (Article 61 (1) – Firearms (NI) Order 2004)
- Carrying firearm in a public place (Article 20 (1) – Firearms (NI) Order 1981)
- Carrying firearm in a public place (S17 – Firearms Act (NI) 1969)
- Trespassing with a firearm (Article 62 – Firearms (NI) Order 2004)
- Trespassing with a firearm (Article 21(1)– Firearms (NI) Order 1981)
- Trespassing with a firearm (S18(1) – Firearms Act (NI) 1969)
- Possession of a firearm or ammunition in suspicious circumstances (Article 64 – Firearms (NI) Order 2004)
- Possession of firearm in suspicious circumstances (S19A – Firearms Act (NI) 1969)
- Possession of firearm or ammunition in suspicious circumstances (Article 23 – Firearms (NI) Order 1981)
- Conversion of weapons (Article 67 – Firearms (NI) Order 2004)
- Conversion of weapons (Article 5 – Firearms (NI) Order 1981)
- Conversion of weapons (S3 – Firearms Act (NI) 1969)
- Person under 18 years possessing crossbow (Article 5 – Crossbows (NI) Order 1988)
- Person under 18 years possessing parts of a crossbow (Article 5 – Crossbows (NI) Order 1988)
- Using someone to mind a weapon (para 1(1) of Sch 2 – Violent Crime Reduction Act 2006)
- Possession of offensive weapon with intent to commit an offence (S93 – Justice Act (NI) 2011)
- Selling offensive weapon (S141 – Criminal Justice Act 1988)
- Carrying of offensive weapon in public place (Article 22 – Public Order (NI) Order 1987)
- Offence of having article with blade or point in public place (S139 – Criminal Justice Act 1988)
- Offence of having article with blade or point (or offensive weapon) on school premises (S139A – Criminal Justice Act 1988)

Rationale

These offences are being proposed as they are consistent with weapons offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

F. Offence Detail - Public Order

- Riot or riotous assembly (Common law)
- Affray (causing terror) (common law)
- Unlawful Assembly (common law)

Rationale

These offences are being proposed as they were considered to have been missed from the original list.

G. Offence Detail – Drugs

- Producing a Psychoactive substance (S4 -Psychoactive Substances Act 2016)
- Producing a Psychoactive substance (S4 -Psychoactive Substances Act 2016)
- Supplying, or offering to supply, a psychoactive substance (S5 -Psychoactive Substances Act 2016)
- Possession of a Psychoactive Substance with Intent to Supply (S7 -Psychoactive Substances Act 2016)
- Importing or exporting a psychoactive substance (S8 - Psychoactive Substances Act 2016)

Rationale

These offences are being proposed as they are consistent with other drug offences that are being considered by the UK Government.

H. Offence Detail - Abuse of trust

- Ill treatment of patients (Article 121 – Mental Health (Northern Ireland) Order 1986)
- Ill treatment or neglect (Section 267 -Mental Health Capacity Act (NI) 2016)
- Ill-treatment of neglect: care worker offence (Adult Protection Bill (20xx) (36))

Rationale

These offences are being proposed as they are consistent with abuse of trust offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

I. Offence Detail – Safeguarding

- Persons disqualified from working with children: offences (S 35(1) - Criminal Justice and Court Services Act 2000)
- Disqualified Person Working with children (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)

- Offering or procuring work for an individual who is disqualified from working with children (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)
- Failing to remove a person disqualified from working with children from regulated work (Article 30 - Protection of Children and Vulnerable Adults (NI) Order 2003)
- Engaging etc. in regulated activity from which barred (Article 11 - Safeguarding Vulnerable Groups (NI) Order 2007)

Rationale

These offences are being proposed due to the risk of the abuse of vulnerable children.

J. Offence Detail - Harassment / Intimidation

- Intimidation, Etc., Of Witnesses, Jurors and Others (Article 47 -Criminal Justice (Northern Ireland) Order 1996)
- Intimidating of witnesses (Article 39 -Criminal Justice and Police Act 2001)
- Harming witnesses (Article 40 - Criminal Justice and Police Act 2001)
- Use of words or behaviour or display of written material to incite hatred (Article 9 - Public Order (Northern Ireland) Order 1987)
- Publishing or distributing written material to incite hatred (Article 10 - Public Order (Northern Ireland) Order 1987)
- Possession of material intended to stir up hatred / arouse fear (Article 13 - Public Order (Northern Ireland) Order 1987)
- Putting people in fear of violence (Article 6 - Protection from Harassment (Northern Ireland) Order 1997)
- Intimidation (S1 - Protection of The Person and Property Act (Northern Ireland) 1969)
- Blackmail offences (S20 – Theft Act (NI) 1969)
- Domestic Abuse Offence (S1 -Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021)
- Stalking (Section 1 Protection from Stalking Act (Northern Ireland) 2022)
- Threatening or abusive behaviour (Section 2 Protection from Stalking Act (Northern Ireland) 2022)

Rationale

These offences are being proposed as they are consistent with abuse of trust offences already listed within Article 53A of PACE NI or were considered to have been missed from the original list.

4. Responding to this consultation

4.1. This consultation is open to everyone and is particularly relevant to anyone who is involved in or interested in the taking and retention of DNA samples and profiles and fingerprints.

4.2. The consultation will run for a 14 week period from 1 May 2025. All responses should be submitted by midnight 6 August 2025.

4.3. The DoJ asks that responses to this consultation are made through the Citizen Space website:

<https://consultations.nidirect.gov.uk/doj/qualifying-offences-article-53a-pace-ni>

4.4. The DoJ would welcome answers to the following questions:

A. Do you agree with the proposed changes to the list of devolved qualifying offences? If you don't agree please provide reasons for your answer providing evidence where possible.

B. Are there any other offences you think should be included in the list of devolved qualifying offences? If you are suggesting the addition of an offence you must provide reasons for the addition including evidence to support your suggestion.

4.5. Please do not provide any personally identifiable information (for example, names, dates, and locations) in your answers.

5. Enquiries

5.1. Please submit any enquiries by email: PACEConsultation@justice-ni.gov.uk

5.2. If you have any concerns about the way this consultation process has been handled, you should send them to: Governance.Unit@justice-ni.gov.uk

6. Next steps

6.1. The consultation period will end on 6 August 2025. We will consider the responses to this consultation and change the qualifying offence list as necessary.

6.2. A qualifying offences amendment order will be laid in the Northern Ireland Assembly following the negative resolution procedure to update Article 53A of PACE NI.