



A consultation on the contents of the list of Qualifying Offences as specified under Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989

Consultation Report, summary of responses and next steps

15 September 2025

## **1. Introduction**

1.1. This document provides a summary of responses to the public consultation on the list of qualifying offences as specified under Article 53A of the Police and Criminal Evidence (Northern Ireland) Order 1989 (PACE NI). The purpose of the consultation was to seek the views of the public, key stakeholders and other interested parties on the Department's proposed updates to the list of qualifying offences.

1.2. This report provides a summary overview of the responses and outlines the Department's next steps.

1.3. The Department is grateful to those who took the time to consider the proposals and to respond to the consultation.

## **2. Background**

2.1 PACE NI and its associated Codes of Practice are vital parts of the framework of legislation providing the police with the powers they need to investigate crime with Part 6 of PACE NI containing powers for the police to take fingerprints and DNA from individuals arrested for a recordable offence. Part 6 of PACE NI also contains provisions regarding the retention of an individual's fingerprints and DNA profiles.

2.2 A key element of the proposed new retention framework for Northern Ireland (contained in Part of the 1 Justice Bill which is currently progressing through the Northern Ireland Assembly) is the list of serious offences known as qualifying offences, as specified under Article 53A of PACE NI. The current list of qualifying offences in Northern Ireland contains offences such as murder, rape, grievous bodily harm, assault occasioning actual bodily harm, robbery and burglary, and numerous sexual, indecency, and firearms offences. These offences are considered to be the most serious and those convicted of such offences are of greatest risk to the public.

2.3 The designation of an offence as a qualifying offence has implications for the following:

- the maximum length of time that DNA profiles and fingerprints can be retained;
- the timelines for statutory reviews of retained DNA profiles and fingerprints;
- the retention of DNA profiles and fingerprints from individuals charged but not convicted of a qualifying offence;
- the retention of DNA profiles and fingerprints from individuals who have been arrested for, but not charged with, a qualifying offence (only if prescribed circumstances are passed by the Northern Ireland Assembly); and
- the range of individuals that the PSNI can recall to a police station to have their DNA samples and fingerprints taken (the police will have a power to take DNA

samples and fingerprints from certain individuals convicted of past offences, with no time restrictions on the taking powers if the offence is a qualifying offence. This will assist in the detection of crime by allowing the use of DNA profiles and fingerprints to link such individuals with unsolved past crimes, or crimes they might commit in the future).

2.4 It is therefore vital that the list of offences in Article 53A of PACE NI is as complete as possible, given its importance in ensuring a graduated approach to the retention of DNA profiles and fingerprints.

2.5 The Department took forward an extensive review of the offences contained in Article 53A and considered what offences may have been omitted from the original list and what new offences may be suitable for addition to the list. In taking forward the review, the Department has sought to ensure proportionality regarding the range of offences included in the list, and to balance privacy rights with the public interest in retaining fingerprints and DNA of those convicted of the most serious offences.

2.6 The review was completed with assistance 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. The Department also engaged with the Scottish Biometrics Commissioner and the office of the Biometrics and Surveillance Camera Commissioner.

2.7 The consultation ran for a 14-week period from 1 May to 6 August 2025. It was extended for a further two weeks to 20 August 2025 to allow time for some respondents to submit their responses. The consultation documents, which include a detailed background and the list of proposed additions, can be viewed on the Department's website at the following link:

<https://www.justice-ni.gov.uk/consultations/consultation-contents-list-qualifying-offences-specified-under-article-53a-police-and-criminal-evidence-northern-ireland-order-1989>

2.8 The consultation was conducted using the Citizen Space platform. However, some respondents replied via email. The information provided in this summary report is based on the feedback received from Citizen Space and email responses.

### **3. Overview of responses**

3.1 A total of six responses to the consultation were received, four responses via Citizen Space and two responses via email. Five of the responses were from organisations with one response received from a member of the public.

3.2 The sole focus of the consultation related to the list of qualifying offences as set out in Article 53A of PACE NI with respondents asked for their views on the

Department's proposed additions to the list. Respondents were also asked to provide reasons and evidence to support their answers.

3.3 Some of the responses referred to matters which are outside the scope of the consultation. For example, some responses questioned the rationale for the overarching 75/50/25 years retention framework for DNA and fingerprints contained in Part 1 of the Justice Bill (currently being scrutinised by the Justice Committee). This consultation report will focus on the views submitted regarding the Department's proposed additions to the list of qualifying offences.

## **4. Summary of consultation responses**

4.1 The consultation asked the following questions:

- *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)*
- *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)*

4.2 One respondent agreed in full with the proposed changes to the list with no other additional offences suggested. Four respondents raised queries regarding the proposed inclusion of particular offences as outlined later in this document. One respondent sought clarification on whether a particular offence was included in the Department's proposals.

### **Inclusion of historic offences**

4.3 Queries were raised regarding the principle of including historic offences as qualifying offences.

#### **Response**

4.4 The Department has proposed historic offences for inclusion as qualifying offences in order to equalise the treatment of those convicted of certain offences under past legislation and those convicted of equivalent offences under current legislation.

4.5 If historic offences are excluded, a person convicted (for example) of rape in 2007 under Article 18 of the Criminal Justice (NI) Order 2003 would have a considerably shorter DNA and fingerprints retention period than a person convicted of rape in 2009 under Article 5 of the Sexual Offences (NI) Order 2008 (which is currently listed in Article 53A of PACE NI and therefore a qualifying offence).

4.6 Whilst queries have been received regarding the inclusion of historic offences, other respondents have welcomed the Department's proposed approach.

### **Buggery and gross indecency offences**

4.7 Queries were raised regarding the proposed inclusion of buggery and gross indecency offences as qualifying offences as follows:

- Sodomy and Bestiality (S61 – Offences Against the Person Act 1861)
- Attempted assault on a male (S62 – Offences Against the Person Act 1861)
- Gross indecency (S11 – Criminal Law Amendment Act 1885)

### **Response**

4.8 Convictions relating to buggery and gross indecency may relate to non-consensual and underage gay sex acts. These are existing offences under the Sexual Offences (NI) Order 2008 and are included in the current list of qualifying offences in Article 53A of PACE NI. It is important to note that consensual adult gay sex acts which are no longer offences will not be included in the list of qualifying offences.

### **Hijacking, maritime and aviation offences**

4.9 Queries were also raised regarding the inclusion of hijacking, maritime and aviation offences as qualifying offences.

### **Response**

4.10 Offences involving the hijacking of ships and aircraft (Section 1 of the Aviation Security Act 1982 and Section 9 of the Aviation and Maritime Security Act 1990) are already qualifying offences. These were included in the original list of qualifying offences by the Home Office, by way of Section 13 of the Crime and Security Act 2010.

### **Coercive control**

4.11 A query was received on whether coercive control is included in the proposed list of additional qualifying offences.

### **Response**

4.12 The offence of domestic abuse (section 1 of the Domestic Abuse and Civil Proceedings Act (NI) 2021) covers behaviour that is controlling or coercive and is included as a proposed addition to the list of qualifying offences.

### **Crossbows**

4.13 One respondent queried whether there will be indefinite retention of DNA and fingerprints for persons under 18 possessing a crossbow or parts of a crossbow under Article 5 of the Crossbows (NI) Order 1988.

### **Response**

There is no suggestion of indefinite retention, rather the offences of a person under 18 possessing a crossbow or parts of a crossbow are proposed as additional qualifying offences due to the seriousness of the offence. Crossbow offences are included on the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

### **Public order offences**

4.14 Some respondents raised queries regarding the inclusion of common law offences of affray (causing terror) and unlawful assembly.

#### **Response**

4.15 These offences were proposed for addition due to the seriousness of the offences and maximum unlimited sentence they can attract. The common law offence of affray (causing terror) is also deemed to be serious under the Criminal Justice (NI) Order 2008 and the Legal Aid for Crown Court (Costs) Rules (NI) 2005 and is included in the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

4.16 The common law offence of unlawful assembly is deemed to be serious by virtue of its inclusion in the list of specified offences that will never be filtered from standard or enhanced criminal record certificates.

4.17 One respondent raised a query on whether unlawful assembly relates to non-compliance with a determination of the Parades Commission. The Department would consider that non-compliance with a determination of the Parades Commission would relate to offences under the Public Processions (Northern Ireland) Act 1998, rather than the common law offence of unlawful assembly.

### **Individualised approach**

4.18 One respondent queried whether an individualised approach should be adopted in order to take account of actual court sentencing as a measure of seriousness, rather than a list of serious offences.

#### **Response**

4.19 Qualifying offences attracting a 75-year maximum retention period will be subject to the statutory review mechanism. This will provide an important safeguard and ensure that long-term retained material is subject to a scheduled review by the PSNI to assess the continuing need to retain DNA profiles and fingerprints in each individual case.

4.20 It is anticipated that the statutory review mechanism will include statutory review dates for each long-term retention band (75/50/25), which will take into consideration the person's age and the disposal. The benefit of this approach is that the disposal will have been determined by the PSNI / Public Prosecution Service / Judge (as appropriate) after consideration of the seriousness of the offence, previous offending behaviour and any aggravating / mitigating factors for the individual and the particular

offence(s). The Department intends to publish proposals for the review mechanism for consultation after the Justice Bill has achieved Royal Assent.

### **Attorney General consideration**

4.21 One respondent queried whether the Department will be required to engage with the Attorney General for Northern Ireland regarding the updating of Article 53A of PACE NI to include additional qualifying offences, within the context of human rights

#### **Response**

4.22 Following receipt of legal advice, the Department is satisfied that there is no requirement to engage with the Attorney General regarding the updating of Article 53A of PACE NI, as the update is being progressed in the form of subordinate legislation. However, it is important to note that the Department did engage with the Northern Ireland Human Rights Commission regarding the final list of proposed additional qualifying offences for the purposes of this consultation.

## **5. Way forward – Next Steps**

5.1 The Department will finalise the list of devolved offences to be added to Article 53A of PACE NI, taking account of the suggestions made as part of this consultation exercise. The list of devolved offences to be added as qualifying offences will be subject to approval by the Minister of Justice.

5.2 The Department will also share this consultation response document with the Justice Committee. The updating of Article 53A of PACE NI will require an amendment order to be laid in the Northern Ireland Assembly under the negative resolution procedure. The amendment to Article 53A of PACE NI will come into operation in parallel with the commencement of the new retention framework for Northern Ireland contained in Part 1 of the Justice Bill (subject to the Northern Ireland Assembly approving the Justice Bill).

5.3 The addition and commencement of excepted or reserved offences will require a consultation and legislation to be taken forward by the Home Office. The Department is working with the Home Office to progress this matter in parallel with devolved legislation.

5.4 If you require further information in relation to this consultation summary of responses document, please contact: [paceconsultation@justice-ni.gov.uk](mailto:paceconsultation@justice-ni.gov.uk)