

Consultation on the PPS-SPA Protocol regarding the exercise of criminal jurisdiction in Northern Ireland

Introduction

1. The Public Prosecution Service (PPS) and Service Prosecuting Authority (SPA) are conducting a public consultation on a proposed PPS-SPA Protocol regarding the exercise of criminal jurisdiction in Northern Ireland (the Protocol). The purpose of the consultation is to provide interested persons with an opportunity to provide comments and to ensure the final version of the Protocol is informed by as wide a range of views as possible. The Protocol may be accessed via the link below.
2. The Protocol provides guidance for PPS and SPA prosecutors on the exercise of jurisdiction in respect of conduct of a person subject to Service law, which occurs when that person is in Northern Ireland. In these circumstances, both the PPS and the SPA have jurisdiction to bring criminal proceedings, and it is necessary to determine the appropriate jurisdiction, the civilian courts or courts martial. The Protocol identifies principles and factors which are to be considered when a decision is made as to the appropriate jurisdiction in which to bring proceedings.

Background

3. Section 7 of the [Armed Forces Act 2021](#), which inserts section 320C into Chapter 3A of the [Armed Forces Act 2006 \(AFA 2006\)](#), [requires the Director of Public Prosecutions for Northern Ireland \(DPPNI\) and the Director of Service Prosecutions \(DSP\) to agree a protocol regarding the exercise of concurrent jurisdiction](#). Under the new statutory provisions, the DPPNI and DSP are obliged, before agreeing the Protocol, to consult with the Secretary of State, the Department of Justice for Northern Ireland, the Chief Constable of the Police Service of Northern Ireland, the Attorney General for Northern Ireland, and any other person the Directors think appropriate. A parallel consultation process is taking place in England and Wales in relation to revisions to an existing non-statutory Protocol (“the current Protocol”) which is also being placed on a statutory footing.

4. As well as consulting with those statutory consultees, we wish to seek the views of other interested stakeholders, specifically on the guidance in the Protocol on the general principles to be applied by prosecutors when making decisions on jurisdiction.
5. These are set out in section 3 of the revised Protocol. The main principles governing jurisdiction, at paragraph 3.3, indicate that ordinarily proceedings should be brought in the service jurisdiction if the alleged conduct does not affect the person or property of a civilian.
6. At paragraph 3.4 we have included an extensive non-exhaustive list of factors that prosecutors should consider when deciding on the appropriate jurisdiction. Many of these are not included in the current Protocol in England and Wales.

Consultation Questions

7. The consultation seeks your views on the following questions on section 3 of the Protocol:

Q1: Do you agree with the principles at paragraph 3.3, to be applied when deciding in which jurisdiction proceedings should be brought?

Q2: Are there any other principles which you think should apply?

Q3: Do you agree with the non-exhaustive list of factors at paragraph 3.4, to be considered by prosecutors when deciding the appropriate jurisdiction?

Q4: Are there any other factors which you think should be considered?

8. The consultation will run for 8 weeks, until 20 April 2023.

How to Respond

9. It would be helpful if you could give your feedback using our online form (see below) for ease of analysis. **Please return your completed feedback to info@ppsni.gov.uk by midnight on 20 April 2023**, and include your name, organisation (if applicable), and email address in any response.

Next Steps

10. After the consultation closing date, we will consider every individual response received. A summary of the consultation responses and the final version of the revised Protocol will be published on the PPS and SPA websites.

We look forward to receiving your feedback.

The PPS-SPA Protocol can be found [here](#) .

RESPONSE TEMPLATE FOR CONSULTATION ON THE PPS-SPA PROTOCOL ON JURISDICTION

Name:

Organisation (if applicable):

Q1: Do you agree with the principles at paragraph 3.3, to be applied when deciding in which jurisdiction proceedings should be brought?

Q2: Are there any other principles which you think should apply?

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Q3: Do you agree with the non-exhaustive list of factors at paragraph 3.4, to be considered by prosecutors when deciding the appropriate jurisdiction?

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Q4: Are there any other factors which you think should be considered?

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How did you hear about this consultation?

- National press
- Television or Radio
- Specialist press (e.g. E-nformer)
- PPS Website
- SPA Website
- Other website
- PPS Twitter feed
- Other Twitter feed (or social networking site)