

Crime and Courts Bill

Fact Sheet 6 of 12 on the National Crime Agency

The National Crime Agency: governance, transparency and scrutiny arrangements

1. The National Crime Agency will be a crime-fighting organisation focused on protecting the public; it will be operationally independent of Ministers but with the strategic oversight of the Home Secretary. The NCA will be an open and transparent organisation, sharing information with the public and held to account by the appropriate scrutiny bodies.

Leadership and direction

2. The NCA and its officers will be led and directed by a Director General. The Director General will be responsible for ensuring the operational effectiveness of the organisation so that the NCA is working to protect the public from the most serious organised crime threats. Keith Bristow has already been appointed to lead the creation of the NCA and will serve as its first Director General.

3. The Director General will be appointed by, and directly accountable to, the Home Secretary, but will be completely operationally independent. He (or she) will have the power and responsibility to direct the NCA, including deciding which operations the NCA should run against which organised crime groups, and how those operations should be conducted.

4. The Home Secretary is responsible for setting strategic priorities for the NCA, following consultation with the Director General, police forces, Police and Crime Commissioners, the devolved administrations and others (clause 2). Such priorities may, for example, include protecting children from sexual abuse, and protecting the wider public against illegal drugs, human trafficking and cyber crime.

Status

5. The NCA's governance arrangements are designed to ensure the right balance between operational independence and strategic oversight. We therefore plan to establish the NCA as a Crown body, accountable to Parliament through the Home Secretary. It will be classified as a Non-Ministerial Department alongside other such bodies such as the Crown Prosecution Service and Her Majesty's Revenue and Customs.¹

¹ More information on Non-Ministerial Departments is available from the Cabinet Office website: www.cabinetoffice.gov.uk

Framework Document

6. To ensure clarity on their respective roles, responsibilities and accountability, the Home Secretary and the Director General will agree and publish a Framework Document setting out more detailed arrangements for how the NCA will operate; covering, for example, the structure and function of the NCA's management board, performance framework, financial management arrangements and how the NCA will share information with the public it serves (Schedule 2). The Home Secretary and the Director General will each be required to have regard to the Framework Document in carrying out their NCA functions; no other person or body will be bound by the arrangements set out in the Document.

7. The Framework Document will be subject to consultation with Scottish Ministers and the Department of Justice in Northern Ireland, and will be laid before the UK Parliament, Scottish Parliament and Northern Ireland Assembly.

8. An outline of the Framework Document has been issued to inform Parliament's debates on the Crime and Courts Bill and can be found here <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part1/>. The full and final Document will be issued in due course, following Royal Assent to the Crime and Courts Bill.

NCA annual plan and annual report

9. As part of the NCA's commitment to openness and transparency, the Director General will publish an annual plan at the beginning of each financial year, setting out the NCA's programme for that year and how the NCA plans to deliver against the Secretary of State's strategic priorities and the Director General's operational priorities. The Director General will issue the NCA's Annual Plan in consultation with the NCA's strategic partners, such as policing bodies across the UK, including Police and Crime Commissioners, Her Majesty's Revenue and Customs and the Serious Fraud Office.

10. The annual plan will be agreed with Scottish Ministers and the Department of Justice in Northern Ireland in so far as it relates to activities in Scotland and Northern Ireland respectively. The Home Secretary must approve the annual plan before it is issued.

11. In order to account to the public and Parliament for the NCA's activity over the year, the Director General will publish the NCA annual report at the end of each financial year. The report will include a detailed assessment of how the NCA has delivered against its annual plan. It will be laid before the UK Parliament, Scottish Parliament and Northern Ireland Assembly.

Transparency and information provisions

12. The Government is determined that the NCA should be an open and transparent organisation. The public should have access to a wide range of information about what the NCA is doing, how it is performing, its internal procedures and its current assessment of the threat from serious and organised crime.

13. The Director General will therefore have a statutory duty to publish information in relation to its functions and other NCA matters, in addition to the annual plan, annual report and strategic priorities (clause 5). The sorts of information that will be published will be set out in more detail in the NCA's Framework Document, which itself will be laid before Parliament.

14. Beyond this, transparency will be about establishing a culture of visibility and accountability in the NCA – something that Keith Bristow, as the first Director General, is absolutely committed to fostering.

15. Like SOCA, the NCA will handle operationally sensitive information (including intelligence material) which will not be suitable for public release, because its disclosure could jeopardise the Agency's ability to protect the public, undermining ongoing operations against organised criminals by potentially revealing sensitive intelligence or the methods by which it was obtained. The NCA will therefore be exempt from the Freedom of Information Act, as SOCA is now. This is important to ensure that the NCA is able to operate effectively and maintain the confidence of its partners.

16. We are committed to ensuring that there will be no reduction in public access to information as a result. On the contrary, we expect that the NCA will publish more information than its predecessors, as part of the open approach set out above.

Scrutiny

17. The NCA will be subject to rigorous external and independent scrutiny. The NCA will be subject to inspections by Her Majesty's Inspectorate of Constabulary (HMIC) on its efficiency and effectiveness, working with other inspection bodies as appropriate (clause 10). This will be based on an annual framework for inspections, which is agreed with the Home Secretary, as well as those inspections that the Home Secretary might request in-year. Reports from these inspections will be published by the Home Secretary, redacted as necessary to protect sensitive information from disclosure. *(For more detail see Factsheet on inspections and complaints).*

18. Should a complaint or matter involving misconduct, death or serious injury arise, the NCA will be subject to the scrutiny of the Independent Police Complaints Commission (IPCC) for activity undertaken in England and Wales, the Office of the Police Ombudsman of Northern Ireland in Northern Ireland and the Police Complaints Commissioner for Scotland (PCCS) for activity undertaken in Scotland. *(For more detail see Factsheet on inspections and complaints).*

19. In the exercise of covert powers and techniques, the NCA, like SOCA, will come within the remit of the Office of Surveillance Commissioners (who provide oversight of the use of covert surveillance and covert human intelligence sources), the Interception of Communications Commissioner (who provide oversight of the use of interception powers and the acquisition of communications data) and the Investigatory Powers Tribunal (which can investigate complaints from the public about the use of intrusive powers).

20. The NCA will also be subject to scrutiny by Parliament, primarily by the Home Affairs Select Committee and the Public Accounts Committee. The NCA's performance and conduct will additionally be judged against wider public sector and law enforcement standards and expectations set by organisations such as the National Audit Office, and by compliance with international agreements (for example, the UN Anti-Corruption Convention).

Home Office
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