

Crime and Courts Bill

Fact Sheet 3 of 12 on the National Crime Agency

The National Crime Agency: use and disclosure of information

1. Intelligence will sit at the heart of the National Crime Agency (NCA) and will drive its crime-fighting activity across its operational Commands. The NCA's 'Intelligence Hub' will collect and analyse its own and others' intelligence, enabling it to build and maintain a comprehensive picture of serious and organised crime in the UK. To do this it will need effective information gateways and disclosure provisions, including safeguards which maintain confidence in the way that information is gathered, shared, used and secured.

2. The NCA will assess information at a strategic level to provide an authoritative intelligence picture of national crime threats and trends; and it will use intelligence at a tactical level to coordinate, prioritise and target operational activity.

Information gathering

3. The NCA will gather information from a wide variety of sources. The Bill gives any person or organisation lawful authority to disclose information to the NCA provided it is for the purposes of the exercise of any NCA function. This means a disclosure of information to the NCA will not breach any statutory or other obligation of confidence owed by the person making the disclosure. For example, the banks may report suspected criminal activity relating to a bank account to the NCA without breaching their duty of confidentiality owed to their customer. Schedule 7 of the Bill sets out detailed safeguards for ensuring the security of the information the NCA will receive in the form of restrictions governing the disclosure of information. The provisions in this Schedule are designed to protect the disclosure of sensitive personal information and are outlined at paragraphs 8 to 11 below.

4. In addition to this information gateway, the Bill also places a specific duty on UK police forces, the Serious Fraud Office, UK Border Agency and Border Force¹ to keep the NCA informed of any information they hold that is relevant to its core functions² and then to disclose that information on request. The Bill places a similar duty on the Director General of the NCA to notify the listed government bodies of any information that the NCA possesses which is considered by the NCA to be relevant to that body.

5. Clause 11 and Schedule 7 to the Bill set out a number of important restrictions which will apply to the disclosure of information which are outlined under the 'Restrictions' heading below.

¹ With regard to UK Border Agency and Border Force, the Bill places the duty to share information on the Director of Border Revenue and the Secretary of State with responsibility for immigration, nationality and customs functions.

² i.e. crime reduction function and criminal intelligence function

Use of information

6. The NCA will be able to use any of the information it obtains in connection with any NCA function (see Clause 1 of the Bill for a description of the NCA's functions). The information that the NCA will receive will include information on known or suspected criminal activity, such as crime reports, surveillance logs, suspicious activity records, or research on known criminals or locations. It will also include information, such as company records, regulated sector memberships or transport manifests, that when combined with known or suspected criminal activity, will help lead to the identification of further criminality, or other opportunities to protect the public.

Disclosure of information

7. It will be necessary for an NCA officer to share information obtained by the NCA with other law enforcement partners in order to exploit opportunities which have been identified to disrupt criminal activity. Clause 6 (4) of the Bill allows an NCA officer to disclose information obtained by the NCA if the disclosure is for any permitted purpose. The definition of a "permitted purpose" is defined in Clause 15 of the Bill and includes the prevention and detection of crime and the investigation or prosecution of offence

Restrictions

8. Schedule 7 of the Bill sets out the restrictions on the disclosure of information. Part 1 of the Schedule makes it clear that Part 1 of the Act (and in particular clause 6(1)) will not authorise or require a disclosure of information to be made which contravenes the Data Protection Act 1998 or Part 1 of the Regulation of Investigatory Powers Act 2000.

9. The Schedule also sets out the restrictions on the disclosure of particular types of information by an NCA officer, for example HMRC and customs information, social security information and the Security and Intelligence Agencies information. The NCA must seek permission from the relevant authorities (Her Majesty's Revenue and Customs (HMRC), Department for Work and Pensions (DWP) and the Security and Intelligence Agencies) before it discloses their information. This will prevent information being disclosed by the NCA to a third party for a purpose other than that for which the originating agency was authorised to gather it.

10. A person must not make an onward disclosure of information they have obtained from an NCA officer without the permission of the Director General of the NCA, unless it is a disclosure of information under the Proceeds of Crime Act 2002 to the Commissioners of HMRC.

11. The Bill also provides that it will be a criminal offence for an NCA officer or for a person that the NCA has disclosed information to, to wrongfully disclose (disclose without prior consent) HM Revenue and Customs information, personal custom information, personal customs revenue information and social security information.

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