

Crime and Courts Bill

Fact Sheet 5 of 12 on the National Crime Agency

The National Crime Agency: tasking and coordination

1. The National Crime Agency (“NCA”) will have the responsibility to lead, coordinate and support the overall effort to tackle serious crime and organised crime¹, as well as a set of specific statutory and national responsibilities inherited from its precursor agencies to carry out in conjunction with UK law enforcement partners.
2. The NCA will pull together the single national threat picture for serious, organised and complex crime and will use that picture to task and coordinate the response across the whole of law enforcement, ensuring that appropriate action is taken against criminals at the right level, led by the right agency. The NCA will build on existing relationships and mutual cooperation between police forces and law enforcement partners, in order to connect the efforts of local and regional policing to national agencies and action overseas in the fight against crime.
3. The NCA’s Coordination and Tasking (NCAT) unit will work with other parts of the Agency and with partners in deciding the most effective deployment of available resources against the threat, and tasking resources from within the NCA, or from partners. The NCA will also be responsive to requests for support which it receives from partners.
4. Whenever possible, NCA-led tasking and assistance arrangements will be agreed voluntarily, based on mutual cooperation, shared priorities, and a single intelligence picture. However, the Director General of the NCA will have the power to issue a direction to a police force in England and Wales and the British Transport Police (which is explained further below) in the very limited circumstances where cooperative arrangements cannot be agreed or agreed in time, and where the Director General considers it is expedient that action is taken by that particular police force.

¹ Clause 1(9) provides the NCA will be required to discharge its ‘crime reduction function’ by amongst other things, securing improvements in the cooperation and coordination between the police and UK law enforcement agencies to combat serious and organised crime.

5. If the Director General issues a direction to the Chief Constable of a police force in England and Wales to perform a task or to provide assistance, the Director General will then notify both the Home Secretary and the relevant Police and Crime Commissioner. This obligation will be set out in the NCA Framework Document². This ensures that the Police and Crime Commissioner can properly hold their Chief Constable to account for cooperating effectively with the NCA as set out in the Strategic Policing Requirement. It also ensures that the Home Secretary can hold the Director General to account for issuing a direction.

Summary of tasking and coordination arrangements

6. Clause 4 and Schedule 3 in the Crime and Courts Bill provide the statutory basis on which the NCA will work with partners in regard to tasking and assistance.

7. NCA officers will have a duty to **cooperate** with the police and other UK law enforcement officers (“crime fighters”) for the purpose of assisting those persons in combating crime. There will also be a reciprocal duty on those crime fighters and members of HM Armed Forces and HM Coast Guard to assist NCA officers for the purpose of assisting NCA officers in discharging any NCA function. The NCA will also be able to enter into cooperation arrangements.

8. To assist the NCA in discharging its crime reduction function, the Director General of the NCA and law enforcement partners will be able to request specialist support and assistance from one another. The NCA will also have access to the powers it needs to fulfil its tasking and coordination responsibilities. The two elements of these are:

- **Assistance** – by which officers and other specialist support can be provided by one party to operate under the direction and control of another; and
- **Tasking** – by which one party is asked to conduct specified activity under its own direction and control. This will enable the NCA to make requests of police forces and other law enforcement agencies to carry out specific activity. It will also enable the NCA’s partners to request it to conduct specific activity. Tasking would specify what was required but not how it should be carried out. For example, the Director General might request a Chief Constable to monitor a particular criminal group, but would not specify the operational tactics to be used.

9. The Bill provides for **voluntary** and **directed** arrangements in relation to both assistance and tasking; the directed arrangements are being put in place as a backstop power in the event that satisfactory voluntary arrangements cannot be made or made in time.

² The NCA Framework Document is a joint statement of intent between the Director General of the NCA and the Home Secretary, setting out how they will work together, and the ways in which NCA functions are to be exercised. It will be published and laid before Parliament in due course, following Royal Assent to the Crime and Courts Bill. A draft outline of the document is available at <http://www.homeoffice.gov.uk/publications/about-us/legislation/crime-courts-part1/> for information.

10. The following aspects of assistance and tasking are covered in greater detail below:

- (a) Voluntary assistance and tasking;
- (b) Directed assistance and tasking;
 - i. Powers for the Home Secretary to direct the Director General of the NCA;
 - ii. Powers for the Director General of the NCA to direct police forces in England and Wales;
 - iii. Directed assistance powers in Scotland and Northern Ireland; and
- (c) Costs for voluntary and directed arrangements.

Detail on tasking and assistance provisions

(a) Voluntary assistance and tasking

11. The Bill provides for two-way assistance and tasking provisions to allow any UK police force or other UK law enforcement partner to make requests of the NCA as well as for the NCA to make requests of them. If a partner or the NCA receives a request, they will be expected to give it full consideration and may then provide such assistance or operational response as they see fit. They may equally refuse to comply if they think it appropriate to do so.

12. These voluntary arrangements for both the assistance and tasking provisions would apply between the NCA, all UK police forces and all UK law enforcement agencies including, but not limited to, HM Revenue and Customs (HMRC), UK Border Agency (UKBA), Border Force, and the Serious Fraud Office (SFO). Most, if not all, of the NCA's tasking and coordination responsibilities will be carried out under these voluntary provisions.

(b) Directed assistance and tasking

13. In certain circumstances, the Bill provides for direction powers in relation to assistance and tasking whereby there is a duty to comply with the request. The Bill makes three separate sets of provisions that enable:

- 1. the Home Secretary to direct the Director General of the NCA to provide assistance (in the form of NCA officers or assets) to a police force or other law enforcement agency;
- 2. the Director General of the NCA to require certain police forces and law enforcement agencies to provide the NCA with assistance; and the Director General of the NCA to task police forces in England and Wales or the British Transport Police (with the latter subject to the consent of the Secretary of State for Transport) to conduct specified activity; and
- 3. directed assistance arrangements for Scotland and Northern Ireland, which reflect the different circumstances of police forces in the devolved administrations.

14. These are considered further in turn below:

(i) Powers for the Home Secretary to direct the Director General of the NCA

15. The Bill provides the Home Secretary with powers to direct the Director General of the NCA to provide assistance to any police force or other law enforcement agency in England and Wales, where appropriate. This could be used, for example, when voluntary arrangements cannot be made, or cannot be made in time.

(ii) Powers for the Director General of the NCA to direct a partner

16. In certain limited circumstances, the Bill provides the Director General of the NCA with powers to direct certain police forces or other agencies to provide it with officers/staff to operate under the NCA's direction and control ("directed assistance") or to undertake specified activity under the recipient's own direction and control ("directed tasking").

16. **Directed tasking** powers apply only to police forces in England and Wales, and to the British Transport Police, with the latter subject to the consent of the Secretary of State for Transport. This "directed tasking" power in respect of England and Wales police forces provides an important backstop power for the Director General, and its usage is subject to the following threefold test: the performance of the task would assist the NCA to carry out its functions; it would need to be expedient for the directed body to perform the task; and satisfactory arrangements would not have been able to be made, or made in time. A further safeguard is that the Director General must personally exercise this power, and may only delegate it in his or her absence to a senior NCA officer who would be nominated for this purpose.

17. Under the terms of the NCA's Framework Document, the Director General will be required to report to the relevant Police and Crime Commissioner should a direction be issued to the Chief Constable of a police force in England and Wales who will, under the Strategic Policing Requirement³, be expected to hold their Chief Constable to account for cooperating effectively with the National Crime Agency.

19. **Directed assistance** powers apply to police forces in England and Wales, the British Transport Police, HMRC, the SFO and the Director of Border Revenue. The Bill provides that the Director General of the NCA will only be able to issue such a direction if it appears to the Director General that it is appropriate for the NCA to receive directed assistance, and subject to the approval of the relevant Secretary of State before issuing such a direction. This reflects similar arrangements that have been in place for the Serious Organised Crime Agency (SOCA).

20. The Bill provides an order-making power to amend the list of organisations to which the directed tasking and assistance powers apply to allow for future changes to the law enforcement landscape, but does not allow the Secretary of State to make Scottish or Northern Irish police forces, a person operating only in Scotland or Northern Ireland, or HMRC subject to directed tasking arrangements.

³ Strategic Policing Requirement: <http://www.homeoffice.gov.uk/publications/police/pcc/strategic-policing-requirement>

21. The NCA will be able to issue a direction to UKBA and Border Force. However, as they form part of the Home Office and are therefore in law simply a manifestation of the Secretary of State, this will be achieved through non-statutory means in the NCA Framework Document (see above footnote 2).

(iii) Directed assistance powers – Scotland and Northern Ireland

22. The Bill provides for directed assistance powers in relation to the Police Service of Scotland and the Police Service of Northern Ireland (PSNI) that reflect the existing arrangements that have been in place for SOCA, such that:

- Scottish Ministers may, with the agreement of the Home Secretary, direct the Director General of the NCA to provide officers or other assets to operate under the direction and control of the Police Service of Scotland. Scottish Ministers may also direct the Police Service of Scotland to provide officers or other assets to operate under the direction and control of the NCA.
- The Department of Justice in Northern Ireland may, with the agreement of the Home Secretary, direct the Director General of the NCA to provide officers or other assets to operate under the direction and control of the PSNI. The Department of Justice in Northern Ireland may, having consulted the Policing Board in Northern Ireland, direct the Chief Constable of PSNI to provide officers or other assets to operate under the direction and control of the NCA

(c) Costs (for both voluntary and directed arrangements)

23. The NCA will build on the policy of SOCA, which is not to charge police forces and law enforcement partners for tasks, assistance and facilities unless agreed with partners beforehand, for example, in exceptional circumstances. Routine cross-charging would create administrative burdens for both the NCA and partners when calculating costs, and would undermine the vision of the NCA and police and law enforcement partners working in collaboration.

24. Where, exceptionally, there is cross-charging between the NCA and other law enforcement agencies, the Bill provides for payment for tasks, assistance and facilities to be agreed between the NCA and partners. In the event that an agreement over payments cannot be reached, the Home Secretary may determine the appropriate payment. In doing so, the Home Secretary must consult Scottish and Northern Irish Ministers respectively before determining the amount that is payable if the determination affects the Police Service of Scotland or the PSNI.

Home Office
January 2013