



Home Office

HOME OFFICE EVIDENCE TO THE NATIONAL CRIME AGENCY REMUNERATION REVIEW BODY

2014-15 PAY ROUND

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1. Introduction

1.1 The purpose of this document is to supplement, and provide additional context from the Home Office perspective to the evidence provided separately to the NCA Remuneration Review Body (“the Review Body”) by the National Crime Agency (NCA) with regard to the pay and allowances of NCA officers designated with operational powers.

1.2 The NCA has been established as a Non-Ministerial Department (NMD)¹ – in other words a government department in its own right – operationally independent of the Home Office and established to fight serious and organised crime. The NCA has submitted detailed evidence and proposals to the Review Body for consideration. This document seeks to provide additional context regarding the establishment, structure and purpose of this newly formed Agency.

2. Serious and Organised Crime

The scale of the threat

2.1 It is estimated that around 37,000 criminals across over 5,500 organised crime groups² are involved in serious and organised crime, generating an estimated cost to the UK economy of more than £24 billion a year. The National Security Risk Assessment and the National Security Strategy (2010) recognised organised crime as a tier 2 threat to the National Security.

2.2 Serious and organised crime causes direct neighbourhood-level damage across all communities with the impact of this corrosive activity, which may be rooted thousands of miles away or just next door, is felt on street corners and in homes all over the UK. Both Government and law enforcement need to continually adapt to get ahead of the evolving threats presented by serious and organised crime, with the reality being that no one force or agency can confront them single-handed. The threats are local, regional, national and global – and our response must be too.

2.3 The new Serious and Organised Crime Strategy and the new National Crime Agency represent the strategic and operational responses to the growing threat of serious and organised crime.

¹ Other examples of non-Ministerial Departments include HM Revenue & Customs, the Serious Fraud Office and the Crown Prosecution Service.

² Organised Crime Group Mapping Data snapshot 31.3.2012.

2.4 Given the scale and reach of organised crime, law enforcement resources must be used collaboratively and increase the breadth and impact of the collective law enforcement footprint.

The nature of the response

2.5 In July 2010 the Home Office set out the Government's plans for policing reform in Policing in the 21st Century³ which included the proposal for a powerful new National Crime Agency (NCA). The NCA Plan⁴ (published June 2011) set out the strategic vision for the Agency, putting it at the centre of the reformed policing landscape, with the ambition that it would:

“...fight and cut serious and organised criminality. The NCA, in partnership with the police, other law enforcement agencies, business and the public, will ensure that those who commit serious and organised crime are tracked down, pursued and brought to justice; their groups and activity disrupted; and their criminal gains stripped away.”

2.6 The Crime and Courts Act 2013 which established the NCA, received Royal Assent on 25 April 2013 and provided the Agency with the legislative powers it requires, realising the vision originally set out in the NCA Plan.

2.7 The National Crime Agency has therefore been created to lead the UK's fight to cut serious and organised crime with part of its core business being to make sure that police forces and national agencies across the UK complement each other and coordinate their activity in a way which most effectively cuts serious and organised crime. As such, the NCA is a UK wide crime-fighting agency, with a highly visible, national profile dedicated to cutting serious and organised crime. It is leading the UK's fight against serious and organised crime, providing a new focus on economic crime and strengthening policing at the border. It is pulling together the complete intelligence picture on organised criminals and their activities, and has the authority to ensure that appropriate action is taken at the right level and led by the right agency.

2.8 The launch of the NCA coincided with the publication of the Government's new Serious and Organised Crime Strategy⁵. The aim of the strategy is to substantially reduce the level of serious and organised crime affecting the UK and its interests. It will contribute to the Government's objective to cut overall crime and to

³ <https://www.gov.uk/government/publications/policing-in-the-21st-century-reconnecting-police-and-the-people-consultation>

⁴ <https://www.gov.uk/government/publications/national-crime-agency-a-plan-for-the-creation-of-a-national-crime-fighting-capability>

⁵ Serious and Organised Crime Strategy (Home Office), published October 2013, available at: <https://www.gov.uk/government/publications/serious-organised-crime-strategy>

the National Security Strategy⁶ objectives of ensuring a secure and resilient UK and shaping a stable world. The strategy has adopted the tried and tested framework the Home Office has developed for counter terrorism (CT). As with CT, the immediate priority of the strategy is to prosecute and relentlessly disrupt organised criminals and reduce the threat they pose (i.e. Pursue).

3. The National Crime Agency

3.1 The National Crime Agency is spearheading the UK's response to serious and organised crime. The NCA has a stronger mandate to tackle serious and organised crime nationally than any organisation has had before it. This includes the power to direct Chief Constables in England and Wales and the British Transport Police and coordinating the collective response of UK law enforcement to the most dangerous individuals and criminal groups. The NCA leads, coordinates and supports operations across five main areas: organised crime; cyber; economic crime; child sexual exploitation; and serious and organised crime at, and crossing, the border. The Agency also brings together a single strategic intelligence picture of serious and organised crime threats to the UK, equipping the whole law enforcement community to better identify, and respond to, threats and vulnerabilities.

3.2 The NCA is fighting crime in close collaboration with a large number of partners, including police forces across the UK, Border Force and Immigration Enforcement, Police and Crime Commissioners, HMRC, the private sector and the voluntary sector. The Agency's reach is extensive: it offers support to local organisations when they need a national response or specialist capabilities; it brings greater coordination and more focused targeting to investigations at our borders; and it has officers stationed in key locations around the world so the NCA can be sure that their international partners are working alongside them. The ability to share intelligence, capabilities, expertise and assets across the NCA, and from the NCA to its wider law enforcement partners, will result in a dramatic improvement in the UK's effectiveness in relentlessly disrupting serious and organised criminality.

3.3 The Director General (DG NCA) of the NCA (Keith Bristow), whilst operationally independent is directly accountable to the Home Secretary, with the Home Secretary in turn accountable to Parliament for the performance and impact of the NCA. The new NCA Oversight Unit, as part of the Strategic Centre for Organised Crime in the Home Office, supports the Home Secretary in holding the NCA to account in line with the NCA accountability arrangements as set out in the Framework Document. Further detail regarding the respective roles and

⁶ *The National Security Strategy - a strong Britain in an age of uncertainty* (HM Government), published October 2010, available at: <https://www.gov.uk/government/publications/the-national-security-strategy-a-strong-britain-in-an-age-of-uncertainty>

responsibilities of the Home Secretary and the Director General of the NCA and the principles which govern the relationship between the Home Office and NCA are set out in the Framework Document for the National Crime Agency.

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/249942/NCA_Framework.pdf

3.4 From April 2014, the NCA will be taking forward a wide ranging 'Transformation programme' to ensure that resources are optimised in the fight against serious and organised crime. The programme will comprise four major projects: operational transformation, science and technology, people, and estates. The Home Office is fully supportive and will be working closely with the NCA to help deliver the programme.

The NCA's Strategic and Operational Priorities

3.5 The Home Secretary determines the strategic priorities for the National Crime Agency in consultation with the DG NCA and the NCA's strategic partners⁷. In light of the strategic priorities, and in consideration of the available intelligence and national threat reports (including the UK Threat Assessment), the DG NCA determines the operational priorities for the Agency, again, in consultation with the NCA's strategic partners. Both the strategic and operational priorities for the NCA are published in the NCA Annual Plan, which is available (for 2013-14) on the NCA Website: <http://www.nationalcrimeagency.gov.uk/publications/33-nca-annual-plan-2013-14/file>.

3.6 The Agency's strategic priorities were published in the NCA Annual Plan in October 2013 and are closely aligned with new Serious and Organised Crime Strategy, which sets the requirement for all organisations combating organised crime. The first and highest priority for the NCA set by the Home Secretary is the identification and disruption of serious and organised crime, including by investigating and enabling the prosecution of those responsible, corresponding to the 'Pursue' element of the serious and organised crime strategy.

NCA Officers: operational crime-fighters

3.7 The NCA Plan set out a clear vision for NCA officers:

"The NCA will comprise officers from a range of backgrounds and specialisms, reflecting the varied nature of its work. We will ensure that NCA officers, as operational crime-fighters, are able to make full use of a wide range of law enforcement and investigate powers. Subject to training, NCA officers can be

⁷ Examples include Chief Constables of UK police forces, the Commissioners for Revenue & Customs and the Director of Border Revenue as set out in Section 16 of the Crime and Courts Act, 2013.

given the powers of a police constable, customs and immigration powers. This creates a strong set of powers and will mean that NCA officers are able to deploy techniques which are not available to the police.”

3.8 In line with this vision, the NCA is a powerful body of operational crime fighters with 85% of its officers working in an operational capacity. Whilst a large proportion of the NCA’s workforce is classed as ‘operational’, not all NCA officers are designated with operational powers. NCA officers do not need to have held operational powers prior to becoming an NCA officer, nor are they automatically provided with operational powers upon appointment.

3.9 To provide the DG NCA with the flexibility that he needs to create the most effective operational workforce, NCA officers, provided that they are suitable, capable and have been adequately trained, can be designated with one or more of the following:

- the powers and privileges of a constable;
- the powers of an officer of Revenue and Customs (in relation to non-revenue matters); and
- the powers of an immigration officer.

3.10 This provides NCA officers with a powerful set of operational powers necessary to tackle the range of threats and crime groups that it will be investigating across its full serious and organised crime mandate.

3.11 All NCA officers (whether or not they have been designated with operational powers) work towards achieving the NCA’s central mission to lead the UK’s fight against serious and organised crime. It is imperative that the NCA has a pay and allowances structure for staff that enables it to deliver the ambitious step-change in the fight against serious and organised crime. Whilst not all NCA officers are designated with operational powers, everyone working for the NCA up to and including the Director General is an NCA officer. This unified identity of an NCA officer is central to the Agency’s ability to deliver an agency with a single workforce culture and a clear mission. It is critical that the actions and activities of all NCA officers contribute to the Agency’s success and impact in tackling serious and organised crime.

Restrictions on the right to strike

3.12 To be effective, the NCA needs the operational flexibility and capacity to meet the threats posed by those engaged in serious and organised crime. As a law enforcement agency operating on a 24/7 basis it is vital that the NCA remains operationally effective at all times. The Crime and Courts Act, 2013 places restrictions on the right to strike of NCA officers designated with operational powers.

This ensures that public safety is not compromised as a result of the NCA's operational effectiveness being affected by industrial action and brings the Agency into line with other services which have a vital role in keeping the public safe from harm caused by crime, such as police officers and prison officers.

3.13 In enforcing this restriction, the Department's original and preferred approach was to try and negotiate a no-strike agreement with trade unions. These negotiations were ultimately unsuccessful and as such the Review Body has been established as the independent mechanism to review and determine the pay and allowances of NCA officers who have their right to strike restricted.

4. The NCA's proposals

4.1 The NCA has provided evidence to the Review Body as a separate submission. The evidence outlines the Agency's proposals together with supporting evidence for the pay and allowances of NCA officers designated with operational powers.

The Home Office View

4.2 It is imperative that NCA has a pay and allowances structure that enables it to effectively recruit, maintain and motivate its workforce (particularly, but not exclusively, those with operational powers) to deliver on the Agency's primary mission to cut crime. As an operational crime-fighting agency, able to respond to the wide range of threats presented by serious and organised crime, it is vital that the Agency is able to recruit and retain individuals with the expertise to support the Agency in developing new investigative techniques and methodology, in line with the changing face of criminal activity.

4.3 Each and every member of the NCA's workforce will play an important part in fighting serious and organised crime. The intention of the NCA is to increase the proportion of NCA officers designated with operational powers. In line with the Home Secretary's Remit Letter to the Review Body of 22 January 2014, it is the view of the Home Office that in considering its recommendations, the Review Body should have regard to the effects of any pay divergence between NCA officers designated with operational powers and NCA officers who are not designated with operational powers. The NCA workforce is a single workforce: all NCA officers have the potential to be designated with operational powers, and the majority of NCA officers are classified by the Agency as being in an operational role.

4.4 The announced restrictions on public sector pay awards provide the wider context to the NCA's proposals. In the 2011 Autumn Statement, Chancellor of the

Exchequer announced that public sector pay awards would average at one per cent for the two years following the pay freeze (including 2014-15). The 2013 budget statement⁸ s announced that public sector pay awards in 2015-16 would also be limited to an average of up to 1 per cent. It is therefore the view of the Home Office that the NCA should comply with the wider conditions on public sector pay and that the pay settlement it implements for 2014-15 should be within this one per cent limit.

4.5 The NCA has stated that their proposals for the pay and allowances of NCA officers designated with operational powers are affordable within the limits set by the Government's policy on public sector pay for 2014/15. The Home Office accepts that position.

4.6 The Home Office expects the NCA to deliver its pay proposals within its budget for 2014/15. The NCA's total spending power for 13/14 was, at its inception in October 2013, £494m made up of £463m Resource and £31m Capital. Of the £463m, £422m is provided directly from the Home Office baseline, with the remaining (£41m) comprised of bespoke funding provided for specific work – for example, on cyber, and overseas capacity building. In addition to this, the Home Office has provided £25 million in-year to support the NCA to develop its capabilities to more effectively fight the diverse and changing threat of serious and organised crime. The NCA's 2014/15 budget is yet to be announced.

4.7 The Home Secretary has committed to achieving significant efficiencies for both the Home Office and the NCA in future years, in a financial environment of declining budgets through to 2015/16. With this being the case, the Home Office would expect this to be considered by the Review Body in making their recommendations. As set out in the NCA's Framework Document, the Home Office will continue to work closely with the NCA to ensure financial resilience across the two Departments.

5. Conclusions

5.1 If the National Crime Agency is going to be successful, if it is going to lead the fight against serious and organised crime, and if it is going to successfully deliver the ambitious step-change across law enforcement as set out in the Serious and Organised Crime Strategy, it is imperative that the Agency has appropriate and affordable pay and allowances structures. These structures are essential to enabling the NCA to effectively recruit, maintain and motivate its workforce on a sustainable and affordable basis. In line with the instructions issued in the Home Secretary's Remit Letter to the Review Body, it is the Home Office view that insofar as possible,

⁸ <https://www.gov.uk/government/speeches/budget-2013-chancellors-statement>

the NCA workforce as a whole should retain parity of pay if the evidence supports this.

5.2 Whilst the Agency should have the necessary resources available to deliver its functions, as a non-Ministerial Department, and as NCA officers are civil servants, the pay and allowances for NCA officers should be consistent with the wider approaches to public sector pay.

5.3 As the NCA's proposals are consistent with the wider limits set for public sector pay and are judged (by the NCA) to be affordable within their pay settlement, the Home Office accepts their proposals.