

A Protocol

This document sets out how Government Departments will work together to deliver the Government's priorities for crime and the criminal justice system in the light of the Machinery of Government changes which took effect on 9 May 2007.

The creation of the Ministry of Justice, taken with wider changes to security and counter-terrorism responsibilities announced on 29 March 2007, represents a significant opportunity to progress the Government's aims of protecting the public, reducing crime and reoffending, and providing a speedy, efficient and effective Criminal Justice System.

The Prime Minister's announcement of 29 March, 2007, with the Cabinet Office paper placed in the Libraries of both Houses, sets out the changes made and the continued core policy focus on public protection and crime reduction. This protocol supplements that document, and sets out for staff and stakeholders how Government Departments will work together.

Policy Agreement

Government policy will continue to be agreed through Cabinet and its Committees. The Prime Minister has established a new Cabinet Committee on Crime and the Criminal Justice System, which will set the Government's strategic policy, and monitor delivery.

Co-ordination within Government

The existing trilateral arrangements for joint working with the Home Secretary, Secretary of State for Justice and the Attorney General will continue to operate, supported by the Office for Criminal Justice Reform. The Home Office, the Ministry of Justice and the Attorney General's Office will continue to work closely together, building on strong relationships developed over a number of years.

The Secretary of State for Justice and the Home Secretary will work together in the context of their new responsibilities to produce policies and effective delivery mechanisms that reflect the core focus on public protection and crime reduction. The aims of the two departments are shared, and this will require a close relationship.

Ministers will undertake regular bilateral and wider contacts to discuss priorities. Similarly, Ministers will expect that staff developing policy or undertaking operational delivery will maintain close relationships and share information. Ministers will expect their Departments to facilitate proposals which meet the Government's overall policy priorities for crime and the criminal justice system.

Crime and the Criminal Law

Given their shared responsibilities, joint working between the Home Office and the Ministry of Justice will be vital on crime and the criminal law. The Home Office, which will continue to be responsible for the overall strategy for dealing both with

crime in general and with specific types of crime, will continue to be able to propose new criminal offences or changes to sentencing. When it does this, it will make early contact with the Ministry of Justice and set out the reasons for the proposal. Officials should then look to develop a proposition for Ministers that is agreed where possible, and highlights for Ministers any difficult issues remaining, which can then be resolved through the Cabinet Committee system.

The Ministry of Justice, as the lead Department for the overall framework of criminal law and sentencing policy, should do likewise if proposing any change in those areas. Each Department should consult the other before submitting any such proposals for wider Cabinet Committee discussion or agreement.

Legislation on crime and the criminal law will fall to the Department with the lead interest – so that legislation dealing with combating a particular type of crime, for example anti-social behaviour or terrorism will fall to the Home Office, and legislation covering the overall framework of the criminal law will fall to the Ministry of Justice.

Operational relationships

The **National Criminal Justice Board (NCJB)** brings together the political, operational and official leadership of the criminal justice system and is responsible for developing criminal justice system strategy through to its delivery. The NCJB is the vehicle through which the criminal justice system departments (the Home Office, Ministry of Justice and Attorney General's Office) ensure that their plans, policies and approaches to delivery are co-ordinated and consistent as they affect the whole criminal justice system.

The NCJB is supported by the **Office for Criminal Justice Reform (OCJR)**. The OCJR is and will remain a trilateral body, supporting all the criminal justice system Ministers in ensuring that planning and delivery across all the criminal justice agencies is effectively co-ordinated. In putting advice to Ministers, OCJR will fairly reflect the views of all departments and agencies, as well as brokering agreements which improve outcomes and efficiency.

OCJR will continue to have responsibility for the agreement, resourcing and delivery of the Criminal Justice System Strategic Plan and vision and annual business plans including the joint Public Service Agreement targets on bringing offences to justice and on public confidence.

The working of the OCJR is governed by a Memorandum of Understanding covering agreements on HR and finance policy. Staff in the Office for Criminal Justice Reform will be treated as part of the Ministry of Justice for HR purposes, but in all other respects the OCJR is a trilateral body serving all the Criminal Justice.

There will be a number of **formal governance arrangements** to ensure that Departments work effectively together to reduce crime and re-offending:

- As part of the new Public Service Agreement target regime for the Comprehensive Spending Review 2007, there will be Delivery Agreements

between the two Departments for the delivery of targets. The Home Office will lead on the overall target to cut crime, and the Ministry of Justice on the target to reduce re-offending. The Delivery Agreements will set out how the target to reduce re-offending will feed into the overall target to reduce crime.

- The Home Office will manage a cross government Crime Board at official level, charged with overseeing the delivery of the overall crime strategy, including those aspects focused on the behaviour of potential offenders. The Director General for NOMS will be a member of this group.
- The Ministry of Justice will manage the Reoffending Programme Board, which oversees the delivery of targets to reduce re-offending. The Home Office Director of Crime and Drugs will be a member of this Board. The reoffending programme board will report to an Inter-Ministerial Group for Reducing Reoffending. The Home Office Minister for Crime Reduction will be a member of this Group.

Given the trilateral arrangements the Attorney General's Office will play a key role in taking this work forward, and will participate in these new governance arrangements where appropriate.

The Home Office will lead on **preventing and responding to youth crime**, as part of its role in crime prevention; and the Ministry of Justice will lead on **reducing youth re-offending**.

The Home Office will produce and lead on the Government's overall **strategy to reduce crime and disorder**, as well as supporting strategies to reduce particular types of crime. As part of this, there will be clearly identified strands of work focused on offenders and offending behaviour. Some of these strands will fall to the Ministry of Justice, who will lead, for example, on reducing re-offending by those under probation supervision. Other strands – for example, focused on drug-related offending – will be led by the Home Office. All of these strands focused on offender behaviour, whether led by the Home Office or the Ministry of Justice, will be the subject of close joint work, with those in both Departments collaborating to design and implement policy. There will be an identified lead in the Home Office for those aspects of crime reduction centred on potential offenders' behaviour, who will liaise regularly with the Ministry of Justice.

It will be important that there continue to be **good working arrangements between the National Offender Management Service and the Borders and Immigration Agency**.

The Chief Executive of NOMS and the Chief Executive of the BIA will continue to meet at least monthly. These meetings will supervise the arrangements for working between the two authorities and will resolve any problems identified in those arrangements.

Among the issues covered by these arrangements will be:

- the identification of foreign national prisoners who should be considered for deportation and the work necessary to ensure that the consideration of deportation is done in a timely and effective way;
- the arrangements for the detention of foreign national prisoners in those cases where it has been decided that deportation should be pursued.

Both NOMS and the BIA are responsible for detention estates - NOMS for the prison and probation estates, and the BIA for the immigration detention estate. NOMS and the BIA will seek to be of mutual assistance to one another in running and managing these detention estates, in line with operational circumstances. Reflecting this, there are existing formal arrangements covering:

- the operation of immigration removal centres by the Prison Service, at Dover, Haslar and Lindholme;
- the provision of Prison Service assistance to immigration removal centres;
- the detention in prisons of some foreign national prisoners beyond the end of their normal period in prison. The cases covered by this arrangement are those where it is necessary to continue to detain the individuals pending the outcome of the deportation process and where, by reason of their offence or behaviour, it is not possible for them to be held in the immigration detention estate. For other cases in this category (the non protocol cases), the individuals are held in the immigration detention estate.

These arrangements will continue to operate with NOMS in the Ministry of Justice, to ensure continued operational effectiveness. If, in the future, it is desirable to vary or change these arrangements, this will be done by mutual agreement between the two Departments.

Conclusion

This protocol is intended to support successful joint working between the criminal justice Departments, recognising their close and continuing links and the mutual benefits that will come from close and co-operative working.

Ministers believe it is essential that Departments work closely together, with each other and with partners, in line with the principles set out, to deliver the Government's priorities, and look forward to working with staff and stakeholders to tackle the challenges ahead.