



Immigration  
Enforcement

# Obstruction

Version 1.0

Guidance for Immigration Enforcement Officers.

# Contents

Contents.....	2
About this guidance.....	3
Contacts .....	3
Publication.....	3
Changes from last version of this guidance .....	3
Obstruction.....	4
Offence.....	4
Use of force.....	4
Encountering obstruction.....	6
Obstruction whilst acting in execution of the Act .....	6
First condition.....	6
Second condition.....	6
De-arresting an individual at the scene.....	7
Obstruction whilst not in execution of the Act .....	8
Options and contingencies.....	9
Self-defence .....	9
Section 3 Criminal Law Act 1967 .....	9
Other offences .....	9
Assault on an Immigration Officer.....	10
Assault.....	10
Offence.....	10
Power of arrest.....	11

# About this guidance

This is part of Immigration Enforcement General Instructions.

This guidance tells Immigration Enforcement officers about their powers and provides guidance during an event of obstruction.

## Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors then email Operational Health and Safety.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

## Publication

Below is information on when this version of the guidance was published:

- version **1.0**
- published for Home Office staff on **08 December 2021**

## Changes from last version of this guidance

This is a new guidance document.

### Related content

[Contents](#)

# Obstruction

This section tells Immigration Enforcement officers about the offence of obstruction under the [Immigration Act 1971](#).

## Offence

The offence of obstruction is laid out under [section 26, paragraph \(1\)\(g\)](#) of the [Immigration Act 1971](#).

“A person shall be guilty of an offence... if, without reasonable excuse, he obstructs an immigration officer or other person lawfully acting in the execution of this [Act](#).”

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**Official – sensitive: start of section**

The information on this page has been removed as it is restricted for internal Home Office use.

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**Official – sensitive: end of section**

## Use of force

Immigration officers may be required to use reasonable force in order to prevent or clear obstructive behaviour (in the ordinary meaning of these words). Two distinct sources of reasonable force powers can be found in the following provisions: section 146(1) of the Immigration and Asylum Act 1999 and separately article 6 of the Police and Criminal Evidence Act 1984 (Application to immigration officers and designated customs officials in England and Wales) Order 2013 (the “PACE Order”).

It is important to note that the powers to use reasonable force under these provisions are **not** standalone powers:

- [section 146\(1\) of the Immigration and Asylum Act 1999](#) allows Immigration officers to use reasonable force where necessary when the Immigration officer is **simultaneously exercising any power conferred on him by the “Immigration Acts”**.
- [article 6 of the PACE](#) (1984) Order 2013 states the following:

Where any provision of the Police and Criminal Evidence Act 1984 as applied by article 3 of this Order: —

- (a) confers a power on an immigration officer, and
- (b) does not provide that the power may only be exercised with the consent of some person other than the immigration officer upon whom the power is conferred,

the immigration officer may use reasonable force, if necessary, **in the exercise of the power**.

The power under [Article 6 of the PACE \(1984\) Order 2013](#), is reserved for suitably trained CFI officers exercising powers under the PACE Order.

Additionally, [Section 45 of the Criminal Justice \(Scotland\) Act 2016](#) (CJSA 2016), as applied to immigration officers by paragraph 2(1) of [Schedule 3 of the Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018](#), applies to CFI officers effecting a section 1 CJSA 2016 arrest for an immigration or nationality offence (see paragraph 1(1) of Schedule 3 for definitions) and when taking a person who is in immigration custody, as defined within paragraph 6 of Schedule 3, to any place. Section 45 allows for the use of reasonable force in undertaking both those tasks.

All reasonable efforts must first be made to manage events of obstruction by effective communication skills that do not entail the use of force. Use of force must always be a last resort when other measures have been unsuccessful or deemed unlikely to succeed in preserving the safety of all individuals involved. Please refer to Use of Force guidance.

## **Related content**

[Contents](#)

Use of Force

Coercive powers

# Encountering obstruction

This section provides Immigration Enforcement officers with guidance and processes for when they encounter obstruction.

## Obstruction whilst acting in execution of the Act

Under [section 28A\(5\) of the Immigration Act 1971](#), an IO may arrest without warrant a person who, or whom he has reasonable grounds for suspecting:

- has committed, or attempted to commit, an offence under section 26(1)(g); or
- is committing, or attempting to commit that offence

In the event that officers are obstructed whilst they are acting in execution of the Act, they must, if practical, attempt to ascertain the details (name and a satisfactory address for service) of suspects involved to enable the issuing of a court summons.

An officer may arrest an individual under section 28A(5) if either of the following 2 conditions are met:

### First condition

It appears to the officer that the service of a summons (or, in Scotland, copy complaint) is impractical or inappropriate because-

- he does not know, and cannot readily discover, the suspect's name;
- he has reasonable grounds for doubting whether a name given by the suspect as his name is his true identity;
- the suspect has failed to give him a satisfactory address for service; or
- he has reasonable grounds for doubting whether an address given by the suspect is a satisfactory address for service

### Second condition

The officer has reasonable grounds for believing that arrest is necessary to prevent the suspect-

- causing physical injury to himself or another person;
- suffering physical injury; or
- causing loss of or damage to property

If an arrest is not practical, then officers may consider using reasonable force so long as it is proportionate, legal, accountable and necessary, to prevent/navigate the obstruction. See: Use of force.

As obstruction is a criminal offence, officers must administer the criminal caution:

“You do not have to say anything. But, it may harm your defence if you do not mention when questioned something which you later rely on in court. Anything you do say may be given in evidence.”.

There are variations to the criminal caution administered in Scotland and Northern Ireland. See Arrest and restraint for details.

Following arrest, you must take the detained person to a designated place of detention, for example, a police custody. The on-call duty CFI officer should be contacted as soon as practicable, and arrangements made to take over and process the case.

Officers are required to complete their PRONTO or PNB records and an MG11 statement detailing the incident. It is essential that officers' records are accurate and clearly detail how they were in execution of the 1971 Act. Failure to do so could lead to the arrest being deemed unlawful and a court dismissing the case.

## De-arresting an individual at the scene

In certain circumstances, you may deem that the grounds of arrest can no longer be met. Such as the threat of imminent disruption to your immigration functions has ceased and you have ascertained true identity details (name and address) for a summons (should this become the most appropriate course of action. In these situations, you may choose to de-arrest the individual(s). Where force has been used to effect the arrest of an individual, it is recommended that they are taken to a place of custody. However, officers must still consider whether grounds remain to keep persons under arrest. Full records of the incident and use of force must be made.

Your explanation that the person is no longer under arrest must be given in plain language and must include:

- that they are no longer under arrest for the specific reason previously given
- the reason that they are no longer under arrest
- that they are free to leave

A typical example is:

“You are no longer under arrest for obstruction of an immigration officer. This is because I believe you are no longer likely to cause injury to another person/cause injury to an immigration officer/cause damage to property. You are free to leave”

Record on PRONTO or in your PNB the reasons for both the arrest and the release as soon as practicable. Record details of the de-arrest on the 'Freetext' on PRONTO.

## Obstruction whilst not in execution of the Act

If officers are obstructed whilst not exercising any powers within the 1971 Act, then they should consider the necessity to continue their deployment. The safety of officers is of paramount importance and should not be compromised.

In the event that officers progress is impeded, either on foot or in a vehicle, then assistance should be sought from the Police. Communications can be made using the airwaves radios and/or ESN network, requesting police assistance, providing details of your location, the nature of the incident and numbers involved. In the event of an emergency, ensure that this is conveyed to the call handler.

Officers should not seek to engage with those obstructing them unless the individual holds the honest held belief that there is a real and imminent threat to their safety (see [self-defence](#)), and remain in the vehicles or safest location until Police assistance arrives.

### Related content

[Contents](#)

Use of Force

Coercive powers

Arrest and Restraint

Critical Incident Management

Post enforcement visit actions (in relation to debrief)

Enforcement visits – safety and personal protection



# Options and contingencies

This section outlines other options and contingencies officers have available to them when an arrest for obstruction is not appropriate. Officers must ensure they understand the limitations and risk involved with utilising any of the below powers and defence.

## Self-defence

Self-defence, defence of property and defence of another are common law defences which may apply where a defendant uses necessary, reasonable, and proportionate force to defend themselves, property, or another from an attack.

All officers are to note that using self-defence under common law is not a statutory power. The level of force must be reasonable, necessary, and proportionate. You must always be aware that the legitimate use of reasonable force can easily and quickly turn into assault. Where possible, consider if force is the only option. Use only that amount of force that is reasonable, necessary, and proportionate to neutralise the threat.

## Section 3 Criminal Law Act 1967

[Section 3\(1\) of the Criminal Law Act 1967](#) (or, [section 3\(1\) of the Criminal Law Act \(Northern Ireland\) 1967](#)) is a statutory defence. It allows the use of reasonable force in the prevention of crime or in effecting or assisting in the lawful arrest of offenders or suspected offenders or of persons unlawfully at large. Officers must be aware of what follow up actions they need to take after arrest.

This power is not available to officers in Scotland.

## Other offences

Officers are not expected to deal with matters outside of immigration enforcement core functions. Where officers believe an offence (such as Public Order offences, including Breach of the Peace) outside of their remit has been committed, officers must seek police assistance if there is an immediate threat to property or persons. In other circumstances, a referral should be made to the police retrospective of the event.

### Related content

[Contents](#)

# Assault on an Immigration Officer

This section provides information on what to do if an officer is assaulted when carrying out their Immigration Enforcement functions.

## Assault

It is possible, that whilst dealing with matters of obstruction, an officer may be assaulted.

Assault is defined as:

- an assault is any act—and not a mere omission to act—by which a person intentionally—or recklessly—causes another to apprehend immediate unlawful violence

The relevant conduct in assault may take the form of:

- threatening acts or gestures (for example, brandishing of a weapon)
- threatening words
- acts and words together

Assaults are may or be likely to result in any or a combination of the following (but not limited too):

- grazes
- scratches
- abrasions
- minor bruising
- swellings
- reddening of the skin
- superficial cuts
- a 'black eye'

You do not have to suffer these injuries, but you must believe that such a level of injury is likely to be inflicted. For example, a punch that has been thrown at an officer, but missed.

## Offence

[Section 22, UK Borders Act 2007](#) provides for the offence of assaulting an immigration officer:

1. a person who assaults an immigration officer commits an offence
2. a person guilty of an offence under this section shall be liable on summary conviction to-
  - a) imprisonment for a period not exceeding 51 weeks,
  - b) a fine not exceeding level 5 on the standard scale, or

- c) both
3. In the application of this section to Northern Ireland the reference in subsection (2)(a) to 51 weeks shall be treated as a reference to 6 months.
  4. In the application of this section to Scotland the reference in subsection (2)(a) to 51 weeks shall be treated as a reference to 12 months.

## Power of arrest

An immigration officer may arrest an individual who has committed an [offence](#) of assault under [Section 23, UK Borders Act 2007](#).

Section 23 (1), UK Borders Act 2007-

- an immigration officer may arrest a person without warrant if the officer reasonably suspects that the person has committed or is about to commit an offence under section 22

As with obstruction and breach of the peace, assaulting an immigration officer is a criminal offence. As such officers are required to administer the [criminal caution](#). Officers should also contact the on-call duty CFI officer as soon as practicable, and arrangements made to take over and process the case. Officers must not de-arrest at the scene following an arrest for assault.

### Related content

[Contents](#)

Use of Force

Coercive powers

Arrest and Restraint

Enforcement visits – safety and personal protection