

## **Immigration Bill**

### **Factsheet: Powers of Immigration Officers (clause 2)**

Immigration Minister Mark Harper:

“We have always maintained that those with no right to be here should leave at the earliest opportunity. But immigration offenders often try to frustrate their removal by hiding their true identity and nationality. It is vital our immigration officers are able to conduct investigations effectively and safely.

“The legislation we are introducing will give officers a full range of powers to search individuals suspected of immigration abuse and search premises for travel documents.

“We have a duty to ensure the safety of all our staff. In light of discussions with front line staff we also propose to extend protective search powers to allow our staff to undertake searches of people who are being questioned and detained but who haven’t been arrested. These searches will allow officers to remove items which could cause physical harm to themselves or others.”

### **Background**

There are significant gaps in the powers immigration officers currently have to search individuals and property.

Border Force officers have raised concerns that although they are able to search people who are being examined at port for passports and other relevant documents, they are not permitted to search those in detention for weapons or other dangerous articles that might cause harm to themselves or another person. A protective search power is currently only available in respect of people who have been arrested.

Immigration officers have a number of powers to enter and search premises for the purpose of finding material that will facilitate the investigation of a criminal immigration offence. Other powers exist for officers to search premises for documents that assist with the removal of illegal migrants. However, the powers do not apply to illegal immigrants in immigration detention who have been arrested by immigration criminal investigators rather than the police. Also, while officers can search for relevant documents at the home of an arrested person or the premises at which they were arrested, they are not permitted to search the premises of a third party, for example those of a relative or partner, even if there are good grounds to believe that documents which would facilitate the removal of an illegal immigrant from the UK might be located there.

### **What we are going to do:**

- Put in place an explicit power for Border Force officers to undertake protective searches of detained people for items which might cause physical harm.

- Ensure that immigration officers can search for travel documents belonging to detained/administratively arrested people where they are not already held by the Home Office.
- Reduce opportunities for people to seek to delay the removal of illegal immigrants by withholding consent to enter and search premises in which travel documents that could facilitate their removal are located.
- Ensure immigration officers' powers to use reasonable force applies uniformly across immigration legislation.

#### **How we are going to do it:**

- Extend the powers of immigration officers to carry out protective searches to include detained people.
- Amend existing search powers so that immigration officers have the power:
  - to enter the premises of a detained individual to search for documents that might facilitate that person's removal, regardless of who arrested them;
  - to obtain a warrant to enter premises belonging to a third party to search for documents that might facilitate the removal of a person who has been administratively arrested/detained.
- Amend the scope of the existing power to use force so that it applies to later Immigration Act provisions.

#### **Benefits:**

- Immigration officers at small ports, where contracted detainee custody officers are not available, will be able safely to detain or transport immigration detainees.
- Detained people being transported from one location to another, or who are awaiting removal from the UK, will not have to be arrested solely to engage the existing protective search power.
- Immigration officers will have more opportunities to retrieve relevant documents which will assist in and potentially speed up the process of removal.
- Immigration officers will be able to use their powers to the fullest extent where necessary.

#### **Next steps**

- Before commencement we will write to the Courts to ensure they are informed of the power to issue warrants to search premises for documentation.
- Immigration officers are already well-versed in their powers of entry, search and seizure, but we will ensure that appropriate guidance is published regarding the use of these amended powers.

## **Q&A**

### **Why do immigration officers need even more powers to conduct searches?**

Immigration officers have existing powers to search persons and property. However they have identified a number of gaps which are preventing them from using their powers in some circumstances. The intention is to amend the existing powers so that officers can perform their duties safely and efficiently.

### **Is the power to enter and search premises linked to the provisions to introduce penalties for landlords?**

No, this is only for the purpose of searching for relevant documents that will facilitate the removal of an illegal immigrant from the UK.

**Home Office  
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