



Home Office

Immigration Returns, Enforcement and Detention  
General instructions

# Criminal investigations (Immigration Enforcement)

Version 1.0

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## About this guidance

This guidance gives Immigration Enforcement staff an overview of the areas of responsibility and the types of criminal offences investigated by Criminal and Financial Investigations (CFI). This also describes the requirements and processes to be followed on encountering individuals who could be subject to criminal prosecution.

### 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 Enforcement Policy.

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.

### Clearance and publication

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

- version 1.0
- published for Home Office staff on 17 January 2017

### Changes from last version of this guidance

**No changes to the guidance**

#### Related content

[Contents](#)

# Criminal and Financial Investigations

This page gives Immigration Enforcement officers whose role is normally that of investigating administrative offences an overview of the powers and responsibilities of Criminal and Financial Investigations (CFI) teams.

## About Criminal and Financial Investigations (CFI)

CFI teams, based at numerous locations throughout the UK, deal with immigration related criminal investigations categorised as level 1 and level 2, as defined within the Professionalising investigations programme (PIP) policy. They are divided into 3 operational areas:

- criminal investigation
- financial investigation
- cash forfeiture and condemnation legal team

These teams are responsible for investigating organised immigration crime and disrupting and dismantling organised crime groups (OCGs).

CFI teams in Immigration Enforcement have relevant powers and expertise in the specialist area of investigating immigration related offences. Where you suspect a criminal offence, you must refer the case to the local CFI team immediately.

CFI focus on the most harmful OCGs and those who present the biggest threat to the government's target to reduce net migration. For more information see Criminal and financial investigations.

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## Referrals to Criminal and Financial Investigations (CFI)

### Proactive cases

Home Office staff must use the Operational Intelligence Units (OIUs) to make a referral to a CFI team. You can contact CFI regional teams direct if you need some general advice.

See also Intelligence: caseworker referrals.

### Reactive cases

When you suspect an immigration offence has taken place inland and you need an immediate decision on whether CFI will adopt a case, you must immediately contact Command and Control Unit (CCU) by email or telephone and provide details of the relevant points regarding the suspected offences and offenders.

Contact CCU by:

- telephone CCU on 0161 261 1640
- email CCU at CCU CIO

CCU must then:

- establish the facts

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- decide whether the referral meets the CFI adoption criteria
- contact the on call CFI manager (available on a 24/7 basis) for the region in which the suspected offence was committed who will assess the information and decide whether to adopt and direct resources accordingly
- provide CFI with contact name and number of police officer at the scene if applicable

If no response from on call CFI manager, CCU must:

- contact on call regional Her Majesty's Inspector (HMI)
- contact on call grade 7 if no response received from HMI
- make an assessment of the case in real-time
- contact the referring officer for further information and make a decision based on the facts
- consider each case on an individual basis
- decide:
  - if the adoption criteria have been met
  - whether to adopt the case and decide the appropriate level of response
  - what resources are available
- if not arrested, decide whether the suspected offenders must be arrested immediately
- update:
  - CID with actions taken
  - criminal investigation data record exchange (CIDRE) as soon as practicable with the referral details

If the case is adopted CCU will refer circumstances of the case to National Crime Agency (NCA) who will then liaise with CFI directly.

Some referrals may not immediately meet the evidential threshold for CFI to adopt them as a criminal investigation case. If this happens Immigration Enforcement officers may make further enquiries and then re-refer the case to CFI if significant changes come to light that would support a prosecution.

If CFI receive a referral and they cannot adopt the case, they can request assistance from:

- NCA or Border Police Command (BPC)
- other law enforcement partners

### **Updating databases**

CFI will log all referrals providing the rationale (reasoning) for adopting or not adopting a case. Immigration Enforcement officers will record the referrals on national operations database (NOD) and CID.

### **Related content**

[Contents](#)

# Criminal powers and constraints

This page tells Immigration Enforcement staff about their powers to make criminal investigations and the constraints within which they must operate.

See also:

- Coercive powers: criminal powers
- Referrals to Criminal and Financial Investigations (CFI)

## Police and Criminal Evidence Act 1984 (PACE) powers

The [Police and Criminal Evidence Act 1984 \(PACE\)](#) applies in England and Wales only. The [Police and Criminal Evidence \(Northern Ireland\) Order 1989](#) applies in Northern Ireland. References to PACE in this guidance relate to both the 1984 act and the 1989 order, except where stated otherwise.

The [Police and Criminal Evidence Act 1984 \(Application to immigration officers and designated customs officials in England and Wales\) Order 2013](#) (the PACE order 2013) provides CFI criminal investigators in England and Wales with the necessary powers to conduct a criminal investigation. Criminal investigators in Scotland and Northern Ireland rely on part 3 of the [Immigration Act 1971](#) and other powers.

The PACE powers and obligations for immigration investigations mainly relate to:

- arresting people
- searching and entering premises
- seizing evidence

The powers and functions in the PACE order 2013 must only be used by immigration officers in England and Wales who meet all of the following, they are:

- authorised to do so by the Secretary of State
- working in a criminal and financial investigation team
- professionalising investigation programme (PIP) level 1 officers working in Immigration Compliance and Enforcement (ICE) teams tasked with a relevant immigration investigation by an accredited Chief Immigration Officer (CIO)
- undertaking a relevant immigration investigation (Relevant immigration investigations and applying PACE)

Accredited financial investigators (AFIs) working in Financial Investigation teams in England and Wales will be able to use PACE powers if they meet all of the following, they:

- have or are working towards professionalising investigation programme (PIP) 1 accreditation
- have received PACE training
- are fully accredited as a financial investigator

## **Criminal Procedures and Investigations Act 1996 (CPIA)**

All officers involved in general enforcement and criminal investigations must be aware that the [Criminal Procedure and Investigations Act 1996 \(CPIA\)](#) places a requirement on the police and/or investigating body to record, retain and reveal to the prosecutor material obtained in a criminal investigation and which may be relevant to:

- the investigation and related matters
- any person being investigated
- the surrounding circumstances of the case

unless it is incapable of having any impact on the case.

Where there is any doubt about the relevance of the material, it must be retained and may be used a part of a criminal investigation.

Material is either relevant and used, or unused:

- unused material is material that may be relevant to the investigation that has been retained but does not form part of the case for the prosecution against the accused
- relevant material is defined as anything that appears to an investigator, or the officer in charge of an investigation or the disclosure officer, to have some bearing on:
  - any offence under investigation
  - any person being investigated
  - the surrounding circumstances of the caseunless it is incapable of having any impact on the case
- revelation refers to the police or investigating officer alerting the prosecutor to the existence of relevant material that has been retained in the investigation:
  - revelation to the prosecutor does not mean automatic disclosure to the defence
- disclosure refers to providing the defence with copies of, or access to, any material which might reasonably be considered capable of undermining the case for the prosecution against the accused, or of assisting the case for the accused, and which has not previously been disclosed

For more information about disclosure and retention of material see Disclosure (CPIA).

## **Cash seizure: powers and constraints**

Whilst on operations Immigration Compliance and Enforcement (ICE) team colleagues may come into contact with large amounts of cash which may be the product of crime.

Cash seizure is important as the lifestyle and status organised crime brings is the main motivation for most criminals. ICE officers who seize cash must have taken the relevant training course.

See also Search and seizure.

**Related content**

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# Evidence gathering in support of criminal investigation

This page tells Immigration Enforcement staff how to gather and record evidence during a criminal investigation.

The quality of the initial investigation or operation is a significant factor in gathering material that leads to the detection of a crime. There may be a limited opportunity to locate and gather evidential material and it is vital that those who conduct the initial investigation or operation ensure that material is not lost or contaminated. Once a referral has been allocated to a criminal investigator, they will contact the person who conducted the initial enquiry.

## Chain of evidence

The 'chain of evidence' refers to the handling of evidence from the moment it is identified and seized, right through the prosecution process. An audit trail must be provided showing where that evidence has been at all times to prove its integrity.

It needs to be show how the evidence was seized, including details of:

- where it was found
- where it was seized
- the time of seizure
- the date it was seized
- who it was seized by
- what was done with it after it was seized

It is important for criminal investigators to be able to show the chain of evidence has been maintained because:

- it proves the integrity of the evidence
- allegations that the evidence has been tampered with or changed in any way can be refuted

Maintaining the chain of evidence helps to ensure the integrity of that evidence when it is presented in court.

## Evidence handling

If you do not handle evidence correctly:

- the case may fail
- your evidence may be excluded
- the defence may try to have your evidence discredited
- you may be required to attend court and explain
- the prosecution may not be willing to take the case forward
- there will be a financial cost to the department if the case collapses

- the reputation of the Home Office may be damaged

For all evidence you seize, you must:

- seal it in a tamper evident bag or any other bag provided for that purpose
- follow all procedures for:
  - recording the seizure
  - completing the sections on the evidence bag
- store the evidence as soon as possible in a secure property store:
  - make a detailed record of it, stating exactly what evidence was stored and the date and time it was stored

You must record in the property book, and complete the continuation section on the tamper evident bag, if you:

- remove a piece of evidence from the property store
- open the bag for any reason
- hand the evidence to somebody else
- take a piece of evidence into your possession

When transferring pieces of evidence to another person or to other locations you must ensure that you hand over the evidence in person, you must:

- ensure the security of the evidence
- ensure continuity and the chain of evidence is maintained
- record your actions in your pocket book and/or in the 'record of investigation' relating to your case

Retention (keeping), continuity and safe storage of all exhibits is critical. For more information, see search and seizure.

## Categories of crime

See also Coercive powers: criminal powers.

Criminal and Financial Investigations (CFI) teams focus on investigating 8 main categories of crime which support other work streams in:

- asylum
- the border
- temporary and permanent migration

Those categories are:

- trafficking in human beings (THB) and [Modern Slavery Act 2015](#) offences where they apply in England and Wales
- facilitation through:
  - lorry drops
  - marriage abuse (clandestine entrants)
  - college abuse

- points-based system (PBS) abuse
- rogue employers
- producing or supplying counterfeit or forged documents
- other means, including internal (Home Office staff) corruption

CFI teams also investigate cash seizures of over £1,000 referred from Immigration Compliance and Enforcement (ICE) teams.

See also Search and seizure.

## Organised crime groups (OCGs)

See also The role of Immigration Enforcement teams in disrupting OCGs.

OCGs are individuals, working with others, with the capacity and capability to commit serious crime on a continuing basis. This must include elements of planning, control, coordination, structure and group decision making.

Serious crime is defined by [section 93\(4\) of the Police Act 1997](#) as crime:

- that involves the use of violence
- which results in substantial financial gain
- conducted by a large number of persons in pursuit of a common purpose
- for which a person aged 21 or over, on first conviction, could reasonably expect to be imprisoned for 3 or more years

Section 93 of the Police Act 1997 is applicable in England, Wales, Scotland and Northern Ireland.

The CFI teams investigate where OCGs are involved in:

- offences relating to modern slavery including trafficking foreign (non European Union (EU) and non British) nationals into the UK where there is a clear exploitation of the immigration system, this could be trafficking for:
  - the sex industry
  - organ harvesting
  - forced labour
  - other forms of involuntary servitude
- facilitation (assisting individuals to breach UK immigration law) of illegal migration in the UK, this includes:
  - marriage abuse
  - lorry drops (clandestine entrants)
  - bogus colleges
  - abuse of the points-based system (PBS)
  - rogue employers
- producing and supplying forged or false documents to undermine the UK's immigration controls

Officers also:

- assess all suspects for enhanced financial investigations
- seek to strip them of their criminal assets

This is because money is the main motivation of organised crime. It creates the lifestyle and status organised criminals' desire.

For more information Financial investigation.

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## Modern slavery and trafficking offences

See also Identifying people at risk.

Immigration Enforcement must refer, and CFI managers must adopt, human trafficking cases referred whatever nationality the victim or offender is, if there is:

- prima facie evidence (actual evidence) to show an offence has been committed
- clear evidence those involved have exploited the immigration system

For more information see:

- Victims of modern slavery: competent authority guidance
- Victims of modern slavery: guidance for frontline staff including national referral mechanism (NRM) guidance and forms

## Facilitation offences

CFI will consider adopting a facilitation case if they have prima facie evidence (actual evidence) to show an offence has been committed. A person commits an offence if they:

- assist unlawful immigration to a member state of the European Union:
  - [section 25 of the Immigration Act 1971](#)
- knowingly, and for gain, assist an asylum seeker, or someone they have reason to believe is an asylum seeker, to arrive in or enter the UK, or attempt to arrive in or enter the UK:
  - [section 25A of the Immigration Act 1971](#)
- assist a person they know or believe to have a deportation or exclusion order against them to breach, or attempt to breach, that order:
  - [section 25B of the Immigration Act 1971](#)

## Lorry drops: clandestine entrants

A CFI manager will carefully consider whether to pursue the prosecution of a driver of a vehicle containing clandestines (concealed people) encountered in the UK.

Further details on examining and recording evidence in such cases is found in 02 Entry without leave.

## Marriage abuse

See also Marriage investigations.

The facilitation of individuals in relation to marriage is often referred to as a 'sham marriage'. A sham marriage relates to a non-European Economic Area (EEA) national who marries either:

- an EEA national
- a person with indefinite leave to remain in the UK
- an individual with right of abode in the UK
- a British citizen

so they gain some entitlement or right to stay in the UK and access to provision of services. This could include anybody involved in the sham marriage, for example the:

- bride or groom
- witnesses
- church or registrar staff
- immigration advisor or solicitor, if you can prove they acted in their capacity knowing it was a 'sham marriage'

It can also include anybody else who:

- conspired
- aided
- abetted
- counselled
- procured the crime:
  - 'procure' means 'arrange' or 'facilitate' – the courts have defined it as 'to produce by endeavour, by setting out to see that it happens and taking the appropriate steps to produce that happening'

If, on investigating the marriage, guilty knowledge can be proven the offence can include those who are remotely involved. For example the people organising the plans, such as booking the flights going in and out of the UK or booking the registry office, to assist the sham marriage taking place.

There is a duty on a registrar to report a suspicious marriage under [section 24 Immigration and Asylum Act 1999](#).

CFI teams are responsible for investigating and prosecuting OCGs involved in marriage abuse. This does not include 'single event' marriages unless there is evidence it is linked to a wider series of crimes or there are other factors that mean a prosecution will be pursued. These factors are:

- high harm
- community impact
- reputational damage to the Home Office

If you have a single event marriage, that does not have these factors, it will be referred to the local ICE team.

In any investigation of a 'sham marriage' it is important to establish the full facts including details of the:

- bride and groom
- witnesses
- organisers
- any illegal involvement by persons conducting the ceremony or registry office staff

An important element in intelligence gathering is the debriefing and prompt submission of relevant intelligence to ascertain if an OCG is involved. Retention (keeping), continuity and safe storage of all exhibits are critical.

For more information see:

- Search and seizure
- section 'Operational debriefing' of Post enforcement visit actions

Although criminal prosecution is normally the best solution when an OCG is involved, each case is judged on its own merits as there might be occasions when administrative removal (providing an immigration solution of removing the person from the UK rather than prosecuting them) for some suspects is the most suitable option.

For more information on administrative removals see 50 Liability to administrative removal under section 10 (non-EEA).

## College abuse

This is linked to Tier 4 of the points-based system (PBS) where a prospective student receives a visa to enter the UK on the condition that they will study at a nominated college. Abuse of this system happens when the:

- college does not exist
- student is not enrolled
- student is enrolled but they do not attend

As a result, bogus students receive access to the UK and entitlements, such as the ability to legally work. The scope of this offence is wide. It would involve any person knowingly involved. This could include:

- an immigration advisor or solicitor submitting a false application to the Home Office

- staff at the college
- anybody else providing false information to undermine Home Office procedures or UK laws

In any college abuse investigation it is important to establish the full facts including details of:

- how the person got their leave to enter or remain
- whether a legal representative or staff member from the college was involved

The debriefing and submission of relevant intelligence of all those involved is an important element in building intelligence to link college abuse and determine any OCG involvement.

### **Criminal investigations: points-based system (PBS)**

PBS covers migrants from outside the European Economic Area (EEA) and Switzerland who require leave to enter under the Immigration Rules to come to the UK. Each of the system's tiers has different requirements (see Economic and work routes (including Tiers 1, 2 and 5) and Study (including Tier 4)).

CFI teams only assess whether it is possible to take on an investigation where:

- an OCG has been identified
- significant abuse has occurred

CFI teams are responsible for tackling OCGs involved in PBS abuse. This does not include individuals who have fraudulently gained or attempted to gain leave to remain under one of the PBS tiers unless there is evidence it is linked to a wider series of abuse. In all PBS investigations it is important to establish the full facts including details of the:

- abuse
- method used
- suspects involved
- whether there is enough information to establish a pattern of abuse involving an OCG or whether it is an individual acting alone

### **Criminal investigations: rogue employers**

See also Illegal working operations.

This category applies to:

- employers who knowingly, or with reasonable cause to believe, employ illegal workers
- any other person involved in the chain, up and down, who knowingly committed a criminal act connected to employing illegal workers, providing guilty knowledge can be proven, it could include:
  - those who supply illegal immigrants knowing they are going to be employed
  - contractors

- first line managers
- directors
- company owners
- those who attempted, conspired, aided, abetted, counselled or procured the crime

One of the primary aims of CFI teams is to tackle rogue employers who are knowingly, or with reasonable cause to believe, employing illegal workers in the UK. Rogue employers are often closely linked with facilitating illegal immigrants of whom some might have been trafficked into and across the UK. The focus must be on prosecuting those who are ultimately benefiting from exploiting vulnerable people.

CFI will:

- evidence (record) previous illegal working visits
- gather the details of:
  - who was in charge
  - the illegal workers encountered
- get accounts of who employed them and under what circumstances
- evidence (record) what action was taken to:
  - establish if a referral notice has been served
  - determine what was the outcome

### **Counterfeit or forged documents for facilitation**

This has a wide meaning as a category and is often linked to other categories such as marriage abuse, college abuse and abuse of PBS.

This category includes:

- any document which supports the forgery
- anyone producing:
  - the forgery itself
  - anything else to support that document
- the act of supplying false documentation

If guilty knowledge can be proven it could also include any persons who:

- provide the equipment, funding or material to make the false documents
- attempted, conspired, aided, abetted, counselled or procured the crime

CFI teams are responsible for tackling OCGs involved in the mass production and supply of forged or counterfeit documents for facilitation.

This type of crime will underpin most forms of facilitation. If you encounter an individual in possession of a counterfeit or forged document for facilitation CFI must investigate further to establish how the person came to possess the document and where they got it from.

This is important to establish whether it is part of a wider series of forged or counterfeit documents linked to an OCG.

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### **Facilitation through other means including internal corruption**

This concerns any other offence where the main part of the investigation is the illegal facilitation of migrants into the UK. This could include many offence types such as:

- people smuggling across the border
- cheating on the knowledge of life test
- cheating on the long residency rule
- corrupt Home Office staff members involved in this abuse

It deals with any other facilitation not covered in any of the other categories and includes any people involved in the process, for example the:

- overseas agents
- transporters
- arrangers
- fixers
- Home Office staff

It includes those who attempted, conspired, aided, abetted, counselled or procured the crime.

CFI teams only consider whether it is possible to take on an investigation under this category where:

- an OCG has been identified
- significant abuse has occurred

It is important with all investigations to establish the full circumstances surrounding the facilitation, including details of any suspects or witnesses. You must debrief all those involved to establish whether this is an isolated incident or part of a wider series connected to an OCG to provide CFI with the relevant information.

Where the offence involves corrupt Home Office staff members all investigations are undertaken by Home Office Security Investigation team. If you have any concerns at all about the possible involvement of corrupt Home Office staff you must not discuss this with any other member of staff including your line manager and contact corporate security direct, see Security.

## Non compliance with documentation process

[Section 35 of the Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) is aimed at dealing with foreign nationals who try to avoid removal by refusing to cooperate with the documentation process. It allows the Secretary of State to require a person to take specified actions that will assist the removal process. If the individual fails to comply with these requirements they can be prosecuted. For more information see Travel document interview process and prosecution under section 35.

CFI only consider adopting section 35 cases when:

- the section 35 process has been followed correctly up to the point of referral
- there are no barriers to removal
- immediate removal would take place if the suspected offender possessed a valid travel document

These cases will not be adopted if there is no intention to remove the suspected offender as soon as a travel document is available.

### **Related content**

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# Multi-agency public protection arrangements (MAPPA)

This page tells Immigration Enforcement staff about multi-agency public protection arrangements (MAPPA).

## MAPPA: scope

[Section 325 of the Criminal Justice Act 2003](#) (CJA 2003) provides for the establishment of MAPPA in all of the criminal justice areas in England and Wales. These are designed to protect the public, including previous victims of crime, from serious harm by sexual and violent offenders. They require the local criminal justice agencies and other bodies dealing with offenders to work together in partnership in dealing with these offenders.

## Responsible authority

The responsible authority is the primary agency for MAPPA. This is the police, prison and Probation Trust in each area, working together. The responsible authority has a duty to ensure that the risks posed by specified sexual and violent offenders are assessed and managed appropriately.

## Duty to co-operate agencies

Other bodies have a duty to co-operate with the responsible authority in this task. The duty to co-operate agencies (DTC agencies) will need to work with the responsible authority on particular aspects of an offender's life (such as education, employment, housing and social care).

Immigration Enforcement, UK Visas and Immigration and Border Force (together formerly known as UK Border Agency (UKBA)) became a DTC agency in 2011, the first addition to the list since the scheme in the CJA 2003 was implemented.

MAPPA are in place to ensure the successful management of violent and sexual offenders. The National MAPPA team, National Offender Management Service, Offender Management and Public Protection Group has produced guidance which sets out the responsibilities of the police, probation trusts and prison service. It also touches on how other agencies may become involved, for example the Youth Justice Board will be responsible for the care of young offenders.

See also criminal casework guidance [Multi-agency public protection \(MAPPA\) cases](#).

## Related content

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# War crimes and counter terrorism

This page tells Immigration Enforcement staff what to do when their checks or investigation shows that a person has been involved in terrorism, war crimes or crimes against humanity.

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