



Home Office

Search of person

This guidance is based on: PACE 1984, PACE Order (application to immigration officers and designated customs officials) 2013, Immigration Act 1971, Immigration and Asylum Act 1999, UK Borders Act 2007 and Criminal Justice and Police Act 2001.

Version 2.0

Contents

Contents.....	2
About this guidance.....	4
Staff this guidance applies to.....	4
Other staff.....	4
Contacts	5
Publication	5
Changes from last version of this guidance	5
Powers to search people and seize property or evidence	6
Legislation giving you the power to search people and seize property	6
Standards you must meet when searching people.....	8
Equality Act 2010.....	8
Risks when searching people: legal and non-physical risks.....	10
Identify risks in advance	10
Examples of legal and non-physical risks you must consider	10
Risks when searching people: physical risks	13
Environmental risks	13
Risk of infection	13
Risk of violence.....	14
Using force when searching people	16
Carrying out a person search: quadrant searching	18
Carrying out a person search: conducting the search	21
Carrying out a person search: maintaining control	24
Recording a person search	26

About this guidance

This guidance tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the powers to search people and to seize items that are found.

It tells you about:

- powers to:
 - search people
 - seize items of evidence
- restrictions on searching
- conduct and standards you must meet when searching
- recording details of the search
- a brief overview of how to conduct a search

It does not tell you about search techniques in detail. You learn this from your arrest training and arrest refreshers.

Staff this guidance applies to

It only applies to Immigration Officers working on Criminal and Financial Investigation teams.

Other staff

You must use your own guidance and powers (even though some may be the same), if you work on:

- a Border Force team
- Border Crime team under the National Crime Agency
- an Immigration Compliance and Engagement (ICE) arrest team

For more information about searching premises, see search and seizure: premises.

The Home Office has a duty to safeguard vulnerable people and promote the welfare of children for more information see: Vulnerable people and children.

Criminal Investigators in Immigration Enforcement must be aware of their obligations under the General Data Protection Regulation (GDPR) and the complementary Law Enforcement Directive (LED) domestic legislation via the Data Protection Act 2018 see: Data protection changes (GDPR and Data Protection Act 2018).

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 CFI Operational Guidance Team.

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 **2.0**
- published for Home Office staff on **25 November 2019**

Changes from last version of this guidance

- New template
- Additions to reasonable force criteria
- Amendments to Section 45 Criminal Justice (Scotland) Act 2016
- Housekeeping changes

Related content

[Contents](#)

Powers to search people and seize property or evidence

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about which legislation gives you the power to search people and about the standards you must meet.

If you are working on a criminal and financial investigation (CFI) team in Immigration Enforcement your powers come from being a designated (authorised) Immigration Officer, with arrest and criminal investigation training.

You must only use those powers you are trained for and which apply to the role you are currently in.

There are powers for Immigration Officers in England and Wales under the Police and Criminal Evidence (PACE) (Application to Immigration Officers and designated customs officials in England and Wales) Order 2013. If you are authorised to use these powers they are the main ones you will use. For more information, see:

- [PACE Order 2013](#)
- PACE Order 2013 explained
- Powers of an Immigration Officer

There are powers for Immigration Officers in Scotland under the Criminal Justice (Scotland) Act 2016. For more information, see:

- [Criminal Justice \(Scotland\) Act 2016 \(Consequential Provisions\) Order 2018](#)

All officers in England, Northern Ireland, Scotland and Wales have powers under the immigration acts. You can continue to use these powers if appropriate and if you do not have authority to use the new PACE or Scottish powers. In Scotland officers using the arrest power under the Criminal Justice (Scotland) Act will still use Part III Immigration Act 1971 statutory search powers where appropriate.

Legislation giving you the power to search people and seize property

Section and act	Who or what you can search or seize
Section 32 PACE 1984	You can search a person upon arrest when the arrest has taken place anywhere except at a police station.
Section 28G Immigration Act 1971	You can search people arrested for offences under part III of the Immigration Act 1971.
Section 28H Immigration Act 1971	You can search people arrested for offences under part III of the Immigration

Section and act	Who or what you can search or seize
	Act 1971 and who are in: <ul style="list-style-type: none"> • custody at a police station • police detention somewhere else
Section 25B of schedule 2, Immigration Act 1971	You can search people arrested by an Immigration Officer under schedule 2 of the Immigration Act 1971.
Section 25C of schedule 2, Immigration Act 1971	You can search people arrested under schedule 2 of the Immigration Act 1971 and who are in custody at a police station.
Section 55 Crime and Courts Act 2013.	This introduces several powers and changes relating to: <ul style="list-style-type: none"> • surveillance • proceeds of crime • cash seizure • arrests • search warrants You must read section 55 to see exactly how it affects you. Some of the changes depend on where you work in the UK.
Section 51 Criminal Justice and Police Act 2001	Additional power of seizure of items from a person. <p>This power allows you to seize items from a person and sift through them elsewhere. Particularly when it would be impractical to sift through the items at the time and place of seizure.</p>

To read exactly what each of these sections allows you to do and full list of your powers under PACE and immigration legislation see:

- Powers of arrest entry and search under PACE
- Powers of arrest entry and search under immigration legislation
- Criminal Investigation guidance on arrest

There are some items you are not allowed to seize. For more information, see: [Restrictions on searching and items you cannot seize.](#)

Related content
[Contents](#)

Standards you must meet when searching people

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about the standards you must meet when searching people.

Further Search of person guidance on Horizon provides information about factors you need to consider when you wish to search a person who has been arrested.

You must:

- identify yourself to the person to be searched
- seek the cooperation of the person to be searched in every case
- if the person to be searched does not appear to understand what is being said, or there is any doubt about their ability to understand English, take all reasonable steps to explain the reason for the search
- restrict any search carried out in a public place to a superficial examination of outer clothing
- do not ask a person to remove any clothing in public other than an outer coat, jacket or gloves
- if the arrested person appears to be transsexual, ask which gender they consider themselves to be and treat them accordingly

[Police and Criminal Evidence \(PACE\) 1984 code of practice B 2013](#) - you must comply with PACE code B if you are seizing anything you have found when you are searching a person. PACE 1984 code of practice B also provides guidance on:

- seizing and retaining property found on persons
- the need to assign an officer in charge of a search

Equality Act 2010

[Equality Act 2010](#) places a duty to eliminate unlawful discrimination, harassment and victimisation.

It advances equality of opportunity for people who share a protected characteristic to do with:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race
- religion and belief
- sex and sexual orientation

Related content
[Contents](#)

Risks when searching people: legal and non-physical risks

This section tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about some risks you must consider when searching people and how to reduce them.

Identify risks in advance

It is best practice to identify risks in advance if you can and try to minimise them.

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Examples of legal and non-physical risks you must consider

You may also identify other examples of risks.

Risk type	Reduce risk by:
Legal risks.	If you search somebody without the proper authority or power you may face: <ul style="list-style-type: none">• allegations of:<ul style="list-style-type: none">○ negligence○ misconduct• disciplinary procedures

Risk type	Reduce risk by:
	<p>You may also:</p> <ul style="list-style-type: none"> • have the evidence you have seized excluded in court • lose your prosecution case • affect the reputation of the Home Office <p>You must only search:</p> <ul style="list-style-type: none"> • if you have the power to • the way you were taught on your arrest training <p>For a list of your powers to search people and seize property or evidence, see below.</p> <p>You must know what power of search you are using before you start the search. If you are not sure ask your supervising officer. For further information about your powers to search arrested people, see: Search of person</p>
Allegations of improper behaviour.	<p>You may be accused of:</p> <ul style="list-style-type: none"> • assault • acting in an inappropriate way <p>You can reduce the risks by:</p> <ul style="list-style-type: none"> • searching the way you were taught and in line with the legislation • never conducting an intimate search (this can only be authorised and carried out by police officers) • only searching a person of the same sex as you, which is Home Office policy • having a cover officer observing the search
Cultural considerations.	<p>Be aware that a person's culture may affect how they behave or react to being searched. For example, in some cultures, being asked to kneel is considered demeaning or lowers a person's status.</p>
Searching transsexual/people.	<p>You can find specific instructions on how to deal with a person who is or appears</p>

Risk type	Reduce risk by:
	to be transsexual/transgender in the enforcement guidance. See: Search of person

For more information on using force, see: [Using force when searching people](#).

Related content

[Contents](#)

Risks when searching people: physical risks

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about some physical risks you must consider when searching people and how to reduce them.

These are examples of physical risks you must consider. You may also identify others.

Environmental risks

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Risk of infection

It is possible for infections to be transferred:

- through broken or damaged skin
- if you put your hands to your face when you are searching

You can reduce the risk by:

- wearing gloves the whole time you are searching
- never touching or tasting any substances you find
- wearing a dressing over broken skin, for example, waterproof plasters
- not putting your hands to your face when searching
- washing your hands with soap and water when you have finished the search

If you have cut or damaged skin, speak to your supervising officer about whether you should conduct any searches.

Risk of violence

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Official - sensitive: end of section

Related content

[Contents](#)

Using force when searching people

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about using force when searching people.

You may need to use force when searching somebody, for example, if they become violent. You must only use force if you can justify it and in line with the following legislation.

You must only use force if you can justify it (for example it is reasonable / proportionate in the circumstances) and in line with the following legislation.

Act or law	What it allows
Common law (case law).	You can use force to: <ul style="list-style-type: none">• protect yourself from attack• defend somebody else to prevent a crime• arrest an offender
Section 3(1) Criminal Law Act 1967	You can use reasonable force to: <ul style="list-style-type: none">• prevent crime• make or help to make a lawful arrest
Section 117 PACE 1984	Refers to police powers but accredited Immigration Officers on Criminal and Financial Investigation teams have Police and Criminal Evidence 1984 (PACE) powers. If you do not have PACE powers you must still work in the spirit of PACE, which means you must still follow PACE guidelines. Section 117 says a power given to a constable under PACE can be exercised using force if necessary. This relates to your power to search.
Section 45 Criminal Justice (Scotland) Act 2016	Refers to constable but accredited immigration officers on the Criminal and Financial Investigation team in Scotland have a subset of Criminal Justice (Scotland) Act 2016 powers through the Criminal Justice (Scotland) Act 2016 (Consequential Provisions) Order 2018.

Act or law	What it allows
	Section 45 says that reasonable force may be used to effect an arrest and when taking a person who is in immigration custody to any place.
Section 146 Immigration and Asylum Act 1999	Section 146 says that an immigration officer exercising any power conferred on them by the immigration acts may, if necessary, use reasonable force.
Human Rights Act 1998	<p>You can only interfere with human rights if it:</p> <ul style="list-style-type: none"> • is within the law • is necessary in a 'democratic' society • serves a legitimate purpose <p>The articles you are most likely to breach are:</p> <ul style="list-style-type: none"> • article 2 - the right to life • article 3 - prohibition from torture inhuman or degrading treatment • article 8 - the right to respect for private and family life, which includes physical integrity (a person's right to have control over their own body)

For more information about using 'reasonable force' and how to report reasonable force, see: [Using 'reasonable force'](#).

Related content

[Contents](#)

Carrying out a person search: quadrant searching

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about conducting a search and what a 'quadrant' search is.

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Related content

[Contents](#)

Carrying out a person search: conducting the search

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how to search a person in practical terms.

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Related content

[Contents](#)

Carrying out a person search: maintaining control

This page provides criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office with practical advice for keeping control when you are searching somebody.

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Related content

[Contents](#)

Recording a person search

This page tells criminal investigators in Immigration Enforcement (IE) and suitably trained and accredited criminal investigators within the Home Office about how to record details of people you have searched.

You must record details of all person searches in your personal notebook. It is best practice to do this at the time you carry out the search. If it is not possible, for example, because the person is being uncooperative and you need to control them, you must record the details as soon as you can after the search.

You must record details of:

- the name, date of birth and nationality of the person you are searching
- the power of search you are using
- the time, date and place where you did the search
- anything you found, for example:
 - weapons, particularly if the person had tried to hide them
 - large amounts of cash, which you may need to seize (see cash seizure)
 - medication, which may relate to your duty of care to the person
 - evidence you have seized

You must tell the premises search book (PSB) officer if you have searched someone. They record in the PSB:

- that you have searched the person
- details of any evidence you seized
- any significant events that happened during the search

For more information, see notebook guidance.

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Related content

[Contents](#)