



Home Office

Sanctions: vehicle and licensing

Version 4.0

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About this guidance

This guidance tells Interventions and Sanctions Directorate (ISD) case liaison officers about the driving licence revocation process, including how to deal with a request made by an individual in the UK unlawfully with a UK driving licence, or the migrant's representative, not to revoke the driving licence.

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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 ISD revocation referrals inbox.

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 cleared:

- version **4.0**
- published for Home Office staff on **23 July 2019**

Changes from last version of this guidance

[Revoke driving licence: background](#) amended to confirm that section 43 of the Immigration Act 2016 is not yet in force.

[Driving licence revocation: discretion](#) amended.

[Handling and disposal of driving licences](#) amended to confirm that officers may only retain a driving licence with the holder's permission.

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Minor housekeeping changes

Related content

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Revoking a driving licence: background

This page tells Interventions and Sanctions Directorate (ISD) case liaison officers the background to revoking a UK issued driving licence of someone who has no legal basis of stay in the UK.

[Section 47 of the Immigration Act 2014](#) amended the Road Traffic Act 1988 and the Road Traffic (Northern Ireland) Order 1981 to provide a power for the Secretary of State (in practice the Driver Vehicle Authority (DVA) in Northern Ireland and the Driver and Vehicle Licensing Authority (DVLA) in the rest of the UK) to revoke UK issued driving licences where the holder is subject to immigration control and has no leave to be in the UK. Both full licences and provisional licences may be revoked.

In practice, revocation will follow a referral made by the Home Office's Interventions and Sanctions Directorate (ISD) to DVLA or DVA. ISD make the referral when their records show that the individual in question is illegally present in the UK.

Before making the referral, ISD will write to the individual to tell them:

- they are at risk of having their UK driving licence revoked
- who to contact in ISD if they believe their licence should not be revoked

The letter templates are the Home Office warning letter for DVLA issued licences and the Home Office warning letter for DVA issued licences.

[Section 43 of the Immigration Act 2016](#) amends the [Immigration Act 1971](#) to complement the power in section 47 of the Immigration Act 2014, by creating a power to search for and seize any driving licence (both revoked and unrevoked) where the holder requires leave to enter or remain in the UK but does not have it. **However, the powers introduced by section 43 are not yet in force.**

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Driving licence revocation requests

This page tells Interventions and Sanctions Directorate (ISD) case liaison officers how to refer a driving licence for revocation consideration, and how to deal with appeals against revocation and reinstatement of a driving licence.

Driving licence revocation is administered for the Home Office by ISD, Data and Sanctions Team (DAST), email [ISD Revocation Referrals](mailto:ISD_Revocation_Referrals).

Driving licence revocation: administration process

Bulk data matching

- 1) ISD sends a list of identified offenders to the Driver Vehicle Authority (DVA) in Northern Ireland and the Driver and Vehicle Licensing Authority (DVLA) in the rest of the UK.
- 2) DVLA and DVA match against these records:
 - DVLA produce an 'exact match' list (match against forename, surname, date of birth (DOB) and postcode) and 'fuzzy match' list (match against initial, surname, DOB and postcode)
 - DVA are restricted to an 'exact match' list only by the Police Service Northern Ireland
- 3) DAST manually check these matches against Home Office records to ensure the migrant does not hold valid leave at that time.
- 4) Once the manual Home Office check is completed, ISD issue a warning letter to the migrant to inform them that they are being put forward to have their licence revoked. The migrant is given 10 working days to raise grounds why this should not happen.
- 5) After the 10 working days has expired, ISD send the list of migrants with no leave and where discretion (see [Driving licence revocation: discretion](#)) is not to be exercised to DVLA and DVA to consider for revocation.

Individual referral

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Driving licence revocation: revocation

DVLA or DVA inform the individual by letter that their licence is no longer valid and they will not be legally entitled to drive. They are advised that it is a legal requirement to return their driving licence to the DVLA or DVA. They are finally informed that they have the right of appeal under Section 100 of the Road Traffic Act 1988, through a Magistrates' or Sheriff Court in England, Wales and Scotland. For Northern Ireland they have the right of appeal under the Road Traffic (Northern Ireland) Order 1981.

Driving licence revocation: appeal

DVLA or DVA advise DAST that a migrant has lodged an appeal. DAST make final checks to ensure the correct decision has been made to revoke the driving licence and provide information in relation to the migrant's status to DVLA or DVA so that they can defend the appeal if necessary. DVLA or DVA's solicitors will attend court to defend the appeal. It is however the responsibility of DAST to produce a witness statement on the 'MG11 witness statement' template (see Forms for first referral to CPS for charging) for DVLA or DVA to present at court.

The statement is signed by the officer who drafted the statement and is subsequently authorised by the assistant director (AD). DAST then email the witness statement, with a copy of the warning letter, to the DVLA or DVA.

Driving licence revocation: reinstatement

If it comes to light following representations made by the licence holder, or their representative, that the driving licence should not have been revoked, ISD write directly to the migrant, or the migrant's representative, to tell them the licence will be reinstated. ISD make a request to the DVLA or DVA to reinstate the licence.

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Driving licence revocation: discretion

This page tells Interventions and Sanctions Directorate (ISD) case liaison officers how to consider a request for discretion to be exercised against the revocation of a driving licence.

Through the Immigration Act 2014, Parliament has expressed its intention that those without permission to be in the UK should not be entitled to drive in the UK. Accordingly, when considering representations as to why a licence should not be revoked, the bar has been set very high and the discretion must only be exercised when exceptional circumstances are raised, this may include consideration on the basis of health or for family reasons.

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Driving licence revocation: exceptional circumstances

In each case, the case liaison officer must consider whether there may be exceptional circumstances which warrant allowing the migrant to retain their licence. This is because revocation would result in unjustifiably harsh consequences for the applicant, or their family, which is disproportionate to the legitimate aim of maintaining effective immigration control.

The consideration of exceptional circumstances must include, when relevant, consideration of any factors relevant to the best interests of a child in the UK. However, such consideration must be specific to that child, for example they have a severe disability and the vehicle is the only effective way of getting them to regular hospital appointments. It is not sufficient to state that being able to drive prevents the inconvenience of not having transport available or assists in managing young children.

‘Exceptional’ does not mean ‘unusual’ or ‘unique’. Whilst all cases are to some extent unique, those unique factors do not generally render them exceptional.

‘Exceptional’ means circumstances in which refusal would result in unjustifiably harsh consequences for the individual or their family such that revoking the licence would not be proportionate. The fact that licence revocation would cause inconvenience or lead to a loss of income, would not in itself make it exceptional.

When considering whether there are exceptional circumstances, the decision maker must consider circumstances relating to all family members of the licence holder where these are raised, including wider family members beyond their partner and child. In determining whether there are exceptional circumstances, the decision maker must consider all relevant factors raised by the applicant and weigh them against the public interest (in the legitimate aims of immigration control or public safety). Examples of relevant factors include:

- the best interests of any child in the UK affected by the decision (noting the section 55 duty, see below)
- the likely impact on the applicant, their partner and/or child if the licence is revoked
- cumulative factors weighing in favour of the applicant, balance these against cumulative factors weighing in the public interest in deciding whether revocation would be unjustifiably harsh for the applicant or their family

Under [section 55 of the Borders, Citizenship and Immigration Act 2009](#), the secretary of state must discharge their immigration functions having regard to the need to safeguard and promote the welfare of children. Case law states that the best interests of a relevant child must be a primary consideration. This does not mean that the welfare of any children concerned will be the only consideration and there may be other relevant considerations to be taken into account. Moreover, these other considerations, including the need to maintain effective immigration control, may outweigh the best interests of a relevant child depending on the circumstances of the case, so children's welfare is just one factor to consider.

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Driving licence revocation: representations

This page tells Interventions and Sanctions Directorate (ISD) case liaison officers how to consider and decide representations against the revocation of a driving licence.

Driving licence holder representations: immigration status

Representations may be made simply on the basis that the migrant has leave, has applied for leave or should have been granted leave. Whether the migrant has extant leave is a matter of fact. An in time valid application for leave to remain (or an in time appeal or administrative review) will act to provide 3C leave (under [section 3C of the Immigration Act 1971](#)).

A licence should not have been selected for revocation if the licence holder has extant leave, including 3C leave, since revocation in these circumstances would not be in accordance with the revocation power in the Road Traffic Act 1988. Also, under the current process, licences are only put forward to be considered for revocation if the holder is appeal rights exhausted.

If the licence holder was not appeal rights exhausted at the time the warning letter was sent, then this is a reason to discontinue the revocation process.

Any application, including for judicial review, made after the warning letter has been sent is not a reason to discontinue the revocation process, in order to prevent abuse of the process.

Where the licence holder makes representations against revocation on the basis that immigration leave should have been granted or should now be granted, no further consideration is required on this basis. There are clear guidelines followed by immigration caseworkers in making immigration decisions and these decisions can be challenged by way of administrative review, appeal or judicial review.

It is also worth noting that in appealing a decision to revoke a licence, the magistrates' court or sheriff (in Scotland) is not entitled to consider whether leave has been, or should have been, granted.

Driving licence holder representations: reply and record decision

When you make a decision on a migrant's representations for their licence not to be revoked you must:

- tell the migrant your decision, with the reasons, by letter or email:
 - you must make clear that you made the decision on the basis of the information provided to ISD

- note your decision on CID

For standard reply wording see [Driving licence revocation: reply wording](#).

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Handling and disposal of driving licences

This page tells Interventions and Sanctions Directorate (ISD) case liaison officers where to send revoked driving licences and how to share information about driving licence holders.

Recording receipt and disposal of driving licence

When a driving licence has been revoked the migrant should forward their licence to the Driver Vehicle Authority (DVA) in Northern Ireland or the Driver and Vehicle Licensing Authority (DVLA) in the rest of the UK for destruction. DVLA and DVA provide a weekly list of revoked driving licence numbers to the ISD, Data and Sanctions Team (DAST). These records are then transferred to the revocation database.

If an Immigration Compliance and Enforcement (ICE), Reporting and Offender Management (ROM) or Border Force officer retains a UK driving licence that has already been revoked, they can send it by internal mail to ISD.

Where a **revoked** driving licence is seen by an ICE, ROM or Border Force officer in the usual course of duty, they may ask the holder for their consent to retain the document. **The officer cannot retain the document where consent is not gained.**

The officer must ensure, where applicable, that a record of the consent is captured. For arrest officers this would be in their pocket notebook (PNB) or digital pocket notebook (DPNB) contained in the police reporting and notebook organiser (PRONTO) app on their phone, and must be signed by the holder of the revoked driving licence.

Once retained, the officer can send the document to ISD.

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Currently there is no power to retain unrevoked driving licences belonging to an individual without valid leave in the UK. In these cases, IOs can refer the driving licence for revocation consideration, see [Driving licence revocation requests](#).

Request to DVLA for information

All immigration application forms contain a Data Protection Act (DPA) 'fair processing notice' which informs applicants that their data may be shared with other public authorities for immigration purposes or for the legitimate purposes of the other body. The Home Office has the power under common law to share with the DVLA the following details concerning the person:

- driving licence number and issue number (where held)
- name (including forename and surname)
- address (including house number and postcode)
- date of birth

For further details about sharing data with DVLA and the Memorandum of Understanding that exists regarding these procedures see [Data sharing in enforcement cases: standards of operational practice](#).

When a request is made, the Home Office will provide written confirmation to the DVLA that it has identified the person is not legally resident in the UK and that the Home Office has warned the person they will have their driving licence revoked.

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Where a request from the Home Office does not result in a match being made with a driver record, the data contained within the request will not be stored by DVLA and will be securely destroyed.

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Driving licence revocation: reply wording

This page gives Interventions and Sanctions Directorate (ISD) case liaison officers standard wording for replies to correspondence about the revocation of a driving licence.

The sender has emailed the wrong inbox

The Interventions and Sanctions Directorate email address to which you have written is a Home Office service only for those liable to driving licence revocation and we are therefore unable to reply to your enquiry.

For information regarding migration status please check the Home Office website at www.gov.uk.

The sender disputes their status in the UK: checks show they are not lawfully resident in the UK

Thank you for your email regarding your immigration status. I can confirm that, having checked your status on the Home Office database, you do not have any lawful basis for being in the UK.

The sender disputes their status in the UK: checks show they are lawfully resident in the UK

Thank you for your email regarding your immigration status. I can confirm that, having checked your status on the Home Office database, you do have the necessary leave to be in the UK. Your driving licence will not, therefore, be revoked.

The sender complains their full driving licence has been revoked and wants to know why

Driving licence revocation for those not lawfully resident in the UK was introduced by the Immigration Act 2014, which amended the Road Traffic Act 1988 and the Road Traffic (Northern Ireland) Order 1981. This legislation states that driving licence holders who have no legal basis for being in the UK may have their licence revoked.

As you have no legal basis for being in the UK, your driving licence may be revoked.

The sender complains their provisional driving licence has been revoked and wants to know why

Driving licence revocation for those not lawfully resident in the UK was introduced by the Immigration Act 2014, which amended the Road Traffic Act 1988 and the Road

Traffic (Northern Ireland) Order 1981. This legislation states that driving licence holders (including those who hold provisional licences) who have no legal basis for being in the UK may have their licence revoked.

The sender has sent in further information which confirms they are lawfully in the UK

Thank you for contacting Interventions and Sanctions Directorate with further details of your immigration status in the UK. The information you provided has enabled us to confirm that you are lawfully resident in the UK and your driving licence will not be revoked under Section 99 (3ZA) of the Road Traffic Act 1988.

The sender claims compassionate reasons why their driving licence should not be revoked

It is not considered that you have raised any exceptional compelling compassionate circumstances and that, if necessary, other modes of transport are available.

If children are involved

Due regard has been given to section 55 of the Borders, Citizenship and Immigration Act 2009 and it is not considered that your children will suffer undue hardship should your driving licence be revoked. The decision to revoke your driving licence is therefore maintained.

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