

Immigration Enforcement criminal investigation adoption criteria

Version 2.0

This guidance explains the type of criminal investigation which will be adopted for investigation by Immigration Enforcement Criminal and Financial Investigation teams.

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About this guidance

This guidance tells you about the criteria for deciding which cases Immigration Enforcement Criminal and Financial Investigation teams will adopt for criminal investigation.

It covers:

- Immigration Enforcement's strategic objectives
- adoption criteria for high harm and volume immigration crime
- adoption criteria for serious and organised immigration crime
- Immigration Enforcement case adoption process
- contact points for referral of cases to Immigration Enforcement
- offences commonly encountered by immigration officers

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 the Criminal investigation 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.

Clearance and publication

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

- version **2.0**
- published for Home Office staff on **9 March 2017**

Changes from last version of this guidance

Changes to contacts section

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Immigration Enforcement's strategic objectives

This page tells you about Immigration Enforcement's strategic objectives.

Immigration Enforcement's (IE) mission is to reduce the size of the illegal population and the harm done to the UK by foreign nationals. IE will tackle harm by:

- increasing the number of foreign national offenders returned
- tackling the criminality behind immigration abuse

These objectives are underpinned by a Concept of Operations which envisages:

- using business rules to triage interventions against the illegal population
- communications, engagement and partnership working targeted where it will have the most impact
- threat and intelligence led activity targeting enablers, prioritised through a control strategy and operational campaign plans

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Adoption criteria: high harm and volume immigration crime: level 1 investigations

This page tells you about Immigration Enforcement (IE) adoption criteria for high harm and volume immigration crime.

Administrative removal will be the normal course of action where an immigration offender is encountered. However, Immigration Enforcement will consider adopting individual level 1 cases for investigation depending on the level of harm they present to national security, to our immigration and border controls and / or the community.

In reaching decisions to adopt an investigation or not, IE will consider other available sanctions such as refusal of leave or curtailment of leave, service of civil penalties, removal and / or withdrawal of services under the hostile environment.

Administrative removal will normally be appropriate where:

- an immigration offender can be removed within a reasonable time period
- the immigration offender has previously complied with directions such as temporary release and the re-documentation process
- there are no outstanding applications for leave to remain or enter which require consideration
- outstanding applications can be resolved within a reasonable time period
- the immigration offender is not suspected of having committed an offence which would attract a prison sentence of 12 months or more

In addition, if the immigration offender is suspected of committing an offence, the views of the victim should be considered when deciding whether to proceed with administrative removal, if practicable.

IE are responsible for investigating immigration crime and will consider each case on its merits. However, resources are finite and level 1 cases falling into the following categories are more likely to be adopted for investigation:

- foreign national offenders who refuse to co-operate with the re-documentation process
- high harm foreign nationals who present a risk to the public by working illegally with vulnerable people in care homes or hospitals or with children or sensitive sites
- foreign nationals who return in breach of a deportation order
- immigration offenders with a history of repeat offending, for example those encountered working in breach on more than one occasion, repeatedly failing to comply with restrictions placed on them in respect of their residence or a requirement to report to an immigration officer
- there is potential for a substantial confiscation order and the likelihood of timely enforcement of the order

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- rogue landlords or employers who have previously been subject to civil penalties / sanctions and who continue to break immigration laws
- investigations which if not undertaken could have the potential to reduce public confidence in the Home Office's ability to control migration

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Adoption criteria: serious and organised immigration crime: level 2/3 investigations

This page tells you about Immigration Enforcement (IE) adoption criteria for serious and organised immigration crime.

Immigration crime covers a broad spectrum of criminal activity ranging from individuals refusing to comply with re-documentation and illegal working to serious and organised criminality such as trafficking and people smuggling. IE's main focus is on tackling serious and organised immigration crime, Level 2/3. Investigations will normally be adopted which fall under the following key threats:

- facilitation by air
- clandestine people smuggling
- production and / or supply of false documents
- abuse of legitimate means to enter or remain in the United Kingdom including illegal working and marriage abuse
- trafficking and modern slavery

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Immigration Enforcement case adoption process

This page tells you about the Immigration Enforcement (IE) criminal investigation case adoption process.

Immigration Enforcement's strategic priorities are set by the Immigration Enforcement Strategic Priorities Board (IE STB) and reviewed at IE's National Tasking Board (NTB) which will task campaigns aimed at reducing the illegal population in the UK and promoting compliance amongst migrants in the UK without leave.

Tasking of investigative resources is achieved by making a referral via IE's Intelligence Units ([see table below](#)) who will carry out research on the referral and if appropriate present the application for adoption for investigation at a monthly CFI regional Tasking and Co-ordination Group meeting. Home Office staff at grade 7 level or above will be able to attend these meetings to present their applications in person to the regional CFI manager.

It is important that initial contact should be made via the Operational Intelligence Unit (OIU) contact listed and a formal referral is then made via the Intelligence Management System (IMS).

External partners, including but not limited to the NCA, HMRC, DWP and Police, should make referrals in the same way. These will be considered by the Director of Criminal and Financial Investigations ([see table below](#)) at the monthly Strategic Tasking and Co-ordination Board (CFI STB) which will consider adopting the referral in accordance with the priorities set by IE STB and NTB. External partners will be able to attend these meetings to present their applications in person to the Director of Crime.

Immigration Enforcement CFI undertakes a wide range of investigative activity including the following:

- criminal investigations into all aspects of immigration crime including serious and organised immigration crime
- financial investigations and
- cash forfeiture and condemnation (by the legal team within FI)

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Some offences commonly encountered by immigration officers

This page tells you about the criminal offences most commonly encountered by Immigration Enforcement immigration officers.

Criminal Abuse	Offence	CFI Adoption Considerations
Deception	Deception by a foreign national to gain entry/ leave to remain or avoid, postpone or revoke enforcement action - 24A (1) (a +b) IA 1971	Penalty - on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum, or to both; or (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both. Subject to caveats set out, service of RED1 or removal is the preferred option.
Driving whilst unlawfully in UK	S.44 Immigration Act 2016	Penalty - summary only offence – 51 weeks and/or a fine.
Facilitation	Assisting unlawful immigration in to EU member state – S.25 IA 1971	Penalty - On indictment max 14 years and/or fine. On summary conviction max 6 months and/or fine. This offence would normally fall for adoption by CFI as a priority crime.
	Helping an asylum seeker to enter the UK – S.25A	Penalty - on indictment max 14 years and/or fine. On summary conviction max 6 months and/or fine. Subject to prima facie evidence of 'gain' this offence would normally fall for adoption by CFI as a priority crime.
Identity Document Offences	Possession/ control false identity docs with intention – s.4 ID Docs Act 2010	Penalty - on indictment, max 10 years.
	Apparatus designed to make false docs – s.5 ID Docs Act 2010	Penalty - on indictment, max 10 years.
	Possession of false identity docs without excuse –	Penalty - on indictment, max 2 years and / or fine; or on summary conviction 6 months and / or fine.

Criminal Abuse	Offence	CFI Adoption Considerations
	s.6 ID Docs Act 2010	
Illegal Entry/ Entry in Breach of DO	Entry in breach of a DO or without leave – S.24 IA 1971	Penalty – on summary conviction a fine of the statutory maximum; or with imprisonment for not more than 6 months.
Illegal Working	Illegal Working – S.24B IA 1971 (As introduced by S.34 of the Immigration Act 2016)	Penalty – on summary conviction, max sentence 6 months. Subject to caveats set out, service of RED1 or removal is the preferred option. Section 45 of the Modern Slavery Act 2015 provides a defence against prosecution for illegal working in some circumstances.
	Employing Illegal Workers – S. 21 of Immigration and Nationality Act 2006 (as amended). People employed before 29 February 2008 come under section 8 of the Asylum and Immigration Act 1996.	Penalty - on conviction on indictment max sentence is five years, or a fine or both. On summary conviction - to imprisonment for a term not exceeding 6 months, or to a fine or both.
Leasing Premises Offence	Leasing premises to a person with no leave. S.39 Immigration Act 2016.	Penalty - on indictment max 5 years, on summary conviction 6 months and / or a fine.
Modern Slavery/ Human Trafficking	Arranging or facilitating the travel of another person with a view to their being exploited. – S. 2 Modern Slavery Act 2015.	Penalty - on conviction on indictment, max imprisonment for life; on summary conviction, to imprisonment for a term not exceeding 6 months or a fine or both.

Criminal Abuse	Offence	CFI Adoption Considerations
Obstructing an IO	S.26 (1)(g) IA 1971	Penalty - summary conviction with a fine of not more than level 5 on the standard scale or with imprisonment for not more than 6 months.
Concealing, disguising, converting, transferring or removing criminal property	S327 Proceeds of Crime Act 2002	Penalty – on indictment maximum 14 years, a fine (not exceeding the statutory maximum) or both. On summary conviction maximum 6 months, a fine or both.
Entering into an arrangement which facilitates the acquisition, retention, use or control of criminal property for another person	S328 Proceeds of Crime Act 2002	Penalty – on indictment maximum 14 years, a fine or both. On summary conviction maximum 6 months, a fine (not exceeding the statutory maximum) or both.
Acquiring, using or possessing criminal property	S329 Proceeds of Crime Act 2002	Penalty – on indictment maximum 14 years, a fine or both. On summary conviction maximum 6 months, a fine (not exceeding the statutory maximum) or both.

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