



Home Office

Deportation: investigation guidance

Archived

Deportation: investigation guidance

About this guidance

[The definition of deportation](#)

[The legislation used for deportation](#)

[Referring deportation cases to criminal casework](#)

This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams how to deal with the deportation of suspects and offenders.

It outlines:

- the definition of deportation and how you may be involved in these cases
- your role and the role of the Crown Prosecution Service (CPS)
- what you must do when an offender needs to be deported after completing their prison sentence

This guidance is based on the immigration enforcement teams' guidelines. For general information on the immigration enforcement work, see [Criminal and Financial Investigations](#).

Deportation is sometimes confused with extradition, but the two are different. Deportation is the removal of a person from a country, often for immigration or administrative reasons, while extradition involves returning a person to a country where they are accused of, or have been convicted of, a criminal offence.

For more information on extradition and the impact on immigration enforcement investigations, see [Extradition in criminal investigation cases](#).

[Changes to this guidance](#) – This page tells you what has changed since the previous version of this guidance.

[Contacts](#) – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

[Information owner](#) – This page tells you about this version of the guidance and who owns it.

[Safeguard and promote child welfare](#) – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.

Deportation: investigation guidance

Changes to this guidance

[About this guidance](#)
[The definition of deportation](#)
[The legislation used for deportation](#)
[Referring deportation cases to criminal casework](#)

This page lists changes to the 'Deportation: investigation guidance', with the most recent at the top.

Date of the change	Details of the change
15 May 2015	Change request: <ul style="list-style-type: none">• minor housekeeping changes throughout
28 March 2014	Six month review by the guidance, rules and forms team: <ul style="list-style-type: none">• minor housekeeping changes
24 September 2013	Completely revised by the guidance, rules and forms team.

Related links

See also

[Contacts](#)

[Information owner](#)

Deportation: investigation guidance

The definition of deportation

[About this guidance](#)
[Referring deportation cases to criminal casework](#)

This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams the UK definition of deportation and the legislation used for deporting a person.

Deportation is the legal process for expelling a person from a country because either:

- they have no right to remain in the country
- the Home Secretary thinks the person's deportation is 'conducive to the public good'

A person is normally deported back to their country of birth, but they can also be deported to the country where they originally came from (before entering the UK).

The only exception is where it is not safe to return that person to their country of birth.

For more information on the reasons why someone may be deported, see [Immigration Act 1971 part 1 s3\(5\), 3\(6\) and 5](#).

Foreign national offenders (FNO) from European Economic Area (EEA) countries are free from deportation under the UK Borders Act 2007. However, they may still be subject to deportation under the Immigration Act 1971.

You must deport all FNOs if they meet the following criteria:

Nationality of the FNO	Criteria for deportation
EU national	The FNO has been: <ul style="list-style-type: none"> • sentenced to a period of imprisonment of 24 months or more for: <ul style="list-style-type: none"> ○ a single conviction ○ the total or consecutive sentences which add up to exactly 24 months or

In this section
[The legislation used for deportation](#)

Related links
[Automatic Deportation](#)

		<p>more</p> <ul style="list-style-type: none">• subject to a court order for automatic deportation under the powers of the Immigration Act 1971	
	Non EU national	<p>The FNO has been:</p> <ul style="list-style-type: none">• sentenced to a period of imprisonment of 12 months or more for:<ul style="list-style-type: none">○ a single conviction○ the total or consecutive sentences which add up to exactly 12 months or more• subject to a court order for automatic deportation under the powers of the Immigration Act 1971 or the UK Borders Act 2007•	
<p>You must not confuse deportation with extradition. For more information on extradition and the impact on immigration enforcement investigations, see Extradition in criminal investigation cases.</p>			

Archived

Deportation: investigation guidance

The legislation used for deportation

[About this guidance](#)
[The definition of deportation](#)
[Referring deportation cases to criminal casework](#)

This page tells you the legislation used when deporting a person.

A court may recommend deportation, under [section 3\(6\) of the Immigration Act 1971](#), if they convict a person:

- over the age of 17
- who is not a British citizen
- of an offence punishable by imprisonment if they were an adult

Before the court recommends deportation it must consider:

- whether the person is 'conducive to the public good'
- the nature of the offence committed and how serious it is
- the person's criminal record and how long it is

As a criminal investigator in an Immigration Enforcement Criminal and Financial Investigation (CFI) team, there are two legal provisions which allow you to deport someone you have investigated or prosecuted.

Automatic deportation under section 32 of the UK Borders Act 2007

In some circumstances foreign criminals are automatically considered for deportation. This applies to both European Economic Area (EEA) nationals and non EEA nationals. It does not apply to British citizens.

To be considered for automatic deportation these criteria must be met:

- the person must not be a British citizen
- they must have been convicted in the UK of an offence
- one of these conditions must be met:
 - they have been sentenced to a period of imprisonment of at least 12 months for a

External links

[Extradition Act 2003](#)

[UK Borders Act 2007](#)
[Section 32 UK Borders Act 2007](#)
[Section 33 UK Borders Act 2007](#)

[Nationality, Immigration and Asylum Act 2002](#)

- non EEA national, or 24 months for an EEA national
- they have been convicted of an offence specified by order of the Secretary of State under section [72\(4\)\(a\) of the Nationality, Immigration and Asylum Act 2002](#)

In order for deportation to take place:

- it must be conducive to the public good
- the Secretary of State must make a deportation order

There are some exceptions to this which are explained in [section 33 of the UK Borders Act 2007](#).

Routine deportation under the Immigration Act 1971, section 3(6)

This allows for any person (who is not a British citizen) to be automatically deported, if they have been convicted of a specified criminal offence, providing that conviction gave the person a prison sentence of at least 24 months (for EEA nationals convicted) or at least 12 months (for non EEA nationals), however:

- this does not apply if a defendant has received several shorter, consecutive prison sentences having been convicted of several offences which, when added together, total 24 months or more (for EEA nationals)
- automatic deportation is formally ordered by the Secretary of State

For more information on the specified criminal offences set out in the Nationality, Immigration and Asylum Act 2002, see [List of specified criminal offences](#).

Deportation: investigation guidance

Referring deportation cases to criminal casework

[About this guidance](#)

[The definition of deportation](#)

[The legislation used for deportation](#)

This page tells you how and when criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams must alert criminal casework of someone who may need to be deported.

The work of criminal casework

Criminal casework is responsible for the deportation of foreign nationals who commit serious criminal offences in the UK, also known as foreign national offenders (FNOs).

FNOs are referred to criminal casework by:

- prison service staff
- police forces
- other law enforcement agencies such as the Home Office Immigration Enforcement teams

Criminal casework teams will automatically begin deportation action following a criminal prosecution of a FNO. However, if you are a criminal investigator in an Immigration Enforcement Criminal and Financial Investigation (CFI) team, investigating offences committed by a 'high harm' FNO (see below), you must contact criminal casework before the court trial to alert them.

A 'high harm' FNO is a person who:

- is a foreign national offender who:
 - has committed a serious criminal offence
 - is likely to cause high levels of harm or commit further offences if allowed to stay in the UK

Related links

[When to refer cases to criminal casework \(CC\)](#)

[Sharing information](#)

Deportation: investigation guidance

Contact

[About this guidance](#)
[The definition of deportation](#)
[The legislation used for deportation](#)
[Referring deportation cases to criminal casework](#)

This page explains who to contact for more help with how criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams deal with deporting someone connected to an investigation.

If you have read this guidance and still need more help with your question, you must first ask the Criminal Prosecution Service (CPS) lawyer, the caseworker appointed to assist with your case, or your line manager.

If you need further help you may contact:

For case advice or help with this guidance, you must contact crime directorate specialist teams.

Official sensitive – do not disclose – start of section

Paul Aldred (covert operations manager)

- telephone: 020 3513 8415 or 07712 196 622
- [email Paul Aldred](#)

Official sensitive – do not disclose – end of section

For more general help about deportation issues and policy, you must contact [criminal casework operational process and policy](#).

Changes to this guidance can only be made by the guidance, rules and forms team (GRaFT). If you think the policy content needs amending you must contact the [criminal investigation operational guidance team](#) who will ask GRaFT to update the guidance, if appropriate.

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Related links

[Changes to this guidance](#)

[Information owner](#)

[team.](#)

Archived

Deportation: investigation guidance

Information owner

[About this guidance](#)
[The definition of deportation](#)
[The legislation used for deportation](#)
[Referring deportation cases to criminal casework](#)

This page tells you about this version of the 'Deportation: investigation guidance', and who owns it.

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In this section
[Changes to this guidance](#)

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