



Home Office

Property disposal

This guidance is based on the [UK Borders Act 2007](#) and the [Immigration \(Disposal of Property\) Regulations 2008](#)

Archived

This guidance is based on the UK Borders Act 2007 and Immigration (Disposal of Property) Regulations 2008

Property disposal

About this guidance

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This guidance tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams, about how to dispose of seized property once their investigation or court case has finished.

This guidance is based on section 26 of the UK Borders Act 2007 and the Immigration (disposal of property) Regulations 2008. For more information, see related links.

It tells you about:

- the legislation which covers property disposal and what it means in practice
- property disposal orders
- what property you can dispose of, the time limits for disposing of it and the authority you need
- ways to dispose of property

There is separate guidance you must follow for dealing with seized cash. For more information, see related link: Cash seizure.

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 Her Majesty's Inspector 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.

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Related links

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Property disposal: changes to this guidance

<p>About this guidance Legislation covering property disposal Property disposal orders Property you can dispose of Methods of property disposal</p>	<p>This page lists changes to the 'Property disposal' guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="490 365 831 405">Date of the change</th><th data-bbox="831 365 1532 405">Details of the change</th></tr></thead><tbody><tr><td data-bbox="490 405 831 592">4 November 2015</td><td data-bbox="831 405 1532 592"><ul style="list-style-type: none">• housekeeping• added further information to Methods of property disposal</td></tr><tr><td data-bbox="490 592 831 632">9 December 2013</td><td data-bbox="831 592 1532 632">Revised by the modernised guidance team.</td></tr></tbody></table>	Date of the change	Details of the change	4 November 2015	<ul style="list-style-type: none">• housekeeping• added further information to Methods of property disposal	9 December 2013	Revised by the modernised guidance team.	<p>In this section Contact Information owner</p>
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Legislation covering property disposal

<p>About this guidance Property disposal orders Property you can dispose of Methods of property disposal</p>	<p>This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about the legislation covering property disposal.</p> <p>Section 26 of the UK Borders Act 2007 tells you about:</p> <ul style="list-style-type: none">• what property is covered under this legislation• the power the courts have to make a disposal order for property• the regulations for the disposal of property it allows the Secretary of State to make in cases where you do not require a disposal order, which are:<ul style="list-style-type: none">○ in line with the provisions described in section 26○ the same or similar to the powers the police hold to dispose of property <p>To read this legislation, see related link.</p> <p>The regulations the Secretary of State made are in the Immigration (Disposal of Property) Regulations 2008. You can use these regulations to dispose of property in cases where you do not need to apply for a disposal order. The regulations tell you about:</p> <ul style="list-style-type: none">• what property the regulations cover• restrictions on disposing of property• retention of property• various methods of disposal <p>To read these regulations, see related link.</p> <p>You can use this legislation to dispose of property that has been forfeited into the possession of the Secretary of State. For more information, see related link: Property forfeiture.</p>	<p>Related links Property forfeiture</p> <p>External links Section 26 UK Borders Act 2007 Immigration (Disposal of Property) Regulations 2008</p>
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Property disposal orders

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This section tells criminal investigators in immigration Enforcement Criminal and Financial Investigations (CFI) teams about what property disposal orders are and when to apply for them.

A property disposal order is a civil proceeding. It is not a criminal matter.

The only time you must apply for a disposal order is if you want to return property to a third party and not the person it was seized from.

In all other cases you can dispose of property under the Immigration (Disposal of Property) Regulations 2008 and do not need to apply for a disposal order.

Section 26(2) of the UK Borders Act 2007 says the Secretary of State, or a person claiming to own the property, can make an application to a magistrate's court, or in Scotland, a sheriff's court. The magistrate or sheriff can:

- order the property to be delivered to the person who appears to own it (in all cases it is for that person to show they are the owner, regardless of who is making the application)
- make any other order about the property if you cannot establish the owner, for example to sell or destroy it

Section 26(3) of the UK Borders Act 2007 says if a disposal order is granted under section 26(2) any person can still take legal action to have the property returned to them. They must start legal proceedings within 6 months from the date of the disposal order.

This applies regardless of who the disposal order was granted to. It means the property must be kept for 6 months from the date of the disposal order to allow this legal action to be taken.

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For you, in practice, this means you cannot dispose of property for 6 months from the date of a disposal order being granted to you.

For more information and the exact wording of the acts, see related links:

- section 26 UK Borders Act 2007
- immigration (Disposal of Property) Regulations 2008

Disposal orders for forfeited property

A magistrate or sheriff can only grant a disposal order for property forfeited under section 25 of the UK Borders Act 2007 or 25C of the Immigration Act 1971:

- if the application is made within 6 months of the date of the forfeiture order
- when the applicant is not the Secretary of State, they must also satisfy the court they did not:
 - consent to the offender possessing the property
 - know or have reason to suspect the property was likely or intended to be used in connection with an offence

For more information, see related link: [Property forfeiture](#).

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How to apply for a property disposal order

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigation (CFI) teams, how to apply for a property disposal order.

Making the application

To apply to a magistrates' court, or sheriff in Scotland, for a disposal order you must complete complaint form 98, see related link. You must include in the form:

- the suspected offender's name
- their last known address, which may be:
 - their residential address
 - the address of the prison where they are held
 - their solicitor's address if they are not in the UK
- what the complaint is (the property you want to dispose of)
- the legislation you are using to make the application
- your details and the address of your CFI office

You must:

- contact the court clerk to arrange a time and date to make the complaint in court
- attend court on the scheduled date

The court process

Once you have made your application:

- the magistrate will issue a summons to the defendant for approximately four to six weeks ahead
- if the application is not contested (opposed) the hearing will proceed
- if the application is contested the hearing is likely to be adjourned and directions given for evidence to be served
- if the defendant (or you for any reason) does not attend the hearing, the court will

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[Magistrates' Courts, England and Wales](#)

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decide if the case is to be heard or adjourned

- the court will make a decision and issue an order if the application is granted

If you wish to challenge an application made by a third party you must:

- attend the hearing if it is your case
- arrange for a CFI officer to attend in your place

Court fees

There are various fees you will be charged for making an application:

- making an appointment to attend the court - £75
- issue of the summons - £75
- issue of the order - £50

These fees may change so it is a good idea to confirm the cost with the court first. Please see related link for further details of fees.

For more information on how the fees may be paid, speak to your line manager.

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Property you can dispose of

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This section tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams, what property you are allowed to dispose of.

Section 26 (1) of the UK Borders Act 2007 tells you property can be disposed of if it comes into the possession of an Immigration Officer, or the Secretary of State when carrying out, or in relation to, a function under the immigration acts.

You can only dispose of property under the Immigration (Disposal of Property) Regulations 2008:

- if you cannot establish the owner - this includes:
 - the owner is known but you cannot locate them
 - they have signed a property disclaimer form giving up the property if they do not want to keep it
- in cases of forfeited property, when the magistrates court or sheriff (in Scotland) cannot grant a disposal order because they are not satisfied the case has met the requirements relating to forfeiture

For more information, the exact wording in the acts and a copy of a property disclaimer form, see related links:

- section 26 UK Borders Act 2007
- immigration (Disposal of Property) Regulations 2008
- property forfeiture
- property disclaimer form

For more information on property disposal orders, see link on left.

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Time limits for disposing of property

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This page tells criminal investigators in immigration Enforcement Criminal and Financial Investigations (CFI) teams how long you must keep property before disposing of it.

Regulation 4 of the Immigration (Disposal of Property) regulations 2008 tells you how long you must keep property before disposing of it. For more information, see related link: Immigration (Disposal of Property) Regulations 2008.

Forfeited property

This relates to property forfeited under:

- section 25C of the Immigration Act 1972 (vehicles, ships or aircraft)
- section 25 of the UK Borders Act 2007

You must keep the property for 6 months from the date the forfeiture order was granted. This is to allow time for those involved to submit an appeal.

If a third party has applied for a disposal order within the 6 months of the forfeiture order, you must wait for this to be resolved before you can dispose of the property.

For more information, see related links:

- section 25 UK Borders Act 2007
- section 25C Immigration Act 1971

Other property

If you have seized property which is not the subject of a forfeiture order, you must keep it for one year from the seizure date before you dispose of it.

Money

Seized money is also property but you must follow the separate guidance. Cash over £1000

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is normally seized under the Proceeds of Crime Act (POCA) 2002. For more information on how to deal with cash, see related link: [Cash seizure](#).

If you seize cash under £1000 as evidence you must pay it into the Treasury consolidated fund. You may not be able to arrange this immediately so you can store it in the safe in your property store to begin with.

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Perishable items

For information on how to deal with perishable items, see related link: [Selling property](#).

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Authority required before you can dispose of property

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams who must authorise the disposal of property.

The only people who can give authority to dispose of property are:

- the property manager
- an officer of at least chief immigration or Her Majesty's Inspector or Senior Investigation Officer grade or above

You must:

- record the authority in the:
 - record of investigation
 - property control register
 - property tracker
- dispose of the property within 28 days of authorisation, or if this is not possible, as soon as you can after

For more information and to read the legislation, see related links:

- [section 26 UK Borders Act 2007](#)
- [immigration \(disposal of property\) Regulations 2008](#)

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This section tells criminal investigators in immigration Enforcement Criminal and Financial Investigations (CFI) teams about the various ways they can dispose of property.

The Immigration (Disposal of Property) Regulations 2008 tell you how you can dispose of property. For more information, see related link: Immigration (Disposal of Property) Regulations 2008.

Regulation 5 tells you about the sale of property.

Regulation 6 tells you about keeping the property for use by the Home Office after the 6 or 12 month period.

Regulation 7 tells you about other ways of disposing of property after the 6 or 12 month period. The property is disposed of either by destroying or disposing of it in another way. Although this is nearly always to have the property destroyed.

For more information if the property is seized cash, see related link: Cash seizure.

For more information on each disposal method and what you are allowed to do, see related links:

- Selling of property
- Retaining (using) property
- Destruction of property

At the end of an investigation the Officer in Charge of the case must review all the related property and exhibits from the case to decide what material needs to be retained for a potential appeal and what material can be restored to the owners or destroyed.

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	<p>After a conviction the case papers and key exhibits must:</p> <ul style="list-style-type: none">• be securely boxed and labelled• be retained for 7 years• have their location recorded:<ul style="list-style-type: none">○ on the electronic property tracker○ property control register○ Criminal Investigation Data Record Exchange (CIDRE)	
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Selling property

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about selling property.

Regulation 5 of the Immigration (Disposal of Property) Regulations 2008 allows you to sell property once the time limits for keeping it have expired. These limits are:

- 6 months for property subject of a forfeiture order under section 25C of the Immigration Act 1971 or section 25 of the UK Borders Act 2007
- 12 months for property not subject of a forfeiture order under section 25C of the Immigration Act 1971 or section 25 of the UK Borders Act 2007

For more information, see related link: [Regulation 5 Sale of property](#).

There are some items you can sell at any time whether the time limits for disposing of property have expired or not. These are:

- perishable items, for example:
 - food stuff which could decay
 - items labelled with a sell or use by date
- where storing the items long term could reduce their value, for example, an item such as a car where value tends to decrease over time
- where storing the items would be unreasonably expensive or inconvenient, for example:
 - requiring specialist storage
 - storing vehicles

If you decide to sell a perishable item, you must:

- discuss it with your supervising officer

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- record in the record of investigation:
 - why you think it is perishable
 - the name of the senior officer authorising the sale

Items are sold at public auction. You must contact Her Majesty's Revenue & Customs through the Queen's warehouse to arrange this. You must keep a record of all contact and copies of all receipts on the case file. For contact details, see related link: Cash seizure Queen's warehouse addresses and contact list.

If items are sold the Secretary of State can use the proceeds of the sale to compensate for any reasonable expenses incurred under the regulations. You must pay any money from the sale of items into the Treasury consolidated fund as soon as possible.

For more information on how to pay money into the fund, see related link: Time limits for disposing of property.

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Retaining (using) property

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This page tells criminal investigators in Immigration Enforcement Criminal and Financial Investigations (CFI) teams about keeping seized property for the Home Office to use.

Regulation 6 of the Immigration (Disposal of Property) Regulations 2008 says once the relevant time periods have expired the Secretary of State can keep property if it can be used in the course of, or in connection with, a function under the immigration acts.

For more information, see related link: [Regulation 6 Retention of property](#).

This is not likely to happen very often. The only items you might keep under this regulation are:

- documents claiming to have been issued by the Home Office, for example:
 - forged passports
 - Home Office letters
 - residence permits
- items that can be used for intelligence or training purposes, for example:
 - forgery making equipment
 - false Home Office stamps

If you are the supervising officer for the case and you think items like this could be used you must tell the Property Officer.

If you are the Property Officer you must contact the national document fraud unit (NDFU) duty Chief Immigration Officer (CIO) or Senior Investigation Officer (SIO) for advice. They are the only people who can authorise keeping this type of property.

If you are the Property Officer and you have authorisation to keep the property, you must:

- get confirmation in writing

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- authorise the property to be taken to NDFU by:
 - hand
 - special delivery
- include a covering letter stating the property is being kept by the Secretary of State following the conclusion of a prosecution case
- include a receipt which lists the property being sent for retention, and the NDFU duty CIO or SIO will:
 - sign and date the receipt
 - return it to you by recorded delivery for linking to the case file
- record what has been kept in the property control register.

For the property receipt, see related link.

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Destroying property

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This page tells criminal investigators in immigration Enforcement Criminal and Financial Investigations (CFI) teams about destroying seized property.

Regulation 7 of the Immigration (Disposal of Property) Regulations 2008 says once the relevant time periods have expired and if it is not in the public interest to sell or use property, you can:

- destroy it
- dispose of it in some other way directed by the Secretary of State

In practice the only method you will use is destruction.

For more information, see related link: Regulation 7 Disposal of property in the public interest.

Destroying papers and documents

If you are the Property Officer you are responsible for destroying all documents containing personal information. For more information on personal information, see related link: Data Protection Act 1998. You must:

- shred the documents in the presence of the Property Manager
- dispose of the shredded paper by:
 - placing it in a confidential waste sack
 - using any other method that stops a third party gaining access to it, for example, if you have large quantities of paper to destroy you can do this through Her Majesty's Revenue & Customs
- immediately update the record of investigation

Destroying computers and mobile phones

You must destroy all computers, mobile phones and SIM cards, not sell them, because:

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- they may contain personal information
- the hard drive may contain:
 - unlicensed or defective software
 - evidence relating to the offence you were investigating
- these items are subject to consumer protection law relating to electrical appliances and this would put the Home Office under a legal obligation if items were sold and later found to be faulty or defective
- it is too expensive for the Home Office to:
 - identify and remove personal information or software
 - totally wipe the hard drive of this information

You must arrange for these items to be destroyed through the Queen's warehouse which is part of Her Majesty's Revenue & Customs. For contact details, see related link: [Cash seizure Queen's warehouse addresses and contact list](#).

If you are not sure if a piece of property can be destroyed you must ask the Property Manager for advice.

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This page explains who to contact if you need more help with a question about property disposal.

If you have read this guidance and still need more help, you must first ask your line manager. If you need further help you may contact:

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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 and Financial Investigations Operational Guidance team, who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these to Guidance – making changes.

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This page tells you about this version of the 'Property disposal' guidance and who owns it.

Version	2.0
Valid from date	4 November 2015
Guidance owner	Removed Official - Sensitive
Cleared by director	Removed Official – Sensitive
Director's role	Director – criminal investigation, immigration enforcement Director – operational policy and rules unit
Clearance date	5 November 2013
This version approved for publication by	Removed Official - Sensitive
Approver's role	Director – criminal investigation, immigration enforcement
Approval date	14 August 2015

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