

Chapter 19a - Non-compliance and absconder process instructions

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1 Introduction and background

1.1 Introduction

This instruction is intended for immigration enforcement and removals casework staff who deal with or encounter persons who are granted temporary admission (TA), temporary release (TR), bail or released on a restriction order (RO) and who subsequently fail to comply with a condition of release. The aim is to identify where removal can be achieved and maintain a reporting regime where removal cannot be achieved at this time.

1.2 Background

Existing policy, (chapters 7 and 51 of the Enforcement Instructions and Guidance), states that all adults and children who do not have leave to enter or remain in the UK must be served with immigration notice IS151A, as a person liable to be detained as an immigration offender. They are then either detained pending removal or granted TA or TR. As part of the terms of their TA or TR, adults and children over the age of 17½ are served with form IS96 and required to report to an immigration reporting centre, or a port where required, in addition to residing at a specified address. The person's vulnerability is taken into account when deciding the frequency of reporting. The person's fingerprints must also be taken.

Further information on granting TA or TR can be found in [Ch7 EIG](#) (EIG Ch 7 service of notice of illegal entry: procedures) and [Ch51 EIG](#) (EIG Ch 51 administrative removal).

Further information on reporting policy can be found at [reporting-standards of operational practice](#).

Further information on taking fingerprints can be found in [Ch24 EIG](#) (EIG Ch 24 fingerprinting-taking fingerprints-powers).

2. Definitions and terms used in this guidance

2.1 Absconder

An absconder is defined as a person who proceeds through the immigration control without obtaining leave to enter, leaves the border control area or Border Force (BF) accommodation without permission, escapes from detention, breaches one or more of the conditions imposed as a condition of TA, TR, bail or release on an RO **and whose current whereabouts are unknown.**

2.2 Reasonable explanation

There are circumstances in which a person may have a legitimate reason for failing to attend a reporting event. The staff member contacting the person should make every reasonable effort to find out the reason for any absence, but the onus remains on the person to provide a reasonable explanation for their failure to attend.

2.2.1

A reasonable explanation for failing to attend a reporting event can include:

- illness
- severe travel disruption
- a pre-arranged appointment with a doctor or specialist.

Evidence supporting the person's absence should be provided where possible, such as a doctor's note. There are very limited circumstances where any other explanation should be accepted.

2.2.2

In the event that a person explains their failure to report to a standard reporting event with a reasonable explanation, the member of staff must:

- request the original documentary evidence and place a copy on the Home Office (HO) file
- consider whether the reason given is likely to prevent or hinder the person's future ability to physically report and reassess the contact management regime accordingly
- minute the HO or Enforcement Case file and CID with the actions taken and explanation given
- where the reasonable explanation provided would appear to be one which is likely to be ongoing you must give consideration to amending the reporting restrictions to a more appropriate regime and, subject to current policy, give consideration to the application of electronic monitoring, in particular voice recognition (VR). See [EM guidance](#) for further information.

2.2.3

Where you are unsure whether an explanation provided constitutes a reasonable explanation or the evidence provided is unsatisfactory, or need further advice on these matters, you must contact your team leader or senior caseworker.

2.3 Non-compliance

For the purpose of this process, the term 'non-compliance' refers to the non-completion of an event or action that a person is required to adhere to by law, such as:

- attending scheduled reporting events
- abiding by any bail condition
- being present during electronic monitoring (EM) events
- residing at a specific address
- prohibition on taking up employment.

2.4 Breach(es)

For the purpose of this process, a breach occurs when a person leaves the border control area without permission, escapes from detention, fails to adhere to one or more of the requirements imposed as a condition of TA, TR, bail or release on an RO without a reasonable excuse.

Requirements include:

- attending scheduled physical reporting events
- residing at a given address
- adhering to the occupation or employment restriction
- being present at the release address for an EM event
- not tampering with EM equipment.

2.5 Failure to report (FTR)

Failure to report is the term given when a person fails to attend a pre-set reporting event which they are required to attend. However, this does not include events they were simply invited to attend (such as a substantive asylum interview).

When the person fails to report without a reasonable excuse, they may be liable for prosecution under section 24 (1) (e) of the Immigration Act 1971 and are advised of this by the issuing of a failure to report warning.

2.6 Compliance visit

A 'fail to report' compliance visit is a visit to the address the person is required to reside at, or is believed to be residing at, in order to confirm they are aware of and complying with the terms of their TA or TR. Further details on compliance and home visits can be found at [Ch 31.7 EIG](#).

2.7 Removable cases criteria

For the purpose of these instructions an immigration offender is to be treated as removable if they fall under one of the following case types:

- After entry case where appeal rights are exhausted and a valid passport is held or where removal can be effected on an EU letter **or** Chicago Convention document.
- After entry case where appeal rights are exhausted and an emergency travel document (ETD) has been issued, promised **or** where one is obtainable within **42** days based on the current [Country Returns Operation and Strategy \(CROS\)](#) country specific timescales.
- Third country case where third country action has been accepted and where removal can be effected to another member state.

Reference will be made to the current [CROS country information](#) where an ETD is required.

3 Proactive case management

3.1 Recording action

All action taken must be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a chief immigration officer (CIO) or higher executive officer (HEO) or above. A record of the consideration and reasons for not completing any action must be recorded on CID.

3.2 Contact management action

In order to prevent non-compliance, and to contribute to creating a hostile environment for those who breach their reporting restrictions, reporting centre staff and decision making units must make sure that:

- persons are on a contact management regime appropriate to their circumstances
- maintain regular contact with the reporting centre (RC) in question
- regular re-assessments are made so that persons are on a contact management regime which best mitigates the risk of absconding and supports the aim to remove
- steps are taken to regain contact with the person as soon as possible in the event that they fail to report. Who does this will be agreed between case owners and reporting centres at a local level

- a review of the contact management arrangements is made following any non-compliance or breach to determine whether alternative arrangements, such as increased reporting or a compliance or arrest visit, should be made
- in the event that the person absconds steps are taken to suspend or terminate support, circulate on the police national computer (PNC) and, if applicable, progress the asylum claim
- prosecution, in line with current policy, should be considered for all absconders and those who persistently fail to comply with the terms of their TA or TR.

3.3 'Level of harm' categorisation

The HO is committed to a harm reduction agenda and all cases are now categorised highest harm (A), high harm (B), medium harm (C) or low harm (D). The harm matrix allows case owners to assess the level of harm on a case by case basis. The harm matrix must be considered when establishing contact management arrangements and non-compliance action.

3.4 Children

Current contact management policy does not allow physical reporting for children, except in certain circumstances when the child reaches 17- 17 ½ years, and during the family returns process when parents fail to bring children to invited contact management sessions. More information on contact management for children can be found in the "[Reporting- Standards of Operational Practice](#)" document and further information on families can be found at [Ch45 EIG](#).

In line with section 55 of the Borders, Citizenship & Immigration Act 2009 the HO has a duty to make arrangements for making sure certain immigration functions are discharged, having regard to the need to safeguard and promote the welfare of children.

As a result, all children subject to restrictions and whose whereabouts are unknown must be dealt with as an 'absent' or 'missing' child in accordance with the missing child and vulnerable adult process instructions at [Ch19c EIG](#).

3.5 Vulnerable adults

The Home Office is committed to fulfilling its duty of care towards vulnerable persons. This duty of care requires agency staff to make timely and appropriate referrals to the police and social services.

As part of this duty of care, RC counter staff play an important role in making initial referrals to local management. Any information about mental illness will be shown on the CID special conditions screen, which will automatically flag up when accessing the individual on the system. If the reportee states they have a mental illness, but there is no note on CID, it is important to ask if they have been diagnosed and have a letter to that effect. You must update CID accordingly and make local management aware at an early stage. More information on the vulnerable adult referral process can be viewed in guidance on [suicide and self harm](#) .

Vulnerable adults whose whereabouts are unknown can be treated as either a missing person or an absconder. The deciding factor as to whether an adult should be dealt with as a missing person will be based on the risk to, and the vulnerability of, the adult and whether the adult has capacity to make decisions regarding where they move.

Further information on dealing with vulnerable adults whose whereabouts are unknown can be found in the missing child and vulnerable adult instructions [Ch19c EIG](#).

3.6 Victims of trafficking

The HO is committed to tackling trafficking and providing help and assistance to victims and making referrals to the competent authority.

Victims of trafficking may also fall under the category of vulnerable adult. The deciding factor as to whether an adult should be dealt with as a missing person will be based on the risk to, and the vulnerability of, the adult and whether the adult has capacity to make decisions regarding where they move

More information on victims of trafficking can be found in [EIG Chapter 9](#) and in the [Victims of human trafficking - guidance for frontline staff](#).

4 Failure to report to a physical reporting event

When a person fails to report to a physical reporting event imposed as a condition of TA, TR, or RO, a record of the action carried out, or reasons why the actions cannot be completed, must be recorded on CID.

4.1 Non-compliance action telephone contact

The first stage is to make telephone contact with the person or if this is unsuccessful, their appropriate adult, legal representative, surety, sponsor or family members in the UK, to attempt to establish the reasons for their failure to report and their current whereabouts.

If contact with the person is made, and a reasonable explanation is given, issue a verbal warning regarding failure to report and continue with their existing reporting conditions.

If no reasonable explanation is given, or contact cannot be made with the person, set up a one off reporting event for seven working days time, issue an ISE343 fail to report warning and notify their case owner of the failure to report.

If the person fails to report to the one off reporting event, arrange for a compliance visit or arrest visit as outlined in section 4.2.

4.2 Compliance and arrest visits

Except in cases where we have confirmation that the person is not at the address (such as from asylum accommodation providers, local authorities, police service, prison service, colleges, universities, employers and the National Health Service), a compliance or arrest visit should be made as detailed below.

Compliance visit

A compliance visit as defined in section 2.6 must be made in all non-removable, highest harm, vulnerable adult, victims of trafficking and family cases, or cases where there is a history of persistent non-compliance or absconding. A compliance visit should be considered in all other non-removable cases.

A dynamic risk assessment in accordance with EIG Chapter 31.7 must be completed prior to a compliance visit being made. More information on compliance visits can be viewed in [Ch31 EIG](#).

Arrest Visit

When a person fails to attend a reporting event and there are no barriers to their removal, then a 'hot tasked arrest visit' must be made. Further guidance on removability can be found at [section 1.8](#). Further guidance on 'hot tasked arrest visits' can be found in [Ch61.8.3 EIG](#).

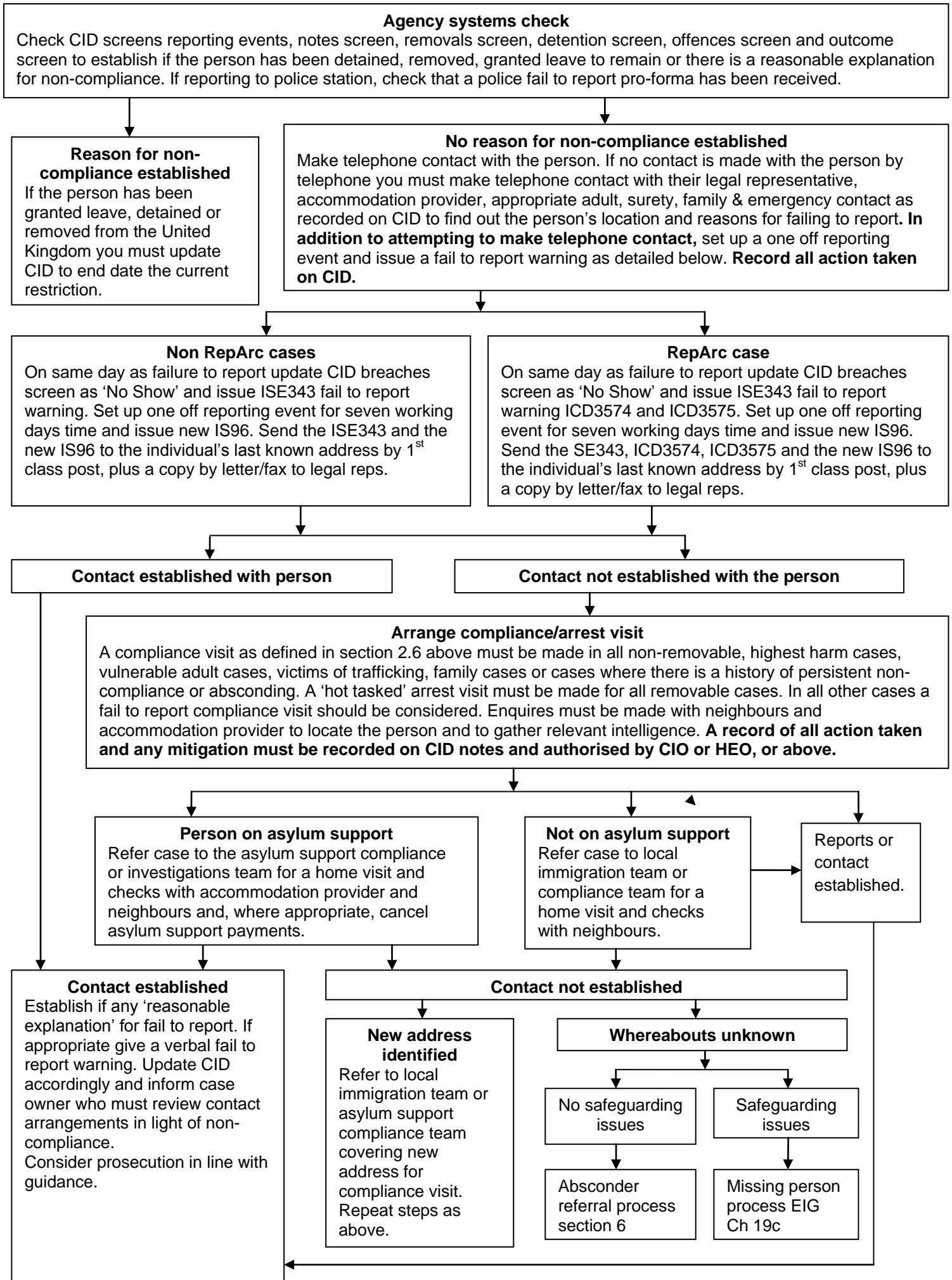
4.3 Recording action

All action taken in respect of attempting to regain contact with the individual by telephone must be recorded on CID and, where available, the HO or enforcement case file (that is, service of IS343 and IS96, if applicable). Reasons for not completing any action must be justified and

endorsed by a CIO or HEO, or above. A record of the consideration and reasons for not completing any action must be recorded on CID.

If a compliance or arrest visit is not made, the reason for not carrying out the visit must be recorded on CID and countersigned by a CIO or HEO, or above.

4.4 Action to be taken if a person fails to attend a physical reporting event



5 Failure to report as a condition of bail

This guidance is for immigration officers who encounter persons who fail to report as part of their conditions of immigration bail.

5.1 Recording action

All action taken must be endorsed by a CIO or HEO, or above, be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a CIO or HEO, or above. A record of the consideration, and reasons for not completing any action, must be recorded on CID.

5.2 Power to arrest

Under **paragraphs 24 (1) (a) or 33 (1) (a) of Schedule 2 to the 1971 Act**, an immigration officer (or a police constable) may arrest without warrant any person released on bail if they have reasonable grounds for:

- believing that the person is likely to break a condition of their recognisance (bail bond) that he should appear at the time and place required, or
- believing that the person is likely to break any other condition of their recognisance (bail bond), or
- suspecting that the person is breaking or has broken any other condition of their recognisance (bail bond).

5.3 Legislative requirements

Following arrest under para 24(1)(a) the arrested person must be either:

- Brought before an immigration officer (IO), if there was a bail condition to report to an IO, within 24 hours of the time of their arrest (para 24(2)(b) refers). Or
- If no such condition exists, brought before the tribunal as soon as practicable after the time of his arrest. If that is not practicable within those 24 hours, the person must be brought before a justice of the peace (JP) acting for the petty sessions area where the arrest was made or, in Scotland, the sheriff (para 24(2)(a) refers).

Following arrest under para 33(1)(a) the arrested person must be either:

- Brought before the tribunal if there was a bail condition to report to the tribunal within 24 hours of the time of their arrest (para 33(2)(b) refers). Or
- If no such condition exists, brought before the tribunal as soon as practicable after the time of his arrest. If that is not practicable within those 24 hours the person must be brought before a JP acting for the petty sessions area where the arrest was made or, in Scotland, the sheriff (para 33(2)(a) refers).

5.4 Action to be taken when a person fails to report as a condition of bail

Action to be taken to arrest

The officer responsible for dealing with the breach of bail must:

- seek CIO or HEO approval that an arrest visit as described in section 5.2 is appropriate
- prepare a detailed note for the immigration, compliance and enforcement (ICE) team, summarising the current state of the case, availability of travel documents and making it clear that arrest is being sought for failure or suspected failure to comply with bail conditions under paras 24(1)(a) or 33(1)(a) of schedule 2, including the reasonable grounds to believe or suspect those failures
- make sure that the case is progressed through local hot tasking, liaising with the ICE team concerned, should further information be required, liaising with escorts, as appropriate, for transport
- make sure that the person is brought before an immigration judge or a JP, a sheriff in Scotland, or an IO, as required, by the terms of the bail
- update CID breaches and events screens
- record details of action taken on CID notes screen.

Post arrest action

Following arrest the Tribunal, justice of the peace or sheriff will decide whether to sanction detention or order release on the original or new bail conditions.

Details of the above decision to detain or release on bail should be recorded on CID. The case owner and relevant ICE team must also be informed.

Whereabouts unknown

If after taking the above action to contact the person their whereabouts is still unknown then initiate absconder action as detailed in section 6 immediately.

6 Absconder referral action

6.1 Recording action

All action taken must be endorsed by a CIO or HEO, or above, be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a CIO or HEO, or above. A record of the consideration, and reasons for not completing any action, must be recorded on CID.

6.2 Identifying an absconder

An absconder is defined in section 2.1. A person can only be an absconder if:

1. they have previously been served with one of the following forms:
 - IS96 - notification of temporary admission to a person who is liable to be detained
 - IS82 series - notice of refusal of leave to enter
 - IS99 - recognizance of applicant (bail cases)
 - ICD0343 - imposition of reporting restrictions (restriction orders)
 - IS248- notice of restriction to a person who has made an in-country, in-time claim for asylum,and have subsequently failed to comply with one or more of the legal restrictions as to reporting or residence set by an IO, or an officer acting on behalf of the Secretary of State, exercising their powers under the Immigration Act 1971, or
2. they:
 - proceed through the immigration control without obtaining leave to enter, or
 - leave the border control area or BF accommodation without permission, or
 - escape from detention, and **their current whereabouts are unknown.**

An immigration offender can abscond at any point in the process from the grant of TA/TR/RO or bail to the grant of leave to remain or departure from the UK. The primary trigger in identifying that an immigration offender has absconded is when the person fails to report.

However, information can come to light prior to the next reporting event, such as notification from an accommodation provider, legal representative or the police, that the immigration offender is no longer living at the specified address. In such cases telephone enquiries should be made to the immigration offender, their legal representatives, emergency contact and accommodation provider in order to establish contact. If contact cannot be established through telephone enquiries a compliance visit, as detailed in section 4.2, should be considered.

If contact cannot be established as a result of the compliance visit or if it is decided that a compliance visit is not necessary, then the absconder referral action (as set out in section 6.9) should be followed for absconders or, in the case of missing children or vulnerable adults, the missing person process as set out in [Ch19c EIG](#).

6.3 Authorisation for absconder referral

Authorisation from a CIO or HEO must be obtained to start the absconder referral process and record the person as an absconder.

The authorising officer is responsible for making sure the person meets the criteria for being classified as an absconder and that all steps outlined in section 4 have been taken or justify why the action could not be taken.

A record of all decisions and action justifications must be recorded on CID notes and, where available, the HO or enforcement case file.

6.4 Storage of passports

If a passport belonging to the absconder is held, it will be located in the valuable document bank (VDB). See [VDB guidance](#) for further information.

6.5 PNC team

The PNC team is responsible for maintaining all HO absconder circulations on the PNC. As such they are responsible for:

- receiving and validating all IS274 absconder notification forms
- updating the CID restrictions screen with the absconder breach
- deciding the appropriate PNC marker and circulating the absconder on the PNC
- updating the CID special conditions screen with the absconder PNC marker
- receiving and validating all IS274a absconder cancellation notification forms
- cancelling the PNC marker
- closing the CID absconder breach and special conditions markers.

An email notification must be sent to the PNC team inbox in order for the referral to be accepted and the absconder to be circulated on the PNC.

The PNC team will reject any IS274 absconder notification forms that have not been completed correctly and in full or where the case does not meet the definition of an absconder as defined in section 2.1 and 6.2 above. Rejected absconder referrals will not be recorded as an absconder on CID or circulated on the PNC. The originating officer will then be responsible for conducting or arranging any further actions required and submitting a new IS274 absconder notification form.

PNC markers:

Wanted markers should be used for all removable cases, and non-removable highest harm cases, and will result in the person being arrested when encountered by the police.

Locate trace markers should be used for non-removable cases and will result in their contact details being recorded and passed to the HO, but will not result in the person being arrested by the police without HO approval.

The PNC team will forward details of all valid IS274 absconder notifications and IS274A absconder cancelations to the national absconder tracing team (NATT).

6.6 National absconder tracing team (NATT)

The NATT is responsible for initiating tracing action on all absconders, with the exception of criminal casework (CC) absconders. Absconder tracing will be prioritised for removable cases, highest harm cases, vulnerable adults and missing children.

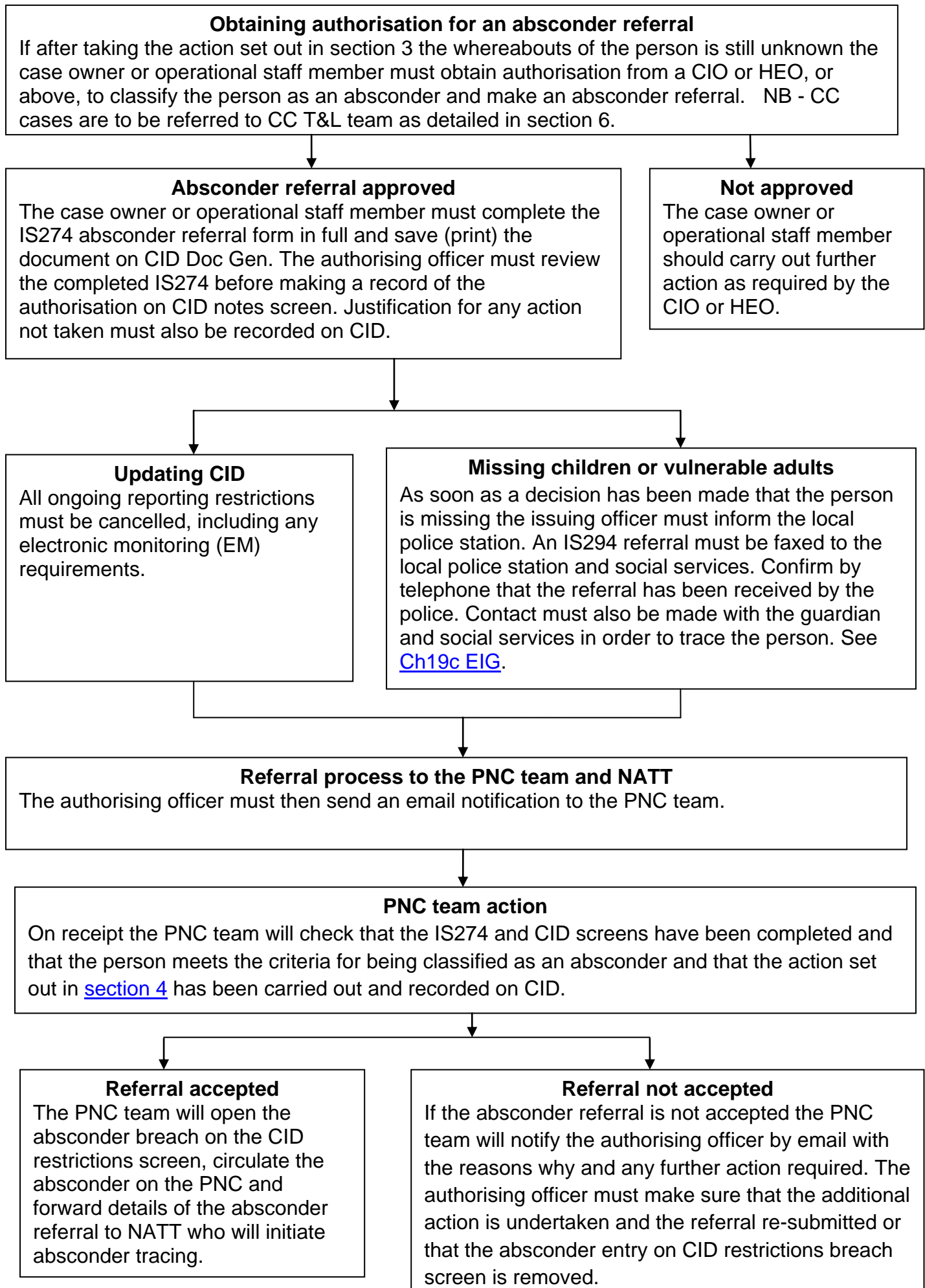
On identifying a new address, NATT will make a tasking referral to the relevant ICE team for further action.

6.7 Criminal casework trace and locate team (CC T&L)

The CC T&L team is responsible for processing and tracing all foreign national offender (FNO) absconders owned by CC. CC case owners will complete the ICD.4362 absconder referral form and submit to CC T&L who will be responsible for completing the IS274, updating the CID absconder restriction breach, notifying the PNC team and initiating tracing action on all CC absconders.

On identifying a new address, CC T&L will make a tasking referral to the relevant ICE team for further action.

6.8 Absconder referral action



7 Port absconders

7.1 Non-detained, or non-TA or non-TR port absconder

7.1.1 Border Force

BF staff are responsible for carrying out non-compliance action in accordance with section 3, and making the absconder referral to the PNC team in accordance with section 6, when a person proceeds through the immigration control without obtaining leave to enter, leaves the border control area or BF accommodation without permission or who otherwise escapes from BF control.

7.1.2 ICE teams

ICE teams, on request from BF, will conduct a compliance or arrest visit to an address to locate a port absconder.

7.2 Detained or TA/TR port absconders

Immigration offenders who abscond after being detained or granted TA/TR at the port will be dealt with by staff in accordance with section 4 and 6.

7.3 PNC circulations and tracing

The PNC team is responsible for receiving and validating all port absconders and circulating port absconders on the PNC. For more information on the PNC team and PNC markers see [section 6.5](#).

The NATT is responsible for initiating absconder tracing of port absconders. More information on the PNC team and PNC markers can be found in section 6.

7.4 Responsibility for action to be taken when a port absconder is encountered

7.4.1 Border Force

BF will be responsible for dealing with all port absconders who voluntarily return to, or who are encountered at, a port.

7.4.2 Immigration Enforcement

Immigration Enforcement will be responsible for dealing with all port absconders encountered by enforcement staff or the police in accordance with sections 8, 9 and 10.

8 Enforcement encountered absconders or non-compliant persons

This guidance is for IOs who encounter someone who is non-compliant or has absconded.

8.1 Case ownership

The responsibility for dealing with absconders encountered by enforcement officers rests with the ICE team where the absconder is encountered.

8.2 Recording action

All action taken must be endorsed by a CIO or HEO, or above, be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a CIO or HEO. A record of the consideration, and reasons for not completing any action, must be recorded on CID.

8.2.1

Once an absconder has been located the case owner or operational staff member must complete and save (print) the form IS274A absconder located notification on CID. An email notification must then be sent to the PNC team inbox in order for the person to be cancelled on the PNC.

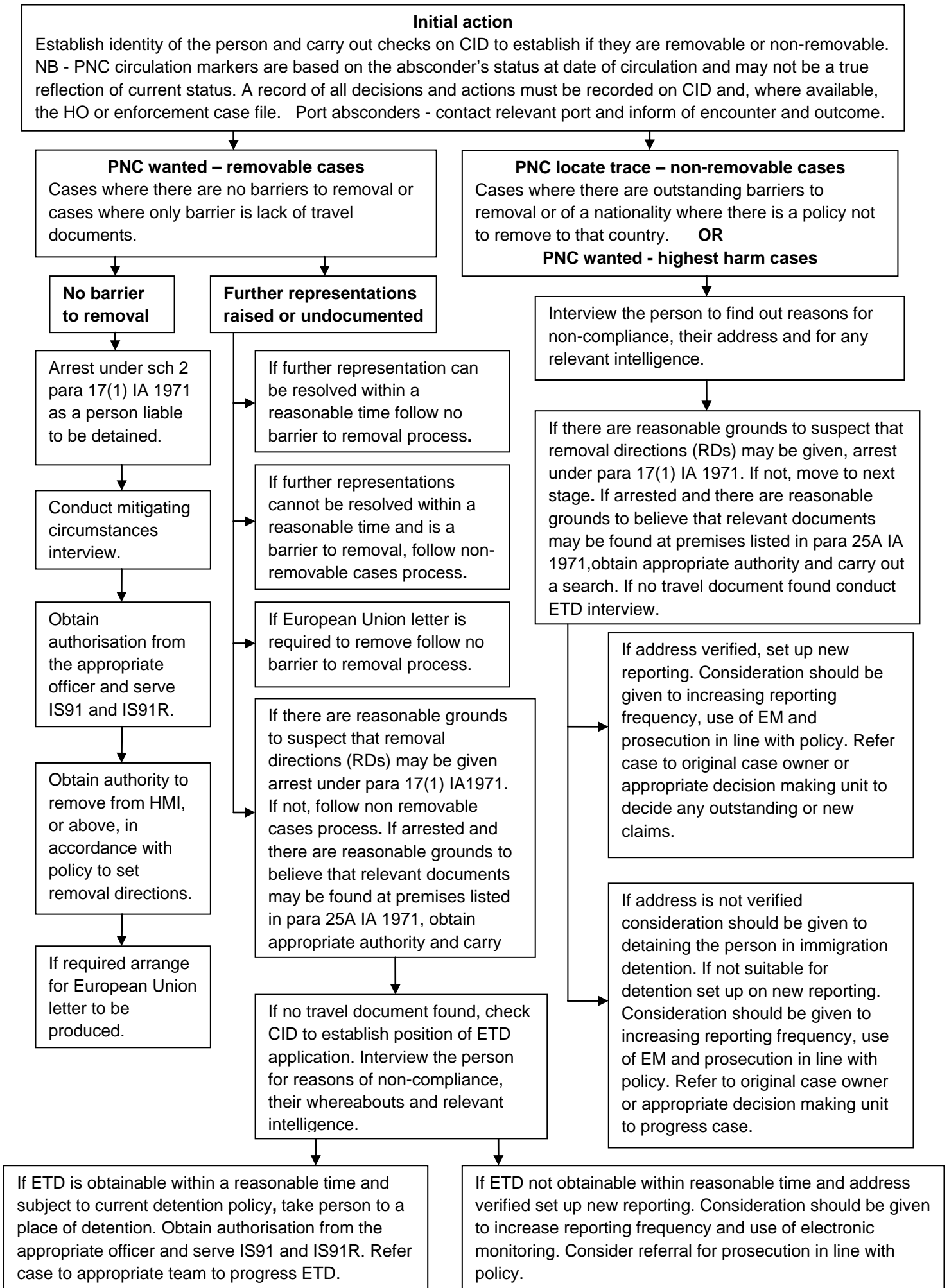
Located means that the person:

- has been apprehended by enforcement staff
- has voluntarily re-established contact and been set up on a new contact management regime
- is no longer in the United Kingdom.

8.2.2

If a decision is made to release a person from detention this must be authorised by a CIO or HEO. A review of their contact management arrangements must be made to determine whether alternative arrangements, such as increased reporting, detain on reporting, a compliance visit or arrest visit to the address should be made. A record of the reasons for the release and future contact management arrangements must be recorded on CID and, where available, the HO or the enforcement case file.

8.3 Enforcement encountered absconder action



9 Police encountered absconders

These instructions are for enforcement and support staff who receive a call or referral from the police when they have encountered or detained a non-compliant person or absconder.

9.1 Case ownership

The responsibility for dealing with absconders encountered by the police rests with the ICE team covering the police station where the absconder is detained.

9.2 Recording action

All action taken must be endorsed by a CIO or HEO, or above, be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a CIO or HEO, or above. A record of the consideration, and reasons for not completing any action, must be recorded on CID.

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Once an absconder has been located the case owner or operational staff member must complete and save (print) the form IS274A absconder located notification on CID. An email notification must then be sent to the PNC team inbox in order for the person to be cancelled on the PNC.

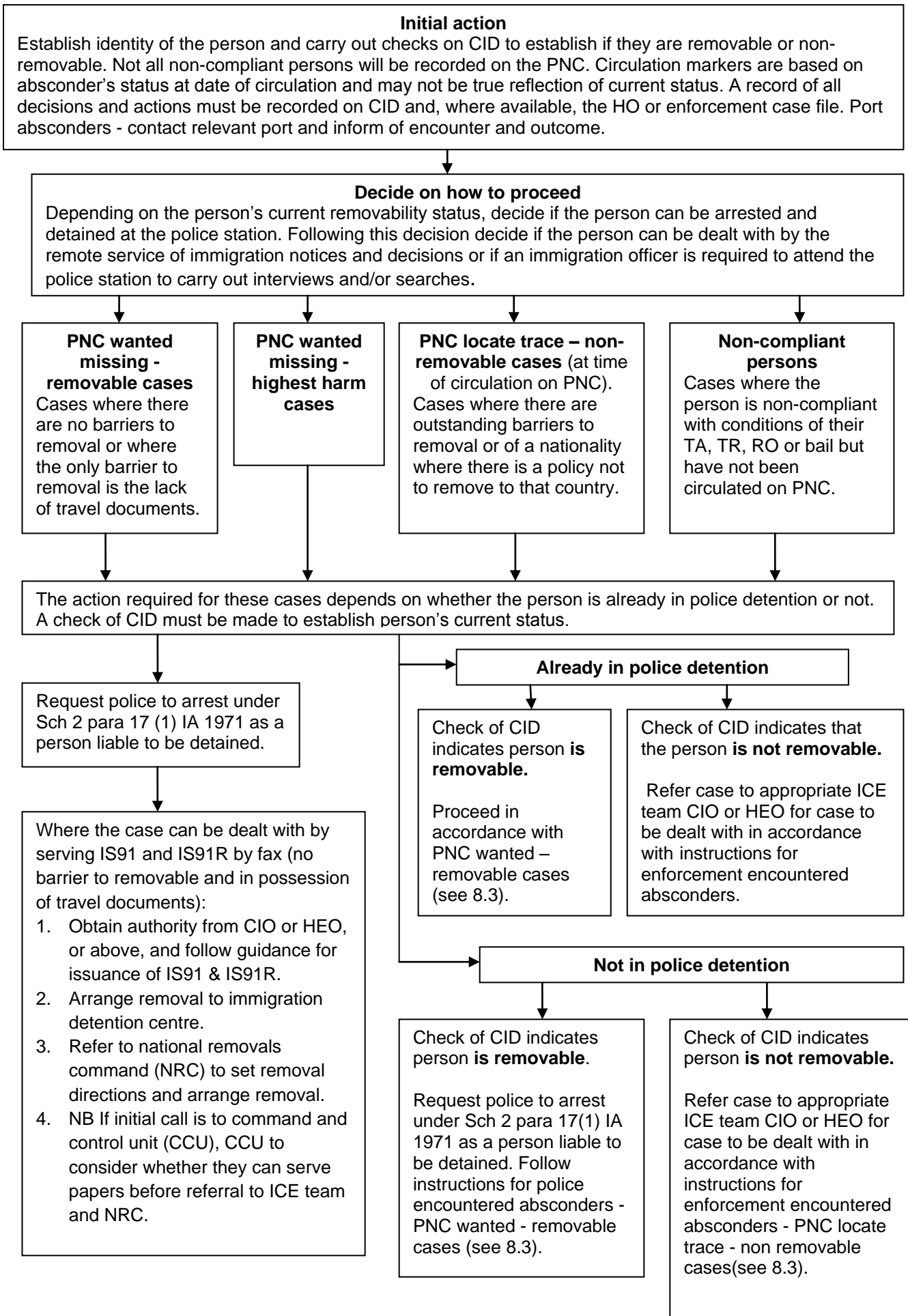
Located means that the person:

- has been apprehended by enforcement staff
- has voluntarily re-established contact and been set up on a new contact management regime
- is no longer in the United Kingdom.

9.2.2

If a decision is made to release a person from detention this must be authorised by a CIO or HEO. A review of their contact management arrangements must be made to determine whether alternative arrangements, such as increased reporting, detain on reporting, a compliance visit or arrest visit to the address should be made. A record of the reasons for the release, and future contact management arrangements, must be recorded on CID and, where available, the HO or enforcement case file.

9.3 Police encountered absconder and non-compliance action



10 Voluntary contact by absconder or non-compliant person

These instructions are for any staff who receive a call or come into contact with a non-compliant person, absconder or their representative.

10.1 Recording action

All action taken must be endorsed by a CIO or HEO, or above, be recorded on CID and, where available, the HO or enforcement case file. Reasons for not completing any action must be justified and endorsed by a CIO or HEO, or above. A record of the consideration, and reasons for not completing any action, must be recorded on CID.

10.2 Action required when an absconder and non-compliant person voluntarily resumes contact

