

Chapter 31 – Index

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Mandatory systems checks

For section 31.3, 'basic checks must be conducted before you undertake any visit', read:

CRS

If you have access to the Central Reference System (CRS) for visa applications made abroad, the person search is completed in a similar manner to that for CID. CRS guidance can be found on horizon.

PNC

Check the Police National Computer (PNC) for person and address searches. According to your region, the search will be requested either through the use of the ONF form or via your JIU. These checks are done on police divisional intelligence unit (DIU) systems and, in addition to searching for any markers against the individual, will check for any ongoing police interest in, or surveillance on, the address in question. The DIU will also give you details of who is on the voters list and details of any indicators of violence, drugs, etc.

NODMMX

Check the National Operations Database (NODMMX) for details of all recent visits to the address. The database contains details of enforcement and police visits to specific addresses. NODmmx user reference guides can be found on horizon.

Other checks

Your local Intelligence Unit will also complete other pre-visit checks, on a case-by-case basis. This could include Mycroft/ Athena, CEDRIC, GB Accelerator, Experian, DWP, DVLA and local councils. DWP and DVLA requests are made via established gateways, and council checks are arranged through contacts between FIOs and local council liaison officers.

31. Enforcement visits

All enforcement visits constitute immigration work of the most sensitive kind. An undertaking has been given to Parliament that IOs will not carry out speculative immigration visits, ('fishing' expeditions). It is essential that before any enforcement visit is made, the name of the possible offender is known (but see chapter 31.8 for visits to places of employment) and all checks have been made (see chapter 31.3). In particular the detention of persons who are not immigration offenders must be avoided.

31.1. Immigration and Asylum Act 1999: implementation of Part VII – powers of designated arrest trained officers.

Part VII of the Immigration and Asylum Act 1999 amended the Immigration Act 1971 to provide extended powers to IOs allowing them, in certain circumstances, to search persons and premises, to enter premises for the purposes of searching and for arresting persons and to seize and retain relevant material. The provision of these powers to IOs is necessary to allow the UK Border Agency (UKBA) to make use of existing powers of arrest and to operate, in appropriate circumstances, without accompanying police when conducting operational visits.

Allowing IOs to carry out arrests in the community is a significant and radical departure from previous practice, which is why the implementation of these powers is strictly controlled. **Ministers have given an undertaking to Parliament that no IO will exercise the powers unless he has been properly trained to do so and has been designated by the director.**

Arrest team officers operate nationally. **Staff designated to use the powers** are provided with separate operational instructions at [chapter 61](#). All other officers should continue to operate under existing guidance as set out in this manual. For the sake of clarity non-designated IOs must **not**:

- ◆ carry out arrests
- ◆ execute warrants
- ◆ conduct searches of persons or property unless by consent
- ◆ carry or use restraints
- ◆ transport offenders in official vehicles. (Non-designated IO's may drive official vehicles (but not escort detained persons) subject to a designated IO being present and vehicle insurance)

A warrant must only be **served** by a police officer or designated arrest trained officer of immigration officer (IO) rank or above. This person maintains responsibility for the 'execution' of the search and the power used under the warrant.

The warrant can be obtained by any warranted officer, that is an assistant immigration officer (AIO) or above (or a police officer where they are named in the Act). It does not have to be an arrest trained officer who obtains the warrant, but the warrant must specify what other officers will be present when the warrant is executed. For example 'such immigration and police officers as are necessary for the safe and effective conduct of the visit'

A non-arrest trained officer may assist on a visit where a warrant has been obtained so long as the warrant specifies this as mentioned above. They may not execute the warrant. They may enter premises in order to question any persons on the premises to identify them and to ascertain their immigration status after the premises has been secured. They cannot enter and search the premises to locate the person named on the warrant, search a person after an arrest or search any areas of a premises for evidence relating to the offence. All such searches must be conducted by an arrest trained officer or a police officer under the appropriate power.

The police may expect **all** IOs to use their powers of arrest, entry, search and seizure when on joint operational visits. **In such circumstances it should be explained that these powers are only available to a limited number of officers, that is those who are arrest trained.**

31.2. Keeping local records of visits

Visits to home addresses, places of employment etc. constitute a most sensitive area of immigration work and one cause of complaint is alleged harassment by officers who have conducted repeated visits to the same address.

To demonstrate that officers have acted in accordance with this guidance, NODMMX must be fully completed to record all visits.

Where more than one visit is made to an address, each must be fully justified and must not constitute unreasonable inconvenience to the occupiers.

31.3. Pre-visit procedures

When a decision has been made to conduct an enforcement visit, you must ensure that you have exhausted all avenues for resolving a person's immigration status in the UK. **A final status check must be conducted within 24 hours of the intended visit.** In addition, you should, as far as is reasonably practicable, eliminate any other person from your enquiries that may be present at the address that is not of an immigration interest. Enquiries should be undertaken as close as possible to the timing of the visit, preferably within seven days.

Once all the avenues for resolving a person's immigration status have been resolved, the following basic checks **must** be conducted before you undertake any visit:

- ◆ **Home Office** – CID, Warehouse, Home Office file & port file (if one is in existence), landing cards.
- ◆ **WICU** – warnings index.
- ◆ **Local** – national operations database (NODMMX).
- ◆ **Police** – voters register, PNC

These checks are not exhaustive; IOs are expected to make common-sense use of all available sources of information to ensure operational efficiency and to reduce unnecessary risk to staff.

If, during pre-visit checks, it is found that either the targeted individual or another linked to the address is shown on CID special conditions as vulnerable due to mental health problems, contact your local safeguarding coordinator immediately to check whether the individual has been referred to the local health authority, taking appropriate action as detailed in guidance on suicide and self harm. This applies to any visit you are carrying out, whether arrest, non-arrest, compliance etc .

The OIC will need to factor in the vulnerability of the individual and decide on any actions to take during the operation to cater for their wellbeing.

31.4. Joint intelligence units (JIUs)

Although their primary role is to support enforcement visits, intelligence units (IUs) are also the repository for all information about immigration abuse and will provide analysis and reports on a range of issues to aid and assist managers.

The principle, when conducting immigration enquiries, is that they should not be speculative and should be in line with the named offender policy. Conducting such enquiries in the community is regarded as a highly sensitive area of police work and UKBA recognises that public reassurance and community safety are fundamental responsibilities of the police. In order to enhance this procedure, police officers have been seconded to UKBA to assist in developing and working with IUs. They operate both UKBA and police intelligence systems thereby ensuring that visits and operations are conducted using the most recent and accurate intelligence. Furthermore IUs will, overtime, contribute towards UKBA's aim of increasing in-house capability whilst reducing reliance on the police when conducting such enquiries.

JIUs were initially set up in the Metropolitan Police area with a memorandum of understanding (MoU) between Metropolitan Police Service (MPS) and UKBA to reflect the needs of the capital. Although IUs now support all areas of crime and enforcement group procedures, they differ slightly between the MPS and other constabularies.

London. The visit request form is authorised by a CIO for police assisted enforcement visits and an arrest trained CIO for arrest team visits subject to all Home Office checks (including WICU) having been completed. This is then passed to the tasking and coordination group (TCG) meeting for approval. The TCG will also consider visits/operations proposed by the JIU against local and national priorities. After approval, the JIU will complete all local and police research. An intelligence summary of the subject and address is then produced highlighting any potential officer safety and community issues. The reconnaissance visit is then conducted and a risk assessment completed by the operational team and returned to the JIU where it is signed off by an intelligence manager and authorisation to conduct the visit is sought from the local police inspector. The form and assessment is then returned to the originator to complete a final status check before conducting the visit. If it is not an arrest team visit, police assistance should be sought before commencing the visit in accordance with local procedures.

Outside London. Suitable outside enforcement visit material from the IU is 'scored' according to a scoring matrix. The 'scoring matrix' gives an objective assessment of the value of a proposed enforcement visit, based on a combination of the target's place within UKBA's priorities and the likelihood of detection, detention and removal. All immigration checks are conducted and it is then passed to the local TCG for approval. If approved by the TCG and entered on the 'tasking matrix', the file is then passed to an enforcement team who complete the ONF. This contains a description of the proposed visit, the risk assessment, and the approval of the CIO for the visit. This must be an arrest trained CIO where it is an arrest team visit. The enforcement visit (EV) reference on NODMMX may be obtained at this stage. However, no outside visit where an arrest is contemplated may be conducted without NODMMX being completed and an EV reference obtained. The ONF is then passed to the local police divisional commander for approval of the visit, and the form is returned to the immigration compliance and engagement (ICE) team (usually within 72 hours). On return of the form the visit should be completed expeditiously and in line with the original tasking matrix from the TCG.

Some offices have adopted a system where files from caseworkers are 'scored' by them using the same matrix and presented directly to the TCG. If accepted the file is then passed to the IU for intel checks and the EV reference, and the operational team then proceeds with the ONF as above. There are other variations on this theme, but the essence remains that the IU must have sight of all enforcement visits before they are conducted and the ONF system applies in all such cases.

IUs function in different ways, from office to office, depending upon local procedures and business priorities. The paragraphs above are intended to give a brief overview of IUs and how they function.

However, in practice this may vary as they are always undergoing review, change and expansion to meet the demands of the service (see also chapter 33.1).

31.5. Levels of authority for visits

You must obtain authority for a visit in advance and in writing from a CIO, although higher authority is needed in some circumstances. UKBA operations involving arrest trained operational staff require the authority of an arrest trained CIO. A middle tier operation must be authorised by an inspector. An upper tier operation must be authorised by a deputy director, who must advise the minister of the forthcoming operation.

Do not visit private addresses either very late at night or very early in the morning. You must obtain authority for any visit outside normal hours. There is no definition of 'normal / reasonable hour'. Each case has to be decided on its own merits and it's for the officer to consider if the visit would be frustrated if carried out at a different time. CIOs should bear in mind the sensitivity of immigration enquiries when authorising and agreeing times for visits.

The timing of visits to business premises may be approached with more flexibility. An early or late visit may be appropriate if that is when an offender is most likely to be located.

Where a visit of a sensitive nature is being considered, or a visit to an area where there may be community or other local difficulties is to be made, an Inspector may wish to impose a local requirement for his authority to be obtained.

31.6. Visits

- ◆ complete all pre-visit checks (see chapter 31.3)
- ◆ make appropriate arrangements in advance with the police (see chapters 31.7 and 33.1)
- ◆ make sure you have all official forms and other equipment, including a Morpho RapID unit and camera
- ◆ obtain the appropriate level of authority for the visit (see chapter 31.5)
- ◆ record the visit on NODMMX
- ◆ where an arrest and/or detention is anticipated, or where there may be a breach of the peace, a police officer should always accompany an IO (except under the arrangements outlined in chapter 31.1)

- ◆ when a CIO agrees that a visit to premises does not require a police officer's presence, as in a home visit enquiry, an AIO may accompany an IO, but at least two officers should be in attendance
- ◆ never take a denunciatory letter into premises which are the subject of an investigation
- ◆ do not carry any documents which could identify the source of any intelligence information unless prior approval for you to do so has been obtained from the source
- ◆ only take case files into premises being investigated when absolutely necessary. If this is unavoidable, ensure that all papers and documents are securely attached
- ◆ make sure that personal protective equipment (PPE) is worn at all times

31.7. Visits to households in order to arrest

All visits to residential addresses to arrest potential immigration offenders should be conducted with a police presence – unless subject to the provisions of chapter 31.1. Take special care when visiting members of the opposite sex and when visiting households where only women and young children are present. This is particularly important if the persons involved do not speak English and/or come from a culture where women may traditionally have a more sheltered home and social environment. You should, where practicable, conduct residential visits to make arrests in mixed sex teams.

31.7.1 Visits to households in order to conduct marriage, bail or reporting compliance checks

Marriage visits are conducted to review the living arrangements of a couple making a settlement application. Marriage visits are not arrest activity as no arrest is planned. Compliance visits are conducted to check on the residential arrangements of offenders subject to temporary admission, a restriction order or bail. Compliance visits are not arrest activity as the purpose is to confirm whether the person still lives at the address and, if the subject is encountered, to advise them of their liability to comply with restrictions/bail and the implications if they continue to refuse to comply. If you are an arrest trained officer, then baton and handcuffs should not be carried on these visits as no arrest activity is planned in line with EIG Chapter 61.1 and 61.2.

Compliance visits are referred to in the absconder instructions [Chapter 19](#). Marriage and compliance visits to residential premises can be conducted by a minimum of two UKBA officers (arrest or non arrest trained). The National Generic Risk Assessment and Safe System of Work for

visits where no arrest or detention is anticipated can be viewed on the risk assessment framework page on horizon. Marriage and compliance visits should be recorded on the NODMMX system as non enforcement visits (NEV). Officers should conduct checks of local police records and CID on the address and subject before the visit and should only continue if no unmanageable risks are identified. Officers conducting this activity should conduct a dynamic risk assessment on the day of the visit and withdraw from the activity if any aspect of the visit threatens the health and safety of the UKBA officers, the subjects or the public. If withdrawal from the visit on health and safety grounds is used then full notes on CID and the NEV notes field on NODMMX should be completed. A new risk assessment should be completed to cover the additional risks and the address revisited after discussion with a CIO or above. If UKBA officers are invited into premises to discuss matters further a clear signed record of consent being granted to allow UKBA to enter the premises should be made in the officer's pocket notebook as no statutory power of entry exists for this type of activity.

31.8. Visits to places of employment

Before visiting places of work, try to establish the names of offenders and undertake pre-visit checks (see chapter 31.3). Try to enlist the co-operation of employers in identifying employees who may be immigration offenders, unless there is reason to believe that this would undermine the effectiveness of the operation. If unsuccessful, only undertake a visit where there is apparently reliable information that immigration offender's will be found. Take particular account of whether there is a history of the premises being used by offenders.

You should also refer to modernised guidance on preventing illegal working.

31.8.1 Visits to care home or care providers

When considering operational activity against care providers or agencies, continuity of care for the people using the service is the primary concern. Before conducting any operational activity, the Officer in Charge (OIC) must contact the care organisation below that is responsible for the location concerned:

- England - [Care Quality Commission \(CQC\)](#)
- Wales - [Care and Social Services Inspectorate for Wales \(CSSIW\)](#)
- Scotland - [Care Inspectorate](#)
- Northern Ireland - [Regulation and Quality Improvement Authority \(RQIA\)](#)

The OIC must make the relevant care organisation aware of care providers, or agencies providing staff to care providers, who are suspected of being in breach of illegal working legislation. Where care provision and illegal working abuses are identified, both organisations must agree to undertake joint enforcement action and advise local Ambulance Service, Police and Local Authorities of the planned activity. A joint decision will be reached on the lead roles for different aspects of any planned operational activity.

Best practice for conducting visits to care homes or care providers

Contact must be made with the appropriate national care organisation, local authority adult social services and borough or constabulary police public protection unit. A meeting should be arranged to discuss plans and any repercussions that may arise due to the arrest and detention of care staff and the ongoing care of residents or recipients of the agency's service.

Authority from the assistant director must be obtained at the ICE tasking meeting prior to conducting the visit. After receiving the package from Intelligence Teams, officers should carry out at least one reconnaissance visit.

Home Office staff should provide names and addresses of those assisted by the care agency to ensure continuity of care following the operation. If during the operation additional addresses or patient details are discovered, the local authority care services should be contacted as soon as possible to arrange ongoing care facilities. Officers must make sure that adult social services put resources in place to counteract the impact and disruption created by an arrest.

In cases where the recipient of the agency care service is outside the local authority provision they will still need short notice replacement care. If enforcement visits to home addresses are planned for arrest activity then alternative care arrangements will still need to be arranged with the cooperative care home or agency.

Consideration should be given to arranging alternative care staff and or arranging placements in other homes for the residents if, as a result of the visit, the premises is likely to be closed. This may also result in a need to book ambulances to transport residents to other locations as mentioned above.

If at any stage of the operation a resident of a care home or someone receiving care from an agency is placed at risk then a critical incident should commence and the Command and Control Unit in Manchester should be contacted. Further guidance on critical incidents can be found in [chapter 44](#).

The OIC is responsible for the visit and what takes place. The OIC must take the lead at any meetings with other agencies but also remember that the cooperation of all agencies involved is paramount to ensure the safety of any person in receipt of care. Records of all meetings, personnel in attendance and decisions taken should be recorded and retained with the visit records.

Following the operation a meeting should be held with the local authority social services along with the local police public protection unit and any other bodies involved in the operation to review tactical operational plans and inform future operations.

31.9. Visits to prisons

You may be required to attend a prison for an interview with an offender, to conduct an asylum interview or to serve enforcement notices, for example a deportation order (DO).

Most prisons have strict times during which visits may be made and you may only visit during those times. In exceptional circumstances, for example where an extended visit is required for a lengthy interview, you must obtain the agreement of the governor. You will be expected to leave at the end of the allotted time so allow ample time for a read-through and signing of the interview record.

Before you visit a prison, contact the discipline office who will require the name and prison number of the detainee (if known), the nature of the visit, the names of those who will visit (including the detainee's representative), the proposed date and probable length of the visit. They will then advise when the visit may be made and may require a letter of introduction. Visits are not usually permitted at the weekend.

When you attend the prison, you will be subject to search. Mobile telephones are not usually permitted and may be left in lockers provided. Make references to senior officers from the public telephones or, if the prison officers allow it, from their offices.

If you are required to take photographs of a detainee, you must ensure that you have permission prior to your visit. Cameras are not permitted as a matter of course and you must obtain authority in writing from the security unit.

You must comply with the national generic risk assessment for non-arrest operations which can be found on the risk assessment framework page on horizon.

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A prisoner being interviewed by an IO in respect of an immigration offence is entitled to legal representation in the same circumstances as he would be if being interviewed at a police station (see chapter 37.5). Legal representation must, however, be arranged and financed where necessary by the prisoner. He should be advised of any interview in advance allowing plenty of time for him to contact his representative. Whilst there is no legal entitlement to representation in, for example, asylum interviews, it is prudent to allow a representative to be present and an interview should not normally proceed without a legal adviser if the detainee requires one.

31.10. Visits to register offices

It may be necessary to visit a register office in order to apprehend a suspected offender where no reliable home address is known, or where the likelihood of encountering the person at the home address is low. Before conducting a visit to a register office all pre-visit checks must be carried out (see chapter 31.3) and relevant authority to conduct the visit obtained.

The informed consent of the registrar to enter the premises should be obtained in advance.

31.11. Religious premises operations

When planning such an operation, you must ensure and provide evidence that all other avenues of investigation have been exhausted. Scheduling a religious premises operation should be the last resort.

This sensitive type of operation will involve large numbers of police officers, IOs and in some instances offenders. Consequently this will generate a substantial amount of local and national media interest.

Religious premises operations must be authorised at deputy director level and the minister must be informed. Such sensitive cases may require the Home Secretary to be informed.

The set up of this kind of operation may take a considerable amount of time.

No indication should be given to the police that the intended operation is to go ahead until approval in principle has been obtained from the deputy director.

Meetings will have to take place with senior police officials and senior UKBA management.

Full consideration should also be given to whether the following should be involved:

- ◆ local MPs.
- ◆ local councillors.
- ◆ local police authorities.
- ◆ religious community leaders.
- ◆ community safety officer.

This is not an exhaustive list.

Some communities, as well as faith communities, may be unwilling to assist police/immigration in carrying out operations. Reasonable steps must be taken to seek advice from the communities concerned. Steps that have been taken to seek advice and address community concerns must be recorded at all times.

The Officer in Charge (OIC) must take into account what impact this kind of operation will have on members of staff, particularly followers of the faith concerned.

Community Impact Assessment

Following the completion of the operation the OIC should consider with police:

- ◆ holding public meetings to explain immigration /police action.
- ◆ provision of alternative prayer facilities.
- ◆ security of premises.

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31.12. Visits accompanied by police officers

Assisting immigration enquiries in the community is a highly sensitive area of police work and should be conducted with due regard for the subject(s) of the enquiry and the concerns of the community groups, while being consistent with the ministerial commitment to a firm, effective and fair immigration control. To take account of changes contained within the Joint Protocol for the Removal of Immigration Offenders (2nd Edition, dated 14 June 2002), arrangements for requesting police assistance were introduced nationally, **except in the Metropolitan Region**.

For full guidance on the use of these arrangements, see also: [chapter 33.1: requesting police assistance](#).

Except for the arrangements set out in chapter 31.1 above, the police should carry out any initial arrest in the community. Advise them of the name of the offender who is to be arrested and of the offence that he has committed or it is suspected he has committed. If you are unfamiliar with the layout of the premises where an arrest is to be made, try to obtain details prior to any visit. In all cases you will conduct a 'drive-by' of the premises to assess any potential risk factors (see chapter

[chapter 32.8: RIPA](#)). Brief the police officers to secure the premises and that if anyone tries to leave, then they are responsible for assessing whether to restrain or pursue (see chapter 31.14).

On occasion, police officers are also called upon to assist UKBA in arresting and detaining individuals living in the community who are to be removed from the UK and whose history suggests that determined or violent resistance is likely. These are particularly difficult and sensitive operations which require careful planning in the form of a meeting with all those agencies likely to be involved, for example UKBA representatives, local police officers, the escorts and perhaps Social Services and/or Community Liaison Officers, depending on the circumstances. Where such a meeting is necessary, UKBA will supply a case summary and complete an ONF, or, in the Metropolitan Region, a request pro-forma.

31.13. Persons encountered during a visit other than the named offender

During visits to private addresses and places of employment, people should be 'invited to answer questions' about their immigration status only if there are reasonable grounds to suspect that they are immigration offenders (*Singh v Hammond*).

If the purpose of the visit is to locate a named offender, you should usually only question people on the premises to eliminate them from enquiries. In some instances, questioning will be unnecessary where it is obvious he is not the named offender, for example by his age, appearance or gender. The following are instances where it is justifiable to invite a person other than the named offender to answer questions:

- ◆ where a person gives reasonable cause for suspicion that he is an immigration offender, for example:
 - by his behaviour (for example an attempt to conceal himself or leave hurriedly)
 - from his answers to questions about the whereabouts of the named offender
 - by any documentation which he may present to identify himself and/or his immigration status in the UK
- ◆ if a named offender is located at a place of employment and there is reason to believe that other employees are offenders where the employer has a history of engaging immigration offenders
- ◆ at private addresses, where there is reason to believe that the status of a person, for example a spouse or child, may be dependent on the status of the offender

- ◆ if there is reason to believe that another occupant of the premises may have harboured the offender
- ◆ where it is known that communal premises have been used to accommodate offenders in the past - but there must be good reason to suspect the presence of other offenders, for example from their behaviour or unwillingness to co-operate in any enquiries

If you encounter someone other than the named offender at the premises and you do not have cause to arrest them, you must record their details on NODMMX.

If you encounter a person who claims to have, or you suspect from their behaviour, may have mental health problems, check CID special conditions (SC) as soon as possible and contact your local safeguarding coordinator for possible referral to the local health authority, taking appropriate action as detailed in guidance on suicide and self harm. This applies to any visit you are carrying out, whether arrest, non-arrest, compliance etc.

31.14 Pursuit policy

When conducting UKBA immigration enforcement activity in businesses, residential homes, reporting centres or on operations supporting other law enforcement agencies (LEA) to make arrests under immigration powers it is not unusual for persons present to attempt to leave the building or the site of the operation.

Only those IOs designated as arrest trained ('arrest trained IO') as described in 31.1 may exercise the powers of arrest, search and seizure in relation to immigration offenders. All other UKBA officers may assist with an enforcement operation in line with EPU Notice 11/06, but it must be made clear to all attending the operation via the operational briefing that they will not in any circumstances be permitted to exercise the powers of arrest, search or seizure available to arrest trained IO's. Police accompanying mixed and enforcement teams, as defined in EPU Notice 11/06, need to be made aware of the limitations under which non-arrest trained UKBA officers may assist with the operation, as described at 31.1 above.

31.14.1 Powers of arrest and search

Designated arrest trained Immigration Officers can arrest offenders and use associated powers of search using immigration powers described in Chapter 61.5.

31.14.2 Immigration offenders under arrest

If the arrest trained IO has arrested a person who then subsequently attempts to leave the premises, the arrest trained IO may pursue that person provided they have regard to the guidance set out in paragraph 31.14.4 below. See above and EPU Notice 11/06 for the assistance other officers may provide. Officers should communicate to the arrested person that they are requested to stop. Where possible, officers should also make every effort to communicate an adequate description of the arrested person to other members of the team, and in particular, to those who may be out of sight (for example external cover).

If the person under arrest has had handcuffs applied, the local police control room must be advised of the type and serial number if the intention is to detain in police custody.

31.14.3 Where the person's immigration status is known

If the subject of the arrest or search warrant (see [Chapter 34 Warrants](#)), the subject of a section 28CA Immigration Act 1971 AD's letter, or an occupant who fits the description of the specific person named/described on the briefing supporting the warrant attempts to leave the premises prior to arrest, designated IOs are permitted to pursue the subject for the purpose of arresting them in accordance with paragraph 31.14.5 below.

31.14.4 Where the person's immigration status is unknown

A UKBA officer (including an IO designated as arrest trained) must not pursue any person who absconds from the premises, including circumstances where that person is suspected of committing an arrestable offence which is not connected with their immigration functions. This includes officers performing the role of external cover. If an individual succeeds in leaving the premises or workplace prior to an arrest taking place and in circumstances where they do not fall within 31.14.3 (that is the section labelled 'where the person's immigration status is known'), no attempt should be made to pursue them by UKBA staff.

If any police officer in attendance attempts to pursue that person (whether on suspicion of immigration or other offences) prior to them being spoken to, UKBA officers should not assist in the pursuit. They may, however, be called upon to assist the police if an arrest is made. In this

situation, UKBA officers may, unless they have concerns for their personal safety, the safety of their colleagues, or the safety of the general public, assist the constable in carrying out their duties.

31.14.5 Pursuit guidance

Where a designated IO decides to pursue a suspect, they must at all times maintain contact with the OIC of the visit via either airwave radio or mobile phone and be mindful of all hazards and safety issues mentioned at the operational briefing. The OIC may consider calling off the pursuit in the light of perceived hazards and summoning instead local police assistance. If an arrest trained IO feels the safety of the suspect, the public or themselves is in danger during a pursuit, they must abandon the pursuit immediately and advise the OIC of the last sighting of the suspect. If the suspect places themselves in danger (for example climbing onto a balcony, roof or railway line), the arrest trained IO must cease the pursuit and await further direction from the local police control room. In such circumstances the OIC must declare a critical incident via their Gold Silver and Bronze command ([Chapter 44](#)). All actions must be justified via a contemporaneous (or as soon as practicable) notebook entry. If a suspect is apprehended following the pursuit in circumstances where they have not been the subject of an administrative or criminal arrest, they should be formally arrested immediately by an arrest trained IO.

Under no circumstances must any UKBA officer (including arrest trained IOs) pursue suspects in vehicles.

31.14.6 Risk Assessment

The designated arrest trained IO will need to assess the risks before embarking on the pursuit. On completion of the operation, the UKBA officer must make a contemporaneous record in their notebook of all their operational decisions taken including, for example, the reasons why the decision was taken to pursue the suspect. A risk assessment for the purpose of this pursuit guidance is defined as:

‘The continuous process of identifying hazards, assessing risk, taking action to eliminate or reduce risk, monitoring and reviewing, in the rapidly changing circumstances of an operational incident’

31.14.7 Duty of Care and Personal Liability

UKBA has a duty of care towards all staff. UKBA officers are also reminded to have regard to the safety and welfare of their colleagues, members of other law enforcement agencies and those we encounter on operations. All staff should be aware that acting outside published policy and guidance may result in disciplinary action. Where a member of staff acts contrary to the law (for example, using unreasonable force in carrying out an arrest or failing to observe the restrictions set out in this guidance when pursuing an individual) they may find themselves criminally liable for their actions.

Officers are reminded that at all times they must only use reasonable force to effect an arrest or detention. Guidance on reasonable force can be found in [chapter 61.6](#).

Officers must not seek or encourage members of the public (no matter how enthusiastic) to assist in any way in a pursuit and/or arrest. If any member of the public chooses to join a pursuit they must be instructed to desist and officers must use their judgement to decide whether the pursuit should be called off in these circumstances.

31.15. Same Day Removals

Only rarely will it be proposed to detain and remove offenders from the UK on the same day or in exception to the 72 hour, notice of RD's rule. Where it is considered that the circumstances of a particular case dictate a removal in exception to the 72 hour notice period for RD's reference must be made to [chapter 60](#)

Please note that a same day removal would be within a 24hour period from the time the person was arrested, taking all factors into account, that is transportation time from place of arrest to place of detention, the length of time for the booking in procedure at the place of detention, adequate time to use telephone facilities at the place of detention etc. This is not an exhaustive list of factors that would require consideration.

31.16. The tier system of investigation and operations

The tier system provides for the maintaining of appropriate levels of authority in all enforcement operations. The tier of operation is dictated by the number of offenders being sought, the number of addresses to be visited simultaneously, the number of officers (both police and UKBA) to be used and the overall sensitivity and profile of the proposed visit or operation.

31.17. Lower tier

The lower tier visit will typically cover the 'one-off' enquiry into an individual suspect's status and will cover visits where there is a realistic expectation of finding up to a maximum of three offenders. If the visit is to residential premises this must include a named offender. If the visit is to a place of employment you must also follow the guidance at 31.8 above.

The staffing level for such a visit is unlikely to exceed two IOs and up to three police officers, unless there are a large number of exits from the premises that need to be secured by the accompanying police officers.

The level of authority for lower tier visits is usually CIO.

Some lower tier visits will be carried out without police assistance by officers designated to participate in the arrangements outlined in chapter 31.1. Such visits will only be considered in certain circumstances and on completion of a risk assessment. In all other circumstances, IOs must always be accompanied by one or more police officers.

31.17.1. Middle tier

More than three but not more than 20 suspected offenders are likely to be found. If the visit is to residential premises this must include a named offender. If the visit is to a place of employment you must also follow the guidance at 31.8 above.

The middle tier also encompasses operations where a small number of likely offenders (up to a maximum of three) have been identified in advance, but circumstances suggest that other offenders might be present, such as at multi-occupancy premises or places of work where it may only be possible to identify those sought by asking others for evidence of identity and immigration status. **Such legitimate enquiries must not be extended so as to constitute random checks.** But where initial related enquiries indicate that offenders, other than those identified in advance are present, these may be pursued.

Middle tier operations must have the prior authority of an inspector. The inspector must ensure that the deputy director is aware in advance that a middle tier operation is taking place and that he is advised as soon as possible of the outcome of the operation, particularly where media interest is

likely. This will be of particular importance where offenders have been apprehended other than those identified in advance.

31.17.2. Upper tier/major operations

These usually involve large numbers of immigration/police officers, and offenders and are likely to generate considerable media interest.

The number of persons involved will dictate the need for an upper tier operation but it may be that the high profile and sensitivity of one individual offender will render his apprehension an upper tier operation.

As a general guide, upper tier procedures are to be applied where enquiries indicate that:

- ◆ more than 20 suspected offenders are likely to be found. If the visit is to residential premises this must include a named offender. If the visit is to a place of employment you must also follow the guidance at 31.8 above; or
- ◆ it is not possible to obtain, for advance checks, the names of those people whom it is proposed should form the basis of the enquiry, but there is repeated evidence of the use of a particular address or place of employment by offenders; or
- ◆ there is evidence of individuals or groups being engaged in organising illegal entry, entry with forged documents etc.; or
- ◆ the apprehension of one or more individual offenders is likely to generate abnormally high media or parliamentary interest; or
- ◆ there is a need for a long-term investigation into a specific area of abuse of immigration control.

Upper tier operations must be authorised by the relevant deputy director and the minister informed. The authority of senior police officers is also required.

Such operations place the work of the police and the UKBA under the closest scrutiny and meticulous planning is essential to ensure that the objective of detaining only those persons who are immigration offenders is achieved.

Particular attention needs to be paid to the timing of the operation, the number of officers involved, the need for search warrants (and undertakings have been given by ministers that these will normally be obtained), interpreters, transport, escort and detention arrangements and many other details.

An inspector proposing an upper tier/major operation should, at the earliest possible stage, contact the assistant director to discuss the feasibility of the proposal from an overall policy perspective and agree the procedures to be followed.

No indication should be given to the police that an upper tier operation will go ahead until approval in principle has been obtained from the deputy director.

31.18. Operations led by the police or other agencies

Where the police or another agency suggests a joint operation you must follow the procedures set out in the tier system of operations.

The police or another agency may request assistance in an operation where other offences are primarily being investigated, but where there may be a need for advice, such as on the status of a person or the validity of identity documents. **It is imperative that there is no ambiguity as to who is the lead agency for the operation.** The police (or other agency) should provide the OIC, produce and give the briefings and have a critical incident structure in place. If immigration offenders are detected, you should act in an advisory capacity up to the point at which you take action under the 1971 Act.

In immigration matters, the police are bound by the same guidelines as UKBA and you should point out to the police any sensitive issues which might attract criticism.

In some police operations it may be more appropriate for you to attend the police station instead of participating in the operation, especially with regard to personal safety.

Powers under the 1971 Act must not be used as a device to enable the police to detain persons for the purpose of investigating other, non-immigration, matters.

The participation of UKBA staff in police-led operations must be authorised by an officer of at least CIO level. In any case which is not straightforward, for example if details of possible offenders are not available, an inspector's advice should be sought. Such operations will be dealt with under the tier system as in chapter 31.16, 31.17, 31.17.1/2.

Any situation likely to attract media attention should be brought to the attention of the assistant director.

31.19 UKBA operations in public areas, crime reduction operations and street operations

This guidance is relevant to all UKBA activity in public areas. Crime reduction operations are intelligence-led operations organised by the police and are undertaken in public areas or crime 'hotspots' targeting criminals and criminal activity, for example fare evasion, pick pocketing, bag snatching etc. The police will always be the lead agency on a crime reduction operation and IOs are invited to attend where the police expect to encounter persons who may also be immigration offenders.

Street operations are UKBA led operations that target immigration offenders where intelligence has shown that they are gathered at specific locations at certain times. In every case, UKBA will apply a set of information and prepare an intelligence profile justifying their involvement in such an operation and the decision to base themselves at a particular location. Police officers may also be in attendance (and recorded within the operational briefing), on street operations but this will depend upon their availability, authorisations, risk assessments etc.

However, whether IOs are assisting on a crime reduction operation or leading on a street operation the points made below (legal considerations, equality act considerations, case-law and reasonable suspicions of immigration offences being committed) remain the same.

31.19.1 Authority to conduct crime reduction operations and street operations

Intelligence development of crime reduction operations and street operations should be based on information received by UKBA regarding, for example, immigration offenders congregating at a particular location, or an analytical profile of immigration offenders and their proximity to locations

before they can be tasked at a local TCG level. Crime reduction operations and street operations (led by UKBA) will require the authority of an AD who will;

- ◆ chair the tasking meeting to consider whether the incoming intelligence amounts to a reasonable suspicion that immigration offenders may be found in a particular location.

Before the operation takes place, the AD will need to be convinced that the intelligence or analytical profile supporting the operation is sufficient to allow a crime reduction operation or street operation to take place and record the rationale behind that decision within the operational booklet.

- ◆ identify a gold commander who will be contactable during the time of the operation.
- ◆ make sure that the officer in charge completes the operational booklet, noting all persons questioned, holds a debrief and reports the results back to the intel unit.

Crime reduction operations and street operations must have an arrest trained chief immigration officer to act as officer in charge of the operation who will:

- ◆ complete the operational booklet recording the events of the operation.
- ◆ make sure that all IOs taking part in the operation are aware of their responsibilities and are fully briefed on the basis and objectives of the operation.
- ◆ make sure that any other agencies accompanying UKBA are fully aware of the immigration powers and responsibilities of UKBA staff.
- ◆ supervise UKBA staff during the operation, ensuring compliance with UKBA guidance.
- ◆ deal with issues that may arise during the operation, including complaints and comment from members of the public.
- ◆ hold a debrief following the operation to ensure that all the persons questioned have been noted and that all intelligence obtained is fed back into the intel unit.

31.19.2 Legal considerations

IOs do not have the same powers as the police to stop individuals in public places. As regards the powers of IOs to question individuals 'in-country' (as distinct from immigration control points at ports of entry), IOs are entitled to examine people in order to determine their immigration status **in certain circumstances**. The authority for this is provided by paragraph 2 of Schedule 2 to the Immigration Act 1971 as supported by the long standing judgment of *Singh v Hammond*, which

sets out the circumstances in which the power of examination can be relied on away from the place of entry. It is important to understand that there is a two stage process to allow a UKBA officer to operate within a street operation. Stage one establishes that there is sufficient intelligence to authorise the operation at AD level using the operational booklet that authorises the operation and contained in this guidance at Annex A. Stage two is then for the individual UKBA officer to justify the questioning of a member of the public on a consensual basis based on the individuals behaviour when they encounter an UKBA presence outlined in 31.19.5 below.

31.19.3 The Singh v Hammond judgment

In Singh v Hammond the Court held that:

‘An examination [under paragraph 2 of Schedule 2 to the Immigration Act 1971] ... can properly be conducted by an immigration officer away from the place of entry and on a later date after the person has already entered ... if the immigration officer has some information in his possession which causes him to enquire whether the person being examined is a British citizen and, if not, ... whether he should be given leave and on what conditions.’

Before seeking to question someone, an IO will need to have information in his possession which suggests that the person may be of immigration interest (that is there are doubts about that person's leave status). Under these circumstances the IO may lawfully seek to stop that person with a view to asking them consensual questions about their identity and leave status away from the point of entry to the UK and after the date when that person first entered the UK. The information in the IO's possession should be sufficient to constitute a reasonable suspicion that that particular person may be an immigration offender. Any IO stopping and questioning an individual will need to be in a position to justify the reasons why they considered that threshold to be satisfied in that particular case.

Any questioning must be consensual. The paragraph 2 power to examine does not include a power to compel someone to stop or to require someone to comply with that examination. Should a person seek to exercise their right not to answer questions and leave, there is no power to arrest that person purely on suspicion of committing an immigration offence.

Equality Act issues

Under the Equality Act 2010 it is unlawful for IOs carrying out their duties to do any act which constitutes race discrimination. 'Discrimination' includes treating some people less favourably than others on the basis of race (which includes colour, nationality, ethnic or national origins). Therefore, an IO must not stop an individual based upon their race-linked features/appearance and/or race. Colour can never be the basis of the IOs 'reasonable suspicion' that someone has committed an immigration offence (see 39.19.2 above for further details).

As set out at 31.19.3, IOs should not stop or request identification from all persons in an attempt to show that they are not discriminating. They must be able to demonstrate and record their 'reasonable suspicion' in all cases.

There is an exception that allows discrimination on the basis of ethnic or national origin or nationality when undertaking immigration functions if it is authorised by a minister. However, such an authorisation could not cover such operations.

In order to ensure compliance with the Equality Act 2010, an IO **must not**, amongst other things, do the following:

- ◆ stop and/or examine individuals in reliance in any way on 'profiling' on the basis of race;
- ◆ point out individuals to officers of other agencies and ask them to stop them under their powers and then refer them to an IO; or
- ◆ engage a person on the basis of their appearance, race, colour, ethnic origin or nationality.

31.19.4 Referrals and reasonable suspicion

Other agencies present on the crime reduction operation may stop an individual under their own powers and refer them to an IO. At this stage and based purely on the referral from the officer of that agency, it is highly unlikely that the IO will have formed a reasonable suspicion that there is a basis for examination of that particular person relying on the authority provided by *Singh v Hammond*. It is also highly unlikely that the intelligence will be as specific as to state that Mr. X is an immigration offender and will be at a particular location on a particular date and at a particular time. In the case of crime reduction operation referrals, the officer from the referring agency will therefore need to have formed a reasonable suspicion that the person may be an immigration offender prior to referring that person to an IO. At the point of referral, the IO must ask the individual

concerned whether he is prepared to answer a few questions. This questioning can take place only on a consensual basis in the same way that it would on a street operation.

Further information on the use of Schedule 2 powers, for example caution +2 interviews, can be found at Chapter 31.2.1 – 31.2.7.

Reasonable suspicion that an individual may be an immigration offender could arise in numerous ways but an example might be where an individual attempts to avoid passing through or near a group of IOs who are clearly visible, wearing branded UKBA clothing, at a location which has been targeted based on intelligence suggesting that there is a high likelihood that immigration offenders will be found there. This behaviour could not necessarily be considered to be linked to, for example, evading payment of the train fare if IOs are wearing vests or other items of work wear which clearly show which agency they belong to. In such circumstances the IO could legitimately stop the individual and ask consensual questions based on a reasonable suspicion that that person is an immigration offender.

IOs should not engage with and question all persons in an attempt to demonstrate that they are undertaking these operations in a non-discriminatory manner. Stopping or requesting identification from all individuals in a particular location is not consistent with stopping only those people in relation to whom the IO has a reasonable suspicion that they may be an immigration offender. Instead, IOs must be able to demonstrate and record the objective evidence on which they base the 'reasonable suspicion' which forms the basis for their initial engagement with an individual in all cases. The reasons recorded should be sufficient to demonstrate that their actions are compliant with the Equality Act 2010 (see 31.19.5).

An IO may seek to stop an individual on a street operation and refer them to another IO for questioning (rather than a referral from another agency). The initial reason for seeking to stop the person must be justified under *Singh v Hammond* and recorded in the operational booklet even if that person is referred to another UKBA officer to undertake the consensual questioning of that individual.

31.19.5 Basis to stop individuals

During a street operation, IOs should only ever seek to stop and engage with individuals in order to question them about their leave status in circumstances where the IO is based in that particular

location on an intelligence-led basis, as set out at 31.19.1. This, taken together with other evidence, might amount to a reasonable suspicion that an individual is an immigration offender sufficient to question that individual on a consensual basis.

An example of additional evidence which might amount to reasonable suspicion was provided in an earlier section (that is where a person attempts to avoid passing through or near a group of IOs who are clearly visible and identifiable as UKBA officers). This could be referred to as 'having an adverse reaction to an immigration presence'. Although there is no definitive list of what constitutes an 'adverse reaction' some other examples may include:

- ◆ Hanging back from the barriers. Where the individual moves in such a way as to allow others past his position for no apparent reason upon spotting the presence of IOs.
- ◆ Reversing direction or walking away. A sudden or unexplained change in direction and/or pace which is not running but generally quicker than they were walking. This could explain a desire to exit the area without drawing the same attention that running would.
- ◆ Seeking to limit interaction and/or confrontation with someone perceived to be a threat.

On the other hand, IOs should be aware that there could also be a reasonable explanation for such actions, for example they cannot find their ticket to pass through the barriers, they could be late for a connecting journey or there could be cultural or diversity issues for not making eye contact. The reasonable suspicion and/or the adverse reaction may not be the same for all individuals and officers must be able to fully justify their reasons for stopping an individual who is not referred by another agency in their pocket notebooks. Should a person who has displayed the behaviours outlined above seek to leave the area of the operation, the IO must not chase them as they have not arrested the person. The pursuit policy is described in detail at 31.14.

Before seeking to question any person about their identity and leave status, the IO must:

- ◆ identify themselves both verbally and by producing their warrant card
- ◆ explain the reason for questioning the individual
- ◆ advise the person they are seeking to question that they are not obliged to answer any questions
- ◆ advise the person that they are not under arrest and are free to leave at any time

31.19.6 Basis to arrest individuals

If a person attempts to leave prior to questions being asked, the IO has no power to stop that person from doing so unless there is already a sufficient basis for arrest of that individual. If a person attempts to leave whilst an examination is ongoing, the IO would have to determine whether, in those circumstances, there were sufficient grounds to arrest the individual. The IO would be unable to arrest the individual unless he was able to demonstrate that that person was liable to detention (within the meaning of paragraphs 17(1) & 16(2) of Schedule 2 of the Immigration Act 1971) or had satisfied one of the relevant thresholds for arrest for the offences set out at section 28A of the Act.

31.19.7 Recording of information

If an IO does form a reasonable suspicion that a person may be an immigration offender the IO must:

- ◆ record the details of the questioning including, nationality, objective of questioning, grounds for questioning, the name of the IO making the stop, the date, the time and the location
- ◆ notify the OIC of any issues or complaints
- ◆ notify the OIC of the details of all those stopped and the outcomes

It is important that the information gathered and recorded by IOs, about those individuals spoken to in the course of a crime reduction operation or street operation, is done so in a unified and consistent manner. Consequently, whenever an IO engages a member of the public the information outlined above **must** be obtained and recorded in the pocket notebook and the names and nationality added to the NODMMX encounters screen at the conclusion of the operation. All recorded information needs to be copied and stored within the visit pack for a minimum of seven years.

31.19.8 Summary

IOs have powers to question people away from their point of entry to the UK about their identity and leave status, on a consensual basis, following the formation of a reasonable suspicion that an immigration offence has been committed. In addition, just because an immigration presence on a crime reduction operation or street operation is lawful, it does not mean that IOs will automatically be able to legitimately stop and question individuals. On a crime reduction operation, the referring officer will need a reasonable suspicion that that person is an immigration offender. On a street

operation, there still needs to be a reasonable suspicion that that individual may be an immigration offender before initially stopping, questioning (with the consent of the person stopped) and where appropriate, subsequently arresting.

Only when an IO has formed a 'reasonable suspicion' that an individual is an immigration offender may he lawfully seek to stop that person on a voluntary basis with a view to asking him questions about identity and leave status. Where this is the basis for the stop, *Singh v Hammond* and an IO's powers under Schedule 2 of the Immigration Act 1971 Act to examine the person about their identity and leave status will provide the lawful authority to do so.

An IO has no power to stop a person who refuses to do so unless they have other information in their possession at that stage amounting to grounds for arrest under one of the relevant arrest powers at Part III or Schedule 2 of the Immigration Act 1971.

An IO must not engage a person on the basis of their appearance, race, colour, ethnic origin or nationality. To do so would amount to unlawful discrimination under the Equality Act 2010.

Annex A

Operational Booklet