

Arrest guidance

This guidance is based on the Immigration Acts and Police and Criminal Evidence Act 1984

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Arrest guidance

About this guidance

<p>What is an arrest?</p> <p>Arrest, entry and search powers</p> <p>Making an arrest and the caution</p> <p>Children and vulnerable people</p> <p>Using force during an arrest</p> <p>Recording the arrest details</p> <p>Your responsibilities to the arrested person</p> <p>Arrests for further offences</p>	<p>This guidance tells criminal investigators in immigration enforcement in England, Wales and Northern Ireland how to make a lawful arrest.</p> <p>It is only for staff who have successfully completed the specialist immigration arrest and criminal investigation training.</p> <p>It is based on Immigration Acts and the Police and Criminal Evidence Act 1984.</p> <p>For more information see related links for the Immigration Act 1971, the Immigration and Asylum Act 1999 and the Police and Criminal Evidence Act 1984.</p> <p>It includes guidance on:</p> <ul style="list-style-type: none">• What is an arrest?• Arrest, entry and search powers.• When to arrest, why it is necessary and who makes the arrest.• Making an arrest and the caution.• Children and vulnerable people.• Using force during an arrest• How to record the arrest.• Your responsibilities to the arrested person.• Arrests for further offences. <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner – This page tells you about this version of the guidance and who owns it.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p> <p>External links</p> <p>Police and Criminal Evidence Act 1984</p> <p>Immigration Act 1971</p> <p>Immigration and Asylum Act 1999</p>
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	Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more.	
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This page lists changes to the arrest guidance, with the most recent at the top.

Date of the change	Details of the change
04 July 2013	Completely revised by the modernised guidance team.

See also

[Contact Information owner](#)

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What is a lawful arrest?

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This page tells you what a lawful arrest is.

Lawful arrest

You lawfully arrest a person by:

- physically seizing or touching their body, intending to detain them, or
- using words which make it clear:
 - they are under arrest, and
 - are not free to leave.

Unlawful arrest

Your arrest is unlawful if you do not tell the person at the time of arrest, or as soon as practical after the arrest:

- you are arresting them, and
- the grounds for the arrest.

Even if a suspect believes they are under arrest, your arrest is unlawful if you do not satisfy the above conditions. The possible consequences are:

- you or the Home Office could be sued for compensation
- any evidence you seize after the arrest may be considered inadmissible (not allowed to be used)
- you could lose your court case, or
- any use of force after this may be considered unlawful.

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Arrest, entry and search powers - who makes the arrest

<p>About this guidance What is an arrest? Making an arrest and the caution Children and vulnerable people Using force during an arrest Recording the arrest details Your responsibilities to the arrested person Arrests for further offences</p>	<p>This section tells you the arrest, entry and search powers of immigration enforcement investigators and staff working in immigration enforcement investigation teams.</p> <p>If you have successfully completed the specialist immigration arrest and criminal investigation training and are working in an appropriately authorised role in an immigration enforcement criminal investigation team, you are:</p> <ul style="list-style-type: none">• a designated officer, and• allowed to use arrest and criminal investigation powers. <p>As a designated officer, you must only use the power of arrest if you have:</p> <ul style="list-style-type: none">• discovered an offence• enough knowledge of an offence, or• evidence of an offence. <p>For more information on your powers of arrest, entry and search, see related links:</p> <ul style="list-style-type: none">• Powers of arrest, entry and search immigration legislation• Powers of arrest, entry and search under PACE. <p>For a copy of the list of offences designated immigration enforcement investigation team officers investigate, see the related link: Offences immigration enforcement investigation teams investigate.</p>	<p>In this section When to arrest and why it is necessary Search powers after arrest</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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When to arrest and why it is necessary

<p>About this guidance What is an arrest? Arrest, entry and search powers Making an arrest and the caution Children and vulnerable people Using force during an arrest Recording the arrest details Your responsibilities to the arrested person Arrests for further offences</p>	<p>This section tells you whether you need to arrest a person and why it is necessary.</p> <p>It is your responsibility, as the arresting officer, to decide if you have reasonable grounds to suspect the person:</p> <ul style="list-style-type: none">• has committed an offence• is committing an offence• has been involved in committing an offence, or• has attempted to be involved in committing an offence. <p>For more information on whether to arrest, see related link: Arrest aide memoire.</p> <p>Section 145 of the Immigration and Asylum Act 1999 states when using a specified power of arrest, questioning, search or seizure:</p> <ul style="list-style-type: none">• English and Welsh immigration officers must follow the Police and Criminal Evidence Act 1984 (PACE) and• Northern Ireland immigration officers must follow the Police and Criminal Evidence (Northern Ireland) Order 1989 codes of practice. <p>For further information on the legislation, see related links:</p> <ul style="list-style-type: none">• Section 145 of the Immigration and Asylum Act 1999• Police and Criminal Evidence Act 1984, and• The Police and Criminal Evidence (Northern Ireland) Order 1989. <p>You must have reasonable grounds to believe the arrest is necessary for at least one of the following reasons:</p> <ul style="list-style-type: none">• To find out the person's name and address, if you:	<p>In this section Search powers after arrest</p> <p>Related links What is a lawful arrest</p> <p>Downloads</p> <p>Links to staff intranet removed</p> <p>External links Section 145 of the Immigration and Asylum Act 1999 Police and Criminal Evidence Act 1984 The Police and Criminal Evidence (Northern Ireland) Order 1989</p>
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- do not know the details
- cannot easily find the details out.
- If you doubt the details they have given you are their real name or address.
- To prevent the person:
 - causing physical injury to themselves or any other person
 - suffering physical injury
 - causing loss or damage to property
 - committing an offence against public decency, or
 - causing an unlawful obstruction of the highway.
- To protect a child or other vulnerable person.
- To allow the investigation to be prompt and effective.

You must make sure your arrest is lawful. For more information on lawful arrests see link on left: What is a lawful arrest?

As a designated officer your official reason for arresting someone is usually 'to enable the prompt and effective investigation of the offence'.

For further information see related links:

- Arrest aide memoire
- ACPO position statement necessity to arrest.

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Search powers after arrest

<p>About this guidance What is an arrest? Arrest, entry and search powers Making an arrest and the caution Children and vulnerable people Using force during an arrest Recording the arrest details Your responsibilities to the arrested person Arrests for further offences</p>	<p>This page tells you when to use your search powers after an arrest.</p> <p>You may search the arrested person if you have reasonable grounds to believe they:</p> <ul style="list-style-type: none">• may be a danger to themselves or others• have items which might be used to assist an escape, or• possess evidence relating to the offence. <p>You may seize and retain items found unless they are subject to legal privilege. Legal privilege items are things such as legal advice between a professional legal adviser and:</p> <ul style="list-style-type: none">• their client, or• any person representing their client. <p>Items which could be used to commit a crime are not subject to legal privilege.</p> <p>To search for evidence relating to the offence, you may enter any premises the person was in:</p> <ul style="list-style-type: none">• when arrested, or• immediately before arrest. <p>For further information on your search powers, see the related links:</p> <ul style="list-style-type: none">• Powers of arrest, entry and search under immigration legislation• Powers of arrest, entry and search under PACE.	<p>In this section When to arrest and why it is necessary</p> <p>Downloads</p> <p>Links to staff intranet removed</p>
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Making an arrest and the caution

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	<p>questioned something which you later rely on in court, anything you do say may be given in evidence’.</p> <p>You must make sure the individual has understood the meaning of the caution. Use your own words to explain it if need be.</p> <p>For more information see related link: Code C Police and Criminal Evidence Act 1984.</p> <p>When working in different areas of the UK you must also be aware of, and comply with any differences in:</p> <ul style="list-style-type: none">• legislation• policy, and• standard operating procedures.	
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Children and vulnerable people

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	<ul style="list-style-type: none"> • blind or seriously visually impaired • deaf • not able to read, or • not able to speak or has difficulty speaking because of a speech impediment. <p>Arranging for an appropriate adult</p> <p>Due to the sensitivity of taking a young or vulnerable person into custody you must inform the appropriate Her Majesty's inspector (HMI) or senior investigation officer (SIO) as soon as possible. Your HMI or SIO must make sure you follow all procedures correctly, particularly regarding appropriate adults.</p> <p>Under sections 1.4 to 1.7, Code C of the Police and Criminal Evidence Act 1984 you must arrange for an appropriate adult for anyone you suspect, or are told in honest opinion, is:</p> <ul style="list-style-type: none"> • vulnerable, or • a child. <p>For further information see related link: Code C Police and Criminal Evidence Act 1984.</p> <p>An appropriate adult for a child is a:</p> <ul style="list-style-type: none"> • parent • guardian • person representing a local authority or voluntary organisation if the child is in care • social worker of a local authority, or • responsible adult aged 18 or over who is not a police officer or employed by the police. <p>An appropriate adult for a vulnerable person is:</p> <ul style="list-style-type: none"> • a relative • a guardian • someone responsible for their care or custody, or 	
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| | <ul style="list-style-type: none">• someone experienced in dealing with mentally disordered or mentally vulnerable people but who is not a police officer or employed by the police. | |
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Using force during an arrest

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Recording the arrest details

<p>About this guidance What is an arrest? Arrest, entry and search powers</p> <p>Making an arrest and the caution Children and vulnerable people Using force during an arrest Your responsibilities to the arrested person Arrests for further offences</p>	<p>This section tells you the details need and how to record the arrest.</p> <p>You must provide a full and detailed account of the circumstances of the arrest, including anything you think is relevant. Your record of arrest must include:</p> <ul style="list-style-type: none">• All relevant times. These include the day, date and time of:<ul style="list-style-type: none">○ the arrest○ caution○ arrival at police station, and○ when your account was started and completed.• The location where you wrote your account and any people present.• A brief case history.• Any relevant case or file references.• Details of the arrested person:<ul style="list-style-type: none">○ name○ address○ date of birth○ nationality○ occupation○ gender, and○ physical description.• If the arrested person is not the original target of your enquiries. But you must still make reference to the suspect you were searching for.• Your legal power to:<ul style="list-style-type: none">○ make the arrest○ search the person○ search the premises.• The location of the arrest and a description of the scene.• Details of all who were present.• A record of what was said at the scene.	<p>In this section How to record the arrest</p>
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	<ul style="list-style-type: none">• Any force used to:<ul style="list-style-type: none">○ enter the premises○ arrest, and○ search the offender.• The justification for using force.• The behaviour of the arrested person at the scene.• Any injuries or illness, or the fact there were no injuries following use of force.• Any relevant documents:<ul style="list-style-type: none">○ found○ seized, and○ how you got them.• Any damage caused and steps taken to repair and secure damaged property.• How the arrested person was taken to a police station. And• The police custody record number. <p>A useful way of describing a location in your notes is by using 'TOM' and 'TWO'</p> <p>TOM is for outdoors and stands for:</p> <ul style="list-style-type: none">• the place (for example the street, road or town)• outside• metres and direction from the nearest junction. <p>TWO is for indoors and stands for:</p> <ul style="list-style-type: none">• the place (for example the number, name or street)• what kind of premises• owned or occupied by.	
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How to record the arrest

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This page tells you how to record the arrest.

You must sign every entry you make in your arrest notes. Your notebook signature must have your:

- first name then your surname
- grade, and
- warrant number.

Your notes must be completed:

- in black ball point pen
- using the 24 hour clock
- using block letters when writing:
 - names
 - days
 - dates
 - times
 - places
 - addresses, and
 - compass points.

You must follow the 'no ELBOWS' notebook rule:

- Erasures.
- Leaves torn out.
- Blank spaces.
- Overwriting.
- Writing between lines. And
- Statements must all be in direct speech.

	<p>So you can prove when you made your notes you must stamp them with an automatic time recorder (ATR). This stamps original notes with indelible ink confirming the:</p> <ul style="list-style-type: none">• time• date, and• station code. <p>If an ATR machine is not available you must get your notes signed off by a chief immigration officer (CIO) or higher investigation officer (HIO).</p> <p>Not all Home Office or police forces have ATR machines. If your area does not you must make sure that your record of arrest statement includes the time and date when it was written.</p>	
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Your responsibilities to the arrested person

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Arrests for further offences

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Contact

<p>About this guidance What is an arrest? Arrest, entry and search powers Making an arrest and the caution Children and vulnerable people Using force during an arrest Recording the arrest details Your responsibilities to the arrested person Arrests for further offences</p>	<p>This page explains who to contact for more help with a specific query about arrests.</p> <p>If you have read this guidance and still need more help with this category, you must first ask your line manager.</p> <div data-bbox="465 478 1621 694"><p>Restricted information – do not disclose – start of section</p><p>The information in this page has been removed as it is restricted for internal Home Office use only.</p><p>Restricted information – do not disclose – end of section</p></div> <p>Changes to this guidance can only be made by the modernised guidance team. If you think the policy content needs amending you must contact the policy team, using the related link: CI inbox, who will ask the modernised guidance team (MGT) to update the guidance, if appropriate.</p> <p>The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the related link: Email: Modernised guidance team.</p>	<p>Related links Changes to this guidance Information owner</p> <p>External links Links to staff intranet removed</p>
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This page tells you about this version of the arrest guidance and who owns it.

Version	1.0
Valid from date	04 July 2013
Guidance owner	Robert Allen
Cleared by director	David Pennant Sonia Dower
Director's role	Director Crime directorate Director Strategy and intelligence directorate
Clearance date	26 June 2013

Changes to this guidance can only be made by the modernised guidance team. If you think the policy content needs amending you must contact the policy team, using the related link: CI inbox, who will ask the modernised guidance team (MGT) to update the guidance, if appropriate.

The MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the related link: Email: Modernised guidance team.

Related links

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External links

Links to staff intranet removed