

# High risk border breaches

## High risk border breaches

### About this guidance

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| <a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This guidance tells Home Office staff and criminal investigation officers working in immigration enforcement what a high risk border breach is and what to do when they identify one.</p> <p>The guidance contains information on:</p> <ul style="list-style-type: none"><li>• definitions of:<ul style="list-style-type: none"><li>○ high risk border breaches</li><li>○ high harm persons</li><li>○ critical incidents</li></ul></li><li>• primary investigation at the port of entry</li><li>• referral process – for further investigation if the person is not found</li><li>• secondary investigation</li><li>• recovery of a high harm person</li><li>• post investigation process</li><li>• some legislation that relates to high risk border breaches.</li></ul> <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 manager can't answer your questions.</p> <p>Information owner – this page tells you about this version of the guidance and who owns it.</p> | <p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a><br/><a href="#">Contact</a><br/><a href="#">Information owner</a></p> |
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### Changes to this guidance

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This page lists changes to the high risk border breaches guidance, with the most recent at the top.

| Date of the change | Details of the change  |
|--------------------|--|
| 21 August 2013     | Six month review by the modernised guidance team: <ul style="list-style-type: none"><li>• Minor housekeeping and plain English changes.</li></ul>  |
| 06 February 2013   | Six month review by the modernised guidance team:<br><br>Change to contact details   |
| 7 September 2012   | Change request: <ul style="list-style-type: none"><li>• Primary investigation at port of entry:<ul style="list-style-type: none"><li>○ Sub heading 'Next steps', certain bullet points restricted for internal UK Border Agency use only</li></ul></li><li>• Minor housekeeping changes.</li></ul> |
| 15 August 2012     | Completely revised by the modernised guidance team.  |

#### Related links

#### See also

[Contact](#)  
[Information owner](#)

## High risk border breaches

### Definition of high risk border breach

|  |   |                                 |
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| <a href="#">About this guidance</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This page tells you the definitions of a high risk border breach, high harm persons and critical incidents.</p> <p><b>Definition of a high risk border breach</b><br/>A high risk border breach happens when a high harm person is allowed to enter the UK when they should not have been.</p> <p>All high risk breaches are treated as critical incidents.</p> <p><b>Definition of a high harm person</b><br/>A person is considered to be high harm for one or more of the following reasons. Their:</p> <ul style="list-style-type: none"><li>• presence in the UK increases the risk of real and immediate, significant physical harm to person(s)</li><li>• presence increases the risk of significant damage to property, or</li><li>• entry to the UK is likely to cause significant harm to the reputation of the UK and/or the Home Office.</li></ul> <p>This includes people who have, or are being considered for:</p> <ul style="list-style-type: none"><li>• a deportation order, or</li><li>• an exclusion order.</li></ul> <p><b>Definition of a critical incident</b><br/>A critical incident is one where the outcome of that incident is likely to result in:</p> <ul style="list-style-type: none"><li>• serious harm to any individual</li><li>• significant community impact, or</li><li>• significant impact on the business of the Home Office.</li></ul> | Links to staff intranet removed |
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|  | <p>This includes:</p> <ul style="list-style-type: none"><li>• terrorist attacks</li><li>• natural disasters</li><li>• pandemics</li><li>• death, or</li><li>• any emergency situation that would have significant, unwanted results that affect the daily activities of the Home Office.</li></ul> <p>For more information see related link: <a href="#">44 Critical incident management</a>.</p> |  |
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### Command structure during a critical incident

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| <a href="#">About this guidance</a><br><a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This section tells you about the command structure you must use during a high risk border breach, or any critical incident, and the process for investigation.</p> <p>The gold, silver, bronze command structure system is used by the police and other agencies to make sure the critical incident is dealt with in a structured way.</p> <p>When a critical incident is declared you must always use this system and the following roles.</p> <p><b>Gold commander</b></p> <p>The gold commander is nearly always a director for a critical incident and they have:</p> <ul style="list-style-type: none"><li>• responsibility for:<ul style="list-style-type: none"><li>○ the handling and outcome of the incident</li><li>○ setting out the overall strategy for the recapture of the high harm person, and</li></ul></li><li>• a key role in making sure that there are enough resources available.</li></ul> <p>If the gold commander is not a director the role must be filled by another officer who has received the appropriate gold commander training. This may be:</p> <ul style="list-style-type: none"><li>• a deputy director</li><li>• an assistant director, or</li><li>• an inspector</li></ul> <p>or equivalent grades.</p> <p>It is essential that one manager takes the role of gold commander from the beginning. In some circumstances there may already be a gold commander, for example if a high harm individual is already known to the Home Office.</p> <p><b>Silver commander</b></p> <p>The silver commander is usually the immigration enforcement criminal investigation on-call</p> | <p><b>In this section</b></p> <p><a href="#">Primary investigation at port of entry</a><br/><a href="#">Referral process if 'high harm' person not found</a><br/><a href="#">Secondary investigation if 'high harm' person not found</a></p> <p>Links to staff intranet removed</p> |
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|  | <p>grade 7 manager and is responsible for making a tactical plan to achieve the gold commander's strategy.</p> <p><b>Bronze commander</b></p> <p>The bronze commander makes the operational decisions necessary for the tactical plan to work as the incident is being dealt with. There may be more than one bronze commander, for example:</p> <ul style="list-style-type: none"><li>• Bronze investigation commander who runs the investigation in practical terms.</li><li>• Bronze intelligence commander to manage the long term intelligence needs.</li><li>• Bronze media commander to manage internal and external communications.</li><li>• Bronze enforcement commander to arrange enforcement resources required.</li></ul> <p>You are not allowed to perform any of these roles unless you have received the relevant training.</p> <p>For more information on critical incident management, see related link.</p> |  |
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## High risk border breaches

### Primary investigation at port of entry

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This page tells you what to do if you identify a high risk border breach and the steps you must follow during the primary investigation at the port of entry.

#### Immediate pursuit

If you identify the breach within two hours of it happening, you must treat it as an 'immediate pursuit' and the port area must be secured to search for and detain the high harm person.

Two hours is a guideline only, you must assess each case independently.

#### What happens when you identify a high risk border breach

| Role                                  | What they must do   |
|---------------------------------------|---|
| The first person to notice the breach | Tell a senior officer immediately that they have identified a critical incident.  |
| The senior officer                    | Notify senior managers that a critical incident has been identified.  |
| The senior manager                    | Contact the on call Border Force duty director.   |
| The director                          | Solely responsible for the ownership of the Border Force critical incident plan, and putting it into action.<br><br>It is essential that one director takes on the role of gold commander from the beginning. |

For more information on each of the commander roles see link on left: Command structure during a critical incident.

#### Next steps

The gold commander must:

#### In this section

[Referral process if 'high harm' person not found](#)  
[Secondary investigation if 'high harm' person not found](#)



- decide if a critical incident has occurred and start the critical incident plan, and
- make sure all decisions are recorded in a Home Office policy log

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You must take the actions above, but this is not a complete list. You may also think of other actions that are not on the list and you must identify all possible actions that may lead to the recovery of the 'high harm' person.

#### **If the person has not been found**

You must:

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Restricted – do not disclose – end of section

- follow the referral process so that the investigation continues.

#### **Carry out a 'lessons learnt' process**

Border force must carry out a review of the incident within 24 hours to identify learning points for the future.

## High risk border breaches

### Referral process if 'high harm' person not found

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This page tells you how to refer a high harm person for further investigation. You must do this when they have not been recaptured at the port.

#### Referral to the command and control unit (CCU)

If you identify a breach and the 'high harm' person has not been found you must tell the CCU at Manchester Airport.

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Restricted information – do not disclose – end of section

They can provide the following services:

- Act as central point:
  - of contact for all 'search and detain' critical incidents that meet the critical incident criteria.
  - for getting access to all available intelligence. This will be obtained from the National Coordination Unit (NCU), a 24 hour intelligence unit based in Ipswich.
- Review incidents to make sure that the critical incident criteria are met. For more information, see link on left: Definition of high risk border breach.
- Hold the immigration enforcement criminal investigation specialist teams on-call rota, and immediately contact the on-call senior investigating officer (SIO).
- Be responsible for undertaking and arranging urgent intelligence checks that will provide the best intelligence about the 'high harm' person.

CCU has immediate access to the following systems which they can use to help try and identify where the person may be:

#### In this section

[Primary investigation at port of entry](#)  
[Secondary investigation if 'high harm' person not found](#)

#### Related links

[Definition of high risk border breach](#)

|  |   |  |
|--|---|--|
|  | <ul style="list-style-type: none"><li>• CID - the database which records details of applications made to the Home Office.</li></ul> <div>Restricted – do not disclose – start of section</div> <div>The information in this page has been removed as it is restricted for internal Home Office use only.</div> <div>Restricted – do not disclose – end of section</div> |  |
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## High risk border breaches

### Secondary investigation if high harm person not found

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|---|---|--|
| <a href="#">About this guidance</a><br><a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This page tells you about investigating a high harm person who has not been recaptured at the port, once you have followed the referral process.</p> <p>If a high harm person has not been recaptured at the port criminal investigation, immigration enforcement take over the case.</p> <p><b>Criminal investigation, immigration enforcement</b></p> <p>Criminal investigation is responsible for tracing and detaining high harm persons who have not been immediately located at the border.</p> <p>You must only refer and call out through the command and control unit (CCU). The aim is to coordinate a search strategy that will identify and recover the 'high harm' person.</p> <p>Criminal investigation has a 24 hour on-call rota which includes:</p> <ul style="list-style-type: none"><li>• an assistant director</li><li>• a senior investigation officer (SIO), and</li><li>• a higher investigation officer (HIO) or chief immigration officer (CIO).</li></ul> <p>CCU will contact the SIO first, no matter what time of day it is. The SIO must assess the situation and use criminal investigation resources as needed.</p> <p>If the case is accepted the lead officer from Border Force must handover to the SIO from criminal investigation. If they do not accept the case as high harm the lead unit for follow up activity will be Border Force.</p> <p>The national coordination unit also holds on-call details for staff from:</p> <ul style="list-style-type: none"><li>• criminal investigation, immigration enforcement</li><li>• Border Force, and</li><li>• HM Revenue &amp; Customs.</li></ul> | <p><b>In this section</b></p> <p><a href="#">Primary investigation at port of entry</a><br/><a href="#">Referral process if 'high harm' person not found</a></p> |
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### Supporting the investigation

| Role                   | What they must do  |
|------------------------|--|
| The assistant director | <ul style="list-style-type: none"><li>• Review the investigation in the first 12 hours and decide:<ul style="list-style-type: none"><li>○ if it should stay with the on call team, or</li><li>○ be reallocated to another criminal investigation team.</li></ul></li><li>• Make early contact with Home Office communications and press office to make sure there is an internal and external media strategy in place.</li></ul> |
| The SIO                | <div>Restricted – do not disclose – start of section</div> <div>The information in this page has been removed as it is restricted for internal Home Office use only.</div>   |

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| <p>Criminal investigation, immigration enforcement, must provide Border Force with regular progress updates.</p> <p>For more information on telephonic intelligence you can contact the criminal investigation specialist teams on-call SIO.</p> |  |   |  |
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| The information in this page has been removed as it is restricted for internal Home Office use only.   |  |   |  |
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## High risk border breaches

### Recovery of a 'high harm' person

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|---|---|---|
| <a href="#">About this guidance</a><br><a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This page tells you what can be done after a high harm person has been found.</p> <p>If a high harm person has been granted leave to enter but you locate them within 24 hours of being granted leave, you can withdraw that leave under paragraph 6(2) of schedule 2 to the Immigration Act 1971.</p> <p>You can only detain a person if they are subject to:</p> <ul style="list-style-type: none"><li>• further examination, or</li><li>• removal directions.</li></ul> <p>Therefore you must withdraw leave before you can detain them.</p> <p>If you do not locate the high harm person within 24 hours, you cannot withdraw their leave but you can curtail their leave under paragraph 323 of the Immigration Rules.</p> <p>A decision to curtail leave must refer to paragraph 322(5) which allows curtailment for the following reason:</p> <ul style="list-style-type: none"><li>• 'the undesirability of permitting the person concerned to remain in the United Kingdom in the light of his character, conduct or associations or the fact that he represents a threat to national security'.</li></ul> <p>See related links for more information on:</p> <ul style="list-style-type: none"><li>• Curtailment of leave</li><li>• Immigration Act 1971 (updated), and</li><li>• Immigration Rules – part 9.</li></ul> | <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration Act 1971 (updated)</a><br/><a href="#">Immigration Rules- part 9</a></p> |
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## High risk border breaches

### Post investigation process

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This page tells you what to do once you have detained a high harm person.

#### **Post investigation process**

Once you have detained the high harm person immigration enforcement must:

- Close the critical incident.
- Handover the responsibility for the decision making to the relevant part of the department, determined by the:
  - individual's immigration status
  - nature of the case, and
  - need for proactive management of the case.

#### **Who will take responsibility for the case**

The decision on who will deal with the case from this point is made by:

- the board members
- gold commander, and
- other parts of the agency

on a case by case basis. Who you consult depends on the:

- nature of the case, and
- need for further proactive management.

#### **Carry out a 'lessons learnt' process**

The command team for all operations must carry out an effective debriefing process to identify learning points. The lead officer in the case decides how this is done, but it may be:

- a debrief meeting
- the completion of a debrief sheet, or



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|  | <ul style="list-style-type: none"><li>• any other method the lead officer decides is appropriate.</li></ul> <p>Whichever method they use, all of those involved must be allowed the opportunity to give feedback.</p> |  |
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## High risk border breaches

### Legislation relating to high risk border breaches

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|---|--|--|
| <a href="#">About this guidance</a><br><a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This page tells you the legal status of individuals associated with high risk border breaches, as defined in the Immigration Act 1971.</p> <p><b>Illegal entry and deportation</b></p> <p>Section 24(1) of the Immigration Act 1971 states:</p> <ul style="list-style-type: none"><li>• 'A person who is not a British citizen shall be guilty of an offence....in any of the following cases:<ul style="list-style-type: none"><li>○ (a) If contrary to this Act he knowingly enters the United Kingdom in breach of a deportation order or without leave'.</li></ul></li></ul> <p>This means when a person who is required to seek leave to enter, absconds from the primary control before they have been granted leave to enter, they are an illegal entrant under section 24. As is a person who enters in breach of a deportation order.</p> <p>For more information, see link: Immigration Act 1971 (updated).</p> <p><b>Illegal entry and exclusion orders</b></p> <p>Regulation 24 of the Immigration (European Economic Area) Regulations 2006 (as amended by the 2009 regulations) states:</p> <ul style="list-style-type: none"><li>• 'an EEA national who enters the UK in breach of an exclusion order can be removed as an illegal entrant.'</li></ul> <p><b>Those who cannot be classed as illegal entrants</b></p> <p>A non EEA national who enters in breach of an exclusion order is not an illegal entrant because their exclusion is not statutory but at the discretion of the Secretary of State.</p> <p>For example, a non EEA national gains entry as a visitor, having met all of the visitor requirements. The fact that they are the subject of an exclusion order does not make this an 'illegal' entry.</p> | <p><b>External links</b></p> <p><a href="#">Immigration Act 1971 (updated)</a><br/><a href="#">The Immigration (European Economic Area) Regulations 2006</a></p> |
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|  | <p>A person who is the subject of an exclusion order who has been granted leave to enter in error is not an illegal entrant because they have not gained entry by deception or committed another offence under section 24.</p> <p>For example, a non EEA is interviewed on arrival but the officer does not identify that they are the subject of an exclusion order and grants them entry in error.</p> <p>In these cases the correct course of action is to either:</p> <ul style="list-style-type: none"> <li>• withdraw the leave granted <ul style="list-style-type: none"> <li>○ if the error is identified within 24 hours, or</li> </ul> </li> <li>• curtail the leave granted <ul style="list-style-type: none"> <li>○ if the error is identified after 24 hours.</li> </ul> </li> </ul> <p>For more information see link: <a href="#">The Immigration (European Economic Area) Regulations 2006</a>.</p> |  |
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## High risk border breaches

### Contact

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| <a href="#">About this guidance</a><br><a href="#">Definition of high risk border breach</a><br><a href="#">Command structure during a critical incident</a><br><a href="#">Recovery of a 'high harm' person</a><br><a href="#">Post investigation process</a><br><a href="#">Legislation relating to high risk border breaches</a> | <p>This page explains who to contact if you need more help with a question about high risk border breaches guidance.</p> <p>If you have read this guidance and still need more help, you must first ask your line manager.</p> <p>If you need further help you may contact:</p> <div><div>Restricted – do not disclose – start of section</div><div>The information in this page has been removed as it is restricted to internal Home Office use only.</div><div>Restricted – do not disclose – end of section</div></div> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the policy team, using the related link: Email 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><b>In this section</b><br/><a href="#">Changes to this guidance</a><br/><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p> |
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### Information owner

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This page tells you about this version of the high risk border breaches guidance and who owns it.

|  |  |
|--|--|
| Version                                  | 4.0  |
| Valid from date                          | 21 August 2013   |
| Guidance owner                           | David Fairclough - Criminal investigation, immigration enforcement, specialist teams               |
| Cleared by director                      | David Pennant<br>Sonia Dower   |
| Director's role                          | Director – Criminal investigation, immigration enforcement<br>Director – Strategy and intelligence |
| Clearance date                           | 30 July 2012   |
| This version approved for publication by | Jan Hunter   |
| Approver's role                          | Acting grade 7, modernised guidance team   |
| Approval date                            | 15 August 2013   |

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

**In this section**  
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Links to staff intranet removed