



Home Office

# Conditional cautions with foreign offender conditions

## Conditional cautions with foreign offender conditions

### About this guidance

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This guidance tells criminal and financial investigation (CFI) immigration crime team officers about conditional cautions, which can be offered to adult foreign offenders by the police and prosecutors in some circumstances.</p> <p>It tells you:</p> <ul style="list-style-type: none"><li>• what legislation introduced adult conditional cautions</li><li>• what foreign offender conditions are</li><li>• the process you must follow, and</li><li>• what to do if an offender does not comply.</li></ul> <p>Police officers working on CFI crime teams will continue to deal with conditional caution cases as they would do normally.</p> <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 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>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a> <a href="#">Contact</a> <a href="#">Information owner</a></p>
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## Conditional cautions with foreign offender conditions

### Changes to this guidance

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This page lists changes to the conditional cautions with foreign offender conditions guidance, with the most recent at the top.

Date of the change	Details of the change
3 May 2013	<p>Change request:</p> <ul style="list-style-type: none"><li>• Conditional cautions process:<ul style="list-style-type: none"><li>○ 'Pace code C' external link address changed</li></ul></li><li>• Re-entry ban and returning offenders:<ul style="list-style-type: none"><li>○ sub-heading 'Offenders who return to the UK', first paragraph, text 'and you must follow the procedures on non compliance' deleted.</li></ul></li></ul>
29 April 2013	<p>Change request:</p> <ul style="list-style-type: none"><li>• Advising police if a conditional caution is appropriate:<ul style="list-style-type: none"><li>○ sub-heading 'Foreign offender conditions you can recommend', new sixth paragraph.</li></ul></li></ul>
	<p>For previous changes you will need to access the archived guidance. See related link: Outcomes – archive.</p>

#### Related links

[Conditional cautions process](#)

[Re-entry ban and returning offenders](#)

#### See also

[Contact Information owner](#)

Links to staff intranet removed

## Conditional cautions with foreign offender conditions

### What is a conditional caution?

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This section tells criminal and financial investigation (CFI) immigration crime team officers what a conditional caution is.</p> <p>An adult conditional caution is an out of court disposal (way of dealing with an offender without going to court) that can be used instead of prosecution in cases of certain types of offending. It can only be used in England and Wales.</p> <p>A conditional caution allows criminal proceedings to be halted while the offender is given time to comply with the terms of the conditional caution. If they fail to comply, the criminal proceedings can be reinstated for the original offence. For more information, see related link: Section 22 Conditional cautions (Criminal Justice Act 2003).</p> <p>Section 134 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 amended the Criminal Justice Act 2003. It allows for foreign offender conditions to be attached to a conditional caution. For more information, see related link: Section 134 Conditional cautions: removal etc of certain foreign offenders.</p> <p>All 'indictable only' offences (ones which must be tried in crown court) must be referred to the Crown Prosecution Service.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Director's guidance on conditional cautioning, and</li><li>• Code of practice for adult conditional cautions.</li></ul> <p><b>Who can give a conditional caution</b></p> <p>You cannot administer (give) a conditional caution with foreign offender conditions because CFI officers are not authorised to do this. You can advise the police lead or the Crown Prosecution Service (CPS) whether it might be an appropriate disposal. Only the police lead or the CPS can make the final decision on:</p>	<p><b>In this section</b></p> <p><a href="#">Advising police if a conditional caution is appropriate</a> <a href="#">Who cannot be given a conditional caution</a> <a href="#">Conditional cautions - other things to consider</a></p> <p>Links to staff intranet removed</p>
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	<ul style="list-style-type: none"> <li>• whether a foreign offender conditional caution will be given, and</li> <li>• what the conditions will be.</li> </ul> <p>Other conditions an authorised person can give are not covered in this guidance because they are not something you can give advice on.</p> <p><b>Foreign offender conditions</b></p> <p>Foreign offender conditions aim to:</p> <ul style="list-style-type: none"> <li>• get the offender to leave the UK within a specified time period, and</li> <li>• prevent them from returning to the UK for a specified time period.</li> </ul> <p>Conditions to bring of these aims must be included in every conditional caution with foreign offender conditions.</p> <p>A foreign offender conditional caution can be appropriate even if the offender does not possess a valid travel document at the time the authorised person gives the caution. You can suggest conditions to help to overcome this.</p> <p>For examples of conditions and more information on the time periods, see related link: Advising police if a conditional caution is appropriate.</p>	
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## Conditional cautions with foreign offender conditions

### Advising police if a conditional caution is appropriate

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers about advising police on the suitability of a conditional caution, and what conditions they can recommend.</p> <p>For CFI cases your initial referral will be to the custody sergeant. They are an 'authorised person' and can therefore decide whether or not it is appropriate to authorise and administer (give) a conditional caution. The administration of a foreign offender conditional caution requires:</p> <ul style="list-style-type: none"><li>• There to be enough evidence to charge the offender with the offence if the offender were to be prosecuted.</li><li>• They must be likely to receive a custodial sentence of no more than two years upon conviction:<ul style="list-style-type: none"><li>◦ If they are likely, if prosecuted, to receive a custodial sentence of more than two years upon conviction, a conditional caution is unlikely to be suitable.</li></ul></li><li>• You must follow the Code of Practice on Adult Conditional Cautions and the Director of Public Prosecutions guidance on Adult Conditional Cautions.</li></ul> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• Director's guidance on conditional cautioning, and</li><li>• Code of practice for adult conditional cautions.</li></ul> <p><b>Adult conditional caution requirements</b></p> <p>The offender must:</p> <ul style="list-style-type: none"><li>• be over the age of 18</li><li>• admit the offence</li><li>• accept the conditional caution</li><li>• agree to comply with the conditions of the caution</li></ul>	<p><b>In this section</b></p> <p><a href="#">Who cannot be given a conditional caution</a> <a href="#">Conditional cautions - other things to consider</a></p> <p>Links to staff intranet removed</p>
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You must make sure there is enough evidence to charge the offender, and you should give the conditional caution to the offender.

### **Foreign offender requirements**

Section 22 (3G) of the Criminal Justice Act 2003, tells you a 'relevant foreign offender' is an offender:

- for who removal directions either have or may be given under:
  - schedule 2, Immigration Act 1971
  - section 10 of the Immigration and Asylum Act 1999, or
- who has a deportation order (DO) in force against them under section 5 of the Immigration Act 1971.

This means the police can only give a conditional caution with foreign offender conditions to an offender who:

- has been served with form IS151A
- is the subject of a DO, which includes offenders who have returned to the UK in breach of a DO, this means:
  - it is the only time an authorised person can consider a conditional caution for a European Economic Area (EEA) national, and
- where there are no barriers to removal.

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

- Sections 22(3D)-22 (3G) Criminal Justice Act 2003 Conditional cautions
- Schedule 2 of the Immigration Act 1971, and
- Section 10 Removal of certain persons unlawfully in the United Kingdom, Immigration and Asylum Act 1999.

### **Foreign offender conditions you can recommend**

The following conditions must be applied in every case. The offender must:

	<ul style="list-style-type: none"> <li>• leave the UK within the specified period, and</li> <li>• not return to the UK, for normally five years.</li> </ul> <p>In addition to the above conditions, you must consider which (if any) of the following conditions are also appropriate and advise the police accordingly. Each case must be assessed on an individual basis. The available further conditions are:</p> <p>The offender:</p> <ul style="list-style-type: none"> <li>• reports to a named reporting centre or named police station, the completed IS96 must be attached to the caution</li> <li>• must surrender their passport or other identity document to the Home Office, and they must give their address</li> <li>• or assist authorities in a valid national travel document</li> <li>• must comply with any lawful instruction given by the Secretary of State or an immigration officer, to bring about their removal from the UK.</li> </ul> <p>Exceptionally the Crown Prosecution Service extend this exclusion period from five years to ten years.</p> <p>If the condition not to return exceeds five years and the offender returns within that period following the five year re-entry ban, they will:</p> <ul style="list-style-type: none"> <li>• not necessarily be prevented from re-entering the country at the border, but</li> <li>• be liable to be prosecuted for the original offence.</li> </ul> <p>You must also tell the custody sergeant about the offender's immigration history. This is important as it will help them to decide if the offender is likely to comply with a conditional caution and whether to issue one or not.</p> <p>You may also think of other conditions that could assist removal or which would be appropriate for your case. Whatever conditions you recommend must be:</p> <ul style="list-style-type: none"> <li>• appropriate</li> </ul>	
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	<ul style="list-style-type: none"><li>• proportionate, and</li><li>• achievable.</li></ul> <p>If you decide not to advise to use a conditional caution or the custody sergeant disagrees with your advice, you must refer the case to the Crown Prosecution Service for charging advice.</p>	
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## Conditional cautions with foreign offender conditions

### Who cannot be given a conditional caution

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers when it is not appropriate to advise or recommend using a conditional caution to the police lead.</p> <p>The authorised person cannot give a conditional caution to a foreign offender if they do not meet all of the adult conditional caution and foreign offender criteria.</p> <p>The offender will not be removable if:</p> <ul style="list-style-type: none"><li>• They have an outstanding asylum or human rights claim or related appeal. In these cases they may also not be guilty of a criminal offence.</li><li>• There are outstanding barriers to removal, for example:<ul style="list-style-type: none"><li>○ known medical conditions</li><li>○ family circumstances in the UK, or</li><li>○ they have a legal right to be in the UK, such as a valid visa.</li></ul></li></ul> <p>The offender may not be removable if you have reasonable grounds to suspect the offence is connected to human trafficking in any way, either as a:</p> <ul style="list-style-type: none"><li>• victim, or</li><li>• perpetrator (trafficker).</li></ul> <p>If you identify a situation like this your supervisor or the police will be able to give you advice about what to do.</p> <p>For more information, see related link: 09 Identifying victims of trafficking.</p>	<p><b>In this section</b></p> <p><a href="#">Advising police if a conditional caution is appropriate</a> <a href="#">Conditional cautions - other things to consider</a></p> <p>Links to staff intranet removed</p>
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## Conditional cautions with foreign offender conditions

### Conditional cautions – other things to consider

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers about some other things to consider when dealing with a potential conditional caution.</p> <p><b>Debriefing the offender</b></p> <p>You may decide the offender needs a formal debrief if, for example, you believe they have further information about more serious and organised crime. You can arrange this by sending an email to the central debriefing coordination team, using the related link.</p> <p>If you think the offender could be a covert human intelligence source (CHIS) you can contact the national source unit (NSU). For more information, see related link: CHIS policy.</p> <div><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></div> <p><b>Multiple offenders</b></p> <p>You may come across a case where there are several offenders who may:</p> <ul style="list-style-type: none"><li>• be foreign nationals, and</li><li>• qualify to receive a conditional caution.</li></ul> <div><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></div> <p>If you come across this situation you must ask for advice from the Crown Prosecution Service and your supervising officer.</p>	<p><b>In this section</b></p> <p><a href="#">Advising police if a conditional caution is appropriate</a> <a href="#">Who cannot be given a conditional caution</a></p> <p>Links to staff intranet removed</p>
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## Conditional cautions with foreign offender conditions

### Conditional cautions process

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This section tells criminal and financial investigation (CFI) immigration crime team officers the process for advising police about conditional cautions.</p> <p>The investigation and referral process you must follow is the same as for any other prosecution case you investigate. When you identify a suspect you must:</p> <ul style="list-style-type: none"><li>• arrest the suspected offender</li><li>• book them into custody where:<ul style="list-style-type: none"><li>○ the police will advise them of their rights under the Police and Criminal Evidence Act (PACE) 1984, and PACE code of practice C</li></ul></li><li>• confirm their immigration status and if they are removable</li><li>• interview them under caution about the offence as you would normally do unless the custody sergeant tells you to do something else</li><li>• advise the custody sergeant if you think a conditional caution is appropriate:<ul style="list-style-type: none"><li>○ if it is not refer the case to the Crown Prosecution Service for charging advice</li></ul></li><li>• update your supervising officer.</li></ul> <p>For more information on a detainee's rights in the police station and interviewing under caution, see related link: PACE code C.</p>	<p><b>In this section</b></p> <p><a href="#">Immigration status checks</a> <a href="#">Considering detention or temporary release</a> <a href="#">Recording information about conditional cautions</a></p> <p>Links to staff intranet removed</p>
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## Conditional cautions with foreign offender conditions

### Immigration status checks

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[What is a conditional caution?](#)  
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[Re-entry ban and returning offenders](#)

This page tells criminal and financial investigation (CFI) immigration crime team officers about making checks to help them decide if it is appropriate to advise a conditional caution to the police.

#### Immigration status checks

You can confirm immigration status and removability by contacting the command and control unit (CCU) or using local procedures to request a status check from the immigration, compliance and engagement (ICE) team. You must provide:

- the person's
  - name, to include any alias or other name they are known by
  - date of birth
  - nationality
- details of the offence they have been arrested for
- the time the 24 hour detention period was authorised (also called the 'relevant time')
- confirmation their fingerprints have been checked against Home Office databases and the results of the search
- their claimed immigration status and, if known, how they entered the UK
- the reason why they are in the UK
- details of any previous contact with the Home Office
- details of any known family or contacts in the UK, and
- details of whether a travel document is available or can be easily obtained.

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Restricted – do not disclose – end of section

What you do next depends on the outcome of these enquiries.

#### In this section

[Considering detention or temporary release](#)  
[Recording information about conditional cautions](#)

#### Related links

[Advising police if a conditional caution is appropriate](#)

Links to staff intranet removed

Immigration status	Action to take
<p>Suspect is in the UK legally or not subject to immigration control</p> <p>or</p> <p>Suspect is a relevant foreign offender but does not meet the removal criteria, for example, if there are barriers to removal.</p>	<p>A conditional caution with foreign offender conditions is not appropriate and you must refer the case to the Crown Prosecution Service (CPS) for charging advice.</p>
<p>Suspect is a relevant offender.</p>	<p>You must advise the custody sergeant to consider a conditional caution.</p>
<p>If:</p> <ul style="list-style-type: none"> <li>• you are unable to determine immigration status or removability</li> <li>• records show they are likely to be removable but they have not been served with an IS151A, or</li> <li>• they are in fact removable but an IS151A has not been served.</li> </ul>	<p>You must take further action. The CCU and ICE can:</p> <ul style="list-style-type: none"> <li>• issue the immigration papers immediately, or</li> <li>• refer the offender to the local ICE team for a status interview.</li> </ul> <p>For more information on the service of immigration papers, see related links:</p> <ul style="list-style-type: none"> <li>• 7 Service of notice of illegal entry: procedures, and</li> <li>• 51 Administrative removal.</li> </ul>
<p><b>Things to be aware of when determining status</b></p> <p>Sometimes the local ICE or the CCU will be unable to deal with your request within the 24 hour time limit. This starts from the time the offender arrived at the police station.</p> <p>As a CFI officer you are qualified to conduct status interviews and serve immigration papers if a chief immigration officer authorises it. You may need to consider it in out of hours cases.</p>	

	<p>You can also discuss with the custody sergeant whether police bail would be appropriate pending an assessment of removability.</p> <p>It is important to keep any interview and decision to serve immigration papers separate from any part of your criminal investigation. A colleague from your team who is not directly involved in the criminal investigation can assist you with a status interview, if authorised by your supervising officer. You must record any decisions you or your supervisor make in your notebook and the record of investigation.</p> <p>For more information on who can be given a conditional caution, see related link: Advising police if a conditional caution is appropriate.</p> <p><b>Removability</b></p> <p>Once the ICE or CCU has determined removability they will send you a confirmation using the conditional caution notification form, see related link. This must be signed by a chief immigration officer. The wording will be either:</p> <ul style="list-style-type: none"> <li>• I have considered all of the information available to me and can confirm that the above named: <ul style="list-style-type: none"> <li>○ is a 'relevant foreign offender' as defined by section 22(3G) of the Criminal Justice Act 2003 and may be removed from the UK within a period of 16 weeks/24 weeks (delete as appropriate), or</li> <li>○ is not a 'relevant foreign offender' as defined by section 22(3G) of the Criminal Justice Act 2003.</li> </ul> </li> </ul> <p>You must also use this wording and form when you:</p> <ul style="list-style-type: none"> <li>• refer the case to the police custody sergeant, and</li> <li>• update your record of investigation.</li> </ul> <p>To help you assess if an offender will be removable within sixteen weeks you can check the country returns operations and strategy (CROS) guidance which tells you about obtaining travel documents. For more information, see related link: CROS ETD country reference guide.</p>	
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## Conditional cautions with foreign offender conditions

### Considering detention or temporary release

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers about detention and temporary release in conditional caution cases.</p> <p>You must consider whether you are going to recommend the offender's detention or temporary release. You need to do this before the conditional caution is given because:</p> <ul style="list-style-type: none"><li>• once an offender has been given a conditional caution they will be released from police custody, and</li><li>• your recommendation about release or detention may affect what conditions the police custody sergeant decides to attach to the caution.</li></ul> <p>You must refer all recommendations for release or detention to the local immigration compliance and engagement (ICE) team. They will:</p> <ul style="list-style-type: none"><li>• decide if detention or release is appropriate, and</li><li>• arrange for the relevant detention or release paperwork to be served on the offender.</li></ul> <p>You must:</p> <ul style="list-style-type: none"><li>• tell the ICE a conditional caution is being considered</li><li>• keep close contact with them to make sure all:<ul style="list-style-type: none"><li>○ decisions are made, and</li><li>○ paperwork is served before the 24 hour time period runs out</li></ul></li><li>• discuss your options with your supervising officer if there are any issues because it is out of hours,, and:<ul style="list-style-type: none"><li>○ check before you go out whether the ICE has an on call number you can use out of hours.</li></ul></li></ul> <p><b>Detention</b></p> <p>If you recommend detention you must make sure the detention criteria in chapter 55 of the</p>	<p><b>In this section</b></p> <p><a href="#">Immigration status checks</a> <a href="#">Recording information about conditional cautions</a></p> <p>Links to staff intranet removed</p>
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	<p>enforcement instructions and guidance is met. For more information, see related link: 55 detention and temporary release.</p> <p>You must tell the:</p> <ul style="list-style-type: none"> <li>• police custody sergeant as soon as detention is authorised so the offender is not released, and</li> <li>• offender when you are giving them information about their immigration case.</li> </ul> <p><b>Temporary release</b></p> <p>If you recommend temporary release the offender is suitable for weekly reporting because:</p> <ul style="list-style-type: none"> <li>• you expect them to leave the UK within 16 weeks, and</li> <li>• they have agreed to assist with the documentation process.</li> </ul> <p>You must:</p> <ul style="list-style-type: none"> <li>• follow standard local procedures for setting up the first reporting event, which must take place within the first 48 hours, and</li> <li>• notify the reporting centre or ICE of the first reporting date.</li> </ul> <p>You must make sure the offender is in possession of and understands their temporary release form, IS96, before they leave the police station. Any reporting restrictions must be the same as the reporting restrictions given on the conditional caution, unless you can justify otherwise.</p> <p>For more information on reporting, see related link: Reporting – standards of operational practice.</p>	
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## Conditional cautions with foreign offender conditions

### Recording information about conditional cautions

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers which databases they must update when they are dealing with a conditional caution.</p> <p><b>Case file</b></p> <p>You must keep on the case file, a copy of the:</p> <ul style="list-style-type: none"><li>• Conditional caution notification form, and</li><li>• MG14 police conditional caution form.</li></ul> <p><b>National operations database (NOD)</b></p> <p>You must complete the crime database section of NOD in the same way as for any other prosecution case. This will include:</p> <ul style="list-style-type: none"><li>• recording full details of the case and the suspect</li><li>• fully completing the 'events page' of the person event screen</li><li>• checking the 'conditional caution' box, when you have requested confirmation of removability</li><li>• maintaining the record of investigation, and</li><li>• entering actions for yourself or others where required.</li></ul> <p>You must also note on the record of investigation if you advised the police the use of a conditional caution would be appropriate. For the wording you must use, see related link: Immigration status checks.</p> <p>It is important you keep the record of investigation up to date and record:</p> <ul style="list-style-type: none"><li>• all actions you take</li><li>• any decisions you make, and</li><li>• confirmation if the offender leaves the UK.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Immigration status checks</a> <a href="#">Considering detention or temporary release</a></p> <p>Links to staff intranet removed</p>
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### **Updating CID**

If the offender does not already have an entry on CID the person initially issuing the immigration offender papers (IS151A) must create one, which is likely to be:

- the local immigration, compliance and engagement (ICE) team, or
- the command and control unit (CCU).

If there are exceptional circumstances and the ICE or CCU are unavailable, you can create the CID case yourself. This is most likely in out of hours cases and you must speak to your supervisor if it happens.

After the conditional caution has been given you must:

- update the special condition section on CID to show:
  - a 'conditional caution' has been issued, with the lodged date, which is the date the conditional caution was given
  - your name and contact number in the additional information section so case owners, reporting centres and the police can contact you
- note any existing CID record with details of the conditional caution
- record details of:
  - any actions you have taken to monitor compliance
  - instances of actual non compliance
  - decisions following non compliance, for example whether they are being treated as an absconder or if the immigration reporting restrictions are changed
- on the date the offender leaves the UK:
  - close the conditional caution special condition, and
  - create a new special condition for a 're entry ban 5 years'.

The UK Border Agency case owner will usually update CID once the offender has been removed. You must check to make sure this has been done. If it has not you must contact them to arrange it.

### **Police national computer (PNC)**

	<p>PNC is updated automatically when the issue of a conditional caution is recorded on police systems in custody suites. If this does not happen for any reason you can:</p> <ul style="list-style-type: none"><li>• update PNC yourself if you are an authorised user, or</li><li>• make a request for it to be updated.</li></ul> <p>For details on how to do this, see related link: <a href="#">Police National Computer (PNC)</a>.</p> <p>If the offender fails to comply with the terms of the conditional caution you must consider if PNC needs to be updated to show them as wanted, for example if they abscond.</p> <p>This may also be an appropriate action for Home Office case owners or reporting centre officers, depending on what conditions the offender has failed to meet.</p> <div><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></div>	
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## Conditional cautions with foreign offender conditions

### Monitoring compliance

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This section tells criminal and financial investigation (CFI) immigration crime team officers about monitoring a person who has been given a conditional caution.</p> <p>The Home Office is responsible for monitoring all foreign offender conditions. The police and the Crown Prosecution Service (CPS) are responsible for deciding if a breach has actually occurred. For more information on non compliance, see related link: <a href="#">If an offender fails to comply with a conditional caution</a>.</p> <p>Monitoring reporting restrictions is carried out through the reporting centres or immigration compliance and engagement (ICE) teams where reporting is to a police station.</p> <p>Monitoring other conditions to do with barriers, removal and documentation are carried out by Home Office case owners. It is they who will be arranging removal and making sure it can take place within the time period on the conditional caution.</p> <p>It is your responsibility, as the CFI case officer, to monitor compliance overall. You can do this by maintaining close contact with the Home Office case owner and reporting centre or ICE.</p> <p>Home Office case owners and reporting centre officers will tell you as soon as any non compliance happens. It is essential they know how to contact you if the offender fails to comply in any way. For more information on how to do this, see the updating CID section in related link: <a href="#">Recording information about conditional cautions</a>.</p> <p>You can also enter regular diary actions on the national operations database (NOD) to remind you to check compliance at various stages.</p>	<p><b>In this section</b></p> <p><a href="#">If an offender fails to comply with a conditional caution</a> <a href="#">Withdrawal from or variations to a conditional caution</a></p> <p><b>Related links</b></p> <p><a href="#">Recording information about conditional cautions</a></p>
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## Conditional cautions with foreign offender conditions

### If an offender fails to comply with a conditional caution

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers what to do if an offender fails to comply with a conditional caution.</p> <p>If the offender fails to comply with any of their conditions you will normally be told by the Home Office case owner or reporting centre officers, but you may identify it yourself when you are doing a compliance check. They will send you a form, see related link: Annex A conditional caution notification form, that tells you:</p> <ul style="list-style-type: none"><li>• which conditions they think have been breached, and</li><li>• how they have been breached.</li></ul> <p>Once you have found out the offender may be failing to comply with the terms of the caution the Code of Practice states you 'should' give them the opportunity to explain why they have not complied. If there are any issues with this you must contact the police single point of contact (SPOC) for advice.</p> <p>How you do this is up to you, but may involve:</p> <ul style="list-style-type: none"><li>• speaking to them when they are next due to report</li><li>• inviting them for interview, or</li><li>• arranging a visit to their address.</li></ul> <p>You must then:</p> <ul style="list-style-type: none"><li>• contact the police single point of contact (SPOC) for your area, and explain:<ul style="list-style-type: none"><li>○ why you believe the offender may have breached their conditions</li><li>○ any explanation they have given for their non compliance, or whether no response has been given for the non compliance, and</li><li>○ if you consider it might be reasonable to vary their conditions, for example, by extending the removal period.</li></ul></li></ul>	<p><b>In this section</b> <a href="#">Withdrawal from or variations to a conditional caution</a></p> <p><b>Related links</b> <a href="#">Considering detention or temporary release</a></p> <p>Links to staff intranet removed</p>
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	<p>If the SPOC decides the offender had a reasonable excuse they can allow the conditional caution to run and tell the offender they must comply in future. They may also decide to vary the conditions, for example extend the period to remove the offender. The offender must agree with the varied conditions or they may be prosecuted for the original offence.</p> <p>If the SPOC decides the offender did not have a reasonable excuse, they will:</p> <ul style="list-style-type: none"> <li>• arrange for the police to arrest the offender for failing to comply with the terms of the foreign offender conditional caution without reasonable excuse, because CFI officers do not have this power of arrest, and</li> <li>• tell you what steps, if any, you must take, to refer the case to the Crown Prosecution Service (CPS) for charging advice on the original offence.</li> </ul> <p>If the offender raises any other issues that may prevent removal within the time period specified on the conditional caution this may also be a breach, but:</p> <ul style="list-style-type: none"> <li>• even though it may mean removal is not possible within that time period: <ul style="list-style-type: none"> <li>○ there may be genuine circumstances that prompted it, in which case prosecution may be appropriate, and</li> </ul> </li> <li>• to establish this you can still follow the procedures in this section for non compliance to allow the police or CPS to make the decision on whether to prosecute.</li> </ul> <p>If the offender has absconded you will not be able to pursue a prosecution until they come to light again. If an offender does abscond, Home Office case owners and reporting centre officers must follow their normal procedures for dealing with this situation. You must also tell the SPOC the offender has absconded so the police can carry out their procedures.</p> <p>If an offender who has absconded comes to light you must reconsider whether detention or temporary release is appropriate at that stage. For more information, see related link: <a href="#">Considering detention or temporary release</a>. You must also follow the procedures above for non compliance and contact the SPOC to consider prosecution.</p>	
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	<p>If a prosecution goes ahead you must make sure you update the Home Office case owner as soon as possible. A prosecution will affect what action they will need to take.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"> <li>• Director's guidance on conditional cautioning, and</li> <li>• Annex B Police single points of contact for conditional cautions.</li> </ul>	
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## Conditional cautions with foreign offender conditions

### Withdrawal from or variations to a foreign offender conditional caution

<a href="#">About this guidance</a> <a href="#">What is a conditional caution?</a> <a href="#">Conditional cautions process</a> <a href="#">Monitoring compliance</a> <a href="#">Re-entry ban and returning offenders</a>	<p>This page tells criminal and financial investigation (CFI) immigration crime team officers what to do if an offender wants to withdraw from, or you want to vary, the conditions of a foreign offender conditional caution.</p> <p><b>Offenders wishing to withdraw from the conditional caution</b></p> <p>If an offender indicates they wish to withdraw from:</p> <ul style="list-style-type: none"><li>• the conditional caution, or</li><li>• one or more of the conditions</li></ul> <p>you must treat this as non compliance and follow the process in related link: If an offender fails to comply with a conditional caution.</p> <p><b>Variations to conditions</b></p> <p>Occasionally you or the police might wish to change the conditions. You cannot authorise any changes to conditions. This can only be done by the police or prosecutors.</p> <p>Conditions can only be changed if the offender agrees to it and agrees to comply with the new conditions.</p> <p>If you want to change the conditions you must contact the police single point of contact (SPOC) to discuss your request. The SPOC will then decide if any changes are to be made.</p> <p>If any changes are made, you must:</p> <ul style="list-style-type: none"><li>• record the details in your record of investigation and update CID</li><li>• take a copy of the new MG14 for your file</li><li>• check the police national computer (PNC) has been updated with the new conditions, see related link: Recording information about conditional cautions, and</li><li>• give a copy of the MG14 to the Home Office case owner or immigration compliance and engagement (ICE) team dealing with the offender's immigration case.</li></ul>	<p><b>In this section</b></p> <p><a href="#">If an offender fails to comply with a conditional caution</a></p> <p><b>Related links</b></p> <p><a href="#">Recording information about conditional cautions</a></p> <p>Links to staff intranet removed</p>
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	<p>If the offender fails to comply with the new conditions you must follow the procedures for non compliance. For more information, see related link: <a href="#">If an offender does not comply with a conditional caution.</a></p> <p>For a SPOC list, see related link: <a href="#">Annex B Police single point of contact list for conditional cautions</a></p>	
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## Conditional cautions with foreign offender conditions

### Re-entry ban and returning offenders

[About this guidance](#)  
[What is a conditional caution?](#)  
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This page tells criminal and financial investigation (CFI) immigration crime team officers about the re-entry ban that is given to offenders who receive a conditional caution, and what to do if they return to the UK before the ban expires.

#### Re-entry ban

Any offender who is removed subject to a conditional caution is liable to a ban on re-entry for at least five years in line with the Immigration Rules. For more details on re-entry bans, see related links:

- Paragraph 320 (7B(vii)) Immigration Rules, and
- Advising police if a conditional caution is appropriate.

This tells you more about prosecuting for the original offence and when the re-entry period can be extended by the Crown prosecution Service (CPS) to ten years.

#### Offenders who return to the UK

If, having complied with removal, the offender returns to the UK before the entry ban has expired, they can still be prosecuted for the original offence. The person who first identifies a returning offender must contact the police single point of contact (SPOC) for their area.

The SPOC will :

- decide if any non compliance has occurred and what action needs to be taken, or
- arrange for the person who has the case file to contact the CPS in cases where the CPS authorised the conditional caution rather than the police.

The SPOC will arrange:

- for the offender to be arrested if appropriate
- to transport them to a local police station, and

#### Related links

[Advising police if a conditional caution is appropriate](#)  
[If an offender fails to comply with a conditional caution](#)  
[Immigration status checks](#)

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	<ul style="list-style-type: none"> <li>• contact the case owner or CFI team and tell them if they need to do anything.</li> </ul> <p>If the SPOC decides the offender needs to be referred to the Crown Prosecution Service (CPS) for charging advice they will either:</p> <ul style="list-style-type: none"> <li>• arrange for the police to do this, or may</li> <li>• ask you to do it, and if they do, the old case file will still be available to you as it must be kept for seven years.</li> </ul> <p>For more information, see related links:</p> <ul style="list-style-type: none"> <li>• Director's guidance on conditional cautioning, and</li> <li>• Annex B Police single points of contact for conditional cautions.</li> </ul> <p><b>Returning offenders identified in Scotland or Northern Ireland</b></p> <p>If the SPOC is contacted by an officer in Northern Ireland or Scotland about a returning offender and they decide they need to be arrested they will:</p> <ul style="list-style-type: none"> <li>• ask the local police to arrest them for failing to comply with the terms of the conditional caution without reasonable excuse</li> <li>• make arrangements for them to be brought to a police station in England or Wales, but if the case was originally dealt with by a CFI they may ask you to arrange the transport instead.</li> </ul> <p>If this happens you must make sure the offender can be transported by Home Office officers, for example they have been placed into Home Office detention.</p> <p>The offender's immigration status will need to be established in the normal way. For more information, see related links:</p> <ul style="list-style-type: none"> <li>• If an offender fails to comply with a foreign offender conditional caution, and</li> <li>• Immigration status checks.</li> </ul>	
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## Conditional cautions with foreign offender conditions

### Contact

[About this guidance](#)  
[What is a conditional caution?](#)  
[Conditional cautions process](#)  
[Monitoring compliance](#)  
[Re-entry ban and returning offenders](#)

This page explains who to contact if you need more help with a question about conditional cautions with foreign offender conditions.

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

Restricted – do not disclose – start of section

The information in this page has been removed as it is restricted for internal Home Office use only.

Restricted – do not disclose – end of section

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.

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.

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## Conditional cautions with foreign offender conditions

### Information owner

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[Monitoring compliance](#)  
[Re-entry ban and returning offenders](#)

This page tells you about this version of the conditional cautions with foreign offender conditions guidance and who owns it.

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Director's role	Director – Crime directorate Director – Strategy and intelligence directorate
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This version approved for publication by	Aidan Kiely
Approver's role	Assistant director, Criminal and financial investigations (CFI) immigration
Approval date	2 May 2013

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