



Home Office

# **Criminal offenders who assist criminal investigations**

## Criminal offenders who assist criminal investigations

### About this guidance

[Definition of an assisting offender](#)  
[Dealing with an offender's criminality](#)  
[Advantages and disadvantages of using a criminal offender as a witness](#)  
[Inducement, reduced sentencing, plea bargaining and Queen's evidence](#)  
[Sending assisting offenders home and then returning to give evidence](#)  
[Foreign national offenders remaining in the UK to testify](#)

This guidance tells criminal investigation officers in Immigration Enforcement about criminal offenders who offer to assist investigations, and who may be required to give evidence in court.

It includes guidance on British and foreign nationals and covers all types of offenders. It gives information on the following:

- definition of a criminal offender who assists investigations
- dealing with their criminality
- the advantages and disadvantages of using an assisting offender
- credibility, witness care and covert sources
- inducement, reduced sentences, and Queens evidence and the Serious Organised Crime and Police Act (SOCPA) 2005
- returning foreign offenders home and bringing them back to testify, and
- making applications for offenders to remain in the UK to testify.

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Changes to this guidance – This page tells you what has changed since the previous version of this guidance.

### In this section

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### Related links

Links to staff intranet removed

	<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>	
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## Criminal offenders who assist crime team investigations

### Changes to this guidance

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page lists changes to the Criminal offenders who assist criminal investigations guidance, with the most recent at the top.</p> <table><tr><th>Date of the change</th><th>Details of the change</th></tr><tr><td>30 May 2013</td><td>Completely revised by the modernised guidance team</td></tr></table>	Date of the change	Details of the change	30 May 2013	Completely revised by the modernised guidance team	<p><b>In this section</b></p> <p><a href="#">Contact</a> <a href="#">Information owner</a></p>
Date of the change	Details of the change					
30 May 2013	Completely revised by the modernised guidance team					

## Criminal offenders who assist criminal investigations

### Definition of an assisting offender

<a href="#">About this guidance</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in Immigration Enforcement the definition of a criminal offender who assists crime team investigations.</p> <p>A criminal offender who offers to assist your investigation is a potential witness who may also:</p> <ul style="list-style-type: none"><li>• have committed low level offences, or</li><li>• be a beneficiary of crime (has profited from a crime in some way).</li></ul> <p>They are more commonly referred to as 'assisting offenders'.</p> <p>Due to the nature of your work most assisting offenders that you encounter will be:</p> <ul style="list-style-type: none"><li>• foreign nationals</li><li>• subject to immigration control, and</li><li>• are often:<ul style="list-style-type: none"><li>○ in the UK illegally, or</li><li>○ attempting to enter the UK illegally.</li></ul></li></ul> <p>You must be aware, however, you may also come across an assisting offender who is allowed to be in the UK, for example:</p> <ul style="list-style-type: none"><li>• a European Union national (including British nationals) who has a right to reside in the UK, or</li><li>• a foreign national who still has leave to remain that has not been revoked or curtailed.</li></ul> <p>How you treat them as an offender will be the same for both, but you will need to consider extra things when you are dealing with an offender who is a foreign national.</p> <p>The first things you must consider are, if:</p>	<b>Related links</b> Links to staff intranet removed
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- the beneficiary or offender in the UK legally or illegally
- have they committed any criminal offences themselves, and
- if they become a prosecution witness, whether they remain in the UK until they give their evidence.

You must approach the team responsible for assessing their immigration status, so that they can make the decision, if:

- the individual appears to be in the UK illegally and immigration papers have not already been served, or
- you are unable to confirm the individual's immigration status.

If you are on a criminal investigation team this will be your immigration, compliance and engagement team (ICE). The senior officer authorising the service of papers as an illegal entrant must be independent of any criminal investigation.

For more information on immigration offences and breaches, see related link: [Immigration offences and breaches](#).

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## Criminal offenders who assist criminal investigations

### Dealing with an offender's criminality

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in Immigration Enforcement how to deal with a potential witness who has also committed a criminal offence.</p> <p>Before you can consider using an offender as a witness you must first deal with any crime they are guilty of or are alleged to have committed. This means you must:</p> <ul style="list-style-type: none"><li>• treat them like any other offender you come across</li><li>• arrest them if appropriate</li><li>• investigate their crime</li><li>• prosecute if appropriate, or</li><li>• dispose of their crime some other way, for example, by giving a caution.</li></ul> <p>You must:</p> <ul style="list-style-type: none"><li>• make sure how you deal with the crime is proportionate to the level of crime committed, and</li><li>• consider:<ul style="list-style-type: none"><li>○ the circumstances, and</li><li>○ their criminal history.</li></ul></li></ul> <p>You must keep your supervising officer updated at all times and agree with them how you are going to deal with their crime. If you are not sure if a caution is appropriate or you need more advice you can refer to the Crown Prosecution Service (CPS).</p> <p>Whatever your role in the investigation is, you must keep a record of:</p> <ul style="list-style-type: none"><li>• referrals you make or take</li><li>• decisions you make, and</li><li>• actions you authorise.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Disposal of the offence and deportation</a></p>
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	<p><b>Why you must deal with the crime first</b></p> <p>It is important that you deal with any crime first so that you can refute any allegations that you treated your witness more leniently in return for them agreeing to give evidence. If you fail to deal with the crime you could lose your case.</p> <p>The best way to do this is to work closely with the CPS to create a plan that:</p> <ul style="list-style-type: none"> <li>• is consistent, and</li> <li>• will stand up to scrutiny.</li> </ul> <p>You can only consider using a criminal offender as a witness after you have dealt with their crime. If you do not want to deal with their crime first for any reason you must take advice from the CPS.</p>	
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## Criminal offenders who assist criminal investigations

### Disposal of the offence and deportation

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about disposing of the offender's offence and deportation.</p> <p><b>Disposal of the offender's crime</b></p> <p>Disposal is how you decide to deal with the offender's criminal activity. If the criminality is less serious you may decide a caution is appropriate, for example, for a minor first offence. In more serious cases, or if there is a long history of minor offences, you must refer to the CPS to consider prosecution.</p> <p>The custody sergeant where the offender is detained can give a caution in certain circumstances. You cannot decide to caution, but you can recommend it to the sergeant, based on the information you gather during your investigation. They will then follow their own procedures to decide if a caution is appropriate.</p> <p>It is not appropriate to recommend a caution, and it is unlikely the custody sergeant would agree to a caution, if:</p> <ul style="list-style-type: none"><li>• the person has not fully admitted the offence</li><li>• the person has a criminal history, or</li><li>• there are aggravating circumstances, for example, somebody was injured during the crime.</li></ul> <p>In these cases you need to take advice from the CPS about prosecuting instead.</p> <p>You must make sure you are consistent in how you deal with an offender's crime. You must not treat offenders who have committed similar levels of crime differently as you could be criticised or accused of inducement and that could affect the success of your case.</p> <p>Whatever disposal option you choose you must record in detail in your record of investigation:</p>	<p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Criminal Justice Act 2003</a></p>
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- the reasons why you chose that option
- who you consulted in the process
- any authority you obtained, and
- the reasons why you rejected any other options.

For more information about cautions, see related link: [Criminal Justice Act 2003 \(part three\)](#).

### **Deportation**

If you are dealing with a low level offender it is unlikely they will be:

- recommended for deportation, or
- receive a sentence that would result in automatic deportation.

But, if this does happen, you must speak with criminal casework who deal with foreign national offenders and who are responsible for arranging the :

- issue and service of deportation orders, and
- deportation travel arrangements.

This is important because any decision to detain an offender who is the subject of a deportation order lies with criminal casework. They may need to ask you for information that will help them to make that decision.

For more information on the deportation process and criteria, see related link: [Criminal casework](#).

## Criminal offenders who assist criminal investigations

### Advantages and disadvantages of using a criminal offender as a witness

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This section tells criminal investigation officers in Immigration Enforcement about some of the advantages and disadvantages of using a witness who has also committed offences. You may be able to think of others as well.</p> <p>If an offender you are dealing with, or have dealt with, offers to be a witness in your investigation you may initially think this will provide you with good evidence. You must be aware, however, there are also many disadvantages to using an offender as a witness. You need to weigh them up to help you decide whether to use the potential witness.</p> <div data-bbox="465 614 1769 1388"><p>Restricted – 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></div>	<p><b>In this section</b> <a href="#">Witness credibility and checking Home Office databases</a> <a href="#">Witness care</a> <a href="#">Covert sources</a></p> <p><b>Related links</b> Links to staff intranet removed</p> <p><b>External links</b> <a href="#">Proceeds of Crime Act 2002</a></p>
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## Criminal offenders who assist criminal investigations

### Witness credibility and checking Home Office databases

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about witness credibility and how to check the Home Office databases for any immigration applications by the witness during the investigation.</p> <p><b>Credibility</b></p> <p>When you are considering whether to use a witness who is also an offender one of the main things you must consider is their credibility.</p> <div data-bbox="465 579 1765 1391" style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – 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></div>	<p><b>In this section</b></p> <p><a href="#">Witness care</a> <a href="#">Covert sources</a></p>
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## Criminal offenders who assist criminal investigations

### Witness care

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about looking after an assisting offender and what to do if there is any danger to your witness.</p> <p>Witness care can mean:</p> <ul style="list-style-type: none"><li>• witnesses who are in danger and have to be placed in a witness protection programme, or</li><li>• the general duty of care you have towards your witness.</li></ul> <p>If your witness would be put in danger by testifying then you may not be able to use them unless some sort of witness protection can be arranged.</p> <p>Even if your witness does not appear to be in danger you must remember you have an ongoing duty of care to them at all times. You must monitor what is happening in your case so you can identify potential dangers at the earliest opportunity. If you think you have identified a danger you must:</p> <ul style="list-style-type: none"><li>• discuss it with your supervising officer immediately</li><li>• consider speaking to the protected persons manager (PPM)</li><li>• consult the Crown Prosecution Service (CPS), if necessary, and</li><li>• follow the instructions contained in the threat to life policy, if appropriate.</li></ul> <p>For more information, see related link: Threat to life policy.</p> <p>If you fail to monitor your witness it could lead to a court action being pursued. You may like to look at the case of R v Osman in which the responsibility of the police to protect a person was addressed. The UK courts recognised that:</p> <ul style="list-style-type: none"><li>• there was a positive obligation for the State to take preventive operational measures to protect an individual whose life is at risk from the criminal acts of another individual</li></ul>	<p><b>In this section</b> <a href="#">Witness credibility and checking Home Office databases</a> <a href="#">Covert sources</a></p> <p><b>Related links</b> Links to staff intranet removed</p> <p><b>External links</b> <a href="#">R v Osman</a> <a href="#">Human Rights Act 1998</a></p>
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- this is implied by article 2 of the Human Rights Act 1998
- in this particular case the police could not have identified such a threat, and
- even if the police had been negligent they were immune from prosecution on public policy grounds.

The European Court, however, decided this 'blanket ban' would be a breach of article 6(1) of the Human Rights Act 1998 (right to a fair trial). This effectively meant the ban was overturned and therefore that your actions, or lack of them, could be questioned in court if anything goes wrong. For more information, see related links:

- R v Osman, and
- Human rights act 1998.

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## Criminal offenders who assist criminal investigations

### Covert sources

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement what to do if they think an assisting offender may also be a covert source.</p> <p>You must tell your supervising officer immediately if for any reason you think the offender (source) who is assisting you may fall under the definition of a</p> <ul style="list-style-type: none"><li>• covert human intelligence source (CHIS), or</li><li>• tasked witness, for any reason.</li></ul> <p>For example, as a result of something they have told you, you wish them to do something else for you. If this is the case you must follow the instructions for dealing with tasked witnesses or CHIS in these cases.</p> <p>For more information, see related links:</p> <ul style="list-style-type: none"><li>• CHIS policy, and</li><li>• Using tasked witnesses and witnesses who assist.</li></ul> <div data-bbox="465 957 1765 1401" style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – 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></div>	<p><b>In this section</b></p> <p><a href="#">Witness credibility and checking Home Office databases</a> <a href="#">Witness care</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p>
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## Criminal offenders who assist criminal investigations

### Inducement, reduced sentencing, plea bargaining and Queen's evidence

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This section tells criminal investigation officers in immigration enforcement in more detail about some of the reasons why an offender might offer to assist, and what they might hope to receive in return.</p> <p>It covers:</p> <ul style="list-style-type: none"><li>• inducement and how to avoid being accused of offering an inducement</li><li>• reduced sentences:<ul style="list-style-type: none"><li>○ which is a benefit that an offender can have legally as part of the sentencing process</li><li>○ for more information, see related link: Sentencing Council</li></ul></li><li>• a brief description of plea bargaining:<ul style="list-style-type: none"><li>○ this is just for information because this system is not used in the UK</li><li>○ for more information, see related link: What is plea bargaining?</li></ul></li><li>• Queen's evidence and the Serious Organised Crime and Police Act (SOCPA) 2005:<ul style="list-style-type: none"><li>○ this tells you about benefits that can be offered to high level offenders who offer assistance</li><li>○ for more information, see related link.</li></ul></li></ul>	<p><b>In this section</b></p> <p><a href="#">Inducement</a> <a href="#">Reduced sentences for guilty pleas and plea bargaining</a> <a href="#">Queen's evidence, the Serious Organised Crime and Police Act 2005</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Criminal Justice Act 2003</a> <a href="#">Sentencing Council</a> <a href="#">Serious Organised Crime and Police Act 2005</a></p>
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## Criminal offenders who assist criminal investigations

### Inducement

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about inducement and how to avoid allegations against them.</p> <p><b>Definition</b></p> <p>Inducement is an offer of something in return for giving evidence. An inducement can be any number of things, for example:</p> <ul style="list-style-type: none"><li>• the promise of granting leave to remain in the UK</li><li>• overlooking minor offences, or</li><li>• offering money or goods.</li></ul> <p>When conducting an investigation the most likely inducement that you might be asked for is leave to remain.</p> <p><b>Maintaining integrity</b></p> <p>It is important to record everything you do so that you can show your investigation's integrity. To maintain integrity you must make sure that everything you do is:</p> <ul style="list-style-type: none"><li>• according to the law</li><li>• impartial, and</li><li>• stands up to scrutiny.</li></ul> <p><b>Allegations of inducement</b></p> <p>An allegation that you have offered an inducement can be very damaging to your case and you may even lose it or have to abandon it.</p> <p>So you must never do the following in return for an offender agreeing to give evidence:</p> <ul style="list-style-type: none"><li>• Leave to remain.</li><li>• To support an immigration application.</li></ul>	<p><b>Related links</b></p> <p><a href="#">Reduced sentences for guilty pleas and plea bargaining</a> <a href="#">Queen's evidence, the Serious Organised Crime and Police Act 2005</a></p>
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|  | <ul style="list-style-type: none"><li>• To influence an immigration decision.</li><li>• To say you will overlook minor offences.</li><li>• Any other form of inducement.</li></ul> <p><b>What to do if an offender offers to assist you but asks for something in return</b></p> <p>If this happens, you must:</p> <ul style="list-style-type: none"><li>• Not make any promises or agreements.</li><li>• Tell your supervising officer.</li><li>• Take advice from the Crown Prosecution Service. And</li><li>• Record full details of everything, including your decisions, in the record of investigation.</li></ul> |  |
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## Criminal offenders who assist criminal investigations

### Reduced sentences for guilty pleas and plea bargaining

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about reduced sentencing and plea bargaining and when it is appropriate to use them.</p> <p><b>Reduced sentences for guilty pleas</b></p> <p>The courts have a statutory obligation to take a guilty plea into account when deciding what sentence to give.</p> <p>The Criminal Justice Act 2003 and the Sentencing Council tell the courts what to consider when sentencing.</p> <p>You must not offer a reduced sentence to an offender. It is for the defendant's legal representative to tell them about reduced sentencing, the court will decide if they qualify.</p> <p>For more information on sentencing, see related links:</p> <ul style="list-style-type: none"><li>• Criminal Justice Act 2003, and</li><li>• Sentencing council (then click on the sentencing guidelines tab).</li></ul> <p><b>Plea bargaining</b></p> <p>Plea bargaining is not used in the UK so is not something you will come across, but you may come across the term in your role as an investigator. In plea bargaining the prosecutor and the defendant agree on a guilty plea to certain charges, with a recommendation on sentence to the court.</p> <p>For more information on plea bargaining, see related link.</p>	<p><b>In this section</b></p> <p><a href="#">Inducement</a> <a href="#">Queen's evidence, the Serious Organised Crime and Police Act 2005</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Criminal Justice Act 2003</a> <a href="#">Sentencing Council</a></p>
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## Criminal offenders who assist criminal investigations

### Queens evidence, the Serious Organised Crime and Police Act 2005

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about Queen's evidence, which is covered by the Serious Organised Crime and Police Act (SOCPA) 2005.</p> <p>Queen's evidence is the practice to provide either immunity or a reduced sentence for criminals who:</p> <ul style="list-style-type: none"><li>• testify as a witness against their associates, or</li><li>• assist the police in other ways to fight crime.</li></ul> <p>Using Queen's evidence is aimed at much higher level offenders (often referred to as 'supergrasses' in the media).</p> <p>Sections 71 to 75 of SOCPA allows prosecutors to reach an agreement with defendants who wish to assist in return for:</p> <ul style="list-style-type: none"><li>• immunity from prosecution</li><li>• an assurance that information they provide will not be used against them in any proceedings</li><li>• a reduction in sentence, or</li><li>• a review of sentence if it has already been passed.</li></ul> <p>You do not have the authority to offer any of these benefits to a witness. It is a decision for the Crown Prosecution Service (CPS). If you think you have come across this type of situation you must:</p> <ul style="list-style-type: none"><li>• not make any promises</li><li>• tell your supervising officer immediately, and</li><li>• discuss everything with the CPS.</li></ul> <p>For more information , see related links:</p>	<p><b>In this section</b> <a href="#">Inducement</a> <a href="#">Reduced sentences for guilty pleas and plea bargaining</a></p> <p><b>External links</b> <a href="#">Serious Organised Crime and Police Act 2005</a> <a href="#">Queen's Evidence – CPS guidelines</a></p> <p><b>Downloads</b> Links to staff intranet removed</p>
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	<ul style="list-style-type: none"><li>• Serious Organised Crime and Police Act 2005</li><li>• Queen's Evidence – CPS guidelines, and</li><li>• SOCPA CPS guidance revised 2008.</li></ul>	
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## Criminal offenders who assist criminal investigations

### Sending assisting offenders home and then returning to give evidence

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement what to consider when deciding whether to send an assisting offender home. Then what to do if they want them to return to the UK to give evidence.</p> <p>Once you have dealt with any criminal offences and you have established that your witness is in the UK illegally, you must decide whether you are going to:</p> <ul style="list-style-type: none"><li>• pursue removal action, or</li><li>• make an application for them to remain in the UK to give evidence.</li></ul> <p>Generally the preferred course of action is to remove the offender and then to bring them back to the UK to give evidence at a later date.</p> <div data-bbox="470 730 1767 1399" style="border: 2px solid red; padding: 10px;"><p style="text-align: center;">Restricted – 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></div>	<p><b>Related links</b> <a href="#">Immigration rules paragraph 40 – 56Z Visitors</a></p> <p><b>External links</b> <a href="#">Home Office Circular 2/2006</a> Links to staff intranet removed</p>
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### **Bringing a witness back to the UK**

If you decide to bring the offender back to the UK to give evidence they will be expected to:

- meet the requirements of the Immigration Rules (Part 2) for entry as a visitor, and
- apply for a visa if they are a visa national:
  - however, you must strongly advise non visa nationals to get a visa if they have been removed as a criminal offender or illegal entrant.

For more information on visitors and the requirements for visitors, see related links:

- Immigration rules – paragraph 40 – 56Z, and
- Visitors.

It may be the offender does not meet these requirements. If this is the case it is possible that they may be granted a short validity entry clearance as a visitor that is valid for entry on one occasion only, so that they can give their evidence.

**When you may need a visa waiver**

Applicants may be granted a visa waiver, on ministerial authority, if their evidence is considered, on balance, to be in the public interest. This applies to those who would normally be refused entry on the grounds of:

- criminal convictions
- criminal associations, or
- have been implicated in:
  - war crimes, or
  - crimes against humanity.

A visa waiver may also be granted if there are compelling operational reasons, or there is not enough time before the trial, for the offender to apply for a visa.

The visa waiver process for assisting offenders is managed by the central point of contact and you must approach them first.

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For more information on the visa waiver process, see related link: Home Office Circular 2/2006.

## Criminal offenders who assist criminal investigations

### Foreign national offenders remaining in the UK to testify

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a>	<p>This section tells criminal investigation officers in Immigration Enforcement what to do if they decide that their witness needs to remain in the UK until they give evidence, even though they are an offender themselves.</p> <p>If the witness has committed a less serious crime you must find out if they are:</p> <ul style="list-style-type: none"><li>• an illegal entrant</li><li>• are removable, or</li><li>• had or have any valid leave to remain that they had, has been revoked:<ul style="list-style-type: none"><li>◦ if this has not been done it is something that you must consider.</li></ul></li></ul> <p>A decision to allow an offender to stay must have stringent conditions attached to it about:</p> <ul style="list-style-type: none"><li>• need to attend and give evidence, and</li><li>• removal once the case is completed.</li></ul> <p>If your witness is subject to removal then you can consider asking for that removal to be deferred so that they can testify. The advantages of deferring removal over granting leave are:</p> <ul style="list-style-type: none"><li>• an immigration decision has been made</li><li>• there is an intention to enforce that decision at the end of the trial, and</li><li>• they have not been offered any inducement.</li></ul> <p>The person who decides whether to grant leave to a criminal offender or whether to defer removal must be totally independent of the investigation and any prosecution. This means that they cannot be a member of a crime team or work for a crime team.</p> <p>If you have a case where you think that leave might be granted or you want to defer removal you must refer it to the central point of contact first. Depending on where you work you may</p>	<p><b>In this section</b> <a href="#">10 things to consider when applying for an offender to remain in the UK</a></p> <p><b>Related links</b> <a href="#">Home Office Circular 2/2006</a></p> <p><b>External links</b> Links to staff intranet removed</p> <p><b>Downloads</b></p>
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be able to do this through a local casework team. There are 10 points you must consider when making an application, for more information on these, see related link.

This process is based on the contents of Home Office Circular 2/2006. This tells police officers how to make applications, but it is now relevant to the Home Office crime teams as well. Applications made by the police have to be authorised at assistant chief constable or commander level. So that crime team applications maintain this level of authority, any decision to defer removal or grant a period of leave must normally be agreed at deputy director level. But the team making the decision must follow whatever their current instructions are.

For more information, see related links: Home office circular 2/2006.

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## Criminal offenders who assist criminal investigations

### 10 things to consider if applying for an offender to remain in the UK

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells criminal investigation officers in immigration enforcement about the 10 things that they must consider and include in an application for an offender to remain in the UK.</p> <p>If you consider these 10 things it will help you to decide whether you need to apply for your witness to remain in the UK. You may also identify other things to consider as well, depending on your case.</p> <div><p>Restricted – 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></div>	<b>External links</b> <a href="#">Human Rights Act 1998</a> <a href="#">Criminal Justice Act 2003</a>
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# Criminal offenders who assist crime team investigations

## Contact

<a href="#">About this guidance</a> <a href="#">Definition of an assisting offender</a> <a href="#">Dealing with an offender's criminality</a> <a href="#">Advantages and disadvantages of using a criminal offender as a witness</a> <a href="#">Inducement, reduced sentencing, plea bargaining and Queen's evidence</a> <a href="#">Sending assisting offenders home and then returning to give evidence</a> <a href="#">Foreign national offenders remaining in the UK to testify</a>	<p>This page tells you who to contact if you need more help with a question about criminal offenders who assist criminal investigations.</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><p>Restricted – 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 – do not disclose – end of section</p></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</p>	<p><b>In this section</b> <a href="#">Changes to this guidance</a> <a href="#">Information owner</a></p> <p><b>External links</b> Links to staff intranet removed</p>
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	<p>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 link: Email: modernised guidance team.</p>	
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## Criminal offenders who assist crime team investigations

### Information owner

[About this guidance](#)  
[Definition of an assisting offender](#)  
[Dealing with an offender's criminality](#)  
[Advantages and disadvantages of using a criminal offender as a witness](#)  
[Inducement, reduced sentencing, plea bargaining and Queen's evidence](#)  
[Sending assisting offenders home and then returning to give evidence](#)  
[Foreign national offenders remaining in the UK to testify](#)

This page tells criminal investigation officers in Immigration Enforcement about this version of the guidance on criminal offenders who assist criminal investigations and who owns it.

Version	1.0
Valid from date	30 May 2013
Guidance owner	Chris Foster
Approved for publication by	David Pennant Sonia Dower
Approver's role	Director – Crime directorate Director – Strategy and intelligence directorate
Approval date	13 May 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.

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### In this section

[Changes to this guidance](#)  
[Contact](#)

### External links

Links to staff intranet removed