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Introduction

1. A designated immigration officer will follow the Standard Operating Procedures set out in this document in exercising powers under section 2 of the UK Borders Act 2007 (“section 2”). The SOPs include the safeguards and monitoring arrangements that are in place to ensure the appropriate operational use and effective oversight of the arrangements.

2. These SOPs relate specifically to the exercise of powers under section 2. They do not apply in respect of the exercise of other powers of detention or search under the Immigration Acts or in relation to the exercise of the powers of detention within Schedules 7 and 8 of the Terrorism Act 2000 or the associated Codes of Practice. Existing instructions and procedures should be followed in relation to the exercise of such powers.

3. The detention and searching of an individual is an interference with his or her right to liberty. The powers must be used fairly, responsibly, with respect to the individual concerned and without unlawful discrimination. When detaining an individual under section 2, all designated immigration officers must follow the guidance given in these instructions. In exercising powers under section 2, a designated Immigration Officer will also have regard to his or her obligations under the Race Relations (Amendment) Act 2000 and the Human Rights Act 1998 and will act in accordance with the principles of the Data Protection Act 1998 and other legislation as applicable.

4. Instruction in the SOPs forms part of the training course undertaken by immigration officers prior to being designated. A designated immigration officer will be issued with his or her own copy of the SOPs and compliance with the Procedures will be monitored by a nominated senior officer at the port.

5. The SOPs reflect working practices and will be open to public scrutiny. A copy of the SOPs will be made available at every port where designated immigration officers are exercising powers under section 2.

6. The SOPs should form the basis for negotiations with local Police Senior Management who will need to agree working practices in response to the use of this power.
**Identification**

**Minimum Requirements**

1. An individual who is liable to be detained under section 2 will be identified by a designated immigration officer on the basis of one or more of the following:

   - Entry on a watchlist of an individual who is subject to an arrest warrant or who may be liable to arrest by a constable and who is detected by an immigration officer during travel document examination.

   - An ‘alert’ issued by the Joint Border Operations Centre (or its replacement under e-Borders arrangements), on the basis of information received in advance of travel, in respect of an individual who is subject to an arrest warrant or who may be liable to arrest and who is detected by immigration officer either at arrival gates or by an immigration officer during travel document examination.

   - Information or intelligence received, through existing channels, from another law enforcement agency about an individual who is subject to an arrest warrant or who may be liable to arrest and who is detected by an immigration officer either at arrival gates, embarkation controls or during travel document examination.

   - An immigration officer or another person witnessing an individual committing or about to commit an offence for which the individual may be liable to arrest by a constable.
2. “Liable to arrest by a constable” means liable to arrest by a constable under section 24(1), (2) or (3) of the Police and Criminal Evidence Act 1984, or Article 26(1), (2) or (3) of the Police and Criminal Evidence (Northern Ireland) Order 1989. In summary, these provisions allow a constable to arrest without warrant, any individual

- Who is about to commit an offence or is in the act of committing an offence;
- Whom the officer has reasonable grounds for suspecting is about to commit an offence or to be committing an offence;
- Whom the officer has reasonable grounds to suspect of being guilty of an offence which he or she has reasonable grounds for suspecting has been committed; or
- Who is guilty of an offence which has been committed or anyone whom the officer has reasonable grounds for suspecting to be guilty of that offence.

3. Where the immigration officer who has detected a person on the basis of one or the above is not a designated immigration officer, the designated immigration officer must confirm promptly and accurately that the person is an individual who is liable to be detained under these powers.

4. A designated immigration officer must notify the chief immigration officer (CIO) of the detention of an individual under Section 2 as soon as practicable after detention has commenced.

5. A designated immigration officer must complete a statement to record the circumstances in which the individual came to notice and of his or her detention.
6. The content of the statement will vary according to the circumstances of the individual case but must include as a minimum
   - Day/date/time/place;
   - Your grade and the fact that you are on duty as a designated immigration officer and where;
   - The circumstances in which you became aware of the individual;
   - Any relevant comments made by the individual (without inviting comment or asking specific questions which may constitute an interview);
   - Reference to the conduct of a search and its outcome (referring to the record of search);
   - Any use of force and the circumstances in which force was employed;
   - Time and place of the delivery of the individual to the police constable and the constable’s shoulder number.

7. A designated immigration officer at a port in England or Wales must ensure that he or she is familiar with the relevant sections (see 2 above) of PACE and a designated immigration officer at a port in Northern Ireland must ensure that he or she is familiar with the relevant sections (see 2 above) of the Police and Criminal Evidence (Northern Ireland) Order 1989.

8. Awareness will be raised among non designated immigration officers to ensure that they know
   - how to detect an individual who may be liable to be detained; and
   - that they must notify a designated immigration officer, where present, of the individual’s presence at the port immediately.
9. The CIO is responsible for overseeing and monitoring the detention period. He or she must ensure that detention under section 2 does not exceed three hours. The CIO must review the detention during this period to ensure individuals are not detained for longer than is necessary. He or she must ensure that follow up action as necessary is taken if a police constable has advised he or she will attend and is subsequently unable to do so or does not attend within the 3 hour period. Please refer to page 22 for further guidance on monitoring and oversight.

10. In carrying out functions in accordance with section 2, a designated immigration officer will have regard to the relevant provisions of the Race Relations (Amendment) Act 2000 and the Human Rights Act 1998 and will act in accordance with the principles of the Data Protection Act 1998.

11. The designated immigration officer must notify a constable as soon as practicable that an individual has been detained under section 2 by telephoning the locally agreed number and arranging for a constable to attend as soon as is reasonably practicable.
Detaining

**Minimum Requirements**

You must:

1. Identify yourself to the individual as an immigration officer and explain to the individual that you are detaining him or her pending the arrival of a constable.

2. Note the time at which you detained the individual.

3. Explain to the individual why he or she is being detained and that the maximum period for which he or she may be detained is three hours.

4. Explain to the individual that he or she will be delivered to a constable as soon as practicable and will be released at the end of three hours, if a constable has not attended within this period.

5. Issue a written notice to the individual as soon as practicable explaining the statutory basis on which he or she is being detained, the reasons for his or her detention and recording the time at which detention commenced.

6. Arrange an interpreter (in person or by telephone) where you cannot otherwise establish effective communication with the individual, to ensure that the individual understands what you are saying to him or her and that any written notices are explained in a language that he or she understands.

7. Open a record of detention, which will be held locally at the port until the individual is delivered to a constable whereupon a copy of the record of detention will be delivered to the constable. See the section on monitoring and oversight (page 22) for more information about the record of detention.

8. Record in the record of detention details of the individual’s identity, the reasons for his or her detention, the reasons for you thinking that the individual may be liable to arrest by a constable or is subject to a warrant for arrest, and the time at which detention commenced.
You must:

9. Note in the record any comment the individual makes in respect of the decision to detain them, but not invite comment.

10. Not put specific questions to the individual regarding his or her involvement in any offence, nor in reply to any comments he or she may make in response to the decision to detain. [Such an exchange is likely to constitute an interview].

11. Always seek the co-operation of the individual to be detained.

12. Only use reasonable force to detain the individual where he or she does not co-operate in the first instance.

13. Comply with the instructions and training that you have been given if use of reasonable force is required to detain the individual.

14. Complete a ‘use of force’ form if use of reasonable force is required to detain the individual and obtain the countersignature of the form by the CIO. More information on the use of force is set out in the relevant section at page 21.

You:

15. Are responsible for the detention record’s accuracy and completeness and for making sure that a copy of the record accompanies the individual when he or she is delivered to the constable.

16. Are responsible for taking a copy of the detention record to pass to the constable to whom you deliver the individual and for ensuring that the original is retained at the port in accordance with local arrangements.
Detaining Continued

You must:

17. Ensure the detained individual is provided with the written information at Annex A about access to legal advice and about his or her right to request a copy of the detention record.

18. Deal with an individual detained under section 2 expeditiously and ensure that he or she is not detained for any longer than is necessary and for no longer than a maximum period of three hours.

19. Ensure that when the police constable attends, the individual, a copy of the detention record, your statement and any retained items are delivered to the constable.

20. When exercising the power to pursue, only go to the immediate vicinity outside the port for the purpose of returning to the port an individual who has absconded from detention.

21. Before deciding to exercise the power to pursue, dynamically assess on a case by case basis each situation, whilst weighing benefits against risk and taking full account of your own and your colleagues’ safety, as well as that of the individual and members of the public.
Detention

**Minimum Requirements**

You must:

1. Ensure that an officer with responsibility for carrying out revenue and customs functions at the port is advised that the individual is detained under section 2, so that the officer has the opportunity to carry out those functions in relation to the individual and any baggage carried by him or her.

2. Ensure that the individual is detained safely and securely.

3. Actively monitor the period for which the individual is detained and ensure that a constable attends as soon as is reasonably practicable.

4. In considering where to detain the individual follow existing guidelines giving particular consideration to the needs of children; vulnerable adults; pregnant women; and others where there is evidence of physical or mental ill-health in accordance with current arrangements.

5. Follow existing guidance about children arriving in the UK when an individual liable to be detained is a child or is accompanied by a child.

6. Follow existing guidance and refer the circumstances to the police and local Social Services immediately whenever there are any child protection concerns.

7. Initiate an assessment (“risk assessment”) to consider whether the individual is likely to present specific risks to him or herself, custody staff or any other persons, and record the results of this assessment in the record of detention.
Detention Continued

You must:

8. Inform the Detention Custody Officer (where applicable) in writing of any risks identified by you during your assessment.

9. When carrying out a risk assessment
   • conduct a Police National Computer (PNC) check as soon as practicable following the detention of the individual; and
   • consider the following risk factors, which may indicate that the individual requires special monitoring or supervision:
      - consult and involve others as necessary, e.g. an appropriate health care professional;
      - record in the detention record the reason for any delay in the initiation, or completion, of the risk assessment; and
      - inform a Special Branch officer immediately if you have reason to believe that an individual may be of interest for national security reasons.

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Detention Continued

You:

10. Do not have to provide the individual with the information outlined in this document if, at the relevant time, they are incapable of understanding what is said, are violent or may become violent, or in urgent need of medical attention, but they must be given the information as soon as practicable.

11. Must summon immediate police assistance, if required, in the usual way [by dialling 999]

Further Information

Whilst in detention the individual will have access to, or be provided with:

- toilet and hand-washing facilities;
- adequate refreshments;
- telephone (for outgoing calls);
- medical facilities, in the case of serious illness or serious injury
Minimum Requirements

You must:

1. Conduct any search with courtesy, consideration and respect.

2. Seek the co-operation of the individual to be searched in every case.

3. Continue to seek the co-operation of the individual to be searched even if he or she initially objects to the search.

4. Only use reasonable force to conduct a search as a last resort and only where you have established that the individual is unwilling to co-operate or resists.

5. Only search the individual for and retain items which might be used to cause physical injury to the individual or another person or to assist escape.

6. Retain anything found on a search which you think may constitute evidence of the commission of an offence.

7. Prior to carrying out the search:
   • Inform the individual of the legal power you are exercising under section (2);
   • Explain to the individual
     o that the purpose of the search is to look for, and retain, anything that might be used to assist escape or to cause physical injury to the individual or another person;
     o that both he or she and any bags in his or her immediate possession will be searched; and
     o that you must retain anything found on a search that you think may be evidence of the commission of an offence.
   • Inform the individual that he or she is entitled to a record of the search;

Individuals understand why they are being searched and are treated with courtesy, consideration and respect.
Search Continued

You must:

8. Ask the individual to tell you if he or she has any item on his or her person or in any bag(s) immediately in his or her possession which could be used to assist escape or to cause physical injury to him or herself or to another person and if so, where these items are.

9. If the individual indicates that he or she does have such an item or items, tell them you are going to retrieve the item, and do so.

10. Wherever possible conduct any search out of public view, although where necessary a search involving a superficial examination of outer garments only, may be carried out within public view. Such a search may include you asking the person to remove an outer coat, jacket or gloves and/or placing your hand inside the pockets of the outer clothing, or feeling round the inside of collars, socks and shoes if this is reasonably necessary in the circumstances to look for the object of the search or to remove and examine any item reasonably suspected to be the object of the search.

11. Conduct any search involving more than a superficial examination of outer garments only out of public view.

12. Ensure that any search involving more than a superficial examination of outer garments only is conducted with proper regard to the sensitivity and vulnerability of the individual in these circumstances.

13. Ensure that you make every reasonable effort to secure the individual’s co-operation and minimise his or her embarrassment.

14. Ensure that any search involving more than a superficial examination of outer garments only is carried out in the presence of another immigration officer of the same sex as the individual being searched.

15. Ensure that any search is carried out by a designated immigration officer of the same sex as the individual being searched.
You must:

16. Ensure that any search involving more than a superficial examination of outer garments is not carried out in the presence of a non-medical person of the opposite sex unless the person being searched specifically requests it.

17. Comply with the instructions and training that you have been given if an individual is unwilling to co-operate or resists and use of reasonable force is required to enable you to conduct the search.

18. Complete the ‘use of force’ log if use of reasonable force is required and obtain the countersignature of the log by the Chief Immigration Officer. More information on the use of force is set out in the section “Conducting the Search” on page 18.

19. Retain anything found during the search that
   • might be used to cause physical injury to the individual or another person and/or
   • might be used to assist escape and/or
   • you think may be evidence of the commission of an offence

20. Tell the individual why you are retaining any item and that the retained items will be delivered to the constable when he or she arrives.

21. Ensure that any retained items are stored securely and are then delivered to the constable on his or her arrival.
You must:

22. Make a written record of the search in the relevant section of the record of detention. The record of search must include:
   - Your name or, if you reasonably believe that recording your name would endanger yourself, your warrant number;
   - the date, time and place of the search of the individual;
   - details of anything retained on the search;
   - a note of any injury or damage to property resulting from the search;
   - an accurate description of all items retained by you and of those kept by the individual.

23. Give the individual who has been searched the opportunity to see that the record of the search is correct.

24. Use an interpreter in person or by telephone where necessary to explain the content of the record of search to the individual in a language that he or she understands.

25. Invite the individual to sign the record of search to confirm correct.

26. Ensure that the individual and any retained items are delivered to the constable on arrival.

27. Inform the constable if, in exceptional circumstances you have been unable to contact an officer with responsibility for carrying out revenue and customs functions at the port and/or such an officer has not had the opportunity to carry out such functions, and ensure the detention record reflects this.
Conducting the Search

Minimum Requirements

You must:

1. Wear the supplied gloves when undertaking a search.

2. Always conduct an initial overall visual search of the individual, looking for
   - unusual bulges or disarrangement of clothing; or
   - bodily compensation for something being covertly carried (e.g. in their hands);
   - an individual inadvertently patting, holding or covering the position where an item may be secreted.

3. Then ask the individual to remove any outer clothing (e.g. coats, hats, gloves), and any bags that they are carrying. Both the bags and outer clothing should be placed out of reach of the individual, and investigated after the body search is completed.

4. Take the individual somewhere out of public view if you ask them to take off any headwear or anything else worn for religious reasons, such as a scarf, veil or turban.

5. Search the individual fully, by conducting a body search [i.e. frisk them], in accordance with the training you have received.

6. When searching, feel for items that may be taped to the individual's body, or otherwise secreted under clothing. Ensure you have consideration for items contained in pockets, waist bands, belts etc.

7. Systematically complete the search of the individual ensuring all areas on the body (above and below waist, front and back) are checked thoroughly.

8. If you suspect that an individual is concealing an item, ask them what the item is, tell them you are going to retrieve it and do so.

Individuals are searched with courtesy, consideration and respect.
Conducting the Search Continued

You must:

9. Explain to the individual that you require that he or she remove clothing as necessary to enable you to access the item, in line with the training you have received.

10. Not require the removal of any clothing by the individual if you do not have reason to believe that any relevant item is concealed.

11. When requiring an individual to remove any clothing when conducting a search, have proper regard to the sensitivity and vulnerability of the individual in these circumstances and make every reasonable effort to secure his or her co-operation and to minimise his or her embarrassment.

12. Allow an individual to remove clothing above the waist and re-dress before removing further clothing, if still required. You must not require an individual to remove all his or her clothes at the same time.

13. If necessary to assist the search, require the individual to hold their arms in the air or to stand with their legs apart.

14. Conduct any search where the removal of any of the individual’s clothing is necessary as quickly as possible, thereby minimising his or her embarrassment, and allow the individual to dress as soon as the search is complete.

15. Never undertake an intimate search of the individual. (An intimate search consists of the physical examination of a person’s body orifices).
You Must:

16. Alert the police immediately if you suspect that an individual may have something intimately concealed.

17. Note on the record of detention when you have conducted a search where the removal of clothing was required, including the reason you considered the removal of clothing necessary, the names of other persons present and the result of the search.

18. Once you have finished searching the individual, search any other items (e.g. bags) in the individual’s immediate possession.

19. Not search a child, vulnerable adult or any other person accompanying a detained individual. Only an individual detained under section 2 may be searched under that section.

20. Only carry out the search of a detained child under 16 in the presence of a responsible person and must carry out the search as sensitively as possible.

You may:

21. Search any items (e.g. bags) in the detained child’s immediate possession without a responsible person being present.
Use of Force

Minimum Requirements

You:

1. May use reasonable force for the purpose of exercising the powers of detention, search or retention under section 2 of the Act.

2. Must not, when exercising the powers under section 2, use force unnecessarily and, when the application of force is necessary, must use no more force than is necessary.

3. Must not act deliberately in a manner calculated to provoke an individual.

4. Must, in every case, seek the co-operation of the individual at each stage of the detention, search and retention process.

5. May only use reasonable force where the individual does not co-operate or, in the case of a search or retention, is unwilling to co-operate after you have tried more than once to persuade him or her to do so.

6. May only use the level of force that is reasonable and proportionate to the circumstances of the individual case and should not use any more force than is necessary to enable you to exercise your powers of detention, search and retention effectively.

7. Must only make use of reasonable force if you have received appropriate training.

8. Must record all instances where force has been used in the ‘use of force’ log and obtain the countersignature of the log by the CIO.

9. Must record the name of any other person who witnessed your use of force.
Monitoring and Oversight

Minimum Requirements - to be complied with by designated immigration officers

You must:

1. Open and complete a record of an individual's detention, which will be held locally at the port until the individual is delivered to a constable whereupon a copy of the record will be delivered to the constable.

2. Open the record of detention when an individual is first detained.

3. Record your identity, or your warrant number, in every entry in the record and ensure that each entry, whether manual or entered on a computer, is timed, dated and signed.

4. Ensure that the 'use of force' log is completed in every case where you use reasonable force to enable you to exercise your powers of detention, search or retention effectively.

5. Ensure you obtain the countersignature of the CIO of the 'use of force' log.

6. Record in the log the name of any other person who witnessed your use of force.

7. Record details of your contact with the police and other associated parties relating to the individual whilst in our detention.

8. Ensure you take a copy of the detention record prior to passing it to a constable and that the copy of the record is retained at the port in accordance with local arrangements.
Minimum Requirements - other

9. The completion of the record of an individual’s detention must be monitored by the chief immigration officer.

10. A debrief must take place as soon as practicable after each detention. The debrief must involve the designated immigration officer(s) who detained the individual and the chief immigration officer (or the inspector where the chief immigration officer is not available).

11. The debrief must cover an assessment of the response to risk.

12. Each port will provide a monthly return to a central point detailing:
   • number of occasions on which powers used;
   • total period each individual was detained;
   • any occasions where use of force was necessary;
   • any occasions where a designated immigration officer was not available to detain an individual who was liable to be detained;
   • any occasions where a police constable did not attend the port within the three hour period during which detention may be maintained.

13. A Chief Inspector has been appointed under section 48 of the UK Borders Act 2007 and will provide a comprehensive review of immigration activities.

14. The individual records and the information contained in the monthly returns will be made available on request to the Chief Inspector.

15. These records will also be made available to other statutory bodies for their purposes, where appropriate and in accordance with the Data Protection Act 1998.
16. Each record of an individual’s detention must contain
   • the time at which detention began;
   • the identity of the individual;
   • the reasons for detention;
   • the time at which initial contact is made with the police to request the attendance of a constable;
   • the name or other identification details of the constable who attends;
   • the time of the individual’s release from detention;
   • a record of any search carried out and details of any items retained;
   • details of any doctor, interpreter or appropriate adult consulted;
   • where a constable did not attend within 3 hours, a record of this together with relevant details such as (where known) the reason for non attendance and of the contact made with the police within the 3 hour period.

17. The Independent Police Complaints Commission (IPCC) has oversight of UK Border Agency staff using ‘police-like powers’, including the powers in section 2.

18. An Immigration Inspector at the port will oversee the use of the powers at a local level and must:
   • inspect the individual detention records;
   • monitor the completeness and accuracy of the detention records;
   • draw any deficiencies to the attention of the officer concerned;
   • draw any recurring deficiencies to the attention of the person responsible for designating immigration officers on behalf of the Secretary of State;
   • monitor an officer’s compliance with these SOPs and ensure that any failure to comply is recorded and reported to the person responsible for designating immigration officers on behalf of the Secretary of State.
Complaints

Minimum Requirements

You, or the Detainee Custody Officer as appropriate, must:

1. Ensure that the detained individual has access to information about how to make a complaint and the avenues of redress which are available. The minimum requirement is to give an individual, who wishes to complain, the information contained in Annex B.

2. Follow the guidance found on the UK Border Agency website at [http://www.ukba.homeoffice.gov.uk/contact/makingacomplaint/](http://www.ukba.homeoffice.gov.uk/contact/makingacomplaint/). All complaints should be referred to the Border Control Customer Service Unit (BCCSU); 2nd Floor, Green Park House, Wellesley Road, Croydon, CRO 2AJ, in the first instance, and they will forward on or escalate as appropriate.

3. Ensure that any individual who is unhappy with the handling or outcome of his or her complaint knows that he or she may refer the complaint either back to the BCCSU, who will check the complaint has been handled correctly, or in some cases complain to the Independent Prisons and Probation Ombudsman ([http://www.ppo.gov.uk/download/Immigration-complaints-leaflet.pdf](http://www.ppo.gov.uk/download/Immigration-complaints-leaflet.pdf) refers)

Further information

4. Cases of serious misconduct, or criminal allegations, will be escalated to the Professional Standards Unit (PSU) who can investigate, and/or refer to the police or Independent Police Complaints Commission (IPCC) as appropriate. The IPCC has responsibility for overseeing investigations into the most serious incidents and allegations involving UK Border Agency staff in England and Wales using ‘police-like powers’. Similar arrangements are being developed for implementation in Scotland and Northern Ireland.
1. Section 1 of the UK Borders Act 2007 enables the Secretary of State to designate immigration officers for the purpose of exercising powers under section 2 of that Act.

2. The Secretary of State may only designate officers who the Secretary of State thinks are fit and proper for the purpose and who are suitably trained. A designation may be permanent or for a specified period and may be revoked at any time.

3. Under section 2(1), a designated immigration officer at a port in England, Wales or Northern Ireland may detain an individual if the immigration officer thinks that the individual;
   - may be liable to arrest by a constable under section 24(1), (2) or (3) of the Police and Criminal Evidence Act 1984 (c.60) or Article 26(1), (2) or (3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)), or
   - is subject to a warrant for arrest.

4. Under section 2(2), a designated immigration officer who detains an individual-
   - must arrange for a constable to attend as soon as is reasonably practicable,
   - may search the individual for, and retain, anything that might be used to assist escape or to cause physical injury to the individual or another person,
   - must retain anything found on a search which they think may be evidence of the commission of an offence, and
   - must, on arrival of the constable, deliver to him/her, the individual and anything retained on a search.
5. An individual may not be detained under section 2 for longer than three hours.

6. Under section 2(4) of the UK Borders Act 2007 a designated immigration officer may use reasonable force for the purpose of exercising a power under section 2 and, where an individual whom a designated immigration officer has detained or attempted to detain under section 2 leaves the port, a designated immigration officer may pursue the individual and return the individual to the port.

7. Under section 3 of the UK Borders Act, an offence is committed by a person who
   • absconds from detention under section 2,
   • assaults an immigration officer exercising a power under section 2,
   • or obstructs an immigration officer in the exercise of a power under section 2.

8. A person guilty of absconding from detention under section 2 or assaulting an immigration officer exercising a power under section 2 shall be liable on summary conviction to
   • imprisonment for a term not exceeding 51 weeks (in Northern Ireland 6 months), or
   • a fine not exceeding level 5 on the standard scale, or
   • both.

9. A person guilty of an offence of obstructing an immigration officer in the exercise of a power under section 2 shall be liable on summary conviction to
   • imprisonment for a term not exceeding 51 weeks (in Northern Ireland 1 month), or
   • a fine not exceeding level 3 on the standard scale, or
   • both.
Annex A Information about Access to Legal Advice

Section 2 of the UK Borders Act 2007 - Information for detained individuals about access to legal advice

You have been detained under section 2 of the UK Borders Act 2007 by a designated immigration officer because he or she thinks that you

- may be liable to arrest by a constable under section 24(1), (2) or (3) of the Police and Criminal Evidence Act 1984 or Article 26(1), (2) or (3) of the Police and Criminal Evidence (Northern Ireland) Order 1989 or

- are subject to a warrant for arrest.

The designated immigration officer has explained to you why he or she thinks that you may be liable to arrest or are the subject of a warrant for arrest.

The designated immigration officer has detained you pending the arrival of a police constable.

The maximum period for which you may be detained under section 2 of the UK Borders Act 2007 is 3 hours.

The designated immigration officer must arrange for a constable to attend as soon as is reasonably practicable.

If a constable is unable to attend within 3 hours or where 3 hours has expired, you will be released from detention under section 2 of the UK Borders Act 2007.

When the constable arrives he or she will decide whether you are liable to arrest and whether it is necessary to arrest you.

If you are arrested by the constable, or if you voluntarily attend a police station and are arrested there by a constable, the custody officer at the police station will explain your rights to you.

These rights include the right to consult privately with a solicitor and that free independent legal advice is available.

These rights are not available to you prior to arrest. If you wish to seek legal or other advice whilst detained under section 2 of the UK Borders Act 2007, a telephone is available for you to do so. However, you will have to pay for this advice yourself.

The designated immigration officer will maintain a record of your detention under section 2 of the UK Borders Act 2007. You may request a copy of this record from the designated immigration officer.
Annex B - Complaints

The types of complaint we deal with

We deal with complaints about the services we provide, or are provided on our behalf. We also deal with complaints about the professional conduct of our staff and contractors.

How to complain

Wherever possible you should complain immediately to the business area concerned. If it is not possible to complain immediately, you should contact one of our customer service units. The customer service unit you need to contact will depend on the type of complaint you want to make, where the incident occurred or where you are currently living. Contact detail for the border control customer service unit are below.

We have produced a complaint registration form which you can request from a member of UK Border Agency staff. You can return this form by hand, post, fax or email. The complaint registration form is also included in the leaflet 'How to Complain' which is available on request from your local customer service unit.

For simple or urgent complaints you can contact us by phone or email.

We can only accept complaints in English or Welsh.

You should make your complaint as soon as possible; we will not normally investigate allegations of misconduct more than three months

Border Control Customer Service Unit

If you wish to complain about the treatment you received at a United Kingdom port or about immigration controls at a United Kingdom port you should contact the Border Control Customer Service Unit. The Border Control Customer Service Unit can respond to complaints relating to all the United Kingdom’s sea, air and rail ports.

Phone: 020 8760 2077
Fax: 020 8760 2943
Email: Border_Control_CSU@homeoffice.gsi.gov.uk
Website: www.ukba.homeoffice.gov.uk/contact/makingacomplaint/
Address: Border Control CSU, 2nd Floor, Green Park House, Wellesley Road, Croydon, CRO 2AJ
The information you should provide

It is important that you give us as much information as possible; the complaints registration form details the type of information we require.

Where possible you should include:

- full details about the complaint (including times, dates and locations);
- the names of any UK Border Agency staff you have dealt with;
- details of any witnesses to the incident;
- copies of letters or papers that are relevant;
- any travel details that relate to your complaint.

How we will handle your complaint

We will try to resolve your complaint as quickly as possible. Some complaints are complex and will require more detailed investigation.

If we cannot deal with your complaint immediately we will write to you to let you know who is dealing with it. We aim to give a full response within 20 working days. If your complaint alleges serious professional misconduct it may take up to 12 weeks to carry out a detailed, independent investigation.

We may contact you during an investigation for further information.

What to do if you are not satisfied with how your complaint is handled

If you do not think your complaint has been dealt with properly, you should contact the relevant customer service unit. The customer service unit will check that your complaint has been dealt with properly. In some cases complain directly to the Independent Prisons and Probation Ombudsman (http://www.ppo.gov.uk/download/Immigration-complaints-leaflet.pdf refers)

If you are still not satisfied, you can ask your Member of Parliament to raise your concern with the Parliamentary Ombudsman. If you are unsure who your Member of Parliament is, you can find more information on the UK Parliament website.

If you have made a complaint about serious professional misconduct you will receive a full report into from the independent investigators. This report will tell you who to contact if you are unhappy with the outcome.