

Briefing Note on Foreign Nationals



February 2011

Purpose

This document provides advice to police officers and staff dealing with foreign nationals of interest to the police and who are in the UK.

Police officers dealing with people suspected to be in the UK unlawfully should take positive action and notify the United Kingdom Border Agency as early as possible. While this will normally result in an arrest, officers should comply with their local policies and procedures.

Officers dealing with foreign nationals who are suspected of being involved in crime should follow the same processes used for UK nationals. There are three additional areas that need to be considered: equality; identification; and removal of foreign criminals.

Equality

For legal and ethical reasons it is important to treat everybody who is the subject of a police investigation equally.

Police officers investigating people who are not UK Nationals should consider obtaining intelligence and evidence from abroad. This should be obtained through SOCA and officers should request such information through their force SOCA SPOC or gateway.

Officers investigating crime where foreign nationals are suspects should establish whether they are of interest to the UKBA by contacting either their local immigration team (LIT) or the command and control centre (C&C) as early as possible. If a person of interest to the UKBA is charged or cautioned with an offence then that agency should be notified.

To ensure that sentencing is equal and effective, when a foreign national is charged, previous convictions from abroad should be submitted to the court. Previous convictions from abroad are obtained via the ACPO Criminal Records Office (ACRO). Officers should request details of these from ACRO using their force SPOC or gateway.

When a foreign national is charged with a MoPI group 1 or group 2 offence, or intelligence suggests a foreign national is involved in such offending, the authorities in their home country should be notified. This should be done through ACRO using the force SPOC or gateway. (There are exceptions to this but all cases should be referred to ACRO.)

Identification

Officers should use the same skills in ascertaining the identity of a foreign national they are investigating as they would for a UK national but should also carry out additional checks.

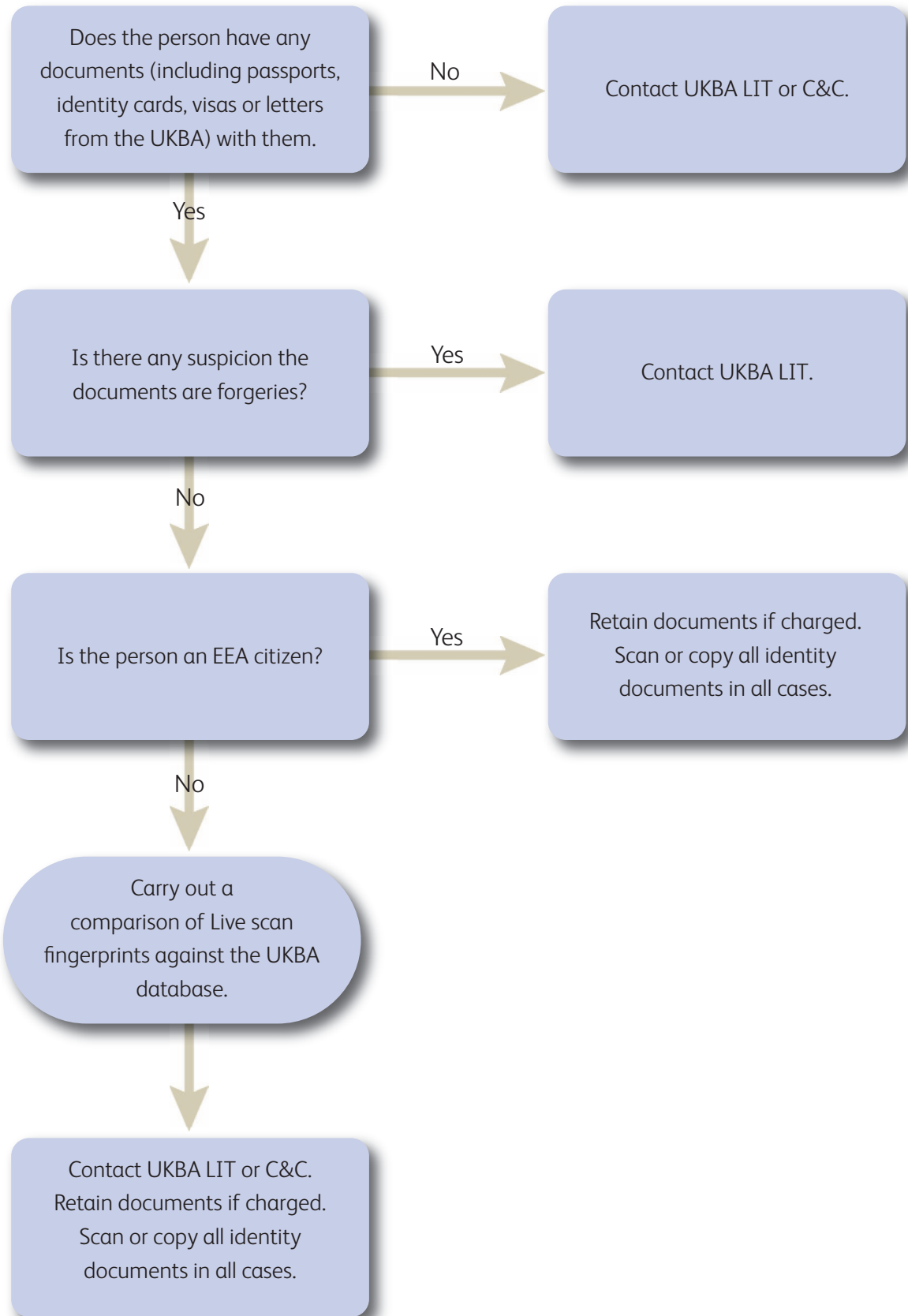
Schengen Information System: A PNC check may result in an alert indicating that a European Arrest Warrant is in existence or that the person has been reported as missing. In these cases officers should follow their force policy and procedure.

Sections 44–46 of the UK Borders Act 2007 gives police officers the power to search an arrested person, and any property they control, for documents and material relating to their nationality and immigration status. This section also gives a power of seizure. Section 47 extends this power to designated police civilians.

UKBA fingerprint database

The UKBA holds a fingerprint database which records the details of non-EEA nationals who may be of interest to the UKBA. Officers who have detained a non-EEA national should compare Livescan records against the UKBA database. There are many different flags that UKBA use; if further information or assistance is required officers should contact the UKBA LIT or C&C. Not all EEA nationals will have their fingerprints held by the UKBA.

Table 1: Proving the identity, nationality, and immigration status of a person.



Foreign Nationals Committing Crime

Law and practice on removing people from the UK is relatively complex. The principles, however, are straightforward: if people who are not British Citizens are committing crime in the UK then consideration should be given to removing them.

If a foreign national is charged with an offence then UKBA should be informed. The UKBA may indicate that the suspect is liable for deportation following conviction. In these circumstances the suspect should be served with a 'Notification to a non-UK citizen that they may be liable for deportation' seven days prior to sentencing. A copy of this notice must be included within the case file to the CPS and court. For further information on administering this process contact your UKBA Local Immigration Team or UKBA C&C.

When a foreign national is charged with an offence, any documents relating to their identity and nationality should be seized. If the person is remanded into custody, this material should be sent to the prison. If the person is bailed, the material should be kept as part of bail conditions. In addition, all identity documents should be scanned electronically and attached to both the case file and intelligence record; if that is not possible, documents should be photocopied and kept with the case papers.

It is important to keep documents proving identity, as a number of other countries will not accept people who have been removed from the UK unless there is documentary proof of their nationality.

Cautions, PNDs and other non-court-based disposals

If a caution or PND is issued to an EEA national nothing more needs to be done.

If a caution or PND is issued to a non-EEA national then the UKBA C&C or LIT should be informed.

Prior to conviction

In cases where it is suspected that a foreign national has committed a MoPI group 1 or MoPI group 2 offence or multiple MoPI group 3 offences but it is not possible to charge immediately, contact should be made at the earliest opportunity with the local UKBA crime team, who will investigate them as a UKBA High Harm Nominal. Officers should contact their local UKBA crime team in accordance with their force policy and procedure.

General Advice

Interpreters should be used in accordance with local force policy and procedure.

In order to comply with the Police and Criminal Evidence Act 1984, officers should remind foreign nationals in custody of the right to have their embassy or consulate informed of their detention.

Neighbourhood policing teams should work to ensure that they have identified key individual network (KIN) members in local foreign national communities.

The United Kingdom Human Trafficking Centre (UKHTC) can supply information, support and advice on human trafficking.

Definitions

United Kingdom Border Agency (UKBA) is responsible for securing UK borders and enforcing immigration and customs regulations. The UKBA administers applications for permission to enter or stay in the UK, and for citizenship and asylum.

- **The UKBA Local Immigration Team (LIT)** will be the first point of contact for police enquiries during office hours.
- **The UKBA Command and Control Centre (UKBA C&C)** is based in Manchester and can provide assistance on a twenty-four-hour basis when LITs are not available.
- **UKBA Crime Teams** exist to investigate immigration crime and foreign nationals involved in crime.

Serious Organised Crime Agency (SOCA) is the gateway for intelligence and information from other countries, and requests for evidence from other countries. SOCA should be contacted in line with local force policies and procedures – this is normally via a force SPOC.

ACPO Criminal Records Office (ACRO) is the gateway for obtaining evidential previous conviction information from foreign countries and for passing information on foreign nationals offending in the UK to their countries of origin.

European Economic Area (EEA)

For most practical UKBA purposes, foreign nationals will fall into one of two categories: EEA and non-EEA nationals. The EEA comprises all EU countries and Norway, Iceland and Lichtenstein. Swiss nationals are treated as if they were EEA citizens in many circumstances.

(The EU comprises: Austria, Belgium, Bulgaria, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Republic of Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the United Kingdom.)

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