



Home Office

Police cautions

WITHDRAWN

Police cautions

About this guidance

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This guidance tells you how immigration enforcement officers can conclude an investigation by asking the police, on their behalf, to offer the offender an official caution rather than prosecute them.

It tells you:

- What a simple caution is.
- How you ask the police to issue a simple caution on your behalf.
- The difference between a simple and a conditional caution.
- What happens when a simple caution is issued.

An official caution is sometimes known as a 'simple caution'. It can also be called a 'police caution' because only a police officer can administer (give) a simple caution.

You must not confuse this guidance with the verbal caution you give to someone who you suspect has committed an offence:

- to advise the suspect of their right to silence
- before you ask the suspect some questions, and
- often after you have arrested the suspect.

There is separate guidance for conditional cautions for suspects who are foreign national offenders, see related link.

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

Contacts – This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.

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Related links

This guidance was withdrawn on 21 June 2019

	<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 out more.</p>	
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Changes to this guidance

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Criminal investigation – the outcome options

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This page tells you the options you have, combined with advice from the Crown Prosecution Service (CPS) lawyers, when you are deciding on the best outcome to conclude an investigation.

As an immigration enforcement officer, you will be involved in:

- criminal investigations into offences of immigration related criminality, and
- civil investigations into detained cash, starting the investigation under the Proceeds of Crime Act (POCA) 2002, which is the law covering detentions of cash.

When you have investigated these offences, you must follow specific procedures for the different types of investigations.

For the procedure and outcome options for criminal investigations, you must:

- gather and assess the evidence
- speak to your case manager and line manager, to check if you need to do anything else
- report the alleged offence to the CPS, and
- do what the CPS suggest

For more information on the specific procedures for financial investigations, see related link: Proceeds of Crime Act (POCA) 2000.

Outcome options

Your options are:

- Charge the suspect, if the CPS consider:
 - the evidence suggests there is a realistic prospect of conviction for the offence, and
 - prosecuting the person is in the public interest.

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|--|---|--|
| | <ul style="list-style-type: none">• Bail the suspect, if the CPS decides they require further evidence before they can make a final decision.• Ask the police to issue the suspect with a caution.• Give the suspect a written or final warning:<ul style="list-style-type: none">○ you must never issue warning letters to anyone suspected of assaulting or obstructing a Home Office employee exercising their duties. Or• Release the suspect without taking any further action. | |
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Simple cautions

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This section tells you what a simple caution is and when it might be appropriate to consider asking the police to caution immigration offenders.

A caution, or simple caution:

- is a:
 - formal warning
 - way of concluding a criminal investigation ‘out of court’
 - formal alternative to prosecuting someone for a minor offence where taking the offender to court is not seen as the best solution
- is not covered by any statutory legislation, which means the police do not have to issue a caution ‘in law’:
 - but they are advised to when the circumstances are beneficial to the investigation
- will always remain on a person’s criminal record, and
- can be taken into account if the person is convicted of another offence in the future.

Issuing an offender with a simple caution can often be a beneficial outcome to your investigation because it:

- allows your team to deal with low level offenders quickly so you can focus your time and resources on the most serious offenders
- is a simple and quick way to deal with less serious offences
- avoids the offender going to court, and saves court time, and
- is intended as a first official warning to deter people from committing crime again, and may reduce the chance the person will re-offend.

Who can issue a caution

As an immigration enforcement officer you are not allowed to issue the caution to an offender yourself. You must ask a police officer to consider doing this on your behalf.

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[The procedure for issuing a simple caution](#)

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[Cautioning and diversion](#)

When a simple caution can be issued

The police can only issue a simple caution when:

- the offence committed is a summary or 'each way/hybrid' offence:
 - summary offences - the least serious criminal offences, heard by a magistrates' court
 - an 'each way/hybrid' offence - a more serious offence which could be heard by either the magistrates' or Crown court
- the offender has made a clear and reliable admission (either verbally or in writing)
- there is a realistic prospect of conviction for the offence
- it is in the public interest to offer a simple caution, and
- the offender is 18 years or more at the time you administer the caution.

For more information on the Crown Prosecution Service (CPS) guidance for cautioning and diversion, see related link.

You must follow the Ministry of Justice (MoJ) code of practice for all cases when a simple caution is issued to an adult offender. For more information, see related link: Simple cautions for adult offenders.

Juveniles and cautions

Those aged under 18 are not offered a police caution. They are offered either:

- a reprimand, or
- a warning.

A reprimand or warning is usually 'spent' after five years or when they reach the age of 18.

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Investigations – considering recommending a simple caution

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This page tells you what to do if you want to recommend to the police using a simple caution in an investigation.

For immigration enforcement investigation teams, the most common low level offence you could deal with is if someone is arrested in possession of false immigration or identity documents, without having a reasonable excuse.

You must report all offence cases to the Crown Prosecution Service (CPS). It is not possible to list examples of these low level offence cases because the lawyer makes their decision on a 'case by case' basis depending on the seriousness of the offence, and also on the evidence you have collected against each offender. In these cases the CPS lawyer may sometimes recommend you ask the police to issue a simple caution for these offences, rather than prosecute the offender.

In some cases, the lawyer may advise you to ask the police to issue a conditional caution to the offender. For more information on conditional cautions, see related link.

What you must do before you can consider a caution

After you have investigated a criminal offence, you must complete form MG03 and send it to the CPS lawyer. You and your manager use this form to make your recommendations for the lawyer to consider, you may suggest a caution or conditional caution as an option.

Before you can recommend a caution, you must use the MG03 to confirm to the lawyer:

- you have outlined the full circumstances of the offence, and your investigations
- you have fully investigated the offender's own immigration status, and whether they are liable to be removed from the UK
- whether the offender has any previous criminal convictions:
 - an offender cannot normally be issued with more than one caution for a similar offence, cautions are intended to be an alternative to prosecution for committing a first offence

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- however, section 37 of the Ministry of Justice national guidance states that previous cautions issued for the same offence do not automatically preclude (prevent) another caution being issued to the same offender, but
- it is important that cautions are not used routinely to deal with people who commit multiple offences, and
- whether the offender has made a full admission of their involvement in the offence:
 - before the police can issue any caution, an offender must make a clear and reliable admission of their role in the offence
 - in practice, the offender will often make the admission at the police station, as they will sometimes only 'admit' the offence when you have indicated you intend to ask a police officer to issue a caution,
 - you must never promise any offender that they will receive a caution, and
- your reasons for recommending the police issue a caution.

For more information about:

- the MG03 form, and MG forms in general including links to each form, see related link: [Manual of guidance and MG forms](#)
- The Ministry of Justice guidance, see related link: [Simple cautions for adult offenders](#).

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The procedure for issuing a simple caution

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This page tells you what to do when you are advised to offer a simple caution to an offender in one of your immigration enforcement investigation team cases.

After you have sent an MG03 form to the Crown Prosecution Service (CPS) lawyer, it will be returned with their decision telling you what you must do. In almost every case the offender will be on police bail, and due to return to a specified police station on a date in the future.

If the offender is not on police bail (either because they attended the police station voluntarily or, in extreme circumstances because they are in custody for another more serious offence) then you must always discuss the case with the CPS lawyer.

When you receive the form, you must discuss the lawyer's decision with your Her Majesty's inspector (HMI), or senior investigation officer (SIO) equivalent. If they have decided to offer the offender a simple caution instead of prosecuting them, you must:

- Speak to the custody sergeant at the police station where the offender will return (answer bail) and tell them the CPS lawyer has recommended to issue the offender a simple caution:
 - if the sergeant asks to see the CPS lawyer's comments on the form you must confirm with the lawyer you can show them a copy first
 - advise the sergeant whether you will attend the police station when the offender answers bail (you will need to attend if you have to return some seized exhibits or property).
- Update your investigation files and NODMMX (national operations database).
- Update the Police National Computer (PNC) by:
 - completing the form NPA03 and sending it to your local police force PNC bureau to be input and recorded. For more information on form NPA03, and on the PNC system in general, see related link: Police National Computer (PNC).
- Ask the police custody sergeant to confirm they accept the CPS lawyer's advice and will offer a caution to the offender on your behalf:
 - if the sergeant agrees to offer a caution, an independent police officer will often be

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[Criminal Justice Act 2003](#)

asked to read the caution wording to the offender when they answer bail at the police station

- even if you don't attend the police station when the offender answers bail, you must always ask the sergeant for a copy of all custody records including the caution forms, so you can file them in your investigation records.

This process means the caution is 'offered' to the suspect once they have admitted committing the offence and the sergeant agrees to offer a caution. At this stage the suspect can decline (refuse) to accept the caution, if this happens the caution is not formally issued.

If the custody sergeant does not authorise a simple caution

It is the custody sergeant's decision whether to offer the offender:

- a simple caution, or
- a conditional caution
 - the sergeant must decide whether to attach the conditions the CPS lawyer recommends to the caution at all.

If the sergeant declines to offer a caution or decides not to attach the requested conditions to the caution, you must:

- record the sergeant's decision and ask for their reasons
- immediately advise the CPS lawyer so they can decide whether to:
 - recommend charging the offender with the offence, or
 - close the investigation against the offender without any further action.

The offender refuses to accept the caution offered

The offender does not have to accept the caution. If they decide not to accept the caution, you must:

- ask the custody sergeant for a copy of the custody records showing the offender has declined the caution
- immediately advise the CPS lawyer so they can decide whether to:
 - recommend charging the offender with the offence, or

- close the investigation against the offender without any further action.

In either of the above circumstances you must:

- follow the procedures before the offender is released from the police station, and
- make sure the CPS lawyer gives you a decision before the offender is allowed to leave.

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Contact

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This page tells you who to contact for more help with a specific query about how immigration enforcement investigation teams administer, issue and record police cautions.

If you have read this guidance and still need more help with this topic, you must first ask:

- the Crown Prosecution Service (CPS) lawyer
- the caseworker who has been appointed to assist with your case, or
- your line manager.

If you need further help you can 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.
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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.

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This page tells you about this version of the 'Police cautions' guidance and who owns it.

Version	1.0
Valid from date	19 November 2013
Guidance owner	Official – sensitive: information removed
Cleared by director	Official – sensitive: information removed
Director's role	Official – sensitive: information removed
Clearance date	13 November 2013

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