



Home Office

Grounds for Refusal – Customs breaches

Version 2.0

Contents

Contents.....	2
About this guidance	3
Contacts	3
Publication.....	3
Changes to this guidance	3
Customs breaches.....	4
Background	4
Proportionality	4
Cancellation at the border	5
Examples.....	5
Example 1	5
Example 2.....	5
Example 3.....	6
Refusal and cancellation wording	7

About this guidance

This guidance tells you when you can refuse an application for permission to enter or cancel existing entry clearance or permission to enter on the basis that a person has breached customs regulations.

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you or you think that the guidance has factual errors, then email the Migrant Criminality Policy Team.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

Below is information on when this version of the guidance was published:

- version **2.0**
- published for Home Office staff on **10 November 2021**

Changes to this guidance

Minor improvement to existing links.

Related content

[Contents](#)

Customs breaches

This page explains to Border Force officers what factors they should take into consideration when deciding whether to refuse or cancel permission on the grounds that a person has committed a breach of customs regulations.

This is a discretionary ground for refusal under paragraph 9.19.1. of the Immigration Rules and a discretionary ground for cancellation under paragraph 9.19.2.

Background

A customs breach means the person has breached a provision of the [Customs and Excise Management Act 1979](#) or any other legislation under which the Home Office enforces controls at the UK border on behalf of other government departments. For example, a person may be found carrying [prohibited or restricted goods](#), or goods which infringe [intellectual property rights](#) or may fail to declare goods which exceed their [duty-free allowances](#) or which are not for personal use.

Customs breaches can include, but are not limited to the following:

- possession of prohibited substances, including Class C drugs, even if for personal use
- possession of prohibited items such as offensive weapons, obscene material, certain products of animal origin (POAO)
- non-declaration of duty-payable goods
- possession of large quantities of goods such as alcohol and tobacco products beyond what could reasonably be classed as for personal use or gifts
- driving a vehicle which has been adapted to conceal goods

Proportionality

You must consider whether it is proportionate to refuse or cancel permission on the grounds of a customs breach. For example, it is likely to be more appropriate to refuse entry to a person who repeatedly brings in alcohol or tobacco over their duty-free allowance despite repeated earlier warnings, than it is to refuse entry to someone who has been caught for the first time with a small amount over their allowance.

When assessing proportionality, the following factors must be considered:

- the person's previous behaviour
- the volume, value or amount of goods detected
- the seriousness or harm level posed by the goods
- the person's intentions, for example whether they intend to sell or supply the goods, or they are for personal use
- in the case of an adapted vehicle, was the driver/owner aware
- whether the conduct appears to be incidental to the journey or the primary purpose of it

- the ties that the individual has to the UK
- any mitigating evidence, for example evidence that the person was coerced

Even where there is no criminal prosecution for a customs breach, or there is an alternative settlement such as the issuance of a compound penalty, or goods have been seized with no further action, you may nevertheless consider it is proportionate to refuse or cancel permission.

You must always consider the individual circumstances of the case and weigh up all the evidence before making a decision to refuse or cancel permission on the grounds of a customs breach.

Cancellation at the border

The power to cancel permission at the border is set out in paragraph 2A of [Schedule 2 to the Immigration Act 1971](#). Under paragraph 2A(3), permission (including that which derives from an entry clearance) may be cancelled on the grounds that it is not conducive to the public good to allow the person to enter the UK.

When considering whether to cancel permission (including that which derives from entry clearance) on the grounds of a customs breach, you must consider if the person's presence in the UK would not be conducive to the public good. See guidance on [Non-conducive grounds for refusal or cancellation of entry clearance or permission] for further information.

Examples

The following examples illustrate where it would be appropriate to refuse or cancel permission on the grounds that a person has breached customs legislation.

Example 1

Four European nationals are encountered in the green channel having arrived from Tenerife. They are coming to the UK on holiday for a week and each have 200 cigarettes in a duty-free bag, but on searching their suitcases they are each found to be carrying an additional 2000 cigarettes.

Refusal is proportionate as there is a deliberate attempt to conceal the cigarettes and the evidence indicates that there is an intention to sell these in the UK.

Example 2

If the above European nationals were resident in the UK it would be less likely that such a decision would be proportionate. Likewise if they had only concealed 400 cigarettes each and were due to stay for a month refusal would be unlikely to be appropriate, as the amount smuggled is not significant and is a realistic amount for personal use for that period, so an intention to sell cannot be established.

Example 3

A visa national is encountered in the green channel with 5g of cocaine. Although the amount is sufficiently small enough to be considered for personal use, it is a prohibited substance. Their entry clearance can therefore be cancelled on the grounds of a customs breach and that his presence in the UK is not conducive to the public good.

Related content

[Contents](#)

Refusal and cancellation wording

Grounds	Rule	
Refusal	9.19.1.	You have asked for permission to enter the United Kingdom as <i>[route]</i> but on <i>[insert date]</i> you <i>[insert details of customs breach]</i> . I am therefore satisfied that you have committed a breach of customs legislation. I therefore refuse you permission to enter the UK.
Cancellation	9.19.2.	<p>On <i>[date]</i> you were granted <i>[insert details of leave/permission]</i>. However, on <i>[insert date]</i> you <i>[insert details of customs breach]</i></p> <p>Your <i>[permission type]</i> has been cancelled because you have breached customs legislation and your presence in the UK is not conducive to the public good.</p> <p>Your <i>[entry clearance/permission]</i> is therefore cancelled from <i>[date]</i>.</p>

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[Contents](#)