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## Contact with embassies

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Foreign national prisoners might consider what contact they want with their Embassy or High Commission in the UK.

For the nationals of some countries the issue will be decided for them as the UK may be bound by an agreement to notify their embassy, consulate or High Commission if any of its nationals are arrested or imprisoned (see below).

For clarity, Embassies or High Commissions are essentially the same thing, the 'head office' of a foreign country in another territory. 'High Commission' is usually used between Commonwealth countries so, for example, Jamaica would have a High Commission in the UK but an embassy in France. A consulate is like a branch office of an embassy or High Commission.

If the FNP is from a country where consular notification is not obligatory then it is up to the FNP whether or not to make contact with their Embassy/High Commission. They may wish to look at some of the considerations outlined below.

### Disclosure under a bi-lateral agreement

The UK has bi-lateral agreements with a large number of countries concerned with the disclosure of information about FNPs to relevant Embassies and High Commissions. These agreements require arresting authorities and prisons to notify Embassies and High Commissions of the arrest and detention of any of their nationals.

In practice, this should mean that the Embassy/High Commission is notified first by the police or customs and then again by the prison service upon first reception.

Notification to the Embassy/High Commission is obligatory and is not dependent upon consent from the prisoner. The only exception to this rule is for asylum seekers and refugees. This means that arresting authorities and prisons should check on immigration status before making any notifications.

There is a list of countries with whom the UK has such agreements in the Police and Criminal Evidence Act 1984 (PACE).

## **Voluntary disclosure**

Nationals from countries without a bi-lateral agreement still have the right to have their Embassy/High Commission informed of their arrest or imprisonment (under Articles 36(1)(b) and 36(1)(c) of the Vienna Convention) but if they do not wish for their details to be shared, then their wishes must be respected.

## **What do Embassies and High Commissions do?**

Some Embassies and High Commissions have good resources and arrangements for responding to and supporting the needs of their nationals who are in custody. Others do not have the resources or the will to provide much assistance. Some refuse to assist their nationals in custody on the grounds that they are an embarrassment to their country.

It is advisable not to hold out too high expectations as to how an Embassy/High Commission may be able to assist an FNP. However, examples of services which they may be able to provide include advice on return to home countries, assistance to contact families and/or newspapers or other literature written in an FNP's mother tongue.

Our experience suggests that the response of many Embassies/High Commissions to requests for assistance from prisoners may be related more to the views and interests of the particular staff member who receives the request rather than a specific policy or practice of the Embassy/High Commission in question. What this can mean in practice is that since Embassies/High Commissions change their staff regularly there may be little consistency even within the same Embassy/High Commission as to how requests for assistance are dealt with; a bad experience on one occasion might not necessarily mean that the next enquiry will receive a similarly bad response, and vice versa.

Many FNPs choose not to have consular contact as they fear that they or their families back home may experience harassment if the authorities of their home country become aware of their offence.

## **Embassies and travel documents**

Of course Embassies/High Commissions play a vital role in the provision of travel documents if an FNP is to be deported. What documentation is required and the process for provision of such documentation varies widely.

If an FNP has a valid passport then in most cases no action will be needed from the Embassy/High Commission with regard to travel documents. A small number of countries will agree to receive FNPs even if their passport has expired. However,

most countries will only permit readmission to their country with some form of emergency travel document if the FNP does not have a valid passport. Within the EEA it is often possible to travel without a passport if the FNP has other proof of national identity such as a national ID card.

If an FNP does require a travel document then usually this process will be managed by the Home Office, Country Returns Operations & Strategy (CROS) team. However, if an FNP wishes to ensure that they are deported at the earliest possible juncture then they may be able to discuss with Immigration Enforcement staff any steps that they could take to facilitate the documentation process. For example, it might be helpful if an FNP can get other proof of identity such as an expired passport, birth certificate or similar. They might also want to contact their Embassy/High Commission.

In some cases biometric data may be required for the issue of travel documents. If this is the case this will be arranged by HOIE Criminal Casework.

Some Embassies/High Commissions will wish to interview the FNP as part of the travel document process. In these cases a Consulate/High Commission official will usually visit the prison and conduct the interview there. Criminal Casework/CROS will liaise with the prison to make the necessary arrangements. Very occasionally the Embassy/High Commission will insist that the FNP is brought to the Embassy/High Commission. Criminal Casework and CROS will try and avoid this wherever possible due to the logistical problems in transferring an FNP to a foreign Embassy/High Commission.