

UNCLASSIFIED



Ministry of JUSTICE

National Offender Management Service

Immigration , Repatriation And Removal Services		
This instruction applies to		Reference :
Prisons		PSI 52/2011
Issue Date	Effective Date	Expiry Date
4 November 2011	18 November 2011	4 November 2015
Issued on the authority of	NOMS Agency Board	
For action by	Governors/Directors of Contracted Prisons	
For information	<p>All staff responsible for the management of Foreign National Prisoners and Immigration Detainees.</p> <p>Governors/Directors of Contracted Prisons. In this document, the term Governor also applies to Directors of Contracted Prisons.</p>	
Contact	Offender Safety Rights and Responsibilities Group 0300 047 6535	
Associated documents	PSI 59/2011 Early Removal Scheme and Release of FNPs. PSI 65/2011 FNPs Liable for Deportation	
Replaces the following documents which are hereby cancelled :- PSO 4630 PSI 35/2008		
Audit/monitoring :		
Compliance with this instruction will be monitored by the Head of the Offender Safety, Rights & Responsibilities Group and within the operational line.		
Introduces amendments to the following documents. .		
None.		

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1. Executive summary

Background

- 1.1 This PSI replaces PSO 4630 issued in January 2008 and sets out the arrangements necessary to comply with the Immigration, Repatriation and Removal Services specification. The PSI sets out the operational framework for prison establishments to deliver the outputs of the specification for the repatriation and removal of foreign national prisoners and immigration detainees. In particular it introduces revised forms and timescales for notifying UKBA of the reception of a foreign national prisoner following conviction and sentence and confirms changes to the notification criteria introduced in April 2009. The PSI also covers areas of responsibility in relation to FNPs not covered elsewhere. This PSI does not, however, provide a policy framework for the day to day management of foreign national prisoners who should continue to be managed in the same way as British nationals while recognising their individual needs.

Desired Outcomes

- 1.2 That all staff who deal with foreign national prisoners and immigration detainees understand and comply with the processes set out here to ensure that:
- Foreign national prisoners are correctly identified and quickly referred to the UK Border Agency (UKBA) so that where eligible they can be considered for removal at the earliest opportunity and that the number of immigration detainees held in the prison estate is reduced.
 - Foreign national prisoners are repatriated wherever possible subject to an agreement being in place between the UK and the prisoner's country of origin.
 - Prisons communicate all necessary information to UKBA and Population Management Unit (PMU) and make checks as detailed in mandatory actions at 2.8 - 2.12 and 2.73 below. below
 - Staff dealing with foreign national prisoners are aware of our legal obligations to allow prisoners contact with their Consular representatives.

Application

- 1.3 This PSI must be read by all staff who have contact with foreign national prisoners and immigration detainees. This PSI applies to all foreign national prisoners.

Summary of Main Changes

- 1.4 This PSI confirms the changes to the UKBA notification procedures introduced in 2009. These procedures introduced a revised reporting form (the CCD referral form) and confirm the changes in the notification period from 30 days to 5 working days previously notified to Governors.
- 1.5 Changes have also been made to the requirement to notify Local Immigration Teams (LIT) of foreign national prisoners whose offence and sentence does not meet the normal criteria for deportation.

- 1.6 Prisons are no longer required to notify the UKBA Criminal Casework Directorate (CCD) of foreign nationals who have been remanded (unconvicted and unsentenced) on first reception into custody. Notification is now only required when a prisoner has been sentenced.
- 1.7. Prisons are no longer required to complete an Annex D form notifying Population Management Unit 20 weeks and 14 days before the expiry of the custodial sentence of those foreign national prisoners who have been referred to UKBA's Criminal Casework Directorate and where UKBA have not issued a final decision or issued an IS91. Prisons will, however, be required to contact CCD 48 hours before the end of the custodial period if no decision has been received from UKBA.
- 1.8 It is no longer a mandatory requirement for prison establishments to have a local policy for the management of foreign national prisoners.
- 1.9 PSI 35/2008 on the Repatriation of Prisoners **has been revoked** and incorporated into this PSI.

Mandatory Actions

1.10 All mandatory actions are shown in italics. Governors should ensure that all staff responsible for the management of foreign national prisoners and of immigration detainees are familiar with the content of this instruction and understand the mandatory actions set out in Section 2.

Resource Impact

1.11 The introduction of the revised notification procedures will be cost neutral. The changes are intended to simplify and speed up existing procedures, although some additional information is required by UKBA.

Contact

For additional information about this PSI please contact:

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(signed)

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2. SPECIFICATION OUTPUTS

Service Element: Information Sharing

Output 1: Information regarding immigration and repatriation is shared with the relevant external agencies.

DEPORTATION AND THE ROLE OF THE UK BORDER AGENCY.

Sentences meeting the deportation threshold.

- 2.1 UKBA's Criminal Casework Directorate (CCD) considers for deportation all foreign national prisoners (EEA and non –EEA nationals) who meet the criteria outlined below in paragraph 2.8.

Sentences below the deportation threshold

- 2.2 Foreign National Prisoners with a sentence that does not bring them into the usual deportation threshold should be referred to the nearest Local Immigration Team (LIT) for consideration for removal following conviction and sentence using the CCD/LIT referral form (see paragraph 2.12). Contact details for the Local Immigration Teams are at Annex E.

European Economic Area (EEA) Nationals

- 2.3 Whilst EEA nationals generally have the right to live and work in the United Kingdom under European law, they can be deported on public policy or public security grounds if they represent a genuine present and sufficiently serious threat affecting one of the fundamental interests of society and deportation is proportionate in the individual circumstances. All EEA nationals with a sentence of 12 months or more should be referred to UKBA who will determine whether they should be deported or removed. For a full list of EEA member countries please refer to Annex G.

Non-EEA Nationals

- 2.4 Non-EEA Nationals serving a sentence of 12 months imprisonment or more on or after 1 August 2008 may be liable to automatic deportation under the UK Borders Act 2007. They may also be liable for deportation under the Immigration Act 1971 if two or three sentences over the last 5 years aggregate to a total of 12 months imprisonment or more or if they receive a custodial sentence of any length for a drug offence which is not for simple possession.

Irish Nationals

- 2.5 Except for prisoners who are the subject of a court recommendation for deportation or where there are exceptional circumstances (see Annex H) Irish nationals, including those who also hold other nationalities, need not be referred to UKBA.

Role of UKBA

- 2.6 The role of UKBA is to:
- Consider cases with a view to deportation or administrative removal.

- Determine a prisoner's identity, nationality and immigration status where this is unclear (UKBA may need to interview the prisoner or request the completion of a questionnaire to determine his/her current status).
- Consider applications for leave to remain or asylum in the United Kingdom
- Submit Deportation Orders to the UK Border Agency Chief Executive for signature.
- Secure the necessary travel documentation for the subject's removal.
- Enforce removal from the UK and ensure deportation is recorded to prevent re-entry.
- Administer the Facilitated Returns Scheme (see paragraphs 2.98-2.99 and 2.104-2.106).

UKBA Notification Procedures

- 2.7 It is important that UKBA is made aware of a prisoner who is, or may be, a foreign national as early as possible after their first reception following conviction and sentence to facilitate efficient and timely case consideration. This will include dual nationals (including where one nationality is British) and those whose nationality is unclear, for example, where there is conflicting information or where the prisoner refuses to disclose their nationality, so that UKBA can establish their immigration status.

Notification Requirements for UKBA's Criminal Casework Directorate (CCD)

- 2.8 *Once convicted and sentenced the following categories of foreign national must be referred to CCD, within 5 working days of sentence and before transfer to another establishment, using the CCD/LIT Referral Form:*

- *All those recommended for deportation by a court.*
- *All foreign nationals (EEA and non- EEA nationals) sentenced to 12 months or more imprisonment (except Irish citizens (see 2.5)).*
- *All non-EEA nationals sentenced to less than 12 months but where the current sentence plus one or two previous sentences within the last 5 years (taking account of the most significant sentences during the period) total 12 months or more.*
- *All non-EEA nationals who receive a custodial sentence for a drug offence (except possession only cases)*

A copy of the completed CCD/LIT Referral Form should be kept with the prisoner's record.

- 2.9 UKBA requires the following information and documentation on a sentenced prisoner to determine whether a person is liable to deportation or administrative removal from the United Kingdom. This information will be requested on the CCD Referral Form and includes:

- a copy of the Nominal Index Card (NIC) and, where available, an
- Order of Imprisonment,
- Police Report
- Court Certificate,
- Pre-Sentence Reports

- Judge's Sentencing Remarks

2.10 *Prisons must ensure that:*

- *The information on whether or not the court recommended deportation is completed in all cases on the CCD/LIT Referral Form; and*
- *A copy of the previous convictions is kept with a copy of the CCD/LIT Referral Form if available so that these can be confirmed to UKBA if requested. If there are no previous UK convictions available this should be clearly stated.*
- *The date on which the prisoner would become eligible for removal under the Early Removal Scheme (ERS date) is calculated and recorded on the CCD/LIT Referral Form where applicable.*

2.11 *UKBA must be advised by the receiving prison of any change in prison establishment of a prisoner by completing Part 1 C of the CCD Referral Form within 5 days of reception (copy at Annex A). Where a prisoner has been transferred and it is apparent that a referral has not previously been made in accordance with the instructions at paragraphs 2.8-2.10 then the receiving establishment must make the referral as soon as possible following reception.*

Notification Requirements for UKBA's Local Immigration Teams

2.12 *Where a foreign national prisoner receives a sentence that does not meet the normal criteria for deportation (set out in 2.8 above) and therefore does not require a referral to CCD then prison establishments should refer these cases to their Local Immigration Team by e-mail or fax using the CCD referral form within 5 days of reception following conviction and sentence so that they can consider administrative removal action. (Contact details for the Local Immigration Teams are at Annex E).*

Requests for Prison Staff to Serve Immigration Documents

2.13 Prison staff may be asked to serve immigration documents on a prisoner or detainee. If so, the following mandatory actions need to be undertaken:

2.14 *Any documentation received from UKBA for service on a prisoner must be served within 48 hours of receipt. Confirmation of service must be notified to UKBA, using the form provided, within 5 working days of service.*

2.15 All appeal time limits and relevant contact details will be on the notice. Any completed appeal forms can either be returned to the custody office for onward dispatch to the First Tier Tribunal Asylum and Immigration Chamber (AIC) or returned to the Chamber directly by the prisoner's legal representative (see Annex K for further guidance).

2.16 *If the prisoner indicates that she/he does not wish to appeal or wishes to withdraw an outstanding appeal or application to stay in the UK, the prison must notify UKBA immediately or as soon as possible. If a disclaimer form is not provided with the notice, the UKBA caseworker will arrange for one to be faxed to the custody office for signature by the prisoner*

- 2.17 *Prisoners who wish to seek legal advice relating to immigration documents should be provided with the facilities to do so.*

Identifying Offender Managers

- 2.18 CCD may sometimes need assistance from prison establishments to identify the relevant Offender Manager or Offender Management Unit. There are agreements between NOMS and CCD for Offender Managers to provide a range of Risk Reports to assist with their assessments on EEA nationals, for bail applications and for reviews of immigration detention. The arrangements are set out in more detail in Probation Circular 11/2007 Deportation of EEA National Prisoners and Probation Circular 32/2007 "Management of Foreign National Prisoners: Licences, Bail Hearings, Releases from Immigration Detention and Deportation.

Retention of Passports

- 2.19 In order to assist with identification and later removal if appropriate, of foreign national prisoners, the prisoner should not be permitted to send any passports held to a third party other than their own Embassy or UKBA, or to the police where surrender of the passport to the police is a condition of bail.

SECURITY CLASSIFICATION POLICY AND ALLOCATION TO OPEN CONDITIONS

- 2.20 Foreign national prisoners should be classified in accordance with the rules contained in PSIs 39, 40 & 41/2011, while taking account of the individual circumstances of each case.
- 2.21 Open prisons have a special function in assessing and preparing prisoners for release, providing an environment in which prisoners can assume more responsibility and benefit from opportunities to make decisions for themselves before returning to the outside community. A number of prisoners are able to be placed in the community completing a variety of work and training placements, again designed with the sole focus of improving a prisoner's chance of successful resettlement in the UK.
- 2.22 *All foreign national prisoners may be considered for categorization and subsequent allocation to open conditions.*
- *For those sentenced to 12 months or more, prisons should complete the CCD3 form which is attached at Annex B and submit it to CCD by fax (number on form) or to the allocated case owner if known.*
 - *Foreign national prisoners sentenced to less than twelve months must be included in consideration for allocation to open conditions following the procedures set out in PSIs 39, 40, & 41/2011.*
- 2.23 *Before a foreign national prisoner who meets the deportation criteria, set out at paragraph 2.8, and for whom a CCD/LIT Referral Form has been sent to UKBA is classified, the individual risk must be assessed on the assumption that deportation will take place, unless a decision not to deport has already been taken by the UKBA; a decision which must be recorded in the prisoner's record. UKBA must be asked to contribute any information which might indicate an increased risk of absconding. It remains for NOMS to make the decision on whether a prisoner should be transferred to open conditions. A response must be received from UKBA if Category D status is being considered and establishments cannot make such a decision without receiving a response from UKBA It is good practice to set a deadline for a response from UKBA.*

- 2.24 *Whenever a change in deportation status is notified by UKBA, establishments must review the prisoner's security categorisation and allocation to ensure that it is appropriate, given the change in circumstances.*
- 2.25 *Prison establishments should also refer to PSO 4700 – Indeterminate Sentence Manual when considering Indeterminate Sentenced Foreign National Prisoners for transfer to open conditions.*

DEATHS IN CUSTODY

- 2.26 *Prisons must inform Embassies of a death in custody in the manner set out in Prison Service Order 2710 on follow up to Deaths in Custody,*

RELEASE

Bail and Bail Information

- 2.27 The following arrangements apply to all foreign nationals including EEA nationals. Foreign nationals are eligible for bail and should be provided with appropriate legal advice. Bail information schemes should not exclude remand prisoners who are or who may be foreign nationals. Please refer to PSO 6101 Bail Information Scheme .
- 2.28 Where bail information is to be provided to a court in respect of a prisoner who is known or believed to be a foreign national the bail information officer should ask the prisoner what nationality he or she is and seek to verify that information through UKBA. This process also allows UKBA to consider whether action to detain under immigration powers is needed. Cases where the bail information officer needs this information should be referred to the relevant UKBA Local Immigration Team (Annex E) as speedily as possible. Prisons are encouraged to have the bail information officer make telephone contact with UKBA him/herself in advance of the standard process for referral set out in paragraphs 2.8-2.12.
- 2.29 The bail information officer should obtain information from UKBA on the prisoner's nationality and immigration status and, invite UKBA to confirm that they have no interest in the defendant that would prevent release on bail and/or to offer information which the court may need to know in considering bail. That information on nationality and immigration should then be included by the bail information officer in the report to the Court or CPS.
- 2.30 *Where there is reason to suspect that the prisoner is a foreign national but nationality cannot be verified and UKBA cannot provide information in time for the next court appearance the bail information report must record that "nationality and immigration status have not been verified".*

Release from Court

- 2.31 This section refers to prisoners released following criminal proceedings.
- 2.32 *Where a remand prisoner is awaiting consideration for deportation but is released by a court on bail or after a not guilty finding, s/he must be released in line with the order of the court, unless an IS91 is held.*
- 2.33 *Persons recommended for deportation by the Court, but who would otherwise be eligible for immediate release because of time spent on remand, may be detained on the Court's recommendation only where consideration of their case by UKBA has taken place (Schedule 3 to the Immigration Act 1971). This takes effect when an IS91 is served on the*

individual. In all cases, whether recommended for deportation or not, if no consideration has taken place and the sentence calculation has been confirmed, the prisoner must be released from court if:

- the custodial period has already expired; or*
- the prisoner is sentenced to a lesser punishment (fine or community penalty)*

2.34 *If the sentence passed matches exactly the number of days served on the day of sentence, the normal expectation is that the prisoner will be held until 17:00 on that day to give CCD the opportunity to consider the case and to serve an IS91 if appropriate. CCD will telephone the prison and send the signed notice by fax to the custody office who will then telephone the escort contractor with instructions to return him/her to the prison.*

2.35 *Where a prisoner is released at court 'time served' and there is no power to hold him/her, the custody office, on receipt of the sentence details, must check whether the prisoner meets the criteria at 2.8 above. If they do, contact must be made with CCD as soon as possible and any details necessary to locate him/her must be given.*

2.36 *Prisoners previously held under both immigration powers and a court warrant who are released by the Court (for example, following a successful appeal) must be referred to CCD immediately by fax.*

The Early Removal Scheme

2.37 Under current statutory provision fixed-term foreign national prisoners who are confirmed by UKBA as being liable for deportation can be removed from prison and the country after having served a minimum requisite period of a quarter of their sentence, up to a maximum of 270 days before the end of their sentence.

2.38 ERS is mandatory; **all determinate sentenced FNPs** who are confirmed by UKBA as being liable for removal, irrespective of sentence length, offence type or country of origin, must be considered under this scheme by the Governor, in line with the guidance outlined in the Early Removal Scheme PSI 59/2011.

2.39 The ERS referral process is integrated with the notification procedures outlined in section 2.8-2.12 of this instruction. The CCD/LIT Referral Form includes all the relevant information to enable CCD to start working towards the ERS eligibility date (ERSED) as early as possible.

2.40 *As stated in PSI 59/2011, staff must correctly calculate the ERSED and ensure CCD (or the relevant Local Immigration Team where applicable) are informed of any subsequent changes to key dates or circumstances (e.g. where there is an impending prosecution for a further offence or where further charges have been dropped)*

2.41 Prisoners who are removed under ERS and who return to the United Kingdom during the currency of their sentence are unlawfully at large and liable to be returned immediately to custody to serve a custodial period equivalent to the period of time they would have served had they not been removed under ERS. Please refer to section 7 of the Early Removal PSI for further guidance.

2.42 Further information regarding ERS can also be found in sections 2.96 – 2.97 and 2.100-2.103 of this instruction.

Home Detention Curfew (HDC)

- 2.43 The purpose of HDC is set out in paragraph 1.4 of PSO 6700 (Home Detention Curfew) – “to manage more effectively the transition of offenders back into the community”. This purpose will not be achieved where the prisoner is being removed from the UK rather than re-settling here. This is reflected in the statutory bar on HDC for prisoners liable to removal from the UK and also in the following guidance which ensures that proper regard is given to immigration status in making decisions about HDC.
- 2.44 Prisoners who are liable to removal from the UK are defined by section 259 of the Criminal Justice Act 2003 or section 46 of the Criminal Justice Act 1991 are statutorily excluded from HDC. No prisoner can be released on HDC who:
- a. is liable to deportation under section 3 (5) of the Immigration Act 1971 and has been notified of a decision to make a deportation order;
 - b. has a court recommendation for deportation;
 - c. has been notified of a decision to refuse leave to enter the UK;
 - d. is an illegal entrant within the meaning of section 33 of the Immigration Act 1971; or
 - e. is liable to removal under section 10 of the Immigration and Asylum Act 1999.
- 2.45 *Unless UKBA has already confirmed the prisoner’s immigration status, the prison should contact UKBA at the start of the HDC consideration process i.e. around 10 weeks prior to the HDC eligibility date) in order to establish the current position. The form at Annex D should be faxed/emailed directly to the CCD Caseworker if known or the Criminal Casework Directorate at CCD.CATD@UKBA.GSI.GOV.UK ; fax0208 760 8650; or the relevant Local Immigration Team contact point (details at Annex E) with a request for it to be completed and returned within 4 weeks.*
- 2.46 In relation to those categories of prisoners outlined at 2.44a above – i.e. automatic (2007 UK Borders Act) and non-automatic (1971 Immigration Act) deportation cases – **there needs to have been a decision to deport** before the prisoner is made statutorily ineligible for HDC. Currently, the decision to deport is conveyed via an ICD 3805 and a deportation order (ICD 3813 or 3814) in automatic deportation cases and via an ICD1070 in non-automatic deportation cases.
- 2.47 Where the prisoner has been notified of liability to deportation (currently notified via an ICD 350 or ICD 350 AD), but there has not been a decision to deport, **the prisoner is not precluded from consideration for release on HDC**. However, the fact that there is a current intention to deport on release, plus any additional information from UKBA, must be taken into account in considering suitability for HDC. Given the resettlement purpose of HDC, such prisoners should be presumed unsuitable to be considered for release on HDC unless there are exceptional circumstances justifying release. For example, where UKBA has confirmed that deportation is unlikely to be effected for the foreseeable future, and they do not intend to detain the prisoner on release from prison. Where there are exceptional circumstances, the prisoner may be risk assessed for release on HDC but it must be assumed at this stage that the prisoner will be deported at some point after release from prison. This factor should be taken into account, along with any other relevant information, when conducting the risk assessment, including the likelihood of compliance with HDC conditions.
- 2.48 An IS91 (authority to detain under immigration powers) does not, of itself, make a prisoner statutorily ineligible for release on HDC, but it does mean that the prisoner cannot be released into the community when it comes into force at the point the prisoner is released from the sentence. Therefore, the issuing of an IS91 serves to defeat the objective of release on HDC. A prisoner who has been issued with an IS91 should be advised that they are unsuitable for HDC because they cannot meet the criteria to be released into the

community for resettlement purposes at present but that suitability for HDC will be re-assessed if the IS91 is withdrawn. UKBA will notify the prison immediately it has been decided to abandon deportation proceedings and/or withdraw the IS91, or if a decision to deport has been made.

- 2.49 Occasionally, UKBA will decide that a prisoner with a court recommendation for deportation will not be deported and will be allowed to remain in the UK indefinitely. In such a case HDC may be considered as normal.
- 2.50 If, following the lawful release of the prisoner on HDC, a UKBA decision is taken that makes the prisoner liable to removal, the prisoner is not liable to recall to prison on the original sentence unless the terms of the HDC licence are breached.
- 2.51 Irish nationals who otherwise meet the Home Detention Curfew (HDC) eligibility criteria as set out in PSO 6700 may be considered for release on HDC unless there is a court recommendation for deportation or there are exceptional circumstances (as defined in Annex H) that merit referral to CCD.
- 2.52 The HDC helpline is available to answer queries on HDC eligibility on 0203 334 5043/5044 or you can e-mail at helpline at sppu.early.release@justice.gsi.gov.uk.

Release on Temporary Licence (ROTL)

- 2.53 Details of eligibility for ROTL are contained within Chapter 5 of PSO 6300

Release from Prison – End of Custodial Sentence

- 2.54 *All foreign national prisoners must be released from custody at the end of sentence in accordance with the normal arrangements unless subject to further detention under immigration powers.*
- 2.55 *In order to prevent foreign national prisoners who have previously been referred to UKBA's Criminal Casework Directorate being released without their proper consideration all prison establishments should make checks with CCD 48 hours before the end of the custodial sentence to confirm whether CCD have any further interest in the prisoner or whether they intend to issue an IS91 to detain the prisoner under immigration powers. These checks can be made by telephoning the CCD hotline on 0208 760 8655 or by e-mailing them at CCDIRT.Queries@UKBA.gsi.gov.uk.*
- 2.56 *When a prisoner is to be deported at the end of their sentence or is being transferred into the custody of UKBA, the prison must ensure that there is no further reason to hold the prisoner. Probation processes and notifications outlined in PSI 65/2011 should be followed. Once arrangements for collection of the prisoner by UKBA have been confirmed, the relevant records must be updated. Where UKBA wish to remove or take custody of a prisoner eligible for release on parole, whose sentence has not ended, establishments must ensure that they are not released from prison custody unless parole has been granted.*

Discharge and Transfer Arrangements

- 2.57 Property must be dealt with under the normal discharge procedures as set out in PSI 25/2011. However, if the prisoner is being removed or transferred to an immigration removal centre, they must be made aware of the baggage restriction of 20kg. If the prisoner has excess baggage they should advise how it is to be disposed of.

- 2.58 *To enable better care and assessment of time served prisoners moved from prison to immigration removal centres (IRCs) and to create a uniform practice across the prison estate, prisons must provide IRCs with the 2050 core record, security files (to highlight any threats posed and to assist IRCs in maintaining a safe and controlled environment) and any other files such as open ACCT plans/F2052SHs. The only exception is where the movement is a short term measure to facilitate early removal or as a staging point for deportation.*
- 2.59 *Files must be transferred in the same manner as inter-prison transfers. Once the detainee has been deported or released from the IRC the file will be returned to the sending prison for storage, in the same way as for other discharged prisoners.*

PRISONERS HELD SOLELY UNDER IMMIGRATION POWERS

Legal Status of Immigration cases

- 2.60 An immigration detainee is a person detained solely under immigration powers.
- 2.61 Foreign national prisoners may be subject to immigration detention whilst on remand, convicted but unsentenced, or serving a custodial sentence. However, immigration detention will only become effective on the expiry of the order for remand or on the expiry of the custodial sentence. This means that a subject is detained sequentially; first by remand or conviction by the courts and then upon expiry of custodial sentence on an IS91 issued by the UKBA.

Legal authority for detention beyond the custodial release date

- 2.62 Prisoners may be held in prison beyond the end of their custodial sentence under immigration powers. However, in order for a prisoner to be lawfully detained under these powers prison establishments must hold the following document:
- An authority to detain issued by UKBA (form IS91)
- 2.63 All prisoners detained solely under immigration powers should receive a monthly update form (IS 151F) and have a right to apply for bail, either to the Secretary of State, a Chief Immigration Officer or to the Immigration and Asylum Chamber (IAC). All detainees are informed by UKBA of how to lodge such applications.
- 2.64 *Governors must ensure that details of foreign national prisoners who have **served** their custodial sentence or who are held solely on an immigration detention order (IS91) are emailed, using the form at Annex I (see attached), to Population Management Unit every Monday, no later than 12 noon. The details must include*
- *Name of prisoner*
 - *Prison number*
 - *Main/Index offence for the custodial sentence just served*
 - *The sentence length for this offence*
 - *The date this sentence expired (and authority to detain as IS91 commences)*
 - *Number of proven adjudications in the last six months*

- *HO and Port reference (if available)*

Warrants must be thoroughly checked to ensure that the IS91 is the sole basis for detention and that no other warrants are outstanding.

Allocation of those detained solely under immigration powers

- 2.65 Where foreign national prisoners have reached the end of their custodial sentence but continue to be held under immigration powers there is no automatic requirement to return them to a local prison, although they should be treated as unconvicted prisoners (see PSO 4600 Unconvicted, Unsented and Civil Prisoners)
- 2.66 *Persons detained only under immigration powers must be treated as an unconvicted prisoner with the same status and privileges (see PSO 4600)(insert hyperlink). Where a prisoner is held beyond the end of his custodial sentence in a prison which does not normally hold unconvicted prisoners, consideration may be given to enable the prisoner to remain where (s)he is. The prisoner must be made aware that (s)he will be held with convicted prisoners and his/her agreement must be recorded on the form at Annex C. Where an immigration detainee opts to be held with convicted prisoners, all reasonable efforts must be made to accommodate the privileges to which unconvicted prisoners are entitled. However, it remains a matter for the Governor to determine whether or not it is appropriate for the prisoner to remain in convicted conditions.*
- 2.67 NOMS' Population Management liaises with UKBA 's Detainee Escorting and Population Management Unit (DEPMU) to determine the most appropriate location for the detainee to be held after the expiry of the custodial sentence, should immediate removal not be possible. An agreement is in place between NOMS and UKBA which sets out the criteria for allocation.
- 2.68 Immigration detainees should only remain or be moved into prison establishments when they present specific risk factors that indicate they pose a serious risk of harm to the public or to the good order of an Immigration Removal Centre, including the safety of staff and other detainees, which cannot be managed within the regime applied in Immigration Removal Centres. This regime derives from Detention Centre Rules and provides greater freedom of movement and less supervision than prisons, as well as access to the internet and mobile telephones
- 2.69 The circumstances that would indicate that a detainee should be held in prison accommodation include, but are not restricted to the following:

National Security

- Where there is specific verifiable intelligence that a person is a member of a terrorist group or has been engaged in or planning terrorist activities.

Criminality

- Those convicted of offences involving the importation/supply of class A drugs.
- Those convicted of sexual offending involving a minor.

- Those subject to notification requirements on the sex offenders register, unless the offender has been assessed by UKBA as suitable for transfer. Detainees sentenced to less than 12 months for a sexual offence should not be presumed unsuitable to transfer on this basis alone, but in all such cases consideration should be given to the specifics of the offence and any previous sexual offending when making an assessment.

Specific identification of harm:

- Detainees identified whilst serving as prisoners in NOMS custody as posing a risk of serious harm to minors.
- Detainees identified whilst serving as prisoners in NOMS custody as being subject to harassment procedures.

Where a detainee poses a serious risk for security and control in an IRC setting:

- Where a detainee's behaviour whilst in either an IRC or prison custody makes them unsuitable for the IRC estate e.g. numerous proven adjudications for violence or last categorised as Category B. Detainees convicted of violent offences should not be presumed unsuitable for transfer on this basis alone, but in all such cases consideration should be given to the specifics of the offending and behaviour whilst in custody when making an assessment.
- Where a detainee has escaped from prison, police or immigration custody or escort or has planned or assisted others to do so. (This does not include circumstances amounting solely to resisting arrest).
- Where a detainee has in prison, police or immigration custody engaged in planned or assisted others to engage in/plan serious disorder, arson, violence or damage.

2.70 UKBA are responsible for assessing immigration detainees for suitability for an IRC and the above criteria are only an initial guide to indicate those who are unsuitable for an IRC. Individual circumstances might indicate that a detainee who would initially appear unacceptable may, on assessment, present as an acceptable risk to warrant transfer to an IRC. Circumstances that might be indicative of this include where a former serving prisoner has been categorized by NOMS as suitable for open conditions. The risk assessment process must also recognise that there may be circumstances beyond those outlined above in which there is clear evidence that a detainee poses a risk of harm to the public or good order that cannot be managed within an IRC environment.

2.71 It should be assumed that any ex-prisoner who had been deemed suitable for transfer to open conditions, irrespective of offence or length of sentence, will be acceptable to an IRC.

2.72 DEPMU handles the management of the population held in Immigration Removal Centres and they may require a risk assessment to be undertaken to enable them to consider whether particular immigration detainees are suitable to be transferred from prison to the IRC estate.

2.73 *If a risk assessment is requested by DEPMU the prison must complete and return the risk assessment pro-forma (IS91RA) (see Annex U) to enable them to risk assess the subject's suitability for a transfer. This form requests information concerning the prisoner's behaviour in prison as well as any assessment made regarding the risk of harm the prisoner may pose to the public and all relevant information, including adjudications, should be disclosed.*

2.74 *If at any point a detainee is considered to be at risk of self-harm and/or is refusing food or fluid then prison establishments must inform UKBA (DEPMU) immediately.*

Full details on the framework within which NOMS holds immigration detainees in prison on behalf of UKBA is set out in a Service Level Agreement. If required please contact Population Strategy Group (03000 47 6227) for further queries.

Service Element : Information Sharing

Output 2 : Prisoners are able to access independent immigration advice

2.75 Prison Service staff should not offer advice on immigration law or procedures. Nevertheless, it is important that prison establishments ensure that both UKBA and independent immigration advice are available for prisoners to access when it is required.

2.76 The Immigration and Asylum Act 1999 made it unlawful for anyone to provide unregulated immigration advice or immigration services. The code setting out the standards that immigration advisers must meet is set, maintained and regulated by the Office of the Immigration Services Commissioner (OSIC). Immigration advisers must be fit and competent and registered with the OSIC unless they are regulated by one of the designated professional bodies, e.g. solicitors registered with the Law Society.

2.77 It is important to ensure that any immigration advisor is registered as "immigration advice and services" covers a wide range of activities ranging from advocacy before the First Tier Tribunal Immigration and Asylum Chamber to ensuring that an applicant completes the correct application form. This is because of the seriousness of the outcome for the prisoner of such advice or action. Further detail and a list of registered practitioners can be found on the OISC website at www.oisc.gov.uk.

2.78 The Detention Advice Service (DAS) provides information, advice and support to individuals with immigration problems who are detained or are threatened with detention. They offer a free independent, confidential and impartial service to their clients. DAS have a Quality Mark from the Legal Services Commission. More details can be found on their website at www.detentionadvice.org.uk.

Service Element: Information Sharing

Output 3: Prisoners are provided with information in a way which minimises their risk of self harm/suicide

2.79 Foreign national prisoners can often experience isolation in prison due to language and cultural difficulties and lack of family visits and support. Prison staff should be aware of the heightened risk of self-harm in these cases and particular care should be taken when serving documentation relating to deportation which could cause distress.

- 2.80 Prisoners identified as being at risk of self-harm or suicide or presenting a risk to others should be managed in line with the guidelines set out in PSO 2700. Please refer to paragraph 3.31 for additional guidance.

Service Element: Repatriation

Output 4: Prisoners understand their rights and the information given to them

- 2.81 *Prisoners should be advised of the possibility of repatriation at the earliest opportunity following sentence. If requested by the prisoner arrangements should be made to enable him/her to contact his legal adviser to discuss issues relating to repatriation.*
- 2.82 Repatriation is the process whereby a prisoner serving a sentence of imprisonment in one country may be able to serve the balance of their sentence in their country of origin provided that there is an international agreement in place between the UK and the country of origin. A list of those countries with which the UK currently has a repatriation agreement is at Annex S. This list is subject to change as additional prisoner transfer agreements are concluded. If a prisoner wishes to transfer to a country which is not on this list the Cross Border Transfer Section should be contacted for confirmation of possibility of transfer. Contact details are given at 2.94 below.
- 2.83 Repatriation can take place either on a voluntary basis, or where provided for by the relevant international arrangements, on a compulsory basis. A prisoner can normally only transfer to a country of which he or she is a national but some countries will consider applications from non-national residents. Further information on the requirements of individual countries can be obtained from the Cross Border Transfer Section. (Contact details are given at paragraph 2.94 below).
- 2.84. Where transfer takes place on a voluntary basis there is no automatic right to repatriation. Cases are considered on an individual basis and must usually meet the following conditions (these may vary according to the relevant international arrangement):
- There must be at least six months of the sentence remaining.
 - The prisoner will normally be a national of the country concerned (although some countries may accept non-national residents).
 - There must not be any appeals outstanding either against conviction or sentence.
 - The offence for which they have been convicted must also be an offence in the country of origin.
 - Both the UK and the government of the other country concerned must agree to the transfer.
- 2.85 Prisoners who meet the criteria for transfer but who have outstanding criminal proceedings against them in the UK will not be considered for transfer until these proceedings have been resolved. Prisoners with outstanding Confiscation Orders will be required to satisfy those orders or have had a term of imprisonment in default imposed before consideration for repatriation can be given.

- 2.86 Compulsory transfer of a prisoner may be sought where this is provided for by the relevant international arrangement. Prisoners eligible for compulsory transfer will be identified centrally. Where a prisoner is being considered for compulsory transfer they will be notified of this by the Cross Border Transfer Section in writing and provided with information about the process and their ability to make representations. Staff should be aware that some prisoners will not want to be transferred to a prison in their own country and that this could lead to a heightened risk of self harm/suicide.

Service Element: Repatriation

Output 5: Eligible Prisoners are able to apply for repatriation

- 2.87 *Prisoners wishing to apply for repatriation must do so using the Repatriation Application Form at Annex T. Part 1 of the form should be completed by the prisoner and Part 2 by appropriate prison staff. The form is available in the following languages from the Cross Border Transfer Section. (Albanian, Arabic, Dutch, Estonian, Flemish, French, German, Greek, Italian, Lithuanian, Polish, Portuguese, Russian, Spanish, Turkish, Urdu, Vietnamese).*
- 2.88 Consideration of an application for repatriation involves consultation with other governments and can take some time. The Cross Border Transfer Section will issue an acknowledgement on receipt of each application and supporting documentation. A further letter will be issued if the application is referred to the foreign government. A prisoner will be advised in writing of the outcome of his/her application once the consultation with the foreign government is complete.

Service Element: Repatriation

Output 6: Repatriation applications are submitted in line with national guidance

- 2.89 *All completed application forms must be passed to the Cross-Border Transfer Section, together with copies of the supporting documentation listed on the reverse of the application form within 28 days of the prisoner submitting the application. Any application forwarded to the Cross Border Transfer Section without all the supporting documentation will be returned to the initiating establishment for completion.*
- 2.90 Prisoners identified as suitable for compulsory transfer will be informed of this by the Cross Border Transfer Section and will be invited to make written representation against the decision to seek transfer. A prisoner will normally have 28 days in which to make representations. If requested by the prisoner, (s)he should be allowed to contact his legal adviser. Where a prisoner makes such representations they should be forwarded to the Cross Border Transfer Section within 5 working days of completion by the prisoner.
- 2.91 *The Cross Border Transfer Section will require documentation to support consideration of compulsory transfer. Where requested this information must be provide to the Cross Border Transfer Section within 28 days of receipt of the request by the prison.*
- 2.92 The Cross Border Transfer Section will notify the prisoner and the establishment of the final decision as soon as one has been made.

2.93 When repatriation has been approved and a date of transfer agreed with the receiving jurisdiction, establishments will be required to make arrangements for the transfer of the prisoner to an appropriate prison for departure. This will normally be Wandsworth for male prisoners and Holloway for female prisoners. The Cross Border Transfer Section will inform establishments when arrangements should be made. As transfer will normally take place shortly before the date of departure from the UK, it is essential that the prisoner's property and private cash is transferred with the prisoner. Prisoners will normally be allowed to take hand luggage only with them on departure from the UK. Prisoners should be asked to make arrangements for the disposal of any property in excess of this before transfer to the departure prison. A record of the transfer or disposal of any property must be kept.

2.94 Contact Points:

Cross Border Transfer Section, 4th Floor, Turquoise Zone, Post Point 4.16, Clive House, 70 Petty France, London, SW1H 9EX

Head of Casework: 0300 047 5691

Caseworker: 0300 047 5694

Caseworker: 0300 047 5696

Caseworker: 0300 047 5692

Fax number: 0300 047 6857

Service Element: Early Removal Schemes

Output 7: Prisoners understand the Early Removal Scheme & the Facilitated Return Scheme

2.95 It is important to be clear that the Early Removal Scheme (ERS) and the Facilitated Return Scheme (FRS) are different schemes even though they can and do work in conjunction with each other.

Early Removal Scheme

2.96 The Early Removal Scheme (ERS) is a scheme operated by the Ministry of Justice which allows the Secretary of State to remove prisoners early (i.e. before they reach their normal release date) and is **not voluntary**; all determinate sentenced foreign national prisoners who are confirmed by UKBA as being liable for removal, irrespective of sentence length, offence type or country of origin, must be considered under the scheme. Foreign national prisoners who are liable to removal can be removed early under ERS even if they do not apply or are not eligible for FRS. This means for example that EEA National prisoners who are liable to removal can and should be removed early under ERS, even though they are not eligible for FRS.

- 2.97 Prison staff should ensure that foreign national prisoners who have been confirmed as being liable for deportation by UKBA are aware of the provisions of the Early Removal Scheme as set out in PSI 59/2011.

Facilitated Return Scheme

- 2.98 The Facilitated Return Scheme is operated by is operated by FRS team in UKBA's Criminal Casework Directorate in conjunction with the International Organization of Migration (IOM), an independent international organization. FRS is a **voluntary return scheme** that only non-EEA Nationals can apply for and it is designed to encourage FNPs to comply with removal action and return to their home country by offering them financial assistance and support to help them reintegrate on their return. If they are accepted on to the scheme, these prisoners are given financial support to help them resettle on their return to their home country on condition that they cooperate with removal action and waive their right to appeal against deportation.
- 2.99 *Prison staff should ensured that that eligible prisoners are made aware of the provisions of the Facilitated Return Scheme and that contact with the FRS Team in UKBA's Criminal Casework Directorate is facilitated. The FRS hotline number for prisoners is 0208 760 8513.*

Relationship between the Early Removal and Facilitated Return Schemes

- 2.100 Both these schemes are separate but can be implemented in parallel with each other to ensure that prisoners who apply for FRS and agree to cooperate with the removal process can be removed as early as possible within the ERS period. The financial incentives are greater under FRS for prisoners who apply for it while they are still serving their custodial part of their sentence – and could therefore be removed early under ERS-whereas prisoners who apply for FRS having completed their custodial term (time-served prisoners) will receive less money. *Prison staff should ensure foreign national prisoners who have been confirmed as being liable for deportation by UKBA are aware of the provisions of the Early Removal Scheme at the earliest opportunity.*
- 2.101 Removal under ERS is often easier if the prisoner cooperates with the removal process for, example, by providing or helping to obtain the necessary travel documentation (such as a passport). While FRS can provide a financial incentive to cooperate, the prospect of getting out of prison earlier under ERS can often provide a strong incentive too. It is important, if prisoners are enquiring about ERS and/or FRS, to be clear about what each scheme does and the potential benefits of serving less time in custody if removal under ERS is able take place at the earliest possible point.

Service Element: Early Removal Schemes

Output 8: Where criteria are met ERS and FRS applications are processed

Early Removal Scheme

- 2.102 *Governors of all establishments must ensure that the ERS process summarized at paragraphs 2.37-2.42 of this instruction and detailed in PSI 59/2011 is followed for all determinate sentenced prisoners.*
- 2.103 Any queries regarding the ERS referral process or the operation of the Early Removal Scheme should be directed to the Release, HDC and Sentence Calculation Policy Team at SPPU.Early Release@justice.gsi.gov.uk.

Facilitated Returns Scheme

- 2.104 Those prisoners eligible to apply for assistance under the Facilitated Returns Scheme are:
- Non-EEA nationals who wish to serve the remainder of their sentence in their country of origin where that country has signed a Prisoner Transfer Agreement with the UK;
 - Non-EEA nationals removable under the Early Removal Scheme;
 - Non-EEA nationals who have completed the custodial part of their sentence and are being detained solely under immigration powers (time-served).
- 2.105 The amount of assistance available under FRS varies according to the stage in the sentence at which the prisoner volunteers to return home. Those prisoners who apply while still serving their custodial sentence are entitled to a cash payment of £1500. Those who apply after completing their custodial sentence are entitled to a cash payment of £750. These payments are made by means of a cash card provided to the prisoner on his/her departure from the UK.
- 2.106 *Prison staff must ensure that eligible prisoners are made aware of the provisions of the Facilitated Returns Scheme and ensure that that contact with the FRS Team within UKBA's Criminal Casework Directorate is facilitated. The contact number for the FRS Team if prison staff need to raise a query with them is 0208 760 8513.*

Service Element: Additional Support

Output 9: Immigration Surgeries are facilitated when requested by UKBA

- 2.107 It is important that all establishments have a central point of contact for liaison with UKBA concerning foreign national prisoners who are liable for deportation and removal and that UKBA staff are able to have access to these prisoners so that the necessary casework and documentation can be completed.

3. ADDITIONAL GUIDANCE

COMMUNICATION WITH EMBASSIES

- 3.1 All foreign national prisoners have the right to contact their Embassies or High Commissions if they wish to do so. Paragraph 3.2 to 3.19 sets out the procedures to be followed.

Embassy Contact Details

- 3.2 Details of Embassy addresses and contact details can be found on the FCO website, <http://www.fco.gov.uk/en/travel-and-living-abroad/foreign-embassy-in-the-uk/>

Prisoners' Right to Consular Access

- 3.3 *Prisons must inform all foreign national prisoners, including all those whose nationality is not yet confirmed, on reception of their right to contact their embassy if they wish to do so. This must be done by the first receiving establishment and must be recorded. It must also be done where it is apparent that this has not been done by the previous establishment. This must be recorded in the F2050 Core Record.*

Disclosure of Information to Embassies

- 3.4 There are two types of international agreement which govern decisions on whether to disclose information on prisoners to their embassies. These are:
- Individual Bilateral Consular Agreements
 - The Vienna Convention on Consular Relations (1963)

Nationals of countries which have signed a Bilateral Convention (Agreement) with the UK

- 3.5 Countries with bilateral agreements with the UK are listed at Annex M.
- 3.6 *Prisons must notify embassies upon first reception of nationals of a country where a Bilateral Consular Convention has been signed (including prisoners who claim to be a national of one of these countries but where nationality is not yet established), irrespective of whether or not the prisoner wishes his embassy to be notified. Notifications should be sent on the letter at Annex P. This action must be recorded in the F2050 Core Record.*
- 3.7 *Prisons must declare “all appropriate information”. This will include; Full Name, Date of Birth, Establishment, Prison Number, Offence and Sentence Length (where available).*
- 3.8 *The acknowledgement slip once received back into the prison should be copied to CCD and filed on the prisoner’s F2050.*
- 3.9 The prisoner cannot block the disclosure of these details.

Countries which have signed the Vienna Convention where no Bilateral Agreement is in place

- 3.10 These countries are listed at Annex N.
- 3.11 *Information on prisoners who are, or may be, nationals from countries which are signatories to the Vienna Convention but where there is no bilateral agreement with the UK, must not be disclosed to an embassy unless the prisoner has given written permission.*
- 3.12 *When a foreign embassy representing a country with no bilateral agreement with the UK requests information on a prisoner or prisoners, the prisoner's written permission for details to be released must be secured by prison staff before information is disclosed (see pro-forma attached at Annex Q. A draft letter to send to the embassy is attached at Annex R). If the prisoner refuses then the prison must inform the embassy of the prisoners' right of anonymity under Article 36(1) (c) of the Convention. If the prisoner agrees to the release of his/her information this must be noted on their record.*
- 3.13 The only exception is in the detention or imprisonment of a consular official as set out in Article 42 of the Vienna Convention. *Where a consular official is detained prisons must inform the embassy either through the consulate or through diplomatic channels.*

Signatories to both Vienna Convention and a Bilateral Agreement

- 3.14 *Where a foreign country has signed both the Vienna Convention on Consular Relations and a Bilateral Agreement, prisons must follow the requirements of the Bilateral Consular Convention with regard to disclosure of information to Embassies.*

Signatories to neither the Vienna Convention nor a Bilateral Agreement

- 3.15 *Where a prisoner is a national of a country which has signed neither a Bilateral Agreement nor the Vienna Convention, he/she must be treated under the terms of the Vienna Convention. A list of these countries is provided at Annex O.*

Embassy Communications with Prisoners

Visits

- 3.16 *Where a prisoner consents, embassy staff must be given access to a prisoner who is a national of that country. Prisoners have the right to see Embassy staff under the terms of the Vienna Convention 1963: -*

“Consular officers shall have the right to visit a national of the sending country [the foreign country] who is in prison, custody or detention, to converse and correspond with him and arrange for his [or her] legal representation”.

- 3.17 This can only happen once the prisoner has given his/her consent for his embassy to be notified and he/she has the right to withdraw consent for contact with the embassy at any time.
- 3.18 Visits with Consular officials should generally take place in sight but out of hearing range of prison staff. Any such visit would fall into the category of a special visit and as such does not count against a prisoner’s statutory entitlement. (see PSI 16/2011 Visits and PSI 49/2011 Communications)

Telephone Calls to Consular Officials

- 3.19 *Under the terms of the Vienna Convention telephone calls to confirmed embassy lines must be granted the same status as that of a legal representative and must not be recorded.* For further information on telephone calls to Embassies and High Commissions refer to PSI 49/2011 Communications

TRANSFERS TO HOSPITAL UNDER THE MENTAL HEALTH ACT

- 3.20 PSI 50/2007 covers procedures for the transfer of prisoners to and from a secure hospital under sections 47 and 48 of the Mental Health Act 1983.
- 3.21 In addition to the procedures set out in the PSI, when the prisoner is a foreign national, the prison should ensure that the hospital is informed about the prisoner’s immigration status and made aware of any additional risks this may present.
- 3.22 All foreign national transfers to hospital under the Mental Health Act should be notified to the relevant CCD case owner or relevant Local Immigration Team whichever is appropriate.

ESCORTING FOREIGN NATIONAL PRISONERS TO THE ASYLUM AND IMMIGRATION CHAMBER (TRIBUNALS).

- 3.23 Prison Governors (and Directors of contracted prisons) are responsible for ensuring that foreign nationals (both prisoners and detainees) are produced to the First Tier Tribunal and Immigration and Asylum Chamber (IAC). Prisons should invite the IAC to consider using video link equipment where it is available and technically possible.
- 3.24 Category A Foreign National Prisoners will be escorted and managed at IAC hearings by Prison Service personnel. Current procedures for the escorting of Category A prisoners to IAC hearings remain unchanged. Further information is available in PSI 25/2011 Discharges. (insert hyperlink).
- 3.25 Foreign national prisoners (those sentenced and remanded excluding Category A) will be escorted to IAC hearings by PECS’ court escort contractors.

ESCORTING ARRANGEMENTS FOR IMMIGRATION DETAINEES.

- 3.26 Detainees (foreign nationals held solely under immigration powers) will continue to be escorted to IAC hearings by the UK Border Agency (UKBA) escort contractor. Further information is available in PSI 25/2011 Discharges (insert hyperlink).
- 3.27 UKBA are responsible for arranging the transfer of immigration detainees from prison to Immigration Removal Centres.
- 3.28 NOMS are responsible for arranging the transfer of immigration detainees between prisons.

BEDWATCHES OF IMMIGRATION DETAINEES

- 3.29 The UKBA escorting contractor Will be responsible for staffing bedwatches of immigration detainees i.e. those held in prison post-sentence on an IS 91 warrant). If an immigration detainee has to attend hospital as an in-patient establishments should contact the duty HEO at DEPMU on 0208 745 4012/15 providing the name of the detainee, date of birth, prison location, hospital location and any relevant security information.
- 3.30 G4S have a target to provide staff for the bedwatch within 4 hours of an immigration detainee being admitted to hospital (although this will depend to some extent on the location of the hospital and time of admission).

UKBA INVOLVEMENT IN ACCT REVIEWS

- 3.31 It is open to prison Governors to seek UKBA input to any ACCT review which involves a foreign national prisoner in whom UKBA have an interest. Governors should use their usual UKBA contacts to secure participation. This will usually be the UKBA staff embedded at the hub prisons. Where UKBA does not have hub/spoke coverage then prisons should contact the duty Chief Immigration Officer on 0208 760 8009 to establish whether one of the mobile teams can assist. CCD case owners should also be kept informed of any incidents of self-harm and suicide attempts. Where the case owner is not known the CCD workflow hotline should be contacted to establish the name of the case owner. The team can be contacted on 0208 760 8655 or at CCDintaketeam@ukba.gsi.gov.uk.

LIST OF ANNEXES

Annex A	Criminal Casework Contact Details Prison-CCD Referral Form (previously CCD1, CCD2)
Annex B	CCD 3 - Request for Information for transfer of a prisoner to Category D
Annex C	Detainees in Convicted Conditions Form
Annex D	Confirmation of immigration Status for HDC
Annex E	List of Local Immigration Teams
Annex F	Immigration Service Information and Guidance
Annex G	EEA Countries
Annex H	Deportation of Irish Prisoners
Annex I	Population Management Weekly Update – sentence-expired detainees held solely on IS91
Annex J	Establishing Nationality: Suggested Additional Questions
Annex K	Serving Documents on Prisoners subject to Immigration Control
Annex L	ISO Country Codes
Annex M	List of Countries with whom the United Kingdom has signed a Bilateral Consular Convention
Annex N	List of Signatories to the Vienna Convention on Consular Relations (VCCR) 1963
Annex O	List of Countries with no Bilateral Consular Convention and who have not signed the Vienna Convention on Consular Relations
Annex P	Letter to Embassy where a Bi-Lateral Agreement is held
Annex Q	Pro Forma to record that Prisoner agrees to Embassy Contact
Annex R	Letter to Embassy under the Vienna Convention where prisoner agrees to contact
Annex S	List of countries with whom the UK has a Repatriation Agreement
Annex T	Application form for Repatriation
Annex U	Risk Assessment form for transfer to an IRC

NOTIFICATION TO UKBA (CRIMINAL CASEWORK DIRECTORATE OR LOCAL IMMIGRATION TEAM) OF NEW IMMIGRATION CASE

All Sentenced foreign national prisoners must be notified to CCD or the relevant Local Immigration Team within 5 working days of sentencing by fax on Section 1A and 2A of the Referral form (previously CCD2).

Establishments accepting prisoners from other establishments must check the prisoner's record to ensure that CCD has already been notified, particularly where a remand or unsentenced prisoner has now been sentenced.

Staff must correctly calculate the ERS eligibility date (ERSED) and ensure that CCD or the relevant Local Immigration Team of any subsequent changes to key dates or circumstances (e.g. where further charges have been dropped or a further sentence has been imposed) in line with the guidance outlined in PSI 59/2011.

For prisoners who have less than 6 months to serve before their first eligible release date (including the HDC eligibility date, where appropriate), the form and supporting documentation must be submitted by fax within 24 hours of reception.

Form CCD3 should be completed when a prisoner who has already been referred to CCD is being considered for transfer to Category D/Open conditions.

For prisoners who have more than 6 months to serve before their first eligible release date, the form and supporting documentation must be submitted by fax within 5 working days of reception.

Telephone enquiries: 0208 760 8655

Fax: 0870 336 9223

The relevant telephone/fax numbers for the Local Immigration Teams are at Annex E of this instruction.

SECTION 2 – FOR ENGLAND AND WALES ERS CASES ONLY (for completion by CCD or relevant Local Immigration Team)

p I am not currently aware of any reason why this prisoner could not be removed within the the ERS period . Please notify CCD of the outcome of the Governor's decision on ERS , to allow removal directions to be set where applicable.

p I do not currently expect the prisoner to be removed during the ERS period for the following reasons :

.....

.....

.....

SHOULD THIS ASSESSMENT CHANGE , YOU WILL BE NOTIFIED

Caseworker Signed

Telephone number E-Mail.....

Person Details:

	Actual	Alias [If Applicable]	PHOTOGRAPH (Two copies)
Surname:			
Other Names:			
Date of Birth: [dd/mm/yy]			
Place of Birth:			
Nationality:			
Language(s) Spoken:			

Conviction, Offence and Sentence Details

Conviction Date: [dd/mm/yy]		Details of Offences:
Sentence Date: [dd/mm/yy]		
Sentenced To : [state years/months]		
Early Removal Scheme Eligibility Date (ERSED) [dd/mm/yy]		
End of Custodial Sentence Date (Conditional Release Date) (CRD) or (Automatic Release Date) (ARD): [dd/mm/yy]		
Sentence End Date (SED)		
Will the prisoner become eligible for parole? Yes / No If Yes, when? : [dd/mm/yy]		
Court of Sentencing		

Connections with the United Kingdom

Subject's last known address in the UK:	
Does the subject have any family in the UK ? If so, please provide: name date of birth nationality length of time in the UK.	
Has the subject ever taken lawful employment in the UK? <i>If so, please provide details.</i>	

ANNEX B/CCD3

Request for Information for transfer of a prisoner to Category D/Open Conditions

From:

Name of Prison	
Contact telephone number	
Contact Fax number	
Date :	

Concerning:

Prisoner surname			
Prisoner first names			
All aliases used			
Date of birth		Nationality	
Prison number			
Port ref		Home ref	Office
Length of sentence			
Release date			
Convicted for			

Reply Required BY	
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To: Workflow Team 1, Criminal Casework Directorate, United Kingdom Border Agency, 16th Floor, Apollo House, , Croydon. FAX 020 8 760 8650/8663

Reply from CCD

Is there any intelligence or information which would help the Prison Service risk assess the prisoner's suitability for open conditions. Eg: family ties (either in Britain or country of origin), strong community links, information about country of origin or country removal.
Reply : YES/NO
A FULL RESPONSE IS ENCLOSED ON THE ATTACHED LETTER

DETAINEES IN CONVICTED CONDITIONS FORM

ANNEX C

FORENAME SURNAME	PRISON NUMBER DATE OF BIRTH
-------------------------	------------------------------------

I understand that I cannot be held in unconvicted conditions at HMP/YOI _____ and agree to be held with convicted prisoners.

SIGNED

DATE

ANY OTHER COMMENTS

UKBA CONFIRMATION OF IMMIGRATION STATUS FOR HDC

To be completed by the Establishment and faxed/emailed:

- directly to the CCD case worker if known, or
- to CCD.CAT-D@UKBA.GSI.GOV.UK Fax: 0208 760 8650;OR
- relevant local Immigration Team

Prisoner's Name:

Prisoner's Number:

HDCED:

Prison :

Prison named contact:

Email:

Fax:

This prisoner is eligible to be released from prison on Home Detention Curfew (HDC) and, if found suitable, may be released at any point from the HDC Eligibility Date (HDCED) given above. This form will be used to help determine the prisoner's eligibility and suitability for release on HDC.

To be completed by UKBA and faxed/emailed to Prison contact as above

Foreign national prisoners who are liable to removal from the UK as defined by section 259 of the Criminal Justice Act 2003 are not eligible to be released on HDC.

1. By indicating yes or no, please confirm whether there has been:

- | | Yes | No |
|---|-----|----|
| (i) A decision to deport the prisoner | | |
| (ii) A decision to pursue deportation in cases where there is a court recommendation for deportation | | |
| (iii) A current notification to the prisoner of a decision to refuse leave to enter the UK or that they are an illegal entrant/immigration offender subject to removal under section 10 of the Immigration and Asylum Act 1999. | | |

If the answer to any part of question 1 is **Yes** then the prisoner will be ineligible for HDC.

If the answer to any part of question 1 is **No**, but deportation or removal action is still being considered, the prisoner will be presumed to be unsuitable for HDC unless there are exceptional circumstances justifying release. For example, where UKBA has confirmed that deportation is unlikely to be effected for the foreseeable future, and they do not intend to detain the prisoner on release from prison. Each case will be considered on its merits.

2. By indicating yes or no, please confirm whether:

- | | Yes | No |
|--|-----|----|
| a. UKBA is still considering deportation/removal action against this prisoner | | |
| b. UKBA has issued authority to detain (IS91) | | |
| c. UKBA intends to issue authority to detain (IS91) in the event that the prisoner is released from prison | | |

3. Please provide immediately below any other comments on the prisoner's suitability for release on HDC.

Relevant factors may include whether:

- *Removal from the UK is imminent or is unlikely in the foreseeable future*
- *The prisoner has a history of failing to comply with immigration conditions or has previously absconded*
- *The prisoner has a history of verbal/documentary deception to gain leave to enter/remain or evade removal from the UK*
- *The prisoner has failed to produce evidence of their nationality or identity or is otherwise failing to comply with the directions of the UK Border Agency*

UKBA Comments:

ANNEX E

LOCAL IMMIGRATION TEAMS

LONDON & SOUTH-EAST REGION	MIDLANDS & EAST OF ENGLAND REGION
LONDON AREA	MIDLANDS AREA
Barking & Dagenham, Havering & Redbridge	East Midlands
2 ND Floor , Angel Square, 1 Torrens Street, Islington, London EC1V B21 0NN	Pembroke House, Herald Way, Pegasus Business Park, Castle Donnington, Derby, DE74 2TZ
Telephone:0207 239 1562	Telephone : 01332 442 100 Fax : 01234 421 885
Email : LITBDHR@homeoffice.gsi.gov.uk Fax: 0207 239 1763	Email: UKBAPublicenquiries@home office.gsi.gov.uk
Barnet & Enfield	Warwickshire & West Mercia
Communications House, 210 Old Street,London EC1 9BR	Sandford House, 41,Homer Road, Solihull,, B91 3QJ
Telephone :0208 604 1949	Telephone: 0121 713 3229 Duty Office : 0121 713 3175
Email: LITBETH@homeoffice.gsi.gov.uk. Fax : 0207 324 6516	Email: UKBAMEULITWarwickshire&West Mercia@ homeoffice.gsi.gov.uk
Bexley, Greenwich & Lambeth	West Midlands
4 th Floor, Becket House, 60-68 St Thomas Street, London SE1 3QU	Sandford House, 41 Homer Road, Solihull, B91 3QJ
Telephone : 0207 238 0060 Fax : 0207 238 1374	Telephone:0121 713 3229 Duty Office : 0121 713 3175
Email :LITBexleyGreenwich&Lambeth@homeoffice.gsi. gov.uk	Email:UKBALITWestMidlands@ homeoffice.gsi.gov.uk
Brent, Hammersmith& Fulham, Kensington & Chelsea	Staffordshire
Amadeus Building, The Quartet, Mondial Way,Hayes, UB3 5AR	Bennett House, Town Road, Hanley, Stoke-on-Trent, ST1 2QB
Telephone : 0203 014 8089	Telephone : 01782 463 607 Fax : 01782 463 633
Email : Brent@homeoffice.gsi.gov.uk Fax : 0203 014 8141	Email: UKBALITStaffordshireDutyOfficer@ homeoffice.gsi.gov.uk
Croydon	EAST OF ENGLAND AREA
Electric House, 3,Wellesley Road, Croydon, CRO 2AT	Bedfordshire/West Northamptonshire
Telephone : 0208 603 8463 Fax : 0208 603 8514	Franklin Court, Stannard Way, Priory Business Park, Bedford, MK44 3JZ
Email : LITCroydon@homeoffice.gsi.gov.uk	Telephone : 01234 421 800 Fax : 01234 421 885
Ealing	Email : UKBACustomerEnquiriesLITBeds&WNorthants@ homeoffice.gsi.gov.uk
Amadeus Building, The Quartet, Mondial Way, Hayes, UB3 5AR	Cambridgeshire/East Northamptonshire
Telephone : 0203 014 8096 Fax : 0870 336 9249	Compass Point, Silvaco Technology Centre, St Ives, Cambridgeshire, 0E27 5JL
Email : Ealingimmigration@homeoffice.gsi.gov.uk	Telephone : 01480 049 9300 Fax : 01480 499 333
Hackney & Tower Hamlets	Email: UKBASTIVESENFORCEMENTUNIT@ homeoffice.gsi.gov.uk
3 rd Floor, Communications House, 210, Old Street, London, EC1V 9BR	Essex/Hertfordshire
Telephone : 0207 324 6476 Fax : 0207 324 6516	Enterprise House, Bassingbourne Road, Stansted, Essex CM24 1SA
Email : LITBEHTH@homeoffice.gsi.gov.uk	Telephone : 01279 680 691

	Fax : 01279 680 041
Harrow & Hillingdon	Email: UKBAPublicenquiries@homeoffice.gsi.gov.uk
Eaton House, 581, Staines Road, Staines, TW4 5DL	Norfolk
Telephone: 0203 014 8096 Fax : 0870 336 9298	Slade House, 39 Turbine Way, Swaffam, Norfolk PE37 7XD
Email : Harrow&HillingdonLIT@homeoffice.gsi.gov.uk	Telephone : 01760 726 611 Fax : 01760 726 650
Hounslow, Richmond & Kingston	Email: UKBACustomerEnquiriesLITNorfolk@homeoffice.gsi.gov.uk
Eaton House, 581, Staines Road, Staines, TW4 5DL	Suffolk & North-East Essex
Telephone : 0208 814 5349 Fax: 0208 814 5345	Felixstowe Dock Police Station, Dock Road, Felixstowe, Suffolk, IP11 8SE
Email : LITHRK@homeoffice.gsi.gov.uk	Telephone : 01394 612 300 Fax : 01394 612 301
Lewisham & Bromley	Email : UKBACustomerEnquiriesLITSuffolk&NEEssex@homeoffice.gsi.gov.uk
Electric House, 3, Wellesley Road, Croydon, CRO 2AT	NORTH-WEST REGION
Telephone : 0208 603 8466 Fax: 0208 603 8514	Cheshire
Email : LITLewishamandBromley@homeoffice.gsi.gov.uk	Capital Building , Old Hall Street, Liverpool, L3 9PP
Newham & Waltham Forest	Telephone : 0151 213 2814 Fax : 0161 261 1332
4 th Floor Becket House, 60-68, St Thomas Street London SE1 3QU	Email : CheshireLIT @homeoffice.gsi.gov.uk
Telephone : 0203 014 8019 Fax : 0207 238 0056	Lancashire/Cumbria
E-mail :LITNewham&WalthamForest@homeoffice.gsi.gov.uk	Capital Building , Old Hall Street, Liverpool, L3 9PP
North-Central London	Telephone : 0151 213 2814 Fax: 0151 237 0474
2 nd Floor Angel Square, 1, Torrens Street, Islington. London EC1V 1NY	Email:LancashireCumbriaLIT@homeoffice.gsi.gov.uk
0207 239 1678 Fax :0207 239 1659	Manchester North
Email : LITNorthCentralLo@UKBA.gsi.gov.uk	Brookland House, 3-5 Vere Street , Salford, M50 2GQ
Southwark	Telephone: 0161 880 5762 Fax : 0161 261 1323
2 nd Floor, Becket House, 60-68, St Thomas Street, London SE1 3QU	Email : GreaterManchesterLITs@homeoffice.gsi.gov.uk
Telephone : 0207 238 1339 Fax : 0207 238 1426	Manchester South
Email :LITSouthwark@homeoffice.gsi.gov.uk	Brookland House, 3-5 Vere Street, Salford, M50 2GQ
Wandsworth, Merton & Sutton	Telephone : 0161 880 5762 Fax : 0161 888 4129
Electric House, 3, Wellesley Road, Croydon, CRO 2AT	Email : GreaterManchesterLITs@homeoffice.gsi.gov.uk
Telephone: 0208 603 8416 Fax : 0208 603 8514	Merseyside
Email: LITWMS@homeoffice.gsi.gov.uk	Capital Building , Old Hall Street, Liverpool, L3 9PP
SOUTH-EAST AREA	Telephone : 0151 213 2814 Fax : 0161 261 1332
Berkshire	Email :MerseysideLIT@homeoffice.gsi.gov.uk
Bedfont Lakes, 6, New Square, Feltham,	Salford and Central Manchester
	6 th Floor, 4M Building, Manchester Airport,M90

Middlesex, TW14 8HA	3WW
Telephone: 0208 588 2925 Fax : 0208 917 2091	Telephone : 0161 880 5762 Fax : 0161 261 1332
Email:LITBerkshire@homeoffice.gsi.gov.uk	Email: GreaterManchesterLITs@homeoffice.gsi.gov.uk
Buckinghamshire	NORTH-EAST, YORKSHIRE AND THE HUMBER REGION
Bedfont Lakes, 6, New Square, Feltham, Middlesex, TW14 8HA	NORTH-EAST AREA
Telephone : 0208 588 2924 Fax : 0208 917 2091	Northumbria
Email : LITBuckinghamshire@homeoffice.gsi.gov.uk	Link House, Melbourne Street, Newcastle-upon-Tyne, NE1 1JQ
Hampshire & Isle of Wight	Telephone : 0191 376 2812 Fax : 0191 376 2838
Norman House, Kettering Terrace, Portsmouth, Hampshire PO2 7AE	Email : NorthumbriaLITBSU@homeoffice.gsi.gov.uk
	Victoria House , Pearson Court, Thornaby, Sstockton TS17 6PT
Telephone : 02392 952 700 Fax : 02392 952 730	YORKSHIRE & HUMBER ARERA
Email: UKBAHampshireandIOWLIT@homeoffice.gsi.gov.uk	North Yorkshire
Kent	The Hawkshills , Easingwold, York YO61 3EG
Martello House, Shearway Business Park, Folkstone, CT19 4RH	Telephone :0792 084 5055 Fax : 0113 386 5758
Telephone : 01303 299 225 Fax : 01303 299 228	Email: NorthYorkshireLIT@homeoffice.gsi.gov.uk
Email: LITKent@homeoffice.gsi.gov.uk	
Oxfordshire	West Yorkshire
Bedfont Lakes, 6 New Square, Feltham, Middlesex, TW14 8HA	Waterside Court, Kirkstall Road, , Leeds, LS4 2QB
Telephone : 0208 588 2926 Fax : 0208 917 2091	Telephone : 0113 386 5913 Fax : 0113 386 5758
Email:LITOxfordshire@homeoffice.gsi.gov.uk	Email: LBA.Intel@homeoffice.gsi.gov.uk
Surrey	South Yorkshire
Bedfont Lakes, 6, New Square, Feltham Middlesex, T14 8HA	Waterside Court, Kirkstall Road, Leeds, LS4 2QB
Telephone : 0208 588 2925 Fax : 0208 917 2091	Telephone : 0114 207 1414 Fax : 0114 207 2077
Email : LITSurrey@homeoffice.gsi.gov.uk	Email: IND-UKIS-SY-H-Intel@homeoffice.gsi.gov.uk
Sussex	Humberside
1 st Floor, Ashdown House, Gatwick Airport, Sussex	Unit 1,Estuary Business Park, Priory Park East, Hull HU4 7DY
Telephone : 01293 501 390 Fax : 01293 501 685	Telephone: 01482 577 342 Fax : 01482 577 350
Email : LITSussexEnquiries@homeoffice.gsi.gov.uk	Email : HumbersideLIT@homeoffice.gsi.gov.uk
WALES & SOUTH-WEST REGION	
WALES AREA	SCOTLAND & NORTHERN IRELAND REGION
Cardiff	Scotland
General Buildings, 31-33 Newport Road, Cardiff, CF24 OAB	Scotland Area
Telephone : 02920 924 539 Fax : 02920 924 546	Festival Court , 200 Brand Street, Glasgow, G51 1DH
Email : WSWcomms@homeoffice.gsi.gov.uk	Telephone : 0141 555 1556 Fax : 0141 555 1290
North-Wales & Gwent	Email : Linda.Dempster@homeoffice.gsi.gov.uk
Plas Eirias Business Centre, Abergele Road, Colwyn Bay, LL29 8BF	Scotland North

Telephone: 01492 51036102920 924 664 Fax : 01492 517472	Telephone : 01224 797 729 Fax : 01224 797 745
Email : WSWcomms@homeoffice.gsi.gov.uk	Email : robin.bell@homeoffice.gsi.gov.uk
South- West Wales	Scotland West
E Block, Heol Pentrefelin, Morriston, Swansea, SA6 7HG	Telephone : 0141 555 1332 Fax : 01224 797 745
Telephone : 01792 314 900 Fax : 01792 314 913	Email : Fiona.a.mcbeth@homeoffice.gsi.gov.uk
Email: Richard.johnson2@homeoffice.gsi.gov.uk	Scotland East and South
SOUTH-WEST ENGLAND AREA	Telephone : 0131 335 4868 Fax : 01224 797 745
Avon & Somerset	Email: jan.dennett@homeoffice.gsi.gov.uk
Portishead Office, Park, Wyndham Way, Portishead, Bristol BS20 7LF	Northern Ireland
Telephone : 01275 841 538 Fax : 01275 841 530	1,Drumkeen House, Drumkeen Complex, Upper Galwally, Belfast BT8 6TB
Email : WSWcomms@homeoffice.gsi.gov.uk	Telephone : 0141 555 1253 Fax : 02890 191 028
Devon & Cornwall	Email: Michael.Golden@homeoffice.gsi.gov.uk
2 nd Floor, West Point, 71 Ebrington Street, Plymouth	
Telephone : 01752 275 157 Fax : 01752 689 152	
Email : Duffin.Adam@ homeoffice.gsi.gov.uk	
Dorset	
Robert Rogers House,45, New Orchard House, Poole, BH15 1LU	
Telephone: 01202 845 406 Fax : 01202 845 420	
Email: DorsetLIT@homeoffice.gsi.gov.uk	

IMMIGRATION AND NATIONALITY GUIDANCE

This is a general guidance for Prison Service staff in order to assist them in their understanding of deportation and UKBA processes.

Deportation

What is a Deportation Order?

A Deportation Order is a formal document signed by a Minister of State or the Chief Executive of the UK Border Agency which:

- requires the named person is to be removed from the United Kingdom;
- prohibits him from re-entering the UK;
- allows for the subject's detention until such time as he is removed.

For how long is a Deportation Order valid?

Deportation Orders do not have an expiry date and they remain valid unless or until they are revoked. In criminal cases, they are only revoked upon application by the subject and normally after a minimum period of ten years has elapsed. In cases where an individual has been sentenced to a custodial term of more than 30 months, the Deportation Order will not normally ever be revoked unless refusal to do so would breach the Human Rights Act or the Convention and Protocol Relating to the Status of Refugees.

Revocation of a Deportation Order does not automatically give a person the right to re-enter the country. *He must still satisfy an Immigration Officer or Entry Clearance Officer that he qualifies for entry under the Immigration Rules and be in possession of a valid visa or entry clearance if required.*

Who can be deported?

Any foreign national may be deported from the United Kingdom if the Secretary of State deems their deportation to be conducive to the public good or their deportation has been recommended by the sentencing court. Whilst EEA nationals normally have the right to work and live in the United Kingdom under EEA law, they can still be deported if justifiable on public policy, public security or public health grounds. The Deportation Order would prohibit them from re-entering the country like any other deportee.

What happens if a deportee returns to the United Kingdom?

Entering in breach of a Deportation Order is a criminal offence. A deportee detected at the border or in country may be prosecuted or alternatively may simply be removed. There is no need for UKBA to obtain a new Deportation Order

Deportation Powers

UK Borders Act 2007

Under the terms of the UK Borders Act, the Secretary of State is obliged to deport foreign nationals who are convicted in the UK of an offence and sentenced to 12 months or more imprisonment. In many cases, an appeal against deportation can only be heard from outside the UK. Exceptions to this obligation include:

- EEA Nationals and their family
- Those subject to certain mental health provisions
- Those facing extradition
- Where deportation would breach our international obligations (Asylum/Human Rights)
- Recognised Victims of Trafficking*
- Those under 18 at the time of Conviction

*(came into force on 1st April 2009)

Immigration Act 1971

If an individual falls within one of the exception categories to automatic deportation the Secretary of State may nonetheless deport the person on the grounds that his continued presence in the United Kingdom is not conducive to the public good.

The current criteria in criminal cases are:

- A single sentence of 12 months or more
- an aggregate of 2 or 3 sentences amounting to 12 months in total over the past five years
- a recommendation from the sentencing court (see below)
- a custodial sentence of any length for a serious drug offence

Court Recommended Cases

A foreign national may be recommended for deportation by a Court so long as he has been warned of the possibility in writing at least seven days in advance of sentencing. This warning is normally given to the subject by the police, on form IM3 at the time he is charged with the offence, but it can be done at anytime thereafter.

The Immigration (European Economic Area) Regulations 2006

Under EC Law, a decision to deport an EEA National or their family must be taken on the grounds of public policy, public security or public health. When considering deportation, an assessment will be made on whether deportation would be compatible with regulation 21 or the Immigration (European Economic Area) Regulations 2006 and the associated case law. In order to be removed on these grounds, the person's conduct must represent a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society and comply with the principle of proportionality.

Each case is looked at on its own merits. The principle that a person can only be removed if they present a "genuine, present and sufficiently serious threat" requires that the subject's history and previous convictions provide evidence of a propensity to re-offend.

How does UKBA consider deportation cases?

Consideration of the Referral from the Prison Service

The Criminal Casework Directorate is a specialist team of caseworkers and immigration officers that considers all criminal deportation cases. The team asks for all foreign nationals meeting the criteria for deportation to be referred for consideration.

Referrals are made on the Referral form (previously known as CCD1/CCD2) by the foreign national clerk by fax at the point of sentence.

a) CCD undertakes an initial sift of all in-coming referrals, and makes checks against UKBA and other departments' records. Fingerprints are also checked against UKBA's own fingerprint database. They then consider whether deportation is appropriate, taking account of any

recommendation by the Court, the nature of the offence, previous convictions, information available concerning ties to the United Kingdom and length of residence.

Those cases not being considered for deportation will normally be issued with a warning that if they return to prison again in the future, deportation will be seriously considered. The case may, if not an EEA national, be referred to the UK Border Agency's Local Immigration Team (LIT) nearest to the prison to examine whether the subject may nonetheless be removed in accordance with other parts of the immigration legislation (see below).

Initiating deportation proceedings

All foreign nationals who may be liable for deportation are served with a notice informing them of their liability to deportation. If they wish to challenge deportation, *they then must put forward any reason why they should not be deported*. A failure to put forward any relevant material may have an effect on a later right of appeal.

If the prisoner does not respond or, following consideration of the information put forward, UKBA decide to pursue deportation, a notice will be issued depending on the legislation used. Under the UKBA 2007 this will be a signed Deportation Order; under the Immigration Act 1971, it will be a notice of intention to deport. In both cases, *the prisoner will be given details of the grounds on which he can appeal and the timescale for doing so*. In 1971 Act cases, *he is formally warned that he must now put forward all information he wants to be considered as part of that appeal, and any failure to do so may disadvantage him at a later stage*. This is known as the "One-Stop Appeal". (See "Appeals").

Appeal

Appeals rights are complex and cannot be fully explained here. Some cases will have a right of appeal before removal, some will only have a right of appeal after removal and others will have no right of appeal at all. UKBA notices will always explain what right of appeal the subject has, how he can appeal and any time limit attached to submitting an appeal. The notice will also explain where he may obtain assistance in completing and lodging the appeal and representation at any hearing.

All first stage appeals are heard by the Immigration & Asylum Chamber (IAC). Like rest of the judiciary, those who hear the appeals are independent of the government. Most appeals are heard at one of its numerous courts sited around the country. An Immigration Judge will normally consider the appeal first. Certain cases may be heard by a higher court if either party challenges the initial determination. In some cases, appeals can go to the Court of Appeal and even the Supreme Court.

If the appeal is allowed by the Immigration Judge, the Home Office may be able to challenge the decision, but if at the end of such action the decision to make a Deportation Order is overturned, the prisoner may not, on this occasion, be deported.

The Deportation Order

Once a Deportation Order has been obtained by CCD, the caseworker will then send the Deportation Order to the prison by fax for service. UKBA ask that a copy of the Order is signed by the serving officer and dated before being faxed back to CCD. The prison officer is only acting as a postman and is entitled to serve the document on UKBA's behalf.

Once the Deportation order has been served removal directions will be set (see "Removal" below).

Removal under other aspects of immigration legislation

There are some cases when UKBA chooses not to deport someone. However these cases may still be liable to be removal under other parts of the immigration legislation:

1. Passengers Refused Leave to Enter the United Kingdom

The control of non-EEA nationals is governed by the Immigration Rules, which sets out the criteria which must be met by every person in order to qualify for entry into the United Kingdom. People come to this country for a variety of reasons and the Immigration Rules set the criteria for all the different types, e.g. as a tourist visitor, student, working-holiday maker, etc).

In almost all cases non-EEA nationals require leave to enter the United Kingdom which is granted either by the possession of a valid visa obtained from a British Embassy abroad or by an Immigration Officer at the port of entry. Visas and leave to enter are only given where the officer is satisfied that the person meets the requirements of the Immigration Rules.

If a passenger does not qualify for entry or the visa was obtained by deception, the Immigration Officer will normally refuse leave to enter and arrange for the person to be removed from the country. Removal will normally be to the port of embarkation or to the country of origin.

2. Illegal Entrants

An illegal entrant is anyone who

- enters the United Kingdom without the leave of an Immigration Officer (for example clandestinely in the back of a lorry); or
- enters by practising deception (by either lying to the Immigration Officer or by successfully using a forged passport); or
- enters again after having been deported (remember, that a Deportation Order prohibits a subject from re-entering the United Kingdom);

If encountered, these subjects may be arrested and removed administratively by an Immigration Officer. It is normal then to remove them at the first available opportunity either to their own country or to another country which has issued them with a valid travel document. *Any application for leave to remain in the UK must be considered before the UKBA seeks to remove them. If refused, some applications will attract a right of appeal before removal, some will attract a right of appeal once the person has left the country, and some have no right of appeal at all.*

3. Breach of Conditions of Leave to Enter or Remain

A non-EEA national who is granted leave to enter the United Kingdom will normally have conditions attached to that leave, for example setting a time limit on how long he may remain in the country, prohibiting employment (paid or unpaid) or seeking recourse to public funds (e.g. this includes all forms of payment benefits such as job-seekers allowance, and access to public services such as the National Health Service).

If a person breaks any of those conditions, for example by overstaying or working illegally he may be removed from the country administratively in the same way as an illegal entrant and may face a ban on returning. UKBA will normally seek to remove such persons at the earliest opportunity.

Detention and Release

UKBA always seeks to process cases in line with prisoners' release dates, but this is sometimes not possible due to a variety of reasons. Sometimes prisoners make very late applications to stay in the country or lodge late appeals which have to be considered; sometimes there is difficulty in obtaining the correct travel documentation to allow for removal. In all cases, UKBA will consider whether it is appropriate to grant the subject release on a restriction order or bail or whether it is necessary to detain him pending conclusion of the case.

Conditions are always attached to a person's release, normally requiring them to reside at a specific address, to report regularly to the nearest UKBA reporting centre, and prohibiting the taking of employment. Electronic monitoring conditions may also be applied. If granted bail, sureties are normally required. Any money guaranteed by the sureties will be forfeited if the subject absconds. If detained, a subject can apply at any time for his release either to UKBA or to the Immigration & Asylum Chamber (IAC).

The decision to maintain detention is always examined in line with current policy, and is reviewed regularly by senior officers to ensure that the case is being progressed quickly and that the decision to detain is correct and just. Detainees are sent an initial letter explaining the reasons why they are being detained and how they can apply to be released. Thereafter, they are sent a letter once a month explaining the present state of their case.

Court Appearances

Detainees may have to attend one of the immigration courts from time to time. This will normally be to attend an appeal hearing, or for a bail hearing if they have applied to the Immigration & Asylum Chamber (IAC).

Removal

UKBA normally seeks to remove those persons with no lawful basis in the United Kingdom. However, before removal can be effected, any barriers which have arisen must be resolved. These can be numerous, but the most common ones are:

1. Difficulties in obtaining a travel document

All persons require a travel document of some description to travel internationally and this includes immigration removal cases. Many of our subjects do not, however, possess a valid passport either because they never possessed one and entered the country illegally, it has expired, become lost or they have deliberately destroyed it.

Some countries allow their citizens to travel on a national identity card (particularly EEA nationals), others will allow UKBA to produce its own travel document, known as an EU letter where supported by background information about the subject (known as "bio-data"), but others require an emergency travel document (ETD) to be issued by the nearest Embassy or High Commission. *Where an ETD is required, an application form must be completed and submitted with photographs and any other supporting evidence to substantiate the nationality and identity.* Some countries have other requirements, for example some require fingerprints. For some countries the process is fairly quick, but for others it can be very lengthy, taking several months and may include an interview with an Embassy official.

UKBA is therefore particularly interested in any relevant documentation in a prisoner's property which may be of use in securing the required travel document for his removal (for example any home country identity related documents) and we always encourage prisoners to assist us in the documentation process.

It is good practice to obtain the prisoner's permission before passport or identity card on to UKBA. However, it is also important to remember that the documents do not belong to the prisoner; rather they are the property of his/her government and in cases where

permission is refused, the document can should be photocopied for UKBA and then posted to the Embassy or High Commission. UKBA will then make a request for the documents directly from the relevant Embassy or High Commission's Consular Section. Arrangements may also be made for a member of UKBA to attend the prison and collect the document.

UKBA regularly requires photographs and fingerprints of foreign nationals and Immigration Officers have their own cameras/fingerprint kits for this purpose. UKBA has given an undertaking that photographs will only be taken of the prisoner's head and shoulders to form part of an application for a travel documents or for its own identification process.

Whilst prisons may take photographs on behalf of UKBA, the quality and quantity of the photographs required varies from nationality to nationality, depending on what is stipulated by the Embassy or High Commission, and so it may be easier to allow immigration officers to take their own photographs. UKBA understands the security issues affecting prisons but establishments are asked to be as flexible as possible in allowing immigration officers to bring cameras to interviews.

Where a prisoner fails to cooperate with an immigration officer in having his/her fingerprints taken, prison officers are empowered to take them under Section 141 of the Immigration & Asylum Act 1999 using reasonable force, where a request is made in writing to the Governor.

2. Late applications

Any application for permission to stay in the United Kingdom (including asylum) must be considered before we can remove a person. In some cases this will be a relatively straight forward process, which can be resolved within hours, but for others it may take weeks, particularly where it is an application for asylum which will involve a long interview to take full details of why the prisoner feels he cannot return to his own country. *Such applications must then be considered by a Case Owner and if refused may lead to a right of appeal before removal.* For this reason, we encourage prisoners to make any applications they wish to be considered at the earliest possible moment, but we cannot force them to do so. Sometimes representations are made to UKBA by solicitors or an MP concerning the case; we always try to resolve these matters in time for the removal, but occasionally we may have to defer the removal whilst the matter is resolved.

3. Availability of flights

Most immigration removals take place on scheduled flights, which have to be booked in advance. Where an airline or shipping company which brought the person to the UK can be identified, the legislation allows UKBA to require that carrier to arrange for the person's removal at their own cost. There can therefore be a slight delay whilst flights are being booked and details passed back to UKBA. In other cases, removal may be at public expense. In either case, however, airlines restrict the number of immigration removals it will allow on each flight and in many cases this is a maximum of two or one if escorted. Busy periods of the year, particularly around Christmas and Easter, can restrict the number of seats available even further. In some instances, UKBA may charter a flight, particularly on difficult routes or when a prisoner proves particularly difficult to remove, but this involves long negotiations with the receiving country to allow us to charter such a flight.

Enforcement of the Removal

Once removal directions have been set, the prisoner or detainee will be notified of the flight details. Notification is also sent to UKBA's Detention Estate and Population Management Unit (DEPMU) who will arrange for the subject to be collected from the prison and taken to the airport for the flight. The subject is taken straight to the aircraft and placed aboard. Where flights depart early in the morning, the detainee is normally taken to a UKBA Removal Centre if considered a low-risk, or to police cells close to the airport.

Those subjects who are considered to have a special need or who give us good reason to believe they may be disruptive or a threat to other passengers are normally escorted on board during the flight and presented to the immigration authorities of the country to which they are being removed.

EUROPEAN ECONOMIC AREA (EEA) COUNTRIES

Austria
Belgium
Bulgaria
Cyprus
Czech Republic
Denmark
Estonia
Finland
France
Germany
Greece
Hungary
Iceland
Republic of Ireland
Italy
Latvia
Liechtenstein
Lithuania
Luxembourg
Malta
The Netherlands
Norway
Poland
Portugal
Romania
Slovakia
Slovenia
Spain
Sweden

Nationals of Switzerland are considered as EEA nationals under the Immigration (EEA) Regulations 2006 and should be treated as such for the purposes of this PSI.

Further enlargement of the EEA is likely. Turkey, Croatia and Macedonia are currently candidate countries for EU Accession.

ANNEX H

Deportation of Irish Prisoners

Deportation of Irish prisoners will only be appropriate in exceptional circumstances. These cases, by definition, will be rare. However, as a guide, the following may be appropriate for deportation and should therefore continue to be referred to UKBA using the CCD Referral form:

Where an offence involves national security matters¹ or crimes that pose a serious risk to the safety of the public or a section of the public. This might be where a person has been convicted of a terrorism offence, murder or a serious sexual or violent offence and is serving a sentence of 10 years or more (a custodial period of 5 years or more). This would include life sentences and those serving other indeterminate sentences for public protection with a tariff of 5 years or more.

¹ Offences committed under the Terrorism Act 2000, Crime and Security Act 2001, the prevention of Terrorism Act 2005 and the Terrorism Act 2006.

- RESTRICTED -										
Annex I : Population Management Weekly Update Sentence-Expired Detainees Held Solely on IS91										
Establishment		Acklington								
Data for Week Commencing		11/07/2011								
Contact Name		Member of staff								
Contact number		01234 567891								
Total prisoners detained on IS91		2								
Sort by surname and include (Y or N) to review before sending										
Click here to send email to PMU To be submitted by 12:00hrs each Monday										
Click here to access guidance										
Include	Last Name	First Name	Prison No	Port Ref / HO Ref	Main/Index Offence	Duration of Sentence			Date Sentence Expired (CRD, ARD or NPD date only)	No. of Proven Adjudications (in past 6 months)
						Years	Months	Days		
Y	Prisoner	A	A1234AB	Unknown	Full Offence	3	0	0	01/01/2011	0
Y	Prisoner	B	A1234AC	111111	Sole Detainee only				02/01/2011	0
N										
N										
N										
N										
N										

[Retun to Annex I main form](#)

REVISED ANNEX I FORM – GUIDANCE NOTES

To assist NOMs in the effective management of prisoners who are held solely under immigration powers (IS91) establishments are required to notify Population Management of these individuals by submitting accurate, weekly Annex I returns via this revised form.

Identifying those immigration detainees who remain in prison plays an important role in assisting NOMS Population Management in managing the overall prison population. In the first instance it is vital that we can accurately identify who all of these individuals are and where they are being held. The information you provide will also be used by UKBA Detention, Escorting, Population Management Unit in assisting with, and prioritising transfers out of prisons to the Immigration Removal estate.

As per paragraph 3.8 of PSO 4630, Immigration and Foreign Nationals in Prisons, establishments must ensure that details of these prisoners are electronically submitted to Population Management (pms@hmps.gsi.gov.uk) using the Annex I form every Monday, by 12 noon at the latest.

Important Points

- Please use only NOMIS prisoner numbers. For those held in private sector prisons please use LIDS prisoner numbers.
- When completing "Main/Index Offence" please ensure you provide the main offence for the custodial sentence the detainee has just served.** Please do not enter "illegal immigrant/detainee" even if this is the main offence listed on the system. For those detainees who have never served a custodial sentence and are being held in prison due to their behaviour in an IRC please select "sole detainee".
- For the date of sentence expiry please enter the earliest non-discretionary release date from the Automatic Release date (ARD), the Conditional Release date (CRD) or, if applicable, the Non-Parole date (NPD).

How to fill in the form

- It is recommended that you save each week's spreadsheet on a local shared drive to allow others to complete the form in case of absence. This helps when completing the following weeks return as if the detainee is still in your prison you just need to ensure the entry in the "include" column is "Y". A copy of the form will be automatically saved to your "My Documents" folder using the following title: "AnnexIReturn YYMMDD HHMM" once the "E-mail form to PMU" button is clicked.
- The detainee's details will only be submitted in your weekly return if you have entered "Y" in the "include" column. If you do not wish to include a detainee from last weeks return (i.e. the detainee has been discharged to a removal centre) in the current weeks return please enter "N" in the "include" column. **Red boxes alert you that data is required and the form cannot be submitted until this information has been completed.** Only once there are no red boxes is the form ready to be submitted.
- Once all records have been completed you may click the "Review" button. This will place those to be included at the top and those not to be included in your return at the bottom. Surnames will also be arranged alphabetically. You may then make amendments where required and can click the "Review" button as many times as you need prior to submitting data.
- Once you have reviewed the data and are satisfied please submit electronically to Population Management by clicking the "E-mail form to PMU" button. A message will then follow informing you that you are about to delete any records where the "include" column contains "N" from your return.
- A message box will appear asking for permission to send the email, please say yes. Once this action has been completed a message box will appear with the message "Email has been sent successfully". If you do not receive this message check your sent items in outlook to ensure that the email was sent successfully, otherwise please re-submit.
- Nil returns still require a spreadsheet to be submitted** When submitting nil returns please ensure rows 4 – 7 are completed and the "include" column contains no "Y" entries.
- If you have any further questions please contact Matthew Webster (03000 47 6234), Colin Speedie (03000 47 6227), Dawn Wright (03000 47 6235) or Verona Walcott (03000 47 6232).

ESTABLISHING NATIONALITY: SUGGESTED ADDITIONAL QUESTIONS

It is important for the effective management of foreign national prisoners that the correct nationality of a prisoner is established as early as possible. This is not an easy task but it is an increasingly important one. Accurate information on nationality is vital for deportation decisions and with the move towards a greater presumption on deportation for non-EEA nationals, it will also become increasingly important for sentence planning purposes. Accurate statistics are also needed for Ministers, Parliament and the public.

The following sample questions are intended to provide some guidance on ways in which you may be able to establish nationality more accurately, in cases where there is some uncertainty. They are based on questions that Immigration staff use for the same purpose.

[Following on from standard reception/induction questions]

What is your family name?

Do you use any other names?

Where were you born?

What was your last address outside the UK?

Do you have a passport?

If yes: number, issuing Government, place and date of issue, valid until?

If no: do you have any other evidence/documents that establish your nationality or identity?

What is your mother's/father's name?

Where were they born?

Who was your last employer in your home country?

What schools did you attend?

Do you have a doctor in your home country? Address?

What is your religion? Where is your place of worship – in the UK?- in your home country?

Once determined nationality and ethnicity should be recorded appropriately on P-NOMIS. Although this may be initially unclear following first reception it may well become clear later on and so it is important this record is updated as appropriate.

SERVING DOCUMENTS ON PRISONERS SUBJECT TO IMMIGRATION CONTROL

This note provides a brief overview of the immigration appeals procedure. It has been prepared for prison staff who have an interest in this area, and in particular for those who are required to serve prisoners with legal notices on behalf of the United Kingdom Border Agency (UKBA).

It is intended purely as background information. *Prison Service staff must not offer advice on immigration law or procedures.* There is no requirement to do so: even when serving official notices, this entails merely acting as a postman (the majority of the Immigration notices issued by the United Kingdom Border Agency are posted to applicants at their home address). All the necessary explanation will be given in the notice itself and anything further could mislead.

The provision of immigration advice is strictly controlled under Part V of the Immigration and Asylum Act 1999, as amended by Section 37 of the Asylum and Immigration (Treatment of Claimants, etc) Act 2004. Even officers who may have experience of dealing with immigration cases and will wish to be as helpful as possible, should still explain that they are not qualified to give advice. Prisoners who have been (or who are being) served with a decision that attracts the right of appeal will find telephone numbers for sources of legal advice among their appeal papers.

The notice of decision

The appeal process begins with the refusal of an application and service of the notice of decision. All notices of decision, if they attract the right of appeal, must meet the same legal requirements. Consequently, they all look very similar. Some examples are attached to give an idea of the basic format. The notice of an appealable decision must be served with an appeal form and a note on sources of advice and assistance

Serving the notice

This is a question of giving the notice, together with any accompanying papers, to the person it names. If UKBA ask the Prison Service to arrange for documents to be served, UKBA will check that the documents are correct. Prison staff are not expected to do anything more than very basic checking - such as ensuring that any faxed documents are legible, and that the specified number of pages has been transmitted.

If you are asked to date a notice, please do so. UKBA staff will sometimes leave the date of a notice blank, as the time limit on appealing commences from the moment of service and CCD will not know when the prison will be able to serve it. At worst, a failure to date the notice can lead to serious problems at the appeal; at best, it gives the appellant's legal representatives an easy way of casting doubt on Home Office competence.

Appealing

The time limit to appeal is 10 working days for serving prisoners and 5 working days for detainees. The appeal form may either be returned to the custody office for onward dispatch to the Immigration Asylum Chamber (IAC) or returned directly to the Chamber by a legal representative. Those who do not already have a legal representative should be directed to the notice of decision (or separate notice enclosed with it), which gives telephone numbers of various organisations that can help find a qualified adviser. Obviously it is important that contact with an adviser is made as soon as possible, and a telephone should be made available.

Again, prison staff should not be giving any more advice than is absolutely necessary to maintain a reasonable relationship. You are, essentially, the postman. Prisoners with anything other than the most rudimentary queries should be invited to contact a qualified legal adviser.

If the subject indicates that he/she does not wish to appeal or wishes to withdraw an outstanding appeal or application to stay in the United Kingdom, please notify the United Kingdom Border Agency at once. If a disclaimer form is not provided with the notice, the caseworker will arrange for one to be faxed to the custody office for signature by the subject.

If the subject is in immigration detention and serves the appeal form on the custody office, the person receiving it must endorse it with the date on which he or she received it, and forward it to the Immigration Asylum Chamber (IAC), First-tier Tribunal, PO Box 6987, Leicester, United Kingdom, LE1 6ZX or by fax to 0116 249 4232 within two days. This is in order to comply with the IAC's Procedure Rules. Further information about the Immigration & Asylum Chamber can be found on their website at <http://www.justice.gov.uk/guidance/courts-and-tribunals/tribunals/immigration-and-asylum/first-tier/index.htm>

It should not be sent to UKBA.

After the appeal form has been completed, it is sent to the Immigration Asylum Chamber (Court Service) in preparation for a hearing before an Immigration Judge or Tribunal Panel. The Immigration Asylum Chamber then lists the appeal for a hearing. This may take several months. The hearing is a fairly formal affair in court, in front of an Immigration Judge or Chamber Panel.

The appellant and legal representative may attend, together with any other witnesses the appellant may wish to call. The appellant and witnesses may give evidence by answering questions from the legal representative, and if they do they will probably be cross-examined by a Home Office presenting officer from UKBA. The representative and presenting officer then make submissions to the Immigration Judge or Panel.

The Chamber normally sends out a formal document (the determination) within 2 weeks. This sets out whether the appeal is allowed or dismissed, and the reasons for this decision. Once the determination has been promulgated the losing party may apply for a reconsideration of the Immigration Judge's / Panel's decision. *This must be done within 1 week of the determination being promulgated. If this application is unsuccessful the only form of redress would be to a higher court.*

Country Codes

The International Organization for Standardization (**ISO**) codes for representation of names of countries as used by the Immigration Service.

Afghanistan	AFG	Israel	ISR
Albania	ALB	Italy	ITA
Algeria	DZA	Jamaica	JAM
American Samoa	ASM	Japan	JPN
Andorra	AND	Libya	LBY
Angola	AGO	Liechtenstein	LIE
Anguilla	AIA	Lithuania	LTU
Antartica	ATA	Luxembourg	LUX
Antigua	ATG	Macau	MAC
Argentina	ARG	Macedonia	MKD
Armenia	ARM	Madagascar	MDG
Aruba	ABW	Malawi	MWI
Australia	AUS	Malaysia	MYS
Austria	AUT	Maldives	MDV
Azerbaijan	AZE	Mali	MLI
Bahamas	BHS	Malta	MLT
Bahrain	BHR	Marshall Islands	MHL
Bangladesh	BGD	Martinique	MTQ
Barbados	BRB	Mauritania	MRT
Belarus	BLR	Mauritius	MUS
Belgium	BEL	Mayotte	MYT
Belize	BLZ	Mexico	MEX
Benin	BEN	Micronesia	FSM
Bermuda	BMU	Moldova	MDA
Bhutan	BTN	Monaco	MCO
Bolivia	BOL	Mongolia	MNG
Bosnia and Herzegovina	BIH	Montserrat	MSR
Botswana	BWA	Morocco	MAR
Bouvet Island	BVT	Mozambique	MOZ
Brazil	BRA	Myanmar	MMR
British Indian Ocean Territory	IOT	Namibia	NAM
Brunei Darussalam	BRN	Nauru	NRU
Bulgaria	BGR	Nepal	NPL
Burkina Faso	BFA	Netherlands	NLD
Burundi	BDI	Netherlands Antilles	ANT
Cambodia	KHM	New Caledonia	NCL
Cameroon	CMR	New Zealand	NZL
Canada	CAN	Nicaragua	NIC
Cape Verde	CPV	Niger	NER
Cayman Islands	CYM	Nigeria	NGA
Central African Republic	CAF	Niue	NIU
Chad	TCD	Norfolk Island	NFK
Chile	CHL	Panama	PAN
China	CHN	Papua New Guinea	PNG
Christmas Island	CXR	Paraguay	PRY
Cocos Islands	CCK	Peru	PER
Colombia	COL	Philippines	PHL
Comoros	COM	Pitcairn	PCN

Congo, Democratic Republic of	COD	Poland	POL
Congo, People's Republic of	COG	Portugal	PRT
Cook Islands	COK	Puerto Rico	PRI
Costa Rica	CRI	Qatar	QAT
Cote D'Ivoire	CIV	Reunion	REU
Croatia (Hrvatska)	HRV	Romania	ROU
Cuba	CUB	Russian Federation	RUS
Cyprus	CYP	Rwanda	RWA
Czech Republic	CZE	Saint Kitts and Nevis	KNA
Denmark	DNK	Saint Lucia	LCA
Djibouti	DJI	Saint Vincent and the Grenadines	VCT
Dominica	DMA	Samoa	WSM
Dominican Republic	DOM	San Marino	SMR
East Timor	TLS	Sao Tome and Principe	STP
Ecuador	ECU	Saudi Arabia	SAU
Egypt	EGY	Senegal	SEN
El Salvador	SLV	Seychelles	SYC
Equatorial Guinea	GNQ	Sierra Leone	SLE
Eritrea	ERI	Singapore	SGP
Estonia	EST	Slovakia (Slovak Republic)	SVK
Ethiopia	ETH	Slovenia	SVN
Falkland Islands	FLK	Solomon Islands	SLB
Faroe Islands	FRO	Somalia	SOM
Fiji	FJI	South Africa	ZAF
Finland	FIN	South Georgia	SGS
France	FRA	Spain	ESP
French Guiana	GUF	Sri Lanka	LKA
French Polynesia	PYF	St. Helena	SHN
French Southern Territories	ATF	St. Pierre and Miquelon	SPM
Gabon	GAB	Sudan	SDN
Gambia	GMB	Suriname	SUR
Georgia	GEO	Svalbard and Jan Mayen Islands	SJM
Germany	DEU	Swaziland	SWZ
Ghana	GHA	Sweden	SWE
Gibraltar	GIB	Switzerland	CHE
Greece	GRC	Syria	SYR
Greenland	GRL	Taiwan	TWN
Grenada	GRD	Tajikistan	TJK
Guadeloupe	GLP	Tanzania	TZA
Guam	GUM	Thailand	THA
Guatemala	GTM	Togo	TGO
Guinea	GIN	Tokelau	TKL
Guinea-Bissau	GNB	Tonga	TON
Guyana	GUY	Trinidad and Tobago	TTO
Haiti	HTI	Tunisia	TUN
Heard & McDonald Islands	HMD	Turkey	TUR
Honduras	HND	Turkmenistan	TKM
Hong Kong	HKG	Turks and Caicos Islands	TCA
Hungary	HUN	Tuvalu	TUV
Iceland	ISL	Uganda	UGA
India	IND	Ukraine	UKR
Indonesia	IDN	United Arab Emirates	ARE
Iran	IRN	United Kingdom	GBR
Iraq	IRQ	United States	USA

Ireland	IRL	Uruguay	URY
Jordan	JOR	Uzbekistan	UZB
Kazakhstan	KAZ	Vanuatu	VUT
Kenya	KEN	Vatican City State	VAT
Kiribati	KIR	Venezuela	VEN
Korea, Dem People's Republic	PRK	Vietnam	VNM
Korea, Republic of	KOR	Virgin Islands (British)	VGB
Kuwait	KWT	Virgin Islands (U.S.)	VIR
Kyrgyzstan	KGZ	Wallis and Futuna Islands	WLF
Lao, People's Dem Rep	LAO	Western Sahara	ESH
Latvia	LVA	Yemen	YEM
Lebanon	LBN	Yugoslavia	YUG
Lesotho	LSO	Zambia	ZMB
Liberia	LBR	Zimbabwe	ZWE

**LIST OF COUNTRIES WITH WHOM THE UNITED KINGDOM HAS SIGNED A BILATERAL
CONSULAR CONVENTION**

**Armenia
Austria
Azerbaijan
Belarus
Belgium
Bosnia-Herzegovina
Bulgaria
China
Croatia
Cuba
Czech Republic
Denmark
Egypt
France
Georgia
Germany
Greece
Hungary
Italy
Japan
Kazakhstan
Mexico
Moldova
Mongolia
Montenegro
Netherlands
Norway
Poland
Romania
Russian Federation
Serbia
Slovakia
Slovenia
Spain
Sweden
Tajikistan
Turkmenistan
Ukraine
United States of America
Uzbekistan**

LIST OF SIGNATORIES TO THE VIENNA CONVENTION ON CONSULAR RELATIONS (VCCR) 1963**(Either as original signatories or as subsequent signatories)**

Albania	Egypt	Lebanon
Algeria	El Salvador	Lesotho
Andorra	Equatorial Guinea	Liberia
Angola	Eritrea	Libya
Antigua & Barbuda	Estonia	Liechtenstein
Argentina	Fiji	Lithuania
Armenia		
Australia	Finland	Luxembourg
Austria	France	Madagascar
Azerbaijan	Gabon	Malawi
Bahamas	Georgia	Malaysia
Bahrain	Germany	Maldives
Bangladesh	Ghana	Mali
Barbados	Greece	Malta
Belarus	Grenada	Marshall Islands
Belgium	Guatemala	Mauritania
Belize	Guinea	Mauritius
Benin	Guyana	Mexico
Bhutan	Haiti	Micronesia
Bolivia	Holy See (Vatican City)	Moldova
Bosnia Hercegovina	Honduras	Monaco
Brazil	Hungary	Mongolia
Bulgaria	Iceland	Montenegro
Burkina Faso	India	Morocco
Cambodia		Mozambique
Cameroon	Indonesia	Myanmar
Canada	Iran	Namibia
Cape Verde	Iraq	Nepal
Central African Republic	Irish Republic	Netherlands
Chile	Israel	New Zealand
China	Italy	Nicaragua
Colombia	Ivory Coast	Niger
Congo, Democratic Republic of	Jamaica	Nigeria
Congo, Republic of	Japan	Norway
Costa Rica	Jordan	Oman
Croatia	Kazakhstan	Pakistan
Cuba	Kenya	Panama
Cyprus	Kiribati	Papua N/Guinea
Czech Republic	Korea, North	Paraguay
Denmark	Korea, South	Peru
Djibouti	Kuwait	Philippines
Dominica	Kyrgyzstan	Poland
Dominican Republic	Laos	Portugal
Ecuador	Latvia	Qatar
Romania	Thailand	
Russian Federation	The Former Yugoslav Republic Macedonia	
Rwanda	Timor Leste	
Saint Lucia	Togo	
Saint Vincent & the Grenadines	Tonga	

Samoa
Sao Tome & Principe
Saudi Arabia
Senegal
Serbia
Seychelles
Singapore
Slovakia
Slovenia
Somalia
South Africa
Spain
Sri Lanka
Sudan
Suriname
Sweden
Switzerland
Syria
Tanzania
Tajikistan

Trinidad & Tobago
Tunisia
Turkey
Turkmenistan
Tuvalu
Ukraine
United Arab Emirates
United Kingdom
United States of America
Uruguay
Uzbekistan
Vanuatu
Venezuela
Vietnam
Yemen
Zimbabwe

A LIST OF COUNTRIES WITH NO BILATERAL CONSULAR CONVENTION AND WHO HAVE NOT SIGNED THE VIENNA CONVENTION ON CONSULAR RELATIONS

Afghanistan
Burundi
Ethiopia
Gambia
Guinea-Bissau
Nauru
San Marino
Sierra Leone
Zambia

Letter to Embassy where a Bi-Lateral Agreement is held

Prison Address
The First Secretary
Embassy/High Commission Address

Date

Dear First Secretary

HM Prison Service is writing in fulfilment of its obligation under the Bilateral Consular Convention signed between the UK and **[country name]**. **[Prisoner name]** has stated that they are a citizen of **[country name]**

We would appreciate if you could complete the attached slip to confirm that:

- **[Name]**
- **[Date of birth]**
- **[Prison number]**
- **[Sentence Length]**
- **[Offence]**

Detained in **[HMP/YOI]** is a national of your country, within 14 days of this letter. **[.....has expressed a desire that the Consulate contacts them to arrange a visit]**

Yours faithfully

Name

TheConsulate

can/cannot confirm that.....

held in.....

is a citizen of

Signed
Telephone number:
Email:



Pro Forma to record that Prisoner agrees to Embassy contact

Consent to Consular Access Form

I.....give permission to Prison Service staff at HMP..... to contact the Embassy/High Commission ofand give them my:

Name.....

Date of Birth.....

Prison Number.....

Place of Birth.....
(Delete as appropriate)

I would like to have contact with my Embassy/High Commission:- Yes/No

Letter to Embassy under the Vienna Convention where prisoner agrees to contact

Prison Address

The First Secretary
Embassy/High Commission Address

Date

Dear First Secretary,

HM Prison Service is writing to inform your consulate that we have gained permission from **[Prisoner name]** as recorded in the Vienna Convention for Consular Relations to advise you that they are held in custody. **[Prisoner name]** has stated that he/she is a citizen of **[Country Name]**

We would appreciate if you could complete the attached slip to confirm that:

- **[Name]**

- **[Date of birth]**

Detained in **[HMP/YOI]** is a national of your country, with in 14 days of this letter. **[.....has expressed a desire that the Consulate contacts them to arrange a visit]**

Yours faithfully

Name

TheConsulate

can/cannot confirm that.....

held in.....

is a citizen of

Signed

Telephone number:

Email:

**Repatriation Agreements as of 10 February
2011**

The UK currently has Prisoner Transfer Agreements (PTAs) with following 107 Countries and Territories.

Albania	France	Nigeria
America	Georgia	Norway
Andorra	Germany	Pakistan
Anguilla	Ghana	Panama
Antigua & Barbuda	Greece	Peru
Armenia	Grenada	Poland
Australia	Hong Kong	Portugal
Austria	Honduras	Russia
Azerbaijan	Hungary	Romania
Bahamas	Iceland	Rwanda
Barbados	India	Samoa
Belgium	Ireland	San Marino
Bermuda	Israel	Serbia
Bolivia	Italy	Slovakia
Bosnia Herzegovina	Japan	Slovenia
Brazil	Korea	Spain
British Virgin Island	Latvia	Sri Lanka
Bulgaria	Laos	St Lucia
Canada	Lesotho	Suriname
Chile	Libya	Sweden
Cook Islands	Liechtenstein	Switzerland
Costa Rica	Lithuania	Thailand
Croatia	Luxembourg	Tonga
Cuba	Macedonia	Trinidad & Tobago
Cyprus	Malawi	Turkey
Czech Republic	Malta	Ukraine
Denmark	Mauritius	Venezuela
Ecuador	Mexico	Vietnam
Egypt	Moldova	
Estonia	Montenegro	
Finland	Morocco	
	Netherlands	
	Nicaragua	

**Territories To Which The
Council of Europe
Convention on the
Transfer of Sentenced
Persons Has Been
Extended**

Aruba

Bouvet Island

British Indian O.T.

Cayman Islands

Dutch Antilles

Falkland Islands

Faroe Islands

Gibraltar

Henderson, Ducie & Oeno

Montserrat

Peter I Island

Pitcairn

Queen Maud Land

St Helena & Dependencies

Sovereign Base Areas of
Akratri & Dhekelia (Cyprus)

APPLICATION FOR REPATRIATION

ANNEX T

PART 1 Prisoner Details (to be completed by the applicant)

Prison No:	Name:.....
Date of Birth:	Place of Birth:
Nationality:	Passport/ID No:
Country to which repatriation is requested:	
Last Address in that country	Address of family resident in that country
.....
.....
.....
I wish to apply for repatriation and I authorise the British Government to disclose all and any information to the receiving Government in order to consider my transfer.	
I am a national of a non-EEA country and I wish to be considered for the Facilitated Removal Scheme (please consult leaflet):	YES/NO
Signed:	Date:

PART 2 Sentence Details (to be completed by the request/complaints clerk)

Sentencing Court:
Date of Sentence:
Offence:
Sentence:
Release Date: (PED/CRD)..... (NPD).....
Any outstanding Appeals/Confiscation orders/other charges: Yes/No
If yes please give details:
.....

Application for transfer.

This form should not be forwarded to Headquarters unless all information is provided. Incomplete forms will be returned to establishments for completion.

<u>Documentation</u>	<u>Attached</u>
Warrant of Imprisonment	<input type="checkbox"/>
Court Record (form F5089)	<input type="checkbox"/>
Indictment (form F88)	<input type="checkbox"/>
Judges Comments	<input type="checkbox"/>
Police Report/Customs Report*	<input type="checkbox"/>
Previous Convictions	<input type="checkbox"/>
Medical Report	<input type="checkbox"/>
Conduct and Behaviour Report	<input type="checkbox"/>
Sentence Calculation Sheet	<input type="checkbox"/>
Copy of passport/ID card (if available)	<input type="checkbox"/>
Written confirmation from the applicant that there are no outstanding appeals against the sentence or any known confiscation order.	<input type="checkbox"/>

* A report is necessary setting out the circumstances of the offence and the involvement of the prisoner in it. An application cannot be forwarded to the other jurisdiction without this report. If the police/customs report is not already held by the prison, it is the responsibility of establishment originating the request to obtain one. A police report can be obtained from the police force responsible for the arrest. A customs report can be obtained centrally from the following address:

HM Revenue & Customs
Offender Management Unit (OMU)
Criminal Investigation – SP&P
3rd Floor Custom House Annexe
20 Lower Thames Street London EC3R 6EE

Email OMU@HMRC.gsi.gov.uk

ANNEX U



Home Office

UK IMMIGRATION SERVICE

Eaton House

581 Staines Road

Hounslow, Middx TW4 5DL

Tel: 0208 745 2462

Fax: 0208 745 2474

Port Reference:

Home Office Reference:

DC Ref:

Details Of Port Responsible For Case (If Other Than Above)

Port:		Reference:		Tel:	
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IS 91 RA Part A: Risk Factors

To:

- Oakington** (for Oakington cases only)
- DEPMU** (single adult detainees)
- MODCU** (family detainees)

Detention space is hereby requested for the following:

NAME:

D.O.B:

/ /

Nationality:

Sex: M/F

Alias:

Removal directions:

- have not yet been set**
- are in place as follows :**

Flight / Ship:

Date:

Time:

Port (& Terminal) Of Departure:

.....

Tick as check initiated.		Does Result Indicate Risk?	Initial & Date as results considered.
	PNC Check. Enter Number.....	Y / N	
	SB / National Security / Police LIO check .	Y / N	
	Fingerprint Check.	Y / N	

Any positive indicators of risk **MUST** be explained fully in writing below. Indication of risk should take into account any significant historical information as well as current circumstances or behaviour as appropriate.

	Is there a history or a threat of?	Does this indicate a potential risk?	Initial & Date.
Y / N	Violence.	Y / N	
Y / N	Disruptive behaviour.	Y / N	
Y / N	Self harm / attempted suicide / food refusal / fluid refusal.	Y / N	
Y / N	Escape attempts.	Y / N	
Y / N	Psychiatric disorder.	Y / N	
Y / N	Medical problems / concerns.	Y / N	
Y / N	Current Pregnancy.	Y / N	
Y / N	Racism.	Y / N	
Y / N	Abuse of women / children.	Y / N	
Y / N	Known associates indicate a risk.	Y / N	

Comments:

Signed:

Print name:

Date:

IS91 RA Part B: Risk Assessment to be completed by DEPMU / MODCU upon receipt of this form.

Name:

Nat:

DOB:

Port Reference:

DC Ref:

IS 91 RA Part B: Risk Assessment

To be fully completed by DEPMU / MODCU and attached to the IS 91 RA Part A

Allocate To:

Tick	Accommodation Type:
	Prison. As a last resort on grounds of national security, criminality, security or control.
	Removal Centre with secure facilities. Where detainee presents a risk of concerted escape attempt/continued disruptive behaviour
	Removal Centre with in-patient facilities. Where risk of self-harm or other health concerns are high.
	Removal Centre with accommodation for adult males only. Where detainee is danger to women or children.
✓	Other Removal Centre.

It is considered that this detainee may require special monitoring /supervision or accommodation in a particular location due to the factors below:

Reasons:

Bed Allocated At: _____

Signed: _____

Print name: _____

Date: _____

Signature to be at CIO / HEO level or above if detainee to be located in a prison, otherwise at EO / IO level.

Distribution

- i) DEPMU / MODCU
- ii) Detention Location (IS and Contractors / Prison Service)
- iii) IS Office / IND Unit Dealing With Case

Port Reference:

Home Office Reference:

DC Ref:

Details Of Port Responsible For Case (If Other Than Above)

Port:		Reference:		Tel:	
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IS 91 RA Part C: Supplementary Information To IS91 RA Part A

NAME: _____

D.O.B / /

Nationality:

Sex: M/F

This form should be completed as soon as either a) further information becomes available or b) the detainee's behaviour and / or statements indicate a possible alteration to this detainee's risk factor.

Enter details of changes to risk factors.

To DEPMU / MODCU / Oakington

In the light of this it is considered that the risk factors associated with this detainee may have increased / decreased* in which case a new IS 91 should be issued. You may also wish to consider whether a change of detention location is appropriate. *(delete as appropriate)

Signed: _____ **Print name:** _____ **Date:** _____

Position: _____ **Organisation:** _____

For Completion by DEPMU / MODCU

This detainee's location **does / does not** (delete as appropriate) need to be changed.
The reasons for any change, for example from one removal centre to another or to prison or vice versa, **MUST** be recorded in the comments section above and be accompanied by the issue of a revised IS91.

Detaining Office to issue new IS91: Yes / No

Signed: _____ **Print name:** _____ **Date:** _____

Signature to be at CIO / HEO level or above if detainee to be located in or transferred from a prison, otherwise at EO / IO level.

Distribution By DEPMU / MODCU following consideration of changes in risk factors

- iv) DEPMU / MODCU
- v) Detention Location (IS and Contractors / Prison Service)
- vi) IS Office / IND Unit Dealing With Case