

Resettlement issues for Foreign National Prisoners – Factsheet

Categorisation

All prisoners are given a security category when they are sentenced.

Categories for male prisoners are:

- Category A – highly dangerous and/or at high risk of escape
- Category B – high risk of escape
- Category C – not high risk of escape but cannot be trusted in open conditions
- Category D – low risk who can be trusted in open conditions

Categories for female prisoners are:

- Category A - highly dangerous and/or at high risk of escape
- Restricted Status – serious risk to the public and risk of escape
- Closed Conditions – not high risk of escape but open conditions not appropriate
- Open Conditions – low risk who can be trusted in open conditions

A prisoner should always be given the lowest categorisation for which they qualify but they may still be kept in a prison with a higher category if a suitable place is not available.

Allocation for a suitable place is a separate process from categorisation.

Prisoners serving over 12 months should be re-assessed at regular intervals (either every 6 or 12 months).

They should also be re-assessed if there is a 'significant change in their circumstances or behaviour'. This would include a decision by Home Office Immigration Enforcement (HOIE) not to deport.

A Foreign National Prisoner (FNP) who has a Deportation Order and who has either exhausted their appeal rights or who cannot appeal within the UK CANNOT be classified as suitable for D Category or Open conditions.



An FNP who is liable for deportation or removal will not normally be classified as D Category or Open conditions unless they are assessed as very low risk. The prison will get further information from HOIE as part of their assessment and will consider the impact of deportation on the level of risk.

An FNP who is not liable for deportation or removal should be considered for D Category or Open conditions in the same way as any other prisoner.

A prisoner can question a categorisation decision by completing the requests and complaints form and giving it to the line manager of the assessor.

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Release on Temporary License (ROTL)

Release on Temporary License (ROTL) means being able to leave the prison for a short time.

There are 4 main types of ROTL

1. Special purposes license – release for a few hours granted for a purpose such as attending a funeral, going to a hospital appointment or visiting a close relative who is dying. This can be granted at any stage of a sentence
2. Resettlement day release license – to prepare for your release for example, visiting family or for education or employment. Can be granted either 24 months before the end of a sentence or after you have served half of the custodial sentence, whichever date is later.
3. Resettlement overnight release license – similar to number 2 but can stay overnight in the place where you will be living when you finish your sentence. Can be granted either 24 months before the end of a sentence or after you have served half of the custodial sentence, whichever date is later.
4. Childcare resettlement license – for the sole carer of a child under the age of 16. Can be granted every 2 months. This can be granted at any stage of a sentence

There are restrictions on which Foreign National Prisoners (FNPs) can get ROTL.

- Any FNP in closed conditions who has a Deportation Order against them and has exhausted appeal rights or exhausted all appeal rights in the UK cannot get ROTL;
- Any FNP who is liable for deportation or removal can apply for ROTL but the prison will ask for information from Home Office Immigration Enforcement as part of their risk assessment;
- Any FNP in open conditions can apply for ROTL. A change in deportation status (e.g. getting a Deportation Order) will trigger a reconsideration of any ROTL already granted;
- Any FNP who is not subject to deportation or removal action can apply for and be considered for ROTL in the same way as any other prisoner.

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Home Detention Curfew

Home Detention Curfew (HDC), often called ‘tagging’, is where a prisoner is released from prison early wearing an electronic tag and must stay at an agreed address for a set time period each day (usually 12 hours overnight).

HDC can be granted up to 135 days (six months) before the half way point of a prisoner’s sentence or after they have served at least one quarter of their total sentence, whichever date is later.

To be considered for HDC, a prisoner must:

- Be serving a sentence of between three months and under 4 years
- Have at least 14 days of their sentence left to service on HDC
- Have a suitable address to go to. A prisoner’s Probation Service Offender Manager can check that an address is suitable.

Certain prisoners are not usually considered suitable for HDC. They are:

- Anyone who is currently or has in the past served a sentence for a sexual offence
- Anyone serving a current sentence for the offence of possession of a firearm with intent
- Anyone serving a current sentence for any racially aggravated offence
- Anyone serving a current sentence for child cruelty
- Anyone serving a sentence or has been returned to prison for breach of a previous curfew order, grant of HDC or license
- Anyone who is liable to deportation or removal from the UK

Any Foreign National Prisoner (FNP) who meets the criteria and

- has not been served with notice to deport, and
- is not liable for removal from the UK

is in theory not excluded from consideration for HDC.



HOWEVER, Prison Service Guidance states that if a prisoner meets the criteria for deportation, then the prisons should assume that they will be deported unless HOIE have stated that they will not be proceeding with deportation.

Any prisoner who has been served an IS91 will not be eligible for HDC.