
Deportation Process

It can be useful to understand what happens when someone is considered for deportation. Further detail about the prison's responsibilities, relevant forms etc. can be found in PSI 52/2011.

Referral to Criminal Casework

All Foreign National Offenders (FNOs) are referred by the Prison to the Home Office Immigration Enforcement Criminal Casework team (HOIE CC) upon sentencing. They will also refer any prisoner if it is unclear whether or not the prisoner is a British national or if the prisoner has dual nationality which includes British nationality. Any prisoner that can prove they hold British nationality is not liable to be deported. This should be done within 10 working days of sentence or immediately if release is in less than one calendar month.

Initial assessment

The FNO's case is assessed by Criminal Casework's Workflow team to assess whether he or she is liable for deportation. The Workflow team will gather all relevant documentation, review the case, and where appropriate write to the FNO to advise them that deportation action is being taken against them. As part of this letter the FNO is asked to provide reasons as to why they should not be deported and to provide supporting information. If no response is received within the time limit given, a decision is made on the basis of information already available. If representations are received then the case will be passed to a casework team to ascertain whether deportation action should continue, and if it should, whether there is a right of appeal and if so whether it should be in or out of country.

If CC decide that the FNO will not be deported they may pass the FNO's details to Removals Casework to consider whether further enforcement action is required if the FNO requires leave to enter or remain but does not have it or if they have leave to enter or remain but no longer meet the conditions on which it was granted.

Even if Criminal Casework decide not to pursue a deportation case, an FNO still faces the possibility that they may be administratively removed. It is therefore important that any FNO who is in this situation does not discount the possibility that he or she could still face return to his or her country of origin.

Case consideration

Criminal Casework will allocate the case to a case owner, who will make a decision on behalf of the Secretary of State. The case owner will look at the case and consider whether or not deportation is appropriate. As part of this consideration the case owner may consider any representations made by the FNO or the FNO's legal representative about why they should not be deported, reports from the National Probation Service, reports from Social Services about the situation of any children/ other family members in the case etc.

It is unlikely that the case owner will write more than once to the FNO to request reasons why they should not be deported; therefore, it is important that the FNO provides all information about any reasons why they believe that they should not be deported, supported by documentary evidence, for example original birth certificates naming parents if they claim to be a parent. A decision will be made based on the evidence submitted. Full responsibility is on the FNO to find and submit any relevant evidence. If they do not do so, they may not be able to appeal or they may not be able to raise any new information as part of any appeal without permission from the Secretary of State.

Once in possession of all the relevant information, the case owner will make a decision on the case. A notice of decision will be sent. If the decision is to deport, the notice will set out whether or not there is a right of appeal in relation to the decision, and if so, whether the right of appeal can be exercised from the UK or only after the FNO has been deported. The time limits for appealing will also be set out in the decision.

If the decision is to deport then at the same time that the notice of the decision is served, the FNO will be notified that a removal date will be set at any time after 72 hours from the point of service has passed.

There is no automatic right of appeal against a notice of deportation. However, if the case owner rejects arguments made against deportation on the basis of human rights or seeking international protection or EEA rights, then the decision will trigger a right of appeal against deportation. Since July 2014, under the Immigration Act 2014, a person can be removed from the UK, even if they have a right of appeal, if:

a claim is certified by the case owner as 'clearly unfounded' (see information on safe country list in Deportation and the Law); or

The person can be removed to a 'safe third country'; or

If the person is facing deportation, that they can be removed from the UK without them or their partner or children being exposed to a real risk of serious irreversible harm whilst the appeal is being heard.

In those circumstances a person will be expected to conduct any appeal from outside of the UK.

EEA nationals may request permission to return for their appeal hearing. Details on how to do this are contained in the decision letter rejecting their representations. Non EEA nationals may not request to return for an appeal hearing.

The time limits on appealing against a deportation decision are very tight. If an FNO is still serving their sentence at the time that the decision is served then the time limit for appeal is 14 days from service of the decision. If an FNP has finished their sentence and is being held under immigration powers then the deadline for appeal is even shorter, only 7 days from service.

If the case owner decides to pursue deportation, in addition to preparing the relevant papers, they will begin to liaise with consulates to make arrangements for travel documents if required. For further information about travel documentation please see the section on contact with consulates/high commissions.

End of process

If a final decision has been made to deport an FNO, the case is passed to the Removals Desk to make travel arrangements for return. This involves booking travel tickets, arranging for any necessary transit visas and making the arrangements for security escorts.

An FNO who is being deported must receive notification of removal at least 72 hours before the flight, although in practice removal may take longer. Every effort is made to ensure that the FNO can be taken from the prison to the airport as quickly as possible but the FNO may be taken to an Immigration Removal Centre (IRC) nearer the airport the night before their flight.

In some cases FNOs will travel on the plane with escorts. Sometimes a flight may be chartered to a particular country and filled with those who are being deported or removed, but more often, FNOs will be booked onto a scheduled flight. The level of restraint used during the flight (e.g. use of handcuffs) will depend on the assessed risk of the FNO.

The Home Office's responsibility for the FNO ends when the FNO disembarks from the plane in the country of origin. They have no responsibility for the onward journey from the airport.

What happens to the FNO upon arrival in their country of origin will vary from country to country, but they may be questioned by police or immigration officials upon arrival.

Contact with HOIE CC

If you need to contact HOIE CC and are unable to reach your caseworker, please contact the relevant team via the duty telephone contacts below:

Teams and/or location	Telephone number
Croydon casework teams - 3,5,6,9,10	020 8253 6455
Croydon casework teams - 15,17,18,19,21,25	020 8253 6202
Croydon casework teams - 1,11,12,13,14	020 8760 1457
Croydon security and special cases unit European Economic Area Mentally disordered offenders Casework teams - 4 and 16	020 8760 8041
Liverpool	0151 213 2168
Leeds	0113 3413373