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## Immigration Detention

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A FNO whom the Home Office, Immigration Enforcement (HOIE) are intending to deport, may be placed in Immigration Detention on completion of their custodial sentence. This will be for the purpose of deportation/removal.

If the HOIE intend to keep someone in immigration detention, they will serve an IS91form (authority to detain) on the prison. Ideally the form should be issued in good time prior to the end of a sentence, but please be aware that it can sometimes be issued late in the process, however if there are going to be delays the FNO will be contacted.

Current guidance states that there is a presumption in favour of liberty and immigration detention should be used sparingly and for the shortest period necessary.

Prisons are required to contact Criminal Casework 48 hours before the end of an FNO's custodial sentence if there has been no final decision on the case with regard to deportation and if no IS91 form has been issued.

In addition to form IS91 being received by the prison, any prisoner who is likely to be kept in immigration detention should be issued an IS91R by the HO IE Criminal Casework, which sets out the reasons why they are being detained. If, for any reason, this is not received, the FNO should contact their HOIE CC case owner to request this.

There is a service level agreement between the Prison Service and the Home Office concerning the provision of bed spaces for time-served FNOs detained under Immigration Act powers. The normal expectation is that these prison beds will be used to hold time-served FNOs before such persons are considered for transfer to the immigration detention estate. This depends on there being free spaces among the beds available to the Home Office under the service level agreement. In the instance of an FNO continuing to be held in a prison under immigration detention powers, they would be treated as a remand prisoner. If the prison does not have facilities for remand prisoners then an FNO may be asked to sign a form agreeing that they waive their right to be treated as a remand prisoner. This is a voluntary declaration and if the FNO is not happy to sign then arrangements must be made to transfer him or her to a more suitable place as soon as possible.

An FNO may be considered for transfer to an Immigration Removal Centre (IRC) if there are insufficient beds available within the prison estate for the use of the HOIE for immigration detainees.

Any person who is kept in immigration detention should receive a monthly notice/form updating them on why they continue to be held. This is called an IS151F. In UK law there is no time limit on how long a person can be held in immigration detention. However, detention must not last for longer than is reasonable and must not be prolonged unduly. An immigration detainee has a right to apply to a Judge of the First Tier Tribunal for bail. There is no limit to the number of immigration bail applications a detainee can make but if further applications are within 28 days of a refusal, the Tribunal is required to dismiss the application without a hearing unless the person can show a material change in circumstances since the previous refusal.

If a detainee has an immigration solicitor acting on their behalf then the solicitor may be able to assist them with the bail application.

More information on how to apply for immigration bail can be gained from Bail for Immigration Detainees (BID). BID provide outreach services at some Immigration Removal Centres (IRCs) and detainees held in IRCs may be able to access information from the BID website. You can also write to BID or call them on their helpline

### **BID**

28 Commercial Street, London E16LS.

Tel: 020 7247 3590

Monday to Thursday 10am to 12pm

Website: <http://www.biduk.org/>

There are a number of organisations who befriend and visit immigration detainees. If you would like to find out more about immigration detainee visiting groups in your area you can contact the Association of Visitors to Immigration Detainees (AVID).

### **AVID**

Archway Resource Centre, 1b Waterlow Road, London N19 5NJ

Tel: 020 7281 0533

Website: <http://www.aviddetention.org.uk>