



Home Office

Serving deportation decisions on file

Version 4.0

This guidance tells decision makers how to serve various deportation-related decisions on file where appropriate in accordance with the Immigration (Notices) Regulations 2003.

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About this guidance

This guidance tells you:

- which kinds of deportation decisions can be served on file in accordance with the Immigration (Notices) Regulations 2003
- when serving such decisions on file will be appropriate
- how to serve such decisions to file
- what to do when a subject is located

Contacts

If you have any questions about the guidance and your line manager or senior caseworker cannot help you, or you think that the guidance has factual errors, then email the [Criminality Policy team](#).

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on), or have any comments about the layout or navigability of the guidance, you can email the [Guidance Rules and Forms team](#).

Clearance

Below is information on when this version of the guidance was cleared:

- Version: 4.0
- Published for Home Office staff on: 20 January 2016

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Changes from last version of this guidance

A complete review and revision of the content. Various substantive updates were made, including:

- amendment to decisions terminology to ensure compliance with Immigration Act 2014 provisions
- clarification of which decisions are covered by the guidance and so which can be served on file

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When to serve decisions to file

This section explains the different circumstances under which immigration decisions can be served to file in accordance with the Immigration (Notices) Regulations 2003.

[Regulation 7 \(2\) of the Immigration \(Notices\) Regulations 2003](#) gives decision makers the power to serve a notice of a decision on file if both of the following apply:

A person's whereabouts are unknown:

- no address has been provided for correspondence
- you do not know either the:
 - last known or usual place of abode
 - place of business of the person
- the address provided is defective, false or the person no longer uses it

The person's whereabouts cannot be traced through a current or previous representative.

Section 82 decisions

Following changes brought in by the Immigration Act 2014, appealable decisions under [Section 82\(1\) of the Nationality, Immigration and Asylum Act 2002](#) are where the Secretary of State has decided in respect of an individual to:

- refuse their protection claim
- refuse their human rights claim
- revoke their protection status

Although the Section 82(1) appealable decisions were changed by the provisions of the 2014 act, for the purposes of this guidance you should continue to mirror the requirements of Regulation 7(2) of the Immigration (Notices) Regulations 2003 when notifying individuals of certain non-appealable decisions.

Regulation 26 decisions

Appealable decisions taken under [Regulation 26 of the Immigration \(European Economic Area\) Regulations 2006](#) must still comply with the 2003 notices regulations.

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Serving on file: types of deportation decision

This section explains the different types of deportation-related casework decisions that are covered by this guidance.

In this guidance, the term 'deportation decision' will include the following immigration decisions:

At the initial stage of the deportation process:

- notice of liability to deportation for a European Economic Area (EEA) national under either:
 - [Section 32\(5\) of the UK Borders Act 2007](#)
 - [Section 3\(5\) or 3\(6\) of the Immigration Act 1971](#)
- decision to deport a non-EEA national under either:
 - [Section 32\(5\) of the UK Borders Act 2007](#)
 - [Section 3\(5\) or 3\(6\) of the Immigration Act 1971](#)

At subsequent stages of the deportation process:

- decision to deport an EEA national under the Immigration (EEA) Regulations 2006
- decision to refuse a protection and/or human rights claim (mostly for non-EEA nationals)
- deportation order (DO) for either non-EEA or EEA national under the above legislation
- notice of decision to refuse to revoke a deportation order
- notice of decision to refuse further submissions from non-EEA nationals after application of [Paragraph 353 of the Immigration Rules](#) (either rejection under this provision, or acceptance as a fresh claim that is being refused)

If an initial stage notice has been served on file, and the person remains out of contact with the Home Office, you should still proceed with serving a subsequent stage decision as appropriate, which should also be served on file.

For more information on how deportation is considered and decisions made in respect of foreign national offenders (FNOs), see [Deportation of FNOs](#).

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Serving on file: conditions

This section explains what must be done before deciding to serve a decision on file, how such decisions will be validated, and the effect of serving to file on non-suspensive appeal certification.

Checks

You must not serve deportation decisions on file unless all reasonable attempts you have made to trace the individual and serve to the last known address have failed.

These attempts might include:

- writing to the person's last known address at least twice
- telephoning their last contact number at least twice
- contacting their previous representative for a current address

You must ensure these attempts are properly-documented on both CID and the Home Office file.

If a non-detained foreign national offender does not inform the Home Office of a change of address, or they abscond from temporary admission or release, a notice confirming any of the decisions listed under 'Types of deportation decision' on page 5 may be served on file.

Validity

The relevant decision notices will be deemed to have been given when:

- a note is entered onto CID
- a note is entered onto the Home Office file
- the notices are signed

Certification for non-suspensive appeal rights

Where a decision is being served to file, you must not certify the case under either Section 94B of the Nationality, Immigration and Asylum Act 2002 (as amended) in non-EEA cases, or Regulation 24AA of the Immigration (EEA) Regulations 2006 in EEA cases, so that there is a non-suspensive right of appeal.

[Subject is located: Process](#) tells you what to do if a decision is served to file and the person later comes to light. For more information on this type of certification, see [Section 94B certification in non-EEA cases](#) and [Regulation 24AA certification in EEA cases](#).

However, you may certify a decision you are serving on file under either Section 94 or Section 96 of the Nationality, Immigration and Asylum Act 2002 (as amended) if appropriate. For more information on these types of certification, see [Section 94 certification](#) and [Section 96 certification](#).

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Serving on file: process

This section explains the specific actions decision makers need to take once they have decided they must serve a deportation-related decision on file.

There will be no change to how you consider or make a decision to deport (other than not having the option to certify pursuant to Section 94B (non-EEA nationals) or Regulation 24AA (EEA nationals)), in both Immigration Act 1971 and UK Borders Act 2007 cases.

If you have conducted sufficient checks to try and establish the foreign national offender's whereabouts and these have failed to locate them, it will be appropriate to propose that the relevant decision notices be served on file. Initial and subsequent stage deportation proposals must be agreed by the local team leader or senior caseworker (deportation orders (DOs) must be signed by the director).

Following team leader or senior caseworker agreement (and in the case of DOs, director sign-off), you must:

- Generate all relevant decision notices and ensure those requiring it are signed.
- Complete an ICD.4188 'Served on File' minute sheet which is available on the CID document generator and place on the HO file.
- Update the 'Key Document Tracking' screen on CID to note the notice of a relevant deportation-related decision (Serving on file: types of deportation decision gives you more information on which decisions are covered) or deportation order is 'Served' and the 'Despatch Method' states 'Served on file'.
- Add an explanation on 'CID Notes' to explain why the decision has been served on file and authorised (this should be mirrored by a minute for the HO file).
- Treat the individual as an absconder (for more information on this in foreign national offender cases, see [Non-detained, contact management and absconders: Absconder actions](#)).

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Subject is located: process

This section explains what action is required when a person subject to a deportation decision served to file is located.

Once a person subject to a deportation decision previously served on file is traced, you must:

- revisit the original decision to serve on file carefully to see if it was correctly served at the time under [Regulation 7 of the Immigration \(Notices\) Regulations 2003](#)
- complete a signed and dated minute on both the Home Office file and CID, highlighting the details of all attempts made to contact the subject
- give the person a copy of the notice or decision explaining when and why it was served on file, and the time it came into effect
- take all other routine action following the tracing of an absconder

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Out-of-time appeals

Where the Immigration and Asylum Chamber (IAC) accepts an out-of-time appeal from a person against a decision that was originally served to file, at that point you must consider whether it is appropriate to certify under:

- section 94B of the Nationality, Immigration and Asylum Act 2002 (non-EEA nationals)
- regulation 24AA of the Immigration (EEA) Regulations 2006 (EEA nationals)
- any other certification provisions

More details are available at [Section 94B certification in non-EEA cases](#) and [Regulation 24AA certification in EEA cases](#).

Pre-1 April 2003 decisions served on file

Any decision for service on file made before 1 April 2003, when the Immigration (Notices) Regulations 2003 took effect, is invalid. Decisions before that time were subject to the Immigration and Asylum Appeals (Procedure) Rules 2000, which took effect when the subject received the notice. If that notice was not received, any onward appeal rights cannot be considered to have been exhausted. The IAC will require a very persuasive case to be put to justify preventing any appeal lodged against such a decision from proceeding.

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