<table>
<thead>
<tr>
<th>Contents</th>
</tr>
</thead>
<tbody>
<tr>
<td>Introduction ................................................................. 4</td>
</tr>
<tr>
<td>Who can help? ................................................................. 4</td>
</tr>
<tr>
<td>About the Embassy ............................................................ 4</td>
</tr>
<tr>
<td>Who are the Consular Representatives? ................................ 4</td>
</tr>
<tr>
<td>Contact Information .......................................................... 5</td>
</tr>
<tr>
<td>First Steps ................................................................. 6</td>
</tr>
<tr>
<td>Who will know I have been detained? ................................ 6</td>
</tr>
<tr>
<td>What will my family be told? ............................................. 6</td>
</tr>
<tr>
<td>What will the Consulate do? .............................................. 6</td>
</tr>
<tr>
<td>Would I have a criminal record in the UK? ........................... 6</td>
</tr>
<tr>
<td>Visits ............................................................... 7</td>
</tr>
<tr>
<td>How do my family and friends arrange a visit? ..................... 7</td>
</tr>
<tr>
<td>How many visits am I allowed? ........................................... 7</td>
</tr>
<tr>
<td>Consular visits ............................................................... 7</td>
</tr>
<tr>
<td>What can visitors bring? ................................................... 7</td>
</tr>
<tr>
<td>Prison conditions/services ............................................... 8</td>
</tr>
<tr>
<td>Arrival at police station .................................................... 8</td>
</tr>
<tr>
<td>Arrival at prison .............................................................. 8</td>
</tr>
<tr>
<td>General prison conditions .................................................. 8</td>
</tr>
<tr>
<td>How can I receive money? .................................................... 9</td>
</tr>
<tr>
<td>Can I work or study in prison? ........................................... 9</td>
</tr>
<tr>
<td>Can I receive medical and dental treatment? ......................... 9</td>
</tr>
<tr>
<td>Food and Diet ................................................................. 10</td>
</tr>
<tr>
<td>Mail/Parcels ................................................................. 10</td>
</tr>
<tr>
<td>Can I make telephone calls? ............................................... 10</td>
</tr>
<tr>
<td>Leisure and entertainment ............................................... 11</td>
</tr>
<tr>
<td>Drugs ................................................................. 11</td>
</tr>
<tr>
<td>How can I make a complaint about mistreatment? .................. 11</td>
</tr>
<tr>
<td>South Africa Judicial System ................................................. 12</td>
</tr>
<tr>
<td>Is the system the same as the UK? ..................................... 12</td>
</tr>
<tr>
<td>What should happen when I am arrested? ............................. 12</td>
</tr>
<tr>
<td>For how long can I be remanded in custody? ......................... 12</td>
</tr>
<tr>
<td>What happens when I am charged? ..................................... 13</td>
</tr>
<tr>
<td>What provision is there for bail? ....................................... 13</td>
</tr>
<tr>
<td>What kind of legal assistance is available ............................ 13</td>
</tr>
<tr>
<td>What happens at the trial? ................................................. 13</td>
</tr>
<tr>
<td>Sentences ................................................................. 14</td>
</tr>
<tr>
<td>How can appeals be made? .................................................. 14</td>
</tr>
<tr>
<td>What provision is there for reduction of sentence (remission) e.g. for good behaviour? ... 14</td>
</tr>
<tr>
<td>What provision is there for early release e.g. on parole? ........ 14</td>
</tr>
<tr>
<td>What provision is there for clemency or pardon? ................... 14</td>
</tr>
<tr>
<td>What about any financial penalties? .................................. 14</td>
</tr>
<tr>
<td>Is transfer to another prison within South Africa possible? .... 14</td>
</tr>
<tr>
<td>Is transfer to the UK a possibility? .................................... 15</td>
</tr>
<tr>
<td>What are the procedures for release and deportation? .......... 15</td>
</tr>
<tr>
<td>Annexes ................................................................. 17</td>
</tr>
</tbody>
</table>
Introduction
Who can help?
The Foreign and Commonwealth Office (FCO):
The FCO is represented overseas by its Embassies and Consulates (High Commission in Commonwealth Countries). Both employ consular officers, and one of their duties is to provide help and advice to any British National who gets into difficulty in a foreign country.

About the High Commission/Consulate-General
We are impartial; we are not here to judge you. We aim to make sure that you are treated properly and fairly in accordance with local regulations, and that you are treated no less favourably than other prisoners.
We can answer questions about your welfare and about prison regulations but you must ask your lawyer or the court about legal matters. The attached list of lawyers is provided by the British Embassy for your convenience, but neither Her Majesty’s Government, nor any official of the Consulate, take any responsibility for the competence or probity of any firm/advocate on the list or for the consequence of any legal action initiated or advice given.
We cannot get you out of prison, pay fines or stand bail or interfere with local judicial procedures to get you out of prison nor secure you an earlier trial date; we cannot investigate a crime.
We have tried to make sure that the information in this booklet is accurate and up to date, but the British Embassy cannot accept legal responsibility for any errors or omissions in the information. If in doubt contact a lawyer.

Who are the Consular Representatives?

Pretoria
Esthie De Jager, Vice Consul
Marilena Yerou, Consular Officer

Cape Town
Anthea Mason, Vice Consul
Samantha Ross, Consular Officer

Durban
David Warmback, Honorary Consul

Port Elizabeth
Jackie Barclay, Honorary Consul
Contact Information

**British High Commission, Pretoria**

Consular Section
255 Hill Street
Arcadia
Pretoria
(Postal address)
PO Box 13611 or 13612
Hatfield
0028
Pretoria
Gauteng
South Africa
Tel: +27 (0) 12 421 7500
Fax: +27 (0) 86 535 5422
Email: southafrica.consulate@fco.gov.uk
Web: www.gov.uk/government/world/south-africa
Working Hours:
Monday to Thursday: 08:30 – 16:30
Friday: 08:30 – 13:00
Public Counter Opening Hours:
Monday to Thursday: 08:30 -12:30 By appointment only
Friday: Closed to public

**British Consulate General, Cape Town**

Consular Section
8 Riebeek Street
Norton Rose House, 15th Floor
Cape Town
8001
(Postal address)
PO Box 500
Cape Town
8000
Western Cape
South Africa
Tel: +27 (0) 21 405 2400
Fax: +27 (0) 21 405 2447
Email: southafrica.consulate@fco.gov.uk
Web: www.gov.uk/government/world/south-africa
Working Hours:
Monday to Thursday: 08:30-16:30
Friday: 08:30 – 13:00
Public Counter Opening Hours:
Monday to Thursday: 08:30-12:30 By appointment only
Friday: Closed to public
First Steps

Who will know I have been detained?
As soon as a British National is arrested and detained in South Africa, the local authorities are legally required to inform the British High Commission or one of our Honorary Consulates. However, this does not always occur, for various reasons. It is therefore important that you try to inform us as soon as possible after your arrest. It is your right to do so. You may also be able to make a phone call to the British High Commission / Consulate, your lawyer or family

What will my family be told?
For reasons of confidentiality we are not permitted to tell anyone that you have been detained or what the charges are without your permission. However, should you wish us to inform your family or friends, we can make contact with them through our colleagues in London. We can give them information on prisons and prison regulations, and let them know how you are doing. We can also pass on any messages on your behalf.

What will the Consulate do?
We aim to make initial contact with you within 24 hours of being notified of your arrest. In case they wish to transfer any money to you, we can tell your next-of-kin how to transfer money through the FCO in London. Money for prisoners should be sent to:
Accounts Receivable
Foreign and Commonwealth Office
Corporate Service Centre
PO Box 6108
Milton Keynes
MK10 1PX
If you are a dual national (South African /British) then the British High Commission cannot assist you formally in South Africa, under international law. However, our staff will provide whatever informal assistance the local authorities will allow. Your relatives and friends can contact the above address for advice from the FCO in London.

Would I have a criminal record in the UK?
You should be aware that if you have been convicted for certain serious offences, such as sexual assault or drugs trafficking, we are obliged to inform the UK police. It is therefore possible that information about this offence may appear if a Criminal Records Bureau check were carried out by a prospective employer.
Visits

How do my family and friends arrange a visit?
Family and friends should check with the Prison to confirm that you are able to receive visitors before they travel. If you are sick or have transgressed prison regulations, you may not be able to receive visitors.

How many visits am I allowed?
You are allowed to receive visitors on specific days of the week depending on the prison in which you are being held. You may be allowed extra visits if there are special or compassionate reasons (for example, distance, minor children etc.). Visitors enter into the prison and have in the past expressed how daunting the experience of getting through the security checks and waiting can be.

Visitors must identify themselves when they arrive at the prison by showing an identification document containing a photograph (e.g. passport / SA ID book). Visitors may be searched before entering the prison. Visitors receive an ink stamp on their hand or arm before entry or they may receive a slip of paper.

Consular visits
We visit serving prisoners as required, on a case by case basis. If necessary you can also contact us by telephone under reverse charge if you do not have any funds.

What can visitors bring?
Visitors can bring prison comforts. All bags and parcels will be searched before entry and authorities have the right to withhold items they deem to be unacceptable.
Prison conditions/services

Arrival at police station

Upon arrest it is likely that you will initially spend some time in a police station cell. You may be held for a period of up to 48 hours without charge. You should be brought before a court as soon as reasonably possible but not later than 48 hours after the arrest; or the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day. It is therefore possible to be held for longer than 48 hours before being taken to court. Whilst you are at the police station the police will usually gather evidence and question you. The law states that you are entitled to appoint a lawyer. However, if you are unable to afford a lawyer the South African authorities may appoint one for you, as well as an interpreter, if necessary (although English is one of South Africa’s 11 official languages. The police should read out any charges against you and your rights. You should never sign anything you cannot read. If you find yourself under pressure to do so, ask to speak to your lawyer. After your initial court appearance you may be remanded on bail or remanded in custody and transferred to a detention facility such as a prison.

In a police station or prison you are likely to share a cell with several people. South African detention facilities are known to be extremely overcrowded. You may have access to your belongings, but this depends on whether the police consider them as evidence. If considered as evidence you will not be allowed to keep your possessions. Your passport and other identification will be taken away.

Arrival at prison

On arrival at prison you will registered and allocated to a cell. You will hand over all your possessions, including clothes and money to prison authorities (these will be returned to you on release) and be issued with a prison uniform. You will also be able to open a prison credit account for purchases at the prison shop.

You will be advised of prison regulations and procedures and the penalties for transgressing these. At this stage you may receive a medical examination from the prison medical staff, but this is not always the case. You will be then taken to your cell.

General prison conditions

There are various state prisons or “Correctional Services” throughout South Africa, mostly situated outside of small towns and cities. The most popular are the farming prisons where most of the day may be spent outside in the open. There are two private prisons (“APOPS prisons”), one in Louis Trichardt in the north and another in Bloemfontein. You may have the option of transferring to these private prisons, depending on whether they hold your security group, and if there is a willing inmate to transfer under an exchange process. However, prisoners who have been detained in these facilities usually soon apply for a transfer out as they find they have stricter rules than the state prisons.

In state-run prisons overcrowding is a major problem. The number of inmates to each cell depends on the size of the cell and the number of prisoners in the particular prison. Each cell should have a toilet and wash basin. Showers are mostly separate and shared with the other cells. Hot water is sometimes a problem.

Prisoners are confined to their cells during different parts of the day depending on their security group. Inmates are usually confined to their respective prison wings and are not
permitted out at any time, unless under prior arrangement e.g. for work / cleaning requirements to have access to different mediums on the prison grounds.

If you experience serious harassment, ill treatment, discrimination, threats or violence you should report this to the head of the prison and to the High Commission as soon as possible. It is our responsibility to take up allegations of mistreatment against a British national. However, we will only raise concerns with the prison administration if you request that we do so.

How can I receive money?

You will not be permitted to physically carry cash on your person or in your possessions. The prisons have a credit system whereby you will have the opportunity to open a prison account, which can be credited by deposits of funds, for purchases from the prison tuck shop. Items of value i.e. cigarettes etc will be useful for trade between other inmates. We advise you not to make it obvious that you have access to regular funds. Keep cash deliveries to a minimum and advise visitors/family not to send/deliver expensive gifts or large parcels as you will no doubt be pestered and sometimes threatened by fellow inmates for handouts. Foreign prisoners are always considered to be wealthy and as a result they are sometimes targeted by gangs within the prison and may become victims of theft and extortion. Drug pushers may also try to get “wealthy” prisoners addicted to drugs so that they become a source of ready funds. Incurring debts inside the prison, especially for drugs, is not advised. Daily interest rates on debts are usually extremely high.

Prisoners Abroad can help prisoners who have no other financial support, by sending a monthly grant via the High Commission for the purchase of food and other essentials. Let the High Commission know if you need this support, or write directly to the Prisoners Abroad caseworker for South Africa. Only British citizens who do not hold nationality of the resident country will be considered.

Can I work or study in prison?

Since all transactions in prison are based upon payment, there are many ways that prisoners can try to supplement their income. Prisoners do, for example, sell second hand clothes, teach lessons, and trade in goods (e.g. telephone cards, food, cigarettes etc.), make tattoos and cut hair.

There is the opportunity for you to take up official employment while serving a sentence in prison. Payment is minimal, but it does help pass the days more quickly. In addition, it may help you build a reputation for good conduct which will assist you in obtaining credits for good behaviour. In most prisons sufficient credits for good behaviour could lead to a small reduction in sentence. Due to long waiting lists, and sometimes the need for good connections, there are minimal opportunities to get jobs in the kitchen or hospital sections, which are the most popular options. Other alternatives are performing cleaning duties. Some voluntary work may also be found, which may help you obtain credits.

Can I receive medical and dental treatment?

If you need medical or dental treatment you should ask to see the prison doctor or dentist. There will be an appointment list, which you will need to add your name to. Depending on the number of patients, prisoners can either be assisted the same day or may have to wait for up to a week or two. Most doctors work on a rotation basis where they will visit a different prison within their respective district only one day per week. Basic medical attention is free of charge. It is likely that the treating doctor will speak good English.
Prison doctors are often the equivalent of GPs in the UK, so unusual or complex problems may be referred to a specialist at a state hospital outside of the prison. Prescribed medication or pain tablets will be made available to you in prison. They are usually ordered and obtained from the state hospitals, so it is advised that you renew your prescription well in advance as there are often delays in bringing the medicine in from the outside. Prisoners’ Abroad may also provide assistance in the form of medical grants. If you have a long-standing medical problem and have received treatment for it in the UK or elsewhere, it may be useful if you have your medical records, or at least a report, sent from the respective doctor.

Your doctor can send you the report/s, via the High Commission, which we can pass on to you.

Food and Diet
A basic diet is served every day and provided free by the State. The food, which is prepared by other inmates, is a combination from various food groups. Most British prisoners have commented that they cannot live off the food provided alone as it is not very palatable or nutritional. You may find that you need funds to supplement your diet by purchasing items from the prison shop or getting items brought in by family or friends from outside.

Vegetarian meals can be provided on request, but again, you may find that supplements are needed and these may have to be authorised by the prison doctor as a health requirement.

Mail/Parcels
Friends and family can send you mail and parcels directly to the prison or via the High Commission if felt necessary. However, if via the High Commission, depending on the content or urgency we may only be able to deliver it to you during our normal visit schedule. If brought in by an officer of the High Commission the parcel will still need to be checked and searched by prison officials prior to handing it over to you. The High Commission is not able to forward mail on your behalf back to the UK.

Prisoners often complain that the postal system for them receiving their mail sent directly to the prison is slow. This is usually contributed by the high volume of mail received by the prison for checking and distribution.

Can I make telephone calls?
This depends on the prison. Usually there is access to a pay phone. Times are allocated for this use for each section, but you may find that there are not enough phones to accommodate everybody wishing to make calls during this period.

Pre-paid telephone cards have to be used to make calls, which are usually available for purchase at the prison shop. On occasion it is possible to receive calls, depending on whether there is a passerby i.e. an inmate or prison officer, who answers the pay phone and is prepared to call you and if at that time you are able to leave your cell.

Under exceptional circumstances and with prior approval you may be able to use the land line telephone of a prison officer.

Mobile phones are not allowed in the prison.
Leisure and entertainment
There is the opportunity for you to apply for self-funded correspondence education courses. Prisoners’ Abroad may also be in a position to assist. If you are interested, you should write to them for further information.
Most prisons have a gym or place of exercise, but often they are not properly equipped. Prisoners can play football and other sports depending on the level of out of cell time you may have in accordance with the level of security you were sentenced under and your record of good behaviour.
In spite of the fact that prisons are called “Correctional Facilities”, prisoners may argue that there is no rehabilitation system. Workshops are usually either full or ill equipped. It is therefore falls to the prisoner to occupy their time during the day as constructively as possible.
Most prisons have libraries, although how well they are stocked depends on what has been donated to the prison. Prisoners Abroad make donations of English language books/magazines to prisoners.
Can I have a radio, CD player, cassette player and television?
Yes, if prisoners can afford them and they are approved by the local prison authorities. However, having expensive items in your cell may attract unwanted attention from other inmates.
If in a communal cell with local citizens you may find that the television or radio remains on a non-English language station and sometimes at high volume.
Drugs
Drugs are often available within South African prisons. Do everything you can to find other ways to cope with life in prison and avoid consuming drugs. Not only will drug consumption weaken your state of health, but drug taking invariably results in the creation of personal debts. These debts will attract accelerated rates of interest and if not paid off, and could result in serious physical harassment and violence.
Drug rehabilitation is available.
How can I make a complaint about mistreatment?
If you experience serious harassment, ill treatment, discrimination, threats or violence you should report this to the head of the prison, and to the Consular Section at the British High Commission/Consulate-General, as soon as possible. It is our responsibility to take up allegations of mistreatment against a British National. However we will only raise concerns with the prison administration if you request that we do so.
South Africa Judicial System
Is the system the same as the UK?
There are many similarities with the UK criminal justice system. Prisoners are presumed innocent until proven guilty; they have a right to legal representation, an interpreter, fair trial and appeal. However there are fundamental differences. For example, there is no jury system at present. In addition, the South African criminal justice system often has a backlog of cases and there can be substantial delays in bringing cases to trial. Prisoners can remain in prison without having been sentenced for considerable periods.

What should happen when I am arrested?
Upon arrest it is likely that you will initially spend some time in a police station cell. You may be held for a period of up to 48 hours without charge. You should be brought before a court as soon as reasonably possible but not later than 48 hours after the arrest; or the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day. It is therefore possible to be held for longer than 48 hours before being taken to court. Whilst you are at the police station the police will usually gather evidence and question you. The law states that you are entitled to appoint a lawyer. However, if you are unable to afford a lawyer the South African authorities may appoint one for you, as well as an interpreter, if necessary (although English is one of South Africa’s 11 official languages. The police should read out any charges against you and your rights. You should never sign anything you cannot read. If you find yourself under pressure to do so, ask to speak to your lawyer. After your initial court appearance you may be remanded on bail or remanded in custody and transferred to a detention facility such as a prison.

In a police station or prison you are likely to share a cell with several people. South African detention facilities are known to be extremely overcrowded. You may have access to your belongings, but this depends on whether the police consider them as evidence. If considered as evidence you will not be allowed to keep your possessions. Your passport and other identification will be taken away. These can be difficult to retrieve afterwards. Since your passport is officially property of Her Majesty’s Government we will try and retrieve it. During the different stages of detention all men, woman and juveniles are held in separate facilities.

The state provides little in terms of clothing, food and toiletries while on remand in police cells and prison facilities. Most detainees rely heavily on donations from family, friends or visiting church groups. Basic items such as mattresses and blankets etc are provided. You are permitted to receive visitors.

A detainee may not physically hold funds in the form of cash. However, a prison account can be opened for deposited funds to be credited to spend within the facilities shop if available.

For how long can I be remanded in custody?
It is difficult to give an exact time period within which a case will come to trial. It will depend on how long it takes to finalise the investigation as well as the extent of the backlog on the court roll.

Any case should however, be brought to trial and concluded without any unreasonable delay as there is a Constitutional right to a speedy and fair trial. In terms of the Criminal Procedure Act Section 342A the court may, in the case of unreasonable delay, make various orders.
depending on circumstances, including that the case be struck off the roll. It might thus be important to object to further postponements.

**What happens when I am charged?**
The police should read out any charges against you and your rights. You should never sign anything you cannot read. If you find yourself under pressure to do so, ask to speak to your lawyer. After your initial court appearance you may be remanded on bail or remanded in custody and transferred to a detention facility such as a prison.

**What provision is there for bail?**
It is possible to apply for bail, although bail may be refused where, for example, there is a likelihood that you will attempt to evade trial, interfere with witnesses, commit further crimes or be a danger to others. If you have been arrested on charges of a very serious offence (e.g. murder, rape or armed robbery), you will need to show that exceptional circumstances exist before bail is granted. For less serious offences, a member of the South African Police Department (SAPD) might grant bail at the police station, under certain circumstances, before the first appearance in court.

**What kind of legal assistance is available**
Our consular staff cannot and may not provide legal advice, but they can provide you with a list of lawyers. You can appoint a lawyer for yourself at any time after your arrest. Normally, if you hire a private lawyer she/he will ask for a cash advance on his/her estimated legal fees (which may be high) before s/he will take your case on. The British High Commission cannot pay legal fees or provide a guarantee of payment on your behalf.

If you cannot afford a private lawyer you can apply at any time for a State appointed lawyer. If you are charged with an offence the Court must appoint lawyer for you if you do not have funds to hire a private lawyer. State appointed lawyers are free of charge although their ability varies. In general, State appointed lawyers may have very little time to compile evidence and move a case forward. It is likely that the lawyer will only be available for discussions a short time before your court appearance. If you are not satisfied with your lawyer you may formally request to have him/her changed. You may also refuse the services of a State appointed lawyer in order to represent yourself, but this is not recommended.

As in any country, some lawyers are better than others (paying a large fee does not guarantee that you will get a good lawyer). If you do decide to pay for a lawyer, it is wise to agree a flat rate for the whole case before they begin work or you may find yourself facing "extra expenses". Ex-prisoners advise talking to other prisoners, as they often know which lawyers to avoid and what hidden costs there might be.

**What happens at the trial?**
There is no jury system in South Africa. Trials are heard by a judge, or magistrate. Other persons you may expect to be present in court would be the prosecutor, clerk, court orderly, the recording device operator and lawyers. It might be necessary to postpone a matter if one or more of these persons are absent.

All documents related to a case and further evidence must be submitted to the court. You will be asked to submit your plea to the charges faced. If a plea of not guilty is entered the case will go to trial. The State will have the opportunity to put their case to the court. You will then have the opportunity to state your case in defence. The State is required to prove its case beyond reasonable doubt. The court should deliver its verdict as soon as possible.
Consular staff are not able to act as interpreters and do not usually attend court hearings.  

**Sentences**  
Sentences are given by the magistrate / judge in accordance within the remit of the respective court i.e. regional court, high court etc. depending on the seriousness and nature of the crime committed. The court must also take the personal circumstances of the accused and the interest of society into consideration when assessing a proper sentence.  
South Africa does not have the death penalty  

**How can appeals be made?**  
There is a Constitutional right to appeal and review. However, leave to appeal is required. If you wish to appeal the decision of a Magistrate Court you must request leave to appeal from that court within 14 days. If this is not granted you may apply for leave to appeal directly from the High Court. If you wish to appeal a High Court decision, leave to appeal must be granted either from the High court or, failing that, directly from the Supreme Court of Appeals.  
A higher court can also be used for a review if you believe proceedings have been unfair or irregular. In certain circumstances a review is automatic, but in others you must request a review yourself. You should confirm how your case would be handled with your legal representative.  

**What provision is there for reduction of sentence (remission) e.g. for good behaviour?**  
As a general rule, if you have served more than half of your sentence and have a record of good behaviour while in prison, you may be released on parole.  
For life sentences and some sentences in terms of minimum sentence legislation, longer periods apply. A prisoner may also be eligible for parole on medical grounds  

**What provision is there for early release e.g. on parole?**  
As Above  

**What provision is there for clemency or pardon?**  
The President of South Africa retains the right to extend mercy to you, or grant you a pardon. It is advisable to address a clemency petition to the President for this purpose.  

**What about any financial penalties?**  
It is within the discretion of the court to impose fines – either as an alternative or in addition to a sentence of imprisonment. Fines are often imposed for smaller first time offences, as are suspended sentences.  

**Is transfer to another prison within South Africa possible?**  
Yes. In most cases it is likely that the Department of Correctional Services will allocate you a prison closest to your resident family. However, this will also depend on whether the desired facility is equipped to detain you in accordance with the category of your sentence i.e. maximum, medium etc.  
If you do not have family residing in South Africa it is likely that you will be placed in a facility that has space to accommodate you. In order for a transfer application to be approved there will usually have to be a prisoner from your desired facility who is willing to swap
Is transfer to the UK a possibility?
No. There is currently no Prisoner Transfer Agreement in place between South Africa and the UK so it is not possible to transfer to serve your sentence in the UK.

What are the procedures for release and deportation?
Shortly prior to release on parole, if a dual citizen of South Africa or your permanent residency has not been revoked, you may be transferred to a pre-release prison. This facility has an objective of slowly integrating you back into society. With a good track record you may be permitted to apply for weekend releases.

If you have been issued with a warrant for deportation, on your release date you will be transferred to South Africa's only deportation facility called Lindela, situated in Krugersdorp. There you will remain for anything up to two weeks until the Immigration authority of the local Home Affairs department has processed your flight ticket at the expense of the local authorities. We will ensure that a travel document is issued for your departure date.
Prisoners Abroad
Since 1978 the charity Prisoners Abroad has offered practical support and advice to British citizens imprisoned overseas. It is the only UK charity providing this service and it is available to all, whether guilty or innocent, convicted or on remand. Prisoners Abroad is concerned with your health and welfare, both during your imprisonment and also on your return to the UK, through their resettlement service (if you have registered whilst in prison). They can also provide support and advice to your family during your imprisonment. In order to access any services, prisoners must first register with Prisoners Abroad by signing and returning their authorisation form.

Once you seek help from Prisoners Abroad, the Prisoner & Family Support Service will be your point of contact for advice and information. The type of assistance they can offer will vary from country to country, but generally they can provide you with information, in English, on:
- your rights as a prisoner and issues that may affect you such as health or transfer to the UK
- obtaining magazines, newspapers, books and the regular Prisoners Abroad newsletter
- writing to a pen pal
- learning the language of your country of imprisonment
- translation of documents
- grants for food if you are in a developing country and don’t have funds from other sources
- grants for essential medicines and toiletries if you don’t have funds from other sources
- preparing for release
- help for your loved ones, including information, family support groups and assistance with the cost of visiting

Prisoners Abroad 89 – 93 Fonthill Road London N4 3JH UK
Telephone: 00 44 (0)20 7561 6820 or, for your relatives in the UK, Freephone 0808 172 0098 (Mondays to Fridays 9.30 am to 4.30 pm, UK time) Email: info@prisonersabroad.org.uk Website: www.prisonersabroad.org.uk
Annexes
Annex 1: FCO leaflet: In prison abroad
Annex 2: Prisoners Abroad authorisation form
Annex 3: Prisoners Abroad family contact form
Annex 4: Prisoners Abroad CFF form [delete if not applicable]
Annex 5: Fair Trials International questionnaire and leaflets
http://www.fairtrials.org
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Thank you.
[23.08.2017]