



Home Office

First-tier Tribunal bail: completing the bail summary

Version 9.0

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About this guidance

This guidance outlines the processes that must be completed following a bail application from an individual or family to the First-tier Tribunal. It applies where an application has been made to the First-tier Tribunal for immigration bail in cases managed by Border Force, UK Visas and Immigration, and Immigration Enforcement.

From 15 January 2018, following the implementation of the Single Power of Bail provisions in Schedule 10 to the Immigration Act 2016, the bail summary documents ICD.3221 in detained cases involving foreign national offenders and the IS.215 in all other detained cases are to be replaced by the BAIL 505 bail summary.

In accordance with [rule 40 of the Tribunal Procedure Rules 2014](#), the Secretary of States must provide the Tribunal, the bail applicant and their representatives (if applicable) with their reasons for opposing a bail application. The bail summary (BAIL 505) is crucial to the bail hearing as it is the opportunity for the Home Office to set out its reasons for opposing a grant of bail.

There is a common-law presumption in favour of granting bail, so it is imperative that bail summaries are of high quality and are robust in encompassing the reasons for opposing bail.

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 Immigration Bail Policy.

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 then you can email the Guidance Rules and Forms team.

Publication

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

- version **9.0**
- published for Home Office staff on **20 November 2023**

Changes from last version of this guidance

This guidance has been updated to reflect the implementation of Section 46(8) of the Nationality and Borders Act 2022.

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Application for bail to the First-tier Tribunal

This section provides caseworkers an overview of when a person who is detained applies for bail to the First-tier Tribunal and the action to take after the application is made.

Individuals in immigration removal centres (IRCs) can also request the B1 form from a welfare officer in the IRC, an immigration officer in a prison and it can be found on the [Immigration detention bail page of GOV.UK](#).

The Home Office also has a duty to refer certain cases to the Tribunal automatically for consideration, see Automatic referral for consideration of immigration bail in Immigration bail guidance.

Applications for bail should contain:

- the applicant's full name, date of birth and date of arrival in the UK
- the address of the place where the person is detained
- if an appeal to the Tribunal is pending
- the address, where the applicant is required to reside at a particular address or if they are unable to provide an address (and may therefore need accommodation under [paragraph 9 of Schedule 10 to the Immigration Act 2016](#))
- the amount of payment liability in which they will agree to be bound, the full names of financial condition supporters if bail is granted and the amounts that they agree to be bound to
- the grounds on which the application is being made and, where a previous application has been refused, full details of any change in circumstances which have occurred since the refusal
- if an interpreter will be required during the hearing

In addition, the Tribunal must dismiss, without a hearing, any further application by a person for release on bail that is made within 28 days, starting with the date of the Tribunal's decision. This is unless the person demonstrates that there has been a material change in circumstances since the Tribunal's previous refusal.

Where a repeated application is received by the Tribunal and is dismissed, the Presenting Officers' Unit (POU) bail team will be notified and will update the outcome on CID.

Her Majesty's Courts and Tribunals Service (HMCTS) is responsible for listing bail hearings and this is done within 3 days of receiving a bail application. HMCTS must provide the Presenting Officers Unit with copies of bail applications as soon as reasonably practicable following receipt.

When staff in the POU are notified of an application for immigration bail to the First-tier Tribunal they will request a bail summary from the caseworker. This is done by sending the caseworker:

- a form requesting a bail summary
- the bail application (B1 form)
- any supporting documents

The role of the Home Office in First-tier Tribunal bail is to respond to the bail application by:

- producing a bail summary (BAIL 505) to justify the Home Office's case for detaining the individual and the reasons why bail should be refused, or what conditions would be considered appropriate should bail be granted
- being represented by a Presenting Officer (PO) at the bail hearing

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Consideration of whether to oppose bail

This section tells caseworkers what they must take into account when considering whether to oppose bail.

In line with published detention policy, there must always be a presumption in favour of liberty.

In all cases on receipt of a bail application, after carefully considering the individual's grounds for bail to establish if there has been a significant change in circumstances, you must consider if it is appropriate to grant or oppose bail.

If it is considered that it is appropriate to grant bail, then you should look to grant Secretary of State bail prior to the hearing.

If detention continues to be necessary and reasonable, it will normally be appropriate to oppose bail if there is no significant change of circumstances. For more information about detention see general guidance on detention.

You must take the same initial steps with a bail application when opposing bail. In every case, you must follow these instructions and:

- check the bail address (if it is required that the applicant resides at a particular address in line with proposed conditions)
- [investigate the financial condition supporters](#)

In Foreign National Offender Returns Command (FNORC) cases only:

- you must [liaise with the Offender Manager](#) and [request an Offender Assessment System \(OASys\) report](#)

Undertaking these actions produces information relevant to the decision on whether to grant or oppose bail.

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Completion of the BAIL 505

This section tells caseworkers how to complete a bail summary (BAIL 505) opposing bail in applications made to the First-tier Tribunal.

Bail summaries must be full, fair and accurate. You must complete the bail summary template (BAIL 505) accurately and in full, setting out the reasons why the bail application is being opposed by the Home Office.

You must ensure all relevant issues are covered in the bail summary including:

- the individual's personal details
- details of the [financial condition supporters](#) put forward, if any
- a full [immigration and criminal history and chronology](#)
- any [casework or litigation barriers to removal](#) (for example further representations, obtaining travel documentation, Judicial Reviews) and the realistic timescales and actions being undertaken to resolve them
- the [reasons for opposing immigration bail](#)
- whether [removal directions are set for the individual to be removed from the UK within 21 days of the bail hearing](#)
- details and findings of [previous bail applications](#) (if applicable)
- request of [bail conditions to be sought in the event bail is granted](#)
- a request for the Tribunal to transfer the [management of bail to the Secretary of State](#) in the event bail is granted

Standards of presentation

The bail summary is a formal document presented to the Judge of the First-tier Tribunal presiding over a bail hearing. As such, it is important you complete the document to a high standard of presentation.

You must adhere to the following:

- the individual should be referred to by name, or as the applicant.
- do not personalise the summary- avoid using terms such as 'I believe' or 'I conclude'. Write in report style for example 'it is considered' or 'it is submitted'
- references to your department should be avoided and phrased as the Home Office
- bullet lists, abbreviations and colloquialisms are not appropriate
- acronyms should be clarified in the first instance
- the date format should be consistent throughout the document, preferably 15 January 2018 rather than 15/1/18
- the word 'the' should not be used before a date for example 'on the 5 February 2014'
- font should be Arial size 12- text should be left aligned
- ensure the spelling and grammar is checked and is correct prior to sending to the authorising officer

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Information for the Presenting Officer's use only

This section tells case workers how to complete the relevant sections in the first part of the bail summary (BAIL 505). This part of the summary is for the Presenting Officer's (PO) use only. It provides information of the case to assist the Presenting Officers in their preparation for the bail hearing in front of the First-tier Tribunal.

Application details

The majority of the applicant's personal details will be automatically populated on the summary from details held on the Central Information Database (CID) or Atlas.

You must check that these details are correct using other information sources, such as the Home Office file, and make any amendments to the summary and CID or Atlas records accordingly.

Automatic bail referral

[Paragraph 11 of Schedule 10 to the Immigration Act 2016](#) imposes a duty on the Secretary of State to arrange a referral to the First-tier Tribunal for a decision on whether to grant immigration bail to a person detained under:

- [paragraph 16\(1\), \(1A\) or 2 of Schedule 2 to the Immigration Act 1971](#)
- [section 62 of the Nationality, Immigration and Asylum Act 2002](#)

You must provide details if the application for bail is an automatic bail referral and whether the person who is detained has completed the B1 form.

You must make the referral to the Tribunal 4 months after the beginning of the person's detention (unless the Tribunal has considered a bail application in respect of the person in the interim period) and every 4 months thereafter.

The automatic bail referral process **does not apply** to individuals who are detained pending deportation.

Bail applications referred by the Secretary of State to the First-tier Tribunal through the automatic bail process are considered in the same way as bail applications made to the First-tier Tribunal by an applicant.

Further guidance on the automatic bail process can be found in the general instructions on Immigration bail.

Previous bail applications

Paragraph 12(2) of Schedule 10 to the Immigration Act 2016 provides that Tribunal Procedure Rules must require the Tribunal to dismiss without a hearing any further

application for bail that is made within 28 days, from the date of the Tribunal's decision. This is unless the person demonstrates that there has been a material change in circumstances since the Tribunal's previous refusal. If the First-tier Tribunal have listed a bail hearing within 28 days of refusing a prior application that is because a Judge has decided that there has been a material change in circumstances.

In cases where a previous bail application was refused by a Judge of the First-tier Tribunal and a new application relies on the same reasoning for bail (in other words no material change in circumstances) you must present this as an argument within your reasons for opposing bail. You must detail the judge's reasons for refusing bail at the previous hearing and provide a copy of the notice of bail refusal as supporting evidence when you send your bail summary to the ALAR Central Bail Team.

The decision as to whether there is a change in circumstances is made by the Judge as is the decision to list the hearing. You must, however present a view on whether the changes affect the case and ongoing detention.

Removal directions

Under paragraph 3(4) of Schedule 10 to the Immigration Act 2016, the First-tier Tribunal must not grant bail to a person who is detained without the consent of the Secretary of State if both the following apply:

- directions for the removal of the person from the UK are in force
- directions for removal require the person to be removed within 21 days of the date of the bail hearing

This means that, if the Presenting Officer provides evidence that removal directions are set for 21 days or less from the date of the bail hearing, the First-tier Tribunal cannot grant immigration bail if the Secretary of State does not consent.

Further guidance on the process and consideration of consent to bail can be found in the general instructions for Immigration bail.

Where directions are in force for the removal of the individual from the UK within 21 days of the bail hearing, it is imperative that this is set out clearly in the bail summary to inform the Immigration Judge and relevant officials. You must also include the following information in the bail summary:

- details of notice of removal (includes notice of a removal window, notice of removal directions or limited notice of removal, as appropriate) – guidance on different notices of removal can be found in the arranging removal guidance
- the contact details of the primary and secondary contact senior civil servant (SCS), acting on behalf of the Secretary of State on the matter of consent, who will be available to provide instructions to the Presenting Officer if the Judge of the First-tier Tribunal intends to grant immigration bail
- evidence that the applicant's removal directions are in force- if applicable you must provide evidence that the notice of removal has been served on the individual.

You must attach one of the following documents with the bail summary as evidence of removal directions having been set for the person's removal within 21 days:

- where a notice of a removal window or notice of removal directions has been issued to the individual, a copy of the IS152B, IS83 or the IS151G for individuals accepted onto the charter as appropriate
- where limited notice of removal has been issued to the individual (that is, where specific details of the removal are to be withheld from the individual) a copy of the IS151G
- where the individual is the subject of a deportation order, such as a foreign national offender, the wording of the ISE.312 (notice of deportation arrangements) must be amended to reflect the IS.151G to prevent disclosure of full details of the removal
- where no notice has been issued to the individual but full removal details are not being withheld, a copy of the IS152B or evidence they have been accepted onto the charter or IS83

If removal directions are set for within 21 days of the bail hearing after the bail summary has already been completed and sent to the POU, you must notify the POU without delay.

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Disclosure of information

This section tells caseworkers about disclosing information to the First-tier Tribunal.

Security of data sharing

Any information provided in the bail summary or as supporting documentation may be shared with Her Majesty's Courts and Tribunal Service, the bail applicant and the applicant's representatives (if appropriate). Any information shared must comply with our obligations to the Data Protection Act 2018 and the General Data Protection Regulation. We can do this by:

- ensuring that the information provided relates only to the individual (s) relevant to the communication
- where additional information is provided that makes reference to individuals not directly relevant to the communication, the additional information is appropriately redacted
- where information is provided by third parties that may have direct relevance to the communication (for example, police, social work services, probation), explicit consent is sought to share that information with HMCTS. Where that consent is requested to be redacted, not obtained or is withheld, that information must be redacted/cannot be shared

You can reference non-disclosable information in the 'Home Office only' section of the bail summary. You must not provide supporting evidence with the bail summary that cannot be disclosed to either the court or the applicant/their representatives. Further clarification can be sought ahead of any hearing by ALAR presenting staff should the need arise.

Using PNC checks as evidence in court

PNC check records must not be shared with the court or third parties unless necessary to do so. If it is necessary to disclose PNC checks in court, you must request a PNC court print which contains details of previous convictions by adding 'court print required' in bold in the comments box when the PNC200 form is completed.

When submitting the PNC check report, you must not include the front pages (which outline that this is a 'Court/Defence/Probation' print) as it may contain sensitive information about handling instructions and/or identities of the people who requested/completed the checks.

You must request these prints the day before a hearing so they contain the most up to date information.

HOWI and PNC checks used for the purposes of a bail summary must only be used for the preparation of the bail summary and once the summary has been prepared,

they must be shredded, along with any other documentation subject to Data Protection Act provisions. For example, copies of prisoner visit records.

Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: end of section

Financial condition supporter checks

If the applicant offers individuals as a bail financial condition supporter, you must perform the relevant checks and record this information within this section of the bail summary.

Official – sensitive: start of section

The information in this section has been removed as it is restricted for internal Home Office use only.

The information in this section has been removed as it is restricted for internal Home Office use only.

Official – sensitive: end of section

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The bail summary

This section tells caseworkers how to complete the sections in the second part of bail summary (BAIL 505). This section is used in the bail hearing to present the case worker's argument and reasoning to the Judge of the First-tier Tribunal as to why bail is being opposed. This part of the bail summary is provided to the First-tier Tribunal, the applicant and their representatives (if applicable) and is used in preparation and during the bail hearing.

Immigration history and chronology

You must provide details of the applicant's full immigration history and in date order. This information must be based on fact, only detailing matters relating to their immigration status and, if applicable, any criminal convictions.

You should not detail the history of the applicant's relationships with family members or financial condition supporters. You should be considering these in the ['Reasons for opposing bail' section](#) of the summary.

It is essential that the information is accurate and relevant. Both the information contained within the Home Office file in addition to the information held on CID and Atlas should be used in the completion of bail summaries.

An applicant may have both positive and negative factors to their immigration history. Where an applicant has positive factors to their case, for example a good history of compliance, this must be included within the applicant's immigration history and cannot be ignored. It is important that you present a fair and balanced reflection of the applicant's presence while in the UK.

You must present the immigration history in chronological order within the grid structure provided. The history should end with the current position and forecast when removal will take place. The chronology format requires you to provide a date and immigration event type for each row. The relevant dates should be listed in the 'date' column. An immigration 'event' refers to any factual development with a case and includes the following:

- date of entry to the UK (and exit if applicable)
- visas issued (including expiry date)
- applications for leave to enter or remain (date applied for and date issued or refused, and whether there was a right of appeal against any refusal)
- appeals (date lodged, date allowed / dismissed, date permissions to appeal (PTA) refused / granted, appeal rights exhausted (ARE) date)
- criminal convictions, noting the offence and the sentence imposed
- absconding periods (be sure that they have actually absconded rather than missed a few reporting events and then continued to report)
- actions that demonstrate compliance (for example reporting as required, co-operation with ETD process/bio data/voluntary returns process)
- removal directions (current or previous)

- previous bail applications and the outcome
- date ETD issued or agreed

Information **not** to include:

- applicant being moved between detention centres
- criminal activity where there is no conviction
- recorded names and grades of people or teams within the Home Office
- internal requests such as passport requested from Immigration, Compliance and Enforcement (ICE), authority to remove sought from Senior Executive Officer (SEO)
- internal processes (for example ETD process – once ETD agreed, process history is only relevant if the subject was non-compliant)
- the need for a family split to be authorised- there is no need to mention that a family questionnaire has been sent out or that Social Service / Office of the Children’s Champion input is required

Reasons for detention

All detention decisions must be made in accordance with published policy on the use of immigration detention powers. Detention decisions must adhere to the Hardial Singh principles, derived from Hardial Singh [1984] 1 WLR 704 as confirmed by the Supreme Court in Lumba [2011] UKSC 12; [2012] 1 AC 245.

You must consult detention guidance for detail on how to apply the Hardial Singh principles in practice. In essence, the principles require that there must be a realistic prospect of removal within a reasonable timeframe, based on the facts of the case, for detention pending removal to be lawful.

Section 12 of the Illegal Migration Act 2023 replaces, in part, the above common law Hardial Singh principles with a statutory version of the second and third principles. As well as codifying, in part, the Hardial Singh principles, Section 12 also overturns the common law principle established in the case of R(A) v SSHD (2007) that it is for the courts to decide whether there is a reasonable or sufficient prospect of a person’s removal in a reasonable timescale. Instead, it is for the Secretary of State to determine what is a reasonable period of detention in order to enable the specific statutory purpose to be carried out.

For further information see Detention – general guidance.

You must provide the reason(s) for why the current period of detention was initially authorised on the form. You must include what reasonable alternatives to detention were considered, the approximate timescales for return and schedule for removing barriers at the time of authorisation. This is to demonstrate that all relevant factors were considered as part of the initial decision to detain and that the Hardial Singh principles were adhered to.

Do not include current removal barriers (unless these were present at the start of the detention period) as these will be captured within the current circumstances section.

Current circumstances

You must outline the current situation of the case. Where there is a casework (travel documentation, decision) or litigation barrier (appeal, Judicial Review claim) to the applicant's removal you should provide a realistic and factually sourced timescale for resolving it.

Casework barriers are within the control of the Home Office, so timescales are easier to determine. If you are making the decision as the caseworker, you need to prioritise this casework and state when a decision is likely to be made. It is expected that decisions on detained cases are expedited, so if another business area is responsible, you should seek to establish how quickly they can decide the outstanding application or representations.

Timeframes need to be based on a realistic judgement of when removal is likely to take place and should be provided in days, weeks or months. It is imperative that estimated timeframes are provided for all barriers because you will explain elsewhere on the form why you conclude that those timescales are a reasonable period for which the individual should remain detained pending removal.

Whenever you include a timeframe, it is important to adhere to it as the Home Office could attract criticism for failing to meet a self-imposed deadline, or there could be allegations we have misled the Tribunal.

Where there is an ongoing Judicial Review claim and a further barrier to removal, it is common practice to seek to expedite the further barrier to removal when an individual is in detention. If expedition of the Judicial Review claim has been agreed, or you are awaiting the outcome to your request, you can detail this information in the bail summary, however any timeframes you put forward must be accurate and verified with Litigation Operations.

Eligibility for secretary of state accommodation

You must evaluate the applicant's eligibility for secretary of state accommodation against the exceptional circumstances criteria outlined in paragraph 9(2) of Schedule 10 to the Immigration Act 2016. Check any details the individual has included in their bail application form and/or BAIL 409 on how they meet the exceptional circumstances criteria, consulting the FNORC Accommodation Team or Asylum Support Team as appropriate. You must be able to demonstrate that an assessment against the exceptional circumstances criteria has taken place. For further information on eligibility for secretary of state accommodation see: Immigration bail guidance.

When providing an evaluation of the assessment, select from the appropriate options and sub-options below (use the copy and paste functions but avoid copying the headings):

Option 1 – Applicant eligible

(including where the power might be used to temporarily accommodate an applicant while their case is referred to a local authority and pending a decision by that local authority on whether the duty to provide accommodation under the Care Act 2014 (or devolved equivalent) applies)

the applicant appears to meet one or more of the exceptional circumstances criteria and therefore may be eligible for accommodation provided by the Secretary of State under Schedule 10. (End of option)

Option 2 Applicant not eligible

the applicant does not meet any of the exceptional circumstances criteria and the Secretary of State therefore does not have the power to provide accommodation to the applicant under Schedule 10. (Copy and paste appropriate sub-option below as well)

Sub-option 1 – No Asylum Claim

In addition, the applicant is neither an asylum seeker nor failed asylum seeker so is not eligible for any other accommodation provided by Secretary of State. (End of sub-option)

Sub-option 2 – Asylum Seeker

As the applicant's asylum application or appeal has not been finally determined, the applicant may be eligible to be provided with accommodation under section 95 of the Immigration and Asylum Act 1999 if, on leaving immigration detention, they would be destitute or likely to become destitute within 14 days. Section 98 of the 1999 Act also allows accommodation to be provided temporarily pending consideration of an application for section 95 support and is usually provided to those with an immediate accommodation need. Advice and assistance on how to apply for support under section 95 or Section 98 is available on GOV.UK. (End of sub-option)

Sub-option 3 – Failed Asylum Seeker

The applicant is a failed asylum seeker who is appeal rights exhausted. The applicant may therefore be eligible to be provided with accommodation under section 4(2) of the Immigration and Asylum Act 1999 if they are likely to become destitute on leaving detention and meet specified eligibility criteria. The applicant will need to complete an Asylum Support Application Form (ASF1), available on GOV.UK, if they wish to apply for accommodation provided under section 4(2). (End of sub-option)

Reasons for opposing immigration bail

You must provide your argument to the Judge of the First-tier Tribunal as to the reasons why the Home Office is opposing bail.

Your assessments must be based on the facts of the case. You need to analyse relevant parts of the applicant's history and behaviour to explain why you are stating they may or may not comply with conditions of bail.

If assertions about the applicant's circumstances are to be made, for example, there is an imminence of removal, or the applicant presents with a high risk of

absconding/non-compliance, those assertions must be supported with an explanation and an outline of any supporting evidence where necessary.

Your consideration must include a fair balance of both positive and negative factors demonstrated through an applicant's immigration history and behaviour. Where there are positive factors, for example, the applicant has a good history of compliance, this must be acknowledged and cannot be ignored. It is important that you present a fair and balanced consideration of the facts of the applicant's case as this will demonstrate to the Judge of the First-tier Tribunal that all relevant factors have been taken into account. You should not speculate that an individual will not comply with bail conditions if there is no evidence to support that assumption, such as clear evidence of non-compliant behaviour prior to being detained.

You must provide a response to all the applicant's grounds for bail and attach supporting documentation, where relied on as evidence to the bail summary. Should you be struggling to justify opposing bail, do not over-exaggerate a single point. If you are arguing a single reason and it is not particularly strong, it may be appropriate to consider granting immigration bail.

You must provide reasons that are concise and relevant and relate to the mandatory considerations listed within [paragraph 3\(2\) of schedule 10 to the Immigration Act 2016](#). The mandatory considerations are listed as sub-headings on the form and each consideration **must** be acknowledged separately (you can state 'N/A' if the consideration is not applicable).

The considerations are:

- **the likelihood of the person failing to comply with a bail condition**

You must evaluate the likelihood of the person failing to comply with a bail condition using 'high', 'medium' or 'low' ratings. It is important to give a balanced overview and acknowledge any positive evidence of compliance. Take into account if any alternatives to detention have been considered and state if there are any incentives to comply, for example a financial condition supporter.

- **whether the person has been convicted of an offence (whether in or outside the UK or before or after the coming into force of paragraph 3(2) of schedule 10 to the Immigration Act 2016)**

If the person has a criminal history, you must detail any relevant offences and consider whether there is a high risk of harm. Only list criminal convictions, cautions and warnings.

- **the likelihood of a person committing an offence while on immigration bail**

If the person has a history of criminality and bail is being considered, you must assess the risk of that person re-offending and the consequences of such re-offending. Consider the nature of the offence and relevant police and sentencing information.

- **the likelihood of the person's presence in the UK, while on immigration bail, causing a danger to public health or being a threat to the maintenance of public order**

You must provide an assessment as to whether the person's history of criminality indicates a risk of public harm if released on bail, and how high that risk is.

You must refer to all documents on file to support this, such as the Judge's sentencing remarks, licence conditions and Offender Manager's risk assessment where available. Upon submitting the bail summary to the ALAR Central Bail Team, **you must attach copies of any supporting documents** used to support your arguments opposing bail to the First-tier Tribunal Judge.

For further information see [considering bail in Foreign National Offender Returns Command cases](#) within this document.

- **whether the person's detention is necessary in that person's interests or for the protection of any other person**

Detention can only be used for the purposes as set out in the Detention guidance, that is to effect removal or for examination. When considering opposing bail, and therefore that the detention of a person remains appropriate in lines with the power, this consideration should extend to include the interests of the person or the protection of others if appropriate in the individual case.

This could include consideration to the likelihood and severity of risk posed to any other person of a grant of bail. Where this is the case, you must provide a robust and factual assessment of any risks presented and if any concerns of a victim/s can be taken into account.

Where appropriate, consideration of the duty under Section 55 to have regard to the need to safeguard and promote the welfare of any children involved and the risks, if posed, associated with a grant of bail in the individual case.

If awaiting alternative arrangements for a person who is detained for example transfer to a mental health hospital or local authority care where otherwise they would be released on to the streets with no support and care, you should explain when that transfer is anticipated and what outstanding issues there are to resolve pending that transfer (at which point immigration detention will cease if the individual is to be detained pursuant to health powers). This should only be used in a limited way and for the shortest period possible.

- whether the person has failed without reasonable excuse to cooperate with any process:
 - for determining whether the person requires or should be granted leave to enter or remain in the United Kingdom
 - for determining the period for which the person should be granted such leave and any conditions to which it should be subject

- for determining whether the person's leave to enter or remain the United Kingdom should be varied, curtailed, suspended or cancelled
- for determining whether the person should be removed from the United Kingdom
- for removing the person from the United Kingdom

Consider if there is any evidence of failure to cooperate with removal or immigration processes. Instances of failure to cooperate can include, but are not limited to:

- disrupting removal
- non-co-operation with Emergency Travel Document (ETD) process/bio data
- non-cooperation with the removal process and non-cooperation with asylum interviews

Only include examples that are based on fact. Do not use subjective accounts of adverse behaviour or conduct in immigration detention facilities. The evidence must be limited to incidents that can be objectively proven to have taken place, and where no reasonable excuse for the behaviour has been provided, as an example, failure to attend a scheduled interview without a reasonable excuse. A reasonable excuse could include, but is not limited to, evidence of ill health or travel delays.

In this section you are not required to assess whether the history of failure to cooperate would indicate whether a person would be likely to comply with a bail condition as this will be considered within that criterion's section (see above).

- **such other matters as the Secretary of State or the First-tier Tribunal thinks relevant**

Consider any remaining factors that may impact return timescales or case progression and detail all actions that are due to be taken to clear barriers. You must include clear estimated timescales for each barrier (in days, weeks or months).

Include any relevant vulnerability concerns along with safeguarding measures in place to support return. Provide the outcome of voluntary departure offers and consider if any immigration control measures have previously failed, such as failing to report.

Investigating financial condition supporters

The financial and general standing of all prospective financial condition supporters provided by the applicant in support of their bail application should be investigated as fully as possible.

To be an effective financial condition supporter, the person needs to be able to exercise some influence over the applicant to make sure they comply with their bail conditions.

You must consider the nature of the relationship between the applicant and the proposed financial condition supporter as well as their geographical proximity. To be acceptable, a supporter must:

- be aged 18 or over and settled in the UK (be a British citizen, have a permanent right to reside in the UK or have indefinite leave to remain in the UK)
- have a personal connection with the applicant or be acting on behalf of a reputable organisation who has an interest in their welfare
- have enough money or disposable assets (clear of existing liabilities) to be able to pay the sum due if the payment liability becomes due
- be a homeowner or at least well-established in the place where they reside
- be free of any unspent criminal convictions (not including motoring offences), however, note that previous criminal convictions can also be considered

The information in the table below sets out some of the [criteria](#) for what the Home Office considers to be a suitable financial condition supporter and examples of evidence which may support this.

Evidence to demonstrate suitability factors	Examples of original documentary evidence in considering suitability
Their identity, they are aged over 18 and their relationship to the applicant.	<p>Examples of original documentary evidence which may assist in considering their suitability:</p> <ul style="list-style-type: none"> • passport • birth certificate • parent and family member's birth certificates • any other documentation that demonstrates their relationship to the applicant (if applicable)
The sum of money is available if payment liability becomes due.	<p>Examples of original documentary evidence which may assist in considering their suitability:</p> <ul style="list-style-type: none"> • bank statements covering a period of at least 3 months • a recent building society account statement of savings • other documentation that demonstrates the sum of money is available to them

This is **not** an exhaustive list. The applicant should provide any additional evidence which they believe supports their case in providing a suitable financial condition supporter.

You should be careful in accepting things like bank books, statements of account, as evidence that the proposed money is available to the supporter. It may be that sums of money have been deposited temporarily to create a false picture of the holder's

means. A record of deposits over a period of at least 3 months is a useful indication of financial status.

If the supporter lives in rented accommodation and the applicant intends to live with them if granted bail, you must conduct checks to see if they have the permission of the landlord for the applicant to live there. This is particularly important if they are an offender subject to Multi Agency Public Protection Arrangements (MAPPA). Further information on the right to rent can be found at [Right to Rent: landlords' penalties](#).

All the usual immigration checks must be undertaken so you can consider any adverse information.

You should not disclose information about a financial condition supporter unless it directly relates to the information provided in the bail application. Any information that is not relevant to the bail applicant or has been deemed 'not for disclosure' should not be provided in the reasons for opposing bail section of the bail summary.

Information about the supporter should only be disclosed if it is in relation to the information provided on the bail application.

Checking the financial condition supporter's addresses

You must carry out reasonable checks to make sure the supporter's address exist. You can:

- use [Streetmap](#) to check the address exists
- contact their local authority by email
- check addresses listed on the case information database (CID) and Atlas

Checking Atlas, CID and the Home Office file

You must check the names of supporters against names on:

- Atlas
- CID
- Record Management System (RMS)

You must note any possible matches, including those with variation of spelling.

You must search CID and Atlas to check if there is a record of the financial condition supporter.

The Record Management System (RMS) allows for the creation of reference numbers for Home Office files and provides details on previously created files and their current location.

Conditions sought in event of bail being granted

You must recommend bail conditions for all cases in the event that the First-tier Tribunal Judge decides to grant bail.

Bail conditions must be specific to the facts of the individual case and are sought to:

- enable the appropriate levels of contact to be maintained with the individual
- reduce the risk of non-compliance, including absconding
- minimise potential delay in becoming aware of any breach in bail conditions

For full instructions on bail conditions see: Conditions of Immigration bail in the Immigration bail guidance.

The grant of immigration bail to a person must be subject to at least one of the following in all cases:

- a condition requiring the person to appear before the Secretary of State or the First-tier Tribunal at a specified time and place
- a condition restricting the person's work, occupation or studies in the UK
- a condition about the person's residence
- a condition requiring the person to report to the Secretary of State or other person specified
- an electronic monitoring condition (if suitable)
- such other condition as the person granting the immigration bail sees fit (for example a curfew or the requirement to surrender passport)

Electronic Monitoring condition

The Immigration Act 2016 Schedule 10 Part 1 paragraphs 2(2) and 2(3) place a duty on the Secretary of State to electronically monitor those on immigration bail who could be detained because both of the following apply, they:

- are subject to either deportation proceedings or a Deportation Order; and
- reside in England or Wales

The duty should be applied unless its application would breach Convention Rights or it would not be practical to do so. (Referred to within this document as 'the duty').

Convention rights should be considered to mean Human Rights under the Human Rights Act 1998 and European Convention on Human Rights (ECHR).

In addition, any person residing in England and Wales not subject to the duty may be granted immigration bail subject to an EM condition if justified by the circumstances of the case where it is considered that this may be an appropriate condition of immigration bail. Due regard should be given to the need to seek representations, decision levels and the need to conduct regular reviews.

Where the EM duty applies, and is being requested as a condition of bail, you must use the template provided on the form to request that bail is granted subject to the applicant being compliant with the fitting of the EM device, and the Secretary of State

promptly arranging the fitting of the electronic monitoring device at the place of the Applicant's detention within 72 hours. It must also state that should the grant of bail notice omit the imposition of electronic monitoring in cases where the duty applies, and where management of the bail is transferred to the Secretary of State, the Secretary of State will impose electronic monitoring as a condition of bail in order to comply with the duty placed upon them.

Where EM is not being requested as a condition of bail, and the person is subject to the duty, there must be a clear statement as to why is not being applied, and the reasons for this decision.

Where bail is granted, the Immigration Judge is obliged to make EM a condition where the duty applies unless a statement is made within the summary to state explicitly that the Secretary of State considers it to be impractical, or in breach of a Convention right. Arrangements may specify the person to wear a device, charge the device, make specified use of a device, communicate in a specified manner, at specified times and during specified periods, or involve the exercise of functions by EM contractors. Arrangements must specify the person complies with the EM contractor as they exercise their functions to implement electronic monitoring.

For further instruction on Electronic monitoring see Immigration bail conditions: electronic monitoring condition in the Immigration bail guidance.

Financial condition

A financial condition may also be imposed but this must be in addition to one or more of the above conditions. For further instruction on financial conditions see Immigration bail conditions: financial condition in the Immigration bail guidance.

For detailed instructions on setting conditions of immigration bail see Immigration bail: conditions of immigration bail in the Immigration bail guidance.

Transfer of bail management to the Secretary of State

Paragraph 6(3) of schedule 10 allows the First-tier Tribunal to direct the Secretary of State to exercise powers to vary bail conditions where the First-tier Tribunal has granted bail.

In practice, you must request that the First-tier Tribunal transfers the management of bail conditions by checking the box on the bail summary. This should be requested in all cases unless there is an exceptional reason that the First-tier Tribunal should continue to manage the case.

If the Judge agrees to this request, they will transfer the management of the bail conditions to the Secretary of State upon granting bail.

The Secretary of State will then have control over the management of the case. The individual will then need to apply to the Secretary of State to vary their bail conditions.

Where the First-tier Tribunal has transferred management of bail, the Home Office is not required to approach the Tribunal in the varying of those bail conditions. The First-tier Tribunal cannot exercise any powers to vary bail once this has been done. The individual cannot apply to the First-tier Tribunal to vary their bail conditions and must apply to the Secretary of State to do this.

If the Tribunal does not direct that the Secretary of State manages the case, then the Tribunal retains complete control, including any decision to vary the conditions, deal with any breach of conditions and recover any money from a financial condition.

For further guidance on the transfer of bail from the Tribunal to the Secretary of State see Immigration bail: varying immigration bail conditions in the Immigration bail guidance.

Related content

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Consideration of bail in foreign national offender cases

This section tells caseworkers about the additional considerations and actions that must be given in where foreign national offenders have applied for bail to the First-tier Tribunal.

Licences

When a bail application is being considered you must check the prison release licence which should be held on the Home Office file where applicable. The licence provides the name of the probation office and the Offender Manager.

Offenders must comply with the conditions of their prison licence on release from prison. If they do not, it may be revoked and they will be arrested and returned to prison to serve the rest of their custodial sentence.

Licence conditions can include reporting to the Offender Manager within 24 hours of release, where the offender must live and is excluded from certain geographical areas.

Some offenders may be subject to management under MAPPA (Multi-Agency Public Protection Arrangements). These arrangements do not form part of the prison sentence and can extend beyond the period of the licence.

Offenders released at their custody end date will be released on licence and are given a copy of their licence on release. The licence includes any conditions they must comply with. The Offender Manager is informed of the release by the prison and given a copy of the offender's licence so they can supervise the offender in the community.

If an offender is subject to deportation they may be detained at the end of their custodial sentence, under immigration powers, if appropriate. When this happens the standard link between the prison and the Offender Manager will be broken.

You must make sure this link is maintained. You must always inform the Offender Manager immediately if an offender is granted immigration bail from either of the following:

- an immigration removal centre, by the First-tier Tribunal
- a prison for any reason

No offender subject to licence, supervision, MAPPA or other risk management arrangements in the community should be released unsupervised as this could cause a substantial risk to the victims of the offender and the public.

Should you have difficulties in obtaining a licence, information can be found in the Multi Agency Public Protection Arrangements guidance.

Expired licences

If the offender's licence has expired, it may not be possible for the Offender Manager to provide the information required for the bail summary or provide an up to date Offender Assessment System (OASys) report.

When this happens, Her Majesty's Prison and Probation Service (HMPPS) will advise you they are unable to assist. You must contact the Offender Manager in all cases, even when the licence has expired and they must always be notified of bail applications and grants of bail. This is particularly important in MAPPA cases and where sexual offences have been committed. The Offender Manager acts as the link between the offender, victim liaison and MAPPA (where applicable) and the offender's release may require special arrangements to be put into place.

Residence condition and accommodation

You must carry out an assessment of the foreign national offender's (FNO) offending and risk profile to decide whether it would be appropriate to impose a residence condition as a condition of immigration bail.

You need to consider whether or not a residence condition would be appropriate, and if so whether the individual would be eligible for schedule 10 accommodation. Even if a residence condition is not considered appropriate, the Tribunal may still require an address to live at. You should therefore seek to establish whether or not the FNO would have a private release address at which they could be accommodated if bailed.

Contacting the Offender Manager

You can get the name and contact details of the Offender Manager from the probation office specified on the prison licence. Sometimes this may be a duty officer initially. You must always contact the probation office named on the licence regardless of the bail address provided by the offender.

The Offender Manager must be contacted immediately to:

- let them know a bail application has been made
- advise them of the date and location of the bail hearing
- advise them the application could result in the individual being granted bail by an immigration judge
- obtain information to be included in the bail summary using the OASys report

Every effort must be made to get information from the Offender Manager to include in the bail summary. Where this is not possible, the bail summary must be submitted on time without the Offender Manager's information. If the information is obtained

after the bail summary is submitted but before the hearing you must send it to the Presenting Officers Unit (POU), using the quickest method possible.

It is essential you keep the Offender Manager informed of all major developments, in each case, as they happen.

It is vital that you inform the Offender Manager of the outcome of the bail hearing immediately.

MAPPA cases and sex offenders

MAPPA cases are high risk cases needing careful, specific handling. They are local arrangements for assessing and managing risks presented by sexual and violent offenders. An offender can still be subject to MAPPA if they do not receive a custodial sentence.

You must check if the offender is a MAPPA case and if they are allowed to know about their MAPPA status (if applicable).

The level of risk management (the MAPPA level) is on the form sent from the prison with the licence. If an offence is committed that appears to fit the MAPPA criteria but is not marked as MAPPA, you must [contact the Offender Manager](#) to check if a MAPPA marking has been omitted from the form.

You must not presume a case is not subject to MAPPA where a serious sexual or violent offence has been committed and no MAPPA marking has been given.

You must check for any previous offences that indicate an offender should be marked as MAPPA. For example, if a minor offence is committed, such as theft, and the offender has a history of sexual offences, you must liaise with the Offender Manager to find out if a MAPPA marking is appropriate.

If a bail application is made for an address where children aged 18 and under reside, you must notify the Her Majesty's Prison and Probation Service (HMPPS) Offender Manager who will check the suitability of the address and if this contradicts the offender's licence conditions. Under no circumstances must a sex offender be released to an address, where children aged 18 and under are living, without the full written agreement of the Offender Manager.

Where a person applies for bail to the Tribunal and the Home Office considers that a residence condition is necessary if bail is to be granted, the caseworker should note this in the bail summary (BAIL 505).

If bail is granted for a sex offender to live with children, you must inform the relevant local authority children's services (LACS) by telephone and email, to make them aware of the situation. You must fully record this in CID notes.

Further information on actions you must take with MAPPA cases can be found in the MAPPA guidance.

Victim liaison

You must keep offender managers up to date with all aspects of bail applications, as they provide the vital link with the victim liaison officer. When a court is considering bail the victim liaison officer may be contacted so concerns of the victim can be taken into account.

If bail is granted you must alert the victim liaison officer, so they can advise the victim and the police of the release of the offender in order to put safety measures in place for the victim.

Bail address indicates a change of Offender Manager

You must always contact the probation office named on the licence. If the address given by the applicant for bail is different from that on the licence it is the responsibility of the Offender Manager to verify the suitability and to arrange the offender's supervision to be transferred to another probation office if appropriate.

Related content

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Bail summary authorisation and submission

This section tells caseworkers the authorisation requirements for completed bail summaries and their submission to the Presenting Officers' Unit (POU).

Authorisation

All bail summaries must be authorised by a Higher Executive Officer (HEO) or above before it is submitted to the relevant POU. As well as HEO authorisation, high-profile case summaries, and those which present particular technical difficulties or require technical input, must also be discussed and agreed by an SEO senior caseworker – and additionally, in the event of high-profile and high-harm cases, by the G7 Head of Unit.

In FNORC cases the bail summary checklist (form ICD.4109) must be completed when completing a bail summary. You must use the checklist to make sure the bail summary has been correctly completed and all relevant supporting documentation has been attached.

Submission

You must forward completed bail summaries to the ALAR Central Bail Team:

- by email in foreign national offender cases- you must always send a copy of the prison licence and the [Offender Assessment System \(OASys\) report](#) (if applicable) and copies of any other supporting documents with the bail summary (see Data [security](#) section)
- as indicated on the bail summary request form in all other cases

You must **submit completed bail summaries to the relevant POU by midday on the working day before the bail hearing** is scheduled to take place. If there is any reason why this deadline may be missed, you must contact the ALAR Central Bail Team to inform them of this.

This deadline has been set by the POU's to allow them enough time to lodge the bail summary with the applicant, their representatives (where applicable) and the Tribunal by 2:00pm on the day before the hearing. Where the bail application has been sent to the Home Office with less than 24 hours' notice, the bail summary must be completed as soon as is reasonably practicable. It is vital you meet these requirements, if the bail summary is not lodged within these parameters before the bail hearing it could be taken that bail is not being opposed.

Related content

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Updating CID and Atlas

This section informs caseworkers how to update the case information database (CID) and Atlas after a bail application has been received by the ALAR Central Bail Team.

Updating CID

Applications for bail to the First-tier Tribunal

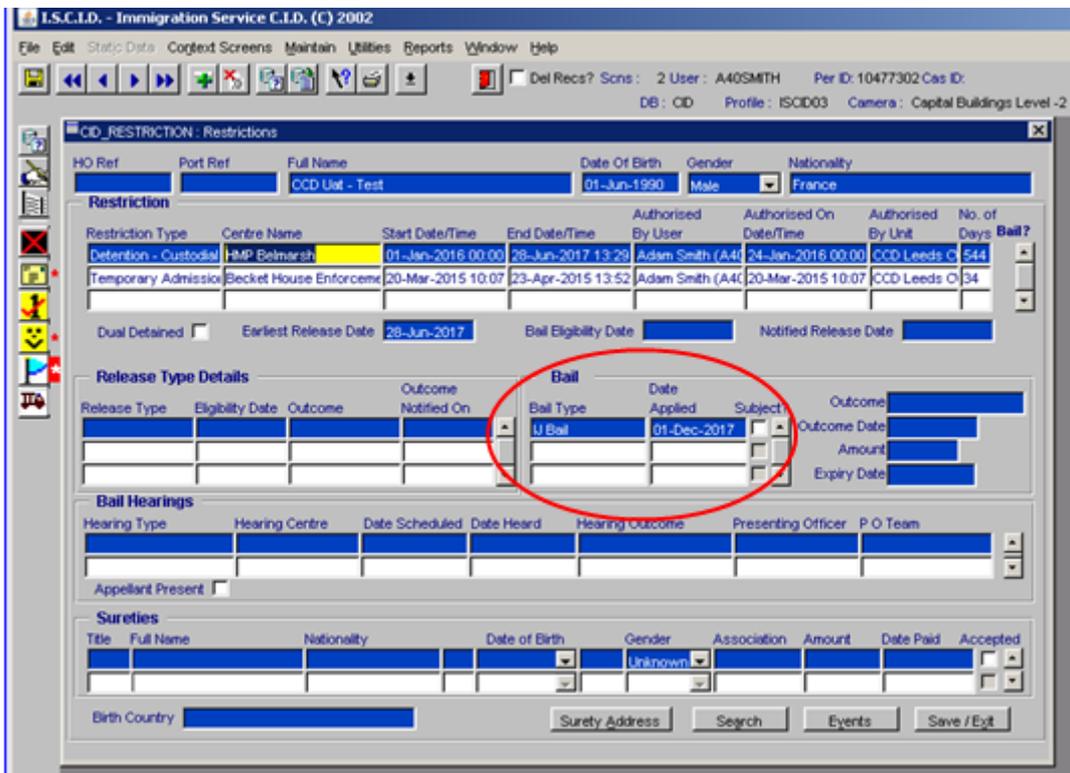
After an application for bail is received by the First tier Tribunal from a person held in immigration detention, and the bail hearing is listed the details of the application are recorded on CID.

Bail details are stored and recorded on the 'Restrictions' screen .

The recording of these details will be completed by the ALAR Central Bail Team. The team will update the 'Bail type' with 'IJ Bail' and the date the application has been received in the 'Date Applied' field.

If the bail application has been made through the automatic bail referral process, the ALAR Central Bail Team will update the 'Bail type' with 'Auto Bail Referral' and the date the referral is sent to the relevant hearing centre in the 'Date Applied' field.

Do not update any fields in the bail hearings section these are completed by the Presenting Officer (PO) or the ALAR Central Bail Team.



The screenshot shows the 'CD_RESTRICTION: Restrictions' window. The 'Restriction' table is as follows:

Restriction Type	Centre Name	Start Date/Time	End Date/Time	Authorised By User	Authorised On Date/Time	Authorised By Unit	No. of Days	Bail?
Detention - Custodial	HMP Belmarsh	01-Jan-2016 00:00	28-Jun-2017 13:20	Adam Smith (A4)	24-Jan-2016 00:00	CCD Leeds C	544	
Temporary Admission	Becket House Enforceme	20-Mar-2015 10:07	23-Apr-2015 13:52	Adam Smith (A4)	20-Mar-2015 10:07	CCD Leeds C	34	

The 'Bail' section is highlighted with a red circle and contains the following data:

Release Type	Eligibility Date	Outcome	Notified On	Bail Type	Date Applied	Subject	Outcome	Amount	Expiry Date
				IJ Bail	01-Dec-2017				

Updating financial condition supporter details

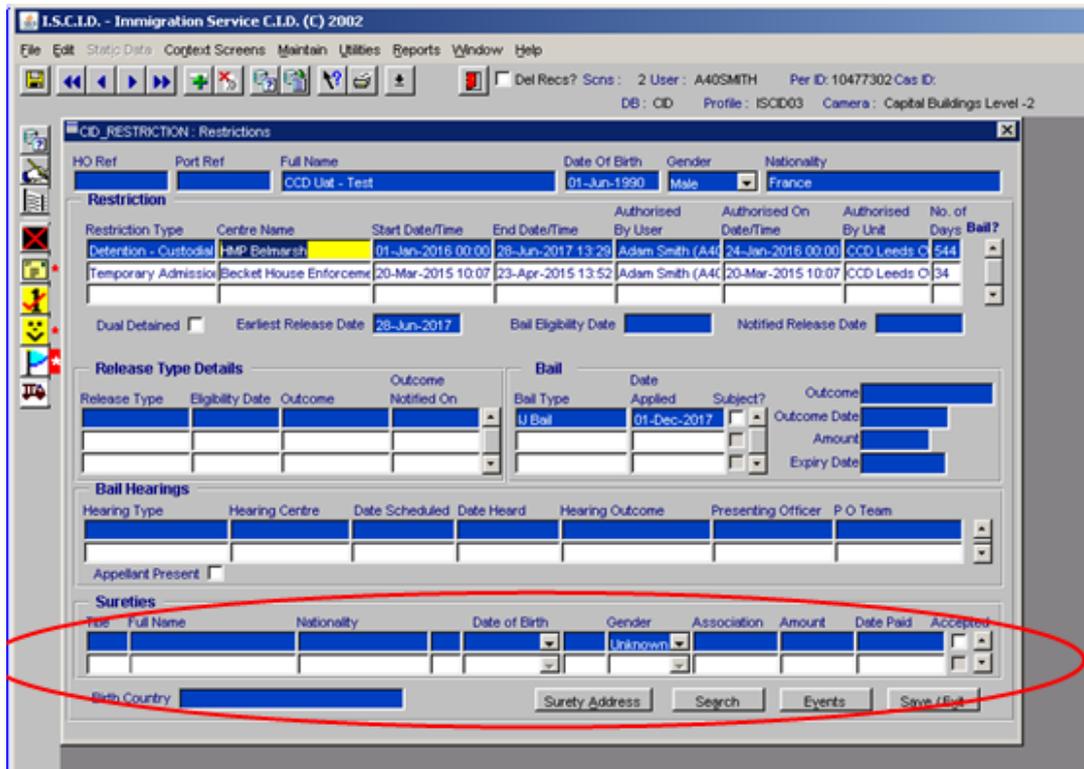
If the applicant has proposed financial condition supporters as part of their application for bail, these need to be updated on CID.

Enter the 'Restrictions' screen .

Complete the 'surety section' using the information provided on the bail application B1 form.

You must complete all of the following fields, 'Title', 'Full Name' of the financial condition supporter, 'Nationality', 'Date of Birth', 'Gender', 'Association' for example friend or relative and the 'Amount' proposed for the financial condition should one be set.

No action needs to be taken in 'accepted' and 'paid by date'.



The screenshot shows the 'CID_RESTRICTION : Restrictions' window. The 'Sureties' section at the bottom is circled in red. It contains the following fields:

Title	Full Name	Nationality	Date of Birth	Gender	Association	Amount	Date Paid	Accepted
				Unknown				

Other sections visible include 'Restriction' (with a table of restriction types), 'Release Type Details', 'Bail', 'Bail Hearings', and 'Appellant Present'.

Updating CID notes

Once you have completed the bail summary you must send it to the authorising officer for checking.

You must update CID in the notes section  with this information.

The authorising officer will then in turn update CID notes stating whether authorisation has been given or whether further work is required prior to sending to the ALAR Central Bail Team.

Create a diary action to check on bail outcome

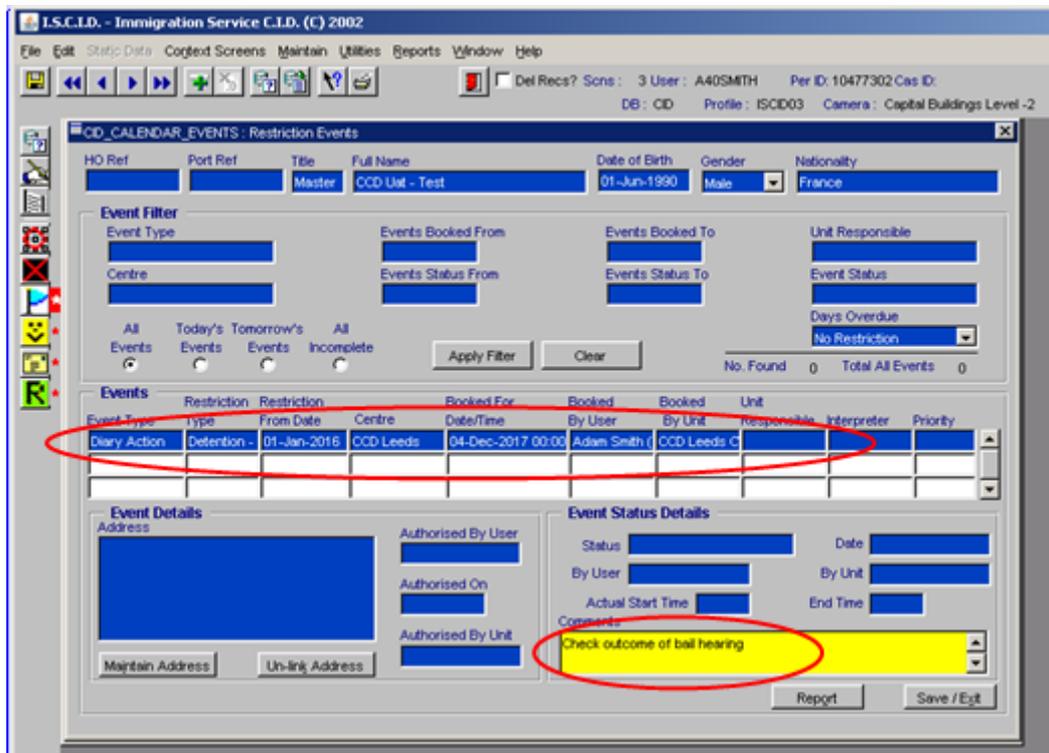
A calendar event should now be created so that you can monitor the application and check on the bail hearing outcome.

Access the 'Calendar Events' screen 

In the 'Event Type' field, select 'Diary Action' from the drop-down menu.

Complete the 'Centre' field and 'Booked for Date/Time' with the date you wish to be reminded to check on the hearing outcome. The next 2 fields will auto-populate.

In the 'Unit Responsible' field, enter your team details and in the 'Comments' field, type 'check outcome of bail hearing'.



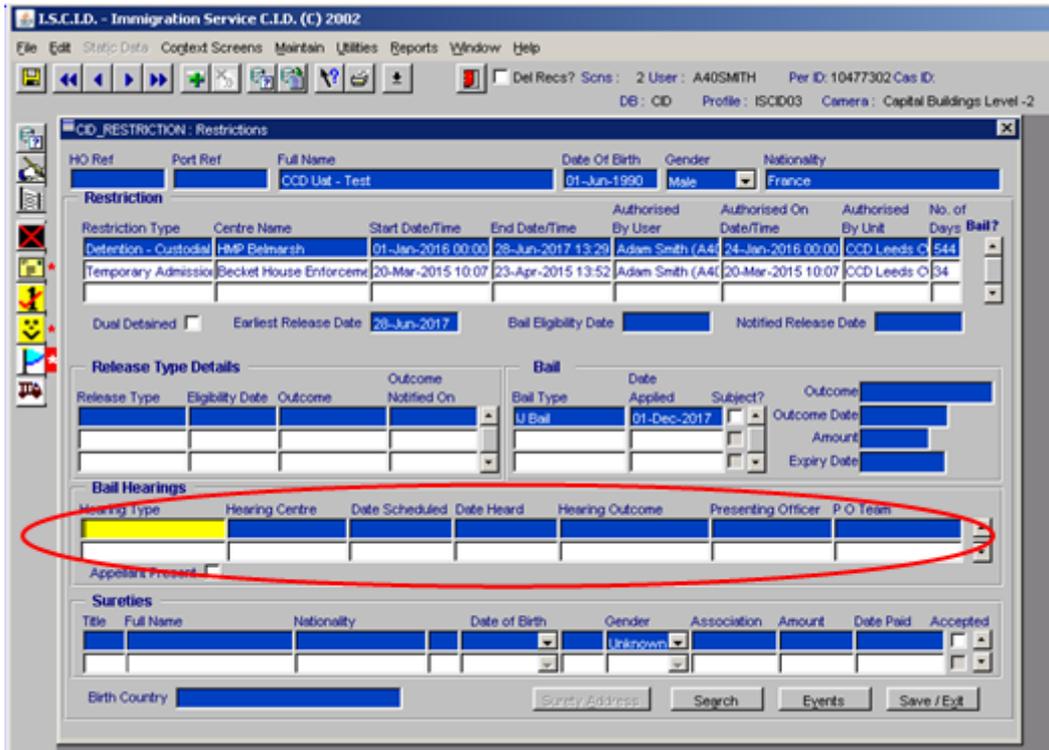
Event Type	Restriction	Restriction	Booked For	Booked	Booked	Unit	Interpreter	Priority
Event Type	Type	From Date	Centre	Date/Time	By User	By Unit	Responsible	
Diary Action	Detention-	01-Jan-2016	CCD Leeds	04-Dec-2017 00:00	Adam Smith	CCD Leeds C		

Bail outcomes

When an outcome has been received from the Presenting Officer, CID will be updated by the relevant Presenting Officers team. You can check on the outcome of a bail hearing by accessing the 'Restrictions' screen.

The details of the bail outcome will be recorded on CID restriction screen within the bail outcome section.

Should a bail hearing be withdrawn before the hearing takes place, the ALAR Central Bail Team will update CID, within the bail hearing section with one of the hearing outcomes: Withdrawn pre-hearing or Withdrawn at hearing.



Adding case notes

If any relevant instructions, comments or recommendations are received in a bail outcome from the Judge of the First-tier Tribunal, these should be recorded in the 'Notes' screen. You must ensure that any outstanding actions are completed before any deadline imposed.

Updating Atlas

Applications for bail to the First-tier Tribunal

After an application for bail is received by the First tier Tribunal from a person held in immigration detention and the bail hearing is listed, the details of the application are recorded on Atlas by the ALAR Central Bail Team.

The ALAR Central Bail Team will specify whether the hearing is an auto-bail hearing, detail the court location and the hearing date. The ALAR Central Bail Team will then provide the completion deadline and refer the case to the relevant casework team to complete the bail summary via the task list.

Consideration by casework team

The casework team will need to accept the service request. The bail summary should be completed separately and attached to the request. Once updated, the bail summary author should then refer the bail request to the relevant POU and confirm by email to the ALAR Central Bail Team that the summary is ready on Atlas. The

casework team will complete the process service on Atlas and then, in determining next actions, create the Record Outcome service task which must be allocated to the appropriate POU team with a deadline set after the hearing.

Bail outcome

Following the hearing, the Presenting Officer will record the relevant bail outcome, select the appropriate bail conditions, and close the bail service request.

Related content

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