



British
Consulate-General
Hong Kong

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Information Pack for British Nationals detained or imprisoned in Hong Kong

Author	British Consulate General Hong Kong
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Chapter 1: Key Points

Overview

If you are a British national, and are arrested or detained in another country, consular staff will do what they can to help you, but they cannot interfere with the local justice system, get you out of jail, or pay for services such as a lawyer. Information about who we can help, including the circumstances in which we can assist dual nationals, is available at: [Support for British nationals abroad](#).

This detention information pack is designed to give you, and your family and friends, information about the local system in Hong Kong and who can help. A printed copy is provided to those in prison or in custody, and an online version is available at: <https://www.gov.uk/government/publications/hong-kong-prisoner-pack>. We welcome feedback to help us improve the information we can provide to others.

Contacting us

If you are arrested or detained in another country:

- **The authorities should ask whether you want them to contact the British Consulate (and must do so if you want them to).**
- **Even if they do not ask, you can make the request yourself, and should do so, particularly if you are charged with a serious offence or need any kind of assistance.**
- **Friends or family can also contact the local British Consulate or the Foreign, Commonwealth and Development Office (FCDO) in London on +44 (0)20 7008 1500.**

In some countries, the authorities might notify the British Consulate even if you don't want anyone to know that you have been arrested. This is because there may be an agreement in place with the British Government which requires a mandatory notification to be made.

Who we are

Consular staff work in the Foreign, Commonwealth and Development Office in London, and in British Embassies, High Commissions and Consulates overseas.

The British Consulate in Hong Kong: -

<https://www.gov.uk/world/organisations/british-consulate-general-hong-kong>

1 Supreme Court Road, Admiralty, Hong Kong

Tel: (852) 2901 3000

Fax: (852) 2901 3204

You can also contact us by phone 24/7 for help or advice from anywhere in the world by calling the Foreign, Commonwealth and Development Office on 0207 008 1500.

What we can do

The FCDO can offer you impartial and non-judgemental help. Once notified of your arrest or detention, consular staff will aim to contact you as soon as possible so that we can assess how we can help you. We then aim to provide assistance according to your individual circumstances and local conditions: our priority is to provide assistance to those British nationals overseas that need our help the most.

In Hong Kong, notification by the authorities to the Consulate normally takes place within 24 hours after arrest. Once we are notified, we aim to contact you as soon as possible.

We can also:

- > provide a list of local English-speaking lawyers <https://www.gov.uk/government/publications/hong-kong-list-of-lawyers> and interpreters <https://www.gov.uk/government/publications/hong-kong-list-of-translators-and-interpreters>. See also page 16 - what kind of legal assistance is available?
- > provide general information about the country, detention conditions, and the local legal system (including if legal aid is available)
- > provide general information about the local prison or remand system, including visiting arrangements, mail and censorship, privileges, and welfare services.
- > keep in regular contact with you, either by visiting or by telephone/letter. The frequency of contact will depend on local conditions and your personal circumstances.
- > tell the police or prison doctor, with your permission, about any medical or dental problems including medication.
- > put you, or your family, in touch with a prisoners' welfare charity called [Prisoners Abroad](#).
- > in some circumstances we may be able to help take up complaints with the police or prison authorities about ill treatment, personal safety, or discrimination, if you are not treated in line with internationally recognised standards.
- > help to transfer money to you from your friends or family. In places where phone or postal services aren't available, we can also pass on messages and deliver letters to the prison.
- > in some circumstances we may be able to help you apply for a transfer to a prison in the UK.

What we can't do

- > get you out of prison or detention
- > help you get special treatment
- > offer legal advice, start legal proceedings or investigate a crime
- > pay for any costs as a result of being arrested
- > forward you packages sent by friends or family
- > prevent authorities from deporting you after release

First Steps

Can you / will you tell my family?

If you want us to, we can tell your family or friends that you have been detained and can provide them with information about how to contact you in prison or detention. With your consent, we can also keep them updated on your well-being.

If you are not sure about informing your family, we can help you consider the impact that not doing so might have. For example, it may cause them distress if they do not know where you are, or cannot contact you. It can also be a disadvantage to you if you need someone to send you money or act on your behalf while you are detained.

Will the UK Police be informed?

If you are accused of certain serious offences, such as sexual assault or drugs trafficking, we are obliged to share information about your arrest with UK police. It is therefore possible that information about this may appear if a Criminal Records Bureau check were carried out by a prospective employer. There may be other circumstances in which information about you may need to be shared by ourselves or authorities in Hong Kong.

Do I need a lawyer? / How can I find a lawyer?

Although we cannot give legal advice, start legal proceedings, or investigate a crime, we can offer basic information about the local legal system, including whether a legal aid scheme is available. We can give you a list of local interpreters and a list of local English-speaking lawyers is attached to this pack. See also page 16 – what kind of legal assistance is available? You will want to consider the benefits of local legal representation and to discuss all the costs beforehand with the legal representative. In no circumstances can we pay your legal or interpretation costs.

Can you get me out?

We cannot get you out of prison or detention, nor can we get special treatment for you because you are British. However if you are not treated in line with internationally accepted standards we will consider whether to approach local authorities. This may include if your trial does not follow internationally recognised standards for fair trial or is unreasonably delayed compared to local cases.

Who else can help me?

We can put you, or your family, in touch with Prisoners Abroad, a UK charity which supports British citizens detained overseas and their families: www.prisonersabroad.org.uk

Chapter 2: Detention conditions in Hong Kong

Visits – friends and family

Can my family and friends visit me? How can I arrange a visit?

All institutions have specified visiting hours, mostly from 9:00 a.m. to 5:00 p.m.. Visitors must be registered 30 minutes prior to the end of the visiting hours. Information on visiting arrangements for individual institutions in Hong Kong can be found at the webpage of the Hong Kong Correctional Services Department https://www.csd.gov.hk/english/socialvisit/ins_vis_guide.html.

On admission, prisoners are required to declare the identities of any visitors they will be receiving during their imprisonment. Subsequent amendments of this list can be made upon approval by the institutional management.

All visitors must provide evidence of their identity and reveal their connection with the prisoner.

Persons on remand can be visited by family and friends once daily. Each visit is about 15 minutes and two visitors including children are allowed at one time.

Convicted persons can be visited by family and friends twice a month. Each visit is about 30 minutes and three visitors including children are allowed at one time.

The Superintendent may, in special circumstances extend a visit or allow a prisoner to receive additional visitors regarding his property or for another special reason.

What can visitors expect?

Visitors who visit a person in custody for the first time are required to produce identification for verification and fill in a registration slip with their name, Hong Kong Identity Card number (or valid travel document number), address and relationship with the person in custody to whom they intend to visit. For subsequent visits to the same person in custody, re-registration of address is not required unless the aforesaid information needs amendment.

Visitors have to approach registration office to register the visit. There are lockers at the registration area for visitors to store their bags or belongings. Visitors then wait at the waiting room where officer will check pockets and items that you want to bring to the detainees. Visit will take place in partition visitation area behind glass and is for about 15 minutes.

What can visitors bring?

Visitors are allowed to bring certain items to the detainees upon visit. The lists of approved articles for remand and convicted persons are different. The list of approved items can be found at https://www.csd.gov.hk/english/socialvisit/socialvisit_articles/ins_vis_guide_handin_articles.html

For certain items, for example, dental floss, the concerned person in custody must first obtain prior approval from the institutional management on each occasion.

Visits – Consular staff

We will visit you every 6 months; during our visit, when we can discuss any issues you may have. With your permission we will raise with the prison authorities any concerns you may have regarding your health, welfare and treatment. We can also relay any messages you have to your family.

If you have urgent matter to discuss, you can request to call the Consulate. If we are concerned about health or mistreatment, we will visit earlier.

You can write to us at any time on matters of concern to Consular Section, British Consulate-General, 1 Supreme Court Road, Hong Kong, but if it is urgent it may be quicker to ask prison authorities to contact us on your behalf.

Emergency trips outside of prison

It is possible to apply for attending funeral or seeing a next of kin with critical illness in area of Hong Kong. The Correctional Services will consider each application on its own compassionate reason and weigh upon its security aspect.

Police custody and initial arrival at prison

Arrival at the police station & basic rights

Detainee will be informed that they are under arrest and the reasons for the arrest. Most of the Hong Kong police officers speak English and if the arresting officer does not speak fluent English, then another officer will attend the statement taking. Detainee can insist on seeing legal representation before answering questions / making statement. However, private lawyer has to be appointed as legal aid is not available at this stage.

Police has the right to detain you for up to 48 hours before any formal charge is made and you will be held at the police station near where you are arrested. If it is minor charge, you may be released unconditionally or given a date to report bail at a specified police station. If the charge is serious bail will be refused and you will be brought before a Magistrate and further detained at one of the Remand Centres in Hong Kong whilst awaiting investigation and trial.

Food and water will be provided at appropriate time in the police station. No bed at the holding cell, but usually there is a long bench. A detainee in need of medical attention will be taken to a public hospital near the police station.

Personal belongings are kept by police while in custody. Items that are evidence will be kept by police for further investigation. The rest of the belongings will be given back to you if bail is granted or sent to remand centre with you if bail is denied.

At the police station, you have the right to make one phone call, free of charge (but not overseas). In addition, you have the right to contact us.

You can receive visitors (friends or family) at any time during your police detention, providing the officer in charge of your case does not consider that the visit would jeopardise the investigation. Anyone wishing to visit you should approach the Duty Officer of the Police Station.

If you have any grievances about the action of the police, you have the right to make a complaint to the [Complaints Against Police Office \(CAPO\)](#). The address is Ground Floor, Annex Block, Caine House, No 3 Arsenal Street, Wanchai, Hong Kong. Tel: 852 2866 7700.

Appearance at court

Court duty lawyer Office will be informed of the daily listed cases and will represent those without private legal representatives. More information about the Hong Kong judicial system can be found in Chapter 3.

Initial arrival at the prison

If you plead guilty or are found guilty by the court and sentenced to a period of imprisonment, you will be sent to one of the several prisons operated by the Hong Kong Correctional Services Department, www.csd.gov.hk. The location will depend on the length of your sentence, the nature of the offence and other factors such as a previous criminal record.

On admission, all prisoners will be searched and gone through registration procedure. Then senior officer, medical staff, reception officers and rehabilitation officers will interview them. It is important that you raise any issues require immediate attention to the interviewing officers.

You will be examined by the Medical Officer and the state of your health recorded. An Induction Programme will be given to help you to adapt the life in the institution. A booklet entitled 'Information for Person in Custody' in English will be issued.

All prison Superintendents can speak English and wherever possible, English speaking staff are assigned to supervise Non-Chinese prisoners.

You need to apply to make a phone call and the institutional management will decide on case by case basis. You have to bear the cost of the charged phone call unless the receiver agrees to pay it. Or you can request to call your consulate for assistance.

Basic toiletries and prison clothing will be issued. You are required to wear the clothing provided by the prison.

Hong Kong prisons do not employ social workers but do have specially trained Welfare Officers to deal with any welfare problems or queries that prisoners may have.

Your belongings including your private clothing that are not part of the evidence will be itemised, recorded and kept at prison.

To encourage good conduct in prison, you are entitled to be granted remission (usually this is one-third off of your sentence). Any period of remission can also be forfeited from a prisoner for any misconduct in prison.

Prison: conditions and daily life

The Society for Community Organisation Hong Kong made the call for prison reforms on their 2019 report citing the Hong Kong's correctional services should improve living conditions and the system for making complaints because many inmates choose to remain silent for fear of retaliation.

The remand centre at Lai Chi Kok is usually overcrowded, and cleaning condition at the centre needs improvement. However, the other prisons are reasonably maintained.

The Correctional Service Department (CSD) imposed strict infective preventive measures to protect their staff and inmates by testing for all newly-admitted inmates for coronavirus, disinfecting the institutions, providing face-masks and having sufficient facilities in their institutions for quarantining and observing. From early July 2021, the CSD provided Covid-19 vaccine injection program to all voluntary inmates.

Accommodation

Sentenced prisoners and those on remand are held separately. Single cells are rare and inmates have to share dormitories. Beds are either plastic or wooden bunks on metal frames without mattresses. General necessities, such as clothes, bedding, towel, toothpaste, toothbrush and soap are provided by the prison. No air-conditioning in the cells or dormitories, but electric fans are installed on corridors. For security and safety reasons, toilets and showers are semi-open. In general, there is natural light to the dormitories and workshops.

Inmates are required to maintain a high standard of cleanliness and tidiness in their cells or dormitories. Officers will inspect regularly and failure to maintain may be subject to disciplinary action.

Food and Diet

Inmates are provided with 3 meals and an evening snack every day. The Hong Kong Correctional Services have assured us that the food they provide is a balanced diet giving the necessary daily nutritional requirements. Western, Chinese or Asian diets are assigned depending on the prisoners' ethnical background. A special diet can only be approved on medical grounds or religious reason. Extra food and necessities such as biscuits, sweets, cigarettes, and toiletries can be purchased at the tuck shop by using the wage earned from working in the prison. Drinking water is available.

Hygiene

Inmates can shower every day in communal area. Hot water will turn on when the weather becomes cold. Soap, toothpaste, toothbrush and towel are provided.

Work and Study

The laws of Hong Kong state that every prisoner must engage in useful work unless excused on medical grounds. Prisoners are assigned to work in various types of industrial work in workshops and the normal working days are Monday to Saturday. Depending on the type of work, the wage can be from HK\$ 46 to \$200 per week.

Study opportunities are available, but most of the courses are conducted in Cantonese. Correspondence courses and external degree courses can be applied for but families have to pay for the funding of the courses.

Contact and Languages

Inmates are allowed to speak to others in day rooms or in dorms. They are likely to put in a dorm with similar background. Guards understand basic English and officers usually speak good English.

No internet access for inmates. Inmates can send or received any number of letters but the letters must not longer than 4 pages of A4 papers, and must not contain any threats to others. Letters may be opened and searched for security check. Postage is paid by inmates themselves, however, correctional services provide inmates with one free letter a week with envelope, papers and postal paid at public expense.

If you have urgent need to contact someone for specific reasons, application for call can be made to the prison management. Inmates have no visit from family or friend and do not make any 'ad-hoc' phone call for the month will be given a privilege phone call of 10 minutes to next of kin.

Every prison has a library and prisoners are allowed to have and exchange library books. All libraries contain books written in English.

Books/Magazines/newspaper can be brought by visitors. Inmates without visitors in Hong Kong is allowed to receive newspapers posting from overseas. There are television sets in the day rooms, but most of time are in Chinese channels. Inmates are allowed to have their own radios.

There are cultural and social activities including religious gatherings on offer at the prison, and the correctional services view the activities as part of the rehabilitation programmes.

There is the possibility to request local language materials through the post from Prisoners Abroad (including language textbooks and dictionaries).

Exercise

Depending on the weather, prisoners can exercise outdoors at least one hour per day. Activities such as jogging, basketball, football and table tennis are available. Indoor games will be provided during rainy days.

Climate

Hong Kong has a sub-tropical climate with distinct seasons, spring is humid. Temperature in summer can excel 31°C but high humidity levels can make it feel hotter. Typhoon season begins in May and ends in November. Winter is cold and dry. Temperature can drop to 10°C in urban area.

Appropriate clothing is provided by the correctional services, extra blankets can be requested for the winter.

Religion

A full-time Chaplain co-ordinates the planning and provision of religious services for the prisoners. Many voluntary organisations also provide a wide range of spiritual and social services in institutions.

Each institution is visited by two Justices of Peace once every fortnight or monthly to carry out certain statutory duties such as investigating complaints made to them by prisoners, inspecting diets and examining buildings and accommodation.

Rules and regulations (including drugs)

Induction programme is arranged for new inmates. Officers from various units will explain on subjects including treatment programmes, daily routine, institutional facilities, discipline and channels of complaints. The system of the Hong Kong Correctional Services is strict disciplinary based with elements of correction, rehabilitation and community education.

Inmates are expected to conduct themselves in orderly and disciplined manner at all times. Any misconduct may lead to disciplinary action. Disrespecting officer, using abusive language, committing any assault, fighting with any person are considered as serious misconduct.

There is remission of one-third of the sentence for good behaviours, and higher wages for good workers. Forfeiture of remission, separate confinement and deduction of earnings are some types of punishments for misconduct.

Drugs trafficking in prisons is rare in Hong Kong as monitoring is tight. If inmates are caught with any kind of illegal drugs, they will be charged and an additional sentence will be imposed.

Prisoners with drug addiction are sent to Drug Rehabilitation Centre for treatment and they are tested regularly.

Hong Kong prisons are relatively safe as the staff-to-inmate ratio is almost one-to-one.

Prison: access to help and services

How can I receive money?

The British Government does not provide financial assistance to prisoners.

Private funds

While the FCDO does not provide financial assistance to prisoners, we may be able, within certain limits, to send you money from your family.

The Foreign, Commonwealth and Development Office (FCDO) operates a "Prison Comfort" system for money transfers to prisoners. Friends or family can contact the local British Consulate or the Foreign, Commonwealth and Development Office (FCDO) in London on +44 (0)20 7008 1500.

We are unable to receive payment by credit or debit card, or by cash.

Can I receive medical and dental treatment?

Primary medical services are provided in all Hong Kong Correctional Institutions. All persons on admission undergo a physical examination by a medical officer. Inmates can obtain medical treatment in prison or in the custodial wards at the government hospitals. Inmates requires public healthcare, appointment can be arranged, but waiting time will be the same as general public. Dental care is also provided but the waiting list for treatment is very long.

Request of handing-in of medications by approved visitors may be considered by the Medical Officer provided that the medications are properly prescribed by registered medical practitioner and in original packaging with legible marking and labelling. The Medical Officer will decide if these medicines can be kept by the guards and pass on to the inmates one dose at a time.

Hong Kong Correctional Services has Psychological unit to look into inmates' emotional problems. The Siu Lam Psychiatric Centre provides treatment for inmates with mental health issues.

Inmate requires glasses have to apply to the welfare officer, and arrange for family or friend to deposit glasses during visit.

In case of medical emergency, inmate will be taken to Emergency and Accident Unit at a public hospital.

With your permission, we can make sure that any medical or dental problems you might have are brought to the attention of any police or prison doctor. We can also liaise with your GP in the UK, if the police or prison doctor requests previous medical records and this is in your vital interests.

Mail/Parcels

Inmates can send or received any number of letters but the letters must not longer than 4 pages of A4 papers, and must not contain any threats to others. Letters may be opened and search for security check. Postage is paid by inmates themselves, however, correctional services provide inmates with one free letter a week with envelope, papers and postal paid at public expense. Parcel is not allowed, but certain items can be brought in at visits. https://www.csd.gov.hk/english/socialvisit/socialvisit_articles/ins_vis_guide_handin_articles.html. They may also receive books or periodicals posted by family or friends if they do not have visitors.

Please note that any letter from a consulate will henceforth be opened in the presence of the prisoner with a Principal Officer present. The letter will not be read by prison officers; they will simply open the envelope to check for anything enclosed aside from the letter and then hand the letter over to the prisoner.

Can I make telephone calls?

Mobile phone is not allowed in Hong Kong prisons. If inmates have urgent need to contact someone for specific reasons, application for call can be made to the prison management. Inmates have no visit from family or friend and do not make any 'ad-hoc' phone call for the month will be given a privilege phone call of 10 minutes to next of kin. If call is made to overseas, an international phone card can be purchased via the Welfare Officer using the wage they earned from working in prison.

How can I make a complaint about mistreatment?

If you have been mistreated, please inform Consular staff as soon as it is safe for you to do so. We will then do our best to visit you, to check on your welfare, discuss the allegations, and inform you of any local complaints procedures and supportive organisations that you may wish to consider. With your permission, and where appropriate, we will consider approaching the local authorities if you have not been treated in line with internationally-accepted standards. If you have been mistreated, please try to see a doctor, obtain a medical report and if possible photos of the injuries you received.

Complaints can be made to any on-duty staff or to the senior officer during his daily inspection or to the visiting Justice of Peace. Detainees may also request to meet the senior officer of the institution. Detainees may make requests directly to 'The Complaints Investigation Unit' (CIU) at Correctional Services Department Headquarters, 4/F., Oi Kwan Court, 28 Oi Kwan Road, Wanchai, Hong Kong. Email address ciu@csd.gov.hk.

If you are not comfortable reporting a complaint through the authorities yourself, you can write to or call FCDO consular staff with your concerns. Do note, however, that phone calls can be monitored and outgoing mail may be opened.

For check and balance, the Correctional Services Department Complaints Committee (CSDCC) is vested with the authority to examine all investigation findings handled by CIU.

CIU will endeavour to complete its investigation of a complaint within 18 weeks. After endorsement of the outcome of the investigation by CSDCC, the complainant will be informed of the outcome in writing accordingly.

A complainant who is dissatisfied with the outcome of the CIU investigation may apply in writing for appeal to Correctional Services Department Complaints Appeal Board.

You can also contact members of the Legislative Council, the Ombudsman or the Equal Opportunities Commissions via the Welfare Officers to lodge any grievance.

Chapter 3: the Hong Kong judicial system

Overview and first steps

Hong Kong is a Special Administrative Region of the People's Republic of China (PRC). The Hong Kong Special Administrative Region was established following the handover of sovereignty from the UK to the PRC in 1997. The Sino-British Joint Declaration, the handover agreement signed between the UK and China, sets out Hong Kong's independent judicial power. Hong Kong's Basic Law further details the powers and functions of Hong Kong's Courts, including the right of final adjudication and the right to act independently. Hong Kong's Courts operate a common law system, similar to that in the UK.

Hong Kong's Basic Law guarantees a number of rights and freedoms, including the freedom of speech, of the press, of association and assembly. It also sets out important legal principles, such as the right to a fair trial and the presumption of innocence.

In June 2020, Beijing imposed the new National Security Law on Hong Kong. The UK declared the law to be a breach of the Joint Declaration, as it violates Hong Kong's high degree of autonomy of executive and legislative powers and independent judicial authority. The National Security Law contains some special provisions for people accused of national security crimes. The National Security Law applies to crimes committed both inside and outside of Hong Kong, and can be applied to non-permanent residents of Hong Kong. It takes precedence over other Hong Kong laws. The National Security law contains different bail provisions, and in some circumstances allows trials without jury (although that is also the case for some other criminal offences) or the transfer-of cases to the mainland Chinese judicial system.

Is the system the same as the UK?

The system is similar to that in the UK. The courts of justice in Hong Kong comprise of the Court of Final Appeal, the High Court, the District Court and the Magistrates' Courts, Family Court, Coroner's Court and Juvenile Court.

The Hong Kong courts use an adversarial system, where lawyers present the parties' positions before an impartial judge at trial. In criminal trials involving a jury (such as murder, robbery, rape and serious commercial fraud), the judge will sum up the case to the jury after the closing speeches by the respective parties' counsels.

The Basic Law, article 87 states anyone who is lawfully arrested shall have the right to a fair trial by the judicial organs without delay and shall be presumed innocent until convicted by the judicial organs.

- **The FCDO cannot interfere with the judicial system. We cannot ask for your case to be judged more quickly just because you are British, or ask the authorities to waive any penalties.**

What should happen when I am arrested?

Detainee will be informed that they are under arrest and the reasons for the arrest. Most of the Hong Kong police officers speak English and if the arresting officer does not speak fluent

English, then another officer will attend the statement taking. Detainee can insist on seeing legal representation before answering questions / making statement. However, private lawyer has to be appointed as legal aid is not available at this stage.

Police has the right to detain you for up to 48 hours before any formal charge is made and you will be held at the police station near where you are arrested. If it is minor charge, you may be release unconditionally or given a date to report bail at a specified police station. If the charge is serious bail will be refused and you will be brought before a Magistrate and further detained at one of the Remand Centres in Hong Kong whilst awaiting investigation and trial.

- **Should you have any questions concerning the legal aspects of your arrest, contact your lawyer. A list of local English-speaking lawyers is provided at the end of this pack.**

For how long can I be remanded in custody?

Depending on the charge and the complexity of the case, it can take 3 to 5 months for a trial in a Magistrates Court to be held. If you plead not guilty delays of up to 12 months are common at the District Courts and Courts of First Instance of the High Court. Delays are often due to the court procedures and backlog as well as the need for further investigation. Persons in remand are detained at one the remand centres and are allowed to have visitors every day and can order private food from one of the assigned restaurants. More items are allowed to be sent in by visitors. Legal visits can be arranged by appointments. High Court bail can be applied and for court to decide.

What happens when I am charged?

Once formal charges have been laid, detainees are informed of their rights. However, legal aid is not available at Magistrates' court level, hence detainees may require to appoint private lawyer for advice. Duty lawyers will be assigned when detainees appear at court to assist for the legal proceedings. If case is serious and is transferred to District Court, then detainee can apply for legal aid. A lawyer will be assigned to follow up the case, if legal aid is approved.

If detainees believe the charges are incorrect, they have to speak to their lawyer to raise it at the court hearing. Detainees are expected to enter plea when they are formally charged.

What provision is there for bail?

For serious crimes such as drug trafficking and money laundering bail will usually be refused. For minor offences such as damaging public assets, theft or disturbance of public order bail might be decided by the police officer in charge of the case or at the Magistrates Court.

The amount of the bail depends on the nature of the crime, the financial situation of the detainees and likelihood of the accused leaving the country.

Bail is rarely offered to those without close connection with Hong Kong, with no surety or no permanent Hong Kong address. Failing to adhere to bail condition will result in warrant being issued for their arrest and being kept in custody at remand centre.

- **The FCDO is not able to facilitate the transfer of bail funds.**

Trial and legal assistance

What kind of legal assistance is available?

If you wish to hire a private lawyer, a list of English-speaking lawyers is provided at the end of this pack. Prisoners Abroad can also supply information on legal aid, court proceedings and can advise on appointing a lawyer.

Private lawyers usually ask for a cash advance for their estimated legal fees before taking on a case. Depending on the verdict of the case and the case nature, the judge will decide who will pay for the court fees.

Free [Legal Advice Scheme](#) run by the [Duty Lawyer Service](#) provides free preliminary legal advice to members of the general public as to their legal position in genuine cases. The Scheme will not offer any follow up services nor representation of clients. There is no means test and the service is absolutely free of charge. The Scheme operates nine advice centres which are located at Shatin, Central and Western, Wanchai, Tsuen Wan, Kwun Tong, Yau Tsim Mong, Island, Eastern and Wong Tai Sin. Each advice centre opens once a week from 6.25 pm to 7.45 pm. Anyone wishing to obtain free legal advice has to attend a referral agency to book an appointment. All District Offices, the Social Welfare Department and various volunteer services institutions e.g. Caritas, Home Affairs Enquiry Centres and the International Social Service Hong Kong Branch act as referral agencies. An appointment to see a Lawyer can usually be made within two weeks.

They also operate a free enquiry hotline for basic type legal information in English and Chinese. There are more than 80 topics available. The [Tel-Law](#) hotline is 852 2521 3333 or 852 2522 8018

Legal representation at Magistrates Court level is uncommon and the defendant often represents himself. It may be advisable to seek legal advice on your plea. If you do not have a private lawyer, you can ask to see the Duty Lawyer on the day you appear in court. There is a Court Liaison Office in every Magistrates Court in Hong Kong and you will be provided with legal representation for your first court appearance without any means testing. However, if you wish to have legal representation for subsequent appearance, you must contact the Court Liaison Office to do the means test. There is a one off fixed handling charge of HK\$570 for the service. The Administration Office of the [Duty Lawyer Service](#) is at Suites 808-9 Harcourt House, 39 Gloucester Road, Wanchai, Hong Kong. Telephone: 852 2526 5969. Legal Aid is not available for those appearing at a Magistrates Court.

Any person, whether or not resident in Hong Kong, who is involved in Court Proceedings above the Magistrates' Courts may apply for legal aid. In order to receive free legal assistance you will be required to undergo a means test. The procedure can take up to 6 weeks but may be expedited upon request. There can be no assurance that you will qualify for legal aid. To apply you should approach the Superintendent where you are detained. In most cases an officer of the Legal Aid Department will visit the applicant in prison to discuss the case with them. The Headquarters of the [Legal Aid Department](#) is at 24/F - 27/F, Queensway Government Offices, 66 Queensway, Hong Kong. Tel: - 852 2867 3171 or email: - ladinfo@lad.gov.hk

What happens at the trial?

Trials for minor cases are heard in the Magistrates Court.

In more serious cases the trial will normally take place at a District Court and the most serious cases at the Court of First Instance of the High Court. If this is the case and you cannot afford legal assistance you can apply for Legal Aid, which will be provided by the Hong Kong Government.

Charge(s) will read out at the hearing, prosecution opens its case and for examination of evidence. Then defence makes its submission for examination. Both parties will cross-examine the evidence and make summaries of argument for judge or jury to come for a verdict. Mitigation will be considered before sentence.

Sentences

Sentences will depend on the seriousness of the crime. You should seek advice from your lawyer. There is no death penalty or corporal punishment in Hong Kong. Imprisonment is therefore the heaviest penalty.

Application can be made for deportation to a third country if UK is not the place of residence prior to imprisonment. Hong Kong Immigration will liaise with the authority of the third country to establish their immigration status there.

How can appeals be made?

For an appeal against a Magistrate's decision, the time limit is 14 days from the date when the Magistrate passed the sentence, and the appeal will be made to the Judge of the Court of First Instance. Alternatively, you may within the 14 days to apply to the Magistrate who convicted you for a review of his decision. In order to make such a request, you should approach the Superintendent where you are detained and the prison will provide you with the necessary forms. If the review is unsuccessful, you may then appeal to the Judge of the Court of First Instance within 14 days from the review decision.

For an appeal against the verdict of the District Court or the Court of First Instance, the time limit is 28 days and the appeal goes to the Court of Appeal of the High Court. The Court of Appeal will first decide whether or not to grant leave to appeal before hearing the actual appeal.

It is important that you consult your lawyer or seek Legal Aid and consider carefully whether you have proper grounds before you decide whether or not to lodge appeal. It must be noted that an appeal can lead to an increased sentence.

Reaching the end of your sentence

What provision is there for reduction of sentence (remission) e.g. for good behaviour?

A guilty plea may carry a lesser sentence and remission of one-third of the sentence may be granted for good behaviour in custody.

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

Reduction of one-third of sentence may be granted to all prisoners for good behaviour in custody. Prisoners who have Hong Kong permanent residence status may be eligible to apply for early release under supervision.

What provision is there for clemency or pardon?

The Chief Executive can exercise his power to grant pardon / early release for a prisoner with serious illness if it is considered that his life may be endangered if he remains in prison.

What about any financial penalties?

It depends on individual cases. Financial compensation to victims or confiscation of proceedings from illegal means may be ordered by the court.

Is transfer to another prison within Hong Kong possible?

Requests for transfer are only considered when there are exceptional and compassionate reasons. However, Hong Kong Correctional Services Department can transfer prisoners to other prisons in Hong Kong on administrative grounds

Is transfer to the UK a possibility?

There is a Prisoner Transfer Agreement between the UK and Hong Kong. To transfer, you must:

- be a British citizen or have close family ties with the UK (normally through permanent residence in the UK)
- not be awaiting trial
- have exhausted all appeals against your conviction and/or the length of your sentence; or have waived your right to an appeal
- have at least 24 months of your sentence left to serve when you apply for transfer
- have no outstanding fines or other non-custodial penalties

The offence you were convicted for must also be a criminal offence in the part of the UK you wish to be transferred to: England, Wales, Scotland or Northern Ireland.

A prisoner does not have the automatic right to transfer. Each request is considered on its individual merits. The authorities in the sentencing country may refuse your request. You should be aware that even if the sentencing State agrees to your transfer, the UK authorities may also refuse your request. Reasons for this might include if you have not lived in the UK for a number of years and you have no close family residents there.

Prisoners should inform their Prison Superintendents of their interest in applying for prisoner transfer. The prison will then submit the application to Hong Kong Security Bureau to prepare the necessary documentation. Please note the transfer process takes at least 18 months.

**To find out more about transfers to the UK: [In prison abroad: transfer to a UK prison](#)
What are the procedures for release and deportation?**

A Deportation Order will be issued against a person who has been found guilty of an offence punishable with imprisonment for not less than 2 years or, if the Hong Kong Chief Executive deems it to be conducive to the public good.

Hong Kong Immigration Officers will visit those prisoners to whom deportation orders are going to be issued to establish and assess their immigration status in Hong Kong. Appeal against deportation will only be considered on compassionate and humanitarian grounds (e.g. close link with Hong Kong). Upon release from prison, prisoners awaiting deportation will be transferred to the Immigration Detention Centre and arrangements will be made for a flight back to the UK. If a request is made to be deported / removed to a country other than the UK, prisoners need to prove their right of abode in that country and the Hong Kong Immigration Department will need to seek agreement from that country.

In general, Hong Kong Government will pay for air-tickets and will usually arrange the quickest flight available when possible.

Sometimes people find that they face difficulties adjusting to life in the UK once they have left prison. You may find yourself ready for life on the outside but not prepared for living in the UK. Possibly you have never lived in the UK and have no connections there, or perhaps you have lost touch with friends and family. You may simply want to talk to another person who understands what you have been through, to help you consider what to do next. If you are registered with Prisoners Abroad you can visit Prisoners Abroad when you first arrive back in UK for advice, to take a shower, use their temporary luggage store, make essential phone calls or use a computer. If you have no belongings Prisoners Abroad may be able to help with basic toiletries and finding suitable clothing. If you know your release date in advance it is best to write and tell your caseworker when you are likely to arrive and what help you think you might need. If you have no money and nowhere to go, Prisoners Abroad's Aftercare Service can help with:

- advice on finding emergency accommodation in the London area
- claiming welfare benefits, including emergency benefit payments if you are destitute
- making appointments with doctors and dentists
- putting you in touch with local agencies if you are not returning to the London area.

Later on you may want advice on housing, looking for work, applying for training or getting counselling. Prisoners Abroad can refer you to the right agency.

Other sources of practical help back in the UK are The Salvation Army – UK Helpline 020 7367 4888, Monday to Friday 8 AM to 4 PM, or contact your local Salvation Army branch – and The Prison Fellowship, UK Helpline 020 7799 2500, Monday to Friday 9 AM to 5 PM.

Would I have a criminal record in the UK?

We will not normally pass on information about your case to a third party without your consent. However, if you're arrested for certain serious offences, such as child sex abuse or drugs crimes, our staff must tell other relevant UK authorities. It is therefore possible that information about this may appear if a Criminal Records Bureau check were carried out by a prospective employer.

Chapter 4: Additional Information

Additional Information

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 awaiting charge or trial. 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
- 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, in a few cases, 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 and Tuesdays 9.30 am to 6pm, and Wednesdays to Fridays 9.30 am to 4.30 pm, UK time)

Email: info@prisonersabroad.org.uk

Website: www.prisonersabroad.org.uk

Glossary of Terms

Useful legal terms

The Hong Kong useful legal terms can be found at <https://www.elegislation.gov.hk/glossary/en>. It is a useful reference tool for locating bilingual legal terms and expressions used in the Hong Kong legislation.

Annex

1. List of English-Speaking Lawyers
2. List of Private Translators/Interpreters
3. FCDO leaflet: Support for British Nationals Abroad: Summary
<https://www.gov.uk/government/publications/support-for-british-nationals-abroad-a-guide/support-for-british-nationals-abroad-summary>.
4. FCDO leaflet: In Prison Abroad: Transfer to a UK Prison
<https://www.gov.uk/government/publications/in-prison-abroad/in-prison-abroad-transfer-to-a-uk-prison>
5. Prisoners Abroad Authorisation Form
6. Prisoners Abroad Family Contact Form
7. Useful phrases and vocabulary (English to Chinese)