



Home Office

Immigration bail conditions: Electronic monitoring (EM) expansion pilot

Version 1.0

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About this guidance

This guidance sets out the process for decision makers when considering electronic monitoring as a condition of immigration bail for persons who fall within the scope of the electronic monitoring expansion pilot, which will operate for 12-months from 15 June 2022.

This guidance is only to be used for persons who fall within the scope of the pilot and does not replace the existing Immigration bail guidance.

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 **1.0**
- published for Home Office staff on **15 June 2022**

Changes from last version of this guidance

This is new guidance.

Related content

Immigration bail

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Related external links

[Schedule 10 to the Immigration Act 2016](#)

Introduction

From 15 June 2022, a 12-month pilot will operate and will test whether electronic monitoring (EM) is an effective means by which to improve and maintain regular contact with asylum claimants who arrive in the UK via unnecessary and dangerous routes and more effectively progress their claims toward conclusion.

Individuals who fall within the scope of the pilot should be considered for electronic monitoring unless either to do so would breach Convention Rights or it would not be practical to do so. The guidance sets out the scope of the pilot and should be read in conjunction with the Immigration bail guidance document.

Schedule 10 to the Immigration Act 2016 provides for the ability to apply an electronic monitoring (EM) condition upon individuals who are liable to detention in accordance with Paragraph 2(1)(e) of Schedule 10.

Any person residing in England and Wales who is liable to detention may be granted immigration bail subject to an EM condition if justified by the circumstances of the case. Due regard should be given to the need to seek representations and the need to conduct regular reviews.

There has been an unprecedented growth in irregular migration through unnecessary and dangerous routes, to the point where this represents a significant challenge to the operation of effective immigration control. Those arriving via such routes are a relatively unknown cohort to the Home Office and we do not know much about their individual circumstances or the routes they have taken to travel to the UK.

A significant number of people who arrive in the UK via unnecessary and dangerous routes claim asylum. A proportion of these asylum claims will fall to be considered under the Inadmissibility policy. If someone is inadmissible, our Immigration Rules allow asylum claims to be declared inadmissible and not substantively considered in the UK, if the claimant was previously present in or had another connection to a safe third country, where they claimed asylum or could reasonably be expected to have done, provided there are reasonable prospects they can be removed in a reasonable time to a safe country.

Additional to the inadmissibility policy, the UK has entered into the Migration and Economic Development Partnership (MEDP) with Rwanda. In this first stage of applying the policy, relocation of individuals from the UK in accordance with the MEDP are intended to deter people from making dangerous journeys to the UK to claim asylum, which are facilitated by criminal smugglers, when they have already travelled through safe third countries. In particular, but not exclusively, this is aimed at deterring arrivals by small boats.

For individuals who are informed that they are to be removed under the inadmissibility policy, there may be an increased risk of absconding and less incentive to comply with any conditions of immigration bail than for those who are to have their asylum claims considered by the UK. If individuals abscond or do not

maintain contact with the Home Office, this presents difficulties in progressing their immigration case.

A further proportion of individuals will have claims which are suitable to consideration under the detained asylum casework (DAC) process. Some of those individuals, for specific reasons, will either not be inducted into that process or will “drop-out” of the process either prior to or soon after an initial decision has been made on their claim. Again, there may be less incentive to comply, particularly for those who have received an initial decision refusing asylum.

A pilot will operate, for a period of 12 months, with the purpose of establishing whether electronic monitoring is an effective way to improve and maintain regular contact management with asylum claimants who arrive in the UK via unnecessary and dangerous routes, in order to progress their immigration case. We will also be able to test the rate of absconding and obtain data on how frequently this happens, as well as developing a greater understanding of the stages in the process it is likely to occur and establish if electronic monitoring and associated improvements in contact management prevent absconding.

If anyone does abscond and therefore breaches their conditions of bail, we will also be able to test whether we are able to use this knowledge to more effectively re-establish contact with individuals or locate them for removal or detention if appropriate in their case. Trail data will be held by the EM supplier but may be accessed by the Home Office where one or more of the following applies and where proportionate and justified in the circumstances in accordance with data protection law:

- a breach of immigration bail conditions has occurred, or intelligence suggests a breach has occurred to consider what action should be taken in response to a breach up to and including prosecution
- where a breach of immigration bail conditions has occurred, which has resulted in the severing of contact via EM, trail data will be used to try to locate the person
- where it may be relevant to a claim by the individual under Article 8 ECHR
- to be shared with law enforcement agencies where they make a legitimate and specific request for access to that data

Electronic monitoring under the pilot will only be applied where its application does not breach an individual’s Convention Rights or it is practical to do so. Convention rights should be considered to mean Human Rights under the Human Rights Act 1998 and European Convention on Human Rights (ECHR).

Movement between devolved administrations

Where a person is granted immigration bail whilst in England or Wales with an EM condition managed by the Secretary of State and they move to Scotland or Northern Ireland any EM imposed under the pilot scheme should be ceased on practicality grounds. Where the First-tier Tribunal retains control of the immigration bail they should be notified that the Secretary of State no longer deems EM appropriate and

considers the use of electronic monitoring to now be either impractical or a breach of a person's Convention Rights, depending on the facts of the case.

Where a person is granted bail whilst in Scotland or Northern Ireland and moves to England and Wales consideration may be given to whether there are any exemptions to the imposition of EM as set out in [Use of EM](#) and [Representations](#). If the First-tier Tribunal has retained control of immigration bail and EM is considered appropriate a variation of bail conditions should be sought but only after representations have been sought and considered.

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

Official – sensitive: end of section

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Use of Electronic Monitoring (EM)

For the purpose of the pilot, EM is not appropriate in any case where:

- a person is under the age of 18
- a person is released from detention under Sections 37 or 41 of the Mental Health Act 1983 where the person remains subject to a supervision order
- a person is pregnant (18 weeks +) or has recently given birth (up to 3 months post-partum)
- a person is to reside or is resident in Scotland or Northern Ireland

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Immigration bail conditions: EM conditions

An Electronic Monitoring (EM) condition is a condition that requires the bailed person to cooperate with any arrangements the Secretary of State specifies for detecting and recording by electronic means one or more of the following. The bailed person's:

- location at specified times, during specified periods of time or while the arrangements are in place
- presence in a location at specified times, during specified periods of time or while the arrangements are in place
- absence from a location at specified times, during specified periods of time or while arrangements are in place.

The arrangements with which the person must cooperate may include the bailed person:

- wearing an electronic monitoring device and facilitating arrangements for its detection, which may include installation of electronic monitoring equipment at a specified address, and presenting a device upon request by an authorised officer
- making specified use of an electronic monitoring device
- communicating in a specified manner and at specified times or during specified periods
- allowing people other than the Secretary of State or the First-tier Tribunal to exercise electronic monitoring functions

As the Home Office uses a Global Positioning System (GPS) device to electronically monitor a person, a curfew is not mandatory. However, curfew and other supplementary conditions should be considered according to the guidance set out below. If a curfew condition is required, or to extend the life of the GPS device battery, or where limited GPS signal is available, the GPS device (tag) may also use radio frequency technology whilst in a property where a home monitoring unit is installed. This remains a GPS device with dual capability and shall be referred to as a GPS device from this point.

A GPS device may be used in conjunction with a Home Monitoring Unit where there is a fixed address in order to support extending the life of the battery in the GPS device even where a curfew is not in place. A Home Monitoring Unit (HMU) may also be installed in residences where limited GPS signal is available.

Where the person is not issued with a Home Monitoring Unit a mobile phone will be issued to the person to allow contact to and from the EM supplier. The EM supplier will provide the person with information relating to the use and maintenance of the mobile phone.

Practical reasons

The Secretary of State may decide not to impose an EM condition if the Secretary of State considers that to do so would be impractical. For the duration of the pilot, there will be fewer devices available than the number of individuals who will fall under the scope of the pilot. As a result, there will be a need to regulate the use of devices.

There may be practical issues arising from the person's personal circumstances and any reasons why they may not be able to comply with the conditions which are to be placed upon them. For example, an individual may reside in a property which has both a poor GPS signal and is not served by electricity. Practical issues will not necessarily mean that electronic monitoring is not appropriate, but decision makers should give careful consideration as to whether to proceed with monitoring.

Representations

Where authority has been given on behalf of the Secretary of State to release on immigration bail (under paragraph 1 of Schedule 10 to the Immigration Act 2016) and it is considered that such bail should be subject to EM, the case worker must invite representations from the person concerning EM and any supplementary conditions in advance of a final decision about release. Where a person has not yet been granted bail, they must be given 3 working days to provide representations. The case worker must consider those representations in order to make a final decision regarding the imposition of EM or a supplementary condition within 24 hours of receipt of representations.

Where a person is already subject to immigration bail and it is considered that bail ought to be varied to include an EM condition, representations should be invited. In these cases, the person must be given 10 days to provide representations. Representations should be invited using the following forms:

- BAIL 211 where a provisional decision has been made to grant bail to a detained person and apply a particular GPS EM condition/supplementary condition or to vary a person's bail to include a particular EM condition/supplementary condition
- BAIL 212 where in the rare event that for public safety reasons a Radio Frequency device is considered appropriate.
- BAIL 214 where a provisional decision has been made to place a person on EM from a position of liberty.

In cases where representations have been made against a curfew condition, inclusion or exclusion zone, the final decision whether to proceed with the proposed condition must be made at no lower than Deputy Director level.

Any representations received after the relevant response date has passed must still be considered as a matter of urgency. The case owner must notify the individual of the outcome within 5 working days. Where it is considered that the EM condition against which the representations were raised is disproportionate, the immigration bail conditions must be updated and served upon the person. The EM supplier must be advised that the condition should be ceased with immediate effect.

Levels of authority

In order to ensure that appropriate decisions are made in relation to the use of EM certain key decisions will need the authority of a senior officer as set out below:

Decision being made	Minimum authorising grade
To apply/maintain EM	SEO
Not to apply EM for a reason listed in Use of EM	SEO
To apply EM despite a reason listed in Use of EM	Assistant Director
Decision to cease EM monitoring	SEO
Decision to apply/disapply supplementary conditions	Deputy Director

The grades listed above are the minimum level of authority required. Dependent on the circumstances of the case it may be appropriate to seek authority at a higher grade.

Applying an EM condition

Where it is appropriate to apply an EM condition, bail may also be accompanied by one or more of the following supplementary conditions:

- a curfew (requirement to remain at a specified address during specified periods of time)
- an inclusion or exclusion zone (requirement to remain within, or not to enter, a specified area)

When considering the conditions of release on immigration bail the First-tier Tribunal may impose an EM condition on a person where they think it is an appropriate condition irrespective of whether the Secretary of State has requested this.

When granting immigration bail subject to EM the First-tier Tribunal is not required to impose any additional conditions requested by the Secretary of State (for example, a curfew or an inclusion or exclusion zone) unless it sees fit to impose such conditions. There will be some cases that may not be suitable for an EM condition for practicality reasons or because there is a risk that their rights under ECHR could be breached.

When reviewing the individual circumstances of the particular case and deciding whether it is appropriate to monitor a person, the following should be taken into consideration:

- whether there is strong independent medical evidence to suggest that an EM condition would cause serious harm to the person's mental or physical health
- whether a claim of torture been accepted by the Home Office or a Court
- whether there has been a positive conclusive grounds decision in respect of a claim to be a victim of modern slavery

- whether the person's mental capacity is deemed to be a bar to understanding the EM conditions and therefore their ability to comply for example, a person suffering with dementia
- whether the individual is suffering with phlebitis or similar conditions which cause swelling of the lower legs
- whether the individual is showing any signs of frailty or age-related conditions which may impact on the person's ability to wear and/or maintain the device

The above list is not exhaustive: decision makers must consider the individual circumstances of each case.

Meeting one or more criteria on the above list (or additional issues not listed above) should prompt the decision maker to consider whether EM is an appropriate course of action but does not in itself prohibit imposing such a condition. In many cases, even where there is some evidence in favour of removing EM, on balance it may still be appropriate to maintain EM due to other relevant factors. Where this is the case, there must be a clear statement (recorded in Home Office records) why EM is still considered suitable and this must be agreed by at least an Assistant Director. If you identify an individual who would otherwise appear to be suitable for EM but there are factors in the case which cause you to question suitability, please seek advice from your team leader. Decisions not to apply an EM condition for reasons not listed above must be made at SEO level or above.

It is expected that in any claims linked to either mental or physical health issues that medical evidence will be made available to substantiate that claim. It may be necessary to delay a decision to await medical evidence. Any additional period of time to submit medical evidence should be agreed between the decision maker and the individual or their representative and should not exceed 28 days. Where the individual is detained, any period of delay must be minimised to facilitate release. If no evidence is forthcoming at the end of that period a decision should be made and EM applied if appropriate in the known circumstances. Any decision should be reviewed upon receipt of any further evidence within 10 working days of receipt.

Electronic Monitoring: Implementation

The decision maker must inform the individual of their responsibilities regarding EM (and, if applicable, their supplementary conditions) both before and after the EM induction has taken place in order to answer any questions or concerns that an individual may have about the process.

It is important that decision makers inform the bailed person of their responsibilities regarding electronic monitoring and how their data can be used. These are as follows:

- being present at the specified address during a fixed period in order for EM equipment to be installed
- reading and fully understanding the fact sheet that is given to them – this explains their EM condition in detail and how their personal data will be used

- reading and fully understanding the conditions which relate to their immigration bail including how to maintain the device
- maintaining their EM device and any mobile phone issued to them as outlined in the induction leaflets issued by the supplier to include charging the device daily until fully charged
- not damaging/allowing another to damage the EM device or preventing/allowing another to prevent the EM device to function as intended
- contacting the monitoring centre and the decision maker immediately if problems occur with their telephone line, tag or monitoring equipment
- ensuring that they report at the times and days specified in their BAIL 201
- in the event of an emergency which means that they have to enter an exclusion zone or leave an inclusion zone, they must notify the decision maker and the monitoring centre either during the emergency or as soon as possible thereafter
- in the event of an emergency which means that they have to leave home and are unable to be monitored electronically during any curfew period, they must notify the decision maker and the monitoring centre either during the emergency or as soon as possible thereafter - decision makers must make individuals aware that they would need to prove the emergency in the form of documentary evidence, for example, medical certificate
- trail data will be held by the EM supplier but may be accessed by the Home Office where one or more of the following applies and where proportionate and justified in the circumstances in accordance with data protection law:
 - a breach of immigration bail conditions has occurred, or intelligence suggests a breach has occurred to consider what action should be taken in response to a breach up to and including prosecution
 - where a breach of immigration bail conditions has occurred, which has resulted in the severing of contact via EM, trail data will be used to try to locate the person
 - where it may be relevant to a claim by the individual under Article 8 ECHR
 - to be shared with law enforcement agencies where they make a legitimate and specific request for access to that data
- anonymised data may be used to understand the impact of EM and the behaviours of those on EM to continuously improve the service and to inform immigration policy, in accordance with data protection law
- anonymised data may be used to identify breaches of bail conditions and identify any links to potential criminal networks

The EM Supplier will notify the EM Hub of the outcome of address suitability assessments and inductions. The EM Hub will then notify the decision maker and update Atlas/CID (notes and events tab within restrictions screen).

If induction is successful, there is no further action required by the decision maker in relation to the commencement of EM services.

EM address considered unsuitable

If the EM contractor reports that a proposed immigration bail address is deemed unsuitable for EM services, the EM Hub will notify the decision maker that an

alternative address is needed in order to install EM equipment. The relevant sections of the BAIL 206 must be issued to end the live EM order with the EM supplier.

The decision maker must then consider how to proceed with the case, seeking assistance as necessary from their managers. Further consideration may be given to whether an EM condition remains necessary for a grant of bail and, if so, what alternative address could be sourced for the person. If a new address is sourced, a new tagging order must be made and a fresh BAIL 206 completed. This scenario is more likely to occur where a HMU is required to be installed owing to the presence of a curfew, although in some cases a poor GPS signal may also make the property unsuitable.

No fixed abode

The lack of a permanent address should not automatically result in an exemption from imposing an EM condition under the scope of this pilot. Consideration must be given to both the person's personal circumstances and the practical implications of requiring regular charging. Particular consideration should be given to whether the person has access to an electrical supply on a daily basis (or at least every other day).

Where it is considered appropriate to apply the duty the default address to be used is the reporting and offender management (ROM) to which the person will be reporting. Checks will be made at the first reporting event and at the point of any EM reviews to establish whether the person now has a stable address and if so ensure that personal records are updated.

Failed EM inductions

The Home Office will seek to have an EM device fitted at the point of release wherever this is practical. Where this is not practical the device will be fitted at a ROM or the person's home address.

The EM supplier will attend the specified address to apply the EM device to the bailed person. If the supplier is unable to complete this induction, the supplier will notify the EM Hub of the failure. Where the person is being released from detention the implementation of EM will be a condition of release onto bail and as a result consideration must be given to whether release can continue. The decision maker will need to consider the reason for failure for example, was it as a result of non-compliance on the part of the individual, failure of the equipment etc, consideration must also be given to how long it may take to resolve an issue such as equipment failure. The decision maker will then choose one of the following options:

- maintain detention for those being released from immigration detention (it may be necessary to provide new detention papers to the place of detention)
- allow release to continue on the understanding that the device will be fitted at an alternative address at a specified date and time

The EM supplier will automatically arrange a second attempt to fit the device, either at an IRC or alternative address. The decision maker must request that the EM Hub notifies the EM supplier if the location for fitting has been amended. If the second attempt to induct the bailed person is successful, no further action is required by the decision maker in this regard.

However, if the second attempt fails, the EM supplier will make no further attempt to install the EM equipment or apply the EM device to the bailed person. The supplier will notify the EM Hub of the failure. The EM Hub will notify the decision maker and request BAIL 206 is completed to end the tagging order with the EM supplier.

The decision maker must investigate the reasons for failure to induct before requesting further induction visits. If these enquiries indicate the bailed person has absconded, attempts to implement EM must cease and the absconder process must be followed.

If these enquiries indicate the bailed person is unable to access the property for some reason, the decision maker must consider asking the bailed person to provide an alternative address before re-instigating the EM service.

If the enquiries confirm the bailed person is residing at the address, a new BAIL 206 must be completed and resubmitted to the EM Hub for their action.

If a second round of attempts to induct the bailed person fail, more detailed enquiries must be made. It may be necessary, following any enquiries being made, to consider alternatives to EM at this stage including but not limited to the application of sanctions for non-compliance with immigration bail. For further information see Non-compliance with immigration bail: administrative penalties.

Where a HMU is also required and the bailed person fails to comply with a request to allow entry to the EM Supplier, the EM Supplier will notify the EM Hub of the failure to install the HMU and will re-schedule one further visit. Failure to comply with the installation of an HMU will be considered as a breach of bail conditions and consideration will be given whether to take further action against the person.

Electronic Monitoring: additional requirements

If the First-tier Tribunal or Secretary of State grants bail with EM conditions, the caseworker must task the EM Hub on Atlas with producing the release paperwork and arranging EM induction at source. The caseworker must also ensure a recent Police National Computer (PNC) check has been conducted on the person to be tagged – a PNC check is required because of the Home Office duty of care to the contractor – the contractor will use this information when risk assessing the proposed induction. Instructions for PNC checks are dependent on existing local arrangements.

The EM Hub produces the Notification to Contractor of New (or Variation to Existing) Electronic Monitoring Condition form (BAIL 206) and forwards it to by email to EMS. As part of this process the EM Hub must:

- ensure that a photograph of the person is attached to the BAIL 206 in order that the EM Contractor can identify the correct person to induct and tag
- provide the EM Hub's contact details on the BAIL 206, these are:

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The decision maker is responsible for ensuring decisions have the appropriate authorisation and Atlas is updated correctly.

The EM Hub will check the appropriate authority has been given for the use of EM and any supplementary conditions and will complete the BAIL 206. Any paperwork without an appropriate authorisation, or which is incomplete, will be returned to the case owner for remedial action. The EM Hub mailbox is constantly monitored in working hours and any paperwork which requires amendment will be returned to the caseworker within 24 hours.

Once the EM Hub is satisfied that the paperwork is correct, it will refer the case to the EM Contractor to arrange induction of the bailed person.

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Immigration bail supplementary conditions: other

Under paragraph 2(1)(f) of Schedule 10, a person may be subject to ‘such other conditions as the person granting the immigration bail thinks fit’.

Any such condition must be reasonable, and it must be necessary to meet the purpose of the grant of the immigration bail. For example, decision makers may require a person granted immigration bail to notify the Home Office of a change of circumstances, a change of address or require them to surrender their passport if there is reason to believe that the person might deface or destroy the document to obstruct return to the country of origin or country from which the person arrived.

Immigration bail supplementary conditions: curfews, inclusion or exclusion zones

GPS Electronic Monitoring (EM) can operate effectively without the use of a curfew or an inclusion/exclusion zone. Supplementary conditions are more likely to be justified where there is clear reason to suspect that the person poses a high risk of absconding, but immigration detention is not appropriate.

In all cases the decision maker must be able to justify the use of the supplementary condition in relation to the risk of harm, reoffending and/or absconding and/or any previous offending pattern. Decision makers must clearly identify and fully describe the risk of harm and/or risk of re-offending or absconding posed by the individual to be subject to a curfew, inclusion or exclusion zone. The decision maker’s consideration process must demonstrate why a supplementary condition is necessary in the particular circumstances of the case. If the decision maker is requesting one or more supplementary conditions, the justification for each must be set out separately and include:

- the intended aim of the named supplementary condition or conditions
- the risks of not applying the named supplementary conditions or conditions
- what the named supplementary condition or conditions can achieve that cannot be realised by other immigration bail conditions

In cases identified as suitable for a curfew, inclusion or exclusion zone conditions, the decision maker must do the following:

- request an EM immigration bail condition and additionally for curfews state clearly the curfew period or periods sought setting out the reasons for requesting the curfew, and the requested length and timing (its aim and the risks if curfew is not imposed)
- for inclusion or exclusion zones, state clearly the reason for requesting it, the inclusion or exclusion zone required using available mapping tools supported by a description of the affected zones (its aim and risks if not imposed) - it must

also clearly state the periods that the zone will be in operation for, including where that is 24 hours every day

For example, if a decision maker requests a curfew and the aim of the curfew is to reduce the risk of re-offending, there must be a logical connection between the length and timing of the requested curfew period or periods and the previous offending pattern. Another example could be demonstrating how the particular location and size of an inclusion or exclusion zones would reduce the risk of harm.

In all cases the decision maker must be able to justify the use of the supplementary condition in relation to the risk of harm, reoffending and/or absconding and/or any previous offending pattern. It will then be the decision of the First-tier Tribunal or Deputy Director, as appropriate, to determine if the requested supplementary condition or conditions are proportionate and justifiable. If it is concluded that the requested supplementary conditions are not proportionate or justifiable in the circumstances of the case, the request will be refused.

Where the decision is made by the Deputy Director (Grade 6) the decision maker must give the person to be granted bail an opportunity to make representations about a supplementary condition before the supplementary condition is put in place as set out in Representations above. Where the decision maker is the first-tier Tribunal the person or their representative may make their representations during the bail hearing.

EM (and linked supplementary conditions): Review

The use of EM (and any linked supplementary conditions) requires regular monitoring to ensure that they remain proportionate.

Whilst the review of EM will typically be undertaken by the EM Hub, it is essential that all decision makers ensure that there is regular review of EM.

The use of EM and all supplementary conditions to EM must be reviewed by a decision maker in any case allocated to them:

- on a rolling quarterly basis (such as 3 months since the most recent review)
- when they receive any representations on the matter, including requests to vary the condition, from the individual or a person acting on their behalf
- whenever information on a breach of the condition is received
- when a request is made by another decision maker

Decision makers must use the relevant review pro forma to carry out reviews and must consider:

- the need for continued monitoring
- the continued necessity of the supplementary condition or conditions – whether each supplementary condition is still necessary or if the circumstances changed sufficiently that each supplementary condition no longer serves its intended purpose

- the proportionality of the supplementary condition – whether the current restrictions imposed by that condition are still appropriate as follows:
 - curfews – both in terms of timing and length, whether there is a basis on which to alter the curfew, for example if family circumstances have changed significantly or they have been transferred from a radio frequency device to a GPS device
 - Inclusion or exclusion zones – in terms of the location, size and number of zones, for example does the reason for setting the zone still apply
- any challenge to the supplementary conditions or conditions – whether there has been a challenge to the supplementary condition or conditions from the individual or legal representatives, whether an argument has been made and how strong this is

The purpose of the review is to ensure that the individual remains suitable for both EM and any supplementary condition or conditions and any EM or conditions continue to be necessary and proportionate in light of the facts at the date the review is undertaken. Factors to be taken into consideration will include, but are not limited to:

- the overall time spent on EM
- the risk of absconding
- the risk of harm posed to the public
- the expected time until removal
- any vulnerabilities
- compliance with immigration bail

The general expectation is that a person who poses a greater risk of harm and/or has been less compliant with immigration bail will remain on EM longer than a compliant person who poses a lower risk of harm. Decisions will be made on Convention Rights grounds or on the basis that it is impractical to do so given the person's individual circumstances.

Any decision maker who wishes to propose an amendment to either EM or a supplementary condition must seek at least higher executive officer (HEO) agreement within their command for this variation.

The outcome of the review of EM and of any supplementary condition or conditions, including the consideration undertaken by the decision maker and any escalation to HEO or higher, should be recorded in a comprehensive file minute and on Atlas. Where there is a proposal to add/extend any existing conditions the decision maker must give the person to be granted bail an opportunity to make representations about a supplementary condition before the supplementary condition is put in place as set out in Representations.

Where a review is prompted by a breach of EM conditions the individual must be invited to submit mitigation for that breach and should be allowed 10 working days to submit their response. Consideration of the response to breach should not take place until after those 10 working days have expired unless the breach has effectively severed contact between the individual and the Home Office such as they

have removed the device or otherwise stopped it from communicating with the monitoring system. In those circumstances, consideration of the response to the breach may continue without delay.

If a review is conducted as a result of representations by, or on behalf of, an individual, the decision maker must provide a comprehensive response to the representations within 20 working days of the date on which the representations were received. There is no requirement to share the outcome of the other EM reviews (that is, any carried out without representations by or on behalf of the individual). However, the outcome of supplementary condition reviews may, as required, be shared with the individual at a future date as part of any response to further challenge or litigation.

The BAIL 215 EM Representations Response Letter should be used to respond to representations.

Breach of EM immigration bail conditions

Any breach of EM related immigration bail conditions will be notified to the Home Office by the EM Supplier.

Following a breach of EM conditions, it will be necessary to seek explanation for the breach from the person/the person's representative using form BAIL 204. The timings outlined in [EM and linked Supplementary Conditions: review](#) will apply. Consideration of any response will be made by the EM Hub or the GPS Expansion Casework Team. Where the explanation submitted is not considered sufficient to discount the breach (or where no explanation is submitted) the following action may be taken:

- variation of bail
- casework prioritisation
- request to First-tier Tribunal to vary bail
- consider detention for removal
- administrative arrest
- prosecution

The appropriate action will depend on the nature and frequency of breach, the level of harm posed by the person and any previous history of non-compliance. Prosecution is more likely to occur where the breach relates to refusal to comply with induction onto EM, deliberate attempts to remove or damage a device, to tamper with the device so that it fails to operate correctly. Any prosecution will be undertaken by the Home Office under Section 24(1) of the Immigration Act 1971.

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If the explanation provided is considered an acceptable justification of the breach committed, then the person should be notified using the mitigation response template.

BAIL 216 EM Breach Mitigation Response Letter (Warning Letter)
BAIL 217 EM Breach Mitigation Response Letter (Action Required)

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