



Home Office

Immigration bail conditions: Electronic monitoring (EM) expansion pilot

Version 2.0

Contents

Contents.....	2
About this guidance.....	3
Contacts	3
Publication.....	3
Changes from last version of this guidance	3
Introduction	5
Movement between devolved administrations.....	6
Use of EM	8
Immigration bail conditions: electronic monitoring (EM).....	9
Practical reasons	10
Representations.....	10
Considering representations	11
Levels of authority for use of EM.....	12
Applying an EM condition	13
Electronic Monitoring: Implementation	14
EM address considered unsuitable	15
Accommodation where a person has been referred into the National Referral Mechanism	16
No fixed abode	16
Failed EM inductions	16
Electronic Monitoring: additional requirements	17
Immigration bail supplementary conditions: other	19
Immigration bail supplementary conditions: curfews, inclusion or exclusion zones	19
EM (and linked supplementary conditions): Review	20
Compliance with immigration bail	21
Vulnerabilities	22
Breach of EM immigration bail conditions.....	23

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. The pilot was originally due to operate for 12-months from 15 June 2022 but has been extended for a further 6 months to 15 December 2023. The extension of this policy will apply to those already subject to monitoring as well as new individuals to be monitored. It will also allow for further data to be identified and used within the final evaluation. The data collected by the 12 month stage did not provide sufficient evidence to establish whether the use of electronic monitoring is an effective tool for contact management or whether some cohorts are more suited to this form of contact management. This extension will ensure we have a clearer understanding of impact of Electronic Monitoring on an individual's effective contact management. This extension has been reflected throughout this guidance.

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 **2.0**
- published for Home Office staff on **23 June 2023**

Changes from last version of this guidance

Adjustments to:

- Introduction
- [Immigration bail conditions: electronic monitoring \(EM\)](#)
- Electronic monitoring: implementation
- Immigration bail supplementary conditions: other

Related content

[Contents](#)

Related external links

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

[Immigration bail](#)

Introduction

From 15 June 2022, an 18-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 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 is 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 their claims may be considered 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 18 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 within the pilot 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, to ensure the scope of the pilot remains consistent, as set out in [Use of EM](#). 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.

Official – sensitive: start of section

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

Official – sensitive: end of section

Related content

[Contents](#)

Use of EM

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

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

Related content

[Contents](#)

Immigration bail conditions: electronic monitoring (EM)

An electronic monitoring 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 (HMU) is installed. This remains a GPS device with dual capability and shall be referred as a GPS device from this point.

A GPS device may be used in conjunction with a HMU 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 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.

The device and the linked monitoring system are also capable of monitoring whether a person complies with 3 supplementary conditions – curfew, inclusion zone and exclusion zone. Criteria for setting these conditions are set out in [Immigration bail supplementary conditions: curfews, inclusion or exclusion zones](#).

The device requires the person to regularly charge the device and comply with other conditions as set out in their immigration bail conditions. Failure to act in accordance with immigration bail conditions constitutes a breach and should be considered in line with the guidance at [Breach of EM immigration bail conditions](#).

Practical reasons

In accordance with paragraph 2 of Schedule 10, 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

Prior to placing a person on an electronic monitoring condition, with or without supplementary conditions, representations must be invited from the person. The below sets out the representations process and timescales for different scenarios.

Where a person is already subject to immigration bail:

- 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

Where a person is detained:

- where authority has been given on behalf of the Secretary of State to release on immigration bail and it is considered that 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 - the person 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 one working day, of receipt of representations

Where a person was previously subject to an EM condition of bail, but was then detained for a brief period, and is then to be released again on bail, it will not be necessary to seek representations in the following circumstances:

- where the person has been detained for less than 2 weeks
- and, either:
 - release is as a result of legal proceedings lodged, or
 - release follows completion of a travel documentation exercise
- removal by chartered or scheduled flight has been cancelled for a reason other than the individual's non-compliance and
- the decision maker is not aware of any new information which may impact on the use of EM (see below)

Before release subject to an EM condition is authorised in the above circumstances, consideration must be given to any information revealed during the brief period of detention which may have an impact on the use of EM. This includes any information provided within representations which have led to release, or any information in regard to vulnerabilities, including information received from healthcare.

In all cases regard must be had to the matters set out in [Exercising the power to grant immigration bail](#), and the guidance set out in [Use of EM](#).

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

Where no representations have been received following service of a BAIL 214, and the person is already in a position of liberty, they should be provided with a BAIL 211 prior to the application of EM if supplementary conditions are to be applied or where more than 3 months have passed since the deadline for submitting representations.

Considering representations

Any representations received within the response timeframe must be considered when making a final decision regarding the imposition of EM or a supplementary condition. Decisions should be made based on the information provided in addition to information already known about the person with the response provided on a Bail 215. In all cases regard must be had to the matters set out in [Exercising the power to grant immigration bail](#), and the guidance set out in [Use of EM](#).

Representations must be considered and responded to in a timely manner prioritising cases where the person is already subject to EM and there is an indication that there is an immediate physical danger to the person followed by those whose release is imminent. Where representations were received within the stated response timeframe and the person is already on immigration bail the decision should be notified to the individual within 28 days of receipt of the representations.

Where representations were received within the stated response timeframe and the person is detained, the decision maker should seek to make the decision at least 3 days (excluding weekends) prior to that release date and notify the individual of the outcome.

Decisions should be made on the information provided in addition to information already known about the person, and responses provided on a BAIL 215. In all cases regard must be had to the matters set out in Exercising the power to grant immigration bail, and the guidance set out in Use of EM. It should not normally be appropriate to seek any further information in order to make a decision, but where it is necessary, a decision should be notified to the individual within 14 days of either the information being received or the target date for responding (whichever comes first). If the person or their representative has indicated that medical information is to follow the representations a delay may occur to facilitate this, but a decision should not be delayed more than 28 days.

Where representations are received after the response date and the EM Supplier has already been tasked to fit the device that order will continue to be implemented and a decision will be made after the implementation. Where the EM Supplier has not already been tasked a decision will be made before tasking proceeds.

Where it is considered that the EM condition against which the representations were raised is disproportionate the immigration bail conditions must be varied and served on the person, additionally the EM supplier must be advised that the condition should be ceased with immediate effect.

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.

Levels of authority for use of EM

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 being made	Minimum authorising grade
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.

See the **Use of EM: Vulnerability considerations** section within the main immigration bail guidance, noting that non-fitted devices are not available for the pilot.

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.

Accommodation where a person has been referred into the National Referral Mechanism

EM is acceptable in safe house accommodation provided to those who are being supported by the Home Office Modern Slavery Victim Care Contract (implemented by The Salvation Army), where that is the appropriate accommodation in line with the MSVCC accommodation policy set through the [Modern Slavery Statutory Guidance](#). In all cases regard must be had to the matters set out in [Exercising the power to grant immigration bail](#), and the guidance set out in [Use of EM](#).

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 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 reporting and offender management centre (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
- ensure that there is a harm assessment which highlights any violent behaviour
- identify the person's gender to ensure that where the person is/identifies as female, a female member of the supplier's staff is present at the induction
- provide the EM Hub's contact details on the BAIL 206, these are:

Official – sensitive: start of section

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

Official – sensitive: end of section

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.

Related content

[Contents](#)

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 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(s)
- the risks of not applying the named supplementary conditions(s)
- what the named supplementary condition(s) 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 (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 3 month EM 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. In all cases regard must be had to the matters set out in Paragraph 3(2) of Schedule 10 to the Immigration Act 2016, and the guidance set out in Use of EM.

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

Compliance with immigration bail

A person's compliance with both their immigration bail conditions and immigration control will provide an indication of the person's likelihood to remain in contact with the Home Office whilst their immigration matters are brought to conclusion. The less compliant a person, irrespective of the factors considered above, the more likely that they would remain on EM for a longer period. Particular consideration should be given to any periods where the person has sought to avoid contact by failing to charge their EM device or has in some way tampered with the device or its ability to operate properly. Additionally, regard should be had to whether the person has attempted to abscond or evade immigration control or if there has been a significant change in either personal circumstances or in the progress of their case that indicates that they may now pose a higher or lower risk of absconding. Examples may include where appeal rights have been exhausted or there have been multiple representations which have been rejected or removal is no longer imminent.

When considering whether it is appropriate to cease monitoring, and the person was placed on EM following a period of liberty (not including those released and tagged at home as part of their release conditions) consideration should be given to their general compliance with their bail conditions and case management prior to release.

Where the person was fully compliant before EM and has continued to remain compliant this should be considered when making a decision regarding compliance.

The imminency of removal should be considered in tandem with compliance with immigration bail.

Vulnerabilities

Evidence of vulnerability should always be taken into account, particularly as they can change over time. This includes any new vulnerabilities that have been brought to notice since the previous review and any evidence that there has been a worsening of any known medical conditions. A vulnerability doesn't necessarily mean that it is not possible to apply an EM condition as it may be appropriate to use a non-fitted device rather than a fitted device. See Vulnerability considerations. For further information see Use of EM.

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 a variation to EM or a supplementary condition must seek at least HEO agreement 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 an explanation for that breach by service of a Bail 204 with 14 days to submit their response. Consideration of the response to breach should not take place until after those 14 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 28 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.

Official – sensitive: start of section

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

Official – sensitive: end of section

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)

Related content

[Contents](#)