



Home Office

# **Criminal casework**

## **Detention of families**

## Detention of families

### About this guidance

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This guidance tells you how to approach the detention of foreign national offenders (FNOs) for deportation or removal, if the needs of any family members must be considered.</p> <p>It also tells you how detention is considered in various kinds of FNO family cases.</p> <p>Immigration offenders, people who have been convicted of other criminal offences, and their dependent family members, who are liable to either deportation or removal from the UK, are liable to be detained for that purpose. The powers enabling detention are:</p> <ul style="list-style-type: none"><li>• Conducive or court-recommended deportation: paragraph 2 of schedule 3 of the Immigration Act 1971.</li><li>• Automatic deportation: as above and section 36 of the UK Borders Act 2007.</li><li>• Administrative removal and illegal entrants: paragraph 16(2) of schedule 2 of the Immigration Act 1971, as applied by section 10(7) of the Immigration &amp; Asylum Act 1999.</li></ul> <p>There is a presumption of liberty, and detention must only be used in cases where it can be clearly justified and where there is a realistic prospect of removal in the near future. In criminal cases you must also take into account the risk of absconding and the risk of harm to the public when you decide if detention is lawful and necessary.</p> <p>The policy on detention and temporary release is set out in detail in chapter 55 of the enforcement instructions and guidance (EIG). For more information, see related link:</p> <ul style="list-style-type: none"><li>• 55 Detention and temporary release, and</li><li>• Criminal casework: Detention. This gives guidance on when and how adults should be detained for immigration purposes in certain circumstances.</li></ul> <p>However, following a commitment from government in December 2010, the policy on detention of children changed, and from 1 March 2011 detention of those under 18 ended, except for the most exceptional of cases, which only involve very brief detention and with</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p> <p><b>External links</b></p> <p><a href="#">Immigration Act 1971</a></p> <p><a href="#">UK Borders Act 2007</a></p>
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	<p>ministerial authority.</p> <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts - This page explains who to contact for help if your senior caseworker or line manger can't answer your question.</p> <p>Information owners – This page tells you about this version of the guidance and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find out more information.</p>	
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## Detention of families

### Changes to this guidance

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page lists the changes to the detention of families guidance, with the most recent at the top.</p> <table border="1"><thead><tr><th data-bbox="490 392 831 432">Date of the change</th><th data-bbox="831 392 1532 432">Details of the change</th></tr></thead><tbody><tr><td data-bbox="490 432 831 770">29 July 2014</td><td data-bbox="831 432 1532 770"><p>Change request:</p><ul style="list-style-type: none"><li>• Various changes made to ensure accordance with the Immigration Act 2014 provisions which took effect on 28 July 2014</li><li>• Amendment to approach for contacting local authority children’s services in children cases.</li></ul></td></tr><tr><td data-bbox="490 770 831 995">14 November 2013</td><td data-bbox="831 770 1532 995"><p>Six month review by the modernised guidance team:</p><ul style="list-style-type: none"><li>• Minor housekeeping and plain English changes throughout.</li></ul></td></tr><tr><td data-bbox="490 995 831 1145"></td><td data-bbox="831 995 1532 1145"><p>For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.</p></td></tr></tbody></table>	Date of the change	Details of the change	29 July 2014	<p>Change request:</p> <ul style="list-style-type: none"><li>• Various changes made to ensure accordance with the Immigration Act 2014 provisions which took effect on 28 July 2014</li><li>• Amendment to approach for contacting local authority children’s services in children cases.</li></ul>	14 November 2013	<p>Six month review by the modernised guidance team:</p> <ul style="list-style-type: none"><li>• Minor housekeeping and plain English changes throughout.</li></ul>		<p>For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Ending the detention of children for immigration purposes

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you about the end of detention of children for immigration purposes.</p> <p>On 16 December 2010 the government announced that the detention of children for immigration purposes would end, except for the most exceptional high-risk cases. On 1 March 2011 a new strategy for managing family returns was introduced.</p> <p>A family will usually be taken through the following stages of return:</p> <ul style="list-style-type: none"><li>• voluntary</li><li>• assisted</li><li>• required, and</li><li>• ensured.</li></ul> <p>Any family not willing to comply by the required stage will be managed through a range of strategies under the ensured process, but any plan to return a family under any of these methods must be approved by an independent family returns panel.</p> <p>This panel has no power to determine if departure is appropriate, but it does have authority to approve or otherwise recommend alterations to details of family return plans, with a constant regard for ensuring child welfare is safeguarded and promoted as detailed in section 55 of the Borders, Citizenship and Immigration Act 2009.</p> <p>More details about this process can be found in the criminal casework managing the return of families with children process instruction, and chapter 45 of the enforcement instructions and guidance. For more information, see related links:</p> <ul style="list-style-type: none"><li>• Managing the return of families with children</li><li>• Chapter 45 Families and children</li></ul> <p>You must follow these instructions when processing family cases. In cases where the foreign national offender (FNO) is a child, certain specific considerations and variations on</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p>Links to staff intranet removed</p>
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	<p>the usual deportation process apply.</p> <p>Full details of this can be found in criminal casework's Managing FNOs who are under 18 process instruction. For more information, see related link: <a href="#">Managing foreign national prisoners who are under 18</a>. In particular, caseworkers in criminal casework's minors, mothers and babies team (MMBT), which is dedicated to managing child FNOs, must familiarise themselves with the content of this instruction.</p>	
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## Detention of families

### Detained cases where authority was not obtained to separate the family unit

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the procedure caseworkers must follow in family cases where the foreign national offender (FNO) has been detained under immigration powers.</p> <p>You must use this guidance when the FNO has been detained under immigration powers after they have completed their custodial sentence, but no authority was sought to separate the family.</p> <p>When you seek to detain a FNO after they have completed their custodial sentence, the FNO has a family life in the context of article 8 of the European Convention on Human Rights (ECHR) and the family members are not detained, this is considered to be a decision to separate that family even though they have already effectively been separated by the imposition of that sentence.</p> <p>In criminal casework cases, any decision to separate a family must have the authority of the local assistant director (AD), which is needed when the decision to deport the FNO is made. This also applies to older cases where authority may not have been obtained before the decision to deport or detain the FNO. There should now be very few cases where authority to separate the family unit has not already been obtained, but if not, you must get AD authority as part of the next detention review.</p> <p>For more information, see related link: Detention reviews (adults).</p> <p>Once this authority is obtained, you must copy in the briefing and correspondence team (BCT) for management information purposes. For full details of the process for obtaining AD authority, see related link: Consideration and process.</p> <p>For more information on detention reviews, see related link: Criminal casework: Detention reviews.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Imminent release of foreign national offender (FNO) cases

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the procedure caseworkers must follow in family cases when a foreign national offender (FNO) is due for imminent release and there is not enough time to contact the usual child welfare agencies.</p> <p>In cases of FNOs due for imminent release with a family including children, there may not be enough time to contact the office of the children's champion (OCC) and relevant local authority children's services (LACS) in the usual way. In these cases, you must make contact by telephone, and record full details of any conversations, including the name and contact details of the social worker in the CID notes and Home Office file minutes.</p> <p>In imminent release cases where:</p> <ul style="list-style-type: none"><li>• it is not considered appropriate to release the FNO on expiry of their sentence</li><li>• detention will amount to a separation from their family unit and authority for this has not previously been given, and</li><li>• they are not subject to 2007 Act automatic deportation provisions or a court recommendation for deportation.</li></ul> <p>You may detain them on completion of sentence for a maximum of seven days. This allows criminal casework caseworkers to assemble the necessary information and seek authority from their assistant director to separate the family. If authority has not been obtained within seven days, it will be necessary to make arrangements to release.</p>	
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## Detention of families

### Mother and baby cases

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you how to approach the detention of pregnant mothers who give birth while in prison, and who is responsible for managing these cases.</p> <p>You will come across cases of female foreign national offenders (FNOs) who have given birth while serving their custodial sentence. You must manage these cases with particular sensitivity, both when the mother and baby are together in custody, or immigration detention where appropriate, and if the baby is later placed in the care of a relative or guardian in the community.</p> <p>Mother and baby cases are managed by the minors, mothers and babies team (MMBT), who are dedicated to handling this type of criminal casework case.</p> <p>MMBT must first establish if the child is a British citizen. If there is satisfactory evidence of this, with birth certificates or passports, they are not subject to immigration control. However, this does not mean it is not in the child's best interests to continue to accommodate them with their mother if she is to depart under the early removal scheme (ERS), or where removal has failed for technical reasons.</p> <p>In these cases, overnight accommodation in Cedars or Tinsley House at Gatwick Airport may be authorised, via your line management chain.</p> <p>A child may be temporarily placed elsewhere whilst its mother completes her sentence and/or detention pending deportation, with a view to being reunited with the mother at the point of departure.</p> <p>MMBT must establish whether the baby is still with the mother. If the baby is no longer in detention, they are required to liaise with the prison and local authority children's services to find out the child's whereabouts and what the circumstances of its care are likely to be when the mother is released and/or deported from the UK.</p> <p>MMBT must review the case of any mother and baby detained together in prison no later</p>	
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	<p>than one month before the end of the mother's custodial sentence. If it is appropriate for the mother to be detained under immigration powers afterwards, this will allow arrangements to be made for a mother and baby detention space in an immigration removal centre.</p>	
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## Detention of families

### Detaining child foreign national offenders (FNOs) on completion of their sentence

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you where to find out about the policy on the detention of foreign national offenders (FNOs) who are under 18 following completion of their custodial sentence.</p> <p>Chapter 55.5.3 of the enforcement instructions and guidance (EIG) sets out the procedures for detention in certain ‘special’ cases, including children. For more information, see related link: 55 Detention and temporary release.</p> <p>If criminal casework considers a child FNO needs to be detained for immigration reasons after they complete their sentence, CC must prepare a recommendation after they consult with immigration safeguarding coordinators and the office of the children’s champion (OCC), and referred to the independent family returns panel for advice, before ministerial authority is sought. For more information, see related link: 55 Detention and temporary release.</p> <p>More details on managing various aspects of child FNOs can be found in the related link.</p> <p>Further information on the detention policy, including details of how unaccompanied children are handled and the types of case usually deemed unsuitable for detention can be found in chapter 55.9 and 55.10 of the EIG. For more information, see related link: 55 Detention and temporary release.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Detaining foreign national offenders (FNOs) with parental responsibility

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This section tells you how to approach the detention of foreign national offenders (FNOs) who have parental responsibility for a child.</p> <p>Public protection is a key consideration underpinning the detention policy in criminal casework cases. If an ex-FNO meets the criteria for consideration of deportation, the presumption in favour of temporary admission or release may be outweighed by the risk to the public of harm from reoffending, or the risk of absconding.</p> <p>If you are considering detention there must always be a clear and reasonable prospect of deportation or removal in the foreseeable future. Detention is not lawful if it would exceed the period reasonably necessary for the purpose of enforcing departure.</p> <p>If the FNO has parental responsibility for a child, you must consider the best interests of any children in the family unit and how the FNO's detention will impact on them. If there is a subsisting relationship between the parent and child the best interests of the child will almost always be in the liberty of the parent, unless there are child protection concerns around the parent. If this is the case, you must consider if there are lawful grounds where the best interests of the child can be justifiably overridden.</p> <p>If detention is likely to result in a long separation that will have a significant adverse impact on a child, the FNO must be considered for release unless the risk of absconding and/or harm to the public is assessed as high.</p> <p>In cases of dangerous offenders whose detention is thought to be appropriate and criminal casework are seeking to deport, you must show the steps you plan to take to mitigate the potential damage which could affect the best interests of the children.</p> <p>The range of possible mitigating actions will vary from case to case, but examples include:</p> <ul style="list-style-type: none"><li>• Accommodating the FNO in an immigration removal centre close to where the child lives to enable regular visits.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p>
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- Making sure there are adequate telephone facilities to enable regular verbal contact.
- Making sure the child has recent photographs of their parent.

The specific factors which you must give consideration to are those which should already have been taken into account when deportation is considered. It is vital these considerations are made on the current facts when you decide:

- whether a parent should be detained for immigration purposes at the end of their sentence, and
- each time such detention is reviewed.

This process will apply whether criminal casework consider detention of a FNO parent for the first time, and when they later review detention.

## Detention of families

### Determining parental responsibility

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you about the specific considerations you must use when you assess if a foreign national offender (FNO) has parental responsibility.</p> <p>If a FNO is being considered for immigration detention at the end of their custodial sentence, the criminal casework caseworker must check to see if the FNO has any parental responsibilities. This means they have responsibility for one or more children aged under 18.</p> <p>It is good practice for you to contact the relevant local authority children's services (LACS) department at the earliest opportunity to establish family ties. See related link: Introduction to children and family cases. This means you have already begun to assess the issue of parental responsibility and recorded it. You must use the following sources to check for evidence of parental responsibility:</p> <ul style="list-style-type: none"><li>• CID records</li><li>• Home Office file records</li><li>• details provided in replies to ICD.0350 questionnaires</li><li>• LACS information (to find the correct LACS, see related link: GOV.UK – Find LACS)</li><li>• prison visiting records – some prisons may be willing to share information about visits from family members although this is not presently a universal agreement</li><li>• immigration removal centre records</li><li>• direct enquiries with parents</li><li>• other relevant sources applicable to the individual case.</li></ul> <p>If you identify parental responsibility, you must try to obtain proof of this where possible. For example by requesting:</p> <ul style="list-style-type: none"><li>• children's birth certificates</li><li>• copies of court orders</li><li>• evidence from passports.</li></ul>	<p><b>Related links</b></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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	<p>If there is doubt about the validity of a FNO's claims to have parental responsibility, you must make additional checks including further discussion with LACS and other sources, such as general practitioners.</p> <p>It is important to remember while current legislation allows for whoever is named on a child's birth certificate to be considered their legal parent, it is not necessarily evidence that a subsisting family life exists between that parent and the child. In these cases further evidence, beyond a birth certificate is required, for more information, see related link: <a href="#">Subsisting family relationships</a>.</p>	
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## Detention of families

### Subsisting family relationships

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the consideration you must give to the issue of a subsisting family relationship, where a foreign national offender (FNO) is believed to have parental responsibility.</p> <p>If it is identified a FNO has parental responsibility, criminal casework caseworkers must establish if there is a subsisting family relationship between them and their children. This will include whether the FNO was residing with the children before starting their period of remand or custodial sentence, and whether there has been contact with the children since the FNO has been in prison.</p> <p>If it is established the FNO has maintained meaningful contact with the children whilst in prison, you must confirm the frequency and type of contact. If there has been no contact, you must establish why (for example distance, age of the child). Contact arrangements vary between prisons and immigration removal centres (IRCs), and you must consider how a FNO can maintain contact with their children if they are moved to an IRC.</p> <p>To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:</p> <ul style="list-style-type: none"><li>• Local authority children's services</li><li>• Considering children's circumstances</li><li>• Considering the foreign national offender's (FNO's) circumstances.</li></ul>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Local authority children services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p>
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## Detention of families

### Local authority children's services

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the importance of caseworkers making contact with the local authority children's services (LACS) in cases where a foreign national offender (FNO) is believed to have parental responsibility and there is a subsisting family unit, which could be subject to family separation.</p> <p>If you are aware of previous social services involvement with a child or children you should contact LACS on receipt of the case. If you are considering a family split you need to contact LACS.</p> <p>All decisions regarding ongoing separation of children from their parents, and/or removal of children of FNOs must always take into account all information and comments provided by LACS. Pay particular attention to details of child protection concerns or possible risks to children from the parent in prison and effects on children's welfare of a parent's absence.</p> <p>The relevant LACS can be identified using the related link: GOV.UK – Find LACS. Contact details are given on the site.</p> <p>Some contacts with LACS can result in information that other services, such as the Youth Offending Teams (YOTs) or Child and Adolescent Mental Health Service (CAMHS), are involved with the child or family. If so, you must seek further information about the children's circumstances directly from these sources. If these particular services are relevant, see related links:</p> <ul style="list-style-type: none"><li>• Youth Justice Board – Youth Offending Teams</li><li>• Child and Adolescent Mental Health Service.</li></ul> <p>Details of contacts for other services can usually be found by searching the internet.</p> <p>When children are in the care of their LACS, you must contact them to:</p> <ul style="list-style-type: none"><li>• Inform them immigration enforcement will make a decision whether to continue</li></ul>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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detention at the end of the custodial sentence.

- Ask if there are any child protection or safeguarding issues in relation to the parent.  
And
- Ask if that parent is released would it be LACS' intention to reunite the child with the parent.

Criminal casework must also keep LACS informed of their consideration and intended action so they can prepare for the continued detention or release of the parent as appropriate.

To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:

- Subsisting family relationships
- Considering children's circumstances
- Considering the foreign national offender's (FNO's) circumstances.

## Detention of families

### Considering children's circumstances

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you why it is important to establish a full picture of a foreign national offender's (FNO) family situation once parental responsibility has been identified.</p> <p>It also tells you what information you must get and explains why this must be considered when deciding whether there is a subsisting family unit.</p> <p>You must get a full picture of the FNO's family, as it will inform all aspects of the immigration consideration process, not only detention of parents. The key information needed is as follows:</p> <ul style="list-style-type: none"><li>• Whether the FNO is a lone parent or was the main carer of the child or children before entering custody. If the FNO is a lone parent, or they are the main carer, or both parents are in custody, careful consultation with the agencies involved is essential.</li><li>• Whether the child or children are being cared for by the other legally recognised parent. If that parent and the FNO are separated, whether there are any formal custody arrangements.</li><li>• Whether it is intended for the child or children to return to the care of the FNO at the end of the FNO's custodial sentence.</li><li>• How many children:<ul style="list-style-type: none"><li>○ are in the FNO's family unit and their ages</li><li>○ have special needs.</li></ul></li><li>• What the impacts of the separation might be on the individual children. You must contact the local authority children's services (LACS) and the office of the children's champion (OCC) for advice in assessment for the following:<ul style="list-style-type: none"><li>○ young children may forget who a parent is if a subsisting relationship is not carefully managed</li><li>○ older children may be affected by the absence of parental guidance in areas such as bullying or physical development.</li></ul></li><li>• What the current care arrangements for the child or children are. Also, whether the child or children are residing with their other parent (where applicable), another family</li></ul>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children's services</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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member or in the care of their LACS. Where they are not in the care of the other parent, or LACS, whether there is any legal basis for the care arrangement as it stands, such as a residence order or care order. Where it is established that the FNO has entered into a private fostering arrangement, LACS must be informed.

- What the nationality and immigration status of the child or children are. These issues must be considered in the light of the judgment in 'ZH (Tanzania)'.

For more information see related link: [Establishing and considering children's best interests.](#)

If there is more than one child in the family unit, you must consider whether the children are still being cared for together or separately. If they are separated, you must investigate the reasons why and if it is due solely to the unavailability of the FNO to care for them. If so you must consider if they will all be reunited with the FNO on release. The views of the OCC must be taken into account when assessing the impact of separation on a child and deciding the steps taken to mitigate this, if the parent is detained.

If criminal casework considers deporting a FNO without their children, you must make sure satisfactory arrangements are in place for any children left behind in the UK. You may have to deal with issues normally outside your remit to fully satisfy child safeguarding obligations. You must not deport or remove a parent without either:

- Making sure any relevant children are being deported or removed with the parent. Or
- If the children are remaining in the UK, they have some type of leave to enter or remain, and are either in the care of their other parent, LACS, or subject of a residence order. Arrangements for these children must be formalised on a case-by-case basis before the deportation or removal of the FNO parent.

To decide whether an FNO has a subsisting family relationship, you must follow all of the instruction on the following related links:

- [Subsisting family relationships](#)
- [Local authority children's services](#)
- [Considering the foreign national offender's \(FNO's\) circumstances.](#)

## Detention of families

### Considering the foreign national offender's (FNO's) circumstances

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you what you must consider after obtaining a full picture of a foreign national offender's (FNO's) family situation. This must be considered when deciding if there is a subsisting family unit.</p> <p>Once you have established as fully-detailed a picture of the FNO's family as possible from the sources listed at related link: <a href="#">Determining parental responsibility</a>, you must take the following factors into account:</p> <ul style="list-style-type: none"><li>• Timescale of any probable removal, including country information, availability of travel documentation and outstanding appeals.</li><li>• Any impending prosecutions which might become a barrier to removal.</li><li>• Family court proceedings and whether these are likely to be a barrier to removal and any views expressed by the court. For more information, see related link: <a href="#">Children and Family Court Advisory and Support Services</a>.</li><li>• Article 8 of the European Convention on Human Rights (ECHR).</li><li>• Seriousness of the crime(s) committed.</li><li>• Harm assessment, including information available on the prison risk assessment (NOMS1) form.</li><li>• Judge's sentencing remarks.</li><li>• End-of-sentence reports.</li><li>• Licence conditions and/or Multi-Agency Public Protection Arrangement (MAPPA) rating and management level where applicable.</li><li>• Risk of absconding with the children.</li><li>• Risk of absconding and abandoning the children.</li><li>• Any relevant information about the FNO from the local authority children services (LACS). For more information, see related link: <a href="#">Local authority children's services</a>.</li></ul> <p>When you consider the risk of absconding and risk of harm, you must refer to the factors set out in chapter 55.3 of the enforcement instructions and guidance (see related link: <a href="#">55 Detention and temporary release</a>). In family cases, although it is not a deciding factor, you</p>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children's services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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	<p>must consider if the need to care for children and access services such as education and healthcare will mitigate the risk of absconding in individual cases.</p> <p>In these cases, you must keep the information on the family welfare form (FWF – ICD.3629) up to date. For more information see related link: <a href="#">Completing the family welfare form</a>.</p> <p>To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:</p> <ul style="list-style-type: none"><li>• <a href="#">Subsisting family relationships</a></li><li>• <a href="#">Local authority children’s services</a></li><li>• <a href="#">Considering children’s circumstances</a>.</li></ul>	
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## Detention of families

### Making the decision

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you how to reach a decision on whether to detain a foreign national offender (FNO) with parental responsibility for immigration purposes.</p> <p>Once all relevant information about a FNO and their family has been gathered, you must decide whether detaining that FNO is appropriate.</p> <p>You must make an assessment of the risk to the public and of absconding, and a consideration of the duty to safeguard and promote the welfare of children in the UK. The starting point for the latter decision is to establish the child's best interests and place those central to the consideration.</p> <p>If the separation of a parent and child is likely to be long, and continued separation may have a significant impact on the children, parents should be considered for release. This is unless the risk of absconding and/or the risk of harm to the public is assessed as high, in accordance with chapter 55.3.2.10 of the enforcement instructions and guidance. For more information, see related link: 55 Detention and temporary release.</p> <p>If there is evidence to suggest the parent could harm their child on release, this must be taken into account when you assess what is in the best interests of the child.</p> <p>Whilst this is relevant to the overall harm assessment, it does not in itself necessarily mean the detention of the FNO must be maintained. Any such case must be referred to the local authority children's services (LACS) for further advice on safeguarding the child in question and to establish suitable care arrangements for the child if and when the FNO parent is released.</p> <p>You must record all detention and release decisions on the Home Office file and CID, including detailed minutes and notes explaining how the family's circumstances have been actively considered.</p>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children's services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Maintaining contact between foreign national offender (FNO) and child

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you how you must consider maintaining contact between a foreign national offender (FNO) with parental responsibility and their children.</p> <p>If possible and appropriate, you must carefully consider how best to make sure contact between a detained FNO and their family can be maintained. This applies whether it is intended to remove the family together or to deport the FNO only, so separating the family.</p> <p>If the whole family unit is leaving the UK, you must carefully consider if a period of socialisation between the parents and children before removal is needed. You must consider this on a case-by-case basis taking into account such issues as:</p> <ul style="list-style-type: none"><li>• the children’s wellbeing</li><li>• immigration judge comments in any appeal determination around the proportionality of removal of the parent with or without the children</li><li>• article 8 of the European Convention on Human Rights (ECHR)</li><li>• office of the children’s champion (OCC) comments.</li></ul> <p>Socialisation between a child and a FNO normally takes place at a supervised visit at the immigration removal centre, and the local authority children’s services (LACS) may need to be present. To arrange such visits, you must contact detention services to discuss arrangements on a case-by-case basis.</p> <p>Once alternative accommodation facilities become available for the child, such as ‘open’ accommodation used in the new family returns process, it may be possible to consider if the family can be reunited there. This accommodation is only used for a short time immediately before removal and will not be a substitute for adequate socialisation before a parent and child are reunited. For more information, see related link: Managing the return of families with children.</p> <p>If the FNO will be deported without the children and there is little or no contact between them leading up to departure, you must carefully consider whether reuniting children with the</p>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children’s services</a></p> <p><a href="#">Considering children’s circumstances</a></p> <p><a href="#">Considering the foreign national offender’s (FNO’s) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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	<p>parent, only to separate them soon after will be more traumatic for the child to cope with. You must take advice about this possibility from the OCC and LACS if applicable.</p> <p>If there is ongoing contact between the FNO parent and children and Immigration Enforcement is deporting the FNO without the children, an opportunity should be provided for those children to say goodbye to their parent. The children's current carers and LACS must lead on this, and be involved in the planning of farewells. Immigration Enforcement's role is to provide a timeframe in which the farewell process can take place.</p> <p>For the full details of how to manage the process of the separation of families for the purposes of deportation, and detention pending deportation, see related link: <a href="#">Separating families for deportation and detention purposes</a>.</p>	
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## Detention of families

### Reviewing detention of a parent

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you how to make sure the impact on children of a parent's continued detention for immigration purposes is assessed.</p> <p>At each detention review, when you balance all relevant factors in the case, you must address:</p> <ul style="list-style-type: none"><li>• the impact of continuing detention of an ex-foreign national offender (FNO) on the children for whom they have parental responsibility, and</li><li>• any change in circumstances.</li></ul> <p>If there is a significant change in circumstances between the formal review periods, for example where new barriers to the parent's removal are likely to lengthen their detention, you must carefully consider whether the detention of the FNO remains justified.</p> <p>For more information on this process and general policy on detention, see related links:</p> <ul style="list-style-type: none"><li>• 55 Detention and temporary release.</li><li>• Detention reviews (adults).</li></ul>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children's services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Releasing foreign national offenders (FNOs) and family members from immigration detention

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the processes when the release of a foreign national offender (FNO) and their family members from immigration detention is considered appropriate, or is ordered by a court.</p> <p>In cases of FNOs and any family members who are detained for immigration purposes, it may become appropriate to authorise their release, either because:</p> <ul style="list-style-type: none"><li>• there is no longer sufficient justification for detaining the individual, or</li><li>• they have applied successfully for bail from a chief immigration officer (CIO), or the Immigration and Asylum Chamber (IAC).</li></ul> <p>Chapter 55.20.5 of the enforcement instructions and guidance gives details on how a person liable to deportation can be released on restrictions (temporary release for adults can involve reporting conditions, residence conditions and electronic monitoring).</p> <p>55.20.4 covers people liable to removal as an illegal entrant or administratively. These instructions must be followed in criminal casework FNO deportation cases if it is decided to release from immigration detention, as well as by immigration compliance and engagement (ICE) teams dealing with other immigration offenders, and family members of FNOs being dealt with by criminal casework. For this guidance, see related link: 55 Detention and temporary release.</p> <p>People in detention can apply for bail, either internally through a CIO, or externally to the IAC, where the matter will be determined by an immigration judge (IJ). For more information on the procedures for release in cases where bail is granted by a CIO or IJ, see related link: Bail.</p> <p>For more general information on contact management in non-detained cases, see related link: Non-detained cases, contact management and absconders.</p>	<p><b>Related links</b></p> <p><b>See also</b></p> <p>Links to staff intranet removed</p>
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## Detention of families

### Releasing foreign national offender parents and carers for child welfare purposes

<p><a href="#">About this guidance</a></p> <p><a href="#">Ending detention of children for immigration purposes</a></p> <p><a href="#">Detained cases where authority to separate the family was not obtained</a></p> <p><a href="#">Imminent release of foreign national offender cases</a></p> <p><a href="#">Detaining child foreign national offenders on completion of their sentence</a></p> <p><a href="#">Detaining foreign national offenders with parental responsibility</a></p> <p><a href="#">Releasing foreign national offenders and family members from detention</a></p> <p><a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a></p>	<p>This page tells you the need for caseworkers to consider releasing a foreign national offender (FNO) from immigration detention because of child welfare.</p> <p>In cases where a FNO is detained beyond the completion of their custodial sentence for immigration purposes, you must take account of the need to safeguard and promote the welfare of any children involved in the family unit, especially if the FNO has parental responsibility. For more information, see link on left: Detaining foreign national offenders with parental responsibility.</p> <p>There may be circumstances where the particular needs of a child are such that the balance tips in favour of releasing the FNO if they are the child's parent or primary carer. This must be assessed with input from the local authority children's services and office of the children's champion. If the caseworker decides that, on balance, the release of a parent or carer from immigration detention is appropriate in the interests of child welfare, or indeed for any other reason, the authority to release must be sought from the criminal casework strategic director.</p>	
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## Detention of families

### Contact

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## Detention of families

### Information owner

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This page tells you about this version of the detention of families guidance and who owns it.

Version	7.0
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Policy owner	Official – sensitive: information removed
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Approver's role	Official – sensitive: information removed
Approval date	25 July 2014

Changes to this guidance can only be made by the guidance rules and forms team (GRaFT). If you think the policy content needs amending you must contact CPGT who will ask the GRaFT to update the guidance, if appropriate.

The GRaFT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email guidance rules and forms team.

### Related links

[Changes to this guidance](#)

[Contact](#)

### External links

Links to staff intranet removed