



Home Office

First-tier Tribunal bail

Version 1.0

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About this guidance

This guidance tells Appeals Operations staff about applications for bail made to the First-tier Tribunal.

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.

If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email the Guidance Rules and Forms team.

Publication

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

- version 1.0
- published for Home Office staff on 15 January 2018

Changes from last version of this guidance

New guidance

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Applying for First-tier Tribunal bail

This page gives Presenting Staff, including appeal administration teams within the Presenting Officers Units (POUs) and Presenting Officers (POs) an overview of the process where a detainee is applying to the First-tier Tribunal for bail.

An applicant can apply for bail to either:

- the Home Office
- the First-tier Tribunal

An application for bail to the First-tier Tribunal should be made on the B1 form. It should be sent by the applicant or their representative to the First-tier Tribunal hearing centre nearest to where the applicant is detained.

The First-tier Tribunal are then responsible for listing a bail hearing when they have received an application for bail. They aim to list a bail hearing within 3 days of an application being received by them. If an application is received by them after 3.30pm it is treated as having been received on the following working day.

You should receive 48 hours notice of any bail hearing, but in some cases it may be less. When you have received the bail application, you will need to check whether a bail file already exists for that applicant. You can do this by checking in the Bail applications folder contained in the Transfer 2 folder on the Transfer drive. CID will also tell you whether the applicant has previously applied for bail to the First-tier Tribunal.

If a bail folder already exists for the applicant you should create a new sub folder within it for the new application.

If a bail folder doesn't already exist for the applicant you should create a new bail folder and save the current application in it.

CID must be updated to show the new bail hearing details.

You will then need to obtain a bail summary. The POU is not responsible for writing the summary the caseworker is usually responsible for this. You will need to identify the relevant caseworking team by using CID. The caseworker will either be on the restrictions screen, ownership details, notes or calendar events.

You must email the caseworker the bail application form, any documents attached to it and the hearing notice (or details of when the hearing will be) with a request for a bail summary. A bail application should be forwarded to the casework team immediately or as soon as reasonably practicable after you have received it. You should request that the bail summary is emailed to you no later than 12pm the day before the hearing in order that it is served on the applicant, their representative (if they have one) and the First-tier Tribunal by 2pm the day before the hearing.

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Bail summaries

This page explains how to obtain and serve a bail summary for a new bail application.

These instructions apply to all Presenting Staff including appeals administrative teams within Presenting Officers Units (POUs).

You may disclose Police National Computer (PNC) checks for legal proceedings. For more information, see: [Police National Computer Checks](#).

The bail summary produced by the caseworker contains:

- the applicant's personal details
- the criteria considered for detention
- details of any Financial Condition Supporter
- a full immigration history and chronology
- the reasons for opposing bail
- the conditions to be set if bail is granted
- a request that the First-tier Tribunal transfer the bail to the Home Office to manage

When you receive the bail summary you must:

- check which sections of the bail summary can be disclosed - these will be generally limited to the immigration history and chronology, reasons for opposing bail and the conditions to be fixed if bail is granted
- Email or e-fax a copy of the disclosable part of the bail summary to the applicant's legal representative (if there is one), to the applicant at their place of detention and to the First-tier Tribunal - any additional documents that the caseworker wants the Presenting Officer (PO) to rely on should also be served, in particular any notice of removal directions
- save a copy of what you have sent in the applicant's bail folder in the bail applications folder in the Transfer 2 folder on the Transfer drive along with evidence of service
- save a full copy of the bail summary in the same place
- tell the PO that they can find all the relevant paperwork for the bail in the applicant's bail folder

The bail summary must be served by 2pm the day before the bail hearing (unless the bail application was served on the Home Office less than 24 hours before that point in which case any bail summary requires to be served as soon as reasonably practicable).

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Variation of bail conditions

This instruction tells Appeals Operations bail clerks and Presenting Officers (PO) how to manage applications to vary bail conditions. An application to vary bail can be made by the applicant or by the Home Office.

This instruction relates only to bail cases where the First-tier Tribunal (FTTIAC) have retained that bail, that is where they have not transferred the management of the bail to the Home Office following a grant. Whether the Home Office or the FTTIAC manage the applicant's bail will be apparent from the restrictions screen.

Request to vary bail conditions – Home Office request

Where the Home Office wish to vary an applicant's bail conditions, for example where we want to increase or decrease their reporting requirement, the team in Immigration Enforcement, UK Visas and Immigration or Border Force managing the case will send the Presenting Officers Unit (POU) a copy of form B3. That is a Request for Variation of Bail Conditions and Transfer form. Form B3 will be sent to the POU who serves the FTTIAC where the applicant now lives, therefore it may not be sent to the POU who handled the previous bail application. The AIT Workload Allocation document tells case work units what FTTIAC will deal with the variation and Contact details for POU's is the contact details for the POU. Form B3 may be accompanied by the applicant's written consent to the variation.

On receipt of form B3 (and any written consent) the bail clerk should:

- save form B3 (and any written consent) in the applicant's bail folder and sub file for the relevant bail application on the Transfer 2 Drive
- send form B3 (and any written consent) by email to the FTTIAC - the B3 will also request that the FTTIAC transfer management of the bail to the Home Office

If the applicant has not already consented to the variation the FTTIAC will then:

- send form B3 to the applicant or to their representative asking if they consent to the variation and a hearing notice
- send a hearing notice to the POU

The bail clerk should then enter a bail variation hearing for that date on the restrictions screen.

If the applicant consents to the Home Office's request to vary their bail conditions they will tell the FTTIAC that, who will then send their decision on the variation to the Home Office – it is unlikely that where consent has been given the FTTIAC will not agree to the variation. The bail clerk should then

- save the FTTIAC's decision in the applicant's bail file (including on whether they will transfer the bail to the Home Office) in the Transfer 2 drive
- complete the restrictions screen with 'variation granted'

- Email the case work unit the outcome of their variation request including whether the FTTIAC transferred the bail to the Home Office

If the variation has been granted on receipt of the FTTIAC's variation decision the case work unit will:

- update CID, amending the bail conditions on the Special Conditions Screen
- update CID if the FTTIAC have transferred the bail to the Home Office to manage
- issue the relevant bail paperwork

If the applicant refuses to give consent to the Home Office's request for variation the FTTIAC will send us their reply. The bail clerk should then:

- save the reply on the applicant's bail folder in the Transfer 2 Drive
- tell the PO that the B3 and reply can be found in the applicant's bail folder for the bail hearing
- send the reply to the caseworker so that they know that the applicant has refused to give their consent

At the hearing the PO should present the Home Office's case about why the request to vary the applicant's bail should be granted and that the bail should be transferred to the Home Office to manage. Following the FTTIAC's decision, the PO should update the restrictions screen for the hearing showing that the bail variation was either granted or refused. The bail clerk will then, once the written decision from the FTTIAC on the variation and transfer has been received:

- save the outcome in the applicant's bail file in the Transfer 2 drive
- Email the outcome to the case work unit including whether the decision on whether the bail has been transferred to the Home Office has been granted

On receipt of the FTTIAC's bail variation decision the case work unit will, if the variation request has been granted

- update CID, amending the bail conditions on the Special Conditions Screen
- update CID if the FTTIAC have transferred the bail to the Home Office to manage
- issue the relevant bail paperwork

If the variation request has been refused by the FTTIAC then the case work unit need take no further action.

Request to vary bail conditions – applicant's request

When an applicant's bail is still being managed by the FTTIAC and they wish to vary one or more of their bail conditions they will complete form B2. They will send form B2 to the FTTIAC which serves the area where they live, this might not be the FTTIAC hearing centre where their bail was granted (see AIT Workload Allocation for further details).

When the FTTIAC receive the applicant's B2 form they will send that form to the POU which serves that hearing centre and will request a response within 7 days to the application on form BAIL 304. They will also send a hearing notice to both parties.

The bail clerk will then:

- save the applicant's B2 in their bail folder in the Transfer 2 drive
- on the day of receipt send a copy of the B2 to the case work unit and request return of the BAIL 304 which will indicate if they consent to the variation
- enter a bail variation hearing on the restrictions screen

When the bail clerk receives the completed BAIL 304 they will send that by email to the FTTIAC along with the request to have the bail transferred from them to the Home Office to manage it in the future. The BAIL 304 should also be saved in the applicant's bail folder on the Transfer 2 drive.

If the case work unit gives consent to the variation it is unlikely that the FTTIAC will also not agree to it. If the FTTIAC agree to the variation they will send their decision to the POU. The bail clerk will then:

- save the FTTIAC's decision on the variation and the request to transfer that bail in the applicant's bail file on the Transfer 2 drive
- Email the FTTIAC's decision to the case work unit including whether the request to transfer the bail to the Home Office has been granted
- update the bail renewal hearing as 'variation granted'

On receipt of the FTTIAC's variation decision the case work unit will, if the variation request has been granted

- update CID, amending the bail conditions on the Special Conditions Screen
- update CID if the FTTIAC have agreed to transfer the bail to the Home Office
- issue the relevant bail paperwork

If the case work unit does not consent to the variation, the bail clerk will tell the PO that there will be a hearing about it on the date notified to us by the FTTIAC. The PO will then prepare for that hearing using the B2 form and the BAIL 304. At the hearing they will explain to the FTTIAC why we oppose the variation being proposed and also ask that they transfer the bail to the Home Office to manage in the future. Once the FTTIAC have made their decision the PO will update the restrictions screen for the bail renewal with either variation granted or variation refused. The bail clerk, once the FTTIAC's written decision on the application to vary and transfer has been received, will then:

- save the outcome in the applicant's bail file in the Transfer 2 drive
- Email the outcome to the case work unit including the decision on whether to transfer the bail to the Home Office has been granted

On receipt of the FTTIAC's variation decision the case work unit will, if the variation has been granted:

- update CID, amending the bail conditions on the Special Conditions Screen
- update CID if the FTTIAC have agreed to transfer the bail to the Home Office
- issue the relevant bail paperwork

If the FTTIAC refused to vary the applicant's bail conditions the case work unit need take no further action.

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Auto-referral bail hearings

This instruction tells Appeals Operations bail clerks and Presenting Officers (PO) how to manage automatic bail referral cases. The Home Office have an obligation to refer a detainee for a bail hearing if 4 months have passed since their detention was last considered by a judge, unless the detainee has opted out of the procedure. As it will be the Home Office making the referral to the First-tier Tribunal (FtT), this means that Appeals Operations will need to inform the FtT of the need to list such a hearing.

Initial case owner action

When a detainee enters detention the case owner should set a 3 month reminder for making an automatic bail referral in order that they have sufficient time to send the application to Appeals Operations for submission to the FtT at the 4 month point. That date will be amended in the event that an application for Tribunal bail is made and refused.

The case owner will send the detainee the Auto Referral Pack which will include the B1 form used to apply for FtT Bail and the BAIL 501 form (automatic bail opt in form). They will give the detainee 5 days to complete the Auto Referral Pack including the B1 application form and the BAIL 501. They will ask that the applicant does not sign the B1.

If the detainee indicates that they wish to opt out of the automatic bail referral process no referral for automatic bail will be sent to Appeals Operations to submit to the FtT, and CID will be updated to reflect this.

If the detainee returns the Auto Referral Pack the case owner should send the completed B1 and the BAIL 502 Automatic Bail Referral letter to the Presenting Officers Unit (POU) who deals with bail applications for where the detainee is currently detained. Details of which FtT hearing centre deals with which POU can be found on the POU Hearing Centre Matrix. The B1 form should not be signed.

If the detainee does not return the Auto Referral Pack but does not indicate that they wish to opt out of the process, the case owner should send the BAIL 503 Auto Bail Referral letter with no application form B1 to the POU who deals with bail applications for where the detainee is currently detained.

Initial POU Action

On receipt of an Auto Bail Referral Pack the bail clerk should:

- check to see if the applicant has a bail file saved in Bail Applications in the Shared Drive, creating one if they do not
- save the Auto Bail Referral by that name in the applicant's bail folder
- Email the Auto Bail Referral to the FtT

- enter the referral on the Restrictions screen of CID by inputting a new Bail Type as 'Auto Bail Referral' - the 'Date Applied' will be the date that the referral is made to the FtT

No further action is required by the POU at that stage until the hearing notice for the bail application is received. On receipt of the hearing notice the bail clerk should:

- update Bail Hearing on the Restrictions screen
- send the hearing notice to the case owner for them to complete the bail summary

Case owner action continued

On receipt of the hearing notice the case owner will draft a bail summary based on the information available to them. If a B1 Bail Application was completed the case owner will carry out the necessary checks on any Financial Liability Supporter and on any address.

Once the bail summary is completed the case owner should send the bail summary to the POU as normal.

POU Action continued

On receipt of the bail summary the bail clerk should follow the usual procedure for administering bail applications.

Presenting Officers who are presenting an Automatic Bail Referral case should defend the bail application as if it were any other application for bail, updating CID with the outcome following the hearing.

B1 returned signed

If the applicant returns the B1 form to their caseworker signed that will be treated as an application for bail and not an auto bail referral. When that happens the caseworker will still send the B1 form to the relevant POU by email. When a signed B1 form is received by the POU the bail clerk will send it to the FtT with a covering letter explaining that the applicant is being treated as having made a bail application rather than it being a case for referral under the auto bail duty.

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Breach of bail conditions

This instruction tells Appeals Operations bail clerks and Presenting Officers (PO) how to manage cases where the applicant has breached a condition of their bail. This only applies in cases where the First-tier Tribunal IAC (FTTIAC) have retained the bail and not transferred it to the Home Office to manage.

Breaches where there is a financial condition

Where the applicant was previously released on bail and a financial condition was one of the conditions imposed on them, the following process shall apply.

The case work unit managing the applicant's bail will notify the Presenting Officers Unit (POU) bail clerk by email that a condition of bail has been breached (AIT Workload Allocation tells casework units which FTTIAC deals with the post code where the applicant lives whilst POU Hearing Centre Matrix tells them which POU deals with that hearing centre). They will do that by sending the POU the Liability of Payment Summary or BAIL 303 and a request to transfer the bail to the Home Office. When the bail clerk receives the BAIL 303 they will:

- save the form in the applicant's bail file found on the Transfer drive
- send it by email to the FTTIAC

The FTTIAC will then list a Payment Liability Hearing (PLH - formerly known as a forfeiture hearing), sending the BAIL 303 to the Financial Condition Supporter (FCS) along with a hearing notice copied to the POU. The bail clerk should then enter a PLH on the restrictions screen for that date and tell the PO that they can find the relevant documentation in the applicant's bail file on the Transfer drive.

The PO will then present the Home Office's case at the PLH using the BAIL 303 as the basis for their case. The Financial Condition Supporter will be given the opportunity to explain to the FTTIAC why they should not be liable to pay the financial condition. The FTTIAC will give their decision orally and will provide a written decision later. After the hearing the PO should update the outcome of the PLH on the restrictions screen. When the bail clerk receives the written decision they should:

- save the decision in the applicant's bail file on the Transfer drive
- send, by email, a copy of the decision to the case work unit

Breaches where there is no financial condition

Where the applicant has been released on bail but a financial condition was not imposed by the FTTIAC the following process shall apply.

The case work unit managing the applicant's bail will notify the POU bail clerk by email that a condition of bail has been breached, for example the applicant failed to comply with a reporting requirement. They will do that by sending the POU a BAIL

303. The case work unit will also send a request that the FTTIAC transfer management of the bail to the Home Office. The bail clerk will then:

- save the BAIL 303 in the applicant's bail file found on the Transfer drive
- send the form to the FTTIAC with a request that they transfer the management of the bail to the Home Office

It is unlikely that the FTTIAC will list a hearing in these cases but will decide what to do about the breach on the papers. A judge might decide:

- that the applicant's conditions should be varied, for example they might decide that they should report more frequently to the Home Office
- that the conditions should remain the same

In addition they might order that the management of the bail should be transferred to the Home Office.

When the bail clerk receives the FTTIAC's decision they will:

- save the FTTIAC's decision in the applicant's bail file on the Transfer drive
- send the decision of the FTTIAC to the case work unit to update CID

If the FTTIAC have amended the applicant's bail conditions, including if they have transferred the bail to the Home Office to manage, the caseworking unit will then:

- update the Special Conditions screen to reflect any change in bail conditions
- update the Restrictions screen to reflect any change in bail management ownership
- issue any relevant bail paperwork

If the FTTIAC either decide that there has been no breach of bail conditions or that the applicant's bail conditions should not change the casework team should take no further action.

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Police National Computer Checks

The police have agreed to share PNC checks with the Home Office. PNC checks can be submitted to immigration judges and representatives, providing the information they contain is material to a case and is necessary for legal proceedings, including bail hearings. The PNC check, if it is being relied on by the decision maker, will form part of the bundle.

There are 3 'prints' and presenting staff must make sure they use the correct one for legal proceedings:

- Court print: fully disclosable: recommended for court proceedings and for passing to the applicant and their representative
- Disclosure print: standard - not for disclosure.
- Police print: strictly non-disclosable - the Home Office will not issue these without specific permission from the PNC data owner

Presenting staff must make sure only court prints are served on the court, appellant and representative.

If you are not sure whether a PNC document can be disclosed, you must contact the PNC bureau.

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

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