



Home Office

# **Detention services order 09/2016 Detention centre rule 35 and Short- term Holding Facility rule 32**

Version 7.0

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# About this guidance

This guidance is for Home Office Immigration Enforcement, immigration removal centre and short-term holding facility supplier and healthcare provider staff working in immigration removal centres and residential short-term holding facilities, Home Office staff responsible for authorising, managing and reviewing detention.

It tells them about the preparation and consideration of reports submitted in accordance with [rule 35 of the Detention Centre Rules 2001, as amended by the Detention Centre \(Amendment\) Rules 2018 \(SI 411/2018\)](#) and the preparation and consideration of reports submitted in accordance with [rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#).

## 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 Detention 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.

## Clearance and publication

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

- version **7.0**
- published for Home Office staff on **05 March 2019**
- review date **2 July 2020**

## Changes from last version of this guidance

References to the definition of torture contained within this guidance have been clarified.

### Related content

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# Introduction

This page gives you an overview of this Detention Services Order (DSO).

The purpose of [rule 35 of the Detention Centre Rules 2001](#), as set out in Detention - general guidance (chapter 55), is ‘to ensure that particularly vulnerable detainees are brought to the attention of those with direct responsibility for authorising, maintaining and reviewing detention. [Rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#) fulfils this function for individuals detained in residential short-term holding facilities, which are relatively small detention facilities with sleeping accommodation in which detainees may, in law, be held for up to a maximum of seven days. The information contained in such reports needs to be considered by the caseworker and a decision made on whether the individual’s continued detention is appropriate, or whether they should be released from detention, in line with the guidance in chapter 55b – Adults at risk in immigration detention.

Sub-paragraphs (1) to (4) of rule 35 of the Detention Centre Rules 2001 are in place to ensure immigration removal centre (IRC) doctors must report to Home Office caseworkers responsible for managing and reviewing that person’s detention:

- the likelihood of a detainee’s health being injuriously affected by continued detention
- a suspicion that a detained person has suicidal intentions
- concern that a detained person may have been a victim of torture

Sub-paragraphs (1) to (4) of [rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#) ensures that healthcare professionals (which includes both doctors and registered nurses) at residential STHFs must report to Home Office caseworkers responsible for managing and reviewing that person’s detention:

- the likelihood of a detainee’s health being injuriously affected by continued detention
- a suspicion that a detained person has suicidal intentions
- a concern that a detained person may have been a victim of torture

[Rule 2 of the Short-term Holding Facility Rules 2018](#) specifies that a ‘healthcare professional’ for the purposes of the Short-term Holding Facility Rules **includes both registered medical practitioners (doctors) and registered nurses.**

Please note that rule 35 reports in respect of detainees in immigration removal centres must **only** be completed by doctors.

This DSO covers all 3 circumstances in which a doctor in an immigration removal centre (IRC) may submit a rule 35 report, or a healthcare professional in a residential short-term holding facility (STHF) may submit a rule 32 report.

This DSO sets out Home Office policy regarding:

- the preparation and submission of rule 35 reports by doctors in IRCs and rule 32 reports by healthcare professionals (doctors or nurses) in residential STHFs
- the process to be followed by Home Office staff in response to a rule 35 or a rule 32 report

Its purpose is also to ensure that all staff working in IRCs or residential STHFs and those Home Office staff responsible for maintaining and reviewing detention understand the purpose of rule 35 (in relation to IRCs) and rule 32 (in relation to residential STHFs) and are aware of the procedures for recording and dealing with such reports.

Pre-departure accommodation (PDA) is not covered by either the Detention Centre Rules 2001 or the Short-term Holding Facility Rules 2018 but the spirit of this DSO and the processes to be followed should be regarded as applying to those accommodated at that facility.

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# Definitions

This page gives you definitions of terms used in this Detention Services Order (DSO).

[The Detention Centre \(Amendment\) Rules 2018](#) (SI 411/2018) which came into force on 2 July 2018, amended [rule 35 of the Detention Centre Rules 2001](#) by introducing a new rule 35(6) which defines ‘**torture**’ as:

‘any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which-

- (a) the perpetrator has control (whether mental or physical) over the victim and
- (b) as a result of that control the victim is powerless to resist.’

For the avoidance of doubt, please note the following guidance when considering this definition of torture: There is no difference between "powerless to resist" and "powerlessness". The proper approach is to consider whether the detainee was in a situation of powerlessness.

The above definition has **replaced** the former definition of torture for the purposes of rule 35 set out in the case of ‘Regina (EO and others) v Secretary of State for the Home Department [2013] EWHC 1236 (Admin)’.

The definition of torture above is also reflected in [rule 32\(6\) of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#), which also came into force on 2 July 2018.

In relation to IRCs a **medical practitioner** is a person who is vocationally trained as a general practitioner and fully registered within the meaning of the Medical Act 1983 ([rule 33\(1\) of the Detention Centre Rules 2001](#)).

A **responsible officer** is the Home Office officer responsible for managing and reviewing an individual’s detention, even if they are not the officer undertaking every action on the case. In the rare circumstances that a detainee has not yet been allocated a responsible officer, the rule 35 responsibilities assigned to the responsible officer must be completed by the person who authorised detention or the duty officer.

Two different Home Office teams operate in IRCs:

- Detention and Escorting Services Compliance team (Compliance team)
- Immigration Enforcement detention engagement team (DET)

In the PDA and any IRCs where DETs are not fully operational, all actions for Home Office staff in this instruction must be completed by the local Compliance team and all actions for the DET manager will be completed by the Compliance team manager.

**DETs** work at IRCs and are managed by an on-site Home Office DET manager. Members of the team interact with detainees face-to-face on behalf of responsible officers. DETs do not work in residential STHFs.

As there are no DETs at residential STHFs, functions which are the responsibility of DET in respect of rule 35 reports in IRCs are carried out by the Detainee Monitoring and Population Management unit (DEPMU) duty higher executive officer (HEO) in respect of rule 32 reports in residential STHFs.

A **Removal Centre Manager** is the person appointed under [section 148\(1\) of the Immigration and Asylum Act 1999](#) to be the manager of a removal centre.

In relation to short-term holding facilities a **'manager'** is defined in [rule 2 of the Short-term Holding Facility Rules 2018](#) in the following terms:

- (a) in relation to a directly managed short-term holding facility the official of the Secretary of State designated to complete the tasks that fall to a manager under these Rules;
- (b) in relation to a contracted out short-term holding facility a member of the contractor's staff-
  - (i) designed to complete the tasks that fall to a manager under these Rules, and
  - (ii) certified as a detainee custody officer.

By virtue of [rule 2 of the Short-term Holding Facility Rules 2018](#) a **'healthcare professional'** means a registered medical practitioner (doctor) or registered nurse.

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# Detention Centre rule 35

This page tells you about rule 35 of the Detention Centre Rules 2001, as amended by the Detention Centre (Amendment) Rules 2018.

[Rule 35 of the Detention Centre Rules 2001](#) states:

- 1) 'The medical practitioner shall report to the manager on the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention.
- 2) 'The medical practitioner shall report to the manager on the case of any detained person he suspects of having suicidal intentions, and the detained person shall be placed under special observation for so long as those suspicions remain, and a record of his treatment and condition shall be kept throughout that time in a manner to be determined by the Secretary of State.
- 3) 'The medical practitioner shall report to the manager on the case of any detained person who he is concerned may have been the victim of torture.
- 4) 'The manager shall send a copy of any report under paragraphs (1), (2) or (3) to the Secretary of State without delay.
- 5) 'The medical practitioner shall pay special attention to any detained person whose mental condition appears to require it, and make any special arrangements (including counselling arrangements) which appear necessary for his supervision or care.'

[The Detention Centre \(Amendment\) Rules 2018](#) introduced a new rule 35(6) which defines 'torture' for the purposes of rule 35(3) as:

- 6) any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which—
  - (a) the perpetrator has control (whether mental or physical) over the victim, and
  - (b) as a result of that control, the victim is powerless to resist.

As set out above, please note the following guidance when considering this definition of torture: There is no difference between "powerless to resist" and "powerlessness". The proper approach is to consider whether the detainee was in a situation of powerlessness.

The first section of this Detention Services Order (DSO) focuses on Home Office policy regarding:

- the preparation and submission of rule 35 reports by doctors in IRCs (as required by Detention Centre rule 35(1), 35(2), 35(3) above)
- the process to be followed by Home Office staff in response to a rule 35 report

## Related content

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# Requirements from doctors and other healthcare staff in immigration removal centres (IRCs)

This page tells you about the responsibilities of doctors and other healthcare staff in immigration removal centres in relation to rule 35 of the Detention Centre Rules 2001.

[Rule 35 of the Detention Centre Rules 2001](#) reports must be prepared and submitted by doctors only. Other healthcare professionals (whether working in the immigration removal centre (IRC) or elsewhere) may assist in the examination or assessment of detainees and in the preparation of reports but the final responsibility for making a report rests with the doctors.

It is important that nurses and other healthcare professionals are aware that they must report to an IRC doctor any detainee who claims to have been a victim of torture or gives an indication that this might have been the case.

Shortly after their arrival at an IRC all detainees are, as part of the admissions process, given a healthcare screening, which includes being asked whether they have been tortured.

An appointment with an IRC doctor must be made for detainees who answer 'yes' to this question or otherwise give an indication that they may have been a victim of torture. Appointments should be made as quickly as possible (with interpretation, for example via a telephone interpreting service, where there are concerns that a person cannot adequately understand or communicate in English).

The detainee has to see the doctor in order for an assessment to be made as to whether or not the doctor has concerns that the detainee may have been the victim of torture. The healthcare team should promptly follow up on detainees who do not arrive for their scheduled appointment.

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# Preparing and submitting rule 35 reports

This page tells you how a doctor in an IRC will prepare and submit a rule 35 report.

Where an immigration removal centre (IRC) doctor considers that one or more of the criteria in [rule 35 of the Detention Centre Rules 2001](#) (DC), as amended by the [Detention Centre \(Amendment\) Rules 2018](#), are met they must complete a clear and legible report using the relevant template, either:

- [Annex A: Rule 35\(1\)/Rule 32\(1\) report template](#)
- [Annex B: Rule 35\(2\)/Rule 32\(2\) report template](#)
- [Annex C: Rule 35\(3\)/Rule 32\(3\) report template](#)

There are separate templates for each of the reporting categories. The templates guide doctors through the information that is required in a completed report. In any case where a detainee falls into more than one of the reporting categories, a separate report must be made in respect of the individual categories concerned. The completed report must be submitted without delay to the local detention engagement team (DET) manager copied to the Removal Centre manager. A copy must also be placed on the detainee's medical record, and provided to the detainee free of charge.

When the doctor in an IRC considers that one or more of the criteria in rule 35 are met, they should explain to the detainee that they need to send this information to the Home Office, and why. Doctors must ask detainees to give their consent to medical information being shared for this purpose in line with the guidance in Detention services order (DSO) 1/2016 – the protection, use and sharing of medical information relating to people detained under immigration powers. A copy of the completed disclosure authorisation should be attached to the detainee's medical record.

The doctor is not required to make the detainee's legal representatives aware of the issues raised, nor to establish whether the legal representatives are aware of those issues. The DET will forward a copy of the rule 35 report to the detainee's legal representatives (see 'When forwarding a rule 35 report' point 3 of [Actions by the Home Office DET](#)).

All reports must be legible and use clear and easily understood language so that Home Office responsible officers can understand the significance of any evidence provided and are able to make an informed decision when reviewing detention.

Doctors are not required to make a report under rule 35(3) if they do not have concerns that the detainee may have been a victim of torture. This includes instances where the detainee's experience of harm or mistreatment does not meet the definition of torture set out in the [Detention Centre \(Amendment\) Rules 2018](#) (SI 411/2018) (taking into account the [guidance above relating to the definition of torture](#)), where there are no clinical concerns that the detainee may have been a

victim of torture, or where there is no basis for concern other than an unsupported claim by the detainee to have been a victim of torture. As an optional aid when seeking to explain this position to a detainee, doctors might find it helpful to use the [Annex D: Rule 35\(3\) letter template](#), if they wish.

However, it is important for information that a detainee may be an adult at risk to be passed to the local DET so that consideration can be given to the appropriateness of continued detention.

Where IRC doctors consider that a detainee's claim to have been tortured does not meet the definition of torture given in the [Detention Centre \(Amendment\) Rules 2018](#) (SI 411/2018) (taking into account the [guidance above relating to the definition of torture](#)), and does not therefore trigger the requirement to make a report under rule 35(3), they may nevertheless have concerns arising from the alleged incidents or its consequences (such as physical or mental health problems) that the detainee may be particularly vulnerable to harm in detention. In such circumstances, doctors must report their concerns. This may be by completion of a rule 35(1) report, if appropriate, by completion of an IS.91 RA Part C (risk assessment), or by passing the information direct to the DET at the centre.

### **Preparing and submitting a rule 35 report: doctor concludes that a person's health is likely to be injuriously affected by continued detention (DC rule 35(1))**

Where the rule 35 report is completed in accordance with rule 35(1), which can relate to physical or mental health issues, medical practitioners should note when they consider that an individual's health is likely to be injuriously affected by continued detention or any conditions of detention by stating the basis, with evidence, for that concern and giving an estimate of the timescale for remedial action, if relevant.

### **Preparing and submitting a rule 35 report: concerns a detainee may have suicidal intentions (DC rule 35(2))**

Rule 35(2) requires a doctor to notify of suicide risks to ensure that they know of and can manage the risk appropriately. A copy of any report to must be sent to the DET to pass to the detainee's responsible officer.

Where the rule 35 report is completed in accordance with rule 35(2) the doctor must refer without delay to Detention services order (DSO) 06/2008 - Assessment care in detention and teamwork (ACDT) and follow the procedures for managing the detainee in accordance with ACDT policies. However, given that an individual may be subject to ACDT for a number of reasons, being subject to ACDT does not equate automatically to a need to raise a rule 35(2) report.

A doctor must, however, issue a rule 35(2) report when they have concerns about suicidal intent, whether those concerns are based on first hand examination or are based on what they know from current management of the detainee under the ACDT

process (for example, the extent of the risk is not sufficiently recognised). If the concern is from first hand examination and there has been no ACDT process, it will be appropriate for the doctor to open the process.

The report needs to state the reasons for suspecting suicidal intentions, whether the detainee is subject to the ACDT process and whether the suicide risk can be managed and/or reduced satisfactorily through ACDT or other measures.

## **Preparing and submitting a rule 35 report: concerns a detainee may have been the victim of torture (DC rule 35(3))**

If the doctor is concerned that a detainee may have been a victim of torture, as defined by the [Detention Centre \(Amendment\) Rules 2018](#) (taking into account the [guidance above relating to the definition of torture](#)), they must submit a rule 35(3) report. It is for the doctor to decide if they have concerns in a professional capacity that a detainee may have been the victim of torture. The doctor must always state clearly the reasons why they have concerns arising from the medical examination – specifically the medical evidence which causes these concerns, including all physical and mental indicators.

The doctor has no obligation to report an allegation from a detainee if this allegation does not cause them to be concerned, in the context of the overall medical examination, that the person may have been a victim of torture. However, if an allegation does cause the doctor to be concerned, then they must report it. The doctor must set out clearly if their concern derives from an allegation with no or limited medical evidence in support.

Where there is medical evidence in support of an allegation, the doctor must set out clearly all physical and mental indicators in support of their professional concerns. They must record any mental or physical health problems that are relevant to the torture allegation.

Where possible, the doctor should say why they consider the person's account is consistent with the medical evidence. The doctor should consider whether the injury, health problem or other indicator may have other possible explanations which do not relate to torture. The doctor must identify any medical evidence which may or may not be contrary to the account given by the detained person.

To help decide whether there is cause for concern, it may also be helpful to ask detainees about:

- when the torture allegedly took place
- how the injuries were caused
- how and when the mental health issues arose
- how the torture is currently affecting them

A rule 35(3) report is a mechanism for a doctor in an IRC to refer on concerns, rather than an expert medico-legal report and so there is no need for medical practitioners to apply the terms or methodology set out in the Istanbul Protocol. Medical

practitioners in IRCs are not required to apply the Istanbul Protocol or apply probability levels or assess relative likelihoods of different causes but if they have a view, they should express it.

## **Actions by Home Office DET on receipt of response from the responsible officer**

A copy of the Home Office response must be sent to the doctor, who should sign the report to confirm they have received the outcome. A copy should then be placed on the detainee's medical record.

If the doctor feels that their concerns, as outlined in the rule 35 report, have not been properly addressed in the responsible officer's response, they should escalate this through the Home Office DET Manager's line management chain.

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# Requirements from Home Office staff on receipt of rule 35 report

This page tells you what you must do when you receive a rule 35 report.

## Actions by the Home Office Detention Engagement Team (DET)

On receipt of a rule 35 report, the Home Office DET must:

1. Log its receipt.
2. Ensure that the report is legible, clear, signed by a named doctor and complies with the overall reporting requirements as indicated above and in the report template. If the report does not meet these criteria the Home Office DET must, within 24 hours, ask for this to be rectified by the medical practitioner.

When forwarding a rule 35 report, the Home Office DET must:

1. Make contact with the Home Office responsible officer in advance of the report being dispatched and alert them that a rule 35 report is about to be forwarded and to confirm ownership and contact details. (If the responsible officer cannot be established after reasonable attempts, the assistant director (AD) or deputy director (DD) in the unit most recently identified from the CID Case Ownership tab, CID notes and Doc Gen documents must be contacted. The AD or DD must identify a responsible officer within an hour, or complete the due rule 35 actions themselves.)
2. Update the local detainee record with the name of the responsible officer, date and time.
3. Forward a copy of the rule 35 report to the detainee's legal representative (where a legal representative is recorded on the file).
4. Forward the rule 35 report to the detainee's Home Office responsible officer within 24 hours of receipt. The report must be sent by fax or email together with the [Annex E: Email header page](#).
5. Follow up with a phone call to the responsible officer to confirm receipt of the report.
6. Attach to the local Home Office detainee file a transmission report or delivery confirmation receipt demonstrating the rule 35 report has been received by the responsible officer.
7. Update CID to confirm the rule 35 report has been sent and received by a named responsible officer.
8. Update the IRC's rule 35 log to show the date and time the report was submitted and the date and time by which a response is required.

If a full response is not received from the Home Office responsible officer by the deadline, the DET must escalate the matter to the appropriate caseworking AD or DD to resolve without delay.



When a response has been received from the Home Office responsible officer, the Home Office DET must:

1. Send a copy of the response to the doctor who must sign the report to confirm they have received a response and is aware of the decision made by the responsible officer.
2. If the detainee understands English, provide a copy of the response to the detainee within 24 hours of receipt, and update CID.
3. If the detainee does not understand English, use an interpreter or telephone-based interpreting service to explain the content of the response, and update CID.
4. If the detainee has been transferred to another centre, forward without delay to that centre's Home Office DET for action, and update CID. (In such circumstances, responses should be provided to the detainee within 24 hours of receipt from the other removal centre.

In some cases, the Home Office responsible officer may respond that the rule 35 report contains insufficient content to understand the medical concern and meaningful consideration of the report is not possible. In such circumstances:

1. The responsible officer will immediately inform the Home Office DET of this circumstance by phone.
2. Within 24 hours of receiving this phone call, the Home Office DET must request sufficient information from the doctor for meaningful consideration of the report to be possible.
3. The Home Office DET must then forward this additional information to the responsible officer within 24 hours of receipt.
4. The response timescales and process as explained below will apply once a report with meaningful content has been received.

## **Actions by Home Office responsible officers**

A rule 35 report must be considered and be responded to by the responsible officer in line with the guidance in chapter 55b - Adults at risk in immigration detention. These actions must be carried out as soon as possible but no later than the end of the second working day after the day of receipt. The responsible officer must copy the response to the detainee's legal representative (if one is recorded on file) at the point of response.

Responsible officers have two working days after accepting receipt to provide a response to the rule 35 report. The response must:

- engage with the concerns raised by the doctor in accordance with the guidance in chapter 55b - Adults at risk in immigration detention
- where detention is being maintained, set out clearly the reasons why
- where detention is not being maintained, set out clearly the reasons why
- clearly identify the responsible officer's name and team

On receipt of a rule 35 report the responsible officer must review it to consider the following points:



- if the doctor clearly states that the report reflects a repeated claim or assertion rather than a reasoned medical concern (the practitioner is entitled to do this), the report must be considered although it will likely carry less weight as a consequence
- if the report states that it raises a medical concern but contains insufficient content to understand the medical concern, meaningful consideration of the report will not be possible (such a view must not be reached lightly) - in such cases, telephone the Home Office DET immediately and ask them to obtain sufficient information from the IRC doctor for meaningful consideration, and to repeat the issuing process - the response timescales will resume once a report with meaningful content has been received: record on CID notes the fact of the report's lack of content, the outcome of the telephone call, the name of the person in the Home Office DET and the agreed action

When a report capable of response has been received:

1. Open a CID Case Type reflecting the appropriate rule (for example, 'rule 35(3) – Torture Allegation').
2. Update CID Calendar Events or local diary to record the deadline and to help ensure the rule 35 response is returned on time (see table below, which assumes a normal working week excluding public holidays).

<b>Report Received</b>	<b>Response Due</b>
Monday	Wednesday
Tuesday	Thursday
Wednesday	Friday
Thursday	Monday
Friday	Tuesday
Saturday	Tuesday
Sunday	Tuesday

The responsible officer must consider the report carefully and review the detainee's detention in line with the guidance in chapter 55b - Adults at risk in immigration detention. Note that rule 35(3) reports are not medico-legal reports. They must not be considered defective for not containing the detail of such a report or for not being written according to the Istanbul Protocol or other standards. IRC medical practitioners are not expected to have specialist forensic training and are not trained in standards relating to documentation of torture such as the Istanbul Protocol.

Responsible officers must take prompt action to release the detainee, if appropriate. Where there are additional unit or directorate specific requirements as regards obtaining management approval for releases, or for notifying releases, these must be followed.

Every rule 35 report must receive a written response, even if the detainee has been or will be released. A response in released cases may be very brief. Holding responses are not acceptable. Responses must always be returned on time, regardless of other events close to the deadline (for example, a forthcoming asylum interview or action under the Dublin Regulations).

The response must be drafted using CID Doc Gen form IS.335. It is vital that the response is saved to CID Doc Gen, to allow for review and audit. Senior executive officer (SEO) or Her Majesty's inspector (HMI) clearance must be obtained for the response, naming the officer in CID notes. The response must be sent by fax or email to the IRC's DET (this must always be the IRC that issued the report and also to the detainee's current IRC, if different). A transmission or sent receipt should be collected and attached to the file, minuting the file accordingly. A copy of the response and report must be sent by fax or email to the detainee's legal representative (if represented).

To close the action the responsible officer must:

1. Telephone the Home Office DET to confirm they have received the response.
2. Close the case on the CID Case Outcome screen, according to the applicable outcome (such as 'Rule 35 Review – Detention Maintained' or 'Rule 35 Review – Detainee Released'). (Note that if the detainee is due to be released for reasons unconnected to the rule 35 report it will be necessary to close the Rule 35 case type as 'Detention Maintained', before effecting release, noting CID notes accordingly, clearly explaining the reasons for release. This ensures that the release will not be wrongly attributed to rule 35 reasons.)
3. Update CID notes and file minutes to record the time and name of the Home Office DET member who has confirmed receipt, and that the CID Case has been closed.
4. If the rule 35 report discloses information relevant to the consideration of any asylum and/or human rights case, ensure appropriate action is taken – taking steps to clarify the detainee's intentions if they have not already claimed asylum or, if they have, considering the evidence as part of the asylum claim or appeal, or (where appropriate) as part of the detainee's further representations.

## **Actions by on-site DET managers**

The Home Office DET Manager must ensure details of any rule 35 reports received in the week from medical practitioners together with responsible officers' responses are provided to the Adults at Risk Returns Assurance Team rule 35 inbox as required.

They must check the IRC's rule 35 log every week to confirm that responses have been provided as required, and escalate to the relevant unit's AD or DD where they have not.

The Home Office DET Manager must ensure that accurate records of rule 35 report activity are maintained in respect of every rule 35 case. These records must be compiled and submitted according to a centrally determined format, standard and timescale.

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# Reports from third parties

This page tells you what to do if you receive a report from a third party.

IRCs may occasionally receive reports from third parties about a detainee's health or allegations that they are the victim of torture. Such reports generated by persons who do not work in an IRC fall outside the terms of this DSO.

However, as a matter of best practice, reports about an individual's health and well-being, or reports alleging that a detainee may have been a victim of torture, where capable of engaging rule 35, must be forwarded to the IRC doctor and to the Home Office responsible officer for review.

It will be for the Home Office responsible officer to consider such reports in line with the guidance in chapter 55b - Adults at risk in immigration detention. Separately, the doctor must review the detainee's case in light of the third-party report and decide whether or not to make a Rule 35 report.

Reports alleging that a detainee is feeling suicidal must be brought to the attention of the Home Office DET manager and to IRC healthcare staff immediately.

## **Related content**

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# Short-term Holding Facility rule 32

This page tells you about rule 32 of the Short-term Holding Facility Rules 2018.

[Rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#) states:

- 1) A healthcare professional at a short-term holding facility must report to the manager in relation to the case of any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention.
- 2) If the healthcare professional suspects a detained person of having suicidal intentions-
  - (a) this must be reported to the manager;
  - (b) the detained person must be placed under special supervision for so long as those suspicions remain, and
  - (c) a record of the detained person's treatment and condition must be kept throughout that time.
- 3) Where the health care professional has concerns that the detained person may have been a victim of torture this must be reported to the manager.
- 4) Where a report has been made under paragraphs (1), (2) or (3) the manager must send a copy of any relevant written reports to the Secretary of State promptly.
- 5) A health care professional must pay special attention to a detained person whose mental condition appears to require it and make any special arrangements which appear necessary for the detained person's supervision or care.
- 6) For the purposes of this rule "torture" means any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which-
  - (a) the perpetrator has control (whether mental or physical) over the victim, and
  - (b) as a result of that control, the victim is powerless to resist.

For the avoidance of doubt, please note the following guidance when considering this definition of torture: There is no difference between "powerless to resist" and "powerlessness". The proper approach is to consider whether the detainee was in a situation of powerlessness.

This section of this DSO focuses on Home Office policy regarding:

- the preparation and submission of STHF rule 32 reports by health-care professionals in residential STHFs, including nurses, (as required by Short-term Holding Facility rule 32(1), 32(2), 32(3) above)
- the process to be followed by Home Office staff in response to an STHF rule 32 report

Important: Transmission of rule 35 reports to the relevant responsible officer for consideration, and case worker responses, is via the Home Office DET at the centre in question. There are no Home Office DETs in residential STHFs. Accordingly, the transmission of rule 32 reports from residential STHFs to the relevant caseworker,

and caseworker responses, is the responsibility of the Detainee Monitoring and Population Management unit (DEPMU) duty higher executive officer (HEO).

**Related content**

[Contents](#)

# Requirements from healthcare professionals in residential Short-term Holding Facilities (STHFs)

This page tells you about the responsibilities of healthcare staff in residential STHFs.

Day-to-day healthcare provision in residential STHFs is provided by nurses. [Rule 2 of the Short-term Holding Facility Rules 2018](#) defines 'healthcare professional' in relation to short-term holding facilities as being either a registered medical practitioner or registered nurse. [Rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#) provides that such reports may be prepared and submitted by 'healthcare professionals', in other words either a nurse or medical practitioner.

Shortly after their arrival at a residential STHFs all detainees are, as part of the admissions process, given a healthcare screening by a healthcare professional, which includes being asked whether they have been tortured.

The detainee has to see the healthcare professional (in residential STHFs this may be either a doctor or nurse) in order for an assessment to be made as to whether or not the doctor or nurse has concerns that the detainee may have been the victim of torture. The healthcare professional concerned should promptly follow up on detainees who do not arrive for their scheduled screening appointment.

## **Related content**

[Contents](#)

# Preparing and submitting Short-term Holding Facility (STHF) rule 32 reports

This page tells you how a healthcare professional (doctor or nurse) in residential STHFs will prepare and submit a rule 32 report.

Where a healthcare professional in a residential STHF considers that one or more of the criteria in [rule 32 of the Short-term Holding Facility Rules 2018 \(SI 409/2018\)](#) are met, they must complete a clear and legible report using the relevant template, either:

- [Annex A: Rule 35\(1\)/Rule 32\(1\) report template](#)
- [Annex B: Rule 35\(2\)/Rule 32\(2\) report template](#)
- [Annex C: Rule 35\(3\)/Rule 32\(3\) report template](#)

There are separate templates for each of the reporting categories. The templates guide healthcare professionals in residential short-term holding facilities, through the information that is required in a completed report. In any case, where a detainee falls into more than one of the reporting categories, a separate report must be made in respect of the individual categories concerned. The completed report must be submitted without delay to the Duty HEO in the Home Office Immigration Enforcement Detainee Escorting and Population Management Unit (DEPMU), copied to the manager. A copy must also be placed on the detainee's medical record, and provided to the detainee free of charge.

When a healthcare professional in a residential STHF, considers that one or more of the criteria in rule 32 are met, they should explain to the detainee that they need to send this information to the Home Office and why. Healthcare professionals must ask detainees to give their consent to medical information being shared for this purpose in line with the guidance in Detention services order (DSO) 1/2016 – the protection, use and sharing of medical information relating to people detained under immigration powers. A copy of the completed disclosure authorisation should be attached to the detainee's medical record.

The healthcare professional is not required to make the detainee's legal representatives aware of the issues raised, nor to establish whether the legal representatives are aware of those issues. The DEPMU duty higher executive officer (HEO) will forward a copy of the STHF rule 32 report to the detainee's legal representatives (see 'When forwarding a Rule 32 report' point 3 of [Actions by the DEPMU Duty HEO](#)).

All reports must be legible and use clear and easily understood language so that Home Office responsible officers can understand the significance of any evidence provided and are able to make an informed decision when reviewing detention.

Healthcare professionals are not required to make a report under rule 32(3) if they do not have concerns that the detainee may have been a victim of torture. This includes instances where the detainee's experience of harm or mistreatment does

not meet the definition of torture set out in [STHF rule 32\(6\)](#) (taking into account the [guidance above relating to the definition of torture](#)), where there are no clinical concerns that the detainee may have been a victim of torture, or where there is no basis for concern other than an unsupported claim by the detainee to have been a victim of torture. As an optional aid when seeking to explain this position to a detainee, healthcare professionals might find it helpful to use the [Annex D: Rule 35\(3\)/Rule 32\(3\) letter template](#), if they wish.

However, it is important for information that a detainee may be an adult at risk to be passed to the Home Office so that consideration can be given to the appropriateness of continued detention.

Where healthcare professionals in residential STHFs consider that a detainee's claim to have been tortured does not meet the definition of torture given in [STHF rule 32\(6\)](#) (taking into account the [guidance above relating to the definition of torture](#)), and does not therefore trigger the requirement to make a report under rule 32(3) they may nevertheless have concerns arising from the alleged incidents or its consequences (such as physical or mental health problems) that the detainee may be particularly vulnerable to harm in detention. In such circumstances, healthcare professionals must report their concerns. This may be by completion of a rule 32(1) report, if appropriate, by completion of an IS91 RA Part C (risk assessment) or by passing the information direct to the Home Office DEPMU duty HEO.

### **Preparing and submitting an STHF rule 32 report: healthcare professional concludes that a person's health is likely to be injuriously affected by continued detention (STHF rule 32(1))**

Where the STHF Rule 32 report is completed in accordance with STHF rule 32(1), which can relate to physical or mental health issues, healthcare professionals should note when they consider that an individual's health is likely to be injuriously affected by continued detention or any conditions of detention by stating the basis, with evidence, for that concern and giving an estimate of the timescale for remedial action, if relevant.

### **Preparing and submitting an STHF rule 32 report: concerns a detainee may have suicidal intentions (STHF rule 32(2))**

Rule 32(2) requires healthcare professionals to notify the Home Office of suicide risks to ensure that they know of and can manage the risk appropriately. A copy of any report must be sent to the Home Office DEPMU duty HEO to pass to the detainee's responsible officer.

Where the rule 32 report is completed in accordance with rule 32(2) the healthcare professional must refer without delay to Detention services order (DSO) 06/2008 - Assessment care in detention and teamwork (ACDT) and follow the procedures for managing the detainee in accordance with ACDT policies. However, given that an individual may be subject to ACDT for a number of reasons, being subject to ACDT does not equate automatically to a need to raise a rule 32(2) report.



A healthcare professional must, however, issue a rule 32(2) report when they have concerns about suicidal intent, whether those concerns are based on first hand examination or are based on what they know from current management of the detainee under the ACDT process (for example, the extent of the risk is not sufficiently recognised). If the concern is from first hand examination and there has been no ACDT process, it will be appropriate for the healthcare professional to open the process.

The report needs to state the reasons for suspecting suicidal intentions, whether the detainee is subject to the ACDT process and whether the suicide risk can be managed and/or reduced satisfactorily through ACDT or other measures.

### **Preparing and submitting a rule 32 report: concerns a detainee may have been the victim of torture (STHF rule 32(3))**

If healthcare professional in a residential STHF, is concerned that a detainee may have been a victim of torture, they must submit a rule 32(3) report. It is for the healthcare professional to decide if they have concerns in a professional capacity that a detainee may have been the victim of torture, in line with the definition set out in rule 32(6) (taking into account the [guidance above relating to the definition of torture](#)). The healthcare professional must always state clearly the reasons why they have concerns arising from the medical examination – specifically the medical evidence which causes these concerns, including all physical and mental indicators.

The healthcare professional has no obligation to report an allegation from a detainee if this allegation does not cause them to be concerned, in the context of the overall medical examination, that the person may have been a victim of torture. However, if an allegation does cause the doctor or nurse to be concerned, then they must report it. The healthcare professional must set out clearly if their concern derives from an allegation with no or limited medical evidence in support.

Where there is medical evidence in support of an allegation, the healthcare professional must set out clearly all physical and mental indicators in support of their professional concerns. They must record any mental or physical health problems that are relevant to the torture allegation.

Where possible, the healthcare professional should say why they consider the person's account is consistent with the medical evidence. The healthcare professional should consider whether the injury, health problem or other indicator may have other possible explanations which do not relate to torture. The healthcare professional must identify any medical evidence which may or may not be contrary to the account given by the detained person.

To help decide whether there is cause for concern, it may also be helpful to ask detainees about:

- when the torture allegedly took place

- how the injuries were caused
- how and when the mental health issues arose
- how the torture is currently affecting them

A rule 32(3) report is a mechanism for a healthcare professional in a residential STHF to refer on concerns, rather than an expert medico-legal report and so there is no need for healthcare professional to apply the terms or methodology set out in the Istanbul Protocol. Healthcare professionals in residential STHFs are not required to apply the Istanbul Protocol or apply probability levels or assess relative likelihoods of different causes but if they have a view, they should express it.

## **Actions by the Home Office DEPMU duty HEO on receipt of response from the responsible officer**

A copy of the Home Office response must be sent to the healthcare professional who should sign the report to confirm they have received the outcome. A copy should then be placed on the detainee's medical record. This action should be recorded on the detainee's record on CID.

If the healthcare professional feels that their concerns, as outlined in the rule 32 report, have not been properly addressed in the responsible officer's response, they should escalate this via the DEPMU duty HEO's management chain.

### **Related content**

[Contents](#)

# Requirements from Home Office staff on receipt of Short-term Holding Facility (STHF) rule 32 report

This page tells you what you must do when you receive an STHF rule 32 report.

## Actions by the Home Office DEPMU duty HEO

On receipt of an STHF Rule 32 report, the Home Office Detainee Monitoring and Population Management unit (DEPMU) duty higher executive officer (HEO) must:

1. Log its receipt.
2. Ensure that the report is legible, clear, signed by a named healthcare professional and complies with the overall reporting requirements as indicated above and in the report template. If the report does not meet these criteria the Home Office DEPMU duty HEO must, within 24 hours, ask for this to be rectified by the healthcare professional.

When forwarding a rule 32 report, the DEPMU Duty HEO must:

1. Make contact with the Home Office responsible officer in advance of the report being dispatched and alert them that a rule 32 report is about to be forwarded and to confirm ownership and contact details. (If the responsible officer cannot be established after reasonable attempts, the assistant director (AD) or deputy director (DD) in the unit most recently identified from the CID Case Ownership tab, CID notes and Doc Gen documents must be contacted. The AD or DD must identify a responsible officer within an hour, or complete the due Rule 32 actions themselves.)
2. Update the DEPMU log with the name of the responsible officer, date and time. This should additionally be recorded on CID.
3. Forward a copy of the rule 32 report to the detainee's legal representative (where a legal representative is recorded on the file).
4. Forward the rule 32 report to the detainee's Home Office responsible officer within 24 hours of receipt. The report must be sent by fax or email together with the [Annex E: Email header page](#).
5. Follow up with a phone call to the responsible officer to confirm receipt of the report.
6. Record on CID the time and date the report was received and sent to the responsible officer and confirm the report was received by the named responsible officer.
7. Update the local DEPMU log to show the date and time the report was submitted and the date and time by which a response is required.

If a full response is not received from the Home Office responsible officer by the deadline, the DEPMU duty HEO must escalate the matter to the appropriate caseworking AD or DD to resolve without delay.

When a response has been received from the Home Office responsible officer, the DEPMU duty HEO must send a copy of the response to the healthcare professional and STHF manager who must sign the report to confirm they have received a response and is aware of the decision made by the responsible officer.

## Actions by the STHF manager

When a response has been received from the Home Office DEPMU duty HEO the STHF manager must:

- if the detainee understands English, provide a copy of the response to the detainee within 24 hours of receipt, and notify DEPMU this has been completed by submitting an IS 91 RA Part C
- if the detainee does not understand English, use an interpreter or telephone-based interpreting service to explain the content of the response, and notify DEPMU this has been completed by submitting an IS 91 RA Part C

If the detainee has been transferred from the STHF to an IRC, notify DEPMU without delay, who must forward the report to that centre's Home Office DET for action, and update CID. (In such circumstances, responses should be provided to the detainee within 24 hours of receipt from the other removal centre.)

In some cases, the Home Office responsible officer may respond that the rule 32 report contains insufficient content to understand the medical concern and meaningful consideration of the report is not possible. In such circumstances:

1. The responsible officer will immediately inform the DEPMU duty HEO of this circumstance by phone.
2. Within 24 hours of receiving this phone call, the DEPMU duty HEO must request sufficient information from the healthcare professional for meaningful consideration of the report to be possible.
3. The DEPMU duty HEO must then forward this additional information to the responsible officer within 24 hours of receipt.
4. The response timescales and process as explained below will apply once a report with meaningful content has been received.

## Actions by Home Office responsible officers

A rule 32 report must be considered and be responded to by the responsible officer in line with the guidance in chapter 55b - Adults at risk in immigration detention. These actions must be carried out as soon as possible but no later than the end of the second working day after the day of receipt. The responsible officer must copy the response to the detainee's legal representative (if one is recorded on file) at the point of response.

Responsible officers have 2 working days after accepting receipt to provide a response to the rule 32 report. The response must:

- engage with the concerns raised by the healthcare professional in accordance with the guidance in chapter 55b - Adults at risk in immigration detention
- where detention is being maintained, set out clearly the reasons why
- where detention is not being maintained, set out clearly the reasons why
- clearly identify the responsible officer's name and team

On receipt of a rule 32 report the responsible officer must review it to consider the following points:

- if the healthcare professional clearly states that the report reflects a repeated claim or assertion rather than a reasoned medical concern (the practitioner or nurse is entitled to do this), the report must be considered although it will likely carry less weight as a consequence
- if the report states that it raises a medical concern but contains insufficient content to understand the medical concern, meaningful consideration of the report will not be possible (such a view must not be reached lightly) - in such cases, telephone the DEPMU duty HEO immediately and ask them to obtain sufficient information from the healthcare professional for meaningful consideration, and to repeat the issuing process - the response timescales will resume once a report with meaningful content has been received: record on CID notes the fact of the report's lack of content, the outcome of the telephone call, the name of the DEPMU duty HEO and the agreed action

**Note: It is important that STHF rule 32 reports are not rejected by the caseworker considering them because they have been completed by a nurse, rather than a doctor. IRC Rule 35 reports must, however, only be completed by doctors.**

When a report capable of response has been received:

1. Open a CID Case Type reflecting the appropriate rule (for example, 'rule 35(3) – Torture Allegation').
2. Update CID Calendar Events or local diary to record the deadline and to help ensure the rule 32 response is returned on time (see table below, which assumes a normal working week excluding public holidays).

<b>Report Received</b>	<b>Response Due</b>
Monday	Wednesday
Tuesday	Thursday
Wednesday	Friday
Thursday	Monday
Friday	Tuesday
Saturday	Tuesday
Sunday	Tuesday

The responsible officer must consider the report carefully and review the detainee's detention in line with the guidance in chapter 55b - Adults at risk in immigration detention. Note that rule 32(3) reports are not medico-legal reports. They must not be considered defective for not containing the detail of such a report or for not being

written according to the Istanbul Protocol or other standards. Healthcare professionals in residential STHFs are not expected to have specialist forensic training and are not trained in standards relating to documentation of torture such as the Istanbul Protocol.

Responsible officers must take prompt action to release the detainee, if appropriate. Where there are additional unit or directorate specific requirements as regards obtaining management approval for releases, or for notifying releases, these must be followed.

Every rule 32 report must receive a written response, even if the detainee has been or will be released. A response in released cases may be very brief. Holding responses are not acceptable. Responses must always be returned on time, regardless of other events close to the deadline (for example, a forthcoming asylum interview or action under the Dublin Regulations).

**Please note that, notwithstanding the fact that detainees can only be detained in residential STHFs for an absolute maximum of 7 days the timescales for considering and responding to rule 32 reports are the same as those that apply to rule 35 reports completed by doctors in immigration removal centres.**

The response must be drafted using CID Doc Gen form IS.335. It is vital that the response is saved to CID Doc Gen, to allow for review and audit. Senior executive officer (SEO) or Her Majesty's inspector (HMI) clearance must be obtained for the response, naming the officer in CID notes. The response must be sent by fax or email to the DEMPU Duty HEO for transmission to the residential STHF in which the individual is detained. A transmission or sent receipt should be collected and attached to the file, minuting the file accordingly. A copy of the response and report must be sent by fax or email to the detainee's legal representative (if represented).

To close the action the responsible officer must:

1. Telephone the DEMPU Duty HEO to confirm they have received the response.
2. Close the case on the CID Case Outcome screen, according to the applicable outcome (such as STHF rule 32 Review – Detention Maintained' or 'STHF rule 32 Review – Detainee Released'). (Note that if the detainee is due to be released for reasons unconnected to the rule 32 report it will be necessary to close the Rule 32 case type as 'Detention Maintained', before effecting release, noting CID notes accordingly, clearly explaining the reasons for release. This ensures that the release will not be wrongly attributed to rule 32 reasons.)
3. Update CID notes and file minutes to record the time and name of the Home Office DEPMU duty HEO who has confirmed receipt, and that the CID Case has been closed.
4. If the rule 32 report discloses information relevant to the consideration of any asylum and/or human rights case, ensure appropriate action is taken – taking steps to clarify the detainee's intentions if they have not already claimed asylum or, if they have, considering the evidence as part of the

asylum claim or appeal, or (where appropriate) as part of the detainee's further representations.

## **Actions by the DEPMU duty HEO**

The Home Office DEPMU duty HEO must ensure details of any rule 32 reports received in the week from healthcare professionals together with responsible officers' responses are provided to the Adults at Risk Returns Assurance Team rule 35 inbox as required. Please note that this inbox should be used for STHF rule 32 reports, as well as for rule 35 reports.

The local DEPMU log should be audited every week to confirm that responses have been provided as required, and escalate to the relevant unit's AD or DD where they have not. The DEPMU duty HEO must ensure that accurate records of Rule 32 report activity are maintained in respect of every rule 32 case. These records must be compiled and submitted according to a centrally determined format, standard and timescale.

### **Related content**

[Contents](#)

# Reports from third parties

This page tells you what to do if you receive a report from a third party.

Residential short-term holding facilities (STHFs) may occasionally receive reports from third parties about a detainee's health or allegations that they are the victim of torture. Such reports generated by persons who do not work in an STHF, fall outside the terms of this Detention services order (DSO).

However, as a matter of best practice, reports about an individual's health and well-being, or reports alleging that a detainee may have been a victim of torture, where capable of engaging STHF rule 32, must be forwarded to the healthcare professional and to the Home Office responsible officer for review.

It will be for the Home Office responsible officer to consider such reports in line with the guidance in chapter 55b - Adults at risk in immigration detention. Separately, the healthcare professional must review the detainee's case in light of the third-party report and decide whether or not to make a rule 32 report.

Reports alleging that a detainee is feeling suicidal must be brought to the attention of the on-site healthcare professional immediately.

## **Related content**

[Contents](#)



# Annex A: Rule 35(1)/Rule 32(1) report

**Detention services order 9/2016 – Detention centre rule 35 and Short-term Holding Facility rule 32**

**Rule 35(1) report/Rule 32(1) report [Delete as appropriate] – a detainee whose health is likely to be injuriously affected by continued detention or the conditions of detention**

## **Section 1: Detainee's details**

Forename(s):	
Surname:	
Date of Birth:	
Home Office reference number	
Immigration Removal Centre/Residential Short-term Holding Facility:	

## **Section 2: Detainee's authority to release medical information**

The detainee named above has authorised the release of the medical information in this report in line with the guidance in DSO 1/2016 – The Protection, Use and Sharing of Medical Information Relating to People Detained Under Immigration Powers.

## **Section 3: Medical practitioner's/Registered nurse's [Delete as appropriate] report**

**(Please read the notes at the end of this form)**

**I write in respect of the detainee named above in my capacity as an immigration removal centre doctor/short-term holding facility healthcare professional [Delete as appropriate]. I hereby report that this detainee's health is likely to be injuriously affected by continued detention or the conditions of detention.**



## Section 5: Assessment

- i) What impact is detention or the conditions of detention having (or likely to have) on the detainee's health and why?
  
  
  
  
  
  
  
  
  
  
- ii) Can remedial action be taken to minimise the risks to the detainee's health whilst in detention? If so, what action and in what timeframe?
  
  
  
  
  
  
  
  
  
  
- iii) If the risks to the detainee's health are not yet serious, are they assessed as likely to become so in a particular timeframe (ie in a matter of days or weeks, or only if detention continued for an appreciably longer period)?
  
  
  
  
  
  
  
  
  
  
- iv) How would release from detention affect the detainee's health? What alternative care and/or treatment might be available in the community that is not available in detention?
  
  
  
  
  
  
  
  
  
  
- v) Are there any special considerations that need to be taken into account if the detainee were to be released? Can the detainee travel independently to a release address?

**Other comments:**

**Section 6: Signature**

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

If other healthcare professionals have supported you in examining the detainee and/or in producing this report their details must be given below:

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

## **Notes – for the doctor/registered nurse**

**Your report must be completed legibly, with all questions being completed fully. Consideration of the report will be delayed if Home Office officials have to return the report to seek clarification.**

**If the Home Office requests clarification of any point in this report, this must be provided promptly.**

**Once completed this report must be emailed to the Home Office Detention engagement team (in relation to IRC rule 35 reports) or to the DEPMU duty HEO (in relation to STHF rule 32 reports).**

**A signed copy of this report must be placed on the detainee's medical record and another signed copy provided to the detainee free of charge.**

**The Home Office response must on receipt be reviewed by the medical practitioner/registered nurse. If it is considered to unsatisfactorily address the original concerns, it must be escalated to the Home Office Detention engagement team (in relation to rule IRC 35 reports) or the DEPMU duty HEO (in relation to rule STHF 32 reports).**

## **Notes – for the Home Office caseworker**

**You must consider and respond to this report in line with the guidance and instructions in:**

- **Adults at risk in immigration detention policy guidance.**
- **Detention services order (DSO) 9/2016 – Detention centre rule 35 and Short-term Holding Facility rule 32.**

# Annex B: Rule 35(2)/Rule 32(2) report

**Detention services order 9/2016 – Detention centre rule 35 and Short-term Holding Facility rule 32**

**Rule 35(2) report/Rule 32(2) report [Delete as appropriate] – a detainee suspected of having suicidal intentions**

## **Section 1: Detainee's details**

Forename(s):	
Surname:	
Date of Birth:	
Home Office reference number	
Immigration Removal Centre/Residential Short-term Holding Facility:	

## **Section 2: Detainee's authority to release medical information**

The detainee named above has authorised the release of the medical information in this report in line with the guidance in DSO 1/2016 – The Protection, Use and Sharing of Medical Information Relating to People Detained Under Immigration Powers.

## **Section 2: Doctor /registered nurse's [Delete as appropriate] report**

**(Please read the notes at the end of this form)**

**I write in respect of the detainee named above in my capacity as an immigration removal centre doctor/short-term holding facility healthcare professional [Delete as appropriate]. I hereby report that this detainee is suspected of having suicidal intentions.**

### **Section 3: Relevant information**

- i) Please state the reasons for suspecting that the detainee has suicidal intentions?
  
- ii) Is the detainee being managed under Assessment Care in Detention Teamwork (ACDT) arrangements? If not, why not?
  
- iii) Can the suicide risk be managed/reduced satisfactorily through ACDT, medication and/or appropriate interventions such as talking therapies?
  
- iv) What arrangements might be needed to manage the detainee's suicide risk in a non-detained setting?
  
- v) Has there been a mental health assessment? If so, what was its result/recommendation? If not, is an assessment scheduled to take place and, if so, when? Please attach the report of any assessment or give a brief overview.



**Other comments:**

**Section 4: Signature**

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

If other healthcare professionals have supported you in examining the detainee and/or in producing this report their details must be given below:

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

## **Notes – for the doctor/registered nurse**

**Your report must be completed legibly, with all questions being completed fully. Consideration of the report will be delayed if Home Office officials have to return the report to seek clarification.**

**If the Home Office request clarification of any point in this report, this must be provided promptly.**

**Once completed this report must be emailed to the Home Office Detention engagement team (in relation to IRC rule 35 reports) or to the DEPMU duty HEO (in relation to STHF rule 32 reports).**

**A signed copy of this report must be placed on the detainee's medical record and another signed copy provided to the detainee free of charge.**

**The Home Office response must on receipt be reviewed by the medical practitioner/nurse. If it is considered to unsatisfactorily address the original concerns, it must be escalated to the Home Office Detention engagement team (in relation to IRC rule 35 reports) or the DEPMU duty HEO (in relation to STHF rule 32 reports).**

## **Notes – for the Home Office caseworker**

**You must consider and respond to this report in line with the guidance and instructions in:**

- **Adults at risk in immigration detention policy guidance**
- **Detention services order (DSO) 9/2016 – Detention centre rule 35 and Short-term Holding Facility Rule 32**

# Annex C: Rule 35(3)/Rule 32(3) report

**Detention Services Order 9/2016 – Detention centre rule 35 and Short-term Holding Facility rule 32**

**Rule 35(3) report/Rule 32(3) report [Delete as appropriate] – concerns that a detainee may have been a victim of torture**

## **Section 1: Detainee's details**

Forename(s):	
Surname:	
Date of Birth:	
Home Office reference number	
Immigration Removal Centre/Residential Short-term Holding Facility:	

## **Section 2: Detainee's authority to release medical information**

The detainee named above has authorised the release of the medical information in this report in line with the guidance in DSO 1/2016 – The Protection, Use and Sharing of Medical Information Relating to People Detained Under Immigration Powers.

## **Section 3: Doctor /registered nurse's [Delete as appropriate] report (Please read the notes at the end of this form)**

**I have examined the detainee named above in my capacity as an immigration removal centre medical practitioner/healthcare professional in a short-term holding facility and hereby report that I have concerns that the detainee may have been a victim of torture. This is a factual report rather than a medico-legal one.**

I understand that 'torture' in this context means:

"Any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which-

- (a) the perpetrator has control (whether mental or physical) over the victim, and
- (b) as a result of that control, the victim is powerless to resist."

Noting the following guidance when considering this definition of torture: There is no difference between "powerless to resist" and "powerlessness". The proper approach is to consider whether the detainee was in a situation of powerlessness.

#### **Section 4: Detainee's account**

Please provide details of the account given to you by the detainee of the alleged torture. In particular, please provide:

- as much detail as possible about the detainee's explanation for the cause of each injury, scar or symptom (physical or psychological)
- details of **when, where, how, over what timeframe** and **why** the torture is said to have happened, if possible

## **Section 5: Relevant clinical observations and findings**

Please provide details of your objective clinical observations and findings. This should include:

- details of all scarring or other physical marks, psychological symptoms, physical disability or impairment
- details of any medical or professional treatment or support that the detainee has received (including outside the UK) or is receiving and from whom
- any information in respect of previous or current physical or mental health problems which may be a result of having been tortured

## Section 6: Assessment

Please set out your reasoned assessment of why, on the basis of the detainee's account together with your own examination and clinical findings, you are concerned that the detainee may have been a victim of torture. This should include your assessment of:

- the consistency of any physical (eg scars) and/or psychological findings with the detainee's allegations, including any evidence to the contrary
- whether there might be other plausible causes for the findings
- the impact **detention** is having on the detainee and why, including the likely impact of ongoing detention

If there are no physical or psychological findings to support the detainee's account, you **must** state why, in your professional assessment, you nevertheless have objective grounds for your concern.



**Section 7: Signature**

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

If other healthcare professionals have supported you in examining the detainee and/or in producing this report their details must be given below:

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

Signed:.....

Printed name:.....

Position and qualifications:  
.....

Date.....

## **Notes – for the doctor/registered nurse**

**The requirement to report need only be triggered by you having a concern that the detainee may have been a victim of torture, as defined above. However, you should not make a report where the detainee’s experience of harm or mistreatment does not meet the definition of torture given in section 3 above, or where you do not have clinical concerns that the detainee may have been a victim of torture, including instances where there is no basis for concern other than an unsupported claim by the detainee to have been a victim of torture. If, however, you do have concerns that the detainee may nevertheless be particularly vulnerable to harm in detention you must report those concerns, by completion of a Rule 35(1)/STHF Rule 32(1) report if appropriate, an IS.91 RA Part C (risk assessment), or by passing the information direct to the Home Office Detention engagement team at the centre (in relation to IRC rule 35 reports) or to the DEPMU duty HEO (in relation to STHF rule 32 reports).**

**Your report must be completed legibly, with all questions being completed fully. Consideration of the report will be delayed if Home Office officials have to return the report to seek clarification.**

**If the Home Office request clarification of any point in this report, this must be provided promptly.**

**Once completed this report must be emailed to the Home Office Detention engagement team (in relation to IRC rule 35 reports) or the DEPMU duty HEO (in relation to STHF rule 32 reports).**

**A signed copy of this report must be placed on the detainee’s medical record and another signed copy provided to the detainee free of charge.**

**The Home Office response must on receipt be reviewed by the doctor or nurse. If it is considered to unsatisfactorily address the original concerns, it must be escalated to the Home Office Detention engagement team (in relation to IRC rule 35 reports) or the DEPMU duty HEO (in relation to STHF rule 32 reports).**

## **Notes – for the Home Office caseworker**

**You must consider and respond to this report in line with the guidance and instructions in:**

- Adults at risk in immigration detention policy guidance**
- Detention services order (DSO) 9/2016 – Detention centre rule 35 and Short-term holding facility rule 32**

# Annex D: Rule 35(3)/Rule 32(3) letter

From: [Named medical practitioner/Registered nurse]  
Healthcare, [XYZ] Immigration Removal Centre/Residential Short-term  
Holding Facility [Delete as appropriate]:

To: [Forename Surname]

HO ref:

Cc [Detainee's legal representative, if known]  
[HO caseworker, via the HO Detention engagement team (for Rule 35(2)  
reports) or via the DEPMU Duty HEO (for Rule 32(2) reports)]

Date: [DD/MM/YYYY]

Dear [Detainee name]

I am a doctor working in the healthcare department of an immigration removal centre/registered nurse working in the healthcare department of a residential short-term holding facility. I work independently and my primary responsibility as a doctor/nurse [delete as appropriate] is the care of my patients. I am not involved in decisions to detain or decisions about immigration status.

On [dd/mm/yyyy] you presented to the healthcare unit in the Immigration Removal Centre/Short-term Holding Facility [Delete as appropriate], in connection with a claimed history of torture/ill-treatment. I am required, as a doctor/nurse [delete as appropriate] to provide the relevant and necessary treatment for any injuries or medical complaints arising from such a history. Rule 35 of the Detention Centre Rules 2001/Rule 32 of the Short-term Holding Facility Rules 2018 [Delete as appropriate] also sets out a requirement that I 'shall report to the manager on the case of any detained person who [I am] concerned may have been the victim of torture'.

According to the Detention Centre (Amendment) Rules 2018)/Rule 32(6) of the Short-term Holding Facility Rules 2018 [Delete as appropriate] the definition of 'torture' I must apply as part of this consideration is: 'any act by which a perpetrator intentionally inflicts severe pain or suffering on a victim in a situation in which:

- (a) the perpetrator has control (whether mental or physical) over the victim, and
- (b) as a result of that control, the victim is powerless to resist.'

I understand, however, that there is guidance to the effect that for these purposes there is no difference between "powerless to resist" and "powerlessness". The proper approach is to consider whether the detainee was in a situation of powerlessness.

On the basis of what you have been able to tell me and/or the examination I have carried out, my independent view is that a report under rule 35(3)/rule 32(3) [Delete as appropriate] is not the appropriate process for these concerns to be raised. The events or issues you raised may be relevant to your immigration or asylum case and you should therefore raise them in writing with your Home Office caseworker directly. However, it is my opinion that the completion of a rule 35(3)/rule 32(3) [Delete as appropriate] report in these circumstances will not be appropriate for you. Accordingly, I have not issued a report under rule 35(3)/rule 32(3) [Delete as appropriate]. In reaching this view I have also considered whether there are other grounds on which you may be particularly vulnerable to harm in detention but have concluded that this is not the case.

Yours sincerely,

[Doctor/Nurse XYZ]

# Annex E: Email header page



Home Office

To:	[Name of confirmed officer]
Cc:	
Fax number/email address:	[Confirmed fax number/email address]
From:	[Name of HO Detention engagement team member] or Name of DEMPU staff member
Centre:	
Tel number/email address:	
Date:	
Detainee's name:	
HO reference no:	
Pages:	

## **DETENTION CENTRE RULE 35/SHORT-TERM HOLDING FACILITY RULE 32 Report of Special Illness or Condition (including torture claims)**

Dear [Name of confirmed officer]

Further to our conversation earlier today, you have been **confirmed and recorded** as the responsible officer handling the case of the above named detainee (or as the officer who has taken responsibility for the handling of this particular matter).

I am attaching a copy of a report which has been provided by the healthcare professional at this centre/short-term holding facility in accordance with rule 35 of the Detention Centre Rules 2001/rule 32 of the Short-term Holding Facility Rules 2018. [Delete as appropriate]

In accordance with Detention Services Order 9/2016 would you please:

- ensure that you have read and understood the relevant instructions for handling rule 35 reports/rule 32 reports in Detention services order 9/2016 and the Adults at risk in immigration detention policy guidance
- immediately review the decision to detain the individual in light of the content of the rule 35 report/rule 32 report
- fax/email back, within 2 working days, a response (using form IS.335) providing the outcome of the detention review and how the information provided in the medical practitioner's report/registered nurse's report [Delete as appropriate] has been considered

Yours sincerely,

[Name of HO Detention engagement team member] or  
[Name of DEPMU Duty HEO]