Home Office

Immigration returns, enforcement and detention
General Instructions

Judicial reviews and injunctions

Version 21.0

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About this guidance

This guidance sets out the judicial review (JR) process in enforcement cases, and guidance on notice periods and removal windows. This guidance is undergoing detailed review.

With immediate effect and until further notice, the use of removal windows as set out in this instruction is **suspended**. A person must not be removed using a removal window or limited notice of removal. For further instruction see suspension of enforced removal window published on Returns preparation webpage. Where the sole criteria for treating a judicial review as being non-suspensive is that it was lodged during the period of a removal window, then the judicial review must be treated as suspensive.

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 Enforcement Policy.

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

Publication

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

- version **21.0**
- published for Home Office staff on **22 April 2021**

Changes from last version of this guidance

Guidance has been added to draw attention to the fact that some applicants may lack the mental capacity to make decisions on their own behalf.

Related content
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Judicial reviews explained

This guidance sets out the judicial review (JR) process in enforcement cases. There is also more general guidance in judicial review guidance.

Judicial review is the legal process that allows a person to challenge the lawfulness of a decision, action or failure to act of a public body such as a government department.

Immigration removal cases, where there has been an asylum or human rights claim, should not usually reach the stage of JR until after they have had access to the appeals system.

Event types subject to judicial review

Types of event that could be subject to JR are:

- a failure to act, such as a delay in issuing a document or making a decision
- the setting of removal directions, which usually means that the person lodging the JR believes their removal would infringe their rights (for example, rights under the Refugee Convention, European Convention of Human Rights or European Community instruments)
- a refusal to accept that further submissions amount to a fresh claim
- a decision to certify a claim as clearly unfounded
- detention

Pre-action protocol

The pre-action protocol sets out the steps that must be taken before commencing an application for JR. This procedure normally only applies where removal directions have not been set or removal is not imminent. You can find a template response for a letter sent in an urgent case, where the pre-action protocol process is not appropriate, in section 2 of the judicial review guidance.

In non-urgent cases, a pre-action protocol provides you with an opportunity to consider these issues and to provide a response in the hope that this will resolve any concerns and rectify any errors before the need to start JR proceedings.

Where a claimant believes that a legal error has been made in the consideration of their case, they will be able to make representations in a standard format to the defendant. If you receive these representations, you must fully consider them and decide what action to take:

- if you decide the representations made have merit, you must try to rectify the problem without the need of the JR process
- if you decide the representations have no merit, you must use the opportunity to fully explain the reasons for your decision and to answer any queries the claimant has made

- if you decide that some of the claim has merit but other parts do not, your response must fully cover the reasons for this decision, this must include a full explanation of what you agree with and how you will rectify this, and why you do not accept other claims, you will have 14 days to respond in full to the matters

Mental capacity

In applying this guidance, you are generally entitled to assume that an adult has the mental capacity to make decisions on their own behalf, including decisions relating to their immigration status in the UK and the conduct of any litigation. If, however, there is evidence that a person lacks such capacity, you must consider whether reasonable adjustments need to be made to ensure they are not prejudiced. Further guidance on this will be issued in due course.

Meanwhile, background information and help on identifying mental incapacity is available in Detention Services Order 04/2020. See in particular paragraphs 6-18, which apply whether or not the person is detained. If, having considered this guidance, you are in doubt about whether a person lacks capacity, or what reasonable adjustments to make, you should consult a senior caseworker. If policy advice is required, contact Detention Policy if the person is in, or being considered for, detention, or Appeals Policy in any other case.

Related content
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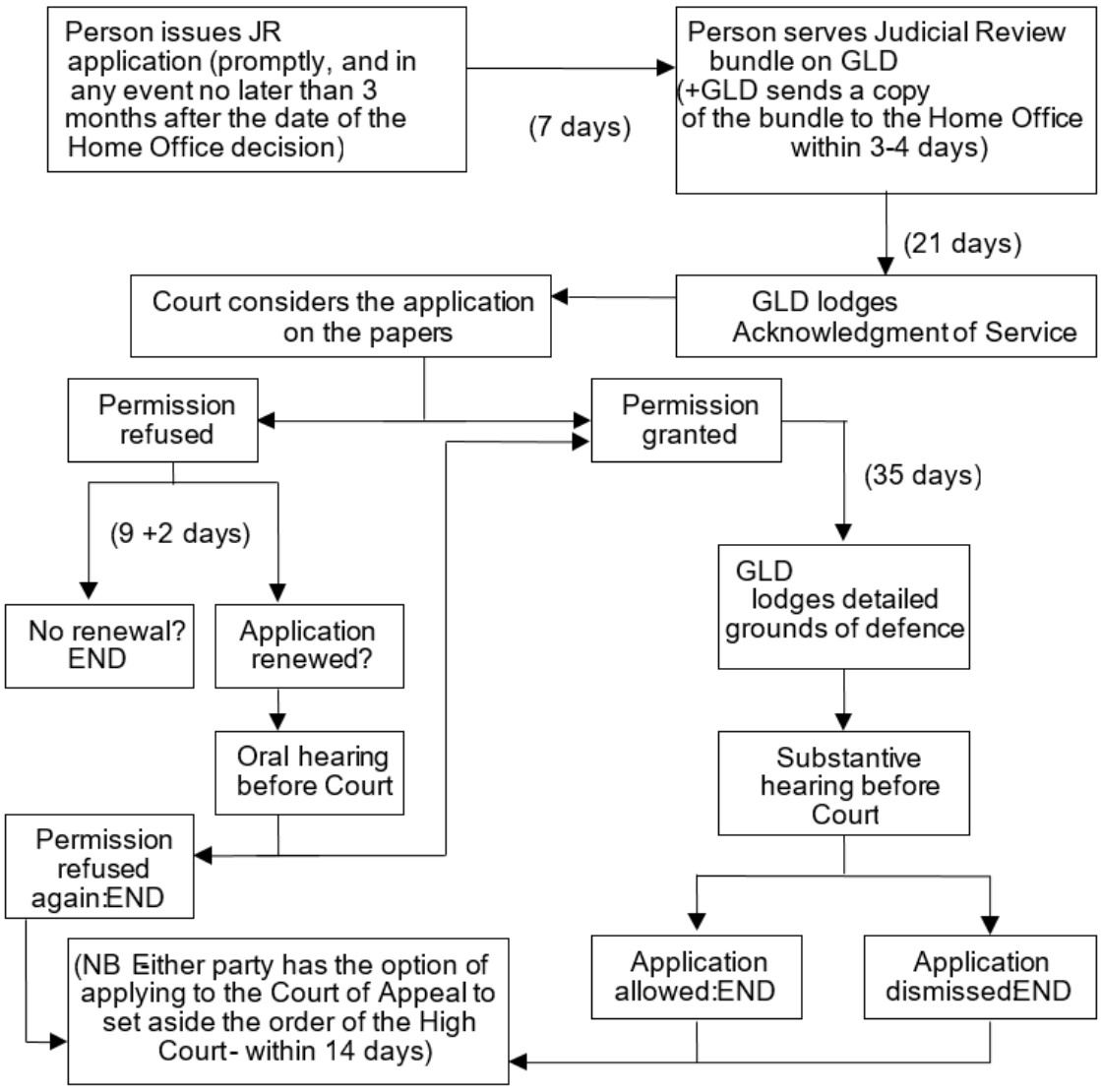
Quick guide to judicial review process

The below flowchart explains the judicial review (JR) process and the relevant timescales involved, including the involvement of Government Legal Department (GLD) formerly known as Treasury Solicitors. For further detail on the JR process, see judicial review guidance.



Related content
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Notice of removal

Notice of removal may be given in 3 different forms:

- notice of a removal window - the person is given notice of a period, known as the removal window, during which they may be removed
- notice of removal directions - the person is given notice of removal directions and thus knows the exact date of departure
- limited notice of removal - a more restricted version of the removal window form of notification

Only one of the above forms is necessary in each case. In some cases, the enforcement officer may have discretion as to which of the above forms of notice is considered suitable, in other cases removal may only be possible with one form of notice.

Notice of a removal window

Under this form of notice the person is given notice of a removal window during which removal may proceed without further notice. This form of notice is suitable for the following persons, subject to exceptions:

- persons being removed under section 10 of the Immigration and Asylum Act 1999 the person will be given a 'notice of liability for removal'
- persons being deported under sections 3(5) and 3(6) of the Immigration Act 1971 or section 32 UK Borders Act 2007, the person will be given a 'deportation decision letter'

When a 'notice of liability for removal' or 'deportation decision letter' is given, it starts the notice period. The person may not be removed during this period.

When the notice period ends, the removal window begins. A person may be removed during the removal window.

Notice period or removal window	**Action**
When does the notice period begin?	When the notice is given in person, the period begins at the time notice is given. When the notice is given by post, the period begins at one minute past midnight the day after it is received. Unless shown otherwise, the date of receipt is calculated to be 2 working days after the date on which the notice was posted. The notice may not be given to a person with leave to enter or remain, or during the period within which an in-country appeal or an administrative review may be

Notice period or removal window	Action
	lodged in time or is pending.
When does the notice period end?	The notice will specify the length of the notice period. The minimum length of the notice period must comply with the notice period policy.
When is the notice period and removal window extended?	Consideration may be given to extending the notice period (and removal window by the same amount) to ensure the person has a reasonable opportunity to access legal advice. Where a notice period and removal window extension is given, a RED.0006 notice is served.
When does the removal window begin?	The removal window begins when the notice period ends.
When does the removal window expire?	The removal window runs for 3 months from the date the 'notice of liability for removal', 'deportation decision letter' or RED.0006 notice (extending the notice period) is served. After this point the removal window will expire, and the person cannot be removed without a new notice of removal or deportation, and new notice period, being given.
When is the removal window extended?	If a removal window has not yet expired, it can be extended for a further 28 days by way of a removal window extension (RED.0004 (extension)). This must only be used once within a removal window. Where it is known that removal is unlikely to take place within 28 days you must not serve a RED.0004 (extension), instead you must allow the removal window to expire. When it then becomes known that removal is likely within a 3-month period you must serve a new RED.0004 (fresh) with a new notice period.
When is the removal window cancelled?	If the person makes an asylum, human rights or European Union (EU) free movement claim, involving issues of substance which have not been previously raised and considered, or is being removed by the family removal process, or is a relevant adult at risk, the window must be cancelled. This is done by way of a RED.0005 notice of cancellation.
When does the removal window get replaced?	If the person has been given 'notice of liability for removal', 'deportation decision letter' or RED.0006 notice (extending the notice period), but there is a change to the information provided for either transit routes or destination, they must be given a RED.0004 (fresh). This replaces the removal window of the previous notice, provides a fresh notice period and removal window, and sets out the new proposed routing and destination information.
What happens if the removal window expires?	When a removal window has expired without the person leaving the UK in that time, any further

Notice period or removal window	Action
	proposal to enforce removal will require a new notice of removal with a completely new notice period. A RED.0004 (fresh) must be used.
When else may a new notice period and removal window be needed?	A RED.0004 (fresh) may also be used where a person: • is being notified of a removal window following an unsuccessful appeal • had an in-country right of appeal, but no appeal was lodged • has not already been notified of liability to removal

The ‘notice of liability for removal’ or ‘deportation decision letter’ must include:

- the place and country of return
- in relation to an asylum claim, details of the part of the country to which they will be removed

Where a removal window has expired, or removal will be via a third country transit point which is not one of the safe countries listed in section Removal via a different route and which was not notified in the original notice, a fresh removal window must be notified using form RED.0004 (fresh) and a new notice period will begin. A proposed third country transit point (or a range of potential transit points) may be notified using this form. The person must be notified of both place and country in both destination and transit points.

The ‘notice of liability for removal’ must be accompanied by the immigration factual summary (ICD.2599):

- this must include a chronology of the case history, including details of whether any appeal rights were exercised and past applications for JR, see completing the immigration factual summary
- a RED.0001 notice or other casework decision of the type outlined in Liability to administrative removal (non EEA) - consideration and notification

The ‘Notice of liability for removal’ or ‘Deportation decision letter’ must be copied to any legal representative where the Home Office has details of any representative actively involved in the case, or where a person asks that a specified representative be sent copies.

If someone has been given notice of a removal window, they need not always be taken into detention overnight before removal.

If someone is detained or arrested for removal later on the same day, but states that their circumstances have changed or that they wish to access legal advice, they will

not be removed whilst they are seeking legal advice, or they have representations outstanding. Where representations do not amount to a fresh protection or human rights claim and have either:

- already been considered
- have not previously been considered but would not create a realistic prospect of success (in terms of leading to an outcome other than removal from the UK)

the individual can proceed to be removed on the same day once we have considered the outstanding representations. Where removal is deferred in accordance with 'Arranging removals', they will be taken to an IRC if detention is appropriate (see Detention guidance). Removal will not automatically be deferred if a claim is made by a third party who is not an Office of the Immigration Services Commissioner (OISC) accredited, or otherwise appropriately qualified, representative or an MP.

Those not suitable for removal window

The policy described in this section may not be used to give notice of removal to:

- family cases
- where the person has no leave but has made a protection (asylum or humanitarian protections) or human rights claim, or appeal, pending
- where the Home Office has evidence (beyond a self-declaration) that a person is suffering from a condition listed as a risk factor in the Adults at risk in immigration detention policy or other condition that would result in the person being regarded as an adult at risk under that policy

Notice of removal directions

Under this form of notice the person is given notice of removal directions which will specify the date of departure. This form of notice is suitable for the removal and deportation of all persons irrespective of the power under which they are being removed.

In most cases notice will usually be by service of form IS.151D (or IS.92 in port cases), with a copy of the removal directions in the case. The notice period (see notice period) runs from when notice is served up to the point of departure.

Persons being removed must be given adequate notice that removal has been scheduled. Where the person is detained, notice should ideally be given as soon as removal directions have been set. Where the person being removed is not detained, but the removal is to be enforced and removal directions have been set, they should ideally be given notice as soon as possible after arrest.

Where removal directions are being served on a person in an immigration removal centre (IRC), you must ensure that a copy of the removal directions and all other relevant paperwork is faxed promptly to the IRC to serve on the individual. Unless exceptionally agreed with the Home Office manager at the IRC, the notice of removal

will be served on the person the same day only where it is received by the IRC before 3pm.

When notice is given to a person being removed, it must be copied to their legal representatives where the Home Office has details of any representative actively involved in the case, or where a person asks that a specified representative be sent copies.

Limited notice of removal

Limited notice should not be used where a medical or social work professional has advised that it may not be appropriate.

Limited notice can be utilised in all cases (subject to the safeguarding exception detailed above) as an initial return option or as a contingency where a return using alternative option has failed. It may be of particular use where non-compliance or disruption by the family has led to a previous failed return or where there is a reasonable likelihood of future disruption or future non-compliance.

The exact details of the flight and time of departure may be withheld, and limited notice given using form IS.151G. The individual or family should be informed that they will not be removed during the notice period, and no later than 21 days from when notice is given. In the absence of a copy of the removal directions, they should also be told the country to which they are being removed and the route. This may be notified as a range of possible routes; for example, that the flight will either be direct, or via a safe country, or any other named country you are considering as a transit point. See Family Returns Process for further details regarding the application of this policy in family cases. Family cases within this section deals with its application in charter cases and where there are other special arrangements (where the minimum notice would normally be 5 days).

When notice is given to a person being removed, it must be copied to their legal representatives where the Home Office has details of any representative actively involved in the case, or where a person asks that a specified representative be sent copies.

Notice of removal must also be accompanied by the immigration factual summary (ICD.2599). This must include a chronology of the case history, including details of whether any appeal rights were exercised and past applications for JR. See Completing the immigration factual summary.

The notice period

Where notice is given of a removal window under this policy the notice period is 7 calendar days if at the point notice is given the person is **not detained**.

Otherwise, **subject to certain exceptions** described in this guidance (see: deferral), the notice period must be of the following minimum time periods:

- normal enforcement cases – minimum 72 hours (including at least 2 working days)
- third country cases and cases where the decision certified the claim (see Third country and Non-suspensive appeal (NSA) cases) - minimum 5 working days (unless the case has already been reviewed by JR, see NSA cases already reviewed)

These notice periods apply to **all** persons notified of a removal window, whether that is a window of 3 months or a limited notice of removal.

Normal enforcement cases (administrative removal and deportation)

Unless an exception applies, there are 3 rules to consider when calculating the minimum notice period:

- a minimum of **72 hours** must be given
- this 72-hour notification period must always include **at least 2 working days**
- the **last 24 hours** must include a working day unless the notice period already includes 3 working days

The below table shows the latest times you can notify a person of their removal in normal enforcement cases, assuming you want to immediately remove at the end of the notice period, taking into account the minimum 72 hour-notice period and the provisions in terms of working days. In summary, the notification times are as follows.

If removing on a Monday
If you wish to remove before 10am on a Monday, notice must be given by 10am on Wednesday. This is because the last 24 hours does not include a working day so the notice period must be extended to include 3 working days. Those you intend to remove between 10am and 5pm on a Monday will need sufficient time to access the courts on the Thursday and Friday of the preceding week so that they can challenge the decision to remove them if necessary. Those due to be removed after 5pm on a Monday will, however, have sufficient time to access the courts on the day of their removal, so removal directions can be set as late as 10am (when the courts open) on the Friday before the planned removal.

If removing on a Tuesday
Individuals you intend to remove on a Tuesday may also need sufficient time to access the courts during the preceding week. Those due to be removed before the courts open on a Tuesday or between 10am and 5pm must be given sufficient time on the Friday before the planned removal to challenge the decision to remove them if they so wish. However, those due to be removed after 5pm on a Tuesday will have sufficient time to access the courts on the day of, and the day before, their removal, so you can serve removal directions as late as the same time on the preceding Saturday (72 hours before removal).

If removing on a Wednesday, Thursday or Friday
If you intend to remove a person on a Wednesday, a Thursday, or a Friday, unless there has been a bank holiday, the weekend is of no consequence when calculating the minimum notice period. You must ensure when giving notice of removal that the person has at least 2 working days before their removal to challenge the decision to remove them in the courts if necessary.

If removing at the weekend
The courts are shut at weekends, so individuals you intend to remove then or before the courts open on a Monday must be given sufficient time in the preceding working days to challenge the decision to remove them if they so wish. Those due to be removed at the weekend or before the courts open on a Monday must therefore be notified of their removal on the Wednesday before the planned removal, so that they have 3 working days to access the courts if necessary.

This table does not take account of bank holidays, which must be considered as extra non-working days.

Removal set for	**Notify by latest**
midnight to 10am Monday	10am Wednesday
10am to 5pm Monday	Same time Thursday
5pm to midnight Monday	10am Friday
midnight to 10am Tuesday	10am Friday
10am to 5pm Tuesday	Same time Friday
5pm to midnight Tuesday	Same time Saturday
Wednesday	Same time Sunday
Thursday	Same time Monday
Friday	Same time Tuesday
midnight to 10am Saturday	Same time Wednesday
From 10am Saturday	10am Wednesday
Sunday	10am Wednesday

In addition to the above table and summary, you can use the removal notice calculator when considering the latest time you can notify a person of their removal in normal enforcement cases.

There are occasions where the standard 72-hour notification period is not required (see Notice of removal) which you must consider before giving notice of removal.

Persons detained for removal must be given access to telephone facilities to enable instruction of and on-going contact with representatives.

Extending a removal window: RED.0004 (extension)

Before a removal window expires, you may issue a RED.0004 (extension) to tell an individual and their legal representative of a 28-day extension to an existing removal window, without a new notice period, where removal is expected within that additional period (for example because of a delay in receiving a travel document or booking escorts). This must only be used once within a removal window.

When it is known that removal is unlikely to take place within 28 days, you must not serve a RED.0004 (extension), instead allow the removal window to expire. When it then becomes known that removal is likely within a 3-month period, serve a new RED.0004 (fresh).

Setting a new notice period and removal window: RED.0004 (fresh)

You must issue a RED.0004 (fresh) to tell an individual and their legal representative of a fresh removal window and when a new notice period will begin where:

- a removal window has expired without the person departing the UK in that time
- a person is being notified of a removal window following an unsuccessful appeal
- a person had an in-country right of appeal, but no appeal was lodged
- a person has not already been notified of liability to removal

Replacement of notice of removal – change to travel route and/or destination: RED.0004 (fresh)

You must issue a RED.0004 (fresh) to tell an individual and their legal representative of a fresh removal window and when a new notice period will begin where:

- there is a need to replace the removal window because of a change to the place of destination
- there is a need to replace the removal window because removal will be via a third country transit point which is not one of the safe countries listed in Removal via a different route and which was not notified in the original notice

You may propose a third country transit point (or a range of potential transit points) using this form.

Cancellation of removal window: RED.0005

When the person is no longer eligible to be removed in the 3-month removal window, (for example because they have made a subsequent protection claim or are a relevant adult at risk), you must provide written notice to the individual and their legal representative cancelling the removal window (using form RED.0005).

Consideration of extending the notice period: RED.0006

Whether or not they are detained, individuals must be allowed a reasonable opportunity to access legal advice and have recourse to the courts. The purpose of the notice period is to enable individuals to seek legal advice.

It is reasonable to expect individuals who are aware that they have not been successful in an immigration claim and/or appeal, and/or that outstanding

representations may be or have been rejected, to act promptly in seeking legal advice. Each case for extending the notice period must be considered on its individual merits. The key consideration is whether the person has had a reasonable opportunity to access legal advice and recourse to the courts.

The extension of the notice period in this context also extends the removal window. It re-starts the clock so that the window will remain open for a maximum of 3 months from the time the RED.0006 notice is served. If, during the notice period, an unrepresented person is yet to instruct a legal representative you must always consider extending the notice period.

When the notice period and 3-month removal window is extended, you must provide written notice (using form RED.0006) to the individual and their legal representative, stating when the removal window will open and confirming the length of the removal window.

Change of legal representative

A delay caused by a change in legal representative may be unavoidable and consideration must be given based on the merits of the case. It may be reasonable to extend the notice period where the individual has unavoidably lost contact with previous representatives, for instance, because the legal service has ceased business or discontinued responsibility for other reasons.

However, consideration must also be given to related factors. Extension of the notice period should not normally be considered in cases where there is no clear reason provided (and you have asked for reasons) for the change of representatives and/or there is cause to believe that the motive for the change is to bring about a postponement of removal, for instance, multiple changes of representative within a short period.

Access to legal advice: detained cases

Individuals detained in immigration removal centres have access to legal advice ‘surgeries’. DSO 06/213: Reception and induction checklist and supplementary guidance provides that detainees must be told of the availability of Legal Aid Agency (LAA) surgeries during the induction process within the first 24 hours. IRC welfare officers act in accordance with DSO 07/213: Welfare provision in immigration removal centres (IRCS) to alert detainees to the Duty Solicitor scheme that operates in the individual IRC, the timetable of provision and the mechanism for making an appointment. They also:

- direct detainees to information about how to find an alternative solicitor or other immigration advisor accredited by the Office of the Immigration Services Commissioner
- provide information about the Law Society and Legal Services Commission in a language that detainee can understand
- provide copies of the Bail for Immigration Detainees (BID) notebook

A request for an appointment with the surgery may be made at any time. It is reasonable to expect an individual to make use of the 72-hour notice period allowed for legal consultation at the earliest opportunity should they wish to do so.

If an unrepresented person (in detention) wishes to obtain legal advice and cannot be given an appointment at an LAA advice surgery within the initial 72-hour notice period, the removal window should normally be deferred to enable an appointment to be arranged. However, any request for an appointment that necessitates deferral and continued detention should be carefully considered on its merits. Consideration should be given whether the individual:

- was properly notified of access to legal advice
- made their request at the earliest reasonable opportunity
- cooperated with any attempt to arrange a consultation
- delayed their request in order to thwart removal

Access to relevant documentation

Legal representatives need access to relevant documents and case papers in order to properly advise their client. There may be some circumstances where an individual does not readily have access to their documents; for instance, because they have been detained at a reporting event or they have been outside the UK for a significant period.

Any refusal decisions, notice of liability to removal and immigration factual summary will be provided to the representatives on request either when the individual is detained or at the point they seek legal advice on a same day removal. In most instances, the immigration factual summary will be fully completed and will provide the necessary key facts and case history.

Where requested by representatives, it is reasonable to provide all relevant documents but, it should be noted, you may reasonably expect that, unless there has been a change of representative, documents previously provided to an individual and/or their representatives should have been retained. You may therefore reasonably request representatives to be specific in their requests. A request to release all case papers, whatever their relevance, is not reasonable and must be challenged.

Deferral of removal

It is not necessary to defer removal on a threat of JR, though it is important to satisfy yourself that the person concerned has had the opportunity to lodge a claim with the courts (particularly in certified or third country cases where there is no statutory in-country right of appeal). See Consideration of deferral.

The Home Office will only consider deferring removal if a JR application made in England and Wales is properly lodged with the Administrative Court in accordance with Practice Direction 54A Section II of the Civil Procedure Rules, or properly

lodged with the Upper Tribunal in accordance with the Tribunal Procedures (Upper Tribunal) Rules 2008 (as amended).

The JR application, as received by the Home Office, may take the following forms:

Claim form issued with detailed grounds

The Home Office will normally defer removal where a JR application made in England and Wales has been properly lodged with the Administrative Court or the Upper Tribunal in accordance with the relevant procedure rules. However, removal will not automatically be deferred where there has been less than 6 months since a previous JR or statutory appeal or the person is within the removal window, or the person is being removed by special arrangements (including by charter flight) (see special arrangements).

Claim form issued with statement of reasons for non-compliance with the Practice Direction

In cases where the claim form has been issued and the person has provided a statement of reasons for non-compliance with the Practice Direction, the court will notify the Home Office and the matter will be placed before a judge for consideration as soon as practicable. In these circumstances, the Home Office will defer removal if:

- the court decides that good reason has been provided for failure to comply (and gives a direction, for example that detailed grounds be submitted by a specified date)
- permission to proceed to JR is granted
- the court has not yet considered the matter by the time and date of removal, in such circumstances, it will be necessary to defer removal until the court has reached a decision

Out-of-hours claims before lodging with the court

Where it is not possible to file a claim due to the Administrative Court or Upper Tribunal office being closed, the Home Office may defer removal if provided with a copy of detailed grounds and subject to a consideration of the exceptions set out in section 6 of this guidance. The responsibility remains with the claimant to file the claim form as soon as possible on the next day the Administrative Court or Upper Tribunal office is open and to notify the Home Office that the claim form has been issued.

Withdrawing an application for judicial review

In some cases, a person with an outstanding JR application may ask to leave the UK. Where a person wishes to make a voluntary departure, you must ask them to sign a disclaimer (form IS.101). The person (or their legal representative) must also contact the courts to withdraw their JR application so that the court file is closed.

This must be done before the person leaves the UK so that a Notice of discontinuance can be filed. See also assisted voluntary returns.

Cases where the removal window should not be used

Removal window used but found to be inappropriate

It is possible that notice of a removal window may have been served on a person before it is established that they constitute a vulnerable group. If that has been done, the notice may not be relied upon to enforce removal. Instead new notice of removal must be given in accordance with notice of removal.

Family cases

Since 1 March 2011, an end-to-end process has been in place for working with families with children (see family returns process). This new process provides families with greater support and advice when considering their options for voluntarily leaving the UK (assisted return). Where families are not prepared to return voluntarily they may be given the opportunity to leave under their own steam (required return) before enforcement action (ensured return) is considered.

As part of the assisted return stage of the new process, all families liable for return are given the opportunity to attend a family return conference to discuss their options for returning home and raise any legal challenges or further submissions regarding their departure. Where necessary, families are then given a minimum of 2 weeks after their family return conference to think about how best to go home before the Home Office consider setting removal directions.

In addition to the minimum 2 week assisted return reflection period, specific notification periods have been established for giving notice of removal at the required return and ensured return stages of the family returns process.

Notifying a family of their required return
In almost all cases, families who are not prepared to voluntarily leave the UK are given the opportunity to make a required return which means they leave under their own steam without any enforcement action. In these cases, the Home Office pursues a self-check-in or assisted check-in return in which we give notice of removal with at least 2 weeks' notice while they remain living at home.

Notifying a family of their ensured return
Families reach the ensured return stage of the new process only where the assisted and required routes of return have failed or, in exceptional circumstances, where we consider a required return is not appropriate. The standard notification times apply to families subject to ensured return unless one or more of the exceptions in section 3 applies. If the family is subject to a limited notice removal, the standard notification period will be used to provide the time and date before which they will not be removed.

See also NSA family cases.

Third country and non-suspensive appeal (NSA) cases

Cases certified under section 94, section 94B or section 96 of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act) and regulation 33 of the Immigration (European Economic Area) Regulations 2016, as well as third country cases do not attract a statutory in-country right of appeal. When you give notice of removal to a person in these cases, you must satisfy yourself that they have the opportunity to access the courts before their departure is enforced, see Consideration of deferral. If notice of removal is given at the same time as the NSA or third country decisions this is likely to be their first opportunity for legal redress. A minimum of **5 working days'** notice must therefore be given between giving notice of removal and the removal itself (unless the case has already been reviewed by JR, or in some circumstances where the individual has received such notice previously, see NSA cases already reviewed by JR or following a failed removal.

Where a certification decision is taken in a third country case to certify the asylum claim on safe third country grounds under paragraph 5(1) of Schedule 3 to the Asylum and Immigration (Treatment of Claimants etc) Act 2004 (the 2004 Act), they must be given a minimum of **5 working days** in order to challenge that decision. If a subsequent human rights claim is separately certified as clearly unfounded under paragraph 5(4) of Schedule 3 to the 2004 Act, **whether following a notice of removal or not, a further notice period of at least 5 working days must be given**. This applies whether or not the person has previously been served with notice of a removal window (and whether or not the removal window is still open), a limited notice of removal, or notice of removal directions.

As the courts are shut at weekends, you will need to give notice of removal 7 days before you intend to remove the person in most third country and NSA cases. Where you intend to remove an individual on a Saturday or a Sunday, you may, in some cases, actually need to give notice of removal as much as 8 or 9 days in advance of removal if, for any reason, you are not able to give notice of removal the preceding weekend.

The below table shows the notification times for NSA and third country cases. It does not take account of bank holidays which must be considered as extra non-working days.

Removal directions set for:	**Notify by latest:**
Monday	Same time the preceding Monday (7 days before)
Tuesday	Same time the preceding Tuesday (7 days before)
Wednesday	Same time the preceding Wednesday (7 days before)
Thursday	Same time the preceding Thursday (7 days before)
Friday	Same time the preceding Friday (7 days before)
Saturday	Same time the preceding Saturday (7 days before) or Friday of the previous week (8 days before) if you are not able to serve removal directions at the weekend
Sunday	Same time the preceding Sunday (7 days before) or Friday of the previous week (9 days before) if you are

Removal directions set for:	Notify by latest:
	not able to serve removal directions at the weekend

In addition to the above table and summary, you can use the removal notice calculator when considering the latest time you can notify a person of their removal in third country and NSA cases.

There are instances where standard notification may not be required for NSA and third country cases (some family cases for example), which you must consider before setting removal directions.

Special arrangements (including charter flights)

Chartered flights are subject to special arrangements because of the complexity, practicality and cost of arranging an operation. For this reason, a JR application may not defer removal.

Special arrangements may also apply in other cases. For example, where complex medical needs require a significant number of medical escorts and special equipment. If you believe a case in which you are arranging removal should be treated as a special arrangements case, you should consult Operational Support and Certification Unit (OSCU) before setting removal directions.

Operational constraints will determine arrangements necessary for charter operations and other special cases. Details concerning these arrangements will be communicated to the High Court by OSCU in advance of the date planned for the operation. The person being removed will also be notified of these arrangements and that removal will not necessarily be deferred in the event that a JR is lodged. Where removal is not deferred, the person concerned will be advised in a letter to be provided by OSCU of the need to obtain an injunction to prevent removal.

Individuals being removed by special arrangements (including charter flights) who wish to legally challenge their removal are normally required to seek injunctive relief as a JR application will not usually result in deferral of removal. In these circumstances, the person will be given a minimum of 5 working days' notice of removal so they have the opportunity to take legal advice. The purpose of this extended period of notice of removal is to minimise the number of last minute applications for injunctive relief to the High Court in England and Wales, the Court of Session in Scotland or the High Court in Northern Ireland and to encourage people to inform the Home Office at the earliest opportunity of any further submissions they want to make.

If individuals being removed by charter flight or special arrangements are not required to seek injunctive relief to challenge removal, a JR application will usually continue to result in a deferral of removal. In these circumstances, the standard 72 hours' notice period applies rather than 5 working days.

To protect the safety of those on board a chartered aircraft to particular destinations it may be necessary, for security reasons, to withhold the exact details of departure. In these cases, all those being removed by that flight will be given limited notice of removal (that is, they will still be given a minimum of 5 working days' notice of removal but will be informed that they will be removed no sooner than 5 working days and no less than 21 days from the date where notice of removal is given).

As well as referring to the tables, you can use the removal notice calculator when considering the latest time you can notify a person of their removal in charter flight and other special arrangement cases.

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Where standard notification may not be required when giving notice of removal

This section details the circumstances in which you do not need to provide standard notification when giving notice of removal. Standard notification of removal does not need to be given where either:

- an exception applies
- a second period of notification is not needed following a failed removal

Cases where a disclaimer form IS.101 has been signed

After being served with a notice of liability to removal which sets out the relevant notice period, a person may choose to depart before the end of that notice period. In such cases a person must sign the disclaimer form IS.101, the contents of which must be explained to them in a language they understand. When this has been undertaken it is not necessary to wait for the notice period (72 hours or 7 days) to expire before arranging for the person's departure from the UK. This applies to circumstances in which the person pays for their ticket or the Home Office purchases the ticket at public expense. If the IS.101 is not signed, the relevant full notice period must be complied with.

You must always give the person the opportunity to seek legal advice in making this decision. A copy of form IS.101 must be given to the person and another copy sent to the person's legal representative, if they have one. **The person may reverse their decision at any point prior to their departure**, in which case the full relevant notice period before removal, which restarts from that point, must be complied with. You must issue a 'RED.0004 (fresh)' to set the new end date of the notice period. To do this:

- select text option 'use where a previous removal window has expired'
- tick the second box and insert a new date and time

Provide a copy of the completed form to the applicant and their legal representative, if they have one.

You **must** ensure that for all requests to depart before the end of the notice period, the IS.101 disclaimer is explained and signed. Signing a pocket notebook (PNB) is **not** sufficient as the person signing needs to understand all the implications of this decision, and an IS.101 disclaimer explains these.

Exceptions to standard notification of removal

Below we detail the following exceptions to standard notification of removal. These are:

- port cases where removal occurs within 7 days of refusal
- third country and non-suspensive appeal (NSA) family cases subject to ensured return

Port cases

In port cases, if removal takes place within 7 days of refusal, you do not need to provide 72 hours' notice. You must provide the standard 72 hours' notification of removal in cases which are refused entry at port where removal does not take place within 7 days of refusal.

If a human rights claim is raised in a port case where standard notification is not required, the Operational Support and Certification Unit (OSCU) may, where the claim falls to be refused, be able to certify the claim without deferring the removal directions. Such cases must be referred to OSCU who will decide whether such action is appropriate.

Third country and NSA family cases subject to ensured return

Families are liable for ensured return only where assisted and required return have both failed or, exceptionally, where we consider a required return is not appropriate. Therefore, any family that reaches this stage of the family returns process will have already had opportunities following their family return conference and, where appropriate, when they were given notice of removal at the required return stage, to make an application for judicial review (JR), if they wanted to do so.

If a third country or NSA family case has reached the ensured return stage of the family returns process, you do not need to provide a minimum of 5 working days' notice because they will not need this longer notification period to access the courts. Instead, you must provide standard notification (minimum 72 hours) of removal in these cases.

NSA cases already reviewed by JR or following a failed removal

Where an NSA decision has already been challenged by way of JR and either all JR proceedings have been concluded or the JR proceedings are no longer a legal barrier to removal (for example, the court has made a finding of 'no merit' or that renewal will not be a bar to removal) any subsequent removal directions will only require the standard notice period of 72 hours, not 5 working days.

Where removal directions have been set for 5 working days in an NSA case and the individual either does not challenge the removal during that period or their challenge does not result in deferral of their removal, but the removal fails for other reasons (for example travel document issues or technical reasons), you should apply the 10-day policy where possible (see where second period of notification is not needed). Where this is not possible (for example, travel documents take longer than 10 days to obtain) removal directions may be reset with 72 hours' notice rather than 5 days.

Where a second period of notification is not needed

Where a person was given the required notice of removal, but the removal fails or is deferred, it may not be necessary to give a further period of notice when rearranging removal for within 10 days of the failed or deferred removal.

Where a person has been given notice of a removal window or limited notice and an attempted removal fails, removal may be rescheduled without further notice if it is within the removal window or limited notice period which they have already been given, without the 10-day policy being applied. This does not prevent the 10-day policy being applied (if it is appropriate to do so) if a removal fails towards the end of the removal window or limited notice period.

When could I apply this?
The list below is not exhaustive and is subject to the circumstances outlined below at, 'When could I not apply this?':

- the flight cannot depart as scheduled due to a technical fault with the aircraft or transport difficulties with the relevant contractor including problems with the availability of aircraft, related aircrew or the scheduled departure slot
- the scheduled departure time of the flight has had to change for other reasons such as adverse weather conditions, industrial action or other significant factors that can be reasonably deemed to be outside of the Home Office's control
- the person has attempted to frustrate their removal by being non-compliant, for example by refusing to leave the immigration removal centre or board the vehicle
- where removal has been disrupted by another person's behaviour
- removal was deferred following a JR of removal which has been concluded or the judge has given a finding of 'no merit' or 'renewal should not act as a bar to removal' subject to the following conditions

When could I not apply this?
Appropriate notice must continue to be given in cases where there has been more than 10 days since the initial deferral or cancellation, or where there has been a significant change in circumstances, such as:

- we are re-setting removal directions to a different country
- further submissions (involving issues of substance which had not been previously raised and considered) have been received and refused since the earlier removal direction failed
- in certain circumstances if there has been a change of route, see below

Removal via a different route
If for operational reasons it is required to change the route of return to **remove** a place of transit, you do not need to allow a further period of notice when re-setting removal directions for within 10 days of the failed removal, providing the place of final destination remains unchanged. For example, the alteration is from a flight from London to Abidjan via Lagos to a direct flight from London to Abidjan.

If for operational reasons it is required to change the route of return to **insert or amend** a place of transit, you must give a new standard notice period unless the new place of transit is in a safe country. A new standard notice period will not be required when the new place of transit is in Austria, Belgium, Bulgaria, Croatia, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Latvia, Lithuania, Luxemburg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, or Switzerland.

For example, if the original removal directions were set from London to Abidjan via Lagos, you may alter the place of transit (Lagos) to Paris without a new notice period. However, if you changed the transit point from Lagos to Nairobi, a new notice period would be required.

See also: Country information

Related content
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Threat of judicial review (JR)

All JR applications received in respect of cases where removal directions have been set must be referred to Operational Support and Certification Unit (OSCU) who will consider on an individual case by case basis whether deferral of the removal directions is necessary.

JR applications relating to third country cases must be referred to the Third Country Unit (TCU) between 9am to 5pm Monday to Friday. Deferral of removal directions will be considered by TCU on a case by case basis.

Where there is a threat of JR, removal directions must remain in place until a Crown Office reference, Upper Tribunal reference or injunction is obtained in accordance with deferral of removal. However, even if a complete JR claim is submitted, removal directions can be maintained where certain exceptions apply and the JR would not be barrier to removal (see when JR will not suspend removal and stayed cases).

In all removal cases, if a person is unable to file a claim because the Administrative Court or Upper Tribunal office is closed, you must still consider whether deferral is appropriate where a copy of detailed grounds is provided to the Home Office and lodged with the court or tribunal at the earliest opportunity. A decision on whether to defer in these circumstances will be taken by OSCU.

Special arrangements (including charter flights)

Where your case is scheduled to be removed by special arrangements, including charter flight, and a threat of JR is received:

- you must refer the case to OSCU immediately
- OSCU will let you know if the removal can go ahead on a case by case basis
- if OSCU decide not to defer removal, they will provide a letter for you to send to the person or his representatives of this decision and the reasons, the letter will explain that removal will continue unless an injunction is obtained
- if an injunction is obtained, all enforcement action must be suspended immediately

Port cases

In port cases where removal directions are set for a date within 7 days of refusal, you must defer removal when a written threat of JR is received.

The person must be given 48 hours to lodge their application with the Administrative Court or Upper Tribunal, so any removal planned for within this period must be re-scheduled. The 48 hours begins when you receive the written threat of JR and must include at least one working day.

You must also inform the person that their removal will proceed if they do not properly lodge their application with the court or tribunal (as set out in deferral of removal) within this period.

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When judicial review proceedings will not suspend removal

When should you refer to this section?
This section tells you how to determine whether removal should be suspended in situations where removal arrangements are in place, or Immigration Enforcement have made a removal request, and judicial review (JR) proceedings have been brought against that removal.

This guidance only applies to JR proceedings brought in England and Wales.

Special arrangements
This section does not apply where the subject is being removed under special arrangements provisions.

The qualifying criteria

Where JR proceedings against removal are brought, the removal will normally be suspended. However, in certain circumstances it will not be necessary to suspend removal.

The first consideration is whether one or more of the following qualifying criteria are met:

- there has been less than 6 months since a previous JR or statutory appeal has been concluded on the same or similar issues, a JR will be on the same or similar issues unless it is brought on completely different grounds, for example the previous JR or statutory appeal related to unlawful detention or was purely procedural
- there has been less than 6 months since a previous JR or statutory appeal has been concluded on the same evidence, even though the legal basis of the challenge is different from that previously brought
- there has been less than 6 months since a previous JR or statutory appeal has been concluded and the issues being raised could reasonably have been raised at that previous JR or statutory appeal
- the JR is brought while the person is within the removal window and as long as the person remains within the removal window (unless another ‘qualifying criteria’ applies)
- there has already been an order refusing an injunction against removal in the JR and no subsequent application for an injunction on removal has been granted
- where a JR renewal application has been made but an application for injunction has already been refused in relation to that same JR application or an order has been made that renewal is no bar to removal (see handling JRs involving simultaneous injunction applications)

When JR proceedings will always suspend removal

Even where the qualifying criteria are met, removal will always be suspended in any of the following circumstances:

- an injunction against removal is granted by the court or tribunal
- this is the first JR challenge to a decision to certify a claim, the result of which being there is either no appeal, or any appeal right is out of country only
- permission has been granted in the JR

Removal may also be suspended where there is insufficient time before removal for Operational Support and Certification Unit (OSCU) to consider the merits and barriers tests of a case that meets the qualifying criteria. In these cases removal will initially be suspended, however where one of the qualifying criteria is met the litigation handling team will determine whether the JR is bound to fail in the course of filing the acknowledgment of service (AoS) (see JR received when CID shows that removal arrangements are in place or preparations are being made to put removal arrangements in place for further details).

The merits and barrier tests

Where one or more of the qualifying criteria are met, and there are no reasons why removal must be suspended, you should go on to consider whether the JR is bound to fail and/or whether any of the issues raised in the JR are a barrier to removal.

Where the JR is bound to fail and does not raise any issues which are a barrier to removal then removal does not need to be suspended.

Is the JR bound to fail (the ‘merits test’)?

You must consider whether the JR is bound to fail either before the decision is taken not to suspend removal or before a decision is taken to arrange removal following a removal request. Examples of when a JR is bound to fail are:

- the grounds for JR are very weak, for example they do not make sense, are clearly standard grounds or are generic (they do not refer to the specific circumstances of the claimant, unless the claim is a ‘class issue’ namely multiple claimants raising the same legal point)
- the JR is obviously unarguable on the facts
- there is clear authority on the legal point in issue

Concluding that a JR is not bound to fail does not mean that it is arguable and therefore that permission should be granted.

Are the issues raised in the JR a barrier to removal? (the 'barrier test')

You must also consider whether the issues raised in the JR should be treated as a barrier to removal:

- does the JR raise new grounds, for example a first time asylum or human rights claim or further submissions that fall to be considered under paragraph 353 of the Immigration Rules? If so, refer to the section Fresh claims
- does the JR rely on new and relevant evidence that has not previously been considered by the SSHD in deciding a previous application or claim and (where a right of appeal was exercised against the refusal of that previous application or claim) by the court in an appeal? If so, consider the nature of that evidence. If it amounts to a first-time asylum or human rights claim or further submissions that fall to be considered under paragraph 353, refer to the section Fresh claims

In OSCU, the decision on whether the JR meets the merits and barrier test, must be taken at a minimum HEO grade and countersigned at a minimum SEO grade. This does not apply to the litigation handling team who will work closely with GLD when applying the merit test.

Summary of process

JR received when CID shows that removal arrangements are in place or preparations are being made to put removal arrangements in place

The JR must be passed to OSCU who will:

- check CID to confirm that removal arrangements are in place or preparations are being made for removal arrangements
- create a JR record on the JR screen in CID
- consider whether one or more of the qualifying criteria are met, if yes, apply the merits and barrier tests and decide whether to suspend removal:
  - if removal suspended: pass the JR to the litigation handling team to manage the litigation
  - if removal not suspended: write to the person or their representatives to confirm that removal will not be suspended, pass the JR to the litigation handling team to manage the litigation

Where the applicant meets the qualifying criteria, but there was insufficient time before removal for OSCU to apply the merits and barrier tests (resulting in removal being suspended) the litigation handling team will, while filing the acknowledgement of service (AoS), apply the merits and barrier tests. If the JR is bound to fail and there are no barriers to removal the litigation handling team will notify the enforcement or removal team and provide them with a copy of the JR grounds on request:

- the enforcement or removal team will re-instate removal arrangements and write to the applicant notifying them that the JR is not suspensive and they are commencing removal directions
- the litigation handling team will serve the AoS

Where an injunction is granted at any stage in the process, removal must be suspended. In these circumstances, it will not be appropriate for the litigation handling team to undertake a merits test within 21 days of service of the JR (see Immigration Enforcement make removal request following receipt of a JR and injunctions).

Where permission is granted in the JR removal will be suspended and the JR will be handled in accordance with the usual JR process (refer to the judicial review guidance).

Removal request made by Immigration Enforcement following receipt of a JR
The enforcement or removal team will assess whether the individual case meets the qualifying criteria. If it does, using the relevant referral pro-forma, they will ask the litigation handling team to apply the merits and barrier tests. No further removal action will be taken until the litigation handling team has considered the JR.

The litigation handling team will apply the merits and barrier test
Where the JR has merit and/or raises barriers to removal the litigation handling team will notify the enforcement or removal team and continue to manage the JR in accordance with the usual JR process (refer to the judicial review guidance). The enforcement or removal team will write to the applicant notifying them that removal is suspended.

Where the JR has no merit, and raises no barriers to removal, the litigation handling team will notify the enforcement or removal team. The litigation handling team will serve the AoS and continue to manage the JR in accordance with the usual JR process (refer to the judicial review guidance). The enforcement or removal team will write to the applicant notifying them that the JR is not suspensive and they are commencing removal directions.

Where the AoS is served before the enforcement or removal team has written to the applicant and it has been more than 7 days since the AoS has been lodged, the enforcement or removal team must re-confirm with the litigation handling team that the JR grounds have not been varied before they write out.

Where an injunction granted at any time in the process removal must be suspended (see Injunctions).

Where permission is granted on the JR, removal will be suspended and the JR will be handled in accordance with the usual JR process (refer to the judicial review guidance).

Family cases

Families will be notified when invited to the family return conference that they have 5 working days from the date of invitation to the family return conference to bring a judicial review to challenge their removal from the UK.

JR received when CID shows that removal arrangements are in place or preparations are being made to put removal arrangements in place:
The JR will be passed to OSCU who will check CID to establish whether 5 working days have expired following the invitation to the family return conference. If so, OSCU will:

- consider whether the qualifying criteria are met, if yes:
  - apply the merits and barrier tests
  - and decide whether the JR suspends removal

Removal request made by Immigration Enforcement following receipt of a JR:
The case working team will consider whether one or more of the qualifying criteria are met. If yes, using the relevant referral pro-forma, they will ask the litigation handling team to apply the merits and barrier test.

Where the litigation handling team conclude that the JR has merit and/or raises barriers to removal they will notify the enforcement or removal team and provide them with a copy of the JR grounds on request. The enforcement or removal team will write to the applicant notifying them that removal is suspended.

Where the litigation handling team conclude that the JR has no merit and raises no barriers to removal they will notify the enforcement or removal team and provide them with a copy of the JR grounds on request. The enforcement or removal team will write to the applicant notifying them that the JR is not being treated as suspensive and they are commencing removal directions.

In both situations, the litigation handling team will continue to manage the JR in accordance with the usual JR process (refer to the judicial review guidance).

Where an injunction is granted at any time in the process removal must be suspended. In these circumstances, the injunction will be received by OSCU who will take the necessary actions to suspend removal.

Where permission is granted on the JR removal will be suspended and the JR will be handled in accordance with the usual JR process (refer to the judicial review guidance).

Fresh claims and/or further submissions

A JR is not the right vehicle for raising new matters to the Secretary of State (for example a first time protection claim, human rights claim or further submissions that fall to be considered under paragraph 353 of the Immigration Rules). However, a JR which meets the qualifying criteria test might raise such matters.

JR received when CID shows that removal arrangements are in place or preparations are being made to put removal arrangements in place:

Grounds raised in the JR amount to a first-time protection claim, where the grounds amount to a first time claim for asylum or humanitarian protection and the claimant has not previously made an asylum or humanitarian protection claim (note that EU asylum claims are inadmissible unless there are exceptional circumstances as defined in paragraph 326F of the Immigration Rules) OSCU will:

- suspend removal
- refer the protection claim to the Asylum Casework Directorate or to Criminal Casework Directorate for deportation cases
- refer the JR to the litigation handling team to be handled in accordance with the usual JR process (refer to the judicial review guidance)

Grounds raised in the JR amount to a first-time human rights claim, where the grounds raised in the JR amount to a human rights claim and the claimant has not previously made a human rights claim and had a right of appeal against its refusal OSCU will:

- suspend removal
- consider the human rights claim

Where the claim can be certified so that no right of appeal arises (section 96 of the Nationality, Immigration and Asylum Act 2002) or the appeal right can only be exercised from out-of-country (sections 94 and 94B of the Nationality, Immigration and Asylum Act 2002) the JR will **not** suspend removal and OSCU will issue a decision on the human rights claim including the relevant notice of liability to removal or deportation giving 5 days' notice of removal, and write to the person or their representatives to confirm that the judicial review will not suspend removal.

Where a further JR challenging certification is received or the person amends their JR grounds to challenge the certification decision within the 5 day notice period, removal must be suspended and the JR passed to the litigation handling team to be handled in accordance with the usual JR process (refer to the judicial review guidance). If no further JR is received within the 5-day notice period, removal can proceed.

Where the claim cannot be certified and there is an in-country right of appeal against the refusal of the human rights claim, OSCU will suspend removal and refer the JR to Litigation Operations to be handled in accordance with the usual JR process (refer to the judicial review guidance).

Grounds in the JR raise EEA rights, where a non-EEA national claims to have a right of residence under the Immigration (European Economic Area) Regulations 2006 in the judicial review, removal cannot take place until the grounds have been considered.

OSCU will:

- consider whether the qualifying criteria test is met
- consider the EEA grounds

Where the EEA grounds do not demonstrate the person has a right of residence under EU law removal can continue. The JR must be passed to the litigation handling team to be handled in accordance with the usual JR process (refer to the judicial review guidance).

Where the judicial reviews grounds have some merit as to whether the person has a right of residence under EU law, the removal will be suspended. OSCU will pass the case to the relevant caseworking team for further consideration and the JR will be passed to the litigation handling team to be handled in accordance with the usual JR process (refer to the judicial review guidance).

Ground raised in the JR amount to further submissions to be considered under paragraph 353 of the Immigration Rules, OSCU will:

- consider whether the qualifying criteria test is met
- consider the further submissions

Where the outcome either:

- is that the further submissions will not lead to a grant of leave or amount to a fresh claim such that there is a right of appeal against their rejection
- will not lead to a grant of leave but do amount to a fresh claim but the claim can be certified so that there is either no right of appeal, or any right of appeal can only be brought from out of country

OSCU will issue a decision on the further submissions and write to the person or their representatives to confirm that removal will not be suspended.

Where the outcome is that the further submissions will lead to a grant of leave or amount to a fresh claim such that there is an in-country right of appeal against their refusal, removal must be suspended. OSCU will suspend removal and refer the JR to the litigation handling team to be handled in accordance with the usual JR process (refer to the judicial review guidance).

Removal request made by Immigration Enforcement following receipt of a JR: In this situation, the JR will be handled by the litigation handling team.

Where either OSCU or the litigation handling team consider that the JR is not bound to fail, the enforcement or removal team must treat the JR as a barrier and suspend removal.

Where OSCU or the litigation handling team consider that the JR is bound to fail and that there are no barriers to removal then the process set out above should be followed except that the litigation handling team will not consider the substantive claim but will pass it to the appropriate casework team for consideration.

Handling JRs involving simultaneous injunction applications

If a decision has been taken to suspend removal on the basis of a JR received simultaneously with an injunction application, the guidance on injunctions must be followed. OSCU must confirm the suspension of removal to the relevant court centre (Administrative Court or Upper Tribunal (Immigration and Asylum Chamber) (UTIAC) by email or telephone the duty clerk at the Administrative Court out-of-hours on 020 7047 6260. UTIAC has no out-of-hours facilities.

The Administrative Court and UTIAC have standing instructions to telephone OSCU (or Command and Control Unit (CCU) outside OSCU's hours of operation) in advance of considering an application for an injunction. They will do so where they have not received confirmation of whether removal is to be suspended.

OSCU will advise the court whether removal is imminent and, if so, whether removal will be suspended as a result of the JR.

Action when suspending removal

If a decision is made to suspend removal, you must cancel removal directions:

- if removal arrangements are in place you must refer to the OSCU standard operating procedures for the next steps to take, JR must be raised as a barrier to removal on the CID removals screen
- if removal arrangements are not in place the JR must be raised as a barrier to removal on the CID removals screen

Action following a decision not to suspend removal

You must close the JR barrier on CID, update CID notes and write to the person or their representatives to let them know that the removal will go ahead unless they obtain an injunction preventing removal. The letter must include reasons why removal is not being suspended.

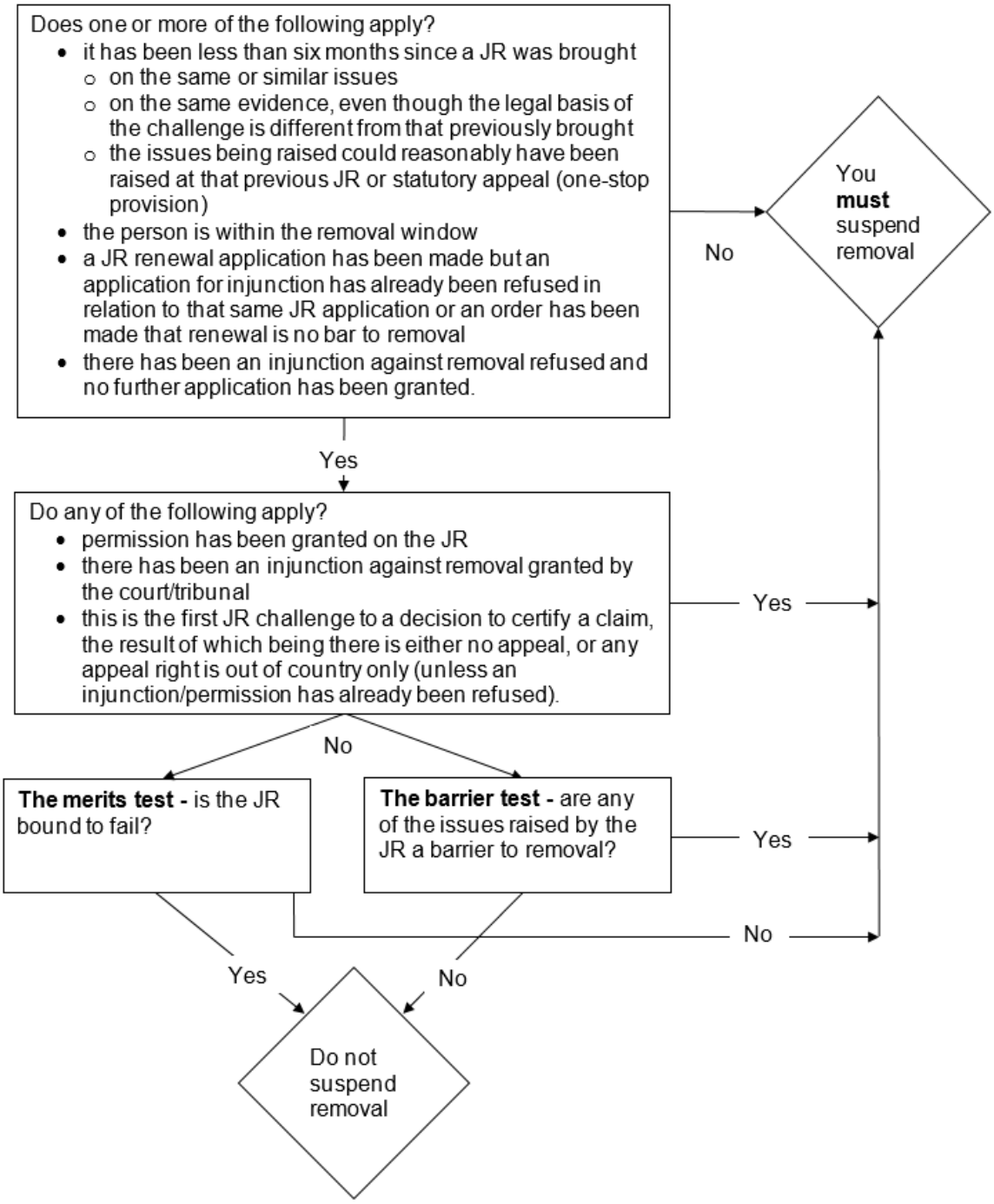
If an injunction is obtained, all enforcement action must be suspended immediately.

If a decision is made not to suspend removal but the removal fails for reasons unrelated to the JR proceedings, then removal directions may be re-set (or the 10-day policy applied), provided that the reasons for the original decision that removal should not be suspended are still applicable.

Applications for permission to JR in third country cases must be referred to TCU. TCU's hours of operation are 9am to 5pm Monday to Friday. If the timing of removal means that the JR needs to be considered outside TCU's hours of operation, contact OSCU or CCU as appropriate.

Process map

The below flowchart summarises the process to decide whether to suspend the removal.



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Stayed cases

Where the grounds for the judicial review (JR) have been resolved in a 'lead' case, removal directions can be re-set where:

- the person's application for JR was stayed as a result of the lead case
- the application in that lead case has been dismissed or permission to JR in that lead case has been refused
- the person's grounds do not raise any issues additional to those which were the subject of the lead case

Additionally, the Home Office must consider whether it is appropriate to pursue removals in stayed cases, taking into account:

- any relevant court order
- time given to provide the lead case with an opportunity to appeal
- time given to provide stayed cases with an opportunity to amend their grounds

Lead case has been resolved

Once a lead case is resolved, the unit dealing with the case will inform appropriate business areas of the outcome and implications. You must review your case against the lead case and decide whether the person's grounds raise any issues additional to those in the lead case.

If you decide they do not, you may contact the Government Legal Department (GLD) and ask them to write to the person to request that they either withdraw their JR or apply to amend their grounds, making clear that removal directions will be re-set immediately if there is no response. The person must be given at least 14 days to reply (or longer if necessary, to comply with a relevant court order). GLD will let you know the outcome.

If there is no application to amend grounds within the deadline, you may re-set removal directions to take effect no sooner than 72 hours has expired and write to the person and their legal representative informing them of the new removal directions.

You must instruct the GLD to inform the court or tribunal that removal directions have been set and removal will continue.

If an application to amend the grounds is received, you must consider deferring removal directions and also consider whether the case can be expedited.

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Judicial review challenges other than to removal

You must not automatically defer removal directions in these cases. You must only potentially suspend removal when article 6 (right to a fair trial) of the European Convention of Human Rights is cited and must decide this on a case by case basis.

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Removal directions deferred

If removal directions have been cancelled and judicial review (JR) proceedings have started, you can get more information on next steps from the following areas:

- enforcement cases: Litigation Operations (Enforcement) (LOE)
- third country cases: Third Country Unit (TCU) between 9am to 5pm Monday to Friday and Operational Support and Certification Unit (OSCU) at any other time
- deportation cases: Litigation Operations Criminality and Detention (LOCDI)

If a JR has been received and you have deferred removal directions, you must inform TCU in third country cases, or LOCDI in deportation cases.

They will notify Government Legal department (GLD) and instruct them on the grounds for defence (it is important that you ensure that GLD can obtain instructions or they will not be able to get the case before a judge quickly).

For enforcement cases, there is no need to notify LOE separately as OSCU pass enforcement cases to LOE once the decision has been made to defer removal directions. LOE will consider if the case is suitable for expedition (see expedited process).

Where summary grounds have been lodged and it is considered that the JR claim has no merit, GLD must be instructed by the appropriate JR unit to notify the court of this, with a request that the application is expedited. Where possible, detention can be maintained pending the outcome of the JR. See also expedited process.

Removal directions must not be re-set until the appropriate JR unit has given authority to do so.

Preparing the judicial review documentation

Once instructed by the appropriate Home Office JR unit, GLD will draft an acknowledgement of service (AoS) setting out our argument. There are 21 days to do this once a claim has been issued. Under the expedited process, the JR caseworker will normally instruct GLD to lodge our grounds of defence much earlier. The JR caseworker must make sure the file is ready and be prepared to provide additional information to GLD.

The AoS, summary grounds and detailed grounds in JR proceedings are disclosable to third parties. In each case you must decide whether sensitive information or material is included, or whether you make an objection to disclosure for example, where information is:

- sensitive on grounds of security, policy, or some other ground of public interest
- contains personal information relating to a third party

The JR caseworker must discuss this with GLD who will be able to advise on the duty of candour to the court and tribunal.

Most applications are dealt with on the papers, but the person may, if refused permission on the paper application without a finding that the case is totally without merit, renew their request for permission orally. If permission for a substantive JR is granted, the appropriate Home Office JR unit will consider if it is appropriate to continue to defend the case and if so, will need to provide further instructions and more information to GLD. There are 35 days to submit detailed grounds of defence.

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Permission to apply for judicial review granted

If permission is granted either at the paper permission stage or oral hearing, the Home Office is required to lodge our Detailed Grounds of defence within 35 days. A full ‘substantive’ hearing is listed.

Litigation Operations (Enforcement) (LOE), Third Country Unit (TCU), or Litigation Operations Criminality and Detention (LOCDI) as appropriate, in conjunction with Government Legal Department (GLD) (and Home Office Legal Advisers in appropriate cases), will decide if the challenge is resisted.

If permission to apply for JR is granted:

- LOE, TCU, or LOCDI will inform the enforcement office or case owning team of the procedure to follow and the likely time scale involved, especially when detention is a consideration
- all enforcement action must be suspended immediately and must not be resumed until the application is resolved, you must regularly review detention

GLD will instruct Counsel to represent the Home Office at the substantive hearing.

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Expedited process

If your case falls into one of the categories detailed below, it may be suitable for expedition and you must refer the case to Litigation Operations (Enforcement) (LOE) for enforcement challenges and Litigation Operations Criminality and Detention (LOCDI) for Criminal Casework cases, to take a decision on expedition. They, along with Government Legal Department (GLD), will tell you if the case is suitable to be put forward to the court to be dealt with quickly, because:

- the claimant is in detention
- the claim is from a family being managed to departure through the family return process
- the claim appears to be clearly without merit
- the claim is an abuse of process
- the issue of public safety arises
- the decision-making process has previously been subject to accelerated timescales (such as non-suspensive appeal (NSA) cases or detained)
- there is a risk of self-harm
- the claimant is or was to be removed as part of an enforcement operation (such as a special charter flight)
- for third country and criminal casework (CC) cases expedition will be agreed directly with GLD, the JR caseworker must notify LOE to ensure that the court's expedited quota is not exceeded

The decision as to whether a case is expedited rests with the High Court.

How to refer a case for expedition

To enable LOE and GLD to make a decision on whether a particular case is expedited you must ensure that the following key documents (if available) are included in your referral to OSCU for a decision in relation to deferral of removal:

- judicial review (JR) claim form and grounds
- tribunal determination(s)
- reasons for refusal letter (RFRL)
- any supplementary refusal letters
- any submissions from the claimant
- any other documents you consider appropriate

LOE officers will update CID notes when a decision regarding expedition has been made and will provide reasons for rejecting any recommended cases from the expedited process. You must also ensure that the Home Office file (or complete dummy file) is available as a matter of priority. **Any delay in obtaining the file may lead to a case being rejected from expedition if further evidence from the file is needed to make a decision on expedition**. JR caseworkers will aim to lodge an Acknowledgement of Service and grounds of defence within 7 days where expedition is deemed appropriate and the person is detained.

Where the Home Office has lodged grounds with a request to expedite, we can normally expect an outcome from the court or tribunal within 2 weeks (from the date of lodging grounds).

Cases must only be expedited where we are confident that we can complete removal quickly if the permission application is refused. Normally detention is maintained while a JR permission application is expedited as it is considered removal is still imminent. If you do not believe there is a real likelihood of a quick removal, you must inform LOE (LOCDI in criminal cases) explaining why.

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Permission to apply for judicial review refused

If permission to apply for judicial review (JR) is refused and the court or tribunal decides that the application for JR is clearly without merit or that renewal is not a bar to removal, it will be made clear in the order refusing permission. In these circumstances, the appropriate unit (Litigation Operations (Enforcement) (LOE), Third Country Unit (TCU), or Litigation Operations Criminality and Detention (LOCDI)) will advise whether removal action can proceed. The normal removal process must then be followed. You must apply the exceptions outlined in this chapter if appropriate to do so.

If further submissions have been received, Operational Support and Certification Unit (OSCU) will notify the person and their legal representative if it is decided that removal will not be deferred pending any application for oral renewal.

In other cases where permission on the papers is refused but oral renewal remains a possibility, LOE or TCU or LOCDI will update CID, but will usually advise you not to re-set removal directions until the time limit for oral renewal has passed unless there is a specific finding or order from the court or tribunal.

Where an application for injunction has been made and refused, or a JR was lodged within 3 months of conclusion of a previous JR or appeal, OSCU may advise that oral renewal or the possibility of oral renewal should not suspend removal.

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Application to the Court of Appeal or Supreme Court

The Home Office or the claimant can seek to appeal against the decision of the Administrative Court or the Upper Tribunal to the Court of Appeal and then to the Supreme Court.

If the claimant or their legal representative tells you that they intend to appeal to the Court of Appeal or the Supreme Court you must contact the appropriate unit (Litigation Operations (Enforcement) (LOE), Third Country Unit (TCU), or Litigation Operations Criminality and Detention (LOCDI)) immediately. They will tell you what to do next and advise whether to suspend enforcement action.

Where the application to the Court of Appeal or the Supreme Court concerns a challenge to a High Court or Upper Tribunal Judge's decision to refuse to grant permission to apply for JR then removal directions can be maintained in line with the judgment in Pharis. You must however refer these cases to OSCU in the first instance for their confirmation of the position.

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Injunctions in removal cases

An injunction is an order issued by a court requiring a party to do something or to refrain from doing something. In removal cases, an injunction might be put in place to prevent the Home Office removing a person from the UK.

Where it is alleged by a person that an injunction against removal has been obtained, you must try to confirm this with their legal representative (time permitting in writing or by fax). The written confirmation from the legal representative may be no more than 'At [time] this evening Mr Justice X has granted an injunction over the telephone barring removal – this is the phone number of the clerk of the judge who can be called to confirm the existence of the order'. Where there is written confirmation or a verbal confirmation from a Duty Judge that an injunction has been granted, this must be referred to Operational Support and Certification Unit (OSCU) immediately.

If there is any reason to believe an injunction may have been granted, you must contact OSCU who will check with the Duty Judge to confirm verbally that an injunction has been issued. OSCU is open 7am to 9pm Weekdays and 7am to 7pm at the weekend. Outside of OSCU opening times, contact the Command and Control Unit (CCU).

The removal must be stopped if enquiries confirm that an injunction has been issued.

Injunction confirmed

If the removal is imminent (the person is en-route to, or at, the port of embarkation) or is in progress (the aircraft is on the ground and the doors are still open), the caseworker, or CCU out of hours, must immediately take all reasonable steps to ensure that the removal is stopped. In these cases, you must not wait until you have received written confirmation of the injunction before cancelling the removal. You must:

- if the removal is escorted, immediately notify the Detainee Escorting and Population Management Unit (DEPMU) that removal must be deferred, DEPMU will inform the escort officers
- if the removal is unescorted, immediately inform CCU
- confirm to the legal representative or the High Court that the removal has been stopped and/or did not proceed

You must clearly minute the file, CID records, and any other internal notes to confirm what action was taken to attempt to stop the removal.

Out of hours and urgent injunctions

Claimants are served the immigration factual summary when notice of removal is given which advises them that any urgent application for an injunction preventing removal or order granting or refusing an injunction must be sent to the Home Office

team handling their case. The immigration factual summary provides the appropriate telephone and fax numbers to use. Outside of normal office hours (9am to 5pm weekdays) or during a public holiday, the urgent application or order must be sent to CCU.

If an urgent injunction is not sent to CCU, but another Home Office premises, there is a risk that the information will not be actioned before the person's scheduled removal and they will be removed from the UK despite the injunction being granted.

You must keep OSCU updated of any developments on the case. Where an injunction is received but you are of the opinion that the removal must not be pursued for other reasons, you must still inform OSCU that an injunction has been issued.

OSCU operate from 7am to 9pm weekdays and from 7am to 7pm at weekends. Between those hours you must forward any last-minute challenges to removal to OSCU to deal with.

You must ensure that, outside of your usual working hours and during weekends, or bank and public holidays, legal representatives know that urgent queries relating to any injunction against an imminent removal must be made to the emergency hot line at CCU.

All answer-phone and voicemail messages for all areas must be updated to include the following:

Team or area	Message
Immigration Compliance and Enforcement (ICE) teams	This office is now closed and will re-open at (insert time), for out of hours assistance, please call the Command and Control Unit on 0161 261 1640.
Other areas	This office is now closed and will re-open at (insert time), for assistance with the service of injunctions or last minute judicial reviews please call the Command and Control Unit on 0161 261 1640.

Injunction received, but it proves too late to halt the removal

Where a removal has already taken place, because the injunction arrived too late to halt the removal (for example after the doors of the aircraft have closed), take the following actions:

- you must inform the Court and OSCU as soon as possible that the person was removed
- if you can quickly trace or contact the person (perhaps through their legal representatives in the UK or, through DEPMU, any escorting officers who may be escorting them), you must make every effort to assist their return to the UK

- if it is not possible to return the person quickly, due to difficulties in tracing and/or organising their return, you must continue to try to facilitate the return while ensuring that the court is kept aware of progress
- you must update CID regarding all actions taken, this must include times of events, such as telephone calls from representatives or court staff, so that we are able to show that the Home Office has acted in a timely fashion
- the grade 7 for the area that owns the case and has actioned it to the point of removal must notify the director for that area of work, the director of OSCU and the Rapid Response Team (RRT) of the removal immediately with all available information while further enquiries are being made and to put them on notice that an urgent submission to the Minister will be prepared
- immediately following the removal an urgent submission must be sent, via the relevant Director General, to the Home Secretary, this must contain a chronology of events, detailing the efforts made to halt the removal and why these were unsuccessful. It must also contain details of any efforts being made to facilitate the person's return

Injunction received, but removal has already taken place

Where an injunction is received but removal was not prevented, take the following actions:

- you must inform the court as soon as possible that the individual was removed
- you must contact Government Legal Department (GLD) and seek their advice
- you must inform OSCU
- the grade 7 for the area that owns the case and has actioned it to the point of removal must notify the Director for that area of work, the director of OSCU and the Rapid Response Team (RRT) of the removal immediately with all available information while further enquiries are being made and to put them on notice that an urgent submission to the minister will be prepared
- immediately following the removal an urgent submission must be sent, through the relevant director general, to the Home Secretary, this must contain a chronology of events detailing the efforts made to halt the removal and why these were unsuccessful, it must also contain details of any legal advice received from GLD

The case must be referred to Litigation Operations (Enforcement) (LOE) to review the full facts of the case to consider whether the order has been obtained without any merit. If LOE believe this to be the case they can apply for the Court order to be discharged, bearing in mind that a decision to make such an application must be made quickly and in consultation with Home Office Legal Advisers and GLD. Note that you must continue to try to facilitate the individual's return whilst this application is being processed.

Where, despite all efforts made, it is not possible to return the individual to the UK, LOE must approach the court again to explain the full extent of steps taken, why return is not possible and to ask that the order is discharged. Any decision not to pursue return must be taken at SCS level.

Information that must be recorded on file

When handling allegations of injunctions, you must maintain a clear record of all the actions taken on both the file minutes and on CID. You must include the following details as part of your notes:

- who informed you about the injunction and the time you were told or became aware
- whether the injunction was confirmed by the legal representative or the Duty Judge and, if so, the time confirmation was obtained
- if no confirmation was received, the steps taken to confirm the existence or otherwise of the injunction
- details of other units or staff you contacted to cancel the removal in DEPMU, OSCU or CCU, include the time these units were notified to cancel the removal and the time they confirmed removal was cancelled (if times are different)
- where an unlawful removal has taken place, details of all actions that have been taken to trace the person and return them to the UK

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Applications to the European Court of Human Rights

The Human Rights Act 1998 came into force on 2 October 2000, incorporating rights and freedoms guaranteed under the European Convention on Human Rights into domestic law. A decision under section 82 of the Nationality, Immigration and Asylum Act 2002 can be appealed on human rights grounds. It is still possible for an application to be made to the European Court of Human Rights (ECtHR), in Strasbourg, but it is unlikely that such an application will be accepted until appeal rights have been exhausted.

An application made to the ECtHR does not in itself require the suspension of removal. However, when applying it is possible to ask the Court, in effect, to order the suspension of removal action as an interim measure to allow the Court to consider the substantive matter in full before removal takes place. The technical procedure to achieve this is by making a request under rule 39 of the ECtHR's Rules of Court. In response to such an application request, the ECtHR will (where appropriate) give a 'rule 39 indication' indicating that the person must not be removed. This must be treated in the same way as an injunction.

Rule 39 indications from the European Court of Human Rights

All enquiries relating to threats of, or applications for, rule 39 indications must be directed to the Operational Support and Certification Unit (OSCU) duty officer in the first instance. Ongoing litigation (should a rule 39 indication be granted) will be handled by Litigation Operations.

A Rule 39 indication is similar to a High Court injunction but is made by the ECtHR. Where you have been notified that a rule 39 indication has been made, you must:

- defer removal immediately
- where the person is detained, make sure this development is considered in relation to any decision to continue with detention

If a subject subsequently wishes to withdraw their rule 39 application, that must be communicated to the Court. The Court may wish to confirm this with the applicant, and you must take no action to enable removal of a subject (including by voluntary departure) until you receive confirmation that the Court has accepted the application as withdrawn.

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Judicial review in Scotland

Judicial review (JR) in Scotland is pursued by means of a petition to the Court of Session in Edinburgh. There are several differences in the way cases are handled in Scotland, not the least of which is the fact that there is no permission to apply stage. If the court accepts the petition for JR they will grant First Orders. The granting of First Orders allows the person bringing the case to serve the petition on the Office of the Advocate General (OAG).

Where a person has been granted First Orders and removal directions are in place, you must ask them for a copy of the court order (interlocutor) granting First Orders and their petition for judicial review. You must then immediately refer the case to Litigation Operations Scotland and Northern Ireland (Lit Ops SNI) or Operational Support and Certification Unit (OSCU) (particularly when referring the case outside of normal office hours) who will provide advice on whether to defer removal. Lit Ops SNI or OSCU will normally advise to suspend removal when a person has been granted First Orders, but there are exceptions to this.

Where a person has been granted First Orders, you must not automatically defer removal where:

- there has been less than 3 months since a JR (in Scotland or elsewhere in the UK) or statutory appeal has been concluded on the same or similar issues
- there has been less than 3 months since a previous JR (in Scotland or elsewhere in the UK) or statutory appeal has been concluded and the issues being raised could reasonably have been raised at that previous JR or statutory appeal
- an interim order to stay removal has already been refused, and no subsequent application for an interim order has been granted
- the person is being removed by special arrangements (including by charter flight)
- removal is at the Ensured Return stage of the Family Returns Process

This list is not exhaustive, so you must always seek advice from Lit Ops SNI or OSCU when you are considering whether to defer removal.

If an appeal is marked (called a reclaiming motion) against a decision of the Court of Session dismissing a petition for JR that will not of itself prevent removal directions being set. Removal directions can be set if, after consultation with the OAG, it is considered that an appeal is obviously lacking in merit. Generally, removal directions will not be set within the 21 days during which a reclaiming motion can be marked. If a reclaiming motion is marked and removal directions are subsequently set, the petitioner (via their legal representatives where applicable) must be advised that to have their removal cancelled they must seek and obtain from the Inner House of the Court of Session an interim order suspending those removal directions.

If you decide that removal will not be deferred, you must immediately notify the person or his legal representatives in writing that removal will go ahead unless they

obtain an interim order preventing removal. If an interim order is granted, removal cannot take place until the petition is determined.

If a decision is made not to defer removal, in line with the exceptions set out in the first 4 bullet points above, but the removal fails for reasons unrelated to the JR proceedings, then removal directions may be re-set (or the 10-day policy applied), provided that the reasons for the original decision that the JR should not suspend removal are still applicable. Removal must be suspended if an interim order is obtained.

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Judicial review in Northern Ireland

Judicial review (JR) in Northern Ireland is pursued by means of an application to the High Court of Justice. Leave to apply for JR is made by one side only in the case (known as ex parte or without notice) setting out the relief sought, and the grounds of review relied upon.

Applications for JR in Northern Ireland must be brought to the attention of the Crown Solicitor's Office (CSO) through the litigation team at Festival Court in Glasgow, who act on the Home Office's behalf in these cases, and who can provide advice on how to proceed. Criminal cases are dealt with by Litigation Operations Criminality and Detention (LOCDI).

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Completing the immigration factual summary

Immigration factual summary: functions

An immigration factual summary (ICD.2599) must, in all cases, be completed and served along with a notice of removal. It has a number of functions:

- it outlines to the person being removed all of the different actions which have been taken on their case which have led to the setting of removal directions
- should the person lodge an application for judicial review (JR), their legal representative, Operational Support and Certification Unit (OSCU), and the Administrative Court or Upper Tribunal rely on the information contained within the summary in order to make a quick and informed decision concerning the person's case for JR and whether it is appropriate to maintain or defer removal
- additionally, the European Court of Human Rights (ECtHR) relies on the information contained within the summary to assess the merits of an application to them to impose interim measures under rule 39 of the ECtHR's Rules of Court
- it enables the Home Office to demonstrate to the court all the steps that have been taken to address a claim to remain in the UK, and to demonstrate that removal is now the appropriate course of action

Immigration factual summary: completion

The contents of the immigration factual summary must be written clearly so that it can be understood by a person outside the Home Office. It must be completed in plain English and **without acronyms**.

All fields must be completed. Most fields are self-explanatory, however some guidance is provided below.

Basic data fields

In the field entitled **'Legal Rep Address'**, if the person does not have a legal representative state 'No legal representative on record' and, where appropriate, 'The subject has been provided with a list of legal representatives'.

In the field entitled **'Removal Date', do not** record the date of departure if the person is being provided with only 'limited advance notification of removal'. Instead, you must record 'limited advance notice' in this field. The date and time of departure must not be mentioned in the 'Immigration History' section of the form, but the reason for giving 'limited advance notification of removal' must be stated in the '**Immigration History**' section.

In the field entitled **'Other Litigation'** all previous applications for JRs, injunctions and applications for interim measures under rule 39 to the ECtHR must be recorded.

The Administrative Court or Upper Tribunal office reference number for each JR or injunction application must be recorded here to assist the Court. As an example, 'The subject submitted an application for judicial review on dd/mm/yyyy (CO Ref: CO/00000/2011 or Upper Tribunal ref: JR/00000/2014). Permission was refused on dd/mm/yyyy'.

It is important that wherever possible all the information needed to complete the summary is obtained directly from the Home Office file rather than from CID alone.

Immigration history

The more complete and accurate the immigration history the more able the Home Office will be to deal with litigation quickly and effectively. An accurate immigration factual summary will also reduce the likelihood of the High Court granting last minute injunctions.

The 'Immigration History' section must be completed in chronological order.

The instructional text contained within the document will aid completion of the history and the guidance below provides further assistance.

Arrival in the UK
Give details of:

- the most recent date of arrival in the UK, record the dates of any previous arrivals in the UK and whether entry was made on a valid visa, or if leave to enter was refused
- any attempts at entering the UK illegally and method used (for example, false passport or clandestine entry in a lorry)
- any documents served to the person at the point of entry and the date on which they were served
- any periods of temporary admission granted
- if the person has re-entered the UK post-removal or was returned from a third country under the Dublin Convention
- if the person has entered in breach of an extant Deportation Order

Departures or Removals from the UK
Give details of:

- the date of any previous removals of the person from the UK
- the date of any voluntary departures made by the person from the UK

Details of any valid leave held
Give details of:

- the type and length of any previous leave held
- if leave was curtailed, the date of curtailment and the reason for the decision, note any documents served to the person

Claims made to the Home Office (asylum, human rights)
Give details of:

- the date the person made the claim and the nature of the claim (for example, asylum or human rights)
- the outcome of the claim and the date of decision (for example, refused asylum but granted exceptional leave to remain (ELR), or certified as clearly unfounded under section 94 of the Nationality, Immigration and Asylum Act 2002 (the 2002 Act))
- if the refusal carried a right of appeal to the Tribunal or whether and why the claim did not carry a right of appeal (for example, claim certified under section 96 of the 2002 Act or refused under paragraph 353 of the Immigration Rules)

Applications for leave to remain
Give details of:

- the date of each application made to the Home Office and what type of application (for example 'leave to remain as a spouse' or 'leave to remain outside the Immigration Rules')
- the outcome of each application and, if appropriate, period covered by the leave (for example, 'leave to remain granted from dd/mm/yyyy to dd/mm/yyyy')
- if the application was refused by the Home Office, state whether the refusal attracted a right of appeal and whether the appeal was 'in-country' or only exercisable from abroad
- if the application was refused and certified under either section 94 or section 96 of the 2002 Act
- the dates and outcome of any administrative review of a decision

Appeals
Give details of:

- the date of any appeals made and the date and outcome of each appeal
- all applications for permission to appeal to the First Tier Tribunal or Upper Tier Tribunal and the outcome:
  - before the existence of the Immigration and Asylum Chamber, applications for reconsideration were made to the Asylum and Immigration Tribunal and/or to the High Court, and this must be reflected in the immigration factual summary if appropriate
- the date on which the person exhausted their appeal rights, also note if there are any remaining appeals which may be exercised from outside the UK (for example following a refusal under section 94 of the 2002 Act)
- if the person had a right of appeal but did not exercise that right, record this information along with the date on which they subsequently exhausted their appeal rights

Further submissions
Give details of:

- the dates of all occasions when further submissions were made and the date of the outcome in each instance, this includes any submissions made by MPs
- if the further submissions attracted a right of appeal, record whether the appeal was exercised and the outcome of the appeal

Deportation orders
Give details of:

- the date when the person was notified of their liability to deportation and documents issued
- the date of 'decision to make a deportation order', and whether the person exercised a right of appeal and the outcome of the appeal, record the date on which they exhausted their appeal rights
- the date that the deportation order was signed and served
- if the person is subject to automatic deportation, the date the 'decision to make a deportation order' was served and whether there was a right of appeal to the Tribunal, date of appeal and outcome
- if there was a human rights or asylum claim refused in the 'decision to make a deportation order', which was certified under section 94 or section 96 of the 2002 Act

Applications for JR and injunctions
Give details of:

- the date of any applications for JR and/or injunctions, and record the outcome of those applications together with the Administrative Court or Upper Tribunal office reference numbers
- if no JRs or injunctions have been sought in the 'Other Litigation' field
- if removal is not being deferred despite a JR application state why (for example, there has been an appeal within the last 3 months or removal by charter flight)

Periods of detention and reasons for release
Give details of:

- all previous periods of detention and the reason for release
- dates of service of IS.96 and the reporting restrictions imposed
- all incidents of failure to comply with reporting restrictions and the action taken
- dates of all bail hearings and outcomes

Dates of any periods of absconding
Give details of any periods where the individual has been classified as an absconder, see Absconders and non-compliance.

Removal directions
Give details of:

- the date of any removal directions previously set and the reason for the failure to remove (for example, the person was disruptive, ill or violent)

- the service date and time of removal directions, if less than standard notification is being provided, state why, but do not record the date and time of the removal
- whether self-check-in removal directions have been set previously and the reason for failure
- where removal directions are set for removal by charter flight, the date that the assertive letter was served
- if a third country case, state ‘certified in accordance with third country legislation, claim to be considered by [member state]’

Disclaimers
Give details of:

- the dates of any disclaimers signed by the person and the content of the disclaimer (withdrew a right of appeal, agreed to depart voluntarily)
- any issues of non-compliance by the person in obtaining the emergency travel document (for example, failing to attend an interview or failing to complete documentation)

Assisted voluntary return (AVR) and facilitated returns scheme (FRS)
Give details of:

- the date of when AVR was offered and how it was offered (for example, face-to-face)
- if a family is being returned, you must state the date of any family return conferences conducted
- if an AVR application was made but later withdrawn
- for individuals subject to deportation, if they have applied for FRS and the outcome of the application

Medical conditions
Give details of:

- any known medical conditions (when diagnosed)
- any medication the Home Office provided to the person
- any treatment they are currently receiving, alternatively, state if treatment is not currently received
- any provisions the Home Office has made for the removal of the person (for example, medical escort, any additional medical equipment)

Risk of self-harm or suicide
Give details of:

- if there is a medical escort travelling with the person being removed
- if there is any evidence that the person has previously deliberately harmed themselves or has attempted suicide

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