



Ministry
of Justice



HM Prison &
Probation Service

Policy name: Foreign National Offenders on Licence, PSS and IS91 Policy Framework

Reference: n/a

Re-issue Date: 10 December 2024

Implementation Date: 15 April 2024

Replaces the following documents (e.g. PSIs, PSOs, Custodial Service Specs) which are hereby cancelled:

- PSI 29/2014 / PI 26/2014 – Release on Licence for Foreign National Prisoners Pending Deportation.
- PSI 34/2014 / PI 52/2014 - Provision of Offender Risk Information to HO Immigration Enforcement Regarding FNOs who are being considered for Deportation.

Action required by:

	HMPPS HQ	X	Governors
X	Public Sector Prisons		Heads of Group
X	Contracted Prisons	X	The Probation Service
	Under 18 Young Offender Institutions		Other providers of Probation and Community Services
	HMPPS Rehabilitation Contract Services Team		

Mandatory Actions: All groups referenced above must adhere to the Requirements section of this Policy Framework, which contains all mandatory actions. Whilst this framework sets out the actions for which the Home Office is responsible, the framework does not bind the Home Office in any way as it is an internal policy document of the Ministry of Justice.

For Information:

Governors¹ must ensure that any new local policies that they develop because of this Policy Framework are compliant with relevant legislation, including the Public-Sector Equality Duty (Equality Act, 2010).

Section 5 of the Policy Framework contains guidance to implement the mandatory requirements set out in sections 3 and 4 of this Policy Framework. Whilst it will not be mandatory to follow what is set out in this guidance, clear reasons to depart from the guidance should be documented locally. Any questions concerning departure from the guidance can be sent to the contact details below.

The term Probation Practitioner applies to all Probation Service staff. Where responsibility resides with the Community Offender Manager (COM) specifically, this will be highlighted where appropriate.

¹ In this document the term Governor also applies to Directors of Contracted Prisons.

How will this Policy Framework be audited or monitored: This policy is being rolled out following the development of the Create and Vary a Licence digital solution, meaning that reporting will be available on the use of licence conditions for individual cohorts. The development of the concentrator model for Probation managing FNOs means that specialists will be able to give greater consideration to actions, and with the central support team in place there can be ongoing auditing of any issues arising from the cross-agency interactions.

Resource Impact: This policy reflects current working practice which has developed significantly since the previous policy in 2014. This therefore does not have any ongoing resource impact.

Contact: Licence.Policy@justice.gov.uk

Deputy/Group Director sign-off: Gordon Davison, Head of PPG

Approved by OPS for publication: Helen Judge and Tom Browning, Joint Chairs, Operational Policy Sub-board, December 2023.

Revisions

Date	Update
10 December 2024	Links updated

CONTENTS

<u>Purpose</u>	4
<u>Outcomes</u>	4
REQUIREMENTS	5
<u>Allocation</u>	5
<u>OASYS Production</u>	5
<u>Disclosure of Risk Assessments to HOIE</u>	5
<u>Disclosure of Risk Assessments to Legal Representatives</u>	6
<u>Preparation for Release and/or Deportation</u>	6
<u>Access to Public Funds</u>	6
<u>Electronic Monitoring: Home Detention Curfew</u>	6
<u>Licence Production</u>	7
<u>Movement into Immigration Detention (IS91)</u>	7
<u>Contact with Victim Liaison Officers (VLOs)</u>	8
<u>Accommodation: Address Checks</u>	8
<u>Accommodation: Curfews</u>	9
<u>Accommodation: Approved Premises</u>	9
<u>Accommodation: Schedule 10 Accommodation</u>	10
<u>Accommodation: CAS3</u>	10
<u>Self-Deportation and Voluntary Returns</u>	10
CONSTRAINTS	11
<u>Irish Nationals</u>	11
<u>Disclosure of Risk Assessments to HOIE and General Data Protection Regulations (GDPR)</u> ..	11
GUIDANCE	11
<u>Managing information sharing with FNOs</u>	11
<u>Access to public funds</u>	12
<u>Accommodation: Other Options and No Fixed Abode</u>	12
<u>Modern Slavery</u>	13
<u>Electronic Monitoring: Working with HOIE Electronic Monitoring</u>	13

1. Purpose

- 1.1 The purpose of this Policy Framework is to set out the mandatory processes that HMPPS staff must complete when a Foreign National Offender (FNO) is released into England and Wales.
- 1.2 For the purposes of this framework and the processes described within, a FNO is an offender identified as being of interest to Home Office Immigration Enforcement (HOIE) and is therefore liable for deportation and is serving a custodial sentence. HOIE will seek deportation prior to release, but it is not always viable due to a variety of factors. In those circumstances where imminent deportation is not anticipated and release is automatic, it is appropriate to release FNOs into the community in England and Wales as further detention would be unlawful.
- 1.3 This framework does not include deportation policy or the Early Release Scheme (ERS). All deportation related decisions are made by the Home Office and is set out here: [Deporting foreign nationals on conducive grounds: caseworker guidance](#). For queries with regard to prison/probation practice in relation to deportation processes by the Home Office, please contact ERDForeignNationals@justice.gov.uk.
- 1.4 This edition of the policy merges the two policies (PSI 29/2014 / PI 26/2014 and PSI 34/2014 / PI 52/2014) on working with FNOs into a single document.
- 1.5 This policy should not be read in isolation but is intended to be additional information specific to the FNO cohort. The mandatory actions set out in the [Licence Conditions Policy Framework](#) applies in all cases unless otherwise stated.
- 1.6 There is an Prison facing FNO information hub available on the intranet available here: [Working with foreign national offenders \(sharepoint.com\)](#), and a Probation facing information hub (called the FNO Coordination Hub) on the intranet including links to the FNO Manual on EQuIP and the MS Teams channel for updates and practice advice: [Foreign national offenders \(FNO\) \(sharepoint.com\)](#).

2. Outcomes

- 2.1 This framework aims to ensure that HMPPS Staff are aware of:
- a. The available resources for managing this cohort, including those specific to FNOs as well as translation services.
 - b. The mandatory requirement to produce and issue licences prior to the Conditional Release Date (CRD) regardless of FNO status, and whether they are being released into the community or held in Immigration Detention (IS91).
 - c. How FNOs can be released into England and Wales on licence, both while in IS91 and into the community. This includes reporting requirements, and how licence conditions may work while an FNO is on IS91.
 - d. The importance of co-working with HOIE in managing the potential release, sharing risk assessments upon request, and coordinating information sharing following release.
 - e. The requirement to inform FNOs that information sharing is taking place with HOIE.

f. The means of engaging FNOs following release, including any ability to access public funds, and the impact of the Compliant Environment on the ongoing management of those on licence and pending deportation.

2.2 The Equality Act 2010 provides protection from unlawful discrimination in relation to the following characteristics: age, disability, gender reassignment, pregnancy & maternity (which includes breastfeeding), race, religion or belief, sex, marriage and civil partnership, and sexual orientation. HMPPS is committed to eliminating all forms of discrimination, to promoting equality and diversity, and to ensuring equal access to services.

3. REQUIREMENTS

3.1 Probation practitioners must apply all policy and processes (also applied to the wider offender population) to FNOs, where there is no explicit direction to do otherwise in either policy, guidance or legislation.

3.2 Additional consideration must be given in all cases to the ability for FNOs to understand any information being given to them by staff. The [Working with Foreign National Offenders intranet hub](#) has a variety of pre-translated material, but additional translation services may be requested via the [MoJ Language Portal](#).

Allocation

3.3 Probation practitioners must allocate FNO cases in line with paragraph 1.12 of [Case Allocation: PI 05/2014, PSI 14/2014](#) in line with business-as-usual practice, regardless of whether deportation is expected prior to release.

OASYS Production

3.4 FNOs are not excluded from risk assessment processes set out on EQUIP: [OMIC-OASYS Responsibilities and Timings \(this link will only function on internal MoJ/HMPPS systems\)](#). OASys National Standards also sets out the requirements for the frequency of updates, and can be seen here: [National Standard – English \(this link will only function on internal MoJ/HMPPS systems\)](#).

Disclosure of Risk Assessments to HOIE

3.5 OASys assessments can be requested by the HOIE caseworker for a variety of reasons such the purpose of considering whether or not to release into the community, or at the request of an Immigration Tribunal.

3.6 The COM must first check the OASys first to ensure that all non-disclosable information (such as victim information) is in the non-disclosable section and not elsewhere in the document. Then COM must then share the most recent OASys with the HOIE caseworker, unredacted, with the exception of that non-disclosable section.

3.7 Following the sharing of an OASys assessment with HOIE, the FNO themselves must be informed. A template document for this purpose has been added to EQUIPpage here: [OASys Sharing with Home Office Notification \(justice.gov.uk\)](#) . As with all communications with an FNO, consideration of language barriers must be considered prior to issuing and

use of Translation Services may be appropriate if the template in the FNO's primary language is not available on the intranet. Once issued, this must be logged in the case notes function on nDelius.

Disclosure of Risk Assessments to Legal Representatives

- 3.8 FNOs can make a subject access request for their own risk assessments to HMPPS. However, where their legal representative makes a request from HMPPS for the OASys risk assessment as part of a bail application through an Immigration Tribunal, they must be directed to the HOIE representative and provided with the appropriate contact details. This is to ensure that they receive both the OASys and any internal risk assessment documents from HOIE and have the specific version of the OASys which will be reviewed by the Immigration Tribunal.

Preparation for Release and/or Deportation

- 3.9 In all cases, preparation for release into England and Wales must be considered by the COM even where HOIE have indicated that deportation will take place prior to the Conditional Release Date (CRD). This is because of the risk of immediate release at CRD, where that deportation cannot take place for a variety of reasons.
- 3.10 As part of pre-release planning, the COM must contact the HOIE caseworker to determine what elements of the Compliant Environment apply based on the FNO's immigration status. For further information on the types of restrictions which are applied under the Compliant Environment, please contact the FNO Coordination Hub: Foreign national offenders (FNO) (sharepoint.com). For further information on the applicable restrictions in an individual case, the COM must speak to the HOIE caseworker.

Access to Public Funds

- 3.11 The COM must take into account the ability for the FNO to access public funds as part of pre-release planning. The exclusions applicable to FNOs are defined within s115 of Immigration and Asylum Act 1999 (legislation.gov.uk). The list of public funds can be seen here: Public funds - GOV.UK (www.gov.uk). Any provision or benefit not included on this list is not considered to be a public fund and could potentially be accessed by any eligible person, regardless of their immigration status. Further guidance on access to public funds is available at 5.1.

Electronic Monitoring: Home Detention Curfew

- 3.12 The eligibility for FNOs on Home Detention Curfew (HDC) is set out in the Home Detention Curfew (HDC) Policy Framework. This broadly breaks down into two categories applicable specific for FNOs:
- a. A statutory exclusion for those who have been recommended for deportation by the court and those who are liable to deportation and a decision to deport has been served (i.e. not just those with a Deportation Order). (Section 4.3.1 of the above)
 - b. Presumed unsuitability for those liable for deportation but not yet served with a decision to deport. (Section 4.3.6 of the above).

Licence Production

- 3.13 Where an FNO enters the licence production window, a release licence must be produced as normal. This is set out as a mandatory action in the Licence Conditions Policy Framework at 3.5. This licence must be issued to the FNO at the Conditional Release Date (CRD) whether or not they are placed under an Immigration Hold (IS91) and either remain in the prison establishment, are moved to an Immigration Removal Centre (IRC) or released into the community. Staff must be aware that there are no facilities in IRCs to produce or sign off licence documents. All licences must be produced prior to CRD and potential transfer to an IRC.
- 3.14 FNOs can access all interventions and programmes unless specifically excluded. COMs must check for any applicable exclusions as part of the overall release plan to ensure individuals are not required by licence to attend activities that they may not be able to take part in. Failure for an FNO to qualify for an intervention/programme must not be considered to be a breach of licence.
- 3.15 Expectations of deportation must not delay licence production once the FNO has entered the production window.
- 3.16 Once past CRD, any changes to the licence are considered to be a licence variation as set out in the Licence Conditions Policy Framework linked above. This includes those held in IS91, whether that is in a prison or an Immigration Removal Centre (IRC).
- 3.17 The licence must be issued to the FNO at CRD, even where they are remaining in the established on IS91 immigration detention as described below. If correctly produced using the Create and Vary a Licence (CVL) digital system, there is no physical signature from a person in authority on the licence document itself.

Movement into Immigration Detention (IS91)

- 3.18 There are many references through this policy to IS91, Immigration Detention or Immigration Holds. This is a decision made by the Home Office to prevent the release of an FNO where it is expected that deportation will be imminent. IS91 is not the same as the custodial element of the sentence, and even where the FNO remains in the prison establishment, they still move into the community period of their sentence and will be on licence while either in the prison or an IRC.
- 3.19 While in IS91, an FNO may apply for immigration bail from the First-tier Tribunal of the Immigration and Asylum Chamber. Further details on this is available here: Immigration detention bail: Before you apply - GOV.UK (www.gov.uk).
- 3.20 Breaches and recalls can take place in IS91, as per the Policy Framework on Recall, Review and Re-release of Recalled Prisoners. This may have the effect of moving an FNO from an IRC back into prison custody physically and will change the individual's status. They will no longer be on licence and will be subject to the standard custodial processes as per all other recalled individuals.
- 3.21 Further information on IS91 for staff, and information booklets for FNOs are available here: Working with foreign national offenders (sharepoint.com).

Contact with Victim Liaison Officers (VLOs)

- 3.22 As with all cases, there may be a VLO involved in a case where the offence/sentence meets a set of criteria and the victim opts into active engagement with the Victim Contact Scheme (VCS). This will only apply during the course of the sentence, and not during any post-sentence immigration supervision by HOIE. Details on the VCS is available here: [Information about the Victim Contact Scheme - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/organisations/victim-contact-scheme).
- 3.23 The COM managing an FNO in an active VCS case must liaise with the relevant VLO at the following points in addition to the normal licence/release processes as part of the routine updates between these parties:
- a. When HOIE have indicated that they are pursuing deportation;
 - b. Where HOIE are seeking to remove an FNO administratively;
 - c. When the COM is informed by HOIE that a deportation process is expected to take place;
 - d. When an FNO is held under IS91 detention;
 - e. When an FNO is transferred into an Immigration Removal Centre (IRC);
 - f. When the FNO is going to be released from IS91 detention on immigration bail by Home Office, Returns Command or the Immigration and Asylum Chamber (IAC) by an Immigration Judge;
 - g. When an FNO has been deported or removed;
 - h. If a deportation order is withdrawn for an FNO, and HOIE interest is removed;
 - i. Any other significant developments in the case as appropriate.
- 3.24 The VLO must relay any information to the victim as appropriate during normally scheduled communications unless a significant development has taken place as per the [Victim Contact Scheme Policy Framework - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/policies/victim-contact-scheme-policy-framework).

Accommodation: Address Checks

- 3.25 While it is appropriate to seek the advice of local police in considering whether or not an address is suitable, it is not appropriate to refuse an address on the basis of generalities about the local area, any rejection must be address specific. Issues such as “no local links” must be disregarded for FNOs, who may not have local links available within England and Wales. It remains the decision of the Probation Service to determine whether or not an address is suitable for licence purposes on the basis of all available evidence.
- 3.26 The COM must take into account the immigration status of the FNO, who may not be eligible for other forms of accommodation. Any address check for an FNO must be considered with the view that the alternative may be for the Immigration Tribunal to release as no fixed abode (NFA) following a bail application at short notice.
- 3.27 When reviewing suitable accommodation for FNOs, any rationale for rejecting the accommodation must clearly state why authorising the FNO to reside at the specified address on licence or post-sentence supervision would increase the risk of reoffending and serious harm posed to other. In addition, the risk of serious harm to the FNO specific to that address must be considered. This does not extend to broad generalities about the location such as being described as a “racist area” but is specific to issues applicable to individuals of all nationalities such as domestic abuse, modern day slavery or exploitation. This must be supported by evidence and aligned with disclosure procedures.
- 3.28 Such checks must encompass any considerations that would apply to non-FNO cases, including any risks posed to other residents by the individual being resident there. This will

include child safeguarding enquiries as set out in the EQUIP map here: [Child Safeguarding \(justice.gov.uk\)](https://www.justice.gov.uk) (internal HMPPS link only) and considerations of risks related to domestic abuse, detailed in the [Domestic abuse policy framework](#) and the [DA & CSG Enquiry Staff Guidance \(Master\) \(justice.gov.uk\)](#).

- 3.29 Failure to consider any proposed accommodation within reasonable timescales, can result in the Immigration Tribunal removing the need for accommodation to be assessed for release on bail, and ordering immediate release. Therefore, COMs must ensure that accommodation is only rejected where there is an address specific risk related reason to do so.
- 3.30 It is be appropriate to consider the views of the HOIE caseworker if the FNO has applied to transfer to another address while in the community, as per para 9.16 of [Case Transfer Policy Framework - GOV.UK \(www.gov.uk\)](#).

Accommodation: Curfews

- 3.31 Where a curfew is being applied, including the use of electronic monitoring, staff must be assured that it will not increase the risks posed to other residents at the location, such as through child safeguarding/domestic abuse risks. In every case where a curfew requirement / condition is being considered, staff must seek police domestic abuse and child safeguarding information beforehand. This must be used to assess the suitability of an address and prevent perpetrators being curfewed to live with current or potential victims.
- 3.32 Alternatively, the information from police, along with the other enquiries, may reveal if the FNO is a victim of domestic abuse within that address. Enforcing an individual to reside in a home where a risk of domestic abuse is present is unacceptable. Where that is the case, the further considerations of means to mitigate those risks must be considered or else consideration of whether the address remains suitable or not. Any increased risks must not be ignored in order to permit the FNO to continue residing at the location.

Accommodation: Approved Premises

- 3.33 Approved Premises (AP) provide intensive supervision upon release for those individuals who present a high or very high risk of serious harm. Accommodation there can be enforced under the standard licence condition for residence present on all licences. Due to the limited nature of the AP estate, early referrals are needed in order for a vacancy to be reserved for use at CRD.
- 3.34 Applications for FNOs to reside at an AP must not be rejected on the basis of lack of access to public funds but all other restrictions continue to apply, such as the risk profile. There must also be a set move-on plan for all cases, including any applicable FNOs.
- 3.35 There are no restrictions for FNOs in APs which would not also apply to British Nationals (some child sexual offenders are not permitted at certain APs), but consideration must be made at the time of referral as to what move-on accommodation will be available. This is because an AP place is not a long-term solution, but an interim measure intended to manage high and very high risk of serious harm individuals during the integral early period on licence when they are most likely to re-offend.
- 3.36 COMs must remind HOIE Caseworkers where an AP placement has been agreed that any delay in release at CRD by virtue of an Immigration Hold (IS91) will result in the placement being lost.

Accommodation: Schedule 10 Accommodation

- 3.37 If the FNO does not have an active asylum claim, a previous “failed” asylum claim, access to benefits/public funds and has no capacity to support themselves whilst on immigration bail (they are deemed destitute), they may be able to access accommodation and limited financial support as per Paragraph 9 of Schedule 10 to the Immigration Act 2016. This is referred to as Schedule 10 (s10) accommodation.
- 3.38 The application is made to s4@migranhelpuk.org using the Bail 409 form (available here: [Application for immigration bail accommodation \(exceptional circumstances – Article 3 ECHR\) BAIL 409 form](#)) or as part of a bail application (with the request for Schedule 10 accommodation set out in the Bail 1 or Bail 401 form). If the FNO is detained, a grant of bail requiring they reside at a specified address approved by the COM or a grant of Secretary of State bail must be in place. If the FNO is in the community, they must have a residence requirement in place on their Bail 201 form. If this is not present, the application will be automatically refused.
- 3.39 In addition to the residence requirement being on the Bail 201, to be eligible for this provision the FNO must also meet one of these four criteria:
- a. They are on licence or post-sentence supervision (including MAPPA management) with no suitable address and are assessed as posing a high or very high risk of serious harm to the to the public; or,
 - b. They have an OGRS score of 70%+ with a history of violent convictions; or
 - c. They are considered medically vulnerable (physically or mentally). This includes those the Home Office have assessed as an Adult at Risk Level 3 in the detention estate; or,
 - d. Where both of the following criteria apply:
 - i. They do not have adequate accommodation or the means of obtaining it.
 - ii. The provision of accommodation is necessary in order to avoid a breach of their human rights (usually Article 3 ECHR).
- 3.40 The COM must ensure that any specific issues around accommodation are communicated to the HOIE caseworker to ensure that these can be taken into account prior to s10 provision. Once a suggested s10 address is provided, the COM must undertake an address check.

Accommodation: CAS3

- 3.41 The probation run CAS3 (Community Accommodation Service) accommodation is available for FNOs who have recourse to public funds. There is no restriction based on FNOs being held past their Conditional Release Date (CRD) as long as the CAS3 placement is following the initial release into the community on the sentence. Details on the three tiers of CAS are available on the HMPPS Intranet here: [Accommodation in the community \(sharepoint.com\)](#).

Self-Deportation and Voluntary Returns

- 3.42 If an FNO is subject to a signed deportation order and leaves the country voluntarily without any Home Office involvement, they will have deported themselves as they will have no right of entry to return to the UK. There does not need to be an application for travel made under

Travel and transfer on licence and PSS outside of England and Wales Policy Framework

- 3.43 If the FNO is in the community and wishes to return voluntarily but requires financial assistance to do so, they may be eligible to apply to the Facilitated Returns Scheme via an e-mail to IEFRS@homeoffice.gov.uk or by calling 0300 071 3550. If the FNO is not subject to a deportation order and has not received 12 months or more, they may instead be eligible to apply to the Voluntary Returns Scheme, see: www.gov.uk/return-home-voluntarily.

CONSTRAINTS

Irish Nationals

- 4.1 Irish nationals must be presumed unsuitable for deportation unless specifically informed by HOIE. As such, they are to be treated as British Nationals. Where an Irish National wishes to return to the Republic of Ireland, the main focus of this is permanent travel as set out in [Travel and transfer on licence and PSS outside of England and Wales Policy Framework -](#).
- 4.2 The Irish Council for Prisoners Overseas (ICPO) is available to assist Irish nationals in returning to the Republic of Ireland following a period in custody elsewhere. They can be contacted at prisoners@irishchaplaincy.org.uk.

Disclosure of Risk Assessments to HOIE and General Data Protection Regulations (GDPR)

- 4.3 There must not be a local test to consider when a request is made by a HOIE Caseworker for an OASys risk assessment for the purpose of considering whether or not to release into the community, or at the request of an Immigration Tribunal.
- 4.4 Any GDPR (General Data Protection Regulations) considerations have been made centrally as part of the cross-agency data sharing agreement between HMPPS and the Home Office for this purpose. There are no actions for staff to take in relation to this.
- 4.5 Following the end of the period of supervision, which will end with either the Sentence and Licence End Date (SLED), the Post-Sentence Supervision End Date (TUSED) or in some older cases the Licence End Date (LED), there is no longer any requirement to update the OASys as that individual is no longer under probation supervision. As such, there is no ability to share the OASys with HOIE following the expiry of the FNO's custodial sentence as this will be out of date and potentially misleading to the Immigration Tribunal.

GUIDANCE

Managing information sharing with FNOs

- 5.1 Staff should be aware of the impact of delivering potentially bad news to individuals currently in prison or the community. Some of the information being provided may be received poorly and exacerbate a situation where the individual was already at risk of self-harm or suicide. Prison staff should be mindful of any outstanding or previous Assessment, Care in Custody and Teamwork (ACCT) assessments. Further information on the ACCT

process is available here: Managing prisoner safety in custody: PSI 64/2011 - GOV.UK (www.gov.uk).

- 5.2 These considerations continue into the community, as the response from the FNO may be delayed until the realities of the restrictions applied under the compliant environment become apparent.

Access to public funds

- 5.3 The ability to access public funds leads to a variety of considerations if the individual is unable to receive them. For example, permission will not be able to be granted to allow the individual to seek employment under licence for FNOs (depending on immigration status) as this would place them in breach of HOIE requirements under the compliant environment, and so accessing funds in general will be limited for an FNO. This may mean that they are unable to report as easily to probation, due to the costs of travel from their accommodation, and so programmes and reporting requirements must be carefully considered.
- 5.4 Access to public funds is generally dependent on an individual having lawful residence and settlement in the UK. Access to specific benefits (including homelessness assistance and other support) requires an individual to live in the UK and either have indefinite leave or permission to remain (unless subject to 'maintenance undertaking') or limited leave to remain which does not subject them to an No Recourse to Public Funds (NRPF) restriction set by HOIE.
- 5.5 Most migrants with limited or temporary leave to remain, except for certain groups such as those granted humanitarian protection or refugee status, will not have access to public funds. However, in some circumstances, migrants can apply to have the NRPF restriction removed.
- 5.6 The Home Office does not administer these provisions it is fundamentally up to the relevant public bodies such as the Department for Work and Pensions, His Majesty's Revenue and Customs and Local authorities to do so in line with their rules and legislation. Most eligibility assessments are dependent on an individual being ordinarily or habitually resident in the UK, regardless of their immigration status and this also applies to British Citizens.

Accommodation: Other Options and No Fixed Abode

- 5.7 If the FNO is not eligible for Schedule 10 accommodation but if the COM is aware that an active Modern Day Slavery Positive Grounds Decision is present, the FNO may then be eligible for accommodation and financial support from the National Referral Mechanism run by the Salvation Army. A referral (e-mail only required) must initially go to nrm@modernslavery.gov.uk outlining why the FNO is destitute (they have NRPF or anyone to support them and that any referrals made to the above have not been successful). Any FNO subject to GPS tagging is currently not eligible for this provision.
- 5.8 If the FNO has left care and is aged between 18-25 and is not yet appeal rights exhausted against any asylum claim or appeal against their deportation, then they may be eligible for leaving care provision. The relevant Local Authority is responsible for them.
- 5.9 If the FNO has medical needs in relation to physical or mental health disabilities, the Local Authority can undertake a human rights assessment under the Care Act 2014 and the Social Services and Well-being (Wales) Act 2014 to establish if support can be provided to

avoid a breach of human rights. The Local Authority can also provide support under s.1 of the Localism Act 2011 to avoid a breach of human rights in specific circumstances.

- 5.10 FNOs detained under the Mental Health Act 2017 may also be eligible for s.117 aftercare support, which is a non-chargeable service and open to anyone regardless of their immigration status. FNOs with severe personality disorder may also be eligible for relevant specialist accommodation provided by the NHS.
- 5.11 This list is not exhaustive. There are numerous schemes and 3rd sector organisations available. For example, NACCOM - The No Accommodation Network offers regional organisations that offer accommodation to those who have NRPF. The FNO Manual on EQuIP also includes further information in this area, available here: [FNO - Manual \(justice.gov.uk\)](https://www.justice.gov.uk). A further accommodation factsheet is available on the intranet here: [Foreign national offender guidance for staff in prisons \(sharepoint.com\)](https://sharepoint.com).

Modern Slavery

- 5.12 Guidance on Modern Slavery is available here, including information for FNOs in a variety of languages, is available on the intranet here: [Modern slavery \(sharepoint.com\)](https://sharepoint.com).

Electronic Monitoring: Working with HOIE Electronic Monitoring

- 5.13 All FNOs on immigration bail who are subject to deportation will have a compulsory trail monitoring requirement imposed as part of their immigration bail conditions unless an exemption applies. This is set out in paragraph 2(1) of Schedule 10 of the Immigration Act 2016 and is a Home Office decision.
- 5.14 Home Office EM can be used alongside MOJ EM. The following EM devices are available under the HO scheme:
- Fitted devices (ankle tags) with a HO issued mobile phone (low specification, without camera or Wi-Fi technology). This will be the preferred device in most cases.
 - Non-fitted devices, which are detachable but will require the person to submit daily biometric data verification at random intervals. This may be issued in rare circumstances where an ankle tag is deemed unsuitable due to vulnerability factors (where the device is available).
- 5.15 The current provider of both the MoJ and Home Office EM schemes is EMS. Where probation is managing an electronically monitored case, they will be automatically provided by EMS with information on non-compliance events that meet the relevant breach threshold. It is also open to Probation to request data from EMS. Where this relates to data at times of compliance, or to cases which they do not manage (e.g., court bail, HOIE cases), they will need to demonstrate necessity and proportionality to obtain the data. Requests must be submitted in writing using the External Agency Request form: [Notification to EMS \(justice.gov.uk\)](https://www.justice.gov.uk) (internal MOJ/HMPSS link).

Returns Following Deportation

- 5.16 Permission to board a carrier in an external country may also be refused if the Home Secretary is in the process of making them subject to a deportation order as per the relevant Authority to Carry Scheme 2021: [EM and Scheme \(publishing.service.gov.uk\)](https://publishing.service.gov.uk).

- 5.17 Only a signed Deportation Order or Exclusion Order can prohibit a FNO from re-entry into the UK. FNO's who have left and are subject to either order, should have their sentence event terminated on nDelius. If neither are present, the FNO may be able to enter the UK legally depending on their immigration status and therefore the sentence event should not be terminated on nDelius.
- 5.18 A deportation order cannot be made for someone who is not in the UK. If an FNO is subject to deportation proceedings but has left the UK voluntarily before this has been obtained, the Home Office may seek to obtain an Exclusion Order or place the FNO on the Watchlist and Information Control Unit (WICU) database, which will result in them being flagged if they seek to return to the UK. The latter does not prohibit entry but will ensure Border Force liaises with the relevant criminal casework team before granting admission into the UK.