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46. Assisted Voluntary Return Programmes.

a) GENERAL

Assisted Voluntary Return (AVR) programmes are developed and managed by the Assisted Voluntary Return Team based in UKBA / Immigration Group / Directorate of Central Operations and Performance / Removals Logistics.

AVRs differ from voluntary departures (see 48.6), as the mechanics of the return are handled by the International Organization for Migration (IOM). Because of this, it is possible to arrange AVRs for nationalities that could not be removed by any other method.

b) ELIGIBILITY

There are two major AVR programmes:

Voluntary Assisted Return and Reintegration Programme (VARRP):

Applications for return under the Programme will be accepted by the IOM from anyone* who is, or is the dependent of, a person who:

- ◆ has an asylum application pending;
- ◆ has been refused asylum and is appealing against that decision;
- ◆ has been refused asylum and has exhausted the appeals process;
- ◆ has not withdrawn their asylum application;
- ◆ falls within any of the above categories and is detained by the UK Border Agency solely in relation to immigration offences, except where the applicant has been assessed by Detention Services as violent and/or may pose a threat to IOM staff
- ◆ has been refused asylum, but granted discretionary leave to remain in the UK outside the immigration rules.

*except where:

- ◆ the applicant is involved in ongoing matters pertaining to the criminal justice system
- ◆ a deportation order (D.O.) has been made against the person;
- ◆ arrangements for the person's return are already in place;
- ◆ prior to IOM receiving an application the applicant has received custodial sentences, in the UK, totalling in excess of 12 months
- ◆ the applicant is a dependant who is not involved in the asylum application.

In each individual case, applications will be received and screened by IOM. In each case the final decision about suitability of the applicant for the Programme rests with the UK Border Agency.

Ineligible groups

The Programme is not open to those who:

- ◆ are British Citizens, or a national of Switzerland, or a national of a European Economic Area (EEA) state.
- ◆ have been granted humanitarian protection, indefinite leave to remain and / or refugee status.
- ◆ have never sought asylum in the United Kingdom.
- ◆ have permission to enter or remain in the UK for non-asylum reasons e.g. students, spouses, visitors etc
- ◆ are immigration detainees and have had removal directions set at any time.
- ◆ are convicted prisoners subject to deportation orders.
- ◆ have been convicted of a serious immigration offence.
- ◆ have indicated that their purpose in leaving is to nullify their adverse immigration status in order to re-enter the UK.

In addition to the above criteria, the majority of individuals who have previously participated in an assisted voluntary return (AVR) programme will be excluded from participating a second time following their subsequent return

to the UK. Each application by a previous participator will be carefully considered, taking all relevant factors into consideration and the appropriate decision made. Relevant factors may include: a significant change in the country situation; a new basis of asylum claim; and previous participation in an AVR programme as a dependant.

Generally only two AVR applications will be considered for each applicant. Those who cancel or withdraw their application or do not depart within three months of approval on two occasions will no longer be eligible for the programme. A third application will be considered only on production of evidenced exceptional reasons why departure via the VARRP has not taken place. In each case the decision about consideration of a third application rests with the UK Border Agency.

In cases where an individual applies to make an assisted voluntary return under an AVR programme and has previously commenced a judicial review, the AVR return should NOT be deferred.

46.1. Assisted Voluntary Return for Irregular Migrants (AVRIM)

Applications for return under the AVRIM programme will be accepted by the IOM from anyone* who is, or is the dependant of, a person who

- ◆ has been accepted by the UK Border Agency as a victim of trafficking.
- ◆ has entered the United Kingdom illegally, having been smuggled from abroad;
- ◆ has otherwise entered the United Kingdom illegally;
- ◆ has been granted conditional leave to enter or to remain, but has breached one or more conditions of that leave.
- ◆ falls within the above categories, is detained by the UK Border Agency and is detained solely in relation to immigration offences, except where the

applicant has been assessed by Detention Services as violent and/or may pose a threat to IOM staff.

*except where:

- ◆ the applicant is involved in ongoing matters pertaining to the criminal justice system
- ◆ a deportation order has been made against the person;
- ◆ arrangements for the person's return are already in place;
- ◆ Prior to IOM receiving an application the applicant has received custodial sentences, in the UK, totalling in excess of 12 months.

Ineligible groups

The programme is not open to those who:

- ◆ are British Citizens, or a national of Switzerland, or a national of a European Economic Area (EEA) state.
- ◆ have been granted humanitarian protection, indefinite leave to remain and / or refugee status.
- ◆ have sought asylum in the UK and have not withdrawn the application, or left the UK since that application;
- ◆ have permission to enter or remain in the UK for non asylum reasons e.g. students, spouses, visitors etc and have not breached any conditions of that leave;
- ◆ are immigration detainees and have had removal directions set at any time.

- ◆ are convicted prisoners subject to deportation orders;
- ◆ have been convicted of a serious immigration offence;
- ◆ have indicated that their purpose in leaving is to nullify their adverse immigration status in order to re-enter the UK.

In each individual case, applications will be received and screened by the IOM. The final decision about eligibility of the applicant for AVRIM rests with the UK Border Agency.

In addition to the above criteria, the majority of individuals who have previously participated in an assisted voluntary return (AVR) programme will be excluded from participating a second time following their subsequent return to the UK. Each application by a previous participator will be carefully considered, taking all relevant factors into consideration and the appropriate decision made. Relevant factors may include: a significant change in the country situation; a new basis of asylum claim; and previous participation in an AVR programme as a dependant.

Generally only two AVR applications will be considered for each applicant. Those who cancel or withdraw their application or do not depart within 3 months of approval on two occasions will no longer be eligible for the programmes. A third application will be considered only on production of evidenced exceptional reasons why departure via AVR has not taken place. This applies to applications made for any AVR programmes. In each case the final decision about consideration of a third application rests with the UK Border Agency.

In cases where an individual applies to make an assisted voluntary return under an AVR programme and has previously commenced a judicial review, the AVR return should NOT be deferred.

c) PROCEDURE

AVR schemes will be the first consideration when any individual indicates they want to make a voluntary return. When a request for a voluntary return is made, the subject will be asked to telephone IOM on the following number:

0800 783 2332.

The subject will discuss their wish to return with IOM. Applications should be sent to IOM or one of their implementing partners who will take the subject's details and refer the application to the AVR team within the UK Border Agency. The UK Border Agency AVR team will determine eligibility.

Once received, applications and decisions will be noted on the Case Information Database (CID). When the subject departs the UK, IOM will confirm departure to the AVR team who will update CID.

UKBA officers will, under no circumstances, target or otherwise seek to apprehend those who have made an application for an AVR. N.B. The date of application is the date on which it was received by IOM or an implementing partner and not the AVR team. Consequently there may be a 1-3 day delay in this information being put onto CID.

Where an AVR applicant with a current, live application is encountered by chance in the course of operations, reference should be made to the AVR team during office hours. In all cases the presumption should be that the AVR applicant should be permitted to make an AVR.

In all circumstances UKBA officers are required to release, upon demand, documentation, including but not limited to, passports, identity cards and other documentation that could assist in positively identifying the applicant to the AVR team and facilitate the return.

Where a subject is detained for removal, and where removal directions have been set PRIOR to the application date for AVR, the AVR team will reject any application for AVR made by the subject. There are no circumstances where an AVR application will delay, postpone or otherwise interfere with a scheduled enforced removal.

Where removal directions have been set AFTER the application date for an AVR and provided that the AVR team can approve the application, the UKBA officer must cancel the removal directions and allow the subject to leave voluntarily. The AVR team usually receives the form 1 to 3 days after the application has been made.

Where a person who is subject to enforcement action makes an application for AVR, unless the UKBA officer can demonstrate a compelling reason why an enforced removal should take place, that person will be accepted on an AVR scheme (subject to the standard exclusions)

Seeking to remove (even via a voluntary departure) an AVR applicant, will seriously compromise the integrity and independence of IOM

46.2. AVR GENERAL INFORMATION

- ◆ AVR makes a substantial contribution to the removals targets. Over 20% of all FAS removals are via AVR.
- ◆ AVR is not limited by documentation or policy issues. All nationalities (except British citizens, Swiss and EEA nationals) can return via AVR.
- ◆ AVR costs about 15 to 20% of enforced removal, even when reintegration costs are included.

- ◆ The IOM can be contacted at:

21 Westminster Palace Gardens
Artillery Row, London, SW1P 1RR
Telephone: 0800 783 2332
Fax: (020) 7233 3001
Email: varrp@iomlondon.org
Website ULR: www.iomlondon.org.

46.3. Documentation Unit processes

Section 46.3 has been withdrawn for updating.

46.4. Documentation Units - Case Identification for Setting up Interviews on CID

Section 46.4 has been withdrawn for updating.

46.5 - Starring

Starring, via a Starring Pro forma, is a method of prioritising failed asylum seeker (FAS) cases for removal so that operational colleagues can meet removal targets efficiently'. The completed pro-forma will contain all the available information required by the IO to risk assess a visit, locate and apprehend the person(s) to be removed

The Starring Pro forma can be found within CID by DocGen>TBC Stock letters>Removals> Pro-formas>ICD2106. The information is automatically generated from CID as long as all of the minimum data set has been completed.

The aim of starring is to assess whether a case is removable and to filter out those cases where operational activity would not be the best use of resources because:

1. There is no route for return
2. There is no travel document and it is not possible to obtain an emergency travel document (ETD) or to remove the subject on an EU letter
3. A home visit would be less likely to yield a FAS because of a lack of satisfactory address information

46.5.1 WHEN TO STAR A CASE

A case can be starred when all the factors below are in place:

- ◆ All appeal rights are exhausted (ARE), or no appeal has been lodged and the time limit expired, and there is no legal barrier to removal

- ◆ All applications, claims or further representations have been rejected and there is no in-country right of appeal against that rejection
- ◆ All policies and concessions relevant to the case have been considered
- ◆ An individual who is subject to enforcement action who has made no Asylum or HR claim and the only appeal right against the immigration decision is from outside the United Kingdom.

46.5.2 Checking the Home Office File & CID

Check the HO File to confirm that the case has been concluded and that no procedural or legislative errors have occurred that threaten lawful removal from proceeding. Also ensure that any representations or applications have been considered and all CID barriers resolved. If there is evidence, of a procedural or legislative error you should seek advice from a senior case worker or from LAB (Legal Advisors Branch). Record the outcome of any actions clearly on the HO File and update CID notes field and Barriers screens.

46.5.3 Starring THIRD COUNTRY UNIT CASES

All LEOs must action the pro-forma immediately as there is a time-scale of 6 months to achieve removal. This starts from the date when TCU receive confirmation of acceptance of a Dublin Regulation case by an EU Member State. TCU can extend this deadline but only where the LEO has informed that the applicant has:

- 1. Absconded (the removal target date can be increased to 18 months from the date of acceptance)**
- 2. The applicant is imprisoned (the removal target date can be increased to 12 months from the date of acceptance)**
- 3. The applicant has submitted any appeal which attracts suspensive appeal such as Judicial Review, where upon**

removal must take place within 6 months of completing the suspensive action.

If the removal is not achieved within the agreed time scale then the applicant cannot be removed from the UK under the Dublin Regulation and will need to be treated substantively within the UK.

Once acceptance is received by the TCU from a third country, TCU will prepare a third country certification letter and attach this to the yellow starring pro-forma, along with confirmation of acceptance from the responsible EU Member State and any documented evidence of the applicant and the applicant's inbound carrier. This is done to help the LEO decide whether the cost of removing the applicant will be Carriers Expense or Public Expense.

Third Country Unit (TCU) pro-forma's are yellow and are sent to the LEO for action since.

Ports no longer deal with the refusal and removal of Third Country cases originating from ports. The LEO nearest to the applicant's last known address will be considered the case owners for such cases.

46.5.4 HOW TO STAR CASES

Cases are starred and given a rating [F (family), 1 (the most removable), 2 or 3 . Family cases are defined as those where there is a main applicant and an accompanying dependant child; all family cases are starred 'F'.

. It is imperative that Caseworkers ensure that all relevant files are obtained before the pro-forma is completed, to verify that dependants and other family members do not have outstanding appeals and that there is no other relevant information which needs to be included. It is imperative that CID (and where applicable ASYS) are completed accurately and fully comply with the Minimum Data Set as this information that generates the pro-forma. Instructions for completing the pro-forma are in the embedded document.

46.5.5 STAR RATINGS criteria

The criteria for the different star ratings are below:

Star F (Family cases)

A family case comprises a main applicant with a dependant child under 18 in the UK. All family cases should be starred F and passed to the IS with as much supporting information as possible, especially where benefit is being provided at public expense. Where the family fails to co-operate with removal directions their benefits may be ended.

Star 1 (Most Removable Case)

Cases that should be considered as Star 1 should include:

- ◆ A valid national passport/travel doc is on file/readily available. Where none is held they must be removable on an EU letter or Chicago Convention Document or Emergency Travel Documents can be obtained within an agreed period (refer to ISDU website for guidance on time required to obtain ETDs for each nationality)
- ◆ Where not currently detained, those reporting regularly or a reliable address (confirmed in the last 3 months) is known.

Star 2 (Lower priority as contact less likely)

Cases that should be considered as Star 2 should include:

- ◆ A valid national passport/travel doc is on file/readily available. Where none is held they must be removable on an EU letter or Chicago Convention Document or Emergency Travel Documents can be obtained within an agreed period (refer to ISDU website for guidance on time required to obtain ETDs for each nationality)
- ◆ Those not reporting regularly and the address was last confirmed more than three months ago.

Star 3 (imminent removal is unlikely)

Cases that should be considered as Star 3 should include:

- ◆ No passport or travel documents on file

- ◆ Documentation problems exist and a passport or emergency travel document cannot be obtained on the available information
- ◆ Those who are not removable due to BIA policy or international situation
- ◆ Cases starred 3 should not have a pro-forma completed. The cases shall be either stored with minutes that no further action should be taken by caseworkers until removal is possible i.e. there is a change in policy or travel documents are obtained
- ◆ File to be noted with main reason why Star 3 is applicable.

46.5.6. THE IMPORTANCE OF COMPLETE AND ACCURATE RISK INFORMATION on starring pro-formas

Comprehensive information on all known risks is vital for compliance Health and Safety Regulations governing staff and applicants. It could also mean the difference between a successful removal and a costly failure. **All** enforcement operations entail risks but “forewarned is forearmed”. The lowest possible risk assessment of an upcoming operation (or more simply put the very best that can ever be said of the operational risks) is that there is no known risk.

In this context Risk can be defined as;

“Anything which may jeopardise the success of an enforcement operation, and the health, safety and welfare of all those involved in and/or affected by it”.

When assessing any possible operational risks officers should have reference to the Home Office File, and any relevant Home Office database. Within Case Information Database, particular attention should be paid to the ‘Special conditions screen’ and the ‘notes screen’. If officers become aware of information that is not recorded within the File or on CID it is the individual officer’s responsibility to update the relevant screens.

When assessing the risks to enforcement visits, the Immigration Service follows the mnemonic “**PIMPLE**”. To support the IS risk assessment, the starrer must identify and communicate information on all risks that they have knowledge. There are six categories to risk within PIMPLE: -

P - Physical.

Will include danger to physical health, including risks of (physical) violence, abuse (including verbal), fatality, injury, disease, infection or contamination need to be communicated to enforcement officers. All those vulnerable to such risks need consideration in visit risk assessments. These are all who may be affected by the enforcement action; IS staff, police, other agency staff (e.g. NASS, NAM, HM Revenue & Customs, Benefits Agency staff etc) and also the subject of the visit, his/her family and friends, other occupiers of the property and even the public. Risks may emanate from inanimate objects like slip, trip and fall hazards, poorly maintained/lit/tall buildings; hazardous chemicals even pets could present a physical risk.

I - Immigration (or BIA).

Physical risks to UKBA staff are mentioned above, but another risk is failure of an enforcement operation. Viability of removal comes under this heading and the easy availability of travel documentation is a vital consideration in that. Risk of failure of the operation due to the incomplete identification of known risks and consequent cost in terms of public perception of BIA may be factors for consideration.

Less obvious will be potential for community concerns, possible ministerial or departmental embarrassment, increased media interest, or sustained campaign or pressure-group involvement.

M – Moral (or ethical).

Many risks under this heading pertain to minors and vulnerable people. Dealing with a minor or, for example, a person with learning difficulties may entail ethical risk. The question of whether it is ethical (or legal – see below) to detain and remove the sole adult in a property where the action would result in a child or vulnerable person left alone is often relevant in enforcement visits. Full mention is therefore required on the pro-forma of any vulnerable person, including minors, for whom the subject may bear any responsibility. Sometimes cultural and religious considerations need to be made. For example, an IO may need to consider the timing of enforcement action during religious or other cultural celebrations etc.

P – Psychological.

Psychological risks are possible in many cases, but particularly where there is a physical risk as described above. In particular, detail of any mental health concerns about the subject, family members, friends or any other relevant person must be fully recorded on the pro forma since this will have a major effect on how enforcement action is undertaken and how successful the outcome will be. In addition psychological risks may threaten the physical safety of enforcement staff.

L – Legal.

Legal risks will have been evaluated earlier in the pro forma in the sections dealing with appeals (inc. HRA and Tribunal proceedings) but representations and some civil proceedings (JR, injunctions) may render removal unlawful. However, some other civil court proceedings (e.g. family cases like divorce and custody cases) and criminal proceedings (prosecutions) might place the Home Office in contempt of court if removal is premature. Unlawful arrest and detention represent further legal risks. Any such risks merit mention in the pro-forma.

E – Economic.

These are generally of less concern to the starrer and more to enforcement practitioners who consider whether proposed operations represent value for money. Starrers are asked to note, however, that by starring a case for removal they are giving it a priority so that an ensuing unsuccessful operation is likely to be at the cost of another, which might have met success. Lengthy detention while a barrier to removal is unresolved carries a high economic risk so quick win cases may be more economical than cases which may ultimately not result in removal.

However, in the pro-forma the risks have been only divided into two categories which distinguish the heavier risks from the lighter ones.

46.5.7 COMPLETING THE PRO-FORMA

Step-by-step guidance on how the pro-forma should be completed is attached in the section ‘How to star a case’ (Section xx.xx). However the Doc Gen form should auto-populate if the Minimum Data Set on CID has been completed

properly. If the form does not auto-populate correctly it is for caseworkers to ensure that any gaps in the information within the pro-forma are completed manually and that the relevant sections of CID are updated with all the required information.

General points to be considered when completing the pro-forma:

- ◆ Complete all sections on the starring checklist. If there is no information available or the field is not applicable then put N/A or not known N/K.
- ◆ 'Any other information' field. To be used to provide relevant information to the IO where no permanent field is suitable.
- ◆ **Do NOT record subjective opinions on check sheets** Only relevant factual information from the file/CID must be included. Any recorded "opinions" may be challengeable under the Data Protection Act 1998. All attributable information should be recorded to clearly show its source i.e. police or anonymous source. Where the source of the information is not clear, the phrase "It has been alleged that..." is applicable.
- ◆ All fields must be completed accurately and any ambiguities explained in the further comment field.

Quality assessment should be carried out on a regular basis, by IS, according to the evaluation procedure detailed and each pro-forma will be marked on a scale of 1-10 where 10 shows a 100% quality score and 1 a case that needs starring again and further training may be appropriate.

46.5.8 DISPATCHING A STARRED CHECKLIST

Category 1, 2 and F checklists are generally dispatched in the following way: This process may vary depending on the degree to which the starring team is twinned with operational units or due to local requirements, however best practice is that:

- ◆ The original starring pro-forma is sent by internal mail to the relevant local intelligence units operate it goes to them in both hard copy and

electronically. Where none exists, it should be sent to a named individual in the relevant local operational team for further consideration

- ◆ One copy of the pro-forma is attached to the Home Office file. The file is either retained by the casework team in a hold or sent to Lay-by depending on local procedure
- ◆ The starring unit should retain a copy of the pro-forma for future reference.

46.5.9. Starring DEPORTATION CASES

Caseworkers should note that any criminal deport cases should be referred to CCD for consideration if they meet the pre-set referral criteria. Caseworkers should refer to the Criminal Casework guidance for information on the referral criteria. This is available within the Operational Enforcement Manual.

E&R caseworkers are responsible for progressing pre 2.10.2000 deportation cases (Sometimes know as APP104 cases).

In such cases where a person's appeal against a decision to make a deportation order (DO) has been finally concluded and deportation is to be pursued but the DO has not yet been obtained:

- ◆ A caseworker will obtain the deportation Order (DO)
- ◆ Star the case and identify the relevant LEO. Attach the pro-forma to the Sub file and send to operational unit.

Revision History

Date change published	Officer/Unit	Specifics of change	Authorised by;	Version number after change
		OEM Revision		v1
20-5-08	Sohail Ismail/Mike O'Neill	Removal of sections 46.3 and 46.4 for updating with published guidance (located on Enforcement Instructions webpage).	Julia Dolby	v2
30-6-08	Sohail Ismail	Update from previous OEM Nov 07	Judith Craig	V3
30-04-09	David Becker	Update of AVR sections – 46, 46.1 and 46.2	Ronal Patel	v4