



Home detention curfew scheme

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About this guidance

About this guidance Introduction of the home detention curfew scheme and its application HDC eligibility criteria and liability to removal Prison requests for UK Border Agency information in HDC cases Effect of IS91, authority to detain document on HDC Irish Nationals and home detention curfew scheme Background of the home detention curfew scheme	<p>This guidance tells criminal casework directorate (CCD) staff how to approach foreign national offender (FNO) cases where the home detention curfew scheme (HDC) may be applied.</p> <p>Changes to this guidance - This page tells you what has changed since previous versions of this guidance.</p> <p>Contact - This page tells you who to contact for help if your senior caseworker or line manager can't answer your question.</p> <p>Information owner - This page tells you about this version of the document and who owns it.</p> <p>Safeguard and promote child welfare – This page explains your duty to safeguard and promote the welfare of children and tells you where to find more information.</p>	<p>In this section</p> <p>Changes to this guidance</p> <p>Contact</p> <p>Information owner</p> <p>Links to staff intranet removed</p>
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This page lists changes to the home detention curfew scheme guidance, with the most recent at the top.

Date of the change	Details of the change
01 February 2013	Six month review by the modernised guidance team: Minor housekeeping changes
16 August 2012	Six month review by the modernised guidance team: <ul style="list-style-type: none">• HDC eligibility and criteria and liability to removal:<ul style="list-style-type: none">○ fourth paragraph, first sentence after 'deportation' '(ICD 0305 0350AD' has been added• Minor housekeeping and plain English changes.
9 February 2012	For the 9 February 2012 changes, you will need to access version 2 which is now in the archive. See related link: Home detention curfew (HDC) - archive.
30 August 2011	Revised and modernised by criminal casework directorate process team and the modernised guidance team.

Related links

See also

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Introduction of the home detention curfew scheme and its application

About this guidance Introduction of the home detention curfew scheme and its application HDC eligibility criteria and liability to removal Prison requests for UK Border Agency information in HDC cases Effect of IS91, authority to detain document on HDC Irish Nationals and home detention curfew scheme Background of the home detention curfew scheme	<p>This page tells criminal casework directorate (CCD) staff the purpose of the home detention curfew scheme (HDC).</p> <p>It clarifies the respective roles of prisons and the UK Border Agency, and introduces a new form to help establish if a foreign national offender (FNO) is eligible and suitable for HDC.</p> <p>The purpose of HDC is set out in paragraph 1.4 of PSO 6700 - 'to manage more effectively the transition of prisoners from custody back into the community'.</p> <p>This cannot be achieved if the prisoner is being removed from UK rather than re-settling here. This is reflected in the statutory bar on HDC for prisoners liable to removal from the UK and attendant policy. For more information, see link on left: HDC eligibility criteria and liability to removal.</p> <p>The decision whether or not to authorise the release of a prisoner under this scheme must be taken on behalf of the Justice Secretary by the governor of the prison or the controller in contractually managed prisons.</p> <p>CCD does not make any decision relating to the HDC scheme.</p> <p>CCD's decisions and intentions relating to the deportation, removal and detention of FNOs are significant to the HDC decision. You may receive requests from prisons for information on the current immigration status of prisoners being considered for HDC.</p> <p>The National Offender Management Service (NOMS) has introduced a new form (form HDC-FNP) specifically to determine eligibility and suitability for HDC. The form is sent by the prison to CCD (and, in due course to the immigration compliance and engagement (ICE) teams, formerly known as local immigration teams (LITs), in relevant cases) for them to complete.</p> <p>The form is sent to the UK Border Agency around 10 weeks before the earliest possible</p>	Links to staff intranet removed
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	release on HDC (the HDC eligibility date, or HDCED). This means any actions and views from the UK Border Agency are taken into account during the HDC process. For more information, see link on left: Prison requests for UK Border Agency information in HDC cases .	
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HDC eligibility criteria and liability to removal

<p>About this guidance</p> <p>Introduction of the home detention curfew scheme and its application</p> <p>HDC eligibility criteria and liability to removal</p> <p>Prison requests for UK Border Agency information in HDC cases</p> <p>Effect of IS91, authority to detain document on HDC</p> <p>Irish Nationals and home detention curfew scheme</p> <p>Background of the home detention curfew scheme</p>	<p>This page tells you how foreign national offenders (FNOs) are affected by the eligibility criteria for the home detention curfew (HDC).</p> <p>Under section 259 of the Criminal Justice Act 2003 (CJA 2003), FNOs are ineligible for HDC if they:</p> <ul style="list-style-type: none">• are liable to deportation under section 3 (5) Immigration Act 1971 and have been notified of a decision to make a deportation order against them• are liable to deportation under section 3 (6) of the Immigration Act 1971, this means there is a court recommendation for deportation• have been notified of a decision to refuse leave to enter the UK• are an illegal entrant within the meaning of section 33 of the Immigration Act 1971, or• are liable to removal under section 10 of the Immigration and Asylum Act 1999. <p>Before a FNO is made statutorily ineligible for HDC, there must be a decision to deport in both:</p> <ul style="list-style-type: none">• automatic deportation (2007 UK Borders Act), when they must have been issued with a deportation notice (ICD 3805) and a deportation order (ICD 3813 or ICD 3814), and• non-automatic ('conductive') deportation (1971 Immigration Act, when they must have been notified of a decision to make a deportation order against them (an ICD 1070 must have been served). <p>If a FNO is served with a notice of liability to deportation (ICD 0350, 0350AD), but not notified of a deportation decision or served with a deportation order, they are unsuitable for release on HDC. This is unless there are exceptional circumstances justifying release. For example, HDC may be justified if deportation is not possible in the near future and the UK Border Agency confirms the offender will not be detained under immigration powers on release from prison.</p> <p>In these cases the FNO is risk assessed for release on HDC, and the likelihood of future</p>	<p>Links to staff intranet removed</p>
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	<p>deportation, along with any evidence from the UK Border Agency of previous non-compliance with immigration conditions. This information must be provided by CCD on the HDC-FNP form. For more information, see the link on left: Prison requests for UK Border Agency information in HDC cases.</p> <p>If there is a court recommendation for deportation but a decision is made not to pursue deportation, the prison must be notified as soon as possible to allow the FNO to be considered for HDC.</p> <p>In cases where a deportation decision has still not been made, the FNO is ineligible for HDC if they:</p> <ul style="list-style-type: none"> • have been notified of a decision to refuse leave to enter the UK • have previously been notified they are an illegal entrant or immigration offender subject to removal under section 10 of the Immigration and Asylum Act 1999. <p>You must check the FNO's records for evidence of these notifications being served and, if they have, that they are still valid. For example, the notice has been superseded by a grant of leave.</p> <p>The prison contact on the HDC-FNO form must be notified immediately of any significant change in the information provided which occurs before the offender's conditional release date (CRD). A significant change is one that could affect an HDC decision, for example, where it has been decided later:</p> <ul style="list-style-type: none"> • to deport or remove • not to pursue deportation or removal at all, or • not to pursue deportation or removal at least for the foreseeable future and there is no intention to detain on release from prison. <p>If a FNO is lawfully released on HDC, and a decision is subsequently taken by the UK Border Agency that would make the offender 'liable to removal' if they were still in prison, this does not mean they are automatically recalled to prison. The FNO is not liable for recall to prison on their original sentence unless they breach the terms of the HDC licence.</p>	
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Prison requests for UK Border Agency information in HDC cases

About this guidance Introduction of the home detention curfew scheme and its application HDC eligibility criteria and liability to removal Prison requests for CCD information in HDC cases Effect of IS91, authority to detain document on HDC Irish Nationals and home detention curfew scheme Background of the home detention curfew scheme	<p>This page tells criminal casework directorate (CCD) staff how prison staff obtain information from the UK Border Agency to assist their consideration of foreign national offenders (FNOs) for the home detention curfew (HDC) scheme.</p> <p>If possible, a deportation decision must be made before FNOs reach a point in their sentence when they can be considered for HDC. This makes sure an offender who is liable to removal from the UK at the end of their sentence cannot lawfully be released on HDC. It is important to note this can happen up to four and a half months earlier than the usual release date (half-way point of the sentence).</p> <p>If it is not possible to reach a decision, it is equally important the prison knows the intentions in relation to deportation, removal and detention, and the UK Border Agency's views on the latter, as these will have a key impact upon HDC decisions.</p> <p>Unless the FNO's immigration status has already been confirmed to the prison, the prison must contact UK Border Agency at the start of the HDC consideration process, around 10 weeks before the HDC eligibility date, to establish this. The prison can email or fax a form to the criminal casework directorate (CCD), or the immigration compliance and engagement (ICE) team (formerly known as local immigration team (LIT)) if relevant, with a request for them to complete the form and return it within four weeks. To see the form, see related link: HDC - FNP form.</p> <p>If the prison knows the identity of the CCD case owner dealing with the case, they must contact them directly. If the identity is not known to the prison (or one has not yet been allocated) they can contact the CCD workflow team with the information request.</p> <p>The contact form asks for the current status of the case (for example whether the deportation decision has been served), and gives you an opportunity to provide extra information relevant to the HDC consideration, such as evidence of previous non-compliance with immigration conditions. The form must be completed as fully as possible.</p>	Links to staff intranet removed
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Effect of IS91, authority to detain document on HDC

About this guidance Introduction of the home detention curfew scheme and its application HDC eligibility criteria and liability to removal Prison requests for CCD information in HDC cases Effect of IS91, authority to detain document on HDC Irish Nationals and home detention curfew scheme Background of the home detention curfew scheme	<p>This page tells you the effect the IS91 has on home detention curfew (HDC).</p> <p>Although service of form IS91 (notice of authority to detain under immigration powers) does not alone make a foreign national offender (FNO) statutorily ineligible for release on HDC, they cannot be released into the community when the IS91 comes into force on their release following completion of their sentence.</p> <p>Issuing an IS91 defeats the objective of release on HDC. You must tell the FNO they are not suitable for HDC because they cannot meet the criteria to be released into the community for resettlement purposes at present, but suitability for HDC will be re-assessed if the IS91 is withdrawn.</p> <p>You must notify the prison contact on the HDC-FNP form immediately if a decision is made to:</p> <ul style="list-style-type: none">• abandon deportation proceedings and/or withdraw the IS91, or• deport the FNO. <p>For more information on the UK Border Agency detention policy and deportation criteria, see related link: 55 Detention and temporary release.</p> <p>You must make sure you are familiar with this guidance before making a decision to detain a FNO, under immigration powers.</p>	Links to staff intranet removed
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Irish nationals and home detention curfew scheme

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Background of the home detention curfew scheme

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	For guidance on when a prisoner has been released before deportation action could be considered, or in the case of an offender being released in error, please see related link: 01/09 Action on cases that have been released before Deport.	
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Contact

About this guidance Introduction of the home detention curfew scheme and its application HDC eligibility criteria and liability to removal Prison requests for CCD information in HDC cases Effect of IS91, authority to detain document on HDC Irish Nationals and home detention curfew scheme Background of the home detention curfew scheme	<p>This page tells you who to contact for more help with a specific case on the home detention curfew scheme (HDC).</p> <p>If you have read this guidance and still need more help with this category, you must first ask your senior caseworker or line manager.</p> <p>If the question cannot be answered at that level, they or you may email the criminal casework operational process and policy team (CCOPPT – see related link: Email CCOPPT) for guidance on the policy.</p> <p>Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact CCOPPT, who will ask the MGT to update the guidance, if appropriate.</p> <p>MGT will accept direct feedback on broken links, missing information or the format, style and navigability of this guidance. You can send these using the link: Email: Modernised guidance team.</p>	Related links Changes to this guidance Information owner Links to staff intranet removed
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This page tells you about this version of the home detention curfew scheme guidance and who owns it.

Version	4.0
Valid from date	01 February 2013
Policy owner	Ministry of Justice
Cleared by director	Richard Quinn
Director's role	Director, criminal casework directorate (CCD)
Clearance date	17 August 2011
This version approved for publication by	Richard Short
Approver's role	Assistant director, modernised guidance team
Approval date	31 January 2013

Changes to this guidance can only be made by the modernised guidance team (MGT). If you think the policy content needs amending you must contact the CCD process team, who will ask MGT to update the guidance, if appropriate.

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