



Home Office

Impending prosecutions

A barrier to deportation for criminal casework

Impending prosecutions - a barrier to deportation for criminal casework

About this guidance

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This guidance tells criminal casework (CC) caseworkers about cases involving impending prosecution.</p> <p>An impending prosecution is when a person is awaiting the outcome of a prosecution for an offence brought against them by the police or the Crown Prosecution Service (CPS).</p> <p>For more information on the CPS, see related link: The Crown Prosecution Service.</p> <p>You must tell your operational assistant director about any case involving an impending prosecution and make sure all actions are recorded on CID.</p> <p>Changes to this guidance –This page tells you what has changed since previous version of this guidance.</p> <p>Contact - This page explains who to contact for more help if your senior caseworker or line manager can't answer your question.</p> <p>Information owners – This page tells you about this version of the guidance 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> <p>External links</p> <p>The Crown Prosecution Service</p>
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This page lists the changes to the impending prosecutions guidance, with the most recent at the top.

Date of the change	Details of the change
28 August 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.
01 February 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none">• Minor housekeeping changes.
	For previous changes to this guidance you will find all earlier versions in the archive See related link: Impending prosecutions - Archive

Related links

See also

[Contact](#)

[Information owner](#)

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Finding out about an impending prosecution and what actions to take

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff what to do if they get a positive result indicating an impending prosecution, when checking the Police National Computer (PNC).</p> <p>You must check the PNC before any deportation or administrative removal to see if the foreign national offender (FNO) has an impending prosecution. You cannot deport a FNO who has an impending prosecution without the consent of:</p> <ul style="list-style-type: none">• your assistant director• the police, and• the Crown Prosecution Service (CPS). <p>A positive PNC check gives details of which court to contact for any further information. It has a Criminal Record Offence (CRO) number that helps you find the name of the police station, but not the name of the appropriate police officer.</p> <p>Depending on the PNC's content you may have to contact the court to find out which police station and police officer is dealing with the impending prosecution.</p> <p>You may only find out about an impending prosecution when a police officer contacts the Home Office.</p>	
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Action to take when an impending prosecution is confirmed

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff when to suspend deportation action once they know about an impending prosecution.</p> <p>You must consider each case on an individual basis taking into account the:</p> <ul style="list-style-type: none">• current stage deportation has reached• previous conviction, and• alleged offence. <p>Once you have enough details on the impending prosecution from the Police National Computer (PNC) check or from the police, you must consider temporarily suspending deportation action pending the outcome of any court case, at the stage:</p> <ul style="list-style-type: none">• before any submission for a deportation order is signed in conducive and court recommended cases under the Immigration Act 1971, or• when the ICD.0350 is sent in automatic deportation cases. <p>If a further minor offence is involved and, if convicted, it is unlikely the person will be given a further custodial sentence, you must:</p> <ul style="list-style-type: none">• with the agreement of the assistant director, continue deportation action, but only up to:<ul style="list-style-type: none">○ where you are ready to submit a deportation order to the chief executive for signature, in conducive and court recommended cases under the Immigration Act 1971, or○ where the ICD.0350 is sent in automatic deportation cases. <p>If the assistant director agrees with the Crown Prosecution Service (CPS) that a case is of such a serious nature, you must progress the case up to the point of removal whilst awaiting the outcome of a following trial.</p>	
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Communication with the police

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff how to keep in touch with the police if an impending prosecution and deportation action needs temporarily suspending.</p> <p>You must take the following action for a case with an impending prosecution:</p> <ul style="list-style-type: none">• Keep in touch with the police station dealing with the case so you are up to date with the current situation, including any date set for a hearing in court. Set yourself a reminder on CID about keeping contact with the relevant police station.• If the person is likely to receive a further sentence, you must consider asking the Crown Prosecution Service (CPS) if it could be a custodial sentence.• If the only barrier to removal from the UK is the impending prosecution, and it is not appropriate to detain the person under immigration powers, you must ask the police if the person has been remanded in custody on any further charges. For more information on immigration powers see related link: 55 Detention and temporary release.• Monitor any remand closely.• Make sure the police are aware they must inform you if they or the court intend to grant bail. You must consider urgently whether detention, a restriction order or electronic monitoring is appropriate.• Immediately notify the offender manager of the National Offender Management Service (NOMS) if bail is granted. You must telephone them with the result of the bail hearing on the same day. If this is not possible it must be no later than the day after the hearing. You must also send notification of the outcome in writing by email or fax. This makes sure the offender manager can set up appropriate arrangements to supervise the release from detention. They must then set up appropriate arrangements or supervision after detention. The outcome of the bail hearing must also be recorded on CID.• Notify the NOMS probation area's single point of contact (SPOC) in writing either by email or fax. For a list of SPOCs see related link: Probation trusts single point of contact (SPOC) list.	Links to staff intranet removed
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Detention and further offences committed after release

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff what to do when a foreign national offender (FNO) is detained under immigration powers and has an impending prosecution.</p> <p>If the FNO is detained you must make sure you carry out regular detention reviews until:</p> <ul style="list-style-type: none">• the outcome of the hearing, or• when all barriers to deportation except the impending prosecution have been resolved. <p>For more information on detention reviews, see related link: 55 Detention and temporary release.</p> <p>You must make sure detention is still lawful. Detention is appropriate if there is still a realistic prospect of removal within a reasonable timescale. For more information, see related link: 55 Detention and temporary release.</p> <p>If you consider detention is no longer lawful you must refer the case to the strategic director of the criminality and detention group. This must be escalated through your assistant director. If release is authorised, it must be under a restriction order with appropriate reporting restrictions and/or electronic monitoring if appropriate.</p> <p>If a further offence is committed following release agreed by the Home Office or Immigration and Asylum Chamber (IAC), you must bring the case to the attention of an assistant director.</p>	Links to staff intranet removed
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The foreign national offender (FNO) receives a further conviction of less than 18 months

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff what to do when the foreign national offender (FNO) receives a further sentence of under 18 months.</p> <p>You must consider the following in light of the latest verdict:</p> <ul style="list-style-type: none">• Where is this case in the deportation process?• What is the length of the new sentence? <p>In conducive and court recommended cases if a sentence of less than 18 months is given, you must continue deportation action on the basis of the initial decision and additional sentence. See sections 3(5) and 3(6) of related link: Immigration Act 1971.</p> <p>In automatic deportation cases you must continue action. For more information see related link: UK Borders Act 2007 – section 32.</p> <p>If the Immigration and Asylum Chamber (IAC) has any outstanding action, you must notify them of the conviction so they are aware of the situation at any future appeal hearing.</p>	External links Immigration Act 1971 UK Borders Act 2007 – section 32
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The foreign national offender (FNO) receives a further conviction of more than 18 months

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page tells criminal casework (CC) staff what to do when the foreign national offender (FNO) receives a further sentence of 18 months or more. .</p> <p>You must consider the following in light of the latest verdict:</p> <ul style="list-style-type: none">• Where is this case in the deportation process?• What is the length of the new sentence? <p>You must consider the case in line with current instructions if:</p> <ul style="list-style-type: none">• a decision on deportation has not been made• a deportation decision has been made, or• the FNO receives a lengthy sentence. <p>If the Immigration and Asylum Chamber (IAC) has any outstanding action, you must notify them of the conviction so they are aware of the situation at any future appeal hearing.</p>	
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Contact

Finding out about an impending prosecution and what actions to take Action to take when an impending prosecution is confirmed Communication with the police Detention and further offences committed after release The foreign national offender (FNO) receives a further conviction of less than 18 months The foreign national offender (FNO) receives a further conviction of more than 18 months	<p>This page explains who to contact for more help with a criminal casework case where there is an impending prosecution.</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 modernised guidance team to update the guidance, if appropriate.</p> <p>The 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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Information owner

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This page tells you about this version of the criminal casework impending prosecutions guidance and who owns it.

Version	5.0
Valid from date	28 August 2013
Policy owner	Criminal casework operational process and policy team (CCOPPT)
Cleared by director	Richard Quinn
Director's role	Director, CCD
Clearance date	17 August 2011
This version approved for publication by	Richard Short
Approver's role	Grade 7, modernised guidance team
Approval date	23 August 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 CCOPPT, who will ask the MGT to update the guidance, if appropriate.

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Related links

[Changes to this guidance](#)

[Contact](#)

Links to staff intranet removed