

Criminal casework directorate

The tariff-expired removal scheme (TERS)

The tariff-expired removal scheme (TERS)

About this guidance

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This guidance tells criminal casework directorate (CCD) caseworkers about the tariff-expired removal scheme (TERS) for foreign national offenders (FNOs).</p> <p>It tells you about eligibility for the scheme, owned by the Ministry of Justice (MOJ) and the National Offender Management Service (NOMS), and how it is administered by:</p> <ul style="list-style-type: none">• UK Border Agency• Her Majesty's Prison Service (HMPS), and• NOMS Public Protection Casework Section (PPCS). <p>Section 260 of the Criminal Justice Act 2003 (see external link) introduced an early removal scheme (ERS) for determinate-sentenced FNOs in England and Wales. This is mandatory for all who are liable for deportation or removal from the UK and means eligible FNOs can be released up to 270 days before the halfway point of their sentence for the purpose of deportation or removal from the UK. For details of how the ERS process operates, see related link: Early removal scheme.</p> <p>On 2 May 2012 a new removal scheme was introduced. Section 32A was added to the Crime (Sentences) Act 1997 by the Legal Aid, Sentencing and Punishment of Offenders Act 2012. This gives the Secretary of State the power to remove from the UK FNOs serving an indeterminate sentence once their minimum tariff set by the sentencing court has expired, whether or not the Parole Board has directed release.</p> <p>This is called the tariff-expired removal scheme (TERS) and operates very similarly to the usual ERS. The main difference is that TERS is authorised by PPCS in NOMS, whereas decisions under ERS are authorised by prison governors. TERS only currently applies to England and Wales (so is not available in Scotland or Northern Ireland).</p> <p>TERS is a mandatory scheme, and all FNOs will be considered for it. The scheme provides a power for the Secretary of State to release prisoners for the sole purpose of removal or deportation from the UK at a different point in their sentence than would otherwise be</p>	<p>Related links See also</p> <p>Links to staff intranet removed</p> <p>External links Criminal Justice Act 2003 Legal Aid, Sentencing and Punishment of Offenders Act 2012</p>
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	<p>possible. It does not affect the normal consideration or processes for deportation or removal.</p> <p>Changes to this guidance –This page tells you what has changed since previous versions of this guidance.</p> <p>Contacts – 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 out more.</p>	
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The tariff-expired removal scheme (TERS)

Changes to this guidance

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page lists the changes to the tariff-expired removal scheme guidance, with the most recent at the top.</p> <table><tr><th>Date of the change</th><th>Details of the change</th></tr><tr><td>27 March 2013</td><td>Revised and modernised by criminal casework directorate process team and the modernised guidance team.</td></tr></table>	Date of the change	Details of the change	27 March 2013	Revised and modernised by criminal casework directorate process team and the modernised guidance team.	<p>Related links</p> <p>See also</p> <p>Contact</p> <p>Information owner</p>
Date of the change	Details of the change					
27 March 2013	Revised and modernised by criminal casework directorate process team and the modernised guidance team.					

The tariff-expired removal scheme (TERS)

Provisions and eligibility under TERS

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers about the tariff-expired removal scheme (TERS).</p> <p>The Legal Aid, Sentencing and Punishment of Offenders (LASPO) Act 2012, see external link, added new sections – 32A and 32B – in the Crime (Sentences) Act 1997. This introduced a power for the Secretary of State to remove foreign national offenders (FNOs) serving an indeterminate sentence from the UK, once their minimum tariff date has expired, without the need for authorisation from the Parole Board.</p> <p>Indeterminate-sentence FNOs have a tariff set by the court which is the minimum length of time they must serve in prison before being considered for release on licence by the Parole Board. It took effect from 2 May 2012 and applies to FNOs in England and Wales who:</p> <ul style="list-style-type: none">• are serving an indeterminate sentence – which means sentenced to life or imprisonment for public protection (IPP),• have reached their tariff expiry date, and• are confirmed by the UK Border Agency as being liable to removal or deportation from the UK. <p>TERS does not affect a prisoner's appeal rights against deportation. Release for deportation can only take place when there are no outstanding appeals or other barriers to enforcing it, and there is a deportation order signed against the FNO.</p> <p>You must get authorisation for release from the Public Protection Casework Section (PPCS) of the National Offender Management Service (NOMS).</p> <p>When you receive confirmation of release you must follow the deportation process in the usual way and meet with the holding prison to confirm the date the FNO's deportation will be effected.</p>	<p>Related links See also</p> <p>External links Legal Aid, Sentencing and Punishment of Offenders Act 2012</p>
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The tariff-expired removal scheme (TERS)

Cases whose tariff expires on or after 2 May 2012

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This section tells criminal casework directorate (CCD) caseworkers how the tariff-expired removal scheme (TERS) operates for foreign national offenders (FNOs) who are potentially eligible under TERS.</p> <p>The process in place between the National Offender Management Service (NOMS) and CCD for dealing with FNOs identified under TERS on or after 2 May 2012 closely mirrors that of the early removal scheme (ERS) process, see related link: Early removal scheme.</p> <p>However, you must bear in mind there are a small number of differences between a referral of an indeterminate-sentence FNO under TERS from those made for determinate-sentence FNOs under ERS.</p> <p>The presumption is that prisoners who are eligible will be removed under the scheme unless there are reasons that do not allow for deportation to go ahead, such as an outstanding confiscation order or further criminal charges which need to be dealt with first.</p> <p>All forms used in the TERS process between NOMS and CCD are available at annex C of the Prison Service's instruction on TERS see related link: PSI 18/2012.</p>	<p>Related links</p> <p>CCD workflow actions Indication of removability to PPCS Authorisation or refusal of release under TERS Pursuing deportation of the TERS-eligible FNO</p> <p>See also</p> <p>Links to staff intranet removed</p>
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The tariff-expired removal scheme (TERS)

CCD workflow actions

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers the actions followed by the workflow team when a referral for the scheme is received.</p> <p>Referral by prisons to CCD</p> <p>The same form (the CCD referral form) used in early removal scheme (ERS) referrals, see related link: Early removal scheme, is used by prisons to notify CCD's workflow team they are holding an indeterminate-sentenced foreign national offender (FNO). This is made within five days of their sentencing by the court.</p> <p>The prison also notifies the Public Protection Casework Section (PPCS) using a 'LISP1' form to advise them they have an indeterminate-sentenced prisoner. The LISP1 form also indicates whether the prisoner is a foreign national which alerts PPCS to initiate contact with CCD.</p> <p>PPCS will calculate the tariff-expiry date (TED) and inform the prisoner, the holding prison, NOMS offender manager and CCD of the date.</p> <p>Request for information to PPCS</p> <p>Following receipt of the CCD referral form, the workflow team send a request for information form to PPCS to gather details of the FNO case. Workflow staff may do this by telephone as they do with ERS referrals.</p> <p>Allocation of the case to a CCD caseworking team</p> <p>18 months before the TED, the workflow team update CID with the TED, and will allocate the case. You will take ownership of the case, and notify PPCS of your contact details.</p> <p>PPCS send a request for information about the prisoner on an information form. You must complete and return to PPCS as soon as possible, as the form is necessary for both TERS and the parole hearing.</p>	<p>In this section</p> <p>Indication of removability to PPCS Authorisation or refusal of release under TERS Pursuing deportation of the TERS-eligible FNO</p> <p>See also</p> <p>Links to staff intranet removed</p> <p>External links</p>
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The tariff-expired removal scheme (TERS)

Indication of removability to PPCS

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers the indication of removability to the Public Protection Casework Section (PPCS).</p> <p>Once you have assessed the case for viability of deportation you must complete the information form, submitted by PPCS, indicating whether or not the foreign national offender (FNO) can be deported or otherwise removed, and return the form to PPCS.</p> <p>The viability of deportation will depend on whether there are any:</p> <ul style="list-style-type: none">• outstanding applications• representations• appeals• documentation issues, or• other barriers affecting the FNO's departure. <p>This consideration is vital as it triggers PPCS' consideration of the case under TERS, in the same way that the return of the CCD referral form triggers a prison governor's consideration under ERS. Without a complete information form from CCD, TERS cannot be considered by PPCS.</p> <p>You must also make sure any details of any civil forfeiture or confiscation orders in respect of the FNO are passed on to PPCS, as these will be likely barriers to their release under TERS.</p>	<p>Related links</p> <p>CCD workflow actions Authorisation or refusal of release under TERS Pursuing deportation of the TERS-eligible FNO</p> <p>See also Links to staff intranet removed</p> <p>External links</p>
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The tariff-expired removal scheme (TERS)

Authorisation or refusal of release under TERS

<p>About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts</p>	<p>This page tells criminal casework directorate (CCD) caseworkers about the authorisation or refusal of release under tariff-expired removal scheme (TERS).</p> <p>In TERS cases the decision to authorise or refuse release under the scheme must be taken by the Public Protection Casework Section (PPCS), on behalf of the Secretary of State, rather than by prison governors who deal only with early removal scheme (ERS) cases.</p> <p>PPCS may issue a 'TERS authorisation form' if you put on the information form that:</p> <ul style="list-style-type: none">• you consider it is viable to deport the foreign national offender (FNO) on or soon after the tariff-expiry date (TED), and• you have a valid deportation order (DO) following resolution of any immediate barriers to enforcing it. <p>This is issued to:</p> <ul style="list-style-type: none">• CCD• the prisoner, and• the prison governor. <p>You can then proceed towards deportation, and ideally set removal directions for the TED or as soon as possible thereafter.</p> <p>If you put on the information form that you consider it may be possible to enforce the deportation of the FNO, but currently there are barriers preventing you from obtaining a DO, rather than refuse TERS outright, PPCS will not issue any decision until you can confirm you have a DO and its enforcement will proceed shortly, or it has been determined that deportation will not be pursued after all.</p> <p>You must deal with any further barriers arising after a DO is obtained and PPCS have</p>	<p>Related links</p> <p>CCD workflow actions Indication of removability to PPCS Pursuing deportation of the TERS-eligible FNO</p> <p>See also Links to staff intranet removed</p> <p>External links</p>
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	<p>authorised TERS in the usual manner. If barriers cannot be resolved quickly, any removal directions must be delayed or deferred, and you must make sure you advise the prison about this.</p> <p>If you put on the information form that you consider it will never be viable to deport the FNO, then PPCS will issue a 'TERS refusal form' to:</p> <ul style="list-style-type: none"> • CCD • the prisoner, and • the prison governor. <p>The TERS refusal form explains how the decision will be reviewed if it ever becomes possible to effect the deportation of the FNO before the Parole Board might direct their release. The Board will still retain authority to review indeterminate-sentence prisoners in parallel with that of the Secretary of State to remove under TERS and their process will continue as normal.</p> <p>A copy of the letter advising the FNO and prison governor of the decision on release for deportation under TERS is sent by PPCS to the relevant offender manager. They must notify the appropriate victim liaison officer the prisoner may be deported from the UK without having to wait for a Parole Board release decision.</p> <p>You must keep in mind the usual requirement of making sure offender managers are always kept informed of all significant developments in the progress of the case towards effecting the FNO's departure. These include, but are not limited to:</p> <ul style="list-style-type: none"> • the issue of a decision to deport • the issue of a decision to detain • the need to consider further representations, obtain a document, lodging of an appeal, or other such barrier to enforcing departure • the setting of removal directions • the failure or success of removal directions 	
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The tariff-expired removal scheme (TERS)

Pursuing deportation of the TERS-eligible FNO

<p>About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts</p>	<p>This page tells criminal casework directorate (CCD) caseworkers about pursuing deportation of the tariff-expired removal scheme (TERS) eligible foreign national offender (FNO).</p> <p>Once you decide the FNO is deportable, and the Public Protection Casework Section (PPCS) have issued notification that their release under TERS provisions has been authorised, you must make sure you take action to allow the prisoner's departure under the scheme to go ahead as quickly as possible after the tariff-expiry date (TED).</p> <p>Under TERS there is no fixed timescale in which to facilitate deportation. Nevertheless, you must continue to make urgent efforts to make sure the TERS FNO's deportation can take place at the earliest opportunity.</p> <p>It is expected that TERS-eligible FNOs who are keen to be released early from prison will be cooperative in the facilitation of the deportation process, such as in obtaining a valid travel document.</p> <p>However, in cases where the FNO is not cooperative, efforts must always continue to be made to press for deportation at the earliest opportunity. The FNO will not have any choice in terms of the enforcement of their departure because TERS is a mandatory scheme, and their eligibility is secured once a deportation order (DO) is in place and their release is authorised by PPCS.</p>	<p>Related links</p> <p>CCD workflow actions Indication of removability to PPCS Authorisation or refusal of release under TERS</p> <p>See also Links to staff intranet removed</p> <p>External links</p>
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The tariff-expired removal scheme (TERS)

Cases whose tariff expired before 2 May 2012

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers how the tariff-expired removal scheme (TERS) operates for foreign national offenders (FNOs) whose minimum tariff expired before the new provisions took effect.</p> <p>FNOs whose minimum tariff had already expired and so were immediately eligible for TERS were identified by the Public Protection Casework Section (PPCS) with a view to being dealt with slightly differently to those whose tariff expiry date falls after 2 May 2012, or who are sentenced after that date.</p> <p>These cases were subject to the normal process and documentation, see related link: Cases whose tariff expires on or after 2 May 2012.</p> <p>These post-tariff cases were the first to be referred by PPCS to CCD under the TERS provisions. CCD had to establish the removability of the FNO at the earliest opportunity and advise PPCS by completing the final section of their information form.</p> <p>Any such cases remaining in the system must be processed as soon as possible, as this will allow their deportations to be effected sooner.</p> <p>Cases previously referred to CCD under early removal scheme (ERS)</p> <p>Rarely, a FNO who has already been referred to CCD by a prison under the ERS procedure, see related link: Early removal scheme, may be later convicted of a further offence and handed an indeterminate sentence, which may then make them eligible under TERS.</p> <p>The prison will make a new referral to CCD and confirm the FNO is now being considered under TERS. You must then make sure that case is treated under the TERS rather than ERS process.</p>	<p>Related links</p> <p>See also</p> <p>Links to staff intranet removed</p> <p>External links</p>
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The tariff-expired removal scheme (TERS)

Offenders who are not eligible under TERS

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers about the types of foreign national offender (FNO) who may be refused under the tariff-expired removal scheme (TERS), and so will not be authorised for release for deportation purposes on completion of their minimum tariff.</p> <p>The National Offender Management Service's (NOMS) Public Protection Casework Section (PPCS) will consider TERS on each FNO's individual circumstances. Those who fall into certain categories are likely to be presumed unsuitable for the scheme and release will not be authorised. These are FNOs:</p> <ul style="list-style-type: none">• who have a confiscation order made against them or are subject to confiscation proceedings, and/or• who have outstanding criminal charges against them, and/or• about whom there is clear evidence suggesting they are actively planning to commit further criminal offences, including plans to evade immigration control and return to the UK unlawfully, and/or• who are serving a sentence for a terrorism or terrorism-related offence. <div><div>Restricted – do not disclose – start of section</div><div>The information in this page has been removed as it is restricted for internal UK Border Agency use only.</div><div>Restricted – do not disclose – end of section</div></div> <p>You must bear in mind where an indeterminate-sentence FNO is not authorised for deportation under TERS, they will remain subject to consideration for release by the Parole Board. In such cases the PPCS may contact you for information about deportation intentions relating to an individual FNO ahead of a Parole Board hearing.</p> <p>This is done using a similar information form like the one used by PPCS to request</p>	<p>Related links See also Links to staff intranet removed</p> <p>External links</p>
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	<p>removability status of a TERS-eligible FNO at tariff-expiry date (TED) stage.</p> <p>The UK Border Agency has an agreement with NOMS about sharing appropriate information in these cases. You must follow the process, see related link: Completion of the Parole Board information form, if you receive a request of this kind.</p> <p>In TERS cases however, PPCS will not ask for regular updates, and after the initial indication is provided, they are likely to only expect further notification just before enforcement of the FNO's departure. Where tariff expiry may still be years away, you can only give the Parole Board a general expectation as to whether deportation will be pursued.</p>	
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The tariff-expired removal scheme (TERS)

TERS and applications under the facilitated return scheme (FRS)

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers the process to follow when a foreign national offender (FNO) ,authorised for release under the tariff-expired removal scheme (TERS), attempts to benefit from the provisions of the facilitated return scheme (FRS).</p> <p>As there is no legislation or policy preventing it, it is possible for a FNO identified as eligible for release under TERS, and duly notified of authorisation for their release by the National Offender Management Service (NOMS), to make an application to the UK Border Agency for a financial assistance package under the facilitated return scheme (FRS). See related link.</p> <p>However, it has been agreed that applications for FRS assistance from TERS-eligible FNOs made on or after 2 May 2012 will be rejected, due to the especially serious nature of their conviction and sentence.</p> <p>If it is indicated a TERS-eligible FNO wishes to apply for FRS assistance, their case must be referred by the prison to the CCD’s workflow team in the usual way.</p> <p>Workflow will allocate the case to CCD’s FRS casework team, who will process the rejection of the application. On completion of their action the case must be escalated to a caseworking team for onward deportation action without delay.</p> <p>Cases where FRS has already been applied for and agreed by CCD’s strategic director (SD) before 2 May 2012 who become eligible for deportation under TERS after that date will be honoured and will not require referral back to the SD.</p>	<p>Related links See also Links to staff intranet removed</p> <p>External links</p>
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The tariff-expired removal scheme (TERS)

Ministry of Justice – contacts

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page tells criminal casework directorate (CCD) caseworkers who to contact specifically in the Ministry of Justice (MOJ), who own the policy behind this guidance, for more help with a specific case involving the tariff-expired removal scheme.</p> <div><div>Restricted – do not disclose – start of section</div><div>The information in this page has been removed as it is restricted for internal UK Border Agency use only.</div><div>Restricted – do not disclose – end of section</div></div>	<p>Related links See also</p> <p>External links Links to staff intranet removed</p>
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The tariff-expired removal scheme (TERS)

Contacts

About this guidance Provisions and eligibility under TERS Cases whose tariff expires on or after 2 May 2012 Cases whose tariff expired before 2 May 2012 Offenders who are not eligible under TERS TERS and applications under the facilitated return scheme (FRS) Ministry of Justice – contacts	<p>This page explains who to contact within UKBA for more help with a specific case involving the tariff-expired removal scheme.</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 they cannot answer your question, they or you may email the criminal casework operational process and policy team (CCOPPT) inbox (see related link: Email CCD process team).</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 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>	<p>Related links</p> <p>See also</p> <p>Changes to this guidance</p> <p>Information owner</p> <p>External links</p> <p>Links to staff intranet removed</p>
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The tariff-expired removal scheme (TERS)

Information owner

[About this guidance](#)
[Provisions and eligibility under TERS](#)
[Cases whose tariff expires on or after 2 May 2012](#)
[Cases whose tariff expired before 2 May 2012](#)
[Offenders who are not eligible under TERS](#)
[TERS and applications under the facilitated return scheme \(FRS\)](#)
[Ministry of Justice – contacts](#)

This page tells you about this version of the tariff-expired removal scheme guidance and who owns it.

Version	1.0
Valid from date	27 March 2013
Guidance owner	Criminal casework operational process and policy team (CCOPPT)
Cleared by director	Sonia Dower
Director's role	Director, operations and rules unit
Clearance date	27 March 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 using related link: Email CCD process team, who will ask MGT to update the guidance, if appropriate.

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.

Related links

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[Contacts](#)

External links

Links to staff intranet removed