

# **Criminal casework**

## **Detention of families**

## Detention of families

### About this guidance

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This guidance tells you how to approach the detention of foreign national offenders (FNOs) for deportation or removal, if there are family members whose needs must be taken into consideration.</p> <p>It also tells you how detention is considered in various kinds of FNO family cases.</p> <p>Immigration offenders, people who have been convicted of other criminal offences, and their dependent family members, who are liable to either deportation or removal from the UK, are liable to be detained for that purpose. The powers enabling this are as follows:</p> <ul style="list-style-type: none"><li>• Conducive or court-recommended deportation: paragraph 2 of schedule 3 of the Immigration Act 1971.</li><li>• Automatic deportation: as above and section 36 of the UK Borders Act 2007.</li><li>• Administrative removal and illegal entrants: paragraph 16(2) of schedule 2 of the Immigration Act 1971, as applied by section 10(7) of the Immigration &amp; Asylum Act 1999.</li></ul> <p>There is a presumption of liberty, and detention must only be used in cases where it can be clearly justified and where there is a realistic prospect of removal in the near future. In criminal cases the risk of absconding and the risk of harm to the public must also be taken into account when deciding if detention is lawful and necessary.</p> <p>The policy on detention and temporary release is set out in detail in chapter 55 of the enforcement instructions and guidance (EIG). For more information, see related link: 55 Detention and temporary release.</p> <p>Certain procedural aspects of detention in FNO cases managed by criminal casework are set out in their detention process instruction. For more information, see related link: Criminal casework: Detention. These give guidance on when and how adults should be detained for immigration purposes in certain circumstances.</p>	<p><b>In this section</b></p> <p><a href="#">Changes to this guidance</a></p> <p><a href="#">Contact</a></p> <p><a href="#">Information owner</a></p> <p><b>Related links</b></p> <p>Links to staff intranet removed</p>
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	<p>However, following a commitment from government in December 2010, the policy on detention of children changed, and from 1 March 2011 detention of those under 18 ended, except for the most exceptional of cases, which only involve very brief detention and with ministerial authority.</p> <p>Changes to this guidance – This page tells you what has changed since the previous version of this guidance.</p> <p>Contacts - This page explains who to contact for help if your senior caseworker or line manger 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 information.</p>	
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## Detention of families

### Changes to this guidance

[About this guidance](#)  
[Ending detention of children for immigration purposes](#)  
[Detained cases where authority to separate the family was not obtained](#)  
[Imminent release of foreign national offender cases](#)  
[Detaining child foreign national offenders on completion of their sentence](#)  
[Detaining foreign national offenders with parental responsibility](#)  
[Releasing foreign national offenders and family members from detention](#)  
[Releasing foreign national offender parents or carers for child welfare purposes](#)

This page lists the changes to the detention of families guidance, with the most recent at the top.

Date of the change	Details of the change
29 May 2013	Six month review by the modernised guidance team: <ul style="list-style-type: none"><li>• Minor housekeeping changes.</li></ul>
12 November 2012	Six month review by the modernised guidance team: <ul style="list-style-type: none"><li>• Minor housekeeping changes.</li></ul>
	For previous changes to this guidance you will find earlier versions in the archive. See related link: Children and family members - Archive.

#### Related links

##### See also

[Contact](#)

[Information owner](#)

Links to staff intranet removed

## Detention of families

### Ending the detention of children for immigration purposes

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you about the end of detention of children for immigration purposes.</p> <p>It details the new policy adopted in 2011 that sets out the various alternatives to detention that aim to allow the management of families with children towards complying to depart from the UK.</p> <p>On 16 December 2010 the government announced that the detention of children for immigration purposes would end, except for the most exceptional high-risk cases. On 1 March 2011 a new strategy for managing family returns was introduced.</p> <p>The stages a family will usually be taken through are:</p> <ul style="list-style-type: none"><li>• 'voluntary'</li><li>• 'assisted'</li><li>• 'required', and</li><li>• 'ensured' returns.</li></ul> <p>Any family not willing to comply by the 'required' stage will be managed through a range of strategies under the 'ensured' process, but any plan to return a family under any of these methods must be approved by an independent family returns panel.</p> <p>This panel has no power to determine if departure is appropriate, but it does have authority to approve or otherwise recommend alterations to details of family return plans, with a constant regard for ensuring child welfare is safeguarded and promoted as detailed in section 55 of the Borders, Citizenship and Immigration Act 2009.</p> <p>More details about this process can be found in the criminal casework managing the return of families with children process instruction, and chapter 45 of the enforcement instructions and guidance. For more information, see related links:</p> <ul style="list-style-type: none"><li>• Managing the return of families with children</li></ul>	<b>Related links</b>  Links to staff intranet removed
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- 45 Family cases.

You must follow these instructions when processing family cases. In cases where the foreign national offender (FNO) is a child, certain specific considerations and variations on the usual deportation process apply.

Full details of this can be found in criminal casework's Managing FNOs who are under 18 process instruction. For more information, see related link: [Managing foreign national prisoners who are under 18](#). In particular, caseworkers in criminal casework's minors, mothers and babies team (MMBT), which is dedicated to managing child FNOs, must familiarise themselves with the content of this instruction.

## Detention of families

### Detained cases where authority was not obtained to separate the family unit

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the procedure caseworkers must follow in family cases where the foreign national offender (FNO) has been detained under immigration powers beyond completion of their custodial sentence, but no authority was sought to separate the family.</p> <p>When you are seeking to detain a FNO beyond the completion of their custodial sentence, and the FNO has a family life in the context of article 8 of the European Convention on Human Rights (ECHR) and the family members are non-detained, this constitutes a decision to separate that family even though they have already effectively been separated by the imposition of that sentence.</p> <p>In criminal casework cases, any family separation decision must have the authority of the local assistant director (AD), which will be needed when the decision to deport the FNO is made. This also applies to older cases where authority may not have been obtained before the decision to deport or detain the FNO. There should now be very few cases where authority to separate the family unit has not already been obtained, but if you established it has not, you must get AD authority as part of the next detention review.</p> <p>For more information, see related link: Detention reviews (adults).</p> <p>Once this authority is obtained, you must copy in the briefing and correspondence team (BCT) for management information purposes. For full details of the process for obtaining AD authority, see related link: Consideration and process.</p> <p>For more information on detention reviews, see related link: Criminal casework: Detention reviews.</p>	<b>Related links</b>  Links to staff intranet removed
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## Detention of families

### Imminent release of foreign national offender (FNO) cases

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the procedure caseworkers must follow in family cases when a foreign national offender (FNO) is due for imminent release and there is insufficient time to contact the usual child welfare agencies.</p> <p>In cases of FNOs who are due for release imminently and who have family including children, there may not be enough time to contact the office of the children's champion (OCC) and relevant local authority children's services (LACS) in the usual way. In these cases, contact must be made by telephone, and full details of any conversations, including the name and contact details of the social worker, must be recorded in the CID notes and Home Office file minutes.</p> <p>In imminent release cases where:</p> <ul style="list-style-type: none"><li>• it is not considered appropriate to release the FNO on expiry of their sentence</li><li>• detention will amount to a separation from their family unit and authority for this has not previously been given, and</li><li>• they are not subject to 2007 Act automatic deportation provisions or a court recommendation for deportation.</li></ul> <p>You may detain them on completion of sentence for a maximum of seven days to allow criminal casework caseworkers to assemble the necessary information and seek authority from their assistant director to separate the family. If such authority has not been obtained by that time, it will be necessary to make arrangements to release.</p>	
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## Detention of families

### Mother and baby cases

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you how to approach the detention of pregnant mothers who give birth while in prison, and who is responsible for managing these cases.</p> <p>You will come across cases of female foreign national offenders (FNOs) who have given birth while serving their custodial sentence. This type of case must be managed with particular sensitivity, both during the time the mother and baby are together in custody, or immigration detention where appropriate, and if the baby is subsequently placed in the care of a relative or guardian in the community.</p> <p>Mother and baby cases are managed by the minors, mothers and babies team (MMBT), who are dedicated to handling this particular type of criminal casework case.</p> <p>MMBT must first establish if the child is a British citizen. If there is satisfactory evidence of this, they are not subject to immigration control. However, this does not mean it is not in the child's best interests to continue to accommodate them with their mother if she is departing under the early removal scheme (ERS), or where removal has failed for technical reasons.</p> <p>In these cases, overnight accommodation in Tinsley House at Gatwick Airport may be authorised. A child may be placed elsewhere temporarily while its mother completes her sentence and/or detention pending deportation, with a view to being reunited with the mother at the point of departure.</p> <p>MMBT must then establish whether the baby is still with the mother. If the baby is no longer in detention, liaison with the prison and local authority children's services will be required in order to find out the child's whereabouts and what the circumstances of its care are likely to be when the mother is released and/or deported from the UK.</p> <p>MMBT must make sure the case of any mother and baby detained together in prison is reviewed no later than one month before the end of the mother's custodial sentence. If it is appropriate for the mother to be detained under immigration powers afterwards, this will make sure arrangements can be made for a mother and baby detention space in an</p>	
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	immigration removal centre.	
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## Detention of families

### Detaining child foreign national offenders (FNOs) on completion of their sentence

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you where to find out about the policy on the detention of foreign national offenders (FNOs) who are under 18 following completion of their custodial sentence.</p> <p>Chapter 55.5.3 of the enforcement instructions and guidance (EIG) sets out the procedures for detention in certain ‘special’ cases, including children. For more information, see related link: 55 Detention and temporary release.</p> <p>If criminal casework considers a child FNO needs to be detained beyond completion of sentence for immigration reasons, a recommendation must be prepared following consultation with immigration safeguarding coordinators and the office of the children’s champion (OCC), and referred to the independent family returns panel for advice, before ministerial authority is sought. For more information, see related link: 55 Detention and temporary release.</p> <p>More details on managing various aspects of child FNOs can be found in the related link: Managing foreign national prisoners who are under 18.</p> <p>Further information on the detention policy, including details of how unaccompanied children are handled and the types of case usually deemed unsuitable for detention can be found in chapter 55.9 and 55.10 of the EIG. For more information, see related link: 55 Detention and temporary release.</p>	<b>Related links</b>  Links to staff intranet removed
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## Detention of families

### Detaining foreign national offenders (FNOs) with parental responsibility

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This section tells you how to approach the detention of foreign national offenders (FNOs) who have parental responsibility for a child.</p> <p>Public protection is a key consideration underpinning the detention policy in criminal casework cases. If an ex-FNO meets the criteria for consideration of deportation, the presumption in favour of temporary admission or release may be outweighed by the risk to the public of harm from reoffending, or the risk of absconding.</p> <p>If detention is being considered there must always be a clear and reasonable prospect of deportation or removal in the foreseeable future. Detention is not lawful if it would exceed the period reasonably necessary for the purpose of enforcing departure.</p> <p>If the FNO has parental responsibility for a child, you must consider the best interests of any children in the family unit and how the FNO's detention will impact on them. If there is a subsisting relationship between the parent and child the best interests of the child will almost always be in the liberty of the parent, unless there are child protection concerns around the parent. If this is the case, you must consider if there are lawful grounds where the best interests of the child can be justifiably overridden.</p> <p>If detention is likely to result in a lengthy separation that will have a significant adverse impact on a child, the FNO must be considered for release unless the risk of absconding and/or harm to the public is assessed as high.</p> <p>In cases of dangerous offenders whom criminal casework is seeking to deport and whose detention is considered to be appropriate, you must show the steps you plan to take to mitigate the potential damage which could affect the best interests of the children.</p> <p>The range of possible mitigating actions will vary from case to case, but examples include:</p> <ul style="list-style-type: none"><li>• Accommodating the FNO in an immigration removal centre close to where the child lives to enable regular visits.</li></ul>	<p><b>In this section</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p>
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	<ul style="list-style-type: none"> <li>• Making sure there are adequate telephone facilities to enable regular verbal contact.</li> <li>• Making sure the child has recent photographs of their parent.</li> </ul> <p>The specific factors which you must give consideration to are those that should already have been taken into account when deportation is considered. However, it is vital that these considerations are made on the current facts when deciding whether a parent should be detained for immigration purposes at the end of their sentence, and each time such detention is reviewed.</p> <p>You must remember this process will apply whether criminal casework are considering detention of a FNO parent for the first time, and when reviewing detention on subsequent occasions during the life of that case.</p>	
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## Detention of families

### Determining parental responsibility

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you about the specific considerations you must use when assessing if a foreign national offender (FNO) has parental responsibility.</p> <p>If a FNO is being considered for immigration detention at the end of their custodial sentence, the criminal casework caseworker must check to see if the FNO has any parental responsibilities. This means they have responsibility for one or more children aged under 18.</p> <p>It is good practice for you to contact the relevant local authority children's services (LACS) department at the earliest opportunity to establish family ties. See related link: Introduction to children and family cases. This means you have already begun to assess the issue of parental responsibility and recorded it. The following sources must be used to check for evidence of parental responsibility:</p> <ul style="list-style-type: none"><li>• CID records</li><li>• Home Office file records</li><li>• details provided in replies to ICD.0350 questionnaires</li><li>• LACS information (to find the correct LACS, see related link: GOV.UK – Find LACS)</li><li>• prison visiting records – some prisons may be willing to share information about visits from family members although this is not presently a universal agreement</li><li>• immigration removal centre records</li><li>• direct enquiries with parents</li><li>• other relevant sources applicable to the individual case.</li></ul> <p>If parental responsibility is identified, where applicable you must try to obtain proof of this. For example by asking for:</p> <ul style="list-style-type: none"><li>• children's birth certificates</li><li>• copies of court orders</li><li>• evidence from passports.</li></ul>	<p><b>Related links</b></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children services</a></p> <p><a href="#">Considering children's circumstances</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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	<p>If there is doubt about the validity of a FNO's claims to have parental responsibility, you must make additional checks including further discussion with LACS and other sources, such as general practitioners.</p> <p>It is important you remember that while current legislation allows for whoever is named on a child's birth certificate to be considered their legal parent, it is not necessarily evidence that a subsisting family life exists between that parent and the child. In these cases further evidence, beyond a birth certificate is required, for more information, see related link: <a href="#">Subsisting family relationships</a>.</p>	
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## Detention of families

### Subsisting family relationships

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the consideration you must give to the issue of a subsisting family relationship, where a foreign national offender (FNO) is believed to have parental responsibility.</p> <p>If it is identified a FNO has parental responsibility, criminal casework caseworkers must establish if there is a subsisting family relationship between them and their children. This will include whether the FNO was residing with the children before starting their period of remand or custodial sentence, and whether there has been contact with the children since the FNO has been in prison.</p> <p>If it is established the FNO has maintained meaningful contact with the children whilst in prison, the frequency and type of contact must be confirmed. If there has been no contact, the reason for this (such as distance, age of the child) must be established. Contact arrangements vary between prisons and immigration removal centres (IRCs), and consideration must be given to how a FNO can maintain contact with their children if they are moved to an IRC.</p> <p>To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:</p> <ul style="list-style-type: none"><li>• Local authority children's services</li><li>• Considering children's circumstances</li><li>• Considering the foreign national offender's (FNO's) circumstances.</li></ul>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Local authority children services</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Considering the foreign national offender's (FNO's) circumstances</a>  <a href="#">Making the decision</a>  <a href="#">Maintaining contact between foreign national offender and child</a>  <a href="#">Reviewing detention of a parent</a>
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## Detention of families

### Local authority children's services

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the importance of caseworkers making contact with the local authority children's services (LACS) in cases where a foreign national offender (FNO) is believed to have parental responsibility. This must be considered when deciding if there is a subsisting family unit.</p> <p>It is good practice for criminal casework caseworkers to make contact with the relevant LACS early in the deportation consideration process to establish if they have any interest in, or knowledge of, the family. If LACS are involved or have an interest, it is important to maintain strong working relations with them throughout the duration of the immigration case.</p> <p>Initially, you must contact the LACS to find out if they have any involvement in the case. All decisions regarding ongoing separation of children from their parents, and/or removal of children of FNOs must always take into account all information and comments provided by LACS. Particular attention must be paid to details of child protection concerns or possible risks to children from the parent in prison and effects on children's welfare of a parent's absence.</p> <p>The relevant LACS can be identified using the related link: GOV.UK – Find LACS. Contact details are given on the site.</p> <p>Some contacts with LACS can result in information that other services, such as the Youth Offending Teams (YOTs) or Child and Adolescent Mental Health Service (CAMHS), are involved with the child or family. If this is so, further information about the children's circumstances must be sought directly from these sources. If these particular services are relevant, see related links:</p> <ul style="list-style-type: none"><li>• Youth Justice Board – Youth Offending Teams</li><li>• Child and Adolescent Mental Health Service.</li></ul> <p>Details of contacts for other services can usually be found by searching the internet.</p>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Subsisting family relationships</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Considering the foreign national offender's (FNO's) circumstances</a>  <a href="#">Making the decision</a>  <a href="#">Maintaining contact between foreign national offender and child</a>  <a href="#">Reviewing detention of a parent</a>  Links to staff intranet removed
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	<p>When children are in the care of their LACS, contact must be made to inform them Immigration Enforcement will make a decision whether to continue detention at the end of the custodial sentence. You must ask if there are any child protection or safeguarding issues in relation to the parent and if that parent is released would it be LACS' intention to reunite the child with the parent.</p> <p>Criminal casework must also keep LACS informed of their consideration and intended action so they can prepare for the continued detention or release of the parent as appropriate.</p> <p>To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:</p> <ul style="list-style-type: none"> <li>• Subsisting family relationships</li> <li>• Considering children's circumstances</li> <li>• Considering the foreign national offender's (FNO's) circumstances.</li> </ul>	
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## Detention of families

### Considering children's circumstances

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you why it is important to establish a full picture of a foreign national offender's (FNO) family situation once parental responsibility has been identified.</p> <p>It also tells you what information you must get and explains why this must be considered when deciding whether there is a subsisting family unit.</p> <p>You must make sure a full picture of the FNO's family is obtained, as it will inform all aspects of the immigration consideration process, not only detention of parents. The key information needed is as follows:</p> <ul style="list-style-type: none"><li>• Whether the FNO is a lone parent or was the main carer of the child or children before entering custody. If the FNO is a lone parent, or they are the main carer, or both parents are in custody, careful consultation with the agencies involved is essential.</li><li>• Whether the child or children are being cared for by the other legally recognised parent. If that parent and the FNO are separated, whether there are any formal custody arrangements.</li><li>• Whether it is intended for the child or children to return to the care of the FNO at the end of the FNO's custodial sentence.</li><li>• How many children:<ul style="list-style-type: none"><li>○ are in the FNO's family unit and their ages</li><li>○ have special needs.</li></ul></li><li>• What the impacts of the separation might be on the individual children. You must contact the local authority children's services (LACS) and the office of the children's champion (OCC) for advice in assessment for the following:<ul style="list-style-type: none"><li>○ young children may forget who a parent is if a subsisting relationship is not carefully managed</li><li>○ older children may be affected by the absence of parental guidance in areas such as bullying or physical development.</li></ul></li><li>• What the current care arrangements for the child or children are. Also, whether the child or children are residing with their other parent (where applicable), another family</li></ul>	<p><b>Related links</b></p> <p><a href="#">Determining parental responsibility</a></p> <p><a href="#">Subsisting family relationships</a></p> <p><a href="#">Local authority children's services</a></p> <p><a href="#">Considering the foreign national offender's (FNO's) circumstances</a></p> <p><a href="#">Making the decision</a></p> <p><a href="#">Maintaining contact between foreign national offender and child</a></p> <p><a href="#">Reviewing detention of a parent</a></p> <p>Links to staff intranet removed</p>
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	<p>member or in the care of their LACS. Where they are not in the care of the other parent, or LACS, whether there is any legal basis for the care arrangement as it stands, such as a residence order or care order. Where it is established that the FNO has entered into a private fostering arrangement, LACS must be informed.</p> <ul style="list-style-type: none"> <li>• What the nationality and immigration status of the child or children are. These issues must be considered in the light of the judgment in 'ZH (Tanzania)'.</li> </ul> <p>For more information see related link: 'ZH' Tanzania and children's best interests.</p> <p>If there is more than one child in the family unit, you must consider whether the children are still being cared for together or whether they have been separated. If they are separated, you must investigate the reasons for this and if this separation is due solely to the unavailability of the FNO to care for them. In this case you must consider if they will all be reunited with the FNO on release. The views of the OCC must be taken into account when assessing the impact of separation on a child and deciding the steps taken to mitigate this, if the parent is detained.</p> <p>If criminal casework is considering deporting a FNO without their children, you must make sure satisfactory arrangements are in place for any children left behind in the UK. This may mean you have to deal with issues normally outside your remit to fully satisfy child safeguarding obligations. You must not deport or remove a parent without either:</p> <ul style="list-style-type: none"> <li>• Making sure any relevant children are being deported or removed with the parent. Or</li> <li>• If the children are remaining in the UK, they have some type of leave to enter or remain in the UK, and they are either in the care of their other parent, LACS, or subject of a residence order. Arrangements for these children must be formalised on a case-by-case basis before the deportation or removal of the FNO parent.</li> </ul> <p>To decide whether an FNO has a subsisting family relationship, you must follow all of the instruction on the following related links:</p> <ul style="list-style-type: none"> <li>• Subsisting family relationships</li> <li>• Local authority children's services</li> <li>• Considering the foreign national offender's (FNO's) circumstances.</li> </ul>	
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## Detention of families

### Considering the foreign national offender's (FNO's) circumstances

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you what you must consider after obtaining a full picture of a foreign national offender's (FNO's) family situation. This must be considered when deciding if there is a subsisting family unit.</p> <p>Once you have established as fully-detailed a picture of the FNO's family as possible from the sources listed at related link: Determining parental responsibility, you must take the following factors into account:</p> <ul style="list-style-type: none"><li>• Timescale of any probable removal, including country information, availability of travel documentation and outstanding appeals.</li><li>• Any impending prosecutions which might become a barrier to removal.</li><li>• Family court proceedings and whether these are likely to be a barrier to removal and any views expressed by the court. For more information, see related link: Children and Family Court Advisory and Support Services.</li><li>• Article 8 of the European Convention on Human Rights (ECHR).</li><li>• Seriousness of the crime(s) committed.</li><li>• Harm assessment, including information available on the prison risk assessment (NOMS1) form.</li><li>• Judge's sentencing remarks.</li><li>• End-of-sentence reports.</li><li>• Licence conditions and/or Multi-Agency Public Protection Arrangement (MAPPA) rating and management level where applicable.</li><li>• Risk of absconding with the children.</li><li>• Risk of absconding and abandoning the children.</li><li>• Any relevant information about the FNO from the local authority children services (LACS). For more information, see related link: Local authority children's services.</li></ul> <p>When considering the risk of absconding and risk of harm, you must refer to the factors set out in chapter 55.3 of the enforcement instructions and guidance (see related link: 55 Detention and temporary release). In family cases, although it is not a determining factor,</p>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Subsisting family relationships</a>  <a href="#">Local authority children's services</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Making the decision</a>  <a href="#">Maintaining contact between foreign national offender and child</a>  <a href="#">Reviewing detention of a parent</a>  Links to staff intranet removed
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	<p>you must consider if the need to care for children and access services such as education and healthcare will mitigate the risk of absconding in individual cases.</p> <p>In these cases, you must make sure the information on the family welfare form (FWF – ICD.3629) is kept up to date. For more information see related link: <a href="#">Completing the family welfare form</a>.</p> <p>To decide whether a FNO has a subsisting family relationship, you must follow all of the instructions on the following related links:</p> <ul style="list-style-type: none"> <li>• <a href="#">Subsisting family relationships</a></li> <li>• <a href="#">Local authority children's services</a></li> <li>• <a href="#">Considering children's circumstances</a>.</li> </ul>	
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## Detention of families

### Making the decision

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you how to reach a decision on whether to detain a foreign national offender (FNO) with parental responsibility for immigration purposes.</p> <p>Once all relevant information about a FNO and their family has been gathered, you must decide whether detaining that FNO is an appropriate action.</p> <p>You must make an assessment of the risk to the public and of absconding, and a consideration of the duty to safeguard and promote the welfare of children in the UK. The starting point for the latter decision is to establish the child's best interests and place those at the heart of the consideration.</p> <p>If the separation of a parent and child is likely to be lengthy, and continued separation may have a significant impact on the children, parents should be considered for release. This is unless the risk of absconding and/or the risk of harm to the public is assessed as high, in accordance with chapter 55.3.2.10 of the enforcement instructions and guidance. For more information, see related link: 55 Detention and temporary release.</p> <p>If there is any evidence to suggest the parent could harm their child on release, this must be taken into account when assessing what is in the best interests of the child.</p> <p>Whilst this is relevant to the overall harm assessment, it does not in itself necessarily mean the detention of the FNO must be maintained. Any such case must be referred to the local authority children's services (LACS) for further advice on safeguarding the child in question and to establish suitable care arrangements for the child if and when the FNO parent is released.</p> <p>All detention and release decisions must be fully-recorded on the Home Office file and CID, including detailed minutes and notes explaining how the family's circumstances have been actively considered.</p>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Subsisting family relationships</a>  <a href="#">Local authority children's services</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Considering the foreign national offender's (FNO's) circumstances</a>  <a href="#">Maintaining contact between foreign national offender and child</a>  <a href="#">Reviewing detention of a parent</a>  Links to staff intranet removed
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## Detention of families

### Maintaining contact between foreign national offender (FNO) and child

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you how you must consider the issue of maintaining contact between a foreign national offender (FNO) with parental responsibility and their children.</p> <p>If it is possible and appropriate, you must carefully consider how best to make sure contact between a detained FNO and their family can be maintained. This applies whether it is intended to remove the family together or to deport the FNO only, so separating the family.</p> <p>If the whole family unit is leaving the UK, you must carefully consider if a period of socialisation between the parents and children before removal is needed. You must consider this on a case-by-case basis taking into account such issues as:</p> <ul style="list-style-type: none"><li>• the children's wellbeing</li><li>• immigration judge comments in any appeal determination around the proportionality of removal of the parent with or without the children</li><li>• article 8 of the European Convention on Human Rights (ECHR)</li><li>• office of the children's champion (OCC) comments.</li></ul> <p>Socialisation between a child and a FNO normally takes place at a supervised visit at the immigration removal centre, and the local authority children's services (LACS) may need to be present. To arrange such visits, you must contact detention services to discuss arrangements on a case-by-case basis.</p> <p>Once alternative accommodation facilities become available for the child, such as 'open' accommodation used in the new family returns process, it may be possible to consider if the family can be reunited there. This accommodation is only used for a short time immediately before removal and will not be a substitute for adequate socialisation before a parent and child are reunited. For more information, see related link: Managing the return of families with children.</p> <p>If the FNO will be deported without the children and there is little or no contact between them leading up to departure, careful consideration must be given to whether reuniting</p>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Subsisting family relationships</a>  <a href="#">Local authority children's services</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Considering the foreign national offender's (FNO's) circumstances</a>  <a href="#">Making the decision</a>  <a href="#">Reviewing detention of a parent</a>  Links to staff intranet removed
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	<p>children with the parent, only to separate them soon after will be more traumatic for the child to cope with. You must take advice about this possibility from the OCC and LACS if applicable.</p> <p>If there is ongoing contact between the FNO parent and children and Immigration Enforcement is deporting the FNO without the children, an opportunity should be provided for those children to say goodbye to their parent. The children's current carers and LACS must lead on this, and be involved in the planning of farewells. Immigration Enforcement's role is to provide a timeframe in which the farewell process can take place.</p> <p>For the full details of how to manage the process of the separation of families for the purposes of deportation, and detention pending deportation, see related link: <a href="#">Separating families for deportation and detention purposes</a>.</p>	
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## Detention of families

### Reviewing detention of a parent

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you how to make sure the impact on children of a parent's continued detention for immigration purposes is assessed regularly.</p> <p>The impact of continuing detention of an ex-foreign national offender (FNO) on the children for whom they have parental responsibility, along with any change in circumstances, must be addressed at each detention review, when balancing all the relevant factors in the case.</p> <p>If there is a significant change in circumstances between the formal review periods, for example where new barriers to the parent's removal are likely to lengthen their detention, you must consider very carefully whether the detention of the FNO remains justified.</p> <p>For more information on this process and general policy on detention, see related links:</p> <ul style="list-style-type: none"><li>• 55 Detention and temporary release.</li><li>• Detention reviews (adults).</li></ul>	<b>Related links</b>  <a href="#">Determining parental responsibility</a>  <a href="#">Subsisting family relationships</a>  <a href="#">Local authority children's services</a>  <a href="#">Considering children's circumstances</a>  <a href="#">Considering the foreign national offender's (FNO's) circumstances</a>  <a href="#">Making the decision</a>  <a href="#">Maintaining contact between foreign national offender and child</a>  Links to staff intranet removed
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## Detention of families

### Releasing foreign national offenders (FNOs) and family members from immigration detention

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the processes when the release of a foreign national offender (FNO) and their family members from immigration detention is considered appropriate, or is ordered by a court.</p> <p>In cases of FNOs and any family members who are detained for immigration purposes, it may become appropriate to authorise their release, either because:</p> <ul style="list-style-type: none"><li>• there is no longer sufficient justification for detaining the individual, or</li><li>• they have applied successfully for bail from a chief immigration officer (CIO), or the Immigration and Asylum Chamber (IAC).</li></ul> <p>Chapter 55.20.5 of the enforcement instructions and guidance gives details on how a person liable to deportation can be released on restrictions (temporary release for adults can involve reporting conditions, residence conditions and electronic monitoring).</p> <p>55.20.4 covers people liable to removal as an illegal entrant or administratively. These instructions must be followed in criminal casework FNO deportation cases if it is decided to release from immigration detention, as well as by immigration compliance and engagement (ICE) teams (formerly known as local immigration teams (LITs)) dealing with other immigration offenders, and family members of FNOs being dealt with by criminal casework. For this guidance, see related link: 55 Detention and temporary release.</p> <p>People in detention can apply for bail, either internally through a CIO, or externally to the IAC, where the matter will be determined by an immigration judge (IJ). For more information on the procedures for release in cases where bail is granted by a CIO or IJ, see related link: Bail.</p> <p>For more general information on contact management in non-detained cases, see related link: Non-detained cases, contact management and absconders.</p>	<b>Related links</b>  Links to staff intranet removed
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## Detention of families

### Releasing foreign national offender parents and carers for child welfare purposes

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page tells you the need for caseworkers to consider releasing a foreign national offender (FNO) from immigration detention because of child welfare.</p> <p>In cases where a FNO is detained beyond the completion of their custodial sentence for immigration purposes, you must take account of the need to safeguard and promote the welfare of any children involved in the family unit, especially if the FNO has parental responsibility. For more information, see link on left: Detaining foreign national offenders with parental responsibility.</p> <p>There may be circumstances where the particular needs of a child are such that the balance tips in favour of releasing the FNO if they are the child's parent or primary carer. This must be assessed with input from the local authority children's services and office of the children's champion. If the caseworker decides that, on balance, the release of a parent or carer from immigration detention is appropriate in the interests of child welfare, or indeed for any other reason, the authority to release must be sought from the criminal casework strategic director.</p>	
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## Detention of families

### Contact

<a href="#">About this guidance</a> <a href="#">Ending detention of children for immigration purposes</a> <a href="#">Detained cases where authority to separate the family was not obtained</a> <a href="#">Imminent release of foreign national offender cases</a> <a href="#">Detaining child foreign national offenders on completion of their sentence</a> <a href="#">Detaining foreign national offenders with parental responsibility</a> <a href="#">Releasing foreign national offenders and family members from detention</a> <a href="#">Releasing foreign national offender parents or carers for child welfare purposes</a>	<p>This page explains who to contact for more help with detention of families cases in criminal casework.</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 you may email the criminal casework operational process and policy team (CCOPPT) using 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 the MGT 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>	<b>Related links</b>  <a href="#">Changes to this guidance</a>  <a href="#">Information owner</a>  Links to staff intranet removed
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## Detention of families

### Information owner

[About this guidance](#)  
[Ending detention of children for immigration purposes](#)  
[Detained cases where authority to separate the family was not obtained](#)  
[Imminent release of foreign national offender cases](#)  
[Detaining child foreign national offenders on completion of their sentence](#)  
[Detaining foreign national offenders with parental responsibility](#)  
[Releasing foreign national offenders and family members from detention](#)  
[Releasing foreign national offender parents or carers for child welfare purposes](#)

This page tells you about this version of the detention of families guidance and who owns it.

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Policy owner	Criminal casework operational process and policy team (CCOPPT)
Cleared by director	Angela Kyle
Director's role	CCD Director
Clearance date	19 October 2011
This version approved for publication by	Richard Short
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Approval date	17 May 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 the MGT to update the guidance, if appropriate.

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.

### Related links

[Changes to this guidance](#)

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Links to staff intranet removed