



National Offender
Management Service

RELEASE ON LICENCE FOR FOREIGN NATIONAL PRISONERS PENDING DEPORTATION

This instruction applies to:-		Reference:-
Prisons Providers of Probation Services		PSI 29/2014 PI 26/2014
Issue Date	Effective Date	Expiry Date
05 October 2015 (Revised)	01 June 2014	30 April 2016 <small>(This is an interim instruction and is subject to review)</small>
Issued on the authority of	NOMS Agency Board	
For action by	<p>All staff responsible for the development and publication of policy and instructions</p> <p><input type="checkbox"/> NOMS HQ</p> <p><input checked="" type="checkbox"/> Public Sector Prisons</p> <p><input checked="" type="checkbox"/> Contracted Prisons*</p> <p><input checked="" type="checkbox"/> Governors</p> <p><input type="checkbox"/> Heads of Groups</p> <p><input checked="" type="checkbox"/> National Probation Service (NPS)</p> <p><input checked="" type="checkbox"/> Community Rehabilitation Companies (CRCs)</p> <p><input checked="" type="checkbox"/> NOMS Rehabilitation Contract Services Team</p> <p><input checked="" type="checkbox"/> Other providers of Probation and Community Services</p> <p><i>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons except where specified</i></p>	
Instruction type	Service Improvement	
For information	Supervising officers Staff in prison establishments dealing with release on licence	
Provide a summary of the policy aim and the reason for its development/revision	<p>This instruction provides guidance in relation to licences and licence conditions for Foreign National Prisoners who are eligible for deportation. It has directly replaced PI 15/2011 / PSI 66/2011 and also incorporates relevant information from PC 32/2007 in order to provide users with all the information related to release for these types of determinate offenders in a single location.</p> <p>While Foreign National Prisoners who meet the Home Office eligibility criteria for deportation are to be managed by NPS, there may be a small number of FNPs managed by CRCs who are otherwise detained under immigration rules, and for this reason this Instruction will apply to these cases also.</p> <p>Update October 2015 – Amendments made to the contact details on the front page.</p> <p>Update 22 August 2014 – Annex C in this instruction has been revised to provide clarity and up to date OM Guidance and new information provided to NOMS by the Home Office Immigration</p>	

	Enforcement (HOIE) Criminal Casework concerning the different types of HOIE provided Section 4 accommodation for FNPs.
Contact	Brian Chapman - Licence Conditions Senior Policy Manager. Email: Brian.Chapman@noms.gsi.gov.uk Tel: 020 3334 0454
Associated documents	<p>This instruction must be read in conjunction with PSI 04/2013 – The Early Removal Scheme and Release of Foreign National Prisoners (Revised)</p> <p>PI 52/2014- PSI 34/2014 - Provision of Risk Information to Home Office Immigration Enforcement Regarding Foreign National Offenders who are being considered for Deportation</p> <p>Other relevant instructions: PSI 18/2014 - Licences, Licence Conditions and Polygraph Examinations PI 11/2014 - Licence Conditions, Polygraph Examinations and Temporary Travel Abroad PI 10/2014 – AI 13/2014 - Managing Terrorist and Extremist Offenders in the Community PI 05/2014 - PSI 14/2014 - Case Allocation PI 06/2014 - Enforcement of Suspended Sentences PI 07/2014 – Case Transfers PI 08/2014 - Process For Community Rehabilitation Companies to refer cases in the Community to NPS for review – risk escalation review PSI 52/2011 - Immigration, Repatriation and Removal Services PSI 18/2012 - Tariff Expired Removal Scheme Target Operating Model Rehabilitation Programme v3</p>
<p>Replaces the following documents which are hereby cancelled: PI 15/2011 / PSI 65/2011 - Foreign National Prisoners Liable for Deportation</p> <p><i>All hard copies of these Instructions must be destroyed</i></p>	
<p>Audit/Monitoring: The Director of NPS in England, Director of NOMS in Wales and NOMS Director of Rehabilitation Services for CRCs will monitor compliance with the mandatory requirements in this instruction.</p> <p>NOMS contract management will hold providers to account for delivery of mandated instructions as required in the contract.</p> <p>NOMS Deputy Directors of Custody and Controllers, will monitor compliance with the mandatory actions set out in this Instruction.</p>	
<p>Notes: <i>All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.</i></p>	

CONTENTS

Section	Subject	Applies to
1	Executive summary	All Staff
1.1	Background	
1.4	Desired outcomes	
1.5	Application	
1.11	Mandatory actions	
1.16	Resource Impact	
2	Introduction	
2.4	Identifying a supervising officer and preparation for the licence period	
2.7	Accommodation provided by Home Office Immigration Enforcement	
2.9	Issuing a licence	
2.15	Transfer into the IRC estate and imposition of licence conditions	
2.16	Release: into the community	
2.22	Release: following a bail hearing, deportation or full appeal hearing in the Asylum and Immigration Chamber of the First-tier Tribunal	
2.23	Victim issues: liaison with Victim Liaison Officers	Supervising officers of Foreign National Prisoners pending deportation
2.24	Release on temporary licence	All staff dealing with Foreign National Prisoners who are pending deportation
Annex A	Foreign National Prisoner Information Form	
Annex B	Letter of explanation	
Annex C	Guidance for supervising officers Regarding Home Office Immigration Enforcement, on Immigration Bail & Bail Accommodation Options for Ex-Foreign National Prisoners	Supervising officers who are planning for the release of Foreign National Prisoners pending deportation
Annex D	Glossary	All staff

1. Executive Summary

Background

- 1.1 Foreign National Prisoners (FNPs) are offenders subject to custodial sentences who are not of British nationality. Within that cohort, there is a group which is pending deportation, who have been identified by Home Office Immigration Enforcement (HO IE).
- 1.2 The Criminal Justice Act 2003 introduced the Early Removal Scheme (ERS) for foreign national prisoners. Guidance regarding the early removal of Foreign National Prisoners is covered in section 6 of PSI 04/2013 - "The Early Removal Scheme and Release of Foreign National Prisoners". This instruction covers the processes in place when a Foreign National Prisoner who is pending deportation is released within the jurisdiction of England and Wales rather than being returned overseas.
- 1.3 This instruction partially replaces PC 32/2007 - "Management of Foreign National Prisoners: Licences, Bail Hearings, Releases from Immigration Detention and Deportation". However the remaining elements of the instruction regarding the provision of risk information will be included in PI 52/2014 / PSI 34/2014 - "Provision of Risk Information (And Information About Approval of Proposed Addresses) (yet to be published) To Home Office Immigration Enforcement Regarding Foreign National Offenders", which is intended to be read alongside this instruction.

Desired outcomes

- 1.4 To ensure that the relevant staff understand the correct process for applying licences where FNPs reach the end of the custodial element of their sentence and are further detained under immigration powers.

Application

- 1.5 Practitioners reading this instruction should note that changes have been made to the titles of former UK Borders Agency (UKBA) directorates and of the agency itself following the merger into the Home Office. This should be kept in mind when cross referencing this instruction to older communications which would have used the previous wording. What was UKBA has now been divided into Visas and Immigration, and HO IE is responsible for deporting Foreign National Offenders. Within HO IE, Criminal Casework (CC) is responsible for the management of the cases. It should also be noted that the former Asylum and Immigration Tribunal is now contained in the Asylum and Immigration Chamber of the First-tier Tribunal. For ease of reference the term "AIT" will continue to be used.
- 1.6 It should be noted that determinate sentenced offenders are only considered to be pending deportation where there is an active HO IE interest and deportation is being pursued. The National Probation Service (NPS) will have responsibility for all such cases, with the allocation process described in PI 05/2014 / PSI 14/2014 - "Case Allocation".
- 1.7 The release of a Foreign National Offender should happen in the same way as for a British national under a similar sentence, with release on licence at the appropriate time as per the relevant sentence.
- 1.8 Due to the differences in terminology between NOMS and HO IE a glossary of terms is provided in Annex D. One important difference that should be noted is how an offender under this guidance is described. While a Foreign National is in prison custody during the length of their sentence, they are referred to as a Foreign National Prisoner (FNP). If once their sentence expires they remain in detention (even if still physically remaining in a prison establishment) they are described as Foreign National Offender (FNO) and alternatively as an ex-Foreign National Prisoner.
- 1.9 Annex C to this instruction was developed by London Probation Trust and NOMS in conjunction with HO IE to better inform supervising officers (the managing officer of the

case within the relevant probation provider) of the accommodation options for Foreign National Offenders liable to deportation. It is included as part of this instruction to act as an aide-memoir for supervising officers so that they can be better informed of the options available for these types of cases.

- 1.10 NPS staff should be aware that the policy contained in this instruction only relates to offenders subject to determinate custodial sentences. For information related to offenders subject to the removal of Foreign National Offenders who are subject to indeterminate sentences (such as Imprisonment for Public Protection or life sentences), see PSI 18/2012 – Tariff Expired Removal Scheme.

Mandatory actions

- 1.11 All mandatory actions are shown in italics throughout this instruction.
- 1.12 *Governors must ensure that all staff responsible for the management of foreign national prisoners, including Custody/Offender Management Unit staff, are familiar with this instruction and the mandatory actions contained within. Specifically, they should be aware of the requirement to issue licences and a copy of Annex B to all Foreign National Prisoners pending deportation at the automatic release point of their sentence.*
- 1.13 *A Foreign National Prisoner Single Point of Contact (SPOC) must be identified for liaison with HO IE by the NPS on a regional basis. NPS staff must be aware of the need to consider potential licence conditions for a Foreign National Prisoner pending deportation prior to the automatic release point of the sentence as with any other determinate offenders.*
- 1.14 *If detained in prison after the end of the custodial element of the sentence, Foreign National Offenders are entitled to apply for Immigration Bail, and there is no restriction on the number of applications which can be made. If immigration bail is granted, release into the community is immediate. It is for this reason that a release plan must be in place following the expiration of the custodial element of the sentence. This must be kept up to date and potential release addresses must be checked in a timely manner in line with national standards. Supervising officers must keep Victim Liaison Officers (VLOs) up to date on relevant cases where required.*
- 1.15 Certain parts of this instruction reflected expected practice on information sharing from HO IE. These are not mandatory actions set by this instruction as HO IE will be following their own internal guidance on this process.

Resource Impact

- 1.16 This instruction has directly replaced PI 15/2011 / PSI 65/2011 - Foreign National Prisoners Liable for Deportation and updates those previous instructions and provides greater clarity and detail. There are no substantive changes and therefore there should be no increased resource impact on any providers of services. The role of a SPOC for Foreign National Prisoner liaison has been defined since 2007, although has been previously based in Probation Trusts.

(signed)

Colin Allars, Director of Probation, NOMS
on behalf of
Digby Griffith, Director of National Operational Services, NOMS

2. **Introduction**

- 2.1 This instruction refers to Foreign National Prisoners (FNPs) who are foreign nationals who are serving prisoners and become Foreign National Offenders (FNOs) once they have moved into detention, when they are no longer serving prisoners. FNPs who are pending deportation and are subsequently detained under immigration powers once the custodial element of their sentence has expired may be released within the United Kingdom by Criminal Casework of HO IE or by a decision by the First Tier of the Asylum & Immigration Tribunal (AIT) during their licence period.
- 2.2 A significant proportion of Foreign National Prisoners are deported from prison under the Early Removal Scheme (ERS) and the Tariff Expiry Removal Scheme (TERS). Those who are not may continue to be detained under immigration powers either in a prison or an Immigration Removal Centre while Criminal Casework seek to progress their deportation. However, this group may be released from detention either by an executive decision of Criminal Casework or via a decision at an AIT. Releases from detention when Foreign National Prisoners remain within their licence period need to be carefully managed by supervising officers. Regular and effective liaison between supervising officers and case owners from Criminal Casework during immigration detention periods is essential to manage any risks posed by the release of licencees into the community in these circumstances.
- 2.3 Further information on the release of Foreign National Prisoners may be found in PSI 04/2013 - The Early Removal Scheme and Release of Foreign National Prisoners. Criminal Casework within HO IE can be contacted on 0208 760 8655 or via email at yyfma-ccds@homeoffice.gsi.gov.uk.

Identifying a supervising officer and preparation for the licence period

- 2.4 *Any offender, including a Foreign National Prisoner pending deportation must be allocated to the appropriate Probation Provider as described in PI 05/2014 / PSI 14/2014 - "Case Allocation."*
- 2.5 *A foreign national prisoner may continue to be detained under immigration powers in custody beyond their custody end date either remaining in a prison or transferred to an Immigration Removal Centre (IRC). The Detention and Population Management Unit (DEPMU) of HO IE will come to a decision as to whether an offender should continue to be detained (including a move to immigration detention) based on information from a variety of sources, including that stored on PNOMIS. Any period where a Foreign National Prisoner (within the dates of the licence) is being held in immigration detention must be regarded by the supervising officer as a risk period due to the potential for a release into the community at short notice either because of directed release by the First Tier of the Asylum & Immigration Tribunal (AIT) or because HO IE no longer has grounds to lawfully detain. Therefore enhanced liaison must be established by the supervising Officer and maintained with Criminal Casework caseowners during the immigration detention period. This liaison can be initiated using the contact information at 2.4.*
- 2.6 *Supervising officers must continue to update sentence plans, review release arrangements, as well as maintain effective liaison with Offender Supervisors and CC caseowners as required. A Plan must be maintained and updated as there may be a requirement to activate supervision arrangements in the community at short notice. In addition, the memorandum of understanding between HO IE and the Multi-Agency Public Protection Arrangements (MAPPA) requires that a risk management plan must be put in place for any foreign national MAPPA nominals prior to release.*

Accommodation provided by Home Office Immigration Enforcement

- 2.7 HO IE is responsible for obtaining suitable accommodation for Foreign National Prisoners released from immigration detention, who wish to apply to the AIT for Immigration Bail and who are unable to provide an address. Under HO IE "Section 4" accommodation arrangements, supervising officers will be contacted by the Criminal Casework case owner in order to provide risk related information for the appropriate type of "Section 4" accommodation to be allocated. As per the licence requirements, the supervising officer will later be required to confirm that the HO IE Section 4 accommodation allocated is suitable for the specific offender via a risk assessment. This should be considered and completed in an expedient manner as costs are incurred by HO IE whilst the bedspace is held for the Foreign National Prisoner.
- 2.8 *Foreign National Prisoners may be referred for placements in the Approved Premises estate, but only where they meet the risk criteria. Any application by a supervising officer for a place must address the issue of further move-on accommodation.*

Issuing a licence

- 2.9 *Irrespective of whether or not a Foreign National Prisoner will be actually released into the community, a licence for a determinate sentenced offender must be created as if they were to be released at the automatic release point of their sentence, just prior to their release date. Where they may be subject to Parole Board release (for Extended Determinate Sentences and some former 1991 Act sentences) then it must be created for the parole eligibility date and subsequently updated for alter review and automatic release. Additional licence conditions must be included as appropriate to manage any identified risks. The licence must be explained to the offender as normal in the establishment, signed by the offender and a copy should be given to them.*
- 2.10 *If the offender is not to be immediately released into the community at the automatic release date, then they should also be given a copy of the letter at Annex B and copied to the supervising officer. This letter explains to them that they may be transferred to an IRC and/or released into the community at a later date. When explaining the licence, the staff member in the establishment must ensure that the Foreign National Prisoner is aware that the licence conditions will come into force if they are released from prison custody either into an IRC or the community. It must be made clear that the Foreign National Prisoner is required to report immediately to the relevant provider as specified in the licence upon release into the community and that they are liable to be recalled if they fail to do so. The issuing of the licence (and Annex B where required) should be noted on PNOMIS.*
- 2.11 *Prison staff must ensure that one copy of the licence is given to the prisoner on release, including transfers to IRCs. Also, one copy (as signed or certified) must be kept on the prisoner's F2050 record and another sent to the supervising officer in the community. Further copies must be sent by the Prison to the National Identification Service (NIS) at New Scotland Yard and to the Chief Constable of the area to which the prisoner is being released. Copies must be marked "Immigration Detainee".*
- 2.12 *In addition to the normal distribution of the licence, a copy along with a completed Annex B form must be sent by the establishment to Criminal Casework at least two days prior to the date of release from custody whether the offender is transferring into the IRC estate or being released into the community. The copy of the licence should be sent to the relevant Criminal Casework Workflow Team.*
- 2.13 *If a Foreign National Prisoner is subsequently released from the IRC estate into the community, copies of the licence and Annex B must be re-issued to them if they no longer have the versions given to them prior to their automatic release date.*

- 2.14 Indeterminate sentenced offenders pending deportation under the Tariff Expired Removal Scheme do not need to be issued with the licence created by the Public Protection Casework Section, NOMS. This is because they may only be held in an IRC whilst awaiting deportation and there is no possibility of them being released into the community.

Transfer into the IRC estate and imposition of licence conditions

- 2.15 *While the vast majority of licence conditions cannot be breached while the offender is within a prison establishment, it is expected that where there are non-contact licence conditions on a FNP's licence, these will be enforced whilst he is in an IRC. Should the offender breach those conditions, then enforcement action may be warranted, including the possibility of recall to the prison estate.*

Release: into the community

- 2.16 Foreign National Offenders held under immigration detention powers may be released within the United Kingdom when:

- Criminal Casework are content for them to be released on immigration bail pending an appeal hearing against deportation before the AIT;
- Immigration bail is granted by a immigration judge at an AIT;
- The AIT allows an appeal against deportation;
- A higher court orders release from detention during a claim for unlawful detention;
- *Criminal Casework decides that deportation cannot proceed for some reason and grants a Chief Immigration Officer/Higher Executive Officer (CIO/HEO) release, which must first be approved by a Strategic Manager within HO IE.*

- 2.17 Since the commencement of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) on 3 December 2012, Governors may authorise the removal of Foreign National Prisoners at any time after the PED (for offenders subject to determinate sentences formerly under the Criminal Justice Act 1991), whether or not the Parole Board has directed the prisoner's release. This applies only to prisoners who have not previously been released on licence. This is detailed in section 5 of PSI 04/2013 – The Early Removal Scheme and Release of Foreign National Prisoners.

- 2.18 *A Foreign National Prisoner who is still subject to a licence period can therefore be released either from prison, an IRC or directly from an AIT hearing. In these cases, it is essential that supervision arrangements are activated immediately by the supervising officer. Where release as stated in 2.6 occurs, it is the responsibility of Criminal Casework to inform the relevant provider and appropriate contacts listed in 2.10. When release from immigration detention in a prison establishment occurs a number of months after the licence was originally generated, the establishment must contact the supervising officer to ensure that any additional/bespoke licence conditions remain valid or if a new address requires checks. Where the release is from an IRC, the supervising officer is required to ensure that release arrangements and licence conditions are updated as required.*

- 2.19 In all cases it is the responsibility of Criminal Casework to inform the supervising officer and the relevant NPS SPOC within the area of the date of release from immigration detention. *The supervising officer must inform the relevant police force if release is occurring for a Foreign National Prisoner who is considered to be eligible for a local Integrated Offender Management scheme. Criminal Casework should notify the supervising officer of release irrespective of whether or not the offender is still subject to licence as the offender may still be subject to an ancillary order (such as a SOPO) or there may be ongoing MAPPA arrangements.*

- 2.20 Additionally, where release takes place directly from an AIT following a successful bail application, Criminal Casework will also be responsible for notifying the supervising officer and Foreign National Prisoner SPOC as soon as possible of any immigration bail conditions imposed on the offender.

Release: following a bail hearing, deportation or full appeal hearing in the Asylum and Immigration Chamber of the First-tier Tribunal

- 2.21 If following a bail, deportation or appeal hearing at an AIT, a Foreign National Prisoner is given immigration bail or their appeal is allowed, or their ongoing detention found to be unlawful, they may be released immediately from that tribunal. *If the Foreign National Prisoner is still within the currency of the supervision part of their sentence then they will be re-issued with their licence, together with an explanatory letter, by the prison establishment or IRC staff prior to departure to the AIT or prison/IRC staff prior to release from the IRC if the case is heard by videolink and bail is subsequently granted. Prison/IRC staff must ensure that it is known by the Foreign National Prisoner that there is a requirement to report to the supervising officer if they are released.* The Annex B letter accompanies the licence and instructs the Foreign National Prisoner to report to the supervising officer by 17:00 hours on the day of bail being granted, or if that is not possible, by 14:00 hours on the next working day following release.

Victim issues: liaison with Victim Liaison Officers

- 2.22 *Where a case falls within the statutory victim contact scheme then the Probation supervising officer must inform the Victim Liaison Officer (VLO) immediately when the Foreign National Prisoner is released from immigration detention. The supervising officer must also make Victim Liaison Officers aware of any pending AIT hearings and notify them of the outcome of the hearing. Supervising officers should ensure that Victim Liaison Officers are made aware of all relevant information to ensure that victim issues are addressed and victims safeguarded as part of the statutory duty of the NPS respect of victim contact.*

Release on temporary licence

- 2.23 In certain circumstances, a Foreign National Prisoner may be considered for release on temporary licence (ROTL) and specific guidance can be found in Chapter 5 of PSO 6300. ROTL is not available to prisoners who are detained solely on immigration grounds but HO IE may allow release with restrictions in according with their own guidance (Enforcement Instructions and Guidance Ch. 55.20). The restrictions may include escort and it is for HO IE to provide any escorts required.

Foreign National Prisoner Information Form

Offender Information to accompany copy of licence to Home Office Immigration Enforcement Criminal Casework

Offender Details

Nationality	MAPPA Nominal (Yes/No)	
Home Office Reference Number	MAPPA Level (1, 2 or 3)	MAPPA Category (1,2 or 3)
Date of Birth	NOMIS Number	
Prison Number	PNC or CRO Number	
Prisoner Surname		
Prisoner Forenames		
Sentence End Date (SED)		
Aliases – list		

Supervising Officer Details

Supervising Officer Name
Address
Telephone number
Email address

Name:

NOMIS Number:

IMPORTANT INFORMATION – Should you be released from immigration detention and be on licence

You were convicted of a criminal offence and you have completed the custodial element of that sentence. However, you are subject to the conditions of a release licence until that licence expires.

Should you be released from custody into the community within the United Kingdom or transferred into an Immigration Removal Centre then your licence conditions will become active and you must abide by them.

If you are released into the community then you must report to the supervising officer named on your release licence at the address given. If you are released or bail is awarded you must report to the address before 5pm on that day if there is time to do so. If there is not enough time, you must report by 2pm on the following day, or the next working day if that is a weekend.

If you fail to report to the relevant location on release, then your licence may be revoked and you will be arrested and returned to prison in order to complete your sentence.

Guidance for NPS Supervising Officers regarding Home Office Immigration Enforcement processes, Immigration Bail and HO Bail Accommodation Options for Foreign National Offenders

August 2014

Introduction

This guidance is to assist OMs better understand;

- the immigration bail process for Foreign National Offenders (FNOs)
- why & how the Home Office Immigration Enforcement (HOIE) may provide accommodation for immigration bail purposes
- the range of HOIE accommodation available
- Probation Instruction 26 2014 'Releases from Immigration Detention of Foreign National Prisoners Pending Deportation' governs NOMS staff duties regarding releases from immigration detention.

1 The Immigration Bail Process - overview

- 1.1 Foreign National Prisoners, once they have reached the end of the custodial element of their sentence, are referred to as Foreign National Offenders (FNOs). They may continue to be detained after they have completed their prison sentence, under immigration detention powers and held in either prison or an Immigration Removal Centre (IRC). An FNO in immigration detention has the right to apply at any stage to an Immigration Judge in the Immigration & Asylum Chamber (IAC) to be released on immigration bail. There is no restriction on the number of times an immigration bail application may be made by an FNO held in immigration detention. FNOs may also be released following an executive decision of the HOIE without a bail hearing at an IAC.
- 1.2 In order for the IAC to hear a bail application, the FNO must put forward an address, either a private address or where they have no private address available, one provided by the HOIE if they are eligible. An FNO unable to provide a bail address of their own, may apply to the HOIE for what is called 'Section 4 Accommodation', or their legal representative can apply on their behalf. The legal framework for the HOIE to provide accommodation is contained in Section 4(1) (c) of the Immigration and Asylum Act 1999, hence being referred to as 'Section 4' Accommodation'. FNOs who are European Economic Area nationals are not usually eligible for Section 4 accommodation and support as they can access mainstream benefits and services in the UK.
- 1.3 When an application for HOIE accommodation is received, the Section 4 Accommodation Team processes the application based on information received from the HOIE Criminal Casework (CC) case owner. The CC case owner may include risk information provided by the OM see PI 52 2014 Provision of Offender Risk Information to Home Office Immigration Enforcement regarding FNOs who are being considered for deportation. The HOIE, having taken into account the views of the OM, may not consider that an individual is suitable for release. However, this does not affect an FNOs eligibility to apply for immigration bail and be provided with a Section 4 accommodation address. The FNO could be granted bail by the IAC despite HOIE and OM reservations.
- 1.4 However, an FNO, who is subject to a licence, should only apply for immigration bail once either the private address or a Section 4 bail address has been approved as suitable by the supervising OM. This is because Immigration Judges wish to be assured that an address is determined as suitable for licence purposes before agreeing to release on immigration bail. The case will then be listed, with a bail hearing date set at the IAC. IACs try to ensure that bail hearings are held 3 working days from the receipt of a bail application.

- 1.5 If immigration bail is granted the Immigration Judge will set the FNOs immigration bail conditions. The HOIE CC case owner should inform the OM as soon as immigration bail is granted, or when refused, the reasons for the refusal. Should immigration bail be granted, prison/IRC staff should reissued the FNO with a copy of their licence and letter Annex B*, see PI 26 2014 2.21. The FNO will travel immediately from the IAC (or the IRC if the bail hearing was conducted by video link) to their bail address. The FNO will be provided with a travel warrant and it is their responsibility to make their way to the bail address following release from detention, they will not be escorted. *The Annex B letter accompanies the licence and instructs the Foreign National Prisoner to report to the supervising officer by 17:00 hours on the day of bail being granted, or if that is not possible, by 14:00 hours on the next working day following release.

2. Offender Management involvement – overview

- 2.1 Offender Managers may be notified of a new or changed address for an FNO on immigration bail and within licence periods from a variety of sources; the FNP themselves, the prison OMU, legal representatives, IRC staff, or HOIE CC case owners

OMs should respond to being notified of a new or changed address for a FNO for licence purposes, in a timely and appropriate manner.

- 2.2 OMs need to satisfy themselves that the information, full address & contact details plus information on other residents at the address, is accurate. OMs need to liaise with the HOIE CC on whether a proposed address for licence purposes is also suitable for immigration bail requirements. OM checks on proposed addresses and arrangements for release on license may include a home visit and checks with the Police and Social Services. If the address is not in the area covered by the Supervising OM, then, as with any offender where the proposed release address is not in their area, request another NPS Division to undertake such checks on their behalf. Accommodation provided by the HOIE Section 4 Team is likely to be a different geographic area which will increase the time required for confirming that an address is suitable for licence purposes. The HOIE assessment of appropriate immigration bail accommodation is not an assessment of the FNOs suitability to be released on immigration bail as such. HOIE takes into account the type of offence committed by the FNO in order to facilitate the assessment process and to ensure that suitable Section 4 accommodation is identified and allocated as appropriate.
- 2.3 When the FNO will be subject to licence the HOIE CC case owner should take advice from the OM in order to recommend what type of Section 4 accommodation is suitable as a bail address. The CC case owner provides the Section 4 Accommodation Team with the information from the OM. PI 52 2014/PSI 34 2104, explains how the HOIE CC contact OMs for comments on proposed Section 4 accommodation via a RR1 (form) request or phone or email liaison. Section 4 Accommodation is provided through contracted providers and sub-contractors, who may include Housing Associations and commercial letting agencies.
- 2.4 From the OM information provided, the CC case owner will recommend what type of Section 4 accommodation is suitable to ensure for instance, that others, particularly children accommodated in the same property and within the surrounding community, do not come to harm. When providing Section 4 accommodation, HOIE should take account of any risk posed to other people at the address, and the general public. Those who are accommodated at the same address will be a mixed population of offenders and non-offenders. FNOs only comprise a small proportion of those placed in Section 4 accommodation, the majority is provided for asylum applicants.
- 2.5 When the FNO has been assessed by the OM as requiring management in an Approved Premises due to the risks they pose, FNOs do not take precedence over other offenders. The FNO or their legal representative may also apply for Section 4 accommodation on their own initiative when an AP place is also being sought by the OM. It is important that the OM

makes CC case owners aware that Approved Premises are not simply 'accommodation', rather they offer a strict regime and close in- house supervision to manage the risk of serious harm posed, and that only until such risks have been assessed as reduced and/or the end of the licence has been reached. It is essential that the CC case owners confirm what accommodation will be available for 'move-on' purposes from APs otherwise the FNO could be destitute on discharge.

3 Types of HOIE Section 4 Accommodation:

Initial Accommodation - Key points

- **High Multiple Occupancy (HMO) accommodation**
 - **Accommodates families as well as single persons of either gender and lone parents**
 - **Shared common spaces used by families and individuals**
 - **Located in high-density urban residential areas**
 - **The Offer of accommodation expires after thirty days**
 - **The address is only available if the applicant is released on Bail**
- 3.1 **Initial Accommodation (IA)** is usually the first type of accommodation the HOIE provide, and in time, the subject will usually move onto Standard Dispersal Accommodation (SDA). IA accommodation is for applicants with minor convictions or offences and not generally appropriate for FNOs convicted of a violent or sexual or serious drug offence (bar minor possession) and/or falls into MAPPA category 1, 2 or 3, managed at Level 2 or 3. Depending of the information provided by the OM, the first accommodation offered may therefore be Standard Dispersal Accommodation if this is more suitable than IA, or, where deemed necessary from the information provided, Complex Bail Accommodation may be recommended (see below.)
- 3.2 IA is provided to the HOIE by third party accommodation providers, is usually in large scale blocks housing between 80 and 150 & accommodates a wide range of people including families. There will be a single shared common space for both individuals and family groups. It should be noted that opportunities to separate individuals or small groups are extremely limited in IA.
- 3.3 IA is predominantly offered as full board accommodation with food and essential toiletries provided as required; there is no additional support provided in any form. Given the need for IA to be near to HOIE regional offices, sites are often located in high density, urban residential areas. The location and the nature of the population in IA, means that any applicant released on bail and allocated IA will have to be deemed suitable to mix with other applicants' of all ages and gender. It is expected that applicants will remain in IA for approximately three weeks before they are transferred to Standard Dispersal Accommodation.

4 Types of HOIE Section 4 Accommodation:

Standard Dispersal Accommodation - Key points

- **Mostly High Multiple Occupancy (HMO) accommodation**
 - **Individual accommodation (bedsits/flats) but often with shared common spaces**
 - **Lone adult males do not share accommodation with families or lone females**
 - **The Offer of accommodation expires after fourteen days**
 - **The address is only available if the applicant is released on Bail**
- 4.1 **Standard Dispersal Accommodation (SDA)** is provided to the Home Office by third party accommodation providers. SDA is for applicants with more serious offences. The accommodation is primarily located in high density, urban residential areas in close proximity to essential amenities. It is primarily high multiple occupancy accommodation,

which consists of a mix of bed-sits, self-contained accommodation, and maisonettes to house singles, couples and single parents with one child. There is also family accommodation in the form of larger maisonettes and houses. Single adult males released on immigration bail to Standard Dispersal Accommodation, do not share accommodation with families or members of the opposite gender. Single adult females released on immigration bail to standard dispersal accommodation do not share accommodation with members of the opposite gender, though they may be housed in the same accommodation as single mothers with children, unless such an accommodation arrangement was prohibited in the accommodation request to the accommodation provider.

- 4.2 If the FNO is accommodated in a maisonette type of self-contained accommodation, they may still come in to contact with families in shared access areas, such as hallways or landings, unless such an accommodation arrangement is clearly specified as prohibited in the accommodation request to the accommodation provider. The availability of accommodation that meets this requirement in any location is extremely limited. Single occupancy accommodation may be identified in exceptional circumstances, although the number of readily available properties is again very limited.
- 4.3 Although HOIE aims to allocate suitable bail accommodation, the range of Initial Accommodation and Standard Dispersal Accommodation provided is not specially designed for FNOs with serious criminal convictions released on immigration bail. The support available for residents in Section 4 accommodation is limited to occasional visits to premises from the providers; there are no 'live-in' supervisors as such. There may be however, a certain level of flexibility in the type of immigration accommodation available, from the stock of Section 4 immigration accommodation, that is available at that time of the completed accommodation request.

5 Types of Section 4 Accommodation:

Complex Bail Accommodation - Key points

- **Increased liaison with Local Authorities in sourcing appropriate accommodation**
 - **The authority can request specific location or specify how far service user should be from local amenities/schools etc.**
 - **Lone adult males do not share accommodation with families or lone females**
 - **The offer of accommodation expires after fourteen days**
 - **The address is only available if the applicant is released on Bail**
- 5.1 When an FNO is assessed as unsuitable for IA and SDA they may be considered for **Complex Bail Accommodation (CBA)** which is for applicants with the most serious offences. CBA is appropriate where the HOIE in conjunction with the OM, has identified specific licence conditions which could not be met if the individual were to be accommodated in Standard Dispersal Accommodation. Where CBA satisfies the accommodation requirements but is not available, the CC case workers should refuse the application for accommodation on the basis that HOIE is not in a position to provide the applicant with a suitable Section 4 bail address within the cohort of accommodation available. However, any decision to refuse accommodation may be challenged at an appeal to the Tribunals Service – Asylum Support and/or judicial review.
- 5.2 CBA is usually the most appropriate for FNO MAPPA cases or those who pose a high risk of serious harm. There is a very limited supply of CBA and this type of accommodation is more expensive than IA or SDA. Requests for CBA may increase the length of time required for the Accommodation Provider to source suitable accommodation. There is no 'live-in' supervision at CBA properties and the risk management, support or monitoring is therefore limited. Discussion with CC case owners is essential for OMs to understand and assess the suitability of all Section 4 Accommodation for licence purposes particularly CBA.

6 Approved Premises and FNPs and FNOs

- 6.1 Approved Premises places are a scarce offender management resource for high risk of serious harm offenders, and certainly not accommodation for FNOs who have housing difficulties. Approved Premises are not suitable for FNOs whose licence period has expired. AP residence lasts only as long as the offender's risk of harm requires it and so cannot be assumed to extend beyond the licence expiry date. OMs should explain to CC case owners the purpose of APs.
- 6.2 Pressure of space means that AP management need to move offenders on as soon as the situation allows. **Any plan to place an FNO in an AP must therefore also include a move-on plan, or it is likely to be rejected by the AP.** It is essential therefore that the HO IE confirms that Section 4 accommodation will be provided as 'move-on' accommodation at the referral stage. While offenders are in APs, the HOIE has agreed to fund their maintenance charges where they are unable to fund them themselves. However, because these charges do not include catering costs in self-catering APs, those APs will not be suitable for the majority of ex-Foreign National Prisoners.

Susie Carr NPD & Nick Hammond NOMS

August 2014

Annex D

Glossary

AIT	Asylum & Immigration Chamber of the First-tier Tribunal
CC	Criminal Casework
CCD	Criminal Casework Directorate (defunct – now CC)
CRC	Community Rehabilitation Companies
DEPMU	Detention and Population Unit
EDS	Extended Determinate Sentence (introduced in LASPO)
FNO	Foreign National Offender (see 1.8)
FNP	Foreign National Prisoner (see 1.8)
HO IE	Home Office Immigration Enforcement
IRC	Immigration Removal Centre
LASPO	Legal Aid, Sentencing and Punishment of Offenders Act 2012
LED	Licence Expiry Date
MAPPA	Multi-Agency Public Protection Arrangements
NOMS	National Offender Management Section
NPS	National Probation Service
OM	Offender Manager (now supervising officer for the purpose of supervising offenders on licence)
PPCS	Public Protection Casework Section
PPO	Prolific or other Priority Offender
OMPPG	Offender Management and Public Protection Group
ROTL	Release on Temporary Licence
SED	Sentence Expiry Date
SLED	Sentence and Licence Expiry Date
SPOC	Single Point Of Contact
TERS	Tariff Expired Removal Scheme
UKBA	UK Borders Agency (defunct – now HO IE)
VLO	Victim Liaison Officer