



# National Offender Management Service

## The Allocation of prisoners liable to deportation or removal from the United Kingdom

<b>This instruction applies to:-</b>		<b>Reference:-</b>
NOMS HQ Prisons		<b>AI 01/2015</b> <b>PSI 01/2015</b>
<b>Issue Date</b>	<b>Effective Date</b> <b>Implementation Date</b>	<b>Expiry Date</b>
15 January 2015	15 January 2015	14 January 2019
<b>Issued on the authority of</b>	NOMS Agency Board	
<b>For action by (Who is this Instruction for)</b>	<p>All staff responsible for the development and publication of policy and instructions</p> <ul style="list-style-type: none"> <li><input checked="" type="checkbox"/> NOMS HQ</li> <li><input checked="" type="checkbox"/> Public Sector Prisons</li> <li><input checked="" type="checkbox"/> Contracted Prisons*</li> <li><input checked="" type="checkbox"/> Governors</li> <li><input checked="" type="checkbox"/> Heads of Groups</li> </ul> <p><i>* If this box is marked, then in this document the term Governor also applies to Directors of Contracted Prisons</i></p>	
<b>Instruction type</b>	<b>service improvement</b>	
<b>For information</b>	All staff in NOMS HQ, prison establishments, National Probation Service and Community Rehabilitation Companies.	
<b>Provide a summary of the policy aim and the reason for its development / revision</b>	<p>This instruction updates the policy on the "Allocation of (male) Foreign National Prisoners Categorised as Category C" as set out in PSI 40/2011 and introduces a new process for allocating female prisoners who are subject to immigration action by the Home Office.</p> <p>The deportation of Foreign National Offenders (FNOs) who have no right to be in the UK is a government-wide priority. While the Home Office has the lead role in progressing deportation cases, NOMS is responsible for managing the serving FNO population and is committed to facilitating Home Office operations wherever possible.</p> <p>The Home Office can make best use of their resources if prisoners who are liable to removal or deportation or whose immigration status is unknown are concentrated in a small number of locations where there are embedded teams of Immigration staff or are visited regularly by them. The allocation of eligible prisoners, subject to categorisation, who meet deportation criteria or subject to removal actions is to be coordinated at NOMS HQ by Population Management Unit. Eligible female prisoners who meet deportation criteria or are of interest to the Home Office will now also come into scope for allocation.</p>	
<b>Contact</b>	Adrian Chen NOMS Population Strategy Operational Services & Interventions Group 4th Floor, Red Zone	

	<p>Clive House 70 Petty France  London SW1H 9EX  Tel: 0300 047 6992 Email: <a href="mailto:Adrian.chen@noms.gsi.gov.uk">Adrian.chen@noms.gsi.gov.uk</a>  See contacts also at paragraph 1.16, &amp; 1.17</p>
<p><b>Associated documents</b></p>	<p><a href="#">PSI 39/2011 Categorisation and Re categorisation of Women Prisoners</a>  <a href="#">PSI 40/2011 Categorisation and Re categorisation of Adult Male Prisoners</a>  <a href="#">PSI 52/2011 Immigration, Repatriation and Removal Services</a>  PSI 49/2014 Mother &amp; Baby Units  <a href="#">PSI 37/2014 Eligibility for Open Conditions and for ROTL of Prisoners Subject to Deportation Proceedings</a>  <a href="#">PSO 2205 Offender Assessment and Sentence Management OASys</a>  Women's Custodial Estate Review October 2013  Women's Prison Allocation Strategy December 2006</p>
<p><b>Replaces the following documents which are hereby cancelled:</b> None</p>	
<p><b>Audit/monitoring:</b> NOMS Deputy Directors of Custody and Controllers will monitor compliance with the mandatory actions set out in this Instruction.</p>	
<p><b>Introduces amendments to the following documents:</b> PSI 40/2011 Categorisation and Re categorisation of Adult Male Prisoners: Replaces page 23 paragraphs 18-28, page 33 paragraphs 12-22, page 39 Annex H: " List of FNP Priority Allocation Prisons to which Adult Male sentenced Category C be allocated". These sections will be removed from the PSI published on the intranet. <i>All hard copies must be amended locally.</i></p>	
<p><b>Notes:</b> <i>All Mandatory Actions throughout this instruction are in italics and must be strictly adhered to.</i></p>	

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## **1. Executive Summary**

- 1.1 The deportation of Foreign National Offenders (FNOs) who do not have the right to remain in the UK is a government-wide priority. While the Home Office has the lead role in progressing deportation cases, NOMS is responsible for managing the serving FNO population and is committed to facilitating Home Office operations wherever possible.
- 1.2 The Home Office can make best use of their resources if prisoners who meet published deportation criteria or those with no legal right to remain in the UK are concentrated in a small number of locations where there are embedded teams of Immigration staff or are visited regularly by them. These establishments are either FNO-only prisons, or are known as Hubs or Spokes, according to whether the Immigration staff are embedded (Hubs) or visit regularly (Spokes).
- 1.3 The Hubs and Spokes arrangement allows NOMS to better manage prisoners subject to deportation or removal actions, channelling resources and services which may be more appropriate to their specific needs. This arrangement can also benefit foreign nationals; it can speed up the decision-making process by the Home Office and therefore reduces uncertainty for those prisoners affected. It can provide early access to immigration staff for those who are liable to removal and wishing to take advantage of early removal initiatives, where appropriate. This allocation policy does not apply to foreign nationals who are no longer of interest to the Home Office or are granted permission to remain.
- 1.4 All sentenced adult prisoners who are subject to immigration proceedings by the Home Office, whether the individual has been informed of this or not, with more than three months to conditional release date and are categorised C for males or “closed” for females are expected to be considered for allocation to one of the prisons listed in [Annex A](#) (except Local Hubs) at the earliest opportunity.

### Background

- 1.5 Following the publication of the Women’s Custodial Estate Review in October 2013, the Justice Secretary has accepted the recommendation to develop a hub at HMP Peterborough for foreign national women who are likely to be deported. This instruction provides guidance on the allocation of female prisoners of interest to the Home Office. The instruction also supersedes the allocation policy relating to male prisoners liable for deportation or removal as set out in [PSI 40/2011 Categorisation and Recategorisation of Adult Male Prisoners](#) and brings together the allocation of both male and female foreign national offenders within one instruction.

### Desired outcomes

- 1.6 All sentenced adult prisoners who are subject to immigration proceedings by the Home Office with more than three months to conditional release date and are categorised C for males or “closed” for females are expected to be considered for allocation to one of the prisons listed in [Annex A](#) at the earliest opportunity.
- 1.7 The FNO-only prisons (HM Prisons Maidstone and Huntercombe) should operate as close to full occupancy as possible in order to alleviate population pressure across the rest of the prison estate.

### Application

- 1.8 This instruction applies to all prisoners who are considered for or subject to deportation or removal proceedings, these prisoners are referred to as ‘of interest’ to the Home Office from hereon.

- 1.9 It will apply to those whose immigration status is unknown or unresolved, but does not apply to those whom the Home Office have confirmed are of no interest to them.
- 1.10 It does not apply to those who have completed the custodial element of their sentence and detained solely under the provisions of immigration powers.

#### Mandatory actions

- 1.11 *Governors must ensure that all staff, especially those who undertake Observation Categorisation and Allocation activities, are familiar with this instruction.*
- 1.12 *Offender Management Units (OMU) to consider requests by Population Management Unit (PMU) at NOMS HQ to co-operate with the transfer of prisoners identified as suitable to be allocated to a prison listed on [Annex A](#)*

#### Resource Impact

- 1.13 There will be only a minimal impact on resources required in prisons. Prisons holding individuals identified for allocation by PMU are expected to consider suitability for transfer and notify PMU accordingly.
- 1.14 No changes to FNO-only, Hubs and Spokes prisons for male prisoners.
- 1.15 HMP Peterborough has arrangements in place to operate as a female Hub prison.

#### Contacts

- 1.16 For further advice and guidance on the allocation of eligible prisoners to FNO-only, Hubs and Spokes prisons, please contact Nick Driver (Home Office, Immigration Enforcement), – Seconded to NOMS PMU) on 0300 047 6486 or Adrian Chen (Population Strategy) on 0300 047 6992.
- 1.17 If an establishment requires assistance from Home Office Criminal Casework regarding wider casework queries please contact the CC on 020 8760 8655.

(Approved for Publication)

**Digby Griffith**  
**Director of National Operational Services, NOMS**

## **2. Operational Instructions**

- 2.1 The general agreed criteria for prisoners subject to consideration for allocation to a FNO-only, Hub or Spoke prison is:  
Sentenced male and female adults 21 years old and over who:
- have been previously identified by the Home Office as meeting deportation criteria or with no legal right to remain in the UK (whether the prisoner has been informed of this or not); or
  - have received a formal notice of liability for deportation; or
  - have a Deportation Order in force (excluding those who have returned to the UK in breach of a DO)
  - have more than 3 months to conditional release date (CRD) and
  - categorised as Cat C for male or closed for female.
- 2.2 NOMS provides Immigration Enforcement in the Home Office (HOIE) with the data they need to identify all sentenced prisoners who may be of interest to HOIE, see [PSI 52/2011 Immigration, Repatriation and Removal Services](#) paragraph 2.7 – 2.12 for full guidance; each case is then reviewed by HOIE to determine whether an individual meets published criteria for deportation or removal, based on a number of factors including sentence status, sentence length and immigration status (if known).
- Priority will be given by NOMS to allocate and transfer identified prisoners who have less than 3 years to CRD.
- 2.3 *Establishments must ensure that the prisoners whom the HOIE has identified as being of interest are considered for suitability for allocation to an FNO-only, Hub or Spoke prison.*
- 2.4 As with any allocation decision, the teams responsible for categorisation and allocations or OMU at the sending establishment should take all relevant individual circumstances into account when making a final decision on allocation and all decisions are subject to specific allocation criteria for individual prisons.
- Part of the decision process above should include consultation with Offender Managers / Supervisors, especially for prisoners assessed as High or Very High Risk; see [PSO 2205 Offender Assessment and Sentence Management OASys](#) paragraphs 5.3, 15.2-15.4.
- 2.5 Identified prisoners with specific offending behaviour/risk-reduction or medical requirements that cannot be met at a Hub or Spoke prison should initially be allocated (in agreement with their Offender Manager/Offender Supervisor) to an appropriate establishment that can meet those needs. In such circumstances, prisoners will receive treatment and services in line with NOMS' process and policy. Following completion of any agreed interventions, or if circumstances change so that medical requirements can be managed at a hub or spoke prison and provided they remain of interest to the Home Office, they should generally then be transferred to an FNO-only, Hub or Spoke prison. *Allocation decisions must be made on a case-by-case basis. Individuals' requirements relating to disability, age, gender identity and other protected characteristics must be taken into consideration.*
- 2.6 *For all prisoners identified for potential allocation into FNO-only, Hub or Spoke prison, when assessing their suitability for transfer, due consideration must be given to individuals with young children or close local family ties. The best interest of the child should be taken into account but there are likely to be other relevant factors: the child may or may not also be subject to removal action and more in depth consultation with HOIE may be necessary before a decision is made to allocate FNO with care responsibilities based on an assessment of all relevant circumstances. Female prisoners already at a Mother and Baby Unit are generally not considered in scope for allocation to the hubs and spokes estate until separation is deemed appropriate, see PSI 49/2014 Mother & Baby Units.*

- 2.7 Prisoners with less than 3 months remaining to Automatic / Conditional release date are not expected to be transferred unless agreed by the sending and receiving prisons on a case-by-case basis.
- 2.8 *Any FNO who is allocated to (or already serving at) an FNO -only, Hub or Spoke prison but is subsequently identified as no longer of interest to the Home Office, must be considered for allocation back to the identified home establishment in line with their security category, offending behaviour and correct resettlement CPA for release.*
- 2.9 *Prisoners must continue to have their categorisation reviewed at the prescribed intervals set out in [PSI 39/2011 Categorisation and Re categorisation of Women Prisoners](#) and [PSI 40/2011 Categorisation and Re categorisation of Adult Male Prisoners](#) regardless of immigration status and location, see also paragraph 2.7 [PSI 37/2014 Eligibility for Open Conditions and for ROTL of Prisoners Subject to Deportation Proceedings](#).*
- 2.10 There is no change to the arrangements for managing immigration detainees, i.e. those who have completed the custodial part of their sentence and are detained solely under immigration powers (typically having been served an IS91 by the HOIE). The expectation is that detainees will be transferred to an Immigration Removal Centre, local prison, or remain in their current training establishment if they sign Annex C of [PSI 52/2011 Immigration, Repatriation and Removal Services](#)
- 2.11 This process instruction does not apply to the foreign nationals the Home Office has indicated they have no interest in removing from the UK; these prisoners may be allocated to any appropriate prison according to their offending behaviour intervention and resettlement CPA for release and operational requirements.
- 2.12 The allocation processes in respect of all other FNO groups remains unchanged. i.e. young adults, categories A, B, and D and female prisoners in the open estate. The allocation of young people remains the responsibility of the Youth Justice Board (YJB).
- 2.13 The requirements of security and control will always take precedence when deciding how the prisoner is managed and this may, in certain circumstances, lead to any prisoner being transferred out of a FNO-only, Hub or Spoke prison. *The Home Office must be notified via PMU if a FNO is transferred out under these circumstances.*

**List of prisons to which prisoners subject to deportation or removal action should be allocated.**

FNO-only Hub Prisons – (with Home Office Immigration team on site, these prisons hold solely foreign nationals of interest to the Home Office)

HMP Maidstone  
HMP Huntercombe

Hub Prisons – (with Home Office Immigration team on site, with the exception of Peterborough, these are Cat C male training prisons)

HMP Peterborough (females only, currently capped at 38 but subject to wider female prison population needs as well as future reviews)  
HMP Risley  
HMP Moorland  
HMP The Mount

Spoke Prisons - (these prisons are regularly visited by immigration officials usually based at a nearby hub prison, Immigration office or mobile team)

HMP Highpoint  
HMP Littlehey  
HMP Featherstone  
HMP Guys Marsh

Local Hubs – Home Office Staff on site but no allocations should be made into these establishments

HMP Hewell  
HMP Wandsworth  
HMP Wormwood Scrubs  
HMP Pentonville