

Immigration Detention

If you are *subject to “immigration control”* it is possible that at some point during the legal process, you could be held in immigration detention. This means that if you do not have immigration status you could be detained. You could also be detained if your visa or immigration status runs out or is taken away, or even in some circumstances when you have a valid visa or immigration status. People who are British citizens are not subject to immigration control, so should not be detained in the UK.

If you are at risk of detention, you could technically be detained at any time, but there are several points in the asylum and immigration process when you are more likely to be detained. This includes on entry to the UK, when a visa or leave to remain has expired, or when an application has been refused and you don't have the right to appeal that refusal.

Not everyone that could be detained is detained. It's important to learn about immigration detention – even though it's not a nice thing to think about – in case it happens to you. It's very important to be prepared in case you are detained, because if it happens it will happen suddenly. Read this page to learn more and be prepared.

Read this page to find out when in the legal process you can be detained; who shouldn't be detained, according to the Home Office's own policy; preparing in case you are detained; how long you can be detained; what to do if you are detained; and getting out of detention. Find out how detention in prison is different from detention in a removal/detention centre.

What is detention and how long can you be detained?

If you are detained under immigration powers you may be held in a short-term holding facility to start with. You will then usually be moved to a longer-term detention centre. The Home Office uses the term “Immigration Removal Centre” but as most people who are detained go on to be released back into the community, and others are held in detention for long periods of time without being removed, this term can be misleading. We use the term “detention centre” instead. If you have just completed a prison sentence and the Home Office have decided you will now be detained under immigration powers, you may be detained in prison.

If you are detained, you cannot leave without permission and you will have very limited freedom of movement within the detention centre.

There is no time-limit on long you can be detained (if you are an adult) in the UK – you can be detained *indefinitely*. The exception to this is pregnant women, who can only be detained for up to 72 hour, unless extended by ministerial approval.

You can find a list of the detention centres and short-term holding centres in the UK here: <https://righttoremain.org.uk/toolkit/detention-centres>

You will also find links for helpful organisations if you or someone you know is detained.

When in the legal process can you be detained?

If you are at risk of detention, you could technically be detained at any time, but there are several points in the asylum and immigration process when this is more likely to happen:

- when you enter or re-enter the UK
- when you claim asylum, if the Home Office categorise your case as a safe third country case. If your case is categorised as a safe third country case, new inadmissibility rules may be applied and you may be detained when this happens, though the process for this is not yet clear.
- when you claim asylum, if the Home Office categorise your case as a non-suspensive appeals case. This will usually happen after your screening interview.
- if you have claimed asylum, been refused and you are “appeal rights exhausted”. This means after you have been refused and either have appealed to the First-tier Tribunal and lost your appeal; or if you did not take the opportunity to appeal; or if you did not have the right to appeal. Remember – this is a Home Office term and you may in fact have legal options/further appeals available to you.
- if you do not have any immigration status or applications pending. If you have a lawyer and they are in the process of preparing an application for you (for example, further submissions to be considered as a fresh claim) they may be able to provide a letter stating this. You could take this letter to your Home Office reporting events.

Where might you be detained (picked up) from?

You could be detained when you go for your regular reporting/signing event at the Home Office. This is more likely to happen if, for example, an appeal has recently been refused or your fresh claim has been rejected. You may not have been notified that this has happened (before you go to report/sign). Read below for how to be prepared when you go and sign/report.

You could also be picked up from your home (sometimes in a dawn raid – during the night), or during immigration raids on businesses, or during stop-and-searches at train and bus stations and other public spaces. Find out about your rights in these situations here: <https://antiraid.net/immigration-checks-know-your-rights/>

Who shouldn't be detained, according to the Home Office's own policy?

The Home Office's “**Adults at Risk in Immigration Detention**” policy sets out the conditions or experiences which will indicate that a person may be “particularly vulnerable

to harm in detention”:

- suffering from a mental health condition or impairment (this may include more serious learning difficulties, psychiatric illness or clinical depression, depending on the nature and seriousness of the condition)
- having been a victim of torture
- having been a victim of sexual or gender-based violence, including female genital mutilation
- having been a victim of human trafficking or modern slavery
- suffering from post-traumatic stress disorder (which may or may not be related to one of the above experiences)
- being pregnant
- suffering from a serious physical disability
- suffering from other serious physical health conditions or illnesses
- being aged 70 or over
- being a transsexual or intersex person.

If you are in one of these categories it does not necessarily mean, according to the Home Office’s point of view, that you will not be detained. It might be useful, however, for arguing that you shouldn’t be or detained or for arguing for your release if you are detained.

The Adults at Risk policy states that detention for people “at risk” could “become appropriate at the point at which immigration control considerations outweigh that presumption. Within this context it will remain appropriate to detain individuals at risk if it is necessary in order to remove them.”

You will probably need to provide independent evidence of falling within some of these categories, for example if you are a survivor of torture, trafficking or sexual/gender-based violence. This is particularly the case if being part of one of these categories forms a central part of your asylum claim. This is because the Home Office may not want to accept you are in one of these categories if it could mean they would have to believe what you have said in your asylum claim.

If you have been detained despite being in one of these categories, you may need a “Rule 35” report. Rule 35 requires detention centre doctors to report to the Home Office “any detained person whose health is likely to be injuriously affected by continued detention or any conditions of detention.” If you think this is the case for you, you should speak to a lawyer and/or contact the organisation Medical Justice.

In addition to the categories of *adults* at risk listed above, **unaccompanied minors** should also not be detained, apart from in exceptional circumstances. Sometimes children are wrongly detained by the Home Office, because the Home Office classify them as adults.

Be prepared in case you are detained

If you are at risk of being detained, there are some things that you can and should do to be prepared. Read the suggestions below of what you can do for yourself. You may also want to find out if there is a signing support group near you.

If you are being detained, make sure you don't sign any legal documents that you don't understand. Try and contact your lawyer as soon as possible (see below). Read the rest of the page for information on what to do if you are detained.

- You should have a list of **emergency contacts**, and someone else should have a copy. These might include your lawyer's number (and your case reference number the lawyer uses in letters to you), any close friends or family, people you have spoken to about caring for children in case of detention, doctors or hospitals if you have a medical condition. You might want to keep this list taped inside your phone cover.
- **Have copies of your documents.** If you are detained, it may become impossible for you to access your documents if they are in your home. This means that vital evidence that a lawyer or a friend/supporter needs can't be reached. *You* should have a copy of all your documents, not just your lawyer. Give a copy of these documents to someone you trust. Scan and email yourself copies of your important legal documents, so that you can access them if you are detained. If you haven't got an email address, ask someone to help you to set one up in advance. You don't need to take all your documents when you go and sign/report at the Home Office – just take the important and most recent ones.
- If you are on medication, take this with you when you go to report/sign at the Home Office. You should be able to keep this with you if you are detained, though you will be issued with new medication once you are detained. Also take your prescription for the medication with you, and if possible, a letter from your doctor explaining why you need it and why it should not be restricted or changed.
- If possible, give a friend a **copy of your house/room key**. If you are detained, they can go and get essential things for you from your house. This may not be possible, for example if you are living in asylum accommodation. Only give a key to someone you trust, and make sure you are allowed to do this under your accommodation rules. Alternatively, give a **consent letter** in advance to a friend giving permission to access your room in asylum accommodation if you are detained. This consent letter is also useful so that a friend can contact your lawyer on your behalf.
- **Your phone will probably be taken off you** when you are detained. Keep your important numbers written down (you may want to write a list on a piece of paper and keep this inside your phone cover). If it's possible to still use your own sim card, it's a good idea to have saved important numbers to the sim card beforehand (rather than to your phone handset) so the numbers will be still available in the replacement phone. If you have a smart phone, the sim card is unlikely to work in the detention centre device.

Signing support

Most people who have applied for asylum or other immigration status and have not had a positive decision have to regularly report at their local Home Office reporting centre or a police station. At every reporting visit, the person is at risk of detention, particularly if their application has been refused, which they may not know until they go and report.

Some people phone a friend just before they enter the reporting centre, with instructions for what to do and who to contact if they are detained. If the friend does not get a call within an hour or two to say they are safe, the friend can call their lawyer and/or support group if they have one.

In some areas, local support groups have set up systems to help with this. The person going to report will check-in with the group first, who keep a record of everyone's contact details and emergency instructions of what to do if they do not come out.

A system like this can save valuable time: friends/supporters can start finding out exactly where the person is, what has happened, and what can be done to help straight away.

A signing support system also means that the person going to sign knows people are looking out for them, and that there is a plan in place if things go wrong and they are detained. This can reduce the psychological burden of reporting/signing at the Home Office.

Read more: <https://righttoremain.org.uk/toolkit/signing-support/>

Legal options in detention

If you are detained, there can be big difficulties in accessing the legal advice you need to challenge your detention and/or progress your legal case.

Many people find that the lawyer that was previously representing them can no longer do so once they are detained, because the detention centre is too far away from where the lawyer is based. This isn't because they can't be bothered to travel – legal aid lawyers are very limited in the time and travel they can claim for under the legal aid funding scheme.

Some lawyers will continue working with you if they are in the middle of working on an aspect of your case, but communication will generally only be phone, email and fax. If there is a new legal matter to work once you are detained, your previous lawyer may not be allowed to represent you. This is because in England (where six of the seven detention centres are) only certain law firms are contracted to give advice to people in detention.

Legal aid contracted firms

At detention centres in England (all but one of the detention centres), legal aid advice is provided by contracted legal firms at each centre. These firms each have days allocated to them on a rota system, called the "duty advice scheme". You can sign up for an advice

session with one of these firms if you are in detention – often in the detention centre library or another communal space. Ask the staff at the centre, or other people detained there, how to do this.

The appointments get booked up very far in advance, and the quality of legal advice is variable.

If you experience problems signing up with the rota, or with the legal advice you receive, you can make a complaint to the solicitor firm, the Office of the Immigration Services Commissioner or the Legal Ombudsman.

In general, there is no legal aid for immigration matters (that are not asylum claims), apart from some cases involving domestic violence or trafficking. Read more at the Toolkit page *Your Legal Case*. If you have a non-asylum immigration case, you will probably not be able to get legal aid advice on your substantive case, though you may be able to get legal aid to challenge your detention.

Detention far from where you live

Nearly all removals/deportations take place from London airports. If you apply for asylum or other immigration status and live in Scotland, Wales or Northern Ireland and you are detained, you will very likely be moved to a detention centre in England prior to removal/deportation.

This makes it very difficult for your Scottish, Welsh or Northern Irish lawyers to continue to advise you. This is also a problem if you live in England and you are moved to a detention centre a long way from where your English lawyer's office is located.

If you claimed asylum or other immigration status and lived in Scotland or Northern Ireland, there is the additional problem of restricted legal aid in England if you are moved to a detention centre there.

ACTION SECTION

If you are unable to get legal advice from one of the contracted firms in immigration detention, you could think about these alternatives:

- pro bono legal advice. *Read more on the Lawyers and Legal Advice page of this guide.*
- Friends or volunteers may be able to provide *legal support* that does not involve giving legal advice. *Read more on the Lawyers and Legal Advice page of this guide.*
- fundraise for a private lawyer

If you are detained

The procedure in each detention centre is different. You may not be able to rely on the staff there to give you helpful information about procedure and your rights, so it could be a good idea to contact a local visitor group (see below). If you feel your rights are not being respected, let someone know. You may want to tell a visitor group, your lawyer, a friend or supporter, or make a complaint to the detention centre or the Home Office.

Communication

It can be difficult to keep in touch with people if you are detained.

At some detention centres the mobile phone signal is very poor. If you have your mobile phone and sim cards taken off you and you are given a detention centre device, the cost of calling out can be very expensive.

If you are supporting someone in detention, remember that many phone networks charge to pick up voicemail messages. If you don't get through to the person in detention, it's better to send a text message which they can read for free.

You should have access to the internet in detention, but you may have limited time to use the computers. Certain sites such as Facebook and Skype are blocked.

Chaplains/religious support

At every detention centre there will be one or more chaplains (religious ministers) who can provide support in many different ways. There are usually several chaplains from different faiths who work in rotation. Chaplains can provide religious support, emotional support, or help in practical ways too. The place of worship where the chaplain is based may provide a quiet place for reflection or prayer.

There are usually prayer groups in detention centres (often organised by people in detention), which some people find very comforting.

Visiting

"Having someone to visit you is so important. If no one comes to visit you, you think you belong in that place. Having visitors gave me something to reach for. It reminds you there's a world out there. After a visit, I felt like a human being."

Ed from Freed Voices

Friends and family can visit you in detention. They will need to find out the visiting times, notify the centre in advance (they may need to give 24 hours' notice) and bring ID with them. They can ring the detention centre to find out what form of ID they will need. They will have their photograph taken at the centre, and their fingerprints may be scanned as well. See the Home Office website for details of visiting each detention centre:

[gov.uk/immigration-removal-centre/overview](https://www.gov.uk/immigration-removal-centre/overview)

There are also **visitor groups** (co-ordinated groups of people, usually volunteers, who regularly visit people in detention to provide company and emotional support) set up for each detention centre and some prisons. The Association of Visitors to Immigration Detainees (AVID) has a list of these on its website: aviddetention.org.uk

If someone you know has been detained, you might want to arrange visits to see them. The isolation of detention can make it very difficult to keep your spirits up. Keeping engaged and communicating is essential not just for wellbeing but also for continuing with the legal process.

If a member of your group has been detained, you might want to think about fundraising to pay travel costs so group members can visit the person in detention. Detention centres are often difficult to reach by public transport, so sharing lifts in a car/petrol costs may be the easiest way of visiting.

Friends and family can visit you in detention.

Some groups also organise letter-writing sessions, where everyone gets together to write to someone they know (or even someone they don't) in detention. If a member of your group has been detained, you might want to take photos of the group getting together to take this action and send the photos to the person in detention, so they know people are thinking about them.

Detention in prison

If you have served a prison sentence after a criminal conviction, you may continue to be held in prison after you have finished your sentence, under immigration powers.

This can be very difficult as you have less access to services than people held in detention centres.

If you are detained in prison, you do not usually have access to a mobile phone or the internet. You are only allowed to call people whose number have been approved by the prison, which can take some time.

At the time of writing, there is also no legal advice surgery available (unlike in detention centres). This has been successfully challenged in court, however, so these may soon become available.

If you are being held in prison under immigration powers, you can request that the Home Office transfer you to a detention centre. The Home Office may refuse this request if you were convicted of a serious crime or you are considered dangerous in other ways.

The organisation BID have a team that works specifically with people in prison, and have produced a guide for people held in prison, which includes a template letter for requesting a transfer to a detention centre:

https://hubble-live-assets.s3.amazonaws.com/biduk/redactor2_assets/files/1143/2020-02-11_-_Prison_Information_for_Detainees_Held_in_Prisons_English.pdf

Getting out of detention

People should only be detained for what the law calls a “reasonable” period of time, and the power to detain only exists when there is a “realistic prospect of removal”. The Home Office must undertake regular detention reviews to justify continued detention.

Whether or not your removal/deportation is “imminent” may depend on whether emergency travel documents can be issued for you allowing you to be admitted back into your country, or if other barriers exist to your removal/deportation.

Immigration bail

If you have been detained, you can apply to be released by “immigration bail”. From January 2018, all migrants lawfully in the UK without leave to remain (including asylum seekers) are technically on immigration bail. This replaces the previous status of “temporary admission”. This section of the Toolkit refers specifically to immigration bail when someone is detained.

You can apply for bail if you have been in the UK for 8 days or more.

You can apply for bail from the Home Office, although this is not likely to be granted unless your application provides significant information about why you should not be detained according to their own rules that they were not aware of when they decided to detain you. Applying to the Home Office can be useful, however, for getting the Home Office to explain their reasons for detaining you and this might be useful for the next step. To apply for bail from the Home Office (“Secretary of State bail”) you need to use the form here www.gov.uk/government/publications/application-for-secretary-of-state-immigration-bail which can also be got from the Welfare Office in the detention centre in which you’re being held.

If your application for bail to the Home Office is refused, you can apply to the First-tier Tribunal to have a bail hearing in front of a judge.

The Tribunal cannot grant bail when removal is (supposed to be) within the next 14 days.

If your application for bail has been refused by the First-tier Tribunal, the Tribunal will automatically refuse any further applications for bail made within 28 days of the last refusal – unless you can demonstrate there has been a material change in your circumstances. You will have to convince the Tribunal of this change in writing, when you make your application.

If you cannot find a lawyer to help you with these applications, you can apply for bail yourself. Bail for Immigration Detainees (BID) have produced a handbook which can help with this: <http://www.biduk.org/pages/6>

The conditions of release on bail are usually a specified address, having a financial condition supporter and a requirement to report regularly at a police station or reporting centre. Sometimes people are released on condition of being fitted with an electronic tagging device.

If a period of your detention has been found to be unlawful by the High Court (if the Home Office has not followed its policy on reasonable length of detention, for example) you may be able to seek financial compensation (damages).

If you've been in detention for 4 months or more and you haven't applied for bail to the First-tier Tribunal, the Home Office should automatically refer you for bail on your behalf. This is called an "automatic" referral for bail. The Home Office won't do this if you are detained "in the interests of national security" or if they're taken action to deport you from the UK (following a criminal sentence)..

Addresses

Successful bail applications will include a particular address to live at on release. If you do not have an address (your own or a friend, family or supporter who can house you), the Home Office have the power to provide accommodation in "exceptional circumstances" if this is needed to ensure someone's liberty.

There are different processes for applying for accommodation because of "exceptional circumstances", depending on whether you have ever claimed asylum and whether you have been convicted of a criminal offence. You will need to try and show that you meet the test for exceptional circumstances accommodation when you apply for bail from the Home Office or the Tribunal. [Contact the organisation BID](#) for more information.

The [BID bail guidebook](#) says you must show that:

- You do not have any friends, family, people in the community, charities or other organisations who can accommodate you if you are released on bail
- You have no other way of finding accommodation
- You will have nowhere to live and you will have no way to support yourself if you are released
- You will be forced to live on the streets and this will be inhuman treatment (and therefore a violation of Article 3 of the European Convention on Human Rights)

BID also point out that it's important that the information you argue to support the points above doesn't contradict what you have said in your immigration case (for example, if you have said you have friends and family in the UK).

Financial condition supporters

A "financial condition supporter", previously called a "surety", is someone who puts up a sum of money guaranteeing the person applying for bail will keep to the bail conditions. If the person being released doesn't keep to the conditions, the supporter is liable to lose the money they have put up. This role is called a "cautioner" in Scotland.

Usually no money is handed over when someone agrees to be a financial condition supporter, but if bail conditions are broken the money will be taken from their bank account. The amount promised may be a significant amount – it can be thousands of pounds (and if the supporter has a high income, it may be even higher as it is meant to be an amount which would be difficult to lose).

The bail application form has space for two supporters, though this isn't a requirement. The supporter will need to attend the bail hearing and provide ID, proof of address, occupation, financial status and immigration status.

Note - a criminal record check and immigration record check can be undertaken of all people who act as financial condition supporters.

You do not need to be a British citizen to act as a supporter, but if you have problems with your immigration status, you need to consider whether it is safe for you to be a supporter for someone else.

Good financial condition supporters are close friends or colleagues, rather than family members, or supporters who do not know the person in detention well, but this is not always possible.

The Immigration Bail Observation Project Scotland has produced a useful leaflet and guide about being a cautioner, the bail procedure and providing bail addresses. While written for people supporting those in Scotland, the information is also useful for those supporting someone trying to get immigration bail elsewhere in the UK too.

Leaflet: <http://sdv.org.uk/wp-content/uploads/2016/10/Being-a-cautioner-leaflet.pdf>

Guide: <http://sdv.org.uk/wp-content/uploads/2016/10/Guide-for-Cautioners-Final.pdf>

Bail hearings

Bail hearings take place in front of a judge at court, but you are likely to stay in your detention centre and only join the proceedings via video link.

The bail hearing will consider things such as the release accommodation, financial conditions, the likelihood that the applicant will abscond (run away or not keep to reporting conditions), immigration history, family or community ties and factors such as health

conditions.

It's important to check the bail summary provided by the Home Office (their case for continued detention) as there are often mistakes in this that could be challenged. The bail summary should be made available to you and your lawyer (if you have one) the day before the hearing.

If someone is acting as your financial condition supporter, they will need to attend the bail hearing.

You may want a friend or supporter (apart from a financial condition supporter) to attend the bail hearing with you as an observer. If your bail hearing is taking place via video link, your friend would sit in the Tribunal with the judge, while you give evidence by video from detention. It is unlikely you will be able to see them or speak to them.