
HOW TO GET OUT OF DETENTION

The Self-help Guide
for Detainees

BiD Bail for
Immigration
Detainees

DISCLAIMER: This handbook is updated regularly and the information herein is, to the best of our knowledge, correct at the time of writing. However, immigration law changes frequently and it is advisable to check with a solicitor or qualified immigration advisor that the advice given in this book is up to date and relevant.

Bail for Immigration Detainees (BID)

Freepost RTSU-ZJCB-XCSX 1b Finsbury Park Road, London N4 2LA

Advice line telephone: 020 7456 9750 (Mon-Thurs, 10 am-12 noon)

Fax: 020 3745 5226

Email: casework@biduk.org

Website: www.biduk.org

NOTE TO READERS: WE HAVE TRIED TO AVOID USING WORDS WHICH ARE DIFFICULT TO UNDERSTAND. AN EXPLANATION OF SPECIFIC TERMS WILL BE FOUND IN THE **GLOSSARY** AT THE BACK OF THE BOOK

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Foreword:

A message to all those in detention from a former detainee

"My name is Dennis. I was detained at an Immigration Removal Centre for about 3 months. I was detained there after I had served a 15 month prison sentence for a criminal offence. On arrival at the Immigration Centre I was given bail forms by the Immigration Officer but I did not apply for bail because I felt that there was no hope of getting it. I had no sureties [people giving a financial guarantee] and no address. Soon after I arrived at the IRC one of my cellmates applied for bail and was refused. That discouraged me from applying for bail. My cellmate had put forward £1500 himself. I thought if my friend cannot get bail there was no hope for me with just £1. I then saw an advert for the BID workshop in the library. I got the handbook on bail and read it. When I read the handbook it still looked too good to be true that I could get bail but I decided to find out more.

When I was at the workshop I started to think I could get bail. BID helped me understand the way to get bail and the reasons I should give to the Immigration Judge. The workshop also made me understand that I could apply for bail many times. The first time I applied for bail I was not successful. I already knew from the workshop how I could apply for bail again so I was only a little upset.

My second application for bail was also unsuccessful. This time I was very upset. I did not want to apply for bail again because I could not see any hope of getting released. The bail summaries made me look bad and they got worse each time. It upset me to see what the Home Office was saying about me.

My friend encouraged me to apply for bail again. I applied for bail a third time. On the hearing date I felt positive. The Judge gave me bail. The Judge released me for the same reason that the previous Judge had used to refuse me. I felt really so happy to be released.

I am telling you this story because I think you can also get bail by representing yourself. You should try as many times as necessary. If you fail to get bail on one occasion you will learn how to correct things for your next application. It costs you nothing and you could gain so much. Goodluck."

General advice on how best to represent yourself

1. Make sure you keep all documents that are sent to you by the Home Office, or by your legal representative

You may be tempted to destroy documents which seem unimportant to you. **DO NOT DESTROY OR THROW AWAY ANY DOCUMENTS.**

However unimportant a document may seem, it could be important to your case. Keep any refusals of bail, bail summaries, or letters from the Home Office relating to your case. If you go to see a solicitor or advisor, take your documents with you, so that you can show them to the advisor.

2. If you fax the Home Office, make sure that you keep a copy of the letter and the fax receipt which shows that your letter was sent.

Fax receipts can be kept as evidence that you have written to the Home Office. It is their duty to respond to you if you contact them. If you can prove that they have not replied, it could help you with your case.

3. Try to remain polite at all times to removal centre staff, Home Office officials and immigration judges.

You may believe that you are being badly treated. You may also feel a sense of anger and frustration at your situation. However, if you behave in a way which is considered rude or aggressive, this may be used against you as an argument to keep you detained. Don't give officials a reason to make your life more difficult. If you have complaints, put them politely in writing, or use the IMB (Independent Monitoring Board) boxes in detention centres to complain.

4. Write to your caseworker to find out about the progress of your case.

This will not only keep you informed, but will also show the court that you are taking steps to progress your case. This could help you to get released.

Introduction

Who wrote this handbook?

Bail for Immigration Detainees (BID) is an independent charity. **We are not part of the Home Office or the removal centres.** We believe that everyone has the right to liberty. We help people who are detained to challenge their detention and gain their freedom. We do this by:

- Giving telephone advice on how to apply for bail.
- Running workshops and legal advice sessions in some removal centres and prisons to provide guidance to detainees on how to make their own bail applications.
- Making some bail applications on behalf of detainees ourselves. As we are a small organisation, we can only do this for a very small number of detainees.
- Carrying out research and policy work about detention and bail. We don't believe people should be kept in detention but while detention exists we provide evidence to the government, politicians, the courts and the removal centres to try and improve bail and detention procedures.
- Supporting solicitors to help their clients to challenge unlawful detention.

Why this handbook has been written

It is difficult for detainees to find good quality legal representatives who will help them apply for bail. BID thinks every detainee should have a legal representative who applies automatically for bail. Until this happens your only choice is to apply for release on bail yourself. This handbook tells you how to do this.

How to use this handbook

- Read the whole of this handbook.
- If BID runs a workshop in your removal centre or prison, come to the next workshop.
- Fill in the B1 Application for Bail form. This form is available in removal centre and prison libraries.

- Write a statement, also known as your 'grounds for bail'.
- Send your bail application to the court.
- Prepare for your hearing.

This handbook is about bail only and not your main immigration or asylum case.
The two cases are linked but separate because:

Your bail application case is about getting you released from detention.

Your immigration/asylum case is about why you should remain in the UK

Chapter 1: What am I doing here?

If you are reading this book, there is a good chance that either you, or somebody you know, is in immigration detention. You want to know what to do next. This is what this handbook is for. Because most people in detention do not have a background in the law, we have tried to write this book in a way which everyone can understand. We start with the basics...

What is immigration detention?

Around the UK there are several detention centres, which are used by the UK government to place people who they believe do not have a legal right to stay in the UK, or whose legal right to be here is being decided, while they try to remove or deport them. In addition, some prisons are also used for the same purpose.

Why am I in detention?

The reasons for your detention may vary, but the following groups of people are often detained.

- Foreign nationals who have been stopped at the border from entering the UK.
- Foreign nationals who have been arrested in the UK, because they do not have a valid visa.
- Foreign nationals who have been in prison for a crime, and have finished the custodial part of their sentence.
- Foreign nationals who have claimed asylum or who have applied for permission to remain in the UK, and are waiting for a decision.
- Foreign nationals who have been refused asylum or permission to remain in the UK, and are waiting to be removed.

There may be other reasons why you have been detained. The Home Office must tell you the reasons why you have been detained at the time of your detention. This is on a form called an IS91R. If you have not been given one, ask the Home Office to give it to you.

However, if you are still not sure why you have been detained, there are one or two ways to find out.

- Write to the Home Office and ask them to explain to you the reason for your detention.
- Look at your Monthly Progress Report (MPR), a document which should be sent to you by the Home Office every month you are in detention. This should state why you have been detained.
- Look at your Bail Summary. This is a document which you will receive from the Home Office the day before a bail hearing. There are more details about this in Chapter 9.

What is the point of detention?

This is a good question. The UK government believes that it is necessary to lock people up in order to make sure they do not disappear before they are removed from the UK. BID does not believe that detention is necessary. We believe that there are alternatives to detention which could still ensure that people stay in touch with the authorities, (without subjecting them to the indignity and deprivation of liberty which are the inevitable result of immigration detention).

Okay, so how long do I have to stay here?

Unfortunately there is no time limit on immigration detention. While most people are in detention for a few days or weeks, some people stay in detention for much longer, even for years.

Wait. I could be here for years?

These are extreme cases. Usually, prolonged detention happens when it is impossible to return someone to their country of origin, and where complex issues, such as risk to the public, are involved.

I see. So how do I get out of detention?

There are actually a few ways that someone can be released from detention. In the next chapter, we have a look at these.

Special categories of detainee:

If you fall into any of the groups below it is very important that you speak to your legal representative, if you have one, or the Detention Duty Adviser (the lawyer provided under legal aid in the removal centre) immediately:

- **If you have “removal directions”**

If the Home Office gives you “removal directions” (a date that you will be removed from the UK) it is generally not advisable to apply for bail while these directions are in place. BID cannot help stop people from being removed from the UK. You should contact an immigration solicitor to have a chance of stopping your removal.

- **If you are under 18 years old**

Home Office policy says that people under 18 who are alone in the UK should only be detained overnight while other care arrangements are made.

If the Home Office does not believe that you are under 18, ask your legal representative or the Detention Duty Adviser to contact the Refugee Council, Children’s Section by telephone on 020 7346 1134. Email: children@refugeecouncil.org.uk. Open Mondays to Fridays: 9.30am – 5.30pm.

- **If you are a torture survivor**

Home Office policy says that where there is evidence that a person has been tortured and that they are ‘particularly vulnerable to harm’ in detention, they are an ‘adult at risk’. You can still be detained if the Home Office decides that “immigration considerations” outweigh your level of risk. However, you should explain that you are a torture survivor to the medical centre in the removal centre and ask them to make sure the Home Office is also told about your torture. This is called a ‘Rule 35 Report’. You and your legal representative have the right to have a copy of this report.

The Home Office is required to consider a Rule 35 report within 2 days. If it decides to keep you in detention it will give its reasons to you in writing.

- **If you are suffering from a serious medical condition or have mental health problems**

The Home Office policy also says people suffering from a serious medical condition or mental health problems may also be defined as “adults at risk” and that special considerations must apply when deciding if they must be held in detention.

If you have serious medical issues, you should make sure that the detention centre staff are aware of these issues.

You can contact an organisation called Medical Justice. You can make an on-line referral yourself, or your legal representative, family member, visitor can do this for you. Their website is: www.medicaljustice.org.uk. Telephone number: 020 7 561 7498.

You should immediately apply for bail, and make sure that you provide the court with evidence of your condition, so that they can see that detention is not a suitable place for someone in your condition.

If you have a child in the UK, the Home Office has a duty to consider the welfare of children when considering whether to detain you.

Chapter 2: Four ways out of detention

There are basically four ways to get released from immigration detention:

- By Home Office Bail
- If your main immigration case is successful
- Release by the High Court
- Bail from an immigration judge (Tribunal bail)

Can I apply for bail to the Home Office and to the First-tier Tribunal at the same time?

Yes. You can apply for bail to the Home Office as many times as you want and even when you are applying for Tribunal bail.

It costs nothing to ask for Home Office bail, and it is a good idea to try. Even if the Home Office refuses your bail application it is still useful to get a response from them.

Home Office bail

You can apply for bail to the Home Office using Home Office Form 401. You should be given a copy of this form by staff at your Immigration Removal Centre or by the Home Office if you are detained in a prison.

Form 401 is similar to the B1 bail form that is used to apply for Tribunal bail. We explain how you should to complete the B1 bail form later in this Notebook.

Home Office bail is considered on the papers only. You will not have a bail hearing.

You should receive a decision from the Home Office within 10 days of making your bail application. Make sure you keep a copy of your bail application and any letters. If you do not receive a reply by the time you apply for Tribunal bail, it may be helpful to show the immigration judge a copy of your Home Office bail application and any letters. The judge will see that you have not received a reply and may ask the Home Office to explain why it has not responded to your request.

If your main immigration or asylum case is successful

If you are successful with your main immigration or asylum case and the Home Office grants you permission to remain in the UK you should be released because the authorities no longer have the power to detain you.

However if you win an immigration or asylum appeal it is possible that the Home Office will keep you in detention while it appeals or while it decides if it will appeal against the decision. However the fact that you have won your appeal will help you when you apply for bail.

Release by the High Court

The High Court of Justice (usually known as the High Court) is one of the Senior Courts for England and Wales. Among other things, the High Court can look at the way decisions have been made by other courts and authorities (including the Home Office).

If the Home Office has detained you without following the law correctly, you may be able to ask the High Court to decide if your detention is lawful or not. This is called an “application for Judicial Review”, or “JR”. Going to the High Court is complicated and expensive and normally you would need a solicitor and legal aid to help you do this.

Bail from an immigration judge (Tribunal bail)

Bail that is considered by the First-tier Tribunal (or Tribunal bail) is when those who are detained by the Home Office are released by an immigration judge, on certain conditions. All immigration detainees have the right to apply for Tribunal bail if they have been in the UK for at least 8 days.

Why should I bother applying for Tribunal bail?

You will get an independent person (called a First-tier Tribunal judge or immigration judge) looking at your detention to see if the Home Office arguments are strong enough to justify keeping you in detention. If you do not apply for Tribunal bail nobody other than the Home Office will review your detention.

Your voice can be heard and you will not remain invisible behind the walls of a removal centre or prison.

To apply for Tribunal bail yourself

- You do not need to know the law.
- You do not need to know legal words.
- You do not need to speak English. You can ask for an interpreter.

This handbook deals mainly with bail from an immigration judge because this type of bail application is the only independent review of your detention. You can ask the immigration judge to release you even if you don't have a lawyer to help you.

In the next chapter, we talk about getting legal advice and working with a legal advisor.

Chapter 3: Getting Legal Advice

How do I ask a legal representative to apply for Tribunal bail?

If you already have a legal representative such as a solicitor, (s)he is the best person to ask for advice on bail or to make a bail application for you. It is part of their job to consider making applications for your release.

Although there are free advisors who visit detention centres (see below), if you have money you may wish to pay for a solicitor to work on your case.

IMPORTANT: NEVER PAY A SOLICITOR OR ADVISOR TO WORK ON YOUR CASE WITHOUT FIRST CHECKING THAT THEY ARE FROM A TRUSTED ORGANISATION. THERE ARE DISHONEST ADVISORS WHO WILL TAKE YOUR MONEY, BUT WILL NOT DO ANYTHING TO HELP YOUR CASE, OR WORSE, WILL DAMAGE YOUR CASE. THE LIBRARY OF YOUR DETENTION CENTRE SHOULD HAVE A LIST OF TRUSTED ADVISORS.

The Detention Duty Advice scheme (DDA)

The Detention Duty Advice (DDA) scheme is free legal advice provided by lawyers and advisors regulated by the Legal Aid Agency (LAA).

Under this scheme, each Immigration Removal Centre (IRC) has lawyers available at the centre a few days each week. The lawyers will come to the IRCs to give advice and the advice they give is free of charge. To make an appointment you need to sign up in the library. Only law firms with a DDA contract for your removal centre can take on your case under legal aid (public funding).

If you have a non-DDA solicitor working for you *before* you are detained, and they are still working for you, then that is fine, they can carry on representing you as long as they have done at least five hours of work on your case.

To find out which organisations have the DDA contract for your removal centre, please see the DDA section in the back of this book. Please check that this information is up to date, as the solicitors who visit can change.

The lawyers on the DDA scheme have been told by the LAA that they should look at your bail case separately from your main immigration case. In many cases they should apply for bail even if your main immigration case cannot be given public funding.

If you are held in prison, your situation is different. You can contact any solicitor to help you, as long as their offices are located within reasonable visiting distance from the prison. Ask a prison officer for a list of nearby solicitors.

My solicitor is bad. Can I complain?

To start with, you should tell your solicitor that you are not happy with their work. If that doesn't solve the problem, you should complain to your legal representative in writing. They must respond to your complaint in writing within a certain time.

If you are not happy with their response, you can complain about them to either the Solicitors' Regulation Authority (SRA), the Legal Ombudsman, or the Office of the Immigration Services Commissioner (OISC):

1. If your legal representative is a solicitor you can complain to the Solicitors Regulation Authority (SRA). You can contact them on 0370 606 2555. For more information check their website at www.sra.org.uk.
2. You can also complain about your solicitor to the Legal Ombudsman on 0300 555 0333, Mon-Fri, 8:30am-5:30pm. For more information check their website at www.legalombudsman.org.uk.
3. The Office of the Immigration Services Commissioner (OISC) is in charge of regulating all immigration advisers who are not regulated by the Solicitors Regulation Authority or the Bar Council. You can contact them by telephone on 0345 000 0046 or check their website at <https://goo.gl/qVnSRn>

Will my solicitor apply for bail for me?

You will have to ask your solicitor whether they will make an application for bail. There are a number of reasons why your legal representative may not wish to make a bail application for you, for example:

- They are trying to get you out of detention in another way.
- They are waiting for a change in your case (particularly where you have already had a bail application that has recently been refused).
- They say you need people supporting you with financial guarantees or accommodation.
- You have 'Removal Directions' (i.e. the Home Office has issued you with notice that you will be removed from the UK).
- They think that your bail application has little chance of success or say they cannot use public funding (in this case, you have a right of review (appeal) against a refusal of legal representation from a legal aid solicitor).

If your solicitor is not helping you to apply for Tribunal bail, remember that you can still make an application yourself without a solicitor. The rest of this handbook is dedicated to explaining exactly how to do this.

Chapter 4

Frequently asked questions about bail

If you are detained, making a bail application is probably your best chance of getting released. We don't think you will regret making an application for bail. It means that you will be taking steps to end your own detention. Whatever the outcome, your case will be heard by an independent judge in a court.

Whenever we at BID meet detainees and explain about bail, we find that people ask the same questions. So, to begin with, we will answer the most common questions about bail.

Can I apply for bail?

Yes. Anyone can apply for bail who is in immigration detention and has been in the UK for eight days. You cannot apply for bail if you have already had a bail application within the last 28 days (and your circumstances have not significantly changed).

You cannot be granted bail if the Home Office issues you with directions for your removal from the UK within 14 days of your bail hearing. Removal directions should therefore include an actual date for when the Home Office intend to remove you.

How much does bail cost?

Nothing. It costs nothing to make a bail application if you do it yourself. If you instruct a legal aid lawyer you can be sure that they have been trained in immigration law. If you instruct a private solicitor, they will charge you for a bail application. They might charge between £400 and £1000 to do so. Unless you have a lot of money, it is probably not worth paying a solicitor to do bail for you.

Do I need to give a financial guarantee?

The First-tier Tribunal or the Home Office can ask if you or someone you know is willing to give a financial guarantee. The financial guarantee is given by someone (also known as a 'financial supporter') who can come to court, and promise the court money if you were to run away.

YOU DO NOT NEED A FINANCIAL GUARANTOR OR SUPPORTER TO APPLY FOR BAIL.

Please refer to the next chapter for more information about financial supporters.

Can I go for Tribunal bail without an address?

Yes, although it may be easier to obtain Tribunal bail if you have an address where you can live if you are released on bail. If you do not have anywhere to live, you can explain to the Tribunal that you do not know anyone who can accommodate and support you and that you will need the Home Office to provide you with accommodation if you are granted bail.

I have applied for Home Office bail. Can I apply for Tribunal bail too?

Yes. Home Office bail is asking the Home Office (the detaining authority) to release you on bail. You can apply for bail at the same time to the First-tier Tribunal.

I want to apply for bail, but I am worried about the effect on my immigration case.

Don't worry about this. Applying for bail cannot affect your immigration case.

How many times can I apply for bail?

You can apply for bail as many times as you like. The only condition is that you must wait 28 days between bail hearings, unless there is a change in circumstances.

What is a 'change in circumstances'?

That is a good question. It depends. If you think that your circumstances have changed significantly enough to lodge a hearing earlier than 28 days, you may wish to discuss the issue with BID.

Chapter 5:

Financial guarantors/supporters (Sureties)

If you have read the previous chapter, you will know that you do not need a financial guarantor/supporter (**also known as sureties**) to apply for bail.

However, if you are lucky enough to have financial supporters, this chapter explains more about using them.

What is a financial guarantor/supporter?

A financial supporter is someone who promises the court that he or she:

- Can make sure you keep in contact with the authorities if you are released from detention.
- Will pay money if you run away (abscond) or do not keep to conditions set by your release.

**YOU DO NOT NEED A FINANCIAL SUPPORTER TO APPLY FOR BAIL.
HOWEVER, THEY CAN HELP TO MAKE A BAIL APPLICATION MORE
LIKELY TO SUCCEED.**

Do you need a financial guarantor/supporter to apply for bail?

No. You can still get bail if you do not have a financial supporter. However, a financial supporter will make a grant of bail more likely.

If you have a financial supporter, you will need to put their details on the bail application form. You can also explain your relationship with your financial supporter in your 'grounds for bail'. There is space on the form for two financial supporters but you can have more than two, or only one, if you wish.

Who can be a financial guarantor/supporter?

Anyone who is legally in the UK. This includes people with student visas, people with refugee status, people with work permits, and European Union nationals. Asylum seekers can stand as financial supporters. People who are

unemployed can be financial supporters, but they must have enough money.

If your potential financial supporter has a criminal conviction, it is probably best not to use them. You can discuss this with BID.

It is a good idea for your financial supporter to have met you a few times at least, so that she or he can explain to the immigration judge that they know you well enough to make sure you keep in touch with the authorities. If they have not met you many times, but you have spoken many times on the telephone, the judge may accept them as a financial supporter.

Your financial supporters need to attend the bail hearing because the immigration judge will want to speak to them. Normally the immigration judge will not accept a financial supporter who does not come to court.

Many people ask BID if a bail hearing can be held in another hearing centre so that their financial supporter can attend their bail hearing. The answer is, unfortunately, no.

Can I put forward financial supporters if I apply for Home Office bail?

Yes. You can use financial supporters as part of an application for Home Office bail by entering their details on Home office form 401 in the same way as you would on the Tribunal B1 bail application form.

SEE PAGE 31 TO SEE WHICH COURT YOUR FINANCIAL SUPPORTERS MUST GO TO. IT IS DIFFERENT FOR EACH DETENTION CENTRE.

How much money must the financial supporter promise?

- There is no fixed amount.
- The financial supporter needs to offer an amount they would not want to lose. For some this may be £100 but for others it may be £2000 or more. It depends on the financial supporter's income and any savings.
- The money offered must belong to the financial supporter and must have been in their bank account continuously for 3 months.

It cannot be money which is borrowed, for example, a bank loan or money from friends.

- The financial supporter must bring the last 3 months' bank statements and/or pay slips to prove to the judge that they have the money.
- If you are applying for Home Office bail you will need to submit copies of the relevant evidence such as bank statements to the Home office with your Home Office bail application Form 401.
- The money will not be taken from your financial supporter unless you run away or break a bail condition.

When do you tell the court about your surety?

You must give details of your financial supporter at section 4 of the B1 bail application form because the Home Office will carry out a police check on your financial supporter before your bail hearing. A person cannot just come to the court on the day of the hearing and be a financial supporter. Normally the court and the Home Office need at least 48 hours' notice of who your financial supporter is so that all the checks can be done.

What happens to the financial supporter's money?

If you comply with all the conditions of release	If you do not keep to the conditions of your release	If you are given permission to stay in the UK or are removed from the UK
Your financial supporter will not have to give money to the Tribunal or to Home Office.	The Home Office or the Tribunal will take steps to recover money from your financial supporter.	Your financial supporter's responsibility ends and they are no longer at risk of losing money.

Can you find a financial supporter if you have no friends or relatives in the UK?

Many asylum seekers and migrants do not have any friends or relatives in the UK. It may be possible to build up a relationship with a visitor from a visitors' group or charity who will then offer to be a financial supporter. In general, however, there is no organisation that provides financial supporters to detainees.

Chapter 6: Accommodation

This section of the Notebook will be revised on a regular basis as we learn more about detainees' rights to accommodation and support and any application procedures and policies that the Home Office may introduce over the next few months.

I do not have accommodation to which I can be released on bail, what should I do?

People who need to be provided with accommodation if they are released from detention can no longer apply for Section 4 support.

If you do not have an address to live at if you are granted bail it might be best to apply for Tribunal bail instead of Home Office bail. This is because when you apply for Tribunal bail you can argue that you are destitute and will not have an address if you are released on bail and that the Home Office should therefore grant you bail accommodation and support. It will then be up to the Tribunal to decide if it will grant you bail with a direction for the Home office to provide you with accommodation; or if you should be granted 'bail in principle' until the Home Office provides you with accommodation.

What if the Home Office says in its bail summary that I do not meet its test for exceptional funding?

You could argue:

- The Home Office has not introduced a system for applying for 'exceptional circumstances' accommodation
- You are destitute and do not have any money or another person who can provide you with accommodation and support

What if I am granted bail by the Tribunal with a residence condition and the Home Office refuses to provide me with bail accommodation?

You will need to obtain legal advice from a solicitor or from BID about what steps you can take. It might be possible for you to take a legal challenge to make sure that the Home office provides you with accommodation and support.

What if the Tribunal wishes to grant me bail but with a condition of electronic monitoring and/or a curfew, but I do not have an address to which I can be bailed?

This may make your case to be provided with accommodation even stronger since there will be a greater obligation on the Home Office to ensure that arrangements, including support and accommodation, are put into place so that you can be released on bail.

What if after completing a criminal offence and being detained under Immigration Act powers I am still under licence and need to have a bail address that must also be approved by the Probation Service?

Home Office policy requires that a 'release plan' is prepared at the end of your criminal sentence (when you would normally be released on parole) that also identifies whether or not you have accommodation to which you can be released.

You should ask the Home Office and/or the Probation Service for you to be provided with a copy of your release plan.

You should make sure that you have a copy of your release plan when you apply for bail. If you do not have a copy of the release plan you can ask the Tribunal to issue a direction to the Home office to provide a copy of your release plan along with its bail summary which will be issued to you the day before your bail hearing.

What if my release plan states that I do not have any exceptional circumstances and I do not need accommodation and support?

Speak to a lawyer about challenging this decision. But also:

- Check the Home Office reasons to see how you might be able to argue against them:
 - Has the Home Office identified where it thinks you can be accommodated? Why is the Home Office wrong?
 - Has the Home Office identified how it thinks you can be supported? Why is the Home Office wrong?

What if I apply for Home Office bail without an address?

If you apply for Home Office bail without an address you can also ask the Home Office to give you an address where you can live. When you apply for bail you will need to show that an address should be given to you because of your 'exceptional circumstances'.

But be aware that the Home Office sometimes releases people from detention without providing them with an address to live at. They have a strict test that you must meet before you are offered an address (see below).

What is the test for 'exceptional circumstances' bail accommodation?

You must show:

- 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)

Be aware that when you argue these issues that relate to your accommodation needs, they may have an impact upon your immigration case. For example, if

you have previously said that you have family in the UK, or if you claim to have lived in the UK for a long time and the Home Office does not accept your claim and asks you for evidence of your ties to the UK, etc. You must make sure that what you say to the Home Office is consistent with what you have previously said.

If you are an asylum seeker or have been refused asylum but need accommodation

You will need to apply to the Home Office for either support under Section 4(2) or Section 95 of the Immigration and Asylum Act 1999. This application is made using Form ASF1 'Application for asylum support' that is available from the Home Office website.

Accommodation with a friend or relative

Friends or relatives can offer to accommodate you if you are released. The person offering you accommodation needs to be legally in the UK. He or she does not need to be British.

To give you the best chance of your accommodation provider's offer of accommodation being accepted by the Tribunal it will help to show:

- An identity document - for example: a passport, driving licence, or status papers (refugee status papers, indefinite/exceptional leave to remain papers or a residence permit).
- If he or she rents the accommodation, the tenancy agreement/rent book and a letter from the landlord (if it is unclear from the tenancy agreement that the person has permission for people to stay there).
- If he or she owns the accommodation, the mortgage documents or other evidence to show that he or she owns the house/flat.

However even if the accommodation provider is unable to show that they have the landlord's permission to allow you to live at their address it is still worthwhile applying for Tribunal bail.

Accommodation provider attending court

Your bail application will be stronger if the person offering accommodation comes to court. If the person cannot come to court, the immigration judge will sometimes accept a letter which explains why he or she cannot come to court to confirm the offer of accommodation.

My landlord or accommodation provider is worried he is not allowed to let me live at his address

If the Tribunal decides to grant you bail with a condition that you live at your accommodation provider's address (a 'residence condition') the Home Office policy is that you will have 'permission to rent' at that address.

If you are under criminal licence

You should be aware that if you are under licence for a criminal offence, you will need to get any proposed address checked by the Probation Service before applying for bail.

If you have served a prison sentence for a criminal offence the Home office and Offender Managers are required to work together to prepare a '**release plan**'. This will take into account your situation if you are to be granted bail including:

- If you will need Home Office accommodation
- If you will have particular accommodation requirements (for example relating to where the accommodation may or may not be located)
- If you will be able to support yourself in the accommodation
- If you meet the 'exceptional circumstances' criteria, meaning that you cannot support yourself and you will be destitute if you are not provided with accommodation and support.
- Whether or not you present a high risk of offending or of harm if you are released from detention; and whether or not you are entitled to apply for support as an asylum seeker or as a refused asylum seeker.

Request a copy of your ‘release plan’

You can ask the Home Office to give you a copy of your release plan. If it refuses to give this to you, you can make a formal request under the Freedom of Information Act for disclosure of the release plan.

You can also explain to the First-tier Tribunal that you have requested the Home Office to provide you with a copy of the release plan and show the Tribunal copies of letters relating to the request.

You can speak to BID if you need more advice about steps to take to obtain a copy of your release plan.

Chapter 7: How to apply for bail

I think that I am ready to apply for Tribunal bail. What do I do now?

This is the easy part. You just have to fill in the B1 application form for bail and send it to the correct tribunal.

The B1 bail application form

To apply for bail you will need to fill in a form called “Application to be released on First-tier Tribunal bail”. It is also called a B1 Form.

The B1 application form is available online. You can just type B1 bail application form into your internet search engine.

Alternatively, you can find this form at the BID website (www.biduk.org).

Otherwise you should be able to get a copy of this form from your detention centre. Please ask a member of staff to tell you where you can get this. Remember, the B1 form is different to Form 401 which is an ‘Application for Secretary of State immigration bail’ (Home Office bail).

Or just contact us at BID and we’ll send you one with our ‘outreach pack’

On the next few pages is an example of a completed B1 form with some hints about things that you may not understand when filling in the form.

THE IMMIGRATION ACTS		Application to be released on First-tier Tribunal bail		Form B1
Section 1		Personal Information of the Applicant		
A	Home Office reference number	M1234567		
B	NOMS (HMPPS) number (if applicable)			
C	Your surname or family name. Please use CAPITAL LETTERS	SMITH		
D	Your other names	JOHN		
E	Name and address of the place where you are detained	Name: IRC COLNBROOK Address: HARMONDSWORTH WEST DRAYTON MIDDLESEX Postcode UB7 0FX		
F	Your date of birth	(day) 14 / (month) 11 / (year) 1974		
G	Are you male or female?	Male <input checked="" type="checkbox"/> Female <input type="checkbox"/>		
H	What is your Nationality?	MOROCCAN		
I	Date of your arrival in the United Kingdom	(day) 14 / (month) 05 / (year) 2014		
J	Do you have a representative?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/> If yes, your representative should complete the rest of the form		
Section 2		About your application		
A	Do you have an appeal hearing pending in the First-tier Tribunal (IAC)?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	What is the appeal number, if you know it?	
B	Have you made an application for immigration bail before?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	What is the bail number, if you know it?	
	If yes, have you been refused immigration bail at a hearing within the last 28 days?	No <input checked="" type="checkbox"/> Yes <input type="checkbox"/>	If yes, what was the date of that hearing?	/ /
C	The address where you plan to live, if your bail application is granted.	Number/Street 28 CAMBERWICK GREEN		
		Town	TRUMPTON	
		Postcode	TR21 4PT	

Put your personal details in this section

Put the address of your place of detention here

Don't worry if you don't know these numbers

See page XX for more information

Section 3		Your Financial Condition Commitment	
The Judge may consider that a Financial Condition should be added to ensure that you honour the conditions of bail if granted. Please indicate how much you agree to be bound to pay if you breach any of the other conditions of bail.			
A	Financial Condition	I agree to be bound to a Financial Condition No <input type="checkbox"/> Yes <input checked="" type="checkbox"/>	
B	Amount of Financial Condition (if any)	£ 1.00	
Section 4		People Supporting the Financial Condition (if any)	
If a Judge decides that a Financial Condition should be added you can ask someone you know to help you meet that condition			
		Supporter 1	Supporter 2
A	Surname or family name. Please use CAPITAL LETTERS.		
B	Other names		
C	Address		
		Postcode	Postcode
D	Email address		
E	Telephone number		
F	Relationship to the Applicant		
G	Immigration Status		
H	Occupation		
I	Financial Condition Amount	£	£
J	Date of birth		
K	Nationality held		
L	Current valid Passport number		
Notice to the Applicant		Please make sure that you and your Financial Condition Supporters bring your passports and bank statements to the bail hearing if any of you are offering any money to support a financial condition on this application for bail.	

Just put £1.00 here

This is where you put the details of your financial condition supporters. Try to fill in all the information. If you don't have any financial supporters, leave it blank!

Section 5	The grounds on which you are applying for bail
	<ul style="list-style-type: none"> In this section you should set out all the reasons why you think you should be released. If you have had a previous application for bail refused, you must give full details of any additional grounds or change in circumstances since then. If that refusal was within the last 28 days, the application you are now making will be dismissed without an oral hearing unless you can show that there has been a material change of circumstances. Give as much detail as possible: use additional sheets of paper if you need to, and attach them to this form.
<p>I CANNOT BE REMOVED SOON BECAUSE I HAVE NO TRAVEL DOCUMENT TO RETURN TO MY COUNTRY.</p> <p>I WILL NOT ABSCOND BECAUSE:</p> <ol style="list-style-type: none"> I HAVE A FINANCIAL CONDITION SUPPORTER I HAVE NEVER ABSCONDED BEFORE I CLAIMED ASYLUM AS SOON AS I ENTERED THE UK <p>OTHER REASONS:</p> <p>I HAVE A MEDICAL CONDITION WHICH MEANS THAT I MUST SEE A DOCTOR FREQUENTLY. SEE MEDICAL REPORT ATTACHED.</p>	
<p>If the Tribunal grants bail it may Direct that future management of bail should be transferred to the Home Office. Where the Tribunal makes that Direction, all future proceedings will be conducted by the Home Office (including any hearing to determine liability for payment of a financial condition).</p> <p>Do you consent to future management of bail being Transferred to the Home Office?</p> <p>No <input checked="" type="checkbox"/> Yes <input type="checkbox"/></p> <p>If No please briefly explain why here?</p>	

Here is where you can write your grounds for bail.

If you wish to write more grounds, you can use an additional sheet of paper and send it with the form. Try not to make them too long, though.

Make sure your handwriting is neat and legible.

Make sure you address the key points:

1. Why you will not run away.
2. Why your removal will not take place in the near future.
3. Any other issues specific to your case, such as medical issues or issues with your past offending.

BUT REMEMBER!

If you want to assert something in court (such as a medical problem), you need to send evidence with your B1 form so the court can have proof.

Here you can write the following: I need to look at the Home Office bail summary and the conditions that it wants to impose on me if I am granted bail before I agree to the transfer of bail to the Home Office.

Section 6		At the hearing of your application	
A	Will <u>you</u> need an interpreter?	No <input type="checkbox"/> Yes <input type="checkbox"/>	If yes, give details below
		Language(s): SPANISH	Dialect (if required):
B	Will your Financial Condition Supporter(s) need an interpreter?	No <input type="checkbox"/> Yes <input type="checkbox"/>	If yes, give details below
		Language(s):	Dialect (if required):
C	If you, your legal representative or your financial condition supporter(s) have a disability, please explain any special arrangements needed for the hearing.		
D	<p>The hearing of this bail application may be by a video link. If it is you will remain at the detention centre. Where there are exceptional circumstances and it is considered that you are unable to use the video link, please give reasons and a Judge will decide whether the application will be heard in person or by video link.</p> <p><i>You will be informed of this decision when the case is listed.</i></p>		
Section 7		Representation	
		If you have a representative, he or she must complete this section.	
A	Declaration by the Representative	I, the representative, am making this application in accordance with the Applicant's instructions.	
	Representative's signature and date.	/ /	
B	Name of the representative. Please use CAPITAL LETTERS.		
C	Name of the representative's organisation.		
D	Postal address of the organisation.	Number/Street	
		Town	
		Postcode	

If you or your financial conditions supporters need an interpreter you should tick yes and write the language here. It is completely free.

If you have a disability, state it here, so that the court can make arrangements

Note that this entire section (section 7) has been crossed out. If you are doing your own bail application you don't need to fill this in.

If a solicitor was representing you, they would fill in this section on your behalf.

E	Reference for correspondence	
F	Telephone number	
G	Mobile number	
H	Fax number	
I	Email address	
J	CJSM email address (if you have one)	Do you agree to receive correspondence by CJSM email? No <input type="checkbox"/> Yes <input type="checkbox"/>
K	Are you an office regulated by the Office of the Immigration Services Commissioner (OISC)?	No <input type="checkbox"/> Yes <input type="checkbox"/> Please provide OISC reference:
L	Has the Applicant been granted publicly funded legal representation?	No <input type="checkbox"/> Yes <input type="checkbox"/> Please provide the LSC reference if applicable:
Notice to representatives You must notify the Tribunal Hearing Centre at which the bail application is made, and other parties, if you cease to represent the Applicant. If the Applicant changes representative, details of the new representative should be sent to the same address to which you are sending this form. Please give the Applicant's full name, address, and Home Office reference number.		
Section 8		
Statement of Truth		
If you have completed this form yourself, you must complete the declaration.		
A	Your Declaration	I believe that the facts stated in this application are true.
	Your signature and date.	<div> <div><i>John Smith</i></div> <div>01 / 01 / 2018</div> </div>
B	Please print your full name in CAPITAL LETTERS.	JOHN SMITH
Section 9		
When you have completed the form		
What you should do next. <ul style="list-style-type: none"> Keep a copy of this form for your own use. Send the original form to the appropriate Tribunal Hearing Centre. This is normally the closest to your place of detention but you can find the appropriate First-tier Tribunal (Immigration and Asylum) hearing centre by asking staff at your place of detention or at the link below: https://courttribunalfinder.service.gov.uk/search/		

Just sign and date the form.
Now it's finished.

Where to send the form

When you have filled in the form you will need to send it to the bail clerk at the court which deals with your Removal Centre. It is best to send your form by fax so that you have proof that you sent it.

Here are the contact details of the various courts:

Removal Centre	Court	Fax Number
Brook House	Taylor House	0870 739 4055
Campsfield House	Newport	0870 739 4406
Colnbrook	York House	0870 761 7670
Dungavel	Glasgow	0141 242 7555
Harmondsworth	York House	0870 761 7670
Morton Hall	Stoke, Bennett House	0870 324 0108
Tinsley House	Taylor House	0870 739 4055
Yarl's Wood	Yarl's Wood IAC	01264 347 997
Yarl's Wood	Birmingham (see note below)	0870 739 5792
Prisons (HMPs)	Please ask an officer in your prison	

There is one telephone number for all the hearing centres:

Telephone number for IAC Support Centre	0300 123 1711
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Do I need to send anything with the form?

It is a good idea to send any evidence you are relying upon with your bail application form. That means any medical documents, certificates, official documents, and so on. Make sure you keep copies.

If you have financial supporters, they can bring their documents (bank statements, payslips) to court themselves. They must not forget these.

If your accommodation provider is attending court, they can bring the accommodation documents with them. If they cannot come to court, you should send these documents to court with your bail application form.

What happens after I have sent the form?

The court will send you a hearing date. This is the date you will go to court and have your application for bail decided by the Immigration Judge.

Normally the hearing date is within 3 days of the submission of the B1 application form but it can take longer. If you want the court to set your date for a particular day then tell them in writing when you send the application form. Your chosen date needs to be at least 3 days after the date you submit your application.

The court will send a copy of your form to the Home Office who will write a 'bail summary'. The bail summary is explained in Chapter 9 - Hearing Date.

Chapter 8: Grounds for bail

This chapter deals with Section 5 of the application to apply for bail (B1).

Section 5 of the B1 form is called “The grounds on which you are applying for bail.” It looks like this:

Section 5	The grounds on which you are applying for bail
	<ul style="list-style-type: none"> • In this section you should set out all the reasons why you think you should be released. • If you have had a previous application for bail refused, you must give full details of any additional grounds or change in circumstances since then. • If that refusal was within the last 28 days, the application you are now making will be dismissed without an oral hearing unless you can show that there has been a material change of circumstances. • Give as much detail as possible: use additional sheets of paper if you need to, and attach them to this form.
<p>In this box, give all the reasons why you think you should be released.</p>	

Applying for bail again within 28 days of your last bail application

If you are applying for bail again within 28 days of your last bail application you must explain what change in circumstances there have been to allow you to do this. This may be for example because:

- Your last bail refusal shows that you were previously refused bail because you did not have any financial supporters but now you do.
- Your last bail refusal shows that you were previously refused bail because your financial supporters or accommodation provider did not have the evidence that was required by the immigration judge but now they have the evidence.
- There have been developments to show that you can no longer be removed from the UK. For example, your national authorities have refused to issue a travel document for you to enable you to be removed from the UK. Your removal is therefore not imminent.
- You are now able to respond to a reason previously given to refuse your last bail application.

Grounds for bail

You can also see in the box it asks you to “give all the reasons why you think you should be released.”

This is a very important part of the application form. It is an opportunity for you to tell the immigration judge the reasons why you think you should be released on bail. We suggest that you use a separate piece of paper to write your grounds for bail.

The next few pages may help you to write your grounds for bail. Please read the sections which apply to you.

Before you start, here are some important points:

1. You do not have to write your grounds for bail on the B1 form itself. You can use additional sheets of paper. We suggest you use our template form on page 43.
2. Do not use your grounds for bail statement to argue immigration issues. For example, do not say “I will be killed if I am returned to my country”. Although this may be true, it may give the judge the idea that you may run away if released. This is not what you want them to think.

Your Grounds for Bail Statement

Many people in detention are refused bail for the same reasons. The most common reasons why people are refused bail are:

1. The judge believes that they are ‘likely to abscond’ (run away) if released from detention.
2. The judge believes that they are likely to be removed from the UK ‘imminently’ (soon).

A third reason is often used to refuse bail in many cases:

3. The judge believes that, if released, they are likely to reoffend. This only applies to those who have been convicted of a criminal offence in the past.

There may be other reasons which the judge uses to refuse bail, but the three mentioned here are the most common. We therefore recommend that you include in your 'grounds for bail' statement your arguments why these three reasons do not apply to you.

1. WHY I WILL NOT ABSCOND

You need to give reasons why the judge should trust you to keep to any conditions that are set for you if you are granted bail.

The Home Office will argue, both in the bail summary and in front of the judge, that if you are released, you are likely to run away.

How will the Home Office try to prove this point? They will refer to your immigration and criminal history (if you have one). They may say: 'this person has committed immigration offences in the past and will therefore do so again', or, 'this person has committed a crime in the past, and will therefore do so again'.

You should use any arguments which you can think of to prove that the Home Office is wrong about you, and that you can be trusted.

Here are some arguments you can use:

- Perhaps the Home Office is mistaken when they say you have broken rules in the past. If they have made a factual error in your monthly progress reports, or in the bail summary, you should point this out to the judge.
- Perhaps you are waiting for a decision on your immigration case or on an asylum claim, or you are waiting for your appeal to stay in the UK to be heard or decided. Naturally, you wish to wait for a positive decision, and absconding or breaking bail conditions would damage your case. You should argue therefore that you have no interest in running away while your case is being decided.
- Perhaps you have financial supporters, or you will be living with family or close friends. In this case, you can make the argument that you have a strong reason to stay in one place.
- A strong reason to argue why you will not abscond if you are released is if you have to look after a child (and particularly a child who you looked after before you were detained), or an elderly relative or someone with

an illness.

- Perhaps you have a medical condition, or a problem that needs treatment, which means that you must stay in one place to receive treatment. In such a condition, you are unlikely to run away.
- In some cases, the Home Office will have strong reasons for believing you will abscond. You might have broken conditions of release in the past, or stopped signing on for some reason. In this situation, it may be unlikely that a judge will trust you a second time. However, there are arguments you can make:
 - Why did you abscond the first time or break your conditions? If you explain the reason to the judge, they may be sympathetic.
 - Has something changed since the time when you broke your conditions? Perhaps you used to have an addiction problem, which you are now addressing, or perhaps you had an accommodation problem, which prevented you from signing regularly. If you explain how things are different now, the judge may be more likely to trust you.

IMPORTANT: The judge will expect you to provide evidence for everything that you say. For example, if you claim you have a medical condition, you should present a doctor's report to show that you have a medical condition. If you will be looking after someone on release, you should provide evidence of that.

REMEMBER: If you have broken conditions or absconded in the past, it is better to admit this to the judge, as this will show that you are honest about your mistakes. If you try to excuse yourself, you might appear untrustworthy.

2. WHY I WILL NOT BE REMOVED SOON

You should always remember that you are detained for a reason, and that reason is to REMOVE OR DEPORT YOU FROM THE UK.

If you can successfully argue that your removal is not likely to happen soon, then you should be released.

The Home Office nearly always says that a removal will take place

‘imminently’, although the removal may not happen for days, weeks, or in some cases, months.

Here are some arguments you can make:

- Perhaps you still have a case in court. As long as you have a case in the UK courts, your removal should not take place. Therefore, could you be released until the case is ended?
- Perhaps you are waiting for travel documents because you do not have a valid passport. For some countries, this process can take a long time. This is another reason why you should not be kept in detention while the Home Office gets travel documents for you.
- Perhaps the political situation in your country prevents your removal there, even when there are travel documents. In recent years, removal to countries such as Zimbabwe, Somalia, Iran, Iraq and Syria has not been possible. If you are aware that removals are not happening to your country, you should ask to be released until removals begin again.
- Perhaps you have simply been in detention a very long time. If the Home Office has been arguing for several months that your removal is ‘imminent’, then maybe they are wrong about this.

Removal directions

If the Home Office argues that removal directions have been issued for you to be removed from the UK within 14 days of the hearing date the immigration judge may be forced to refuse you bail, or if bail is granted, the Home Office will be able to prevent your release on bail.

Here are some arguments you can make on this issue:

- If the Home Office argues that removal directions have been issued against you but no date is given for when you will be removed, you can argue that there is no evidence that removal will take place within 14 days of the hearing.
- If the Home Office has been making arrangements to remove you for a long time and there is no date for your removal you can argue that this is also evidence that it is unlikely that you will be removed within 14 days.
- If the Home Office has previously claimed to be removing you within 14 days and this did not happen, you can argue that unless the Home Office has strong evidence to show that things are different, it is likely that

based on past experience you will not be removed.

3. WHY I WILL NOT REOFFEND

If you have a criminal conviction you will face an additional problem: the Home Office will argue that, even though you have completed your sentence, you should be kept in detention, just in case you commit another offence.

Judges are often worried about releasing people who they consider may be a danger to the community. If you have been convicted of a violent or sexually-related offence, you should prepare to face some difficulty in persuading a judge to release you.

If the Home Office is making arguments that you should be detained because you are likely to reoffend, here are some arguments that you can try.

- Point out that you have finished your sentence, and that you should not continue to be punished for this offence.
- Explain why you are unlikely to commit another crime, maybe because you have changed, or because your circumstances have changed.
- Have you received a positive report from probation, or any other body? If not, can you obtain a letter of recommendation from friends, former employers, church members or even detention centre staff? Anything you show the court which can provide evidence of your good behaviour will help you.
- It is important to acknowledge the seriousness of your offence. Try to convince the judge that you understand what you have done and that you feel sorry for your actions and will not re-offend.
- You can say that you are willing to comply with any conditions as an alternative to detention. This will include electronic monitoring as this will normally be imposed on anyone who is granted immigration bail after having completed a criminal sentence.

IMPORTANT: If you consider yourself to be innocent of the charge that put you in prison, do not mention this to the judge in your bail hearing. The bail hearing is not the right place to make these arguments, and the immigration judge cannot revisit your criminal sentence.

On the next page you will find a blank template for writing your grounds for bail. You can copy this to use for your own grounds.

How to Write Your Grounds for Bail

My name is _____. I do not have a lawyer to represent me for bail. I am therefore preparing my application myself using the handbook produced by the charity Bail for Immigration Detainees (BID).

I will not abscond because

My removal from the UK cannot happen soon because

You may have other reasons for wanting to get out of detention

If you have committed a criminal offence and completed a criminal sentence you will wish to add a section on ‘I will not reoffend if I am released from detention because’

Management of Bail

At the bottom of Section 5 the B1 form asks “do you consent to future management of bail being transferred to the Home Office?” If you agree to this or if the immigration judge decides this, it will mean that if you are granted bail the Home Office will be responsible for making decisions about your conditions of bail. This means that the Home Office can impose new conditions upon you and you will not be allowed to refer to the Tribunal if you disagree with the Home Office.

It is likely that the Home Office will take a very different view about conditions that can be imposed on people if they are granted bail. In these circumstances we advise that when completing the form you do not agree to the management of bail being transferred to the Home Office. You can explain that your reason for this is because:

“I need to look at the Home Office’s bail summary and the conditions that it wants to impose on me if I am granted bail before I agree to transfer the management of bail to the Home Office”

This also means that when you review the Home Office’s bail summary you must make sure that you review the conditions that the Home Office wants to impose on you and argue against any conditions that you think are either too harsh or unnecessary. You can argue that the only conditions that should be imposed are the minimum needed to make sure that you do not abscond.

Other reasons why you may not wish the immigration judge to transfer responsibility for your bail to the Home Office may include:

1. If the Home Office has asked for the conditions of your release on bail to be more strict than the conditions agreed by the immigration judge. You may be concerned that the Home Office will try to impose more strict conditions after it is given management of your bail.
2. If the Home Office requests that you should be prevented from studying if you are released:
 - a. You can argue that this has nothing to do with making sure that you do not abscond.
 - b. You can also say that you are concerned that this is evidence that the Home Office may place this or another unnecessary condition upon you if the Home Office is given management of your bail.
 - c. If you are in fact pursuing studies you can argue that this is evidence that you will not abscond.
3. If the Home Office has re-detained you after you were previously released on bail and you believe this to have been unnecessary you can argue that you are concerned the Home Office may re-detain you again in similar circumstances.
4. If you have an immigration appeal pending it will be a good reason for the renewal of your bail to be considered at your appeal hearing by the Tribunal, and for the Tribunal to therefore keep responsibility for the management of your bail.

Note however that if the immigration judge grants you bail with the same conditions as those the Home Office requested in their bail summary or at the bail hearing, it will be more likely that the judge will decide to transfer the management of bail to the Home Office. That is because the judge may believe that it will be unlikely that the Home Office will try to impose stricter conditions upon your release on bail than it has previously requested at your bail hearing.

You can also confirm to the immigration judge in the hearing that you will of course keep to all the conditions that are placed upon you if you are granted bail, whether or not the Home Office or the Tribunal has management of your bail.

Chapter 9. The bail hearing

After you have sent your bail application form to the tribunal centre, your bail hearing will be arranged for you.

Frequently Asked Questions:

So what happens next?

After a few days, you will receive your NOTICE OF HEARING. You will usually get this by fax.

How will I know the date of the hearing?

The Tribunal will write to tell you the date when you will be going to court. They will do this by sending you a one-page document called a 'Notice of Hearing'. If you do not get the Notice of Hearing, ring the court to check what is happening on 0300 123 1711.

When will my hearing be listed?

You will usually hear within a week of sending the application form. At certain times, the courts become busy and listing takes longer than usual (sometimes 2 weeks).

Can I request a particular date for a hearing?

You can, but the courts offer no guarantee that they will list on a particular day. Make your request in writing with the B1 application form.

What do I do when I get the hearing date?

- Tell your financial supporters (if you have any) the court date so that they can come to court.
- Tell the person giving you accommodation the court date so that they can come to court.
- Tell anyone else who is supporting your application the hearing date if they want to be present at the hearing.
- Check that an interpreter will be available (if you have requested an interpreter on your bail form) by telephoning the IAC.

- Gather all the documents you need for your hearing.
- Here is a list of documents you may need for court:
 - A copy of your bail application form.
 - A copy of the statement you have prepared.
 - The bail summary (see below).
 - Your financial supporters need to bring their original passport (not copies) or identity document.
 - Your financial supporters' bank statements for the past 3 months.
 - Your financial supporters' proof of income like wage slips or benefits letters for the past 3 months.
 - Your accommodation provider should bring proof that he or she owns the property. A mortgage statement is normally enough. If your accommodation provider is renting a property it may help if they have a letter from the landlord giving you permission to stay at the property (or they can show their tenancy agreement if this allows them to have people to stay in the property). You can't stay with someone who is living in Home Office asylum support accommodation unless they are a member of your immediate family.
 - If you are unable to provide proof that the accommodation provider can have you stay in their home, you can also point out there is no evidence to show that you cannot stay at your accommodation provider's home; or that you can be granted bail with the condition that you will make the necessary available to the tribunal and/or the Home Office.
 - Any other documents which you think will help you. These could include requests for Home Office bail or requests to see your monthly review forms (IS151F forms) where you have received no reply; documents to show that you have a medical condition; documents to show that you have co-operated with the travel documentation process but have not been given travel documents.

What happens before my hearing? – Bail Summary

- When you make an application for bail the Home Office must respond with a "bail summary". This is a document which explains why they oppose bail. The Home Office will put into this document all the reasons why they think you should not be released.
- You should be sent a copy of the bail summary 24 hours in advance or at the latest by 2pm on the day before your bail hearing.

You need to go through every point of the bail summary and think how you can respond to each point to argue your case. You may want to write down the points that you want to make in court so that you do not forget them. If there are parts of the bail summary which are wrong, make a note of these so that you can calmly point these out to the judge.

If you are only given the bail summary when you get to court, you can ask the judge to give you more time so that you can prepare your arguments before going into court. It is reasonable for you to ask for one or two hours to do this if you are only given the bail summary on the day of your hearing.

Day of the hearing

- The time of your hearing is on your notice of hearing. But all hearings are listed for the same time, so you may have to wait for yours. The judge will decide which order to hear them in.
- Most hearings are now held by video link. You will be in a room in the removal centre, and you will see the court on a TV screen. In some cases you are actually brought to court.

What will happen during the court hearing?

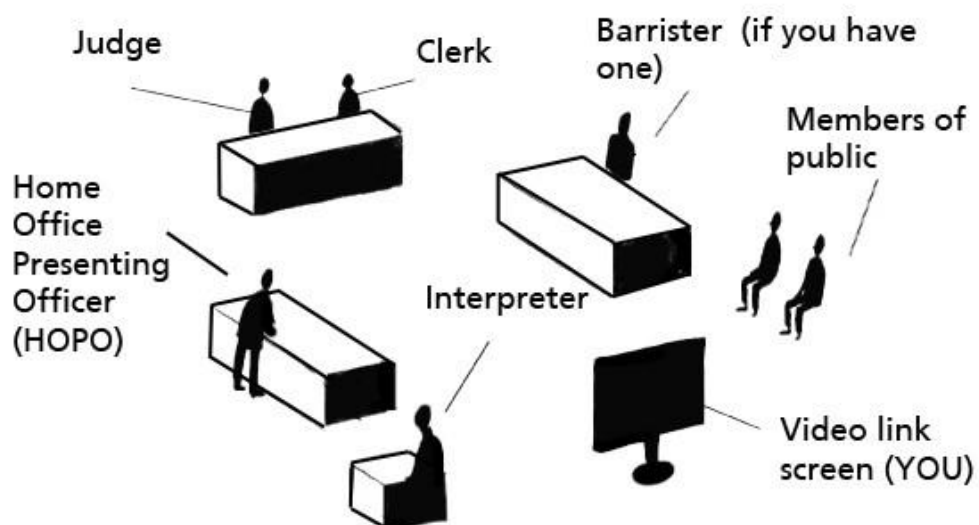
All court hearings are different but this is what happens at a typical hearing. Remember that this may not happen at all hearings. If your hearing is by video link, you will not go to court yourself. Instead you will go to a room in the removal centre and speak to the judge and sureties via a screen and microphone.

- An escort will bring you to a room in the removal centre with a screen linked to the court.
- The judge will come into the room. Everyone will stand up.
- The judge will check details like your name and should introduce the other people in the room.
- The judge will ask the Home Office Presenting Officer (HOPO) whether he or she has anything to say. Normally the HOPO does not say anything beyond what is in the bail summary and that you should stay in detention.
- The judge will ask you if you have anything to say. Check that the judge has looked at your statement. Point out any parts of the bail summary where the Home Office has got the facts wrong.
- You should be asked to make a summary of why you should be released. Do not repeat everything in your statement. Tell the judge the main things

that are in your favour. Reply point by point to what the bail summary says.

- The HOPO may ask you questions.
- The judge may ask questions about anything which is unclear.
- The HOPO will say why you should remain in detention.
- If the judge thinks you are suitable for bail he or she will speak to your financial supporters and the person providing accommodation.
- The judge will tell you his or her decision.
- If bail is granted, the conditions of bail will be discussed.

Diagram of a Typical Courtroom



The Decision

There are 3 possible results of a bail hearing:

Result	What this means	What next
Your application is granted	You have been successful and you will be released.	<ul style="list-style-type: none"> • The judge will fill in a form and explain the conditions of release to you. These will usually say that you must live at the address you have given and that you must report at certain times and days to an immigration office. • If you are to be electronically tagged, it may take up to 2 working days for you to be released.
Your application has been dismissed	You will not be released and will be taken back to the removal centre if you are in court in person, or you will stay in the removal centre if your hearing is by video link.	<ul style="list-style-type: none"> • Make sure you get a copy of the written refusal of bail in court as this will help you to focus your preparation for your next bail application. • Do not give up! It is important that you apply for bail again because many detainees are released after 4 or 5 bail applications • You can make another bail application in 28 days • If something changes with your case you can make a bail application sooner and you do not have to wait 28 days, but you will have to demonstrate to the court how your circumstances have changed before they will consider your application for release.

<p>You withdraw your application for bail</p>	<p>This means that you decide to stop your case going ahead because of a problem. For example, your financial supporter does not get to court in time or arrives at court without his bank statements.</p>	<ul style="list-style-type: none"> ● Sort out whatever problem stopped you from going ahead with your bail case and apply for bail again. ● If the judge suggests that you should withdraw, then it is unlikely that you will get bail. It is probably better for you to withdraw your application for bail and apply for bail again. ● If your request to withdraw your bail application is refused by the judge and your bail application is then refused, it might be possible to get another bail application listed for hearing within 28 days if you can show there has been a change of circumstances e.g. your financial supporter can attend the hearing when they could not attend the previous hearing.
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Where to find the Forms

Where to find a B1 application form

The B1 application form is available online. You can just type B1 bail application form into your search engine.

Alternatively, you can find this form at the BID website (www.biduk.org).

You can also get a copy of this form from your detention centre. Please ask a member of staff to tell you where you can get this.

If you have problems, just contact us at BID and we'll send you one with our 'outreach pack'

Visitors Groups

Visitors' Groups do not give legal advice, but can visit and offer support to detainees. If you are detained and would like someone to visit you, you can contact the Association of Visitors in Immigration Detention (AVID) 115 Mare Street, London, E8 4RU, UK. T: 0207 281 0533. E: enquiries@aviddetention.org.uk.

Removal Centre	Name of Visitors Group	Contact Details
Brook House and Tinsley House	Gatwick Detainees Welfare Group	Tel: 01293 657 070 Fax: 01293 474 001 www.gdwg.org.uk
Campsfield House	Asylum Welcome	Tel: 01865 722 082 Fax: 01865 792 532 www.asylum-welcome.org.uk
Dungavel	Scottish Detainees Visitors	Tel: 0141 248 9799 www.sdv.org.uk
Harmondsworth IRC and Colnbrook IRC	Detention Action	Freephone: 0800 587 2096 Tel: 020 7226 3114 Fax: 020 7226 3016 www.detentionaction.org.uk
Morton Hall	Morton Hall Detainee Visitors Group	Tel: 07758 604 293 www.mortonhallvisitors.org.uk
Yarl's Wood	Yarl's Wood Befrienders	Tel: 01234 272 090 www.ywbefrienders.org.uk

List of useful organisations

The following groups provide different kinds of advice and information. If there is no description after the group then it is an organisation that provides a wide range of advice (not legal) or support to asylum seekers or migrants. Contact the group nearest to your place of detention or where you lived before you were detained.

Asylum Support Appeals Project (ASAP)

Can provide advice on asylum support applications.

Studio 11/12, Container City Building, 48 Trinity Buoy Wharf, London, E14 OFN Tel: 020 3716 0284

Fax: 020 3716 0272

Advice Line: 020 3716 0283 (Monday, Wednesday & Friday 2pm-4pm)

Website: www.asaproject.org

Asylum Aid

Provides legal advice and representation to asylum seekers and has a helpline.

Berol House, 25 Ashley Road, London N17 9LJ

Tel: 020 7354 9631

Fax: 020 7354 5620

Advice Line: 020 7354 9264 (Tuesday 1pm-4pm)

Website: www.asylumaid.org.uk

Detention Action

A campaigning organisation which also visits detention centres.

Leroy House, Unit 3R, 436 Essex Road, London N1 3QP Freephone number: 0800 587 2096

Tel: 020 7226 3114

Fax: 020 7226 3016

Website: www.detentionaction.org.uk

Freedom from Torture

Can provide medical support, counselling and medico-legal reports for people who are victims of torture.

111 Isledon Road, London, N7 7JW

Tel: 020 7697 7777

Fax: 020 7697 7799

Website: www.freedomfromtorture.org

Medical Justice

Arranges for doctors to visit people in immigration detention.

Tel: 0207 561 7498

Fax: 08450 529370

Website: www.medicaljustice.org.uk

Refugee Council

For advice and support in relation to basic asylum law

Website: www.refugeecouncil.org.uk

London Office:

Tel: 020 7346 6700

Fax: 020 3743 9581

If you are, or know of, a child detained because the Home Office thinks they are an adult, then you should contact:

The Children's Section: Tel: 020 7346 1134

Email: children@refugeecouncil.org.uk

Scottish Refugee Council

Advice on welfare issues for asylum seekers and refugees

Scottish Refugee Council, 5 Cadogan Square, Glasgow, G2 7PH Tel: 0141 248 9799

Fax: 0141 243 2499

Website: www.scottishrefugeecouncil.org.uk

Finding Legal Representation and Complaints:

Law Centres Network

To find out where your nearest law centre is contact:

Floor 1, Tavis House, 1-6 Tavistock Square, London WC1H 9NA

Tel: 020 3637 1330

Website: www.lawcentres.org.uk

Office of the Immigration and Services Commissioner (OISC)

5th Floor, 21 Bloomsbury Street, London, WC1B 3HF

Tel: 0345 000 0046 (local rates), 020 7211 1500

Fax: 020 7211 1553

Immigration advisers are regulated by the OISC. This means that the advisors must meet the requirements and standards of the OISC. The OISC has a list of immigration advisors you can contact. The OISC will consider investigating

Bail for Immigration Detainees - Handbook on Bail
complaints about service received or the conduct of an adviser where these are made against an OISC regulated adviser or someone giving immigration advice or services unlawfully.

The Law Society

The Law Society is the representative and regulatory body for all solicitors of England and Wales 13 Chancery Ln, London WC2A 1PL
Tel: 020 7242 1222

To find a solicitor you can use their online service at:

www.solicitors.lawsociety.org.uk

A note about making complaints:

If you are unhappy with the service given by your representative, you have the right to make a complaint. You should try and resolve the problem by writing to the person responsible for handling complaints at your representative's firm/organisation, before making a complaint to the OISC or the Solicitors Regulation Authority or Legal Ombudsman.

Solicitors Regulation Authority

Tel: 0370 606 2555
Fax: 0121 616 1999
Website: **www.sra.org.uk**

Legal Ombudsman

Tel: 0300 555 0333
Website: **www.legalombudsman.org.uk**

Complaining to a Member of Parliament

Members of Parliament (MPs) represent the people living in their area. In some cases where there are compassionate circumstances and where all other applications and appeals have failed, MPs may intervene on a detainee's behalf.

Find out who your Member of Parliament is: Tel: 020 7219 4272

You will need to give the postcode of the detention centre that you are in or your address if you lived in the UK before being detained.

You can then contact your Member of Parliament via the House of Commons:
Switchboard: 020 7219 3000
Website: **www.parliament.co.uk**

LIST OF IMMIGRATION SOLICITORS OPERATING THE DETENTION DUTY ADVICE SCHEME

Name	Address	Telephone	Fax
Wilson & Co	697 High Road, Tottenham, London, N17 8AD www.wilsonllp.co.uk Colnbrook, Harmondsworth, Yarl's Wood	020 8808 7535	020 8880 3393
Lupins Solicitors	10 th Floor Tower, 1 Olympian Way, Wembley, Middlesex, HA9 ONP www.lawrencelupin.co.uk Brook House, Campsfield House, Harmondsworth, Tinsley House, Yarl's Wood	020 8733 7200	020 8733 7250
Duncan Lewis	1 Kingsland High Street, Hackney, London, E8 2JS www.duncanlewis.co.uk Brook House, Campsfield House, Colnbrook, Harmondsworth, Morton Hall, Tinsley House, The Verne, Yarl's Wood	020 7923 4020	020 7923 3320
Fadiga & Co	257-259 Balham High Road, London, SW17 7BD www.fadigaandco.com Colnbrook, Harmondsworth, Morton Hall, The Verne, Yarl's Wood	020 8672 8779	020 8675 5985
Howe & Co	1010 Great West Road, Brentford, Middlesex, TW8 9BA www.howe.co.uk Harmondsworth, Tinsley House, Yarl's Wood	020 8840 4688	020 8840 7209

Halliday Reeves Law Firm	Collingwood Buildings, 38 Collingwood Street, Newcastle upon Tyne, NE1 1JF www.hallidayreeves.co.uk Morton Hall, The Verne	0191 477 7728	0191 269 6838
Parker Rhodes Hickmott Solicitors	The Point, Bradmarsh Way Bradmarsh Business Park Rotherham S60 1BP www.prhsolicitors.co.uk Morton Hall	01709 511 100	01709 371 917
Thompson & Co	First Floor 14-16 Mitcham Rd, London, SW17 9NA www.thompsonlaw.co.uk Harmondsworth, Morton Hall, The Verne, Yarl's Wood	0208 682 4040	0208 682 4500
Turpin and Miller LLP	1 Agnes Court, Oxford Road, Oxford, OX4 2EW www.turpinmiller.co.uk Campsfield House	01865 770111	01865 749099

GLASGOW (for Dungavel)

Name	Address	Telephone	Fax
Livingstone Brown	84 Carlton Place, Glasgow, G5 9TD www.livbrown.co.uk	0141 429 8166	0141 420 1337
Gray & Co Solicitors	16 Bilsland Drive, Maryhill, Glasgow, G20 9TH www.grayandcoglasgow.co.uk	0141 946 7777	0141 946 9402
Peter G Farrell	70 Royston Rd, Glasgow, G21 2N	0141 552 0033	0141 552 0333
Hamilton Burns WS	63 Carlton Place Glasgow, G5 9TW www.hamiltonburns.co.uk	0141 429 0600	0141 429 0650
Drummond Miller LLP	65 Bath Street, Glasgow, G2 2DD www.drummondmiller.co.uk	0141 332 0086	0141 332 8295

Glossary

THIS IS AN EXPLANATION OF SOME OF THE TERMS USED IN THIS BOOK

Detention Duty Advice scheme (DDA)

Free legal advice provided by law firms to those being held in immigration detention provided under legal aid.

Dispersal

Dispersal is the process by which the Home Office moves someone to accommodation outside London and the South East. They are first moved to 'initial accommodation' while their application for accommodation support is processed. Once the application has been processed and approved they are moved to 'dispersal accommodation' elsewhere in the UK.

Facilitated Return Scheme (FRS)

This is a scheme that enables foreign national prisoners to be sent back to their country of origin. This scheme is operated by the Home Office.

First-Tier Tribunal (Immigration and Asylum Chamber)

The First-tier Tribunal (Immigration and Asylum Chamber) or FTT ('IAC') is an independent Tribunal dealing with appeals against decisions made by the Home Secretary and Government officials in immigration, asylum and nationality matters. It also deals with all bail applications.

Home Office bail

Home Office bail (previously known as or Chief Immigration Officer bail) is one way a detained person or someone acting on their behalf can apply for release.

Home Office- UK Visas and Immigration

This department in the Home Office manages UK border controls and enforces immigration and customs regulations. It also considers applications for permission to enter or stay in the UK and for citizenship and asylum.

Human Rights

In general, these refer to basic rights which everybody is supposed to have. In UK law, they refer to rights which come from the European Convention on Human Rights, the framework of European Human Rights law which the UK

must follow. Article 3 deals with freedom from torture or inhuman or degrading treatment or punishment, and Article 8 deals with the right to a private and family life.

The Immigration and Asylum Chamber (IAC)

The Immigration and Asylum Chamber is the part of the First Tier Tribunal that hears asylum and immigration appeals and bail hearings.

Immigration Judge (IJ) (or First-tier Tribunal Judge)

The title given to a member of the First-tier and Upper Tribunals (Immigration and Asylum Chamber).

Immigration Removal Centre (IRC)

Immigration Removal Centres are detention centres. They are used to detain people under Immigration Act powers, including those at any stage of the asylum process, not just prior to removal.

Initial accommodation

Initial accommodation is provided to people that the Home Office either agrees to support or agrees to accommodate while it considers whether or not to continue supporting a person. It is usually provided to people who have not been previously convicted of a criminal offence. If the application is successful the person being supported is moved to dispersal accommodation elsewhere.

Judicial Review (JR)

The procedure by which the High Court determines the legality of decisions made by public bodies. Judicial review is confined to the review of questions of law, and does not extend to a review of the merits of the administrative decision or the facts of the case.

Legal Aid

Legal advice that is paid for by the government for people who qualify for it, because they cannot afford to pay for it themselves and their immigration or asylum case is likely to succeed.

Legal Representative

Legal representative is a barrister or a solicitor, solicitor's employee or other authorised person who acts for an applicant or appellant in relation to a claim.

Monthly Progress Report (MPR)

The law says that the Home Office has to (i) review your detention regularly to make sure that your detention is still necessary and (ii) provide written reasons for your ongoing detention. This is done once a month in the form of an MPR.

Notice of Hearing

The letter from the IAC (Immigration and Asylum Chamber) that tells you the time, date and location of your bail hearing.

Office of the Immigration Services Commissioner (OISC)

The Commissioner regulates immigration advice in the UK.

Reporting

Most asylum seekers who are not detained are expected to report to a reporting centre or police station.

Section 4 Support

This refers to support normally provided to people in detention under Section 4(1)(c) of the Immigration and Asylum Act 1999. This section has now been repealed and replaced by Section 9, Schedule 10 of the immigration Act 2016.

Tagging

Tagging, also known as electronic monitoring, is when the Home Office puts an electronic tag on a person (typically on their ankle), so that they can track their movements at all times. The Tribunal may order electronic tagging for anyone it releases on bail who has been previously convicted of a criminal offence.

Temporary Admission (TA)

Temporary admission is release from detention that is authorised by the Home Office. This has been replaced by the term 'Home Office bail'.

The purpose of this 'How to Get Out of Detention' book is to advise detainees of their rights in relation to bail. It does not aim to give advice on your application to stay in the UK.

It is not a comprehensive statement of the law relating to detention and bail and it cannot replace a legal representative.

We have tried to make this guide as accurate as possible at the time of printing, but we cannot take responsibility for any errors and warn you that the law and detention policy may change.

To check that you have the latest version of the book, please call BID on 020 7456 9750. We will send immigration detainees the latest version for free. For legal representatives, the guide is available on our website, www.biduk.org.

Bail for Immigration Detainees (BID) is a registered Charity No. 1077187.
Registered in England as a Limited Company No. 03803669.
Accredited by the Office of the Immigration Services Commissioner Ref. No. N200100147

THIS VERSION WAS UPDATED JANUARY 2018

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