



The One Stop Notice of Decision to Deport – What it is and how to reply

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Bail for Immigration Detainees (BID) is a national charity that provides legal advice and representation to individuals held under immigration powers to secure their release from detention. We also provide legal advice and representation to detainees facing deportation. BID works with detainees in all removal centres in the UK, and with immigration detainees held in prisons.

- We provide free legal advice, information and support to immigration detainees to help them exercise their right to liberty and access to justice, and to help them challenge their deportation.
- We prepare and present (free of charge) applications for release on bail or temporary admission.
- We carry out research and use evidence from our legal casework to influence decision-makers, including civil servants, parliamentarians, and regulatory bodies through policy advocacy.

The Article 8 Deportation Advice project (ADAP) is a project that provides free legal advice and representation to individuals challenging deportation on the grounds of their long residence in the UK and/or their family life in the UK.

The right to respect for family and private life is protected by Article 8 of the European Convention on Human Rights.

Disclaimer

Although every effort is made to ensure the information in this factsheet is accurate and up to date, it should not be treated as a complete and authoritative statement of the law. BID cannot be held liable for any inaccuracies and their consequences. The information in this factsheet is not legal advice. If you have a legal problem you should talk to a lawyer or legal adviser before making a decision about what to do.

Please check that this factsheet is up to date before using it. Please also check whether BID has written other factsheets or leaflets that might be relevant to you. All BID factsheets and leaflets can be found at www.biduk.org

What is the purpose of the leaflet?

The purpose of the leaflet is to provide advice on how to respond to the One Stop Notice, which is 'Stage 1' of the Home Office deportation process.

I have received a letter from the Home Office called a 'Notice of Decision, Decision to Deport' One Stop notice. What does it mean?

If you have committed criminal offences in the UK, the Home Office may take steps to deport you from the UK. The 'Notice of Decision, Decision to Deport' is also known as the One Stop Notice and is the 'Stage 1' letter in the deportation process.

This One Stop Notice asks you to explain to the Home Office why you believe you should be allowed to stay in the UK. The reasons are normally human rights reasons. For example because your family are in the UK or because you have lived in the UK for a long time.

Can I appeal against a One Stop notice?

No. The One Stop Notice is not a decision that can be appealed against. However, if the Home Office decides to continue with deportation action after considering your reply to the One Stop Notice, it will issue a 'Stage 2' letter. The stage 2 letter is called a 'Decision to Refuse a Human Rights claim'. That is usually given to you with a Deportation Order. You should be able to appeal against that decision to the Immigration Tribunal.

Do I need a lawyer to reply to the One Stop notice?

If you do have a lawyer, your lawyer will help you to reply to the Home Office. However, legal aid (free legal help from a lawyer) is usually not available for people who argue against their deportation because of their family life or how long they have lived in the UK. So many people will not have a lawyer unless they are paying privately.

If you do not have a lawyer, you should reply to the One Stop Notice yourself. At this stage, you just need to tell the Home Office why you should be allowed to stay in the UK. For example because you have a family life in the UK or you have lived for a long time in the UK

You may be able to apply for Exceptional Legal Aid Case Funding to pay for a legal aid lawyer to help you with your case so that they can explain to the Home Office why you should not be deported. You can find our leaflet that explains '*Exceptional Funding: Applying for Legal Aid in Deportation cases*' on the BID website (<https://www.biduk.org/>) or you can ask BID for a copy which we can send to you.

Is it important that I fill in the form and return it to the Home Office?

Yes, it is very important that the form is completed and returned to the Home Office before the deadline that they give you passes.

If you do not reply, the Home Office will make a decision based on any evidence or information that it has about you. This may include old and out of date information.

If you do not reply, or you do not tell the Home Office about something that you later think is important and you want to rely upon, the Home Office may decide not to consider the new evidence. You will then have to give a good reason why it was not raised in your reply to the One Stop notice. The Home Office also has the power to refuse to accept a new reason for remaining in the UK as a new ground of appeal if it is not something that you have already told them about.

After you have sent your reply to the Home Office in response to the One Stop Notice, it is still important that you keep the Home Office informed of any changes in your circumstances, This should include any new reasons for wishing to remain in the UK before the Home Office makes its decision.

Sometimes a person can be stopped from appealing because they are only giving the reasons for why they should not be deported at a late stage. It is therefore very important to give all of reasons against deportation, even if all your supporting evidence cannot be given to the Home Office when you reply to the One Stop Notice. Remember that your reply needs to be received by the Home Office before the deadline that they give to you.

How should I fill in the One-Stop notice?

The One Stop Notice usually comes with an information sheet called 'Statement of Reasons'. This gives information on some of the reasons that you may include in your reply to the One Stop Notice. It gives examples of the kind of evidence that the Home Office thinks you should give to support your case not to be deported and why you should be allowed to stay in the UK.

You should write a letter to the Home Office. The letter should be a statement of reasons for why you should not be deported. You should give as much supporting evidence as you can. If you are currently in prison or in an Immigration Removal Centre, you may need to ask a family member or friend to help you collect evidence.

You should give as much information as possible on your relationship with your spouse or partner and any children under age 18. Copies of the birth certificates of children should be provided.

You should explain if you have kept in contact with your partner or children. If possible give any evidence that you might have such as letters or cards. If you are still in prison you can ask your wing Welfare Officer for a copy of the prison visit and telephone records to show that you kept in contact with your family.

You should give any evidence to show the impact on your children of your separation from the family while you have been in prison (or in immigration detention). This can help you to show what impact there will be on your children if you are deported and separated from your children and your family.

You should give as much evidence as possible to show how long you have lived in the UK. For example medical records, and school attendance records. This will help you to argue that you have friends and connections in the UK, and it may also help to show that you have not lived abroad or in your country of origin for a long time. This will help you to argue that you do not have any close friends or family in your country of origin.

If you have any health issues, physical or mental, that should be explained. Supporting evidence should be provided. You can ask health care to provide you with your medical records from your time in prison or detention if that will help you and you can write to your GP to ask for copies of your medical records.

If you have attended any rehabilitation courses in prison, you should provide evidence of this to the Home Office. This might help you to argue that you are not a risk of reoffending if you are allowed to stay in the UK.

The letter says that if the Home Office makes a decision to deport me, I may have to appeal from abroad. It asks me to give reasons why I should be allowed to appeal from the UK. How should I reply?

In most cases the Home Office does not remove people from the UK before they have appealed. If the letter asks you for reasons why you should be allowed to remain in the UK to take part in your appeal while you are here, you will need to explain why you believe that you could not have a fair hearing if you are forced to appeal from abroad.

There may be lots of reasons why it would be very hard for you to prepare your appeal from abroad. Below are some examples of the types of problems you may face with preparing your case from abroad. These are just examples. You may have other reasons you want to raise as well.

You could say:

- *'If I am removed before my appeal, I will not be able to effectively prepare my appeal from abroad because I will not be able to...'* and then raise any points below that apply to you:
- *Gather the necessary evidence of my length of residence in the UK and of my integration into British society.*
- *Gather the necessary evidence of the strength of my family life in the UK. In particular, I will not be able to obtain expert reports that may be required such as an Independent Social Work report to comment on my relationship with my children because the expert would need to be able to observe me with my children.*
- *Obtain expert evidence on my risk of reoffending, such as a Forensic Psychologist report. This is because I would need to be present in the UK for the assessment by the expert to take place.*
- *I need to be present in the UK to give oral evidence at my appeal hearing. This is because I need to be able to answer points taken against me by the Home Office through cross-examination.*
- *I do not have access to video link facilities abroad to give evidence from abroad.*
- *Giving evidence by video link would be unfair as it would be too difficult for me to try to follow the hearing process from abroad on a small screen. I need to be able to follow references to pages in the Home Office Appeal Bundle. I also need to be able to properly see and hear the Home Office representative, the Immigration Judge and all participants at my hearing so as to follow my appeal and to be able to give my evidence in a fair and effective manner.*

For EEA cases following the case of *Hafeez v SSHD & Anor* [2020] EWHC 437 (Admin), the Home Office can only 'certify' a case if removal during the appeal period would not result in a breach of EU law. In each case, the Home Office must assess whether removal before the appeal has been decided would be 'proportionate'. It must consider amongst other factors:

- Whether removal prior to appeal is necessary on grounds of public policy, public security or public health
- Whether the personal conduct of the individual represents a genuine, present and sufficiently serious threat affecting one of the fundamental interests of society
- Whether the objective to be achieved by removal before appeal could be achieved by a method other than removal

This means that only the most serious criminal cases are likely to be 'certified' by the Home Office.

Do I have to attach all my supporting evidence with my reply to the Home Office?

You should attach as much evidence as you can. If you are waiting for more evidence, write down in your reply to the One Stop Notice what that evidence is and when you think you will be able to give it to the Home Office. The most important thing is to reply to the Home Office with as much information as you can within the deadline.

The reply to the One Stop Notice should be sent by fax or by recorded delivery and you should keep a copy of your reply and any supporting documents sent with it.

Is there a time limit for replying?

The Home Office letter and One Stop Notice will tell you how long you have to reply and the deadline for the Home Office to receive your reply.

This is usually explained as being 'X' number of days from 'date of service'. The date of service of the letter should be stated in the 'date of service' box at the end of the letter.

Note that the date that the letter is written may be different to the date on which you receive it. This is often the case if you are held in prison.

If the Home Office letter and One Stop Notice was not given to you on the same date as the date on the letter or in the 'date of service' box at the end of the letter, you should state in your reply the date that you actually received it and attach any evidence that you may have to support this. This will be helpful to show that you have responded within the deadline.

What if I need more time to reply to the One Stop Notice?

If you are unable to reply to the Home Office within the deadline, you can ask the Home Office for more time. The reason why you might need more time may be because of language barriers, or difficulties with reading or writing, or because of mental or physical ill-health.

However, this should only be a last resort. To ask the Home Office for more time you will need to write to the Home Office. Your letter should explain:

i) That you need more time

ii) Why you need more time and when you think you will be able to reply with more time

ii) The main reasons for wanting to stay in the UK. For example. 'I have family in the UK' or 'I have lived in the UK for a very long time'

iv) What sort of information you plan to provide in the future reply. For example your children's birth certificates

Example letter

An example of a letter asking the Home Office to give you more time to reply is at **Appendix 1 (Page 7 & 8)**

Make sure that you keep a copy of the letter and proof of faxing or of posting to the Home Office.

What happens if I send my reply to the One Stop notice late?

The Home Office should consider information received after the deadline if there is 'good reason' that it is late. You should explain the reasons why it is late in writing when you reply to the Home Office.

What happens after I have replied to the One Stop Notice?

The Home Office will consider the information that you have provided and decide if it will continue with deportation action. Unfortunately, there is no set time within which the Home Office must give you a decision.

If the Home Office decides that you should be deported, you will be served with a Decision to Refuse a Human Rights Claim. This is normally a long letter that explains your immigration history and your criminal history. The letter should also consider any reasons you have given to be allowed to stay in the UK.

In most cases the Home Office decides to continue with deportation action. If the Home Office issues a Stage 2 Refusal of a Human Rights Claim and a Deportation Order you may find the following BID self-help advice leaflets helpful:

- 'Deportation Appeals: Preparing your Article 8 Deportation Appeal'
- 'Deportation Appeals: A Basic Overview for Non-EEA Nationals'

These leaflets are available on BID's website and we can send them to you upon request.

Appendix 1

Example of a Letter to the Home Office to request more time to reply to the One Stop Notice

NOTE: THIS IS AN EXAMPLE LETTER ONLY. YOU SHOULD ONLY TICK THE BOXES THAT APPLY TO YOUR CASE AND PROVIDE MORE INFORMATION WHERE YOU CAN

Home Office

(the address will be on the One Stop letter)

Date:

Re: [your name]

HO Reference Number:

Re: Request for more time to reply to the One Stop Notice

I am writing to ask for more time to reply to the One Stop Notice asking me for reasons why I should not be deported from the UK.

I received the One Stop Notice on **[date]**.

I cannot reply within the deadline because...

[Tick any of the boxes that apply to you] and provide supporting evidence where possible. There may be other reasons that apply to your case. If so, you should state them].

I am held in prison and I do not have access to any legal advice.

I am held in an Immigration Removal Centre and I have not yet been able to see a Duty Legal Adviser. *[If you have an appointment with a Duty Legal Adviser but you will not be able to see them before the deadline, you should state the appointment date].*

I need help with reading or writing as English is not my first language and I need help with understanding the letter.

I suffer from psychological ill-health. This condition and my medication affects my ability to cope with paper work. *[If you have a diagnosed condition, you should state what it is and whether you have been prescribed medication].*

I am making an application for Exceptional Legal Aid Case Funding so that I can get a legal aid lawyer to help me with my case.

Other [Briefly state your reason].....

I would like to ask for more time to reply. I should be able to send my reply to the Home Office by *[State when you think you will be able to reply to the Home Office]*

The main reasons I want to stay in the UK are:

I have family in the UK

I have lived in the UK for a very long time

Other [Briefly state your reason].....

I am going to try to get supporting evidence e.g.

Children's birth certificates

Marriage certificate

Evidence of employment

Other [Briefly state the type of evidence].....

Yours faithfully

Signed.....

KEEPING RECORDS

1. Keep a record of all phone calls & conversations you have with the Home Office, your offender manager/supervisor, and probation services

- Every time you have a telephone conversation with your offender manager/supervisor, probation services, the Offender Management Unit in your prison, or a Home Office official you should write down what you talked about, the questions that you were asked, and the answers that you gave.
- Try to get the name and job title of the person you spoke to and write that down too, and put the day of the week, the date and the time as well. You should ask for their name at the start of the conversation.
- If the telephone conversation does not go well, or you hear something you don't like, you should keep calm and try not to get angry. When the phone call is finished write down as much as you can remember of what was said. You will then have a record of discussions that will help you to remember what was said, and which can be used as evidence in court.

2. Keep all notes you send and receive from your Offender Manager/Supervisor or Home Office caseowner

- Every time you send a request to your offender manager or Home Office caseowner, make sure that you keep all your notes and their written responses. If they don't respond to one of your requests you should make a note on a piece of paper and keep the note.
- You will then have a record of your requests for information and help. This will help you to remember what was said, and you can use your notes as evidence in court.

3. Get proof of posting when sending letters and faxes

If you write letters or send a fax to try to obtain information you should:

- Keep a copy of the letter you sent and make a note on the copy of the date you sent it to be posted.
- Try to get 'proof of posting' from the Post Office so that you can prove to the Home Office or the court or tribunal that you have written the letter. If you are detained and have a visitor from the visitors' group at your IRC or prison you could ask them if they will help you with this, but not all groups will be able to help with this.

How to contact BID

By post:

Freepost RTSU-ZJCB-XCSX

Bail for Immigration Detainees (BID)

1b Finsbury Park Road

London

N4 2LA

Fax: 020 3745 5226

General enquiries: enquiries@biduk.org

Casework enquiries: casework@biduk.org

Advice Line: 020 7456 9750
(Mon-Thurs, 10am - 12 midday)

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