Consultation on the 2011 Bail Guidance
Joint submission from the Immigration Law Practitioners' Association and Bail for Immigration Detainees

1. The Immigration Law Practitioners' Association (ILPA) is a professional association with some 900 members (individuals and organisations), the majority of whom are barristers, solicitors and advocates practising in all aspects of immigration, asylum and nationality law. Academics, non-governmental organisations and individuals with an interest in the law are also members. Established over 25 years ago, ILPA exists to promote and improve advice and representation in immigration, asylum and nationality law through an extensive programme of training and disseminating information and by providing evidence-based research and opinion. ILPA is represented on numerous Government and other consultative and advisory groups including the President's Stakeholder Meeting and the Administrative Court User Group.

2. Bail for Immigration Detainees (BID) is an independent charity established in 1999 to improve access to bail for those held under Immigration Act powers. BID provides immigration detainees with free legal representation, advice, and training to make their own bail applications. With the assistance of barristers acting pro bono, BID prepares and presents bail applications in the Immigration and Asylum Chamber of the First-tier and Upper Tribunals for the most vulnerable detainees. BID provides telephone support to assist detainees in representing themselves at bail hearings, and regularly runs bail workshops in six immigration removal centres. BID works more generally to raise awareness of immigration detention through its research and publications such as *A nice judge on a good day: immigration bail and the right to liberty* (July 2010), and works through advocacy with civil servants via a number of Home Office-convened stakeholder groups, and with politicians. BID is represented at the President's Stakeholder Meeting.

3. We are delighted that bail guidance has been published. In what follows we have drawn on our experience of working under the new guidance but also more broadly on our experience of representation at bail hearings. Where we have suggested that matters could be included or emphasised in the guidance we have endeavoured in most cases to suggest a form of words. We should be very happy to discuss our suggestions further.

4. Paragraphs 1 and 2 of the bail guidance recognise the right to liberty as a fundamental right. It would be helpful in this context for reference to be made to the UK Border Agency's guidance on this matter, which sets out the Agency's recognition of a "presumption in favour of temporary admission or release, and that, wherever possible, we would use alternatives to detention" (Enforcement Instructions and Guidance 55.1.1, 55.1.2, and 55.1.3).

5. Whilst the safeguards described in paragraph 2 (temporary release, temporary admission, and Chief Immigration Officer bail) are available to the immigration authorities, it is our experience that in practice many applications to Chief Immigration Officers, especially in deportation cases, are ignored and therefore the immigration judge with the task of considering bail should not assume that a Chief

Immigration Officer has given the matter any consideration prior to the bail hearing being listed. Even in cases where an application for Chief Immigration Officer bail has been made, the immigration judge is often the first reviewer of the casework decision to detain.

6. The final sentence of paragraph 3 of the bail guidance states "Immigration Judges should have regard to this guidance when considering bail applications and may need to give reasons if it cannot be applied in a particular situation". In our experience, there have been many cases in which immigration judges have declined, without giving reasons, to apply the bail guidance even where counsel representing an applicant has made specific reference to it. Where a bail applicant or their representative makes reference to the bail guidance but the guidance is not applied, it would be helpful to all parties for reasons for not applying the guidance to be given. It would be helpful to include within this paragraph reference to the need for immigration judges to ensure that the parties follow proper procedures in terms of disclosure and properly argued grounds.

7. In paragraph 4 of the bail guidance, the phrase used in the current draft is "sufficiently good reason to detain." Given the presumption in favour of release and therefore the burden on the Secretary of State, we suggest that the test could usefully be rephrased to make reference to the burden on the Secretary of State to produce adequate evidence to justify detention. In paragraph 4, we suggest the addition of a fourth criterion at point three. Our suggested wording is: "alternatives to detention that are available and any circumstances relevant to the applicant that make specific alternatives suitable or unsuitable." This would have the benefit of providing a specific focus on alternatives to detention.

8. The 2003 guidance included at 2.6.2. a number of additional issues that are or may be relevant to a decision to detain, including:

   "2.6.2.c. The speed and effectiveness of any steps taken by the SSHD to surmount such obstacles [to removal];

   …

   2.6.2.e. The effect of detention upon the applicant and his/her family"

   We suggest that these criteria be re-inserted into the guidance at paragraph 4, as being separate but highly relevant contributory factors to the three main criteria listed as those on which immigration judges should focus.

   It would also be helpful to mention in paragraph four the duty on the UK Border Agency to have regard to the need to safeguard and promote the welfare of children under section 55 of the Borders, Citizenship and Immigration Act 2009, with a cross reference to paragraph 20 of the bail guidance where this is discussed in detail. Reference could usefully be made to paragraph 64 of *R (MXL & Ors) v Secretary of State for the Home Department* [2010] EWHC 2397 (Admin).

9. At the conclusion of paragraph 4, it would be helpful to augment the reference to looking at all the information in the round with reference to giving appropriate weight to the information.

10. In paragraph 5, we are concerned that there are dangers with the assumption of lawful detention. The applicant should not be barred from making representations on the lawfulness of detention as this goes to proportionality (e.g. length of detention, place of detention, removability).

11. Paragraph 6 states "...where the bail summary is absent, the judge may be able to infer the reasons for detention from other available information". We consider that this is problematic. We consider that an immigration judge should not attempt to infer reasons for detention in the absence of a bail summary as this places the applicant at a severe disadvantage in presenting a bail application. In addition, to make a decision that detention should be maintained on the basis of what may be historical evidence would be unjust. A lack of reasons for detention renders such detention *prima facie* unlawful. As Paragraph 26 further on in the guidance states, "...bail should not be refused unless there is good reason to do so, and it is for the respondent to show what those reasons are" and in the light of this the role of the immigration judge is to assess the evidence and representations presented not to derive reasons for detention from "other available information." There is a presumption in favour of release and the detainee is entitled to know in sufficient detail the reasons for detention. Given the presumption of liberty and burden of proof on the Secretary of State, it should not be an option for the UK Border Agency to fail to provide a bail summary. The Asylum and Immigration Tribunal Procedure Rules 2005 presume release in the absence of a summary.[1] The current wording of the guidance could be read as suggesting that provision of a bail summary by the UK Border Agency is optional.

12. Reference could usefully be made to the UK Border Agency's guidance to Presenting Officers in its guidance document 'Immigration judge bail', valid from January 2010, based on the Immigration Rules, states at page 11 "The bail summary should be faxed to the hearing centre and representative (or appellants place of detention if there is no representative) by 12pm the day before the hearing".

13. The late deadline for service of the bail summary is already problematic, particularly in video link hearings, where there is limited time to take proper instructions, and for unrepresented applicants who will need to digest the contents of the bail summary without the benefit of legal advice. BID and the Refugee Council have in the past done some work on cases where service of the bail summary was delayed or did not happen. In 2009, this was happening in some 40% of cases although in 2010 this figure had reduced. The UK Border Agency has set up an internal working group to look at expedition of service of completed bail summaries, and review current scheduling.

14. In paragraph 7, on the face of it any inconsistency with UK Border Agency instructions would suggest that not only may detention be successfully challenged elsewhere, but that continued detention is no longer appropriate and therefore bail should be granted.

[1] SI 2005/230 as amended, Rule 39(2).

15. We suggest that the term "weak" in paragraph 8 be replaced with "If the reasons for detention are not supported by sufficient evidence" to put the emphasis on the reason being evidentially sound.

16. Paragraph 10 states "...***then before granting immigration bail***, an Immigration Judge will have to assess the risk of that person re-offending and the consequences of such re-offending of there is such a risk" [emphasis added]. This wording risks having an effect on burden, and undermining the assertion at the end of paragraph 11 that "It is for the immigration authorities to justify the need for detention". Instead we suggest that rewording to read *"then whilst considering whether detention is justified*, an Immigration Judge will have to assess the risk of that person re-offending and the consequences of such re-offending of there is such a risk " would address this.

17. Any assessment of risk should relate to specific evidence which will include details of the original offence, and sentence, as well as subsequent assessments of risk of re-offending made by the National Offender Management Service and by those with detailed knowledge of the history of offending of the individual. However, where licence conditions apply, in cases where the criminal court will have considered the issue of management of risk, protective measures for the public will already be in place. In such circumstances bail should therefore be granted, all else being equal.

18. We are also troubled by the last sentence of paragraph 10. This appears to be suggesting that detention will always be justified and proportionate if a person poses a 'significant risk of serious harm to the public', no matter how long he or she has been in detention or what are the prospects of removal. We consider that would be an overstatement of the law and are concerned that the sentence may mislead immigration judges. It is also problematic that the guidance does not give any indication of what should be regarded as a risk of 'serious harm to the public'. Many First-tier tribunal judges lack experience of criminal law and in our experience may overestimate the seriousness of certain offences.

19. To put the emphasis on evidence, it would be helpful to insert in the final sentence in paragraph 10 the word "proven" so that it reads "…where there is a significant proven risk of serious harm to the public to the public resulting from release."

20. We are concerned that the wording of paragraph 11 may leave too much room for misunderstanding. The bail guidance states here that "The immigration authorities must substantiate any allegation (in the bail summary or elsewhere) that a person poses a risk of harm to the public or a risk of reoffending ***where this is disputed***" [emphasis added]. We consider that this is insufficient. The immigration authorities must always substantiate any allegation that a person poses a high risk of harm to the public on release, or that there is a high risk of re-offending, with sufficient detail to support such allegations. Only requiring evidence in those applications where allegations are disputed puts applicants at a disadvantage because applicants will not easily be able to challenge risk assessments until the actual hearing as their grounds for bail are submitted prior to receipt of the UK Border Agency bail summary, and they will not know about risk assessments until the summary is served. Unrepresented bail applicants will be particularly disadvantaged. In our experience detainees with no legal adviser and who represent themselves at bail hearings are usually unaware that they can and should challenge allegations in bail summaries

where appropriate. Furthermore, it is not clear how UK Border Agency can be expected to know in advance of the hearing that allegations in relation to risk assessment are disputed.

21. The current exclusion of the applicants' representatives in the Probation Circular process of disclosure prior to a bail hearing (Annex 3) and the potentially late service of the bail summary are additional reasons for our view that the words "where this is disputed" should be deleted from paragraph 11.

22. The process by which the risk of re-offending and risk of harm to the public on release is assessed by the UK Border is unpublished. It appears to rely heavily on a bail applicant's initial conviction for an offence without any consideration of the rehabilitation of the bail applicant during the course of any custodial sentence or necessarily any up-to-date professional risk assessment. Therefore whenever the basis for detention is based on risk of reoffending and/or harm to the public, mere assertion of the level of risk can never be sufficient.

23. While recognising that the criminal justice system and the UK Border Agency need to define and assess risk of harm for their own distinct purposes, we consider it essential that Probation Service evidence relating to ex-offenders be automatically made available to a bail applicant and their representative (if they have one) to enable release on immigration bail wherever possible and avoid costly and damaging long term detention. It is our experience that where Probation Service evidence is made available to the UK Border Agency, the Probation Service assessments of risk of reoffending and harm to individuals may directly contradict those separately produced and submitted to immigration tribunal bail hearings by the UK Border Agency[2]. Any departure by the UK Border Agency from existing risk assessments made by a criminal justice professional should be explained and justified. The Secretary of State should evidence her own risk assessment, and include cogent reasons for departing from any assessment of risk carried out by the National Offender Management Service. Evidence relied upon by the UK Border Agency to make any form of risk assessment that is then relied on by the Secretary of State to oppose bail should be made available to the bail applicant and their legal representative (if they have one).

24. In all cases, where the Secretary of State opposes release on the basis of risk of harm or of reoffending, the immigration judge should require the respondent to produce evidence of such risk. At the very least such disclosure should be directed by the immigration judge where the evidence is contested by the bail applicant.

[2] E.g. BID's Oxford office report that in August 2010 the Home Office argued against release on bail for a detainee held at Campsfield Immigration Removal Centre who had received a three- year sentence for a drug related offence. The Home Office argued that the bail applicant had been "assessed as being a medium risk of re-offending … [and] assessed as being a high risk of harm due to the seriousness of his offence and the assessment on the Harm Matrix". However, the Probation Service had informed BID on request that using OASys and OGRS risk assessment tools approved by the National Offender Management Service, the detainee's Offender Manager had completed an assessment in April 2010 and concluded "likelihood of re-offending – Low; Risk of harm to Public – Low; Risk of harm to known Adult – Low; Risk of harm to Staff – Low"

25. There is a potential gap with regard to the issue of licence conditions as currently the immigration judge "may" require the immigration authorities to provide them (paragraph 12) , but then at paragraph 14 the guidance states "...the judge should be aware of such licence conditions before imposing bail conditions " which in essence means before granting bail . Therefore there should be a mechanism by which the proposed licence conditions are disclosed with the bail summary.

26. We consider the starting point should be that a period of detention of 28 days is a significant period and three months a lengthy period where imperative considerations of public safety would be needed to justify continued detention (paragraph 18).

27. Paragraph 19 currently states "When considering the length of detention an immigration judge will take into consideration any periods where a person has *obstructed* the reasonable enquiries of the immigration authorities or ***during an appeal or other legal proceedings*** which may have the effect of preventing further investigation or the intended removal" [emphasis added] In terms of a bail applicant's co-operation with the immigration authorities, evidence to this effect must be disclosed by the detaining authorities in all such circumstances. This may include copies of interviews between the immigration authorities and the bail applicant in relation to travel documents or identity, and communications between the immigration authorities, the bail applicant and the national authorities from whom a travel document is being sought. In this context it should be observed that it is always open for the Secretary of State to take criminal proceedings against an uncooperative detainee under s35 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004. An immigration judge should take into account that in such circumstances the maximum sentence is two years. Where an immigration detainee is held for longer than this period without charge but reasons for detention given include non-cooperation, the absence of any criminal charge against the bail applicant should be taken into account.

28. In addition, the first sentence of paragraph 19 may risk giving the impression that the pursuit of legal proceedings by a detained bail applicant that has the effect of "preventing …the intended removal" could be viewed as justifying the ongoing connection of detention to investigation and removal. The issue of extension of detention arising from the pursuit of an appeal or other legal proceedings is a matter of fact pertinent to each case. As Lord Dyson said at para. 121 in the case of *Lumba* [2011] UKSC 12: ""the weight to be given to time spent detained during appeals is fact sensitive […..] it is clearly right that, in determining whether a period of detention has become unreasonable in all the circumstances, much more weight should be given to detention during a period when the detained person is pursuing a meritorious appeal than to detention during a period when he is pursuing a hopeless one." The guidance could set out that a bail applicant's evidence will need to be assessed in the light of any alleged obstruction of the enquiries or proceedings at issue.

29. In our experience, the UK Border Agency routinely asserts in bail summaries that removal is imminent in cases where there is no specified date for removal, but where steps towards removing a person are taking place. All too often, the evidence

reveals that after a lengthy period of apparent inactivity, a tentative "step" has been taken on the eve of the bail hearing. In such circumstances a person may go on to remain in detention for a significant period. The sentence "However, imminence of removal on its own should not be the sole reason for refusing release on bail, and may require evidence of removal date or steps taken" should be inserted at the end of paragraph 24.

30. We find the section on "reaching the decision" in paragraphs 26 to 30 confusing. It seems to reverse the burden of proof.

31. Paragraph 26 states that, in contrast with criminal proceedings, "...there is no statutory presumption in favour of release in immigration detention cases". While this is accurate, there is nonetheless a presumption of liberty, as described in paragraph 1 of the bail guidance and expressed in Article 5 of the European Convention on Human Rights and in the UK Border Agency's own guidance. As in paragraph 2 above, it would be helpful for reference to be made here to the UK Border Agency's own guidance on the matter, which makes clear that there is a "presumption in favour of temporary admission or release, and that, where ever possible, we would use alternatives to detention" (Enforcement Instructions & Guidance Chapter 55.1.1, 55.1.2, and 55.1.3).

32. The sentence currently in footnote 15 to paragraph 26 "…although not binding on an Immigration Judge a UKBA policy in favour of release would be a persuasive reason to grant bail" appears to us sufficiently important to deserve inclusion in the main body of text at paragraph 26.

33. Paragraph 27 contains the sentence "It is necessary for the applicant to provide evidence to challenge this case and *show that it is reasonable to grant bail*" [emphasis added]. As described elsewhere in the bail guidance, it is not for the applicant to show it is reasonable to grant bail but for the respondent to demonstrate why detention is necessary and why bail should be refused. The benefit of any doubt should rest with the applicant and this should be made explicit.

34. It would be helpful to add at the end of paragraph 28: "...in certain circumstances an immigration judge may therefore wish to direct disclosure of such evidence".

35. Paragraph 29 appears to conflate two issues, specifically
    i) the risk of absconding, with
    ii) the risk of re-offending/re-conviction and risk of harm to the public on release.

    The paragraph could be read as suggesting that risk of reoffending/re-conviction will trump any history of compliance with bail conditions. We suggest that paragraph 29 should end after "...unlikely to be substantial grounds for believing that detention would be appropriate" and that the issue of risk of re-offending/re-conviction and risk of harm to the public on release should be dealt with in a separate paragraph.

36. Paragraph 29 currently states that a "real" risk to the public will provide substantial grounds that detention be continued. We suggest that risk of harm to the public on

release be defined so that any such assessment is couched in terms of low, medium, high risk, or risk of "serious harm" rather than using the quantifier "real". Paragraph 29 could also usefully require definition of the risk of reoffending where it relates to the risk of violence to others, as opposed to other forms of risk of reoffending. For example, the OASys risk assessment tool used by the National Offender Management Service defines 'serious harm' as "a risk which is life threatening and/or traumatic and from which recovery, whether physical or psychological, can be expected to be difficult or impossible"' (OASys Manual chapter 8).

37. We consider that there is a need for greater specificity in the guidance about cases in which an applicant will be housed by the probation service on release, for example in a bail hostel. A form of words is needed that enables both the Tribunal to list the hearing and the immigration service to consider that the address provided by the probation service will be suitable, as in such circumstances there will be a parallel requirement in the licence conditions. Often the probation service does not provide a hostel address until bail has actually been granted so it is not possible to comply with paragraph 37 (iv). Historically Tribunals have refused to list such applications. We suggest: "If upon release the Applicant has a licence condition to reside in a Probation Hostel therefore for the purposes of the application it is sufficient to provide the Applicant's address to be "To live as directed by [area] Probation Service ".

38. We are concerned that the second sentence of paragraph 37 (i) is ambiguous and suggest that it is changed from: "An Immigration Judge should not grant bail where bail conditions may be contrary to any licence conditions" to read instead: "An Immigration Judge should not grant bail with bail conditions that are contrary to any Licence conditions."

39. We suggest that for clarity the first sentence of paragraph 37 (vi) be reworded to end with: "can direct that a person be subject to electronic monitoring ("tagging") ***for a defined period or until bail is renewed***"

40. It would be useful to amplify paragraph 37 (vi) with: "Where electronic monitoring is being considered, its impact upon the detainee and his or her family should also be taken into account particularly where there are health issues, children, and other vulnerabilities. Conditions of electronic monitoring should be proportionate". It is our experience that parents released on bail with an electronic tag may find they are unable to leave their accommodation to take children to and from school in situations where this is not proportionate.

41. On sureties, (paragraphs 38 – 42), it would be of great assistance if guidance could be issued so that immigration judges would be encouraged to examine sureties at a first or initial hearing where their suitability can be assessed. A note could then be placed in the record so that the surety would in future only need to supply bank statements and correspondence or similar evidence confirming that they reside at the same address, and a letter or signed form confirming that they continue to wish to stand as a surety. They could then attend the local police station or immigration office, if bail is granted, to sign the surety form.

42. This would assist sureties who seek to support bail applicants but who be required to attend several bail hearings. In demonstrating their commitment to the court, sureties may be required to take leave from work and travel long distances at their own expense to the hearing centre nearest an Immigration Removal Centre. This step would also meet the overriding objective of ensuring that a case is dealt with in a just but cost-effective manner, and otherwise appears beneficial in furthering efficiency and reducing expense if suitability is assessed only once, subject to change of circumstances.

43. At paragraph 40, we suggest that an immigration judge's confidence in a surety should not be assessed by reference to an absolute amount but to the means of the surety. The amount of recognisance should be such that it is meaningful to the surety, taking into account their income and savings.

44. In our view, the document referred to in paragraph 46 should also be served on the parties, not simply noted in the case file, given that the consequence of not producing the required information within 48 hours is refusal of bail (see paragraph 49). Often the information needs to be obtained from a third party, and there should be scope for applications for an extension of the initial 48-hour period to enable the document or information to be produced rather than require a further full application. We should therefore prefer to see written notification by way of an order or any other format that the Tribunal Service may deem acceptable to be issued to all parties outlining the decision and the steps each party may be expected to take.

45. Paragraph 49 states that where bail has been granted in principle but additional required information has not been produced within a 48-hour period, bail will be treated as having been refused. This raises the possibility that inertia on the part of the authorities will be adequate to thwart the granting of bail in principle. We therefore suggest the guidance be revised to reflect that that i) where the information provided is not provided ***by the applicant*** (only) within the set period, or is not satisfactory, bail will be treated as having been refused; and ii) where the information is not provided by the ***respondent*****,** then bail may continue to be regarded as having been granted in principle subject to the UK Border Agency's making any further representations requiring the grant of bail to be reconsidered.

46. We suggest that in paragraph 50 an additional point be made that where the mechanics of release cannot be met immediately in the absence of relevant documents and assessments of risk, a direction may be issued that any subsequent hearing for bail should be accompanied by full disclosure of documents relating to risk factors. An example of such a situation might be where the Probation Service is required to check an address but has failed to do so.

47. Paragraph 56 does not address the potential for delay in circumstances where an application for variation is made but the immigration authorities ignore the requests. It might be read as suggesting that a response is necessary before the Tribunal will consider the application. However the Tribunal should list the matter for consideration on the papers or for oral consideration where consent is withheld or

where there is no response from the UK Border Agency within say 72 hours. Otherwise there is scope for unreasonable delay.

48. In relation to paragraph 59 on when bail ends, in our experience immigration bail can end in a fourth way not currently mentioned, that is at the end of a period of immigration bail granted by an immigration judge, an immigration officer grants an extension of temporary admission on an IS96 form rather than as part of a grant of bail.

49. Bullet point three in paragraph 59 could perhaps be qualified by the words "...has come to an end as the person has breached a condition of bail", to replace the words "the recognisance is due".

50. We suggest the insertion of the words "without a reasonable excuse" after the word "failure" in Paragraph 61.

51. In paragraph 66, bullet point 2, we suggest the following addition on conditions to be met for restriction of the length of a videolink hearing: "Two conditions must be met: the first condition is that immigration bail has previously been refused…..; the second condition that ***must also be met*** is that the fresh application contains no new evidence and no new ground". i.e. ***both/and*** rather than ***or***.

52. On records of proceedings, we believe that complete legal records of a bail case should be produced and disclosed. Applications for bail are one of the fundamental ways in which a detainee, their representative, the UK Border Agency, and the courts can assess the current position in a case. A record of proceedings will contain details of any assurances given by the UK Border Agency in submissions, for example in relation to the time needed to obtain travel documents, length of time until removal can be effected, or length of time before a deportation appeal is concluded.

53. We remain of the view that written bail decisions should provide a clear record of the arguments of both the claimant and the respondent. Bail decisions should set out the central arguments for and against bail and detail the reasons for bail being refused. It is not sufficient for reasons for refusal to simply support the respondent's arguments. The reasons why release has been refused should also be explained.

54. Bail decisions should also outline what further steps might need to be taken by either party in the case before a subsequent bail hearing or within a set time scale (for example, steps to be taken by either party in relation to a travel document application). Without this, bail applications by an individual simply rehearse the same arguments repeatedly in a circle of inaction by all parties.

55. Many immigration judges' decisions remain illegible as they are handwritten. We continue to consider it is necessary and in the particular interests of the unrepresented detainee for immigration judge bail decisions to be typed. We refer to the report by BID (2010), *'A Nice Judge on a Good Day: Immigration bail and the right to liberty'* (p54) which details the reasons why we continue to consider that typed bail decisions are essential:

"While the illegibility of judicial handwriting may seem a trivial matter, in real terms the fact that the decisions are handwritten (not typed) and are frequently illegible means bail applicants, most of whom do not speak English as a first language, are unable to understand the reasons why their application has been refused and are therefore unable to gather evidence and argument to counter these reasons at any future hearing. This is compounded by the use of acronyms and jargon which renders some refusal notices incomprehensible to bail applicants, as Her Majesty's Chief Inspector of Prisons has herself observed".

56. Ensuring that decisions are legible and therefore intelligible will assist detainees and the court when a subsequent bail application is made. It is unrealistic to expect that immigration detainees, many of whom are unrepresented, will request the court to issue a typed decision when an illegible decision has been issued. It is more likely in such circumstances that detainees will proceed with making a subsequent application, even when they may not have understood the reasons for refusal given in a previous bail application.

57. We understand that at present discretion to list cases at particular locations is exercised where appropriate by the Resident Senior Immigration Judge. While accepting that there may be technical difficulties at some hearing centres, we should consider it helpful if specific reference could be made to this in the guidance at Section 7 of Annex 6. This is an important provision for sureties, especially those who are prepared to offer accommodation, who are unable to travel long distances due to disability or other medical issues.

58. We suggest that the title of Appendix B, currently 'Introductory Points to Remember', could usefully be changed to 'Conducting video-link hearings'.

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