



GETTING PROBATION APPROVAL FOR YOUR IMMIGRATION BAIL ADDRESS (PRIVATE ADDRESS)

July 2017

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.

This information is for foreign national ex-offenders on license who are:

- Detained for immigration reasons in prison or in an Immigration Removal Centre (IRC)
- Applying for immigration bail
- Have a private address to go to when released on bail

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

When can a foreign national prisoner apply for immigration bail?

You can apply for bail from the immigration tribunal if you are held under immigration powers, for example:

- At the end of your custodial sentence
- At the half-way point (Automatic Release Date) of your sentence if you are put on 'immigration hold' rather than released

If you apply for release on immigration bail you must give the immigration tribunal an address where you plan to stay. If you are still under license, this address must be approved by the probation service. This booklet explains how to get this approval.

This factsheet does not apply to you if:

- You are serving a life sentence or an indeterminate sentence.
- Your license conditions require you to live in 'Approved Premises' on release (bail hostel, probation hostel)
- You are under 21 years old.
- You don't have a private address

Contact BID

If you are unsure please contact BID's London office directly with your question.

BID
FREEPOST RTSU-ZJCB-XCSX
1b Finsbury Park Road
London N4 2LA

Telephone: 020 7456 9750 (helpline open 10am to 12 midday Monday to Thursday)
Fax: 020 3645 5226
Email: casework@biduk.org

If you have dependent children: Please contact the BID Family Legal Team

BID Family Legal Team
FREEPOST RTSU-ZJCB-XCSX
1b Finsbury Park Road
London N4 2LA

Fax: 020 3745 6226
Email: familyteam@biduk.org

If you are in prison: You can write to the Prison Team

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

and we will send you a prison pack.

You can also fax us on 020 3476 7226.

1. The immigration bail process

I want to apply for release on immigration bail, how do I do this?

If you do not have an immigration lawyer you can make your own application for release on bail. BID provides telephone or postal support to people making their own bail applications. If you can access the internet then check our website www.biduk.org for further information.

2. Do I need probation approval for an address before applying for immigration bail?

If your sentence is less than 12 months AND you do not have a release license or any kind of 'ancillary' or other order (e.g. a restraining order), then Probation or the Police will not need to be involved in decisions about where you can live if you are released on bail. This information booklet does not apply to you!

You will need probation approval before applying for immigration bail if:

- You have a "fixed term" prison sentence of 12 months to 4 years. Prisoners usually serve the first half of their sentence in prison and the second half in the community on licence.
- Your 'Offender Supervisor' should begin to arrange for probation approval of the release address that you give them, as part of your discharge process for an upcoming 'Automatic Release Date'.
 - ◇ Foreign national offenders may not be released but instead be detained under immigration powers.
 - ◇ If this happens you will be on licence until the end of your sentence even though you are still in custody for immigration reasons. You might be kept in prison or you may be transferred to an IRC. You can apply for immigration bail.
- If you are being held in prison, you will know you are detained for immigration reasons if the Home Office has given you a document called the **IS91R 'Reasons for Detention' form**.
 - ⇒ As soon as you receive this form you may apply for immigration bail. Prison staff may not know this and you should share this booklet with them.

The probation team within a prison is usually based in the Offender Management Unit (OMU) and you should have an Offender Supervisor. They can help you as you prepare for release.

You can apply for release on immigration bail even if the Home Office is trying to deport you under “automatic deportation” powers.

You will also need probation approval if:

- You are required to sign the Sex Offenders’ Register, OR
- You will be managed under MAPPA (Multiple Agency Public Protection Arrangements) on release, OR
- You are subject to a Sexual Offences Protection Order (SOPO)

You may also have additional conditions or customised (“personal”) conditions added to your Licence. Some of these other conditions may relate to the address you want to live at.

3. What are my license conditions?

Speak to the following people about your licence conditions:

- Offender Management Unit (OMU)
- Foreign National Coordinator

They will be able to tell you about your:

- Probation Trust
- Probation Officer

It is best to contact the Probation Trust in the area where you lived when you were arrested. If you have never lived in the UK then contact the Probation Trust near your Prison or IRC.

If you can get access to the internet you can use this link to find a list of Probation Trusts:
<http://www.justice.gov.uk/about/probation/probation-trusts>

You could also write to your Home Office ‘caseowner’ to ask for details of your licence conditions.

If you are planning to make an application for release on immigration bail then you can contact BID for information and advice on finding the relevant probation trust and finding your probation officer/offender manager.

4. Choosing the best address to use for your bail application

Probation is more likely to approve an address that is:

- Not the same address where you committed an offence
- Not occupied by other people with criminal convictions

You can ask the following people for help with deciding if an address is ok:

- Offender Management Unit (OMU)
- The officer who assists foreign nationals
- Offender Supervisor
- Offender Manager/Probation Officer
- Your lawyer or solicitor
- BID (as part of your immigration bail application)

If your address is approved by probation but you are refused bail you can probably apply for bail again within a few months using the same address.

It is best to phone or write to your current Offender Manager or the Offender Management Unit staff to ask them to confirm that you can still use the same address.

5. I am I am near my half way point – what should I do?

About eight weeks before your half-way point, you should give the Offender Management Unit (OMU) your proposed release address (if you have one) and ask them to arrange for probation approval of that address by the time of your Automatic Release Date.

- Tell them that if you are not released on your release date then you will be applying for immigration bail.
- Check with the Offender Management Unit (OMU) 4 weeks before your Automatic Release Date to make sure they have asked Probation to approve your release address.

A few weeks before half-way point in your sentence, you should go through a process known as 'discharge', or a 'discharge board' with the Offender Management Unit staff. This involves:

- Explaining your Licence conditions
- Checking the dates of your sentence,
- Giving you advice about benefits, help with education and training support
- Confirming your release address.

Who is responsible for arranging probation approval of my bail address?

Normal release at half-way point: Offender Management Unit

Immigration bail from 'immigration hold': Home Office

Keep a written record of who you speak to about getting Probation approval of your address and what they say. You may need to give this information to a court later on, to show how hard you have been trying to get your address approved so that you can apply for release on immigration bail.

As soon as you are detained for immigration reasons it becomes the responsibility of the Home Office to tell Probation to carry out any licence-related checks on your proposed bail address.

6. Your bail application process

After you submit your bail application to an immigration tribunal:

- The Tribunal will tell the Home Office that you have applied for release.
 - ⇒ The Home Office will request the Probation Trust in the area of your bail address to start the process for checking your address
 - ⇒ Probation will tell the Home Office (and not you or the Tribunal) if they approve your address.

- The Tribunal will tell the Home Office that you have applied for release. The Immigration Tribunal will give you a hearing date for your bail application. This is normally 3 to 6 working days after you fax your bail application to the hearing centre.
 - ⇒ Sometimes probation will not be able to finish the checks and approve your address before a hearing. If this happens the judge may ask you to withdraw your bail application. This is to avoid accidental breach of your License.
 - ⇒ This is also why it is important to ask probation to approve your address as soon as possible before you apply for bail.

Address Approval

Probation may decide that the release address you have suggested is not ok. Sometimes they will give reasons for this and sometimes they will not.

- ⇒ If the address is not approved by probation then you will have to find another address and have that one checked too.

If you have a solicitor or legal advisor like BID helping you with your bail application, they should try to find out from probation whether your bail address has been approved. This may take many phone calls and letters over several weeks.

What can I do to speed up the process?

A Probation Trust is allowed to wait for an instruction from the Home Office before they start the checking process for your bail address. Even if you speak to the Probation Trust they might not want to start the checks before the Home Office has told them to start.

Make sure that Home Office has asked for a probation check on your bail address.

Speak to the Home Office representative in your prison (or your Home Office caseowner). Tell them you want to apply for bail, and ask them to confirm that the Home Office Criminal Casework Directorate has told probation that they should start checking the address.

Get help from your legal advisor.

Your lawyer could call the Probation Trust to ask them if they will start the approval process and start making checks on your bail address so that you can make an application for release on immigration bail.

Get help from prison staff.

Go to the Offender Management Unit (OMU) in the prison and ask them to speak to the Probation Trust where you want to be released to, and ask them to start the approval process for your address.

Try to contact your Offender Manager or the Probation Trust in the area where your bail address is located.

Make a complaint to the Home Office and to Probation about the delay.

BID believes that 4 weeks is a reasonable length of time for Probation to carry out licence-related address checks, and that the Home Office should also be making sure that this is done quickly.

Keep a written record of any conversation that you have with the Probation Trust, the Home Office or the Offender Management Unit. What date did you speak to them or write to them, and who did you speak to?

7. My address is not yet approved- what can I do?

If you have a lawyer they might want to consider taking legal action if the delays are stopping you from exercising your right to apply for release from detention on immigration bail. It may be necessary to challenge the Probation Trust, the Home Office, or both.

You should not have to wait for weeks or months to make a bail application just because you are still on licence. Your detention may have become unlawful. If you do not have a lawyer you can contact BID for further information and assistance.



Bail for Immigration Detainees (BiD) is a registered Charity No. 1077187.

Registered in England as a Limited Company No. 3803669.

Accredited by the Office of the Immigration Services Commissioner Ref. No. N200100147.

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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