

# Challenging Reporting Conditions

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MAY 2023

GUIDE FOR ADVISERS AND CASEWORKERS

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migrants  
organise



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This guide is not legal advice. Information and opinions provided do not address specific individual circumstances and are for informational purposes only. They do not constitute any form of legal advice and should not be relied on or treated as a substitute for specific advice relevant to particular circumstances and is not intended to be relied upon to make any specific decisions.

Requesting a variation of Bail Condition is considered immigration advice, so only accredited advisers (e.g. under the OISC or Law Society) can request for variation on behalf of someone else. Please refer to the section “What if you are not OISC accredited?” below if you are not an immigration adviser.

This guide has been updated from the previous version dated October 2022 to reflect the changes to the Home Office's Reporting and Offender Management Policy

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# Help Us Challenge Reporting Conditions!

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Reporting conditions are unnecessary and can be extremely burdensome. Many migrants have to report for years on end while they fight for their immigration status. We hope that this guide will be a useful resource to challenge reporting for individual cases and also to support people to report safely and know their rights.

However, we also firmly believe that efforts to support people reporting and working to challenge individual cases of reporting conditions should sit within an abolitionist framework to dismantle the current system of border controls and policing of migrant communities. We believe that reporting conditions are an act of violence and should be abolished in their entirety.

[Join our Abolish Reporting campaign](#) led by people currently reporting and get involved

Reporting conditions are just one of the many ways in which asylum seekers and migrants are unable to live a dignified life and are part of the brutal Hostile Environment Immigration policy which inflicts violence on our communities. Join our movement to demand a Fair Immigration Movement.

[Sign our Charter now!](#)



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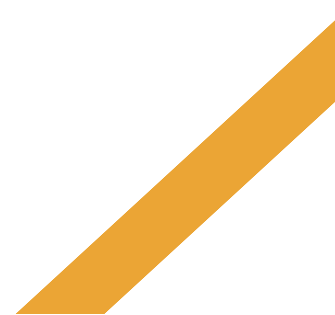
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## Background- What is Reporting Condition?

- Under the Immigration Act 2016, the Secretary of State has the power to grant immigration bail if a person is detained or 'liable' to be detained (which is interpreted broadly). The concept of immigration bail replaced and consolidated the previous concept of temporary admission and temporary release.
- When someone is granted immigration bail, the immigration Act 2016 requires at least one condition to be imposed such as no study condition, residence condition, electronic tagging, etc.
- Importantly, however, Immigration Act 2016 also provides that the Secretary of State can impose "any other condition that she deems appropriate".
- Reporting conditions seem to be used very frequently. Prior to the pandemic, they were imposed almost in a blanket way.
- It is however important to note that there is no duty to impose reporting conditions: the Secretary of State just has to impose one bail condition, whatever that may be.

## COVID and Reporting Condition

- During the COVID pandemic, the Home Office produced additional policy on how to implement reporting condition during the pandemic and introduced telephone reporting.
- Many individuals were told that they did not have to physically report anymore and that they were going to receive a call instead from the Home Office. Some people never receive this call and have not been called back for reporting. Others have now been called back to reporting.
- In 2022 The Home Office then introduced Reporting and Offender Management Policy (v5.o) which, in effect, introduce telephone reporting as the standard for most individuals. The policy was also very clear in that first time asylum seeker did not have to physically report
- In January 2023 the current (v6.o) policy was released. While the use of telephone reporting remains, the policy has become much less clear in relation to first-time asylum seeker. This is a disappointing development.

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## What if You are Not Accredited to Provide Immigration Advice?

Request to vary immigration bail is immigration advice. As mentioned, the person's immigration representatives should be able to assist with the matter.

In theory it is always better when a person has an immigration representative before any representations are made to the Home Office. However, certain reporting conditions are very clearly inappropriate or a person might really struggle to comply with the reporting event. In such a case a letter of concern can still be sent to the Home Office (reporting centre and safeguarding team) and an urgent referral should be made to an advice organisation or immigration firm. The letter should focus specifically on the client's vulnerabilities and the difficulties that they face complying with the current reporting condition.

You can also assist a person who is reporting to write their own letter, particularly if the issue is around requesting other form of bail condition or a change to telephone / digital reporting.

## General Tips

- Telephone / digital reporting should be the standard now for people unless they fall within the 5 categories of individual suitable for in person. The current policy, while not being explicit, is really quite clear on this. We are however hearing varied practice in different reporting centres which is why it is so important for individuals to continue challenging inappropriate reporting conditions.
- Remember, that reporting condition, in whatever form, is merely but one type of bail condition. Particularly in cases where there is no threat of removal or detention, e.g. first time asylum seeker, we recommend requesting either a no-working condition (which is often illegal in any case), a residency condition or a condition to "notify the Home Office of any change of circumstances"
- Obtaining strong evidence is always key, particularly medical evidence. When there is strong evidence, any refusals to vary reporting conditions will be more easily challenged by way of judicial review.
- Ask about reporting conditions when working with a new individual. In our experience, people don't often talk about their reporting condition or their struggle to comply.

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- There are very strong arguments that children should not be reporting. The Home Office has a duty under s55 borders and immigration act to safeguard and promote children's best interests, and it is quite unlikely that regular reporting conditions would ever be in a child's best interest. Unaccompanied children also should be under the care of social services which means the purpose of reporting condition is questionable
  - Similar arguments can be made for victims of trafficking and individuals who are supported by local authority, such as under the Care Act or s117 of the Mental Health Act.
  - Requests for transport costs are available for individuals who are living outside of a 3-mile radius from their reporting centre. This applies whether or not the individual is on asylum support. The policy does not require any test for destitution or exceptionality.
  - If the individual lives within 3-mile radius, however, there has to be an "exceptional" reason before travel cost is provided.

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## Relevant Policies

### [Immigration Bail, v 15.0, published 27 January 2023](#)

- The Immigration Bail policy is the Home Office's overarching policy and guidance on the immigration bail framework under the Immigration Act 2016.
- It provides the aim of the bail condition regime and provides guidance on the different bail conditions which are available and when the Home Office is supposed to impose them (and which condition to impose).
- The section on reporting conditions specifies that there are 3 types of reporting conditions: in person, telephone or digital. Most details on digital reporting can be found [here](#).

### [Reporting and Offender Management Policy, v 6.0, published 19 January 2023](#)

- The reporting and offender management policy provides the main guidance on imposing and implementing reporting conditions, particularly in person and telephone reporting
- Once reporting conditions are set, this policy should be referred to when deciding on issue of location of reporting, frequency, support and reasonable adjustments.

Note that the above are the most up to date relevant policies at the time this guide is published in May 2023. Please check GOV.UK website for more recent iterations of the policies.



# I. Is Reporting an Appropriate Condition?

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Note: In this document we use the term 'a reporting condition' to refer to the requirement to report or sign at a Home Office or other premises regularly (occasionally, this is a police station or other government building). We use this language as reporting is one of several possible 'conditions'. When you see 'A Reporting Condition' this is referring to what some call simply 'reporting' or 'signing'.

When considering challenging reporting, the first thing to ask: is this reporting condition appropriate? Below is a list of step by step questions that should be considered to answer this question.

## 1. Should the Person be on Immigration Bail?

Generally speaking, a person can only be put on immigration bail if they do not have any leave to remain, e.g. if they are an asylum seeker or an overstayer, regardless of whether they have a pending application.

- Sometimes a person might still be asked to report even after they have been granted status, for example due to administrative error or delays.
- Before Brexit, EEA citizens and family members with automatic rights to reside were particularly prone to be put on immigration bail wrongly. This is because they often do not have any clear proof of their status in the UK
- It remains to be seen whether issues will arise in relation to individuals with pre-settled or settled status, particularly given the lack of physical proof of status.

A person should also only be put on immigration bail if they have the requisite mental capacity (under the Mental Capacity Act 2005) to comply with the conditions imposed

- This issue surfaced in the case of KDE concerning a very mentally unwell man who was unlawfully detained and subjected to reporting conditions.
- A settlement however was reached and therefore the High Court did not adjudicate on this matter
- We however believe that there are strong arguments that it is unlawful for the Home Office to put a person on bail when they lack mental capacity to comply with a bail condition.

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## 2. What Conditions are Imposed?

Individuals put on bail will be given a BAIL 201 form, which will include the details of the condition imposed. Everyone who has been put on temporary release or admission will also automatically be on bail (i.e. those who have been given an IS96 form). The BAIL201 form could often be found in the Home Office's Subject Access Request file or contact can be made to the relevant reporting centre.

If the client does not know what bail condition has been imposed and/or has not been complying with the condition as requested (e.g. has not been reporting), priority should be given to assisting the client on their substantive immigration case. In other words, the client should ideally first obtain immigration advice on their options, secure funding and obtain legal representation before dealing with the issue of bail condition.

## 3. Should Reporting be Imposed in the First Place?

As mentioned, when a person is put on immigration bail, the Home Office has to impose at least one bail condition. Reporting condition is however only one option, others being no working, residency condition, no study condition, etc. The Secretary of State also has a wide discretion to impose any other condition which she deems appropriate.

The immigration bail policy does not provide much guidance on how to choose which condition to impose. It is therefore important to consider firstly whether there are other more appropriate immigration bail conditions.

Two things are relevant here

1. Vulnerability of the client. When assessing whether a reporting condition is appropriate, considerations must be made to the vulnerability and personal circumstances of the client. For example:

- a. Individuals with disabilities might not be able to withstand the journey to reporting centres, or be able to use electronic communications properly for telephone or digital reporting.
- b. It might not be safe for victims of trafficking to travel to reporting centres.
- c. Any interaction with the Home Office, even via telephone, could be very distressing for certain individuals, e.g. those who have been tortured by government agents in their country of origin.
- d. Some individuals might have difficulties using their phone or receiving calls

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2. Aim of bail condition. More widely, considerations can be made to the aim of bail condition itself as per the Home Office Immigration Bail Policy guidance at page 12, any conditions imposed "must":

- Take into account the facts of the individual case
- Enable the Home Office to maintain appropriate levels of contact with the individual
- Reduce the risk of non-compliance, including absconding
- Minimise potential delay in the Home Office becoming aware of any noncompliance
- Be in furtherance of facilitating individual's return.

Take as an example, an individual is already represented by an immigration solicitor and is fully supported by social services under the Care Act. In such a case, the purpose of imposing a reporting condition can be questioned. Home Office can easily maintain contact with the individual through the solicitor or social services, and there is very low risk of absconding.

Arguments based on vulnerability will likely be much stronger given that the Home Office has a clear safeguarding duty as well as duties under the Equality Act 2010, particularly if there are strong evidence from medical professionals.

However arguments which question the purpose and aim of reporting conditions should also still be put forward. It might be useful for example, to show irrationality or unreasonableness on the part of the Home Office.

#### 4. First-time Asylum Seeker?

The previous Reporting and Offender Management policy v5.0 provided very useful guidance on first-time asylum seekers, stating clearly multiple times that first-time / new asylum applicants do not need to report unless exceptional circumstances apply.

These references have disappointingly been removed in the current iteration.

There are however still strong arguments that first-time asylum seekers should not be put on reporting condition, particularly physical reporting, as it does not serve achieve the aims of bail conditions above

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## 5. In Person, Telephone or Digital Reporting?

The current Reporting and Offender Management guidance proposes a "blended" approach to reporting between in-person, telephone or digital. Digital reporting is when the Home Office sends a link to the person through text or e-mail to allow the individual to check-in with the Home Office digitally.

The guidance provides much more detailed consideration when telephone reporting should be used instead of in-person.

In effect, telephone reporting should be the standard for most individuals. At [page 15](#), the guidance states that decision makers "MUST" ensure that individual falls within the 5 categories below when considering if an individual should "commence or recommence" in person reporting:

- (a) foreign national offenders (FNOs)/High Harm/Special Immigration Appeals Commission (SIAC) or restricted access cases or persons who are on Restricted Leave
- (b) those who have shown a willingness to return home voluntarily and where reporting will aid the process of return
- (c) those who have not returned home and who have not engaged with our Voluntary Return programme.
- (d) those identified for removal
- (e) those who are not immediately removable but have failed to comply with telephone reporting and are currently 'out of contact'

The guidance also states that "for those already on face-to-face reporting, should representations or evidence be submitted, and the individual does not fall under categories (a) to (e), reporting can be considered via telephone or digital system unless there are exceptional circumstances."

At [page 15](#), it states that a "senior caseworker or manager must approve any continuation of face-to-face reporting and ensure the justification is evidenced on CID (Person Notes)/Atlas accordingly).

The Immigration Bail policy provides detail on digital reporting at [page 22](#): "There are no general exclusions to any individuals in relation to a Digital Contact bail condition. However, it is more likely to be suitable where a person has demonstrated continued compliance with immigration bail and processes. When making a decision whether to impose this condition, decision makers must first consider all forms of reporting conditions."

At [page 13](#), the guidance now provides a table, to assist decision makers to decide type and frequency of reporting.

Unfortunately there are some peculiarities with the table and one should be careful when making reference to it. In particular, the table suggests different reporting type and frequencies for Adult non FNO depending on whether they have "open asylum", "open appeal", or "outstanding application". There are no clear reasons why these instances should be treated differently, and we suggest focusing on the 5 categories above to request telephone / digital reporting.

The last category on the table relating to elderly and vulnerable individuals, however, could be helpful

<b>Cohort</b>	<b>Barrier</b>	<b>Suggested type and frequency of reporting</b>
Adult FNO	Any	Face-to-face reporting, frequency as per FNO RC decision
Adult non FNO	No barriers to removal	Generally fortnightly face-to-face reporting
Adult non FNO	MEDP / TCU inadmissible case / identified for prompt enforcement action	Generally fortnightly face-to-face reporting
Adult non FNO	No document	Generally monthly or bi-monthly reporting if ETD will be issued imminently
Adult non FNO	No document – no realistic timescales for outcome	Generally, telephone reporting – rotated telephone reporting and face to face every three months
Adult non FNO	Outstanding application depending on timescale for outcome	Generally monthly or bi-monthly face to face – telephone reporting if no imminent outcome
Adult non FNO	Open asylum	Reporting decided on a case-by-case basis, dependant on case type for example MEDP / TCU inadmissible case / identified for prompt enforcement action
Adult non FNO	Open appeal	Generally, telephone reporting – rotated telephone reporting and face to face every 3 months
Adult non FNO	Judicial review	Generally, telephone reporting – rotated telephone reporting and face to face every 3 months
Family with adult dependants	Any	Treat in line with single adult non FNO
Family with dependants under 18 years	Any	Generally digital reporting unless FNO / high harm
Unaccompanied minor	Any	No reporting until eighteenth birthday, unless unaccompanied asylum – seeking children, then they report between seventeenth and eighteenth birthdays
Elderly / vulnerable / medical reasons preventing face-to-face reporting	Any	Generally digital reporting unless FNO / high harm

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## 6. Is the Specific Reporting Condition Appropriate

Regardless of the above, a reporting condition can become inappropriate if it's too burdensome, there are four aspects to consider:

- Frequency of reporting condition
- Distance to reporting centre.
- Financial assistance (transport or childcare cost)
- Availability reasonable adjustments\*

For example, if the reporting condition requires a person to report every single day at 8 am, at a reporting centre which is 2 hours away on public transport, then that reporting condition is likely to be inappropriate for any individual.

It might also be that a reporting condition can only be appropriate if there is a reasonable adjustment. For example, a person with physical disability should not be required to queue.

While for most individuals telephone or digital reporting might be the least onerous options, some individuals might actually struggle with phone calls or checking in digitally through links sent by the Home Office (via email or text message). In such a case, you should consider again whether reporting, in any form, is truly appropriate.

This Immigration Bail policy at [page 22](#) also makes makes clear that considerations must be made to whether the individual is able to use technology before imposing digital reporting: "If a person does not have access to either a smart phone or email, then they are not able to be placed on a digital reporting condition"

\* Please refer further to the specific section in the Reporting and Offender Management policy. It is important to always check the policy every time given that the Home Office might update it or make amendments. We recommend that in the letter, specific and explicit reference be made to the relevant part of the policy (e.g. copy-pasting it to the letter)

# II. Steps to Challenge Reporting Condition

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If after going through the questions above you believe that the reporting condition is inappropriate, then this needs to be challenged. Below are the steps that needs to be taken to do so

## 1. Discuss Issue with Immigration Representative who is Dealing with Substantive Case

It is important that immigration representatives who are dealing with the substantive immigration case are involved when challenging a reporting condition. In most cases, they should be the one assisting the client with the issue with the reporting condition (particularly if the case is legally aided).

At the very least the immigration representatives should have a chance to look through and comment on any requests made to the Home Office. This is to ensure that all of the information provided to the Home Office is consistent.

If the client does not have a representative yet, then ideally priority should be to obtain one first before challenging reporting condition (unless it is an urgent situation).

## 2. Obtain Evidence

A request to stop or vary a reporting condition should be evidenced as much as possible. This is particularly important if the request relies on the person's vulnerabilities or disabilities.

In straightforward cases where the person falls outside of the 5 categories for in person reporting, we suggest that representations be made immediately focusing on the fact that the person should be on telephone / digital reporting.

Good evidence can be in the form of a supporting letter from the person's GP, health professional or social worker. Ideally, requests for evidence should be put in writing. You should explain the circumstances in as much detail as necessary. Some healthcare professionals may consider waiving charges which ordinarily apply for these services. Likewise if the request is to ask for financial support, then a google map screenshot of the distance between the person's address and the reporting centre, or a receipt of the transport cost would be helpful.

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### 3. Send request to the Home Office: ask for BAIL406 and provide deadline

Requests should be sent to the relevant reporting centres. Their contact details can be found [here](#).

The Home Office immigration bail policy, at [page 82](#), states that any refusal to vary a bail condition should be done using the BAIL406 forms. However, in practice, this seems to be rarely done. Instead the Home Office often does not respond to requests or provide their decision orally and informally to the person during their next reporting event. Explicit requests should therefore be made to ask the Home Office to issue a BAIL406 if the request is refused or reissue the BAIL201 form to reflect the new condition.

If the request raises safeguarding concern / is urgent, the safeguarding team can also be included. This is the email for the asylum safeguarding team: [ashlse@homeoffice.gov.uk](mailto:ashlse@homeoffice.gov.uk)

Providing a deadline for the Home Office to respond is also always useful. This depends on the urgency of the situation such as whether the person can still attend the next scheduled reporting event. In general however, it would be reasonable to provide the Home Office 2 weeks to respond to the initial request, and further 3-5 days to respond to a follow up request.

### 4. Refer to a Public Law Solicitor for a Judicial Review challenge

Should the Home Office refuse the request or fails to respond after a given deadline, the case can be referred to a public law solicitor for a challenge.

Some immigration solicitors (or their firm) carry out public law work as well and therefore might be able to also assist. Legal aid will be available (subject to merits and financial assessment by the solicitor).



# III. Templates

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We have provided below template letters to assist in challenging reporting condition.

The first template is to request medical supporting letter, such as from the person's GP, while the second one is a template to request telephone reporting.

Please note that these templates do need to be adapted to fit individual cases, particularly for template II, as there might be a lot more reasons as to why reporting condition should be changed. Reference to policies will also need to be double checked to ensure that they remain relevant. [DO NOT send templates without doing these and reading this entire guidance first](#)

## Template I: Request for medical supporting letter

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Reporting condition refers to a requirement to go to a Home Office reporting centre regularly to sign. Reporting events can be very stressful for individuals and the harmful impacts have been well documented such as in [this](#) report produced by Migrants Organise and the Public Law Project, and also in personal testimonies [here](#), briefly:

- Any interactions with the Home Office can be highly distressing for many individuals, especially people who fear government authorities for example due to past experience of torture by a government body.
- Physical reporting can be extremely burdensome particularly for individuals with physical/mental health disabilities, victims of trafficking, those with children, and those who live far away from the reporting centres.
- Many individuals live on the brink of destitution (including if they are on asylum support) but are often not given transport cost to report even though this is available
- Reporting events can be used as an opportunity to carry out further interviews or to indefinitely detain an individual under immigration powers.

The Home Office has now introduced the possibility of telephone and/or digital reporting (where the person gets a link that they have to click). However, there is also no duty for the Home Office to impose a reporting condition to a particular individual, in whatever forms.

The Home Office is only required, by law, to impose one condition and this can be, for example: a no working condition, a residency condition, a requirement to update the Home Office of any changes, or "any other conditions that the Secretary of State deems appropriate"

We are currently working with your patient [details of patient] who has been asked to report [details of current reporting requirement]

We believe that the current reporting requirement is inappropriate because [provide some reasons given by client]

We would be grateful for a supporting letter to help us challenge this. Please find below questions that we need you to address in your letter. Thank you very much.

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Patient's name:

Patient's date of birth:

In your professional opinion please state:

1. What is the nature of the person's condition?
2. In what capacity have you dealt with the person? For example as GP, consultant, other medical professional
3. Please state your profession/qualifications and any registration number
4. In your opinion, does the current reporting condition pose any risk to the [client's] physical and/or mental health and welfare?
5. In your opinion, would the client be able to be put on telephone or digital reporting?

Signature:

Name in capitals:

Date:

## Template 2: Letter to request telephone / digital reporting

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Dear sir/madam,

Re: [client's name, DoB, and reference number]

Request for telephone reporting

We write on behalf of [client] to request that their reporting condition be changed to telephone / digital reporting

The current Reporting and Offender Management Policy, v.6.o, at page 15, states clearly that decision makers must ensure that individual falls within the 5 categories below when considering if an individual should "commence or recommence" in person reporting:

- (a) foreign national offenders (FNOs)/High Harm/Special Immigration Appeals Commission (SIAC) or restricted access cases or persons who are on Restricted Leave
- (b) those who have shown a willingness to return home voluntarily and where reporting will aid the process of return
- (c) those who have not returned home and who have not engaged with our Voluntary Return programme.
- (d) those identified for removal
- (e) those who are not immediately removable but have failed to comply with telephone reporting and are currently 'out of contact'

[Client] does not fall within any of the categories above. They are [explain briefly the circumstances, e.g. "first time-asylum seeker currently still waiting for substantive interview and is living in asylum support accomodation. They have no criminal record"]

Please change the reporting condition to telephone/digital reporting and reissue the BAIL2o1 form. If this request is refused, please provide a BAIL4o6 setting out clearly the reasons for the refusal.

Please kindly provide a response within 7 working days

Kind regards,