

Removal and deportation

Can I be removed from the country?

Can I appeal against being deported?

Where can I get help and advice?



0845 345 4 345

www.communitylegaladvice.org.uk

See page 10 for useful phone numbers and website addresses

A free and confidential advice service paid for by Legal Aid

community
legal advice

The Community Legal Service

This guide has been produced by the Community Legal Service (CLS), an organisation that has been set up by the government to help you find the right legal information and solve your problems.

The CLS:

- provides leaflets with advice on a range of problems, and
- can help you find people and organisations that can help you with your legal problems.

To find out more about how the CLS can help, call us or visit our website.

0845 345 4 345

www.communitylegaladvice.org.uk

*Community
Legal Service*



Can I be made to leave the UK?

You need 'leave' to come to the UK from most countries and to stay here. The government Border Agency can 'remove' you – send you back to your own country – if you don't have leave. If you are removed, you may be prevented from returning to the UK for up to ten years.

The government can 'deport' you – send you away and stop you returning – if you commit a crime while you are in the UK or if the government think it is not good for people in the UK for you to be here. You can be deported even after you have been living here for a time. If you are deported, you will not be able to return as long as the order deporting you remains in force.

Removal and deportation are two different ways of making a person leave the UK. This leaflet is about both. It tells you how you can try to stop removal or deportation happening if you believe you have a right to stay in the UK.

To find out where to get more information and advice, see the section 'Where can I get help and advice?' on page 09.

Who can be removed?

You and your family can be removed if you do not have leave to be in the UK. This could be because:

- you came here without getting leave, or
- you had leave for a certain time only and that time has run out, or
- you had leave to stay but only on certain conditions, and you have not kept to the conditions. For example, you may lose your leave to stay if you worked when you did not have permission to work, or for more hours than you had permission to work for, or
- you claimed asylum, but the government refused your claim and any appeals you made.

How is a decision to remove me made?

If the Government decide to remove you, they will give you the decision on form IS151A. You will also get 'directions' telling you where you are to go, when you will leave and how you will get there.

There can sometimes be a long delay between deciding to remove you and sending you removal directions. But when you get the directions, they may say that you have to leave very soon.

Can I challenge the decision to remove me?

You may be able to 'appeal'. An appeal means your case will be looked at again by an independent immigration judge.

You can appeal if, for example:

- you applied for leave to stay, but the government refused
- you can show you are a refugee or that removal would breach your human rights. You can get advice on this in the Community Legal Service leaflet 'Claiming Asylum'.

You need to act quickly if you want to appeal. Get legal advice as soon as possible. You have a right to this advice. You will not normally have to pay for legal help to make your appeal, as long as you have a reasonable chance of winning your case.

To find a solicitor with expertise in removal and deportation cases, contact **Community Legal Advice** on **0845 345 4 345**, or visit www.communitylegaladvice.org.uk.

What if I agree to leave the UK instead of being removed?

You may decide to leave the UK yourself. If you cannot afford to leave, the UK government may help you with the cost. Talk to your solicitor or adviser about this.

Before you decide whether to leave voluntarily or to challenge a removal, you should get advice on how this could affect any application you make to return to the UK in future.

Who can be deported?

Being 'deported' means you get a legal order ('deportation order') telling you to leave the UK and not come back. You can be deported if:

- you commit a crime and the court says you should be deported, or
- a member of your family is being deported, or
- the UK government decides that it will not be good for people in the UK if you stay here. This may happen after you have spent time in prison, but may also happen even if you have never been to prison.

You normally get a 'notice of intention to deport' before the deportation order is made. If you have been in prison, you may not get this notice but will straightaway get a deportation order.

Can I challenge a decision to deport me?

If there is a decision to deport you, you may be able to:

- ask the government to allow you to leave of your own free will (a 'voluntary' or 'supervised departure'), or
- appeal the decision.

Before you decide what to do, you should get advice on how your decision could affect any application you make to return to the UK in future.

You can challenge the decision at different stages in the process in the following ways:

- If you are convicted in court of a criminal offence, and the judge recommends your deportation, you can appeal against your conviction and the recommendation at the same time. Talk to the lawyer representing you in your criminal case about this.
- If you get a 'notice of intention to deport', then you can appeal against the notice before a deportation order is made. If your appeal fails, the deportation order will be made.
- If you get a 'deportation order', you can ask the government to cancel (or 'revoke') it. But their decision may not be made in time to stop you being deported.

What can I do if the government will not cancel an order to deport me?

If the government refuses to cancel a deportation order, you may be able to appeal against the refusal if you can show:

- you are a refugee, or
- deportation would breach your human rights, or
- deportation would breach your rights under European law (if you come from a European country).

If the government does not accept this, you may still be able to appeal, but only after you have left the UK.

What happens if I do not have the right to appeal against removal or deportation?

If you do not have the right to appeal against any of the decisions made about deporting or removing you, you can ask for a 'judicial review'. This means asking a judge to rule if the decision was properly made.

You can ask for a judicial review if:

- you do not have the right to appeal or
- you have appealed but the appeal has failed, or
- you think the authorities have not gone through all the proper steps.

You need to act quickly if you want to apply for a judicial review. Get legal advice as soon as possible.

Can I be detained while I challenge a decision to remove or deport me?

You may be detained (held) in an Immigration Removal Centre.

If you are in prison when you appeal, you may be held there after the end of your prison sentence. You have a right to legal advice even if you are detained. Ask for a list of advisers who give free legal advice. Specialist lawyers will come to the removal centre.

An organisation that can help you if you are being held in prison or in an Immigration Removal Centre under immigration law powers is:

- **Bail for Immigration Detainees** – phone **020 7247 3590** or visit www.biduk.org

If you are being held, you can apply for release on 'bail' – ask your lawyer for advice on this.

If I am removed or deported, can I apply to return to the UK?

If you are removed from the UK, you can apply to return at any time. But you may be subject to a 're-entry ban' that says you will not normally be able to come back for a certain period of time, unless there are exceptional circumstances.

If you have been deported, you can only return to the UK if you can get the deportation order cancelled. This will not usually be possible until you have been outside of the UK for ten years, though there are exceptions.

If you have been deported or removed and you want to return to the UK, you should get advice before you make any application.

Where can I get help and advice?

If you do not have enough money to pay for legal help, you should be able to get free expert advice. This is available through solicitors and voluntary organisations who are approved by a government organisation called the Legal Services Commission.

Other solicitors may offer advice that is not free – but they must tell you that free advice is also available.

Community Legal Advice can give you details of local or specialist organisations that can help. See the opposite page for details of how to contact Community Legal Advice.

If you need help with problems other than your asylum claim, for example, help with housing or money matters, the following two organisations can help:

- Your nearest **Citizens Advice Bureau** should be able to help you find these. Citizens Advice Bureaux are listed in the phone book, or you can check the Citizens Advice website at www.citizensadvice.org.uk.
- **Community Legal Advice** can give you advice over the phone, or tell you about local or expert organisations that can help (see opposite for details).

Community Legal Advice

You may have other problems apart from the threat of being removed or deported, such as concerns about money. Community Legal Advice may be able to help with these. It is a free, independent and confidential advice service paid for by the government.

- If you have a low income, including benefits, and qualify for legal aid, you can call for independent advice about debt, education, benefits and tax credits, employment and housing problems.
- If you do not qualify for legal aid, or if you have another type of problem, we can put you in touch with other organisations, helplines or local advice services that can help. We direct you to other legal information resources.

How to contact us

You can speak to our advisers in several ways:

- Call us on **0845 345 4 345** from 9am to 6.30pm Monday to Friday. Calls cost no more than 4p a minute from a BT landline. Calls from mobiles are usually more. Worried about the cost? Ask an adviser to call you back.
- Request a callback through our website, at <http://www.communitylegaladvice.org.uk/en/about/callback.jsp>.
- Text 'legalaid' and your name to **80010** and we will call you back within 24 hours.

Help on the internet

If you have access to the internet, our website www.communitylegaladvice.org.uk has lots of help, including:

- our online directory of advisers, organised by areas of law
- more information about legal aid and who can get it
- online factsheets and leaflets that you can download, on lots of topics, and
- links to specialist organisations, charities and support groups in your area.

Can I get legal aid?

If you need help with the costs of legal advice, you can apply for legal aid. Whether you will get it will depend on:

- the type of legal problem you have
- your disposable (spare) income and how much disposable capital (money, property, belongings) you have, and
- whether there is a reasonable chance of winning your case and whether it is worth the time and money needed to win.

There is an online calculator on our website, at www.communitylegaladvice.org.uk/en/legalaid/calculator, where you can see whether you could be financially eligible for legal aid.

What if I think I am eligible?

If you think you could be eligible for legal aid, you should speak to a legal adviser who can deal with legal aid cases. You can search our directory to find an adviser in your area, at the 'Find a legal adviser' section of our website www.communitylegaladvice.org.uk, or call our helpline 0845 345 4 345.

Help for other problems

This leaflet is one of a series of free leaflets produced by Community Legal Advice giving easy-to-read advice on a range of problem areas. The leaflets in this series are:

- C1 Dealing with rent problems**
- C2 Domestic abuse**
- C3 Fair treatment at work: your rights if you are disabled**
- C4 Your rights at work**
- C5 Dealing with debt**
- C6 Losing your home**
- C7 Claiming benefits**
- C8 Problems with school**
- C9 Mental health laws**
- C10 Community care**
- C11 Divorce and separation**
- C12 Living together**
- C13 Medical accidents**
- C14 Dealing with the police**
- C15 Care proceedings**
- C16 Claiming asylum (available August 09)**
- C17 Removal and deportation (available August 09)**
- C18 Dealing with a will (available August 09)**

You can order any of these leaflets free by:

- phoning **0845 3000 343**
- fax **0845 5438 258**, or
- emailing orderleaflets@communitylegaladvice.org.uk.

All of these leaflets are also available in Welsh, Braille and Audio.



The Legal Services Commission manages the Community Legal Service and Community Legal Service Fund (legal aid). To find out more about us, visit www.legalservices.gov.uk

This leaflet is published by the Legal Services Commission and the Ministry of Justice (MoJ)

CLAC17E

legal services

COMMISSION



community
legal advice