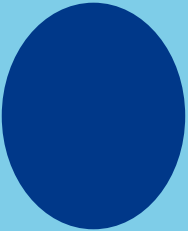


Removal and Deportation

Being made to leave the UK



*Can I be removed
from the country?*

*Can I challenge
the decision to
deport me?*

*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

Community Legal Advice

This guide has been produced by Community Legal Advice (CLA), a free and confidential advice service paid for by legal aid.

Community Legal Advice provides:

- advice leaflets on a range of topics
- a helpline **0845 345 4 345**
- a website

www.communitylegaladvice.org.uk

People on a low income can get free, specialist legal advice from the CLA helpline.



Can I be made to leave the UK?

In some circumstances you may be told that you have to leave the UK. This can be very distressing. But you do have rights. The authorities should follow a standard procedure before they can make you leave.

If you are in this position, or you think it may happen to you in future, you should get legal advice as soon as possible. If you do not have enough money to pay for legal help, you should be able to get free expert advice. To find a solicitor with expertise in this kind of case, contact **Community Legal Advice** on **0845 345 4 345**, or visit www.communitylegaladvice.org.uk

Although people talk about 'being removed' and 'being deported' as if they were the same thing, these are two separate procedures:

- If you do not have permission (or 'leave') to stay in the UK, then you may be 'removed' and sent back to your own country. This is **removal**.
- If you commit a crime while you are in the UK or the government thinks it is not good for people in the UK for you to be here, then you can be **deported**.

This leaflet tells you about removal and deportation. It tells you how you can try to stop your removal or deportation 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 10.

What is 'removal'?

You need permission to come to the UK from most countries and to stay here. This permission is known as 'leave to enter' or 'leave to remain'.

The government's UK Border Agency can **remove** you – send you back to your own country – if you do not have leave. If they remove you in this way, they may stop you returning to the UK for a period of years.

How is a decision to remove me made?

Every case is different and any decision should be based on your particular circumstances. The decision may take some time.

You and your family can be **removed** if, for example:

- you came here without getting leave, or
- you had leave to stay 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, if you worked when you did not have permission to work, or
- you claimed asylum, but the government refused your claim and any appeals you made failed, or
- the UK Border Agency decides that you used deception (lied) to get your leave.

If the UK Border Agency decides to remove you, you will get the decision in writing. You will also get 'removal directions' telling you where you are to go, when you must go and how you will get there.

Sometimes there is a long delay between deciding to remove you and sending you removal directions. But when you get the directions, they may say you have to leave very soon.

Being told you are to be removed can be very distressing. But you may be able to challenge the decision – see 'Can I challenge the decision to remove me?' on page 06.

Can I agree to leave the UK instead of being removed?

At any stage you can decide to leave the UK yourself. This is a 'voluntary departure'.

If you want to leave but cannot afford to, 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.

What is 'deportation'?

In some circumstances, the UK Border Agency can **deport** you – send you away from the UK and stop you returning. Being deported means you get a legal order ('deportation order') telling you to leave the UK and not come back. If you are deported, you will not be able to return as long as the order deporting you remains in force.

You can be deported even after you have been living here for a long time.

How is a decision to deport me made?

The UK Border Agency can consider **deporting** you if:

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

If you are convicted of a criminal offence, the UK Border Agency can consider whether to deport you even if the judge has not recommended it. If you receive a prison sentence, it is very likely that the Border Agency will consider deporting you, so you should seek legal advice.

You normally get a 'notice of intention to deport' before the deportation order is made. You may get a deportation order straight away, without notice, if you have been convicted of a criminal offence and spent time in prison, even if you are now out of prison.

If the UK Border Agency decides to deport you, you may be able to appeal the decision. See 'Can I challenge the decision to deport me?' on page 06.

Can I agree to leave the UK instead of being deported?

If you are being deported, you can ask the government to allow you to leave of your own free will (a 'voluntary' or 'supervised' departure).

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

Can I challenge the decision to remove me?

You may be able to challenge a decision for your **removal**. Get legal advice as soon as possible because there are time limits on when you can act.

You may be able to appeal the decision. An appeal means your case will be looked at again by an independent immigration judge. You can appeal against a decision to remove you if, for example:

- you applied for leave to stay but the government refused, or
- 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'.

If you do not appeal or if your appeal fails and you later receive removal directions, you will not normally be able to appeal again. But you may still be able to ask a judge to look at whether the decisions in your case were lawful. This is called judicial review. Ask your legal representative for advice on this.

Can I challenge the decision to deport me?

If there is a decision to **deport** you, you may be able to appeal. You can challenge the decision at different stages in the process in the following ways:

- If you are convicted of a criminal offence, the judge may recommend deportation as part of your sentence. You can appeal against the recommendation at this time, in the same way as you can appeal against your conviction. Talk about this to the lawyer representing you in your criminal case.
- 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 it may decide on this too late to stop you being deported.

You may be able to challenge deportation if you can show that:

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

If you do not have a right to appeal before you are deported, you may still be able to ask a judge to look at whether the decisions in your case were lawful. This is called judicial review. Ask your legal representative for advice on this.

Can I be detained?

If you can be removed or deported, then you may be detained (held) in an Immigration Removal Centre.

If you are in prison when you appeal, you may be detained 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. They can advise you on your rights. For example:

- if you are being detained, you can apply for release on 'bail', or
- if the UK Border Agency is wrong to think you can be removed or deported, you may be able to challenge the lawfulness of your detention.

An organisation that can help if you are being held in prison or in an Immigration Removal Centre under immigration law is **Bail for Immigration Detainees** – phone **020 7247 3590** or visit www.biduk.org

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

If you have been deported or removed and you want to return to the UK, you should get legal advice before you apply.

If you have been **removed** from the UK, you can apply to return at any time. But some people who are removed are prevented from returning to the UK for several years. So it is vital to get legal advice before you are removed and when you want to apply to return.

If you have been **deported**, you can only return to the UK if you can get the deportation order cancelled. Usually this is possible only after you have been outside the UK for 10 years. There are exceptions, for example if:

- you have been deported because you were a family member of someone who was being deported, or
- it would breach your human rights to refuse to revoke the deportation order.

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

Community Legal Advice is a free, independent and confidential advice service paid for by the government. It can put you in touch with organisations that can give you free advice about removal or deportation.

If you have a low income, and qualify for legal aid, you can also call us 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 and local advice services that can help.

How to contact us

You can speak to our advisers in several ways:

- Call us on **0845 345 4 345** from 9am to 8pm Monday to Friday or 9am to 12.30pm Saturday. 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 www.communitylegaladvice.org.uk
- Text '**legalaid**' and your name to **80010** and we will call you back within 24 hours.

Help on 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.

Citizens Advice

Citizens Advice is an organisation that can give you help and advice with a range of problems. These include help with problems that are not about your removal or deportation, such as housing and money.

There are Citizens Advice Bureaux (offices) in many areas that you can visit for face-to-face advice. Often, they can also put you in touch with local support groups who can provide personal and practical help.

Citizens Advice Bureaux are listed in the phone book, or you can check the Citizens Advice website at www.citizensadvice.org.uk

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
- 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 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**
- C17 Removal and deportation**
- C18 Dealing with a will**

You can order any of these leaflets free by:

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

All 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 V1 JUNE 2010

legal services

COMMISSION



community
legal advice