



Immigration  
Enforcement

Detention Services

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IRC Managers  
Home Office Immigration Managers

### **Detention Centre Rules 40 and 42: Interim Instruction**

This instruction supersedes any previous instruction on the management of detainees being held under Rule 40 or 42 and comes into force today 25 October. A DSO on use of Rule 40 and 42 is being developed and will be sent out for consultation in due course.

- Any use of Rule 40 or 42 must be considered on a case by case basis and only as a final resort where it appears necessary in the interests of safety or security once all other options have been considered and ruled out.
- Authority for the initial use of Rule 40 or 42 must be granted by an appropriate Home Office Immigration Enforcement manager of EO grade or above in the first instance. This decision must be fully documented on the DCF form.
- Every authority for removal from association under Rule 40 must be reviewed on a daily basis. This daily review must assess whether removal from association remains justified and must be conducted by an appropriate Home Office Immigration Enforcement manager of EO grade or above. Authority to maintain removal from association beyond 3 days must be agreed by the appropriate Home Office Immigration Enforcement manager of SEO grade or above. Established on-call arrangements should be used if out of hours.
- Every authority for temporary confinement under Rule 42 must be reviewed on a daily basis. This review must assess whether temporary confinement remains justified and must be conducted by an appropriate Home Office Immigration Enforcement manager of SEO grade or above. Established on-call arrangements should be used if out of hours.
- An authority for removal from association under Rule 40 cannot exceed 14 days. An authority for temporary confinement under Rule 42 cannot exceed 3 days.

- If a detainee still needs to be removed from association beyond a 14 day period or remain temporarily confined beyond a 3 day period, a new authority is required which should set out all other options that have been considered. The authority should provide full justification for a further authority under Rule 40 or 42. Any consecutive instances of authority for removal from association under Rule 40 or temporary confinement under Rule 42 must be granted by an appropriate HOIE manager (SEO or above) and must be reported immediately to a HOIE senior manager (G7 or above).
- If a detainee removed from association or temporarily confined does not have access to a mobile phone they must be given the opportunity to contact their legal representative by other means as soon as practicable.
- Notice of removal from association or temporary confinement must be given without delay to a member of the IMB, the medical practitioner, the manager of religious affairs and the detained person's case owner.
- The detainee must be informed in writing of the reason for their removal from association or temporary confinement within 2 hours of the decision. Further written explanation must be given within 2 hours in any instance of consecutive use of Rules 40 or 42.

  
Head of Detention Operations  
Immigration Enforcement