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Removal from Australia – Notifying stakeholders of the removal

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All twenty (20) Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This PI sets out procedures and provides guidance on:

- who to notify of removal
- notice to the Department's litigation section
- notice to overseas posts
- the projected removals list
- the thirteen week schedule
- removal of interest brief (ROIB)
- notifications - aborted or postponed removal
- ministerial intervention
- court injunction.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNC's who are subject to turnaround or the summary removal process are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However, non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*) TRIM: ADD2018/1955777.

4. Procedural Instruction

4.1. Who and when to notify of removal

Officers in each region must consider which stakeholders need to be notified of a scheduled removal and when. The following outlines the stakeholders to be notified:

- Departmental Airport Staff (transit/s and departure point) notification by:
 - email a summary of the removal (for example, names of removee/escorts, expected arrival/departure times, flight no. and any possible action required by airport staff). Where possible, provide at least 48 hours' notice, preferably more
 - providing the Operational Departure Plan (ODP) for escorted removal cases or if there is a need for airport staff involvement
 - informing the local removal/compliance manager if a high risk/profile removal with a domestic transit point is being undertaken.

- Airport operators are notified:
 - in advance of the transit of a dangerous person, by the most appropriate means - refer to [BE-5489](#) in PPCR (*Removal from Australia – Aviation security requirements PI – Notification requirements – Airport operators*).
- ABF Detention Facility Superintendent or delegate (originating and transit facilities) is notified by:
 - emailing a summary of the removal or the removal procedures and consult about any assistance required from ABF Detention Operations Officers.
 - emailing the ROIB three weeks prior to removal. Refer to '[Removal of interest brief](#)' (ROIB)
 - emailing to advise of all escorted removals, ideally through the projected removals list (PRL) - refer to '[The projected removals list](#)'.
- Overseas posts (transit/s and final destination) are notified by:
 - advising overseas posts no less than and preferably well prior to two working days in advance of all removals to or through the country or a country in their area of responsibility taking into account local holidays, office closures and time zone differentials
 - providing sufficient information to overseas posts so that officers at post can facilitate the removal where necessary. Note whether a removee has a criminal history or medical issues. For more information, refer to '[Notice to overseas posts](#)'.
- Facilities and detainee service provider (FDSP) are notified by:
 - providing the FDSP with the 'Request for service' form (available on the CCMD portal). Contact the IDF for further advice.
- Escorts are notified in accordance with:
 - [BE-5491](#) in PPCR (*Removal from Australia – Escort arrangements PI*), sections:
 - security escorts
 - sourcing security escorts for removal
 - use of force and restraints during removal operations.
- The Ombudsman is notified:
 - if the removee has been in detention for two or more cumulative years. The Commonwealth Ombudsman's Office (OO) should, where possible, be given at least seven working days' notice of the removal - notice to be given by emailing:
 - [s. 47E\(d\)](#) [@ombudsman.gov.au](#)
 - copy to [External Scrutiny](#)
 - copy to [s486 Reporting](#).

The OO will respond to this notification only if the OO holds concerns about the impending removal.

If the OO does respond and raises concerns and/or asks further questions, ensure that these are directed to [External Scrutiny](#) for a response; they should not be answered by removal officers. This is because officers of the External Scrutiny Section are delegated by the Secretary to give information to the Ombudsman under s8 of the [Ombudsman Act 1976](#). They may also be aware of, or also responding to, questions related to the same case.

- Other parties are notified:
 - when in certain cases, organisations not specified in this policy instruction need to be advised of an upcoming removal, particularly if immediate post-removal care arrangements have been made. Officers must include contact details and notification responsibilities in the ODP and, if the case is a 'removal of interest' email these details to [Removal Operations Head Quarters \(HQ\)](#).
 - if family and friends make enquiries regarding the upcoming removal, removal officers should direct enquiries to the removee so they can respond directly. This will assist in protecting the privacy of the removee,
- Notice to law enforcement bodies where:
 - in certain cases, officers may need to advise persons or organisations with ongoing interest in the management of the UNC prior to removal. Law enforcement agency interest must be checked and ABF PACE alerts annulled as not to disrupt or delay removal by law enforcement activity at the point of departure.

4.2. Notice to transit and destination countries

Transit and destination countries are generally notified of removals by airlines after they have granted uplift request.

For countries other than New Zealand removal officers are not required to provide separate notification. Some countries require prior clearance or grant of appropriate transit visas prior to transit.

Memoranda Agreements

s. 33(a)(iii), s. 33(b)

s. 33(a)(iii), s. 33(b)

4.3. Notice to the Department's litigation section

As part of the removal planning process officers should be aware that a removee may seek a court injunction, or may have Convention on the Rights of the child (CRC) or family unity issues that create legal complications. To ensure AAT and Removals Injunctions Section is prepared for this possibility, particularly in cases where reduced notification of the removal date has been given, regional offices should forward relevant documents to AAT and Removals Injunctions Section as soon as possible before the removal.

Relevant documents include:

- the completed, signed Removal Availability Assessment (including the associated documents referred in the RAA)
- the [ROIB](#)
- the completed Health Discharge Summary (HDS)
- the completed Fitness to Travel Assessment (FTTA)
- the removal notification documentation or the 'Waiver of 48 hour notice of removal' (MCP12) in CCMD portal.

If required, AAT and Removals Injunction Section will notify Regional Offices and Removal Operations HQ as early as possible regarding the outcome of any court applications. Removal should still be progressed until there is a clear direction given to halt removal.

To give removees fair opportunity to seek a court injunction, removal officers should schedule flights between Monday to Friday or, if this is not possible, the ODP should include a contingency for a later flight, in case the removee decides on the day of removal to make an application.

4.4. Removal notice to overseas post

Officers must advise overseas posts in advance of all removals destined to or transiting through any country in their region of responsibility.

For low risk, unescorted removals, overseas posts should be notified at least two business days in advance of the removee's departure from Australia. The information provided to overseas posts should be sufficient for officers at post to assess whether any assistance from the post will be required. If a removee has a criminal history or medical issues, this should be noted. To ensure consistency, the '[Notice to overseas post of removal of non-citizen from Australia](#)' (TRIM ADD2018/295742) template should be used for this purpose.

For escorted or sensitive removals involving the transit of third countries, posts with oversight of transit countries will require significantly more advance notice in order to comply with transit country requirements. For advice on notification requirements in relation to transits through third countries contact the [Removals helpdesk](#) or contact the relevant post by email.

The information officers provide to overseas posts should include all relevant removee details to allow officers at post, as necessary, to respond to foreign authorities or facilitate the removal. The removal officer should note if the removee has a criminal history or medical issues.

If sensitivities exist (such as where a holding cell is required in transit or restraints are being carried), officers should engage with overseas posts well in advance of the removal to ensure the post can complete all arrangements and formalities with local authorities. The relevant A-based officers contact details are located in the [Overseas Movement Schedule](#).

If a removal will involve travel to or through a country where the Department has no presence, consideration should be given to notifying Department of Foreign Affairs and Trade (DFAT) posts in the transit/destination countries through an official cable. The need to notify DFAT stakeholders will be greater if there are significant risks to be mitigated (for example, the removal is involuntary or escorts will be used) and potential exists for DFAT involvement.

The removal of persons through third countries can add complexities because local airport and foreign government authorities' security procedures may be different to Australian immigration procedures. Additionally, departmental overseas posts are committed to maintaining positive relations with host countries' authorities and complications of a removal in country can impact on this relationship.

It is important that removal officers thoroughly research transit requirements to ensure a successful removal. For further guidance email [Removals helpdesk](#).

Officers should send the removal notice to the relevant overseas post generic mailbox in the format: s. 47E(d) @dfat.gov.au and ABF officer at post, email copy to: s. 47E(d) @abf.gov.au

4.5. The projected removals list (PRL)

The PRL is an overview of proposed removals for the next seven days from all Regional Offices. Reporting from the PRL provides leadership visibility on removal workloads and outputs by location on a weekly basis.

The PRL notifies relevant stakeholders of the Department of all proposed removals. These stakeholders subsequently conduct their own checks into the removal and liaise with Removal Operations HQ, which in turn advises the relevant regional office of any potential impediments to the removal.

The PRL is generated daily from the CCMD portal by Removal Operations HQ. Removal officers must ensure that a removee's proposed removal date is updated in the CCMD Returns and Removals service.

4.6. The 13 week schedule

The 13 week involuntary and sensitive removal schedule is a living document, managed by Removal Operations HQ. It provides a matrix of projected involuntary and sensitive voluntary removals (for example, [s501](#) cancellation cases and families) that are scheduled in the following 13 weeks. At the end of each week, Removal Operations HQ distributes the schedule to the regional offices and other relevant areas/stakeholders.

Each week in the first four weeks of the schedule, Removal Operations HQ provides the Executive and the Minister's office with a detailed update and case summary on the status of any projected involuntary or sensitive mainland removal. An active ROIB, initiated in the CCMD portal, is required for each of these cases - refer to ['Removal of interest brief'](#) (ROIB).

4.7. Removal of Interest Brief (ROIB)

A ROIB is created in the CCMD portal and is coordinated by a regional removal officer, who seeks input from various stakeholders involved with the planned removal (including but not limited to the, status resolution officer, field operations officer and litigation section).

At the commencement of a Returns and Removals service, an active ROIB decision must be entered in the CCMD portal and, in the Interest Categories field, must include an active 'Interest Type' under the Interest Categories field (for example, involuntary, sensitive voluntary or s501 cancellation). Removal officers must ensure a comprehensive ROIB has been updated in the portal four weeks prior to the proposed removal date (for reporting to the Executive and the Minister's office on a weekly basis).

A ROIB has a 'review' and 'approval' stage in the CCMD portal. All ROIBs must be reviewed and supported locally by either a team leader or removal manager for formal approval before it is submitted to Removal Operations HQ for inclusion in reporting to Overseas Posts, Interpol, Senior Executive and Minister's Office.

A ROIB is required for all involuntary cases and sensitive voluntary cases (including IMAs). Removal officers must complete a ROIB if the removee:

- is an involuntary removee, or has previously been voluntary and continues to change their mind
- has had an extensive or significant criminal conviction resulting in more than five years imprisonment
- has had their visa cancelled under s501 of the Act (including mandatory cancellations)
- is being deported under s200 of the Act
- is part of a family unit with minors
- has been in long-term detention (2 or more cumulative years)
- is subject to a removal that has had media interest or
- has a case that is of a complex or sensitive nature (for example people smugglers, child sex offenders), or
- has been subject to targeted field compliance or enforcement activity in a National Operation.

Removal Operations HQ does not require a ROIB for all character cases or prison-to-plane removals. If none of the eight (8) circumstances immediately above apply, the need for an ROIB is at the discretion of the Regional Offices or Removal Operations HQ.

For information on how to write an ROIB, refer to the '[How to write a ROIB guide](#)' (TRIM ADD2018/3235900).

4.8. Notifications - aborted or postponed removal

As the Department/ABF may occasionally abort a removal after it has commenced, removal officers must include in the ODP a contingency plan, consideration of who needs to be contacted and any follow up action required.

4.9. Ministerial intervention (MI)

A late MI decision may result in an aborted removal. Generally, the Minister's office will provide advice on the MI decision directly to the relevant MI team:

- International Obligations for s48B of the Act requests
- NSW MI unit for s351, s417 and s501J of the Act requests
- Complex Case Resolution for s195A of the Act requests

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- Removal Operations HQ for s198AE of the Act requests.

The MI team or Removal Operations HQ will then notify the removal manager, removal officer and status resolution officer of the decision.

If removal is aborted, those officers must then advise relevant stakeholders - that is:

- the removal officer will, as necessary, advise the:
 - airport operators (departure point, transit and arrival point)
 - departmental airport staff (transit and departure point)
 - Department Health Service Provider (DHSP)
 - FDSP
 - other stakeholders identified in the ODP
 - overseas post
 - travel Unit (if applicable)
- the removal manager will, as necessary, notify the ABF Immigration Detention Facility Manager (originating and transit facilities).

4.10. Court injunction

Occasionally there may be a late court order staying removal after a removee has left detention. Generally, the removee's lawyer will inform AAT and Removals Injunctions Section of the order. That Section will email all stakeholders to notify of the action. Sometimes the order will be communicated directly to removals by the court orally. In these instances the AAT and Removals Injunctions Section should be contacted and request the relevant officer of the court to send an email confirming the orders made.

If the removal officer is advised of the court order, they must immediately phone Removal Operations HQ which will advise the removal manager and case manager of the existence of the order. All staff should proceed as if for a late MI decision - refer to '[Ministerial intervention](#)' (MI).

5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> • The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. • Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. • Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. • Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review.

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Position	Accountability and/or responsibility
	<ul style="list-style-type: none"> Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (the Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

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7. Related Framework documents

7.1. Policy Statement

[VM-5273](#) in PPCR, *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[BC-763](#) in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Pre-removal Clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal and Detention Costs	DM-567	PCD2017/6030
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to facilitate removal	BE-5497	ADD2018/1954878
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961

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Document	PPCR	TRIM Number
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting material

Document	PPCR	TRIM Number
Fitness to Travel Assessment (FTTA)		ADD2017/3772143
Health Discharge Summary (HDS)		ADD2017/3132654
How to write a ROIB guide		ADD2018/3235900
Notice to overseas post of removal of New Zealand citizen)		ADD2018/296010
Notice to overseas post of removal of non-citizen from Australia form		ADD2018/295742
Overseas Movement Schedule		border.net
Process – Sharing of Removal Information with New Zealand document		ADD2017/1940820
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Removals Transit Reference Guide		ADD2014/861477
Request for Service		CCMD portal
Standard Operating Procedures <u>for exchange of information</u> concerning returns of persons who may pose a risk to the public in Australia or the United Kingdom		PCD2018/2734
Waiver of 48 hour notice of removal (MCP12)		CCMD portal

8. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988* Schedule 1 – Australian Privacy Principles

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this PI:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Complex Case Resolution
- Detention Health Operations Section
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic/Tas
- Field Operations and Removals WA
- International Obligations and SHP Section
- Detention and Removal Operational Policy Section (Detention policy)
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Overseas Network Management
- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

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10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	13 September 2021

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	13 September 2018	Detention and Removal Operational Policy	Separation of Notifying stakeholders of removal topic from previous PAM
2	8 August 2019	Detention and Removal Operational Policy	References to 'Control Framework' updated and minor edits
3	5 November 2019	Detention and Removal Operational Policy	Removal notice distribution update

10.2. Procedural Instruction approval

Document owner	Commander Don Smith ABF Governance
Approval date	13 September 2018

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Removal from Australia – Travel documents for removal purposes

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

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1. Introduction

1.1. Overview

Procedural Instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in *PPCR Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This Procedural Instruction sets out operational instructions and provides guidance on:

- travel documents for removal purposes
- removee cooperation
- obtaining a travel document
- procedures for acquiring travel documents
- when to seek a travel document - person in detention
- referral of travel document applications to NSW.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

2.2. Out of Scope

Border and arrival turnaround

This Instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

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This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this Instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*) TRIM: ADD2018/1955777.

4. Procedural Instruction

4.1. Travel documents for removal purposes

The following types of documents can be used for removal purposes:

- the persons valid national passport in effect
- the persons valid Laissez-Passer (LP) in effect
- an Emergency Travel Document (ETD). This is issued where a person cannot complete all requirements (other than identity, citizenship and entitlement) for the issue of a full validity passport or they can complete all requirements but there is a need to travel urgently within the standard passport-issue turnaround time
- a Certificate of Identity (COI). This is a travel document issued by a country to non-citizens residing within their borders that are either stateless persons or are unable to obtain a passport from their state of

nationality. Some countries also issue COI to their own citizens as a form of emergency passport or otherwise in lieu of a passport.

The process of obtaining a travel document for removal purposes is called re-documentation. If available, and subject to its validity, the person's original travel document must always be used, unless prohibited by the country of issue and Australia has agreed to use another document.

The ability to obtain a travel document and timeframe for its issue depends on:

- the level of identity documentation a person or the Department can provide to the relevant foreign mission to confirm nationality (undocumented persons will take longer to have a travel document reissued than those whose nationality can be easily established)
- the level of cooperation of the removee (removees who refuse to engage with consular staff will invariably take longer to be issued a travel document)
- the issuing procedures of the relevant foreign mission (some have complex processes and issuing timeframes).

Taking into account these three factors, it is imperative that officers:

- engage the person as early as possible to determine their intentions to leave. If they intend to commence further processes, such as Ministerial intervention (MI), officers should encourage the person to initiate these early (set clear dates for required responses with the person and/or migration agent)
- determine whether the person has a valid travel document and pay particular attention to the expiry date of that document (the expiry date should always be factored in as a key milestone in departure or removal planning) and
- if the person does not have a valid travel document, check departmental systems to determine what identity documents are available, or were used to travel to Australia.

Officers must scan copies of all identity and travel documents and place them in departmental systems, in case those documents are later lost or destroyed.

Original travel documents are to be retained for the purposes of removal by the Department/ABF and where held by other agencies, including a contracted service provider, must be sought for resolution of the case under the Act.

For information on the different types of travel document that may be used for a removal of a person from Australia, refer to [BC-537](#) in PPCR (*Passports, travel documents and visa evidencing - Travel documents*).

Departmental officers must ensure that all information and decisions relating to obtaining travel documents for detention or community cases is recorded and stored on relevant departmental recordkeeping systems, including but not limited to portal, ICSE and TRIM.

4.2. Removee cooperation

The removee should be encouraged to cooperate with the re-documentation process including applying for their own travel document (where permissible with their foreign mission). Lack of cooperation from the removee in obtaining a travel document does not, however, prevent the Department from applying for and obtaining a travel document on the removee's behalf. In such cases, officers should state on the application form, for example, that the removee has refused to sign the travel document application or provide information and/or documentation that will assist in verifying their identity.

4.3. Obtaining a travel document

Use, collection or disclosure of personal or sensitive information

Any use, collection or disclosure of information that is personal or sensitive information must comply with the Australian Privacy Principles (APPs) in Schedule 1 of the *Privacy Act 1988*.

Additionally, under Part 6 of the *Australian Border Force Act 2015* (the ABF Act) it is an offence for an entrusted person to make a record of, or disclose, information that is 'Immigration and Border Protection Information' (IBP Information) unless an exception applies.

Further, Part 4A, Volume 2 of the Act deals with obligations relating to identifying information. Any access, disclosure, modification and impairing, and destroying of identifying information must comply with provisions of Part 4A of the Act.

Refer to [BE-5497](#) in PPCR (*Removal from Australia – Information disclosure to effect removal*).

If no valid travel document held

If removal officers do not have a valid travel document for a removee, they should consider if it is appropriate to seek one. To determine this, refer to the '[Progressing and effecting removal](#)' table (TRIM ADD2017/2287861). If the person's identity is not confirmed, it can be difficult to obtain a travel document.

Removal officers should consider contacting Identity Business Support (IDBS) for advice about identity and complex cases on [s. 47E\(d\)](#) or email [s. 47E\(d\)](#) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au) or [s. 47E\(d\)](#) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au).

Removal officers can refer complex identity matters for action via the Department's '[Complex Identity Referral Form](#)' in the IMtel system. IDBS will advise the referring officer if a referral is accepted or if more information is required. See: [IIB-5144](#) in PPCR (*Enterprise Identity*).

Unfinalised MI requests or judicial review

Unless otherwise advised by the Ministerial Intervention (MI) teams, removal officers may engage with foreign government officials to obtain travel documents. During this engagement, under no circumstances should they disclose any information indicating any previous Protection visa (PV) applications (or any details of protection claims).

If a removal case is subject to judicial review, officers should not seek a travel document or disclose a person's identity to a foreign government.

However, if an application for a travel document has already been lodged and a removee subsequently seeks further review or MI, officers should not seek to stop travel document processing: the application should be allowed to run its course.

For further information refer to [BE-5495](#) in PPCR (*Removal from Australia – Impediments to removal*).

4.4. Procedures for acquiring travel documents

Procedures for acquiring a travel document will vary depending upon the type of document being acquired and the country of nationality and individual circumstances of the removee. It is important that officers check travel document and transit procedures for specific countries. If unsure of the requirements for certain countries, removal officers can seek guidance from the '[Removals Country Reference Guide](#)' on Bordernet and by emailing [s. 47E\(d\)](#) [@abf.gov.au](mailto:s.47E(d)@abf.gov.au).

Officers are to indicate clearly to the relevant issuing authority that the request is for a travel document sufficient to return the person to the country of nationality or country where they have a right of entry and stay. The issuing country has the right to determine whether the travel document that they issue will be an

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emergency travel document, a LP or a full passport. Officers may need to advise removee's who insist on being given a full passport of this fact.

4.5. When to seek a travel document - person in detention

Officers are to investigate if the person holds a travel document before the person is detained. Prior knowledge will assist with prompt travel document application processing to reduce the person's time in detention. If detention has occurred quickly (that is, as a result of a field operation), removal officers should initiate the application as soon as possible after the initial detention. This is unless the removee already has a travel document or there are particular immigration matters still ongoing like the processing of a PV application or the judicial review of a decision regarding a PV. Refer to [BE-5495](#) in PPCR (*Removal from Australia – Impediments to removal*).

4.6. Referral of travel document applications

All travel document applications (with the exception of NSW) should be referred by email to [s. 47E\(d\) @abf.gov.au](#).

NSW Removals can refer travel document applications directly to Travel Document and Consular Engagement (TRACE). TRACE will then refer the application to the Removals Helpdesk. If there are any questions regarding where to send applications they should be referred to the [Removals Helpdesk](#).

5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

The APS Code of Conduct states that ‘an APS employee must comply with any lawful and reasonable direction given by someone in the employee’s Agency who has authority to give the direction’ (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary’s Professional Standards Direction, issued under subsection 55(1) of the ABF Act, requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statements

[VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[BC-763](#) in PPCR *(Status Resolution System Control Framework)* TRIM: ADD2019/2439251

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7.2. Procedural Instructions

Document	PPCR	TRIM Number
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal from Australia	BE-5488	ADD2018/1956150
Removal and Detention Costs	DM-567	<u>PCD2017/6030</u>
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to effect removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

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7.3. Supporting Material

Document	PPCR	TRIM / Website
Complex Identity Referral Form		In IMtel system
Enterprise Identity	IIB-5144	
Passports, travel documents and visa evidencing - Travel documents	BC-537	
Progressing and effecting removal table		ADD2017/228786
Removals Country Reference Guide		bordnet
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Status Resolution System Control Framework Mandatory Control Points	BC-6186	ADD2019/2439257

8. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1* – Australian Privacy Principles

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Complex Case Resolution
- Detention Health Operations Section
- Detention & Removal Operational Policy Section (Detention policy)
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- International Obligations and SHP Section
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force

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- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program Management and Evaluation
Period of Effect	29 October 2021

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	29 October 2018	Detention and Removal Operational Policy	PPCF compliant
2	1 August 2019	Detention and Removal Operational Policy	Addition of new 'Control Framework'

10.2. Procedural Instruction approval

Document owner	Commander, ABF Governance
Approval date	29 October 2018



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Removal from Australia – Post-removal support

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Post Removal Support (PRS) is available on a needs basis, to people removed from immigration detention in Australia pursuant to s198 of the *Migration Act 1958* (the Act). PRS provides immediate, short-term assistance directly linked to facilitating the removal from Australia.

Document approval date	30 October 2018
Last PPCF review date	30 October 2018
Contact details	Detention and Removals Operational Policy Section s. 47E(d) @abf.gov.au
Document ID (PPN)	BE-5501
TRIM record number	ADD2018/1954935
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in *PPCR Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This PI sets out procedures and provides advice on:

- the removal officers role in assessing a removee's immediate post-removal needs and support
- authorising and recording the PRS
- types of PRS.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNC's who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as an UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*).

4. Procedural Instruction

4.1. About Post Removal Support (PRS)

Immediate PRS assists removees in need with immediate post-removal needs, including welfare assistance.

Although the Department is under no legal obligation to assist persons who are to be removed once they leave Australia, it is policy that the removal officer assess the removee's immediate post-removal needs as part of the removal planning process and incorporate details of support arrangements where indicated:

- into the Operational Departure Plan (ODP) and/or ABF Operational Order (for escorted removal) or
- within the Returns and Removal Portal service - summary tab or TRIM (for unescorted removal).

PRS must only be provided for the purpose of facilitating removal from Australia. Removee's are likely to require formal immediate PRS arrangements if they:

- are lacking in resources or means of subsistence, or
- do not have sufficient funds for their onward journey or temporary accommodation

Wherever possible, the Department is to directly provide the removee with the required goods and services. This may include:

- very short term (budget) accommodation (not exceeding seven days)
- internal travel to their home region
- appropriate clothing (in line with community expectations in the country of origin), and
- luggage.

The Department can also provide cash in-country (if possible, paid in small denominations or coins) for incidental expenses (to cover such items as public telephone, conveniences, food or immediate local transport needs).

Immediate PRS is not included as part of a removee's debt to the Commonwealth.

4.2. Assessment of need to receive immediate PRS

PRS

Removal managers may authorise assistance for any PRS assessed as necessary to the circumstances of the removee. Although there are no set monetary limits on the various types of PRS, removal officers must clearly articulate all decisions to provide a removee with PRS in Removal Availability Assessment (RAA), documenting the reasons why such support is necessary.

In some circumstances, the removee may require additional immediate PRS. For example, suitable carers will need to meet an unaccompanied minor upon arrival.

A removee who has very few social ties with their country of nationality/removal, does not speak the local language or who may have complex health or other needs, may require additional assistance with settling into accommodation and accessing support. In some cases, foreign government agencies may be the appropriate bodies to assist with this.

A removee being removed directly from a criminal detention facility may be eligible for specific services on arrival at their destination. For further information about destinations that offer such services, liaise with the local removal manager or email: [s. 47E\(d\) @abf.gov.au](mailto:s.47E(d)@abf.gov.au).

As part of their removal planning processes, removal officers should consider the circumstances of the detainee, the need for immediate PRS and any possible access to International Organization for Migration (IOM) services such as reintegration assistance, see also '4.3 Other support arrangements'.

When establishing whether a removee requires immediate PRS, a removal officer should liaise with the removee, other relevant departmental officers, overseas posts and service providers to:

- establish what resources and support are available in the return country
- determine their capacity to fund transport from the airport to their final destination
- establish whether they have family or friends in the return country
- make reasonable investigation to establish what money the removee has in their possession or property
- understand the removee's needs and whether it is appropriate to provide the removee with funds to access, for example, food, accommodation and clothing
- determine the arrival time and assess whether any accommodation is required
- review the relevant currency exchange rates and the standard of living in the destination country. Officers are to consider the exchange rates and standard of living, using reliable open source information about

the specific country (the Department of Foreign Affairs and Trade website may contain useful information in this regard)

- discuss the proposed recommendation with the removal manager who approves the amount of support based on the above information.

The arrangements will vary according to the circumstances of the individual but may include the provision of accommodation, food, clothing and cash.

Removal officers and managers should consider the type of support to be provided to the removee on a case-by-case basis. For example, a small cash payment can be provided to the removee for the purposes of travelling from the airport to their place of residence.

Consistency in PRS provisions

Prior to researching financial PRS the removal officer should clarify with the removee if they have any family at the destination, who would be willing to accommodate them and investigate any IOM assisted voluntary return / reintegration eligibility for the removee in each instance. This information should be included in the PRS assessment, as this would lower any financial PRS that the Department may provide.

Due to a wide variance in PRS costs in country and regions that detainees are removed to and potential for this to impact the assessment, it is best practice for removal officers to research online accommodation, cost of living averages and regional travel expenses for the specific country of return. The removal officer is to provide justification detailing their research in the PRS assessment, as amounts are subject to change and availability.

Some useful links that may regarding accommodation:

- <https://au.hotels.com>
- <https://www.trivago.com.au>
- <https://www.hotelscombined.com.au/>
- <https://www.expedia.com.au>
- Some useful links regarding cost of living / daily subsistence allowance (DSA):
- <https://www.numbeo.com/cost-of-living/>
- <https://icsc.un.org/#>
- <https://www.expatriation.com/cost-of-living/index>

Where possible the amount of PRS should be equal to the actual cost to be incurred, for example:

- a bus ticket from point A to point B.
- living expenses should be calculated on a pro-rata basis where the person only requires partial day support.

Authorising and recording the immediate PRS

All decisions to provide a removee with immediate PRS must be clearly articulated in the ODP, outlining the reasons for providing the support.

There is no provision for a removee being removed or returned to appeal any decision not to provide immediate PRS, or to dispute an amount.

Prior to departure, the removal officer must notify the removee about the specific limits of the support being provided. For example, advice should be given that accommodation support does not include items such as telephone use or alcoholic drinks available at the accommodation premises. Similarly, management at the selected accommodation should also be notified of the limits to the support provided.

Removal managers have the discretion to authorise assistance for any necessary support, to use on the outward journey or on arrival in their destination country, on the basis of information provided above.

Approval for provision of support by the removal manager must be documented in departmental systems.. Any decision to authorise and provide support must give due regard and comply with the Department's financial delegation, spending money and procurement requirements. Refer to [FM-4808](#) in PPCR (*Accountable Authority Instructions*). In addition, expenditure including the amount of cash provided to the removee being removed must be recorded against the relevant removal section's cost centre designated for PRS. A signed receipt must be obtained and filed when cash is provided.

4.3. Other support arrangements

Immediate post-removal continuity of health care

As part of the Health Discharge Summary, the Detention Health Service Provider will consider whether a removee requires continuity of health care arrangements and will advise the Department on recommendations. Removal officers should liaise with Detention Health Operations Section to make necessary immediate post-removal health care arrangements.

Medical services in the receiving country for the purposes of continuity of care is not supported by PRS funding.

For further advice email [s. 47E\(d\)@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au) and for operational assistance email [s. 47E\(d\)@abf.gov.au](mailto:s.47E(d)@abf.gov.au)

IOM assistance for Illegal Maritime Arrivals (IMAs)

IMA detainees requesting voluntary removal may be eligible for Post-arrival Reintegration Assistance (PARA). PARA is delivered through the IOM office in the country of return upon referral from the Department.

For more information on IOM assistance for IMA detainees, refer to [BC-827](#) in PPCR (*Return and Reintegration Assistance Program*).

For any other enquiries about return and reintegration assistance, email [s.47E\(d\)@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au).

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5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removals Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

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- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statements

VM-5273 in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

BC-763 in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251

FM-4808 in PPCR (*Accountable Authority Instructions*).

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service	VM-1035	LEGEND
Removal and Detention Costs	DM-567	<u>PCD2017/6030</u>
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834

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Document	PPCR	TRIM Number
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to effect removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Pre-removal Clearances and Informed Request for Removal Statements	VM-3226	<u>LEGEND</u>
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983
Return and Reintegration Assistance Program	BC-827	LEGEND

7.3. Supporting Material

Document	PPCR	TRIM / Website
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Spending money under the PGPA Act	FM-1298	ADD2019/1281586

8. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1* – Australian Privacy Principles

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9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Complex Case Resolution
- Detention Health Operations Section
- Detention and Removal Operational Policy (Detention policy)
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- Humanitarian Contract Management Section
- Integrity Awareness
- International Obligations and SHP Section
- Legal Division
- Operation Sovereign Borders, Joint Agency Task Force
- Protection Caseload Resolution
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	30 October 2021

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10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	30 October 2018	Detention and Removals Operational Policy	PPCF Compliant
2	5 August 2019	Detention and Removals Operational Policy	Critical Control Point (CCP) changed to Mandatory Control Point (MCP) and minor edits

10.2. Procedural Instruction approval

Document owner	Commander, ABF Governance
Approval date	30 October 2018



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Removal from Australia – Removal notification

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Document approval date	2 November 2018
Last PPCF review date	2 November 2018
Contact details	Detention and Removal Operational Policy Section
Document ID (PPN)	BE-5504
TRIM record number	ADD2018/1954961
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All twenty (20) Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This PI sets out procedures and provides guidance on:

- providing a person with the notice of intention to remove
- notice of date of removal
- notification period exceptions:
 - judicial review
 - removees with ongoing litigation.
- notification of 48 hours or less (MCP12)
- notice to immediate family in Australia
- notice to authorised recipients
- departing Australia superannuation payment claim.

This PI also applies to suspected Illegal Foreign Fishers (IFF). IFFs are non-citizens intercepted at sea for suspected breaches of fisheries or environmental legislation. IFFs are granted an enforcement visa by operation of law, allowing entry into Australia during fisheries or environment detention. IFFs become liable for detention and removal on cessation of an enforcement visa. The procedures in this PI will apply to an IFF when they are in Australian and their enforcement visa ceases. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry – Immigration clearance at airports and seaports*).

If UNCs who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions – Case resolution – Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution – Returns and removals – Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Annex A – Removal from Australia Glossary*).

4. Procedural Instruction

4.1. Providing the person with the Notice of intention to remove

General notice about removal

The Department is required under law to remove UNCs as soon as reasonably practicable.

Upon their detention UNCs are provided with 'Information on your detention: a very important notice', commonly referred to as the VIN. This notice addresses a range of issues including the reason for their detention, where they can seek help, their options to leave Australia voluntarily and their removal should they elect not to go. For further information refer to [BC-5351](#) in PPCR (*Field Operations – (Field Compliance)*).

Officers should also orally communicate this information to the detainees on an ongoing basis until an immigration outcome is achieved.

Regular conversations between the status resolution officer (case officer), removal staff and the detainee to be removed, will help the detainee to better understand their circumstances and actively contribute to the planning of their removal.

Note that the term 'detainee' and 'removee' are used interchangeably throughout this document. Where possible the term 'removee' is used for a detainee that has been notified of removal. A 'removee' is concurrently a 'detainee'.

4.2. Notice of date of removal

Notifying the planned date of removal

In addition to the VIN and regular conversations between the detainee and departmental/ABF officers, removal officers should also give written notice of the planned date that the Department intends to remove them. Where operationally possible, the detainee should be notified that they will be removed on or after a date seven (7) calendar days from the date of notification. This notification is recorded in a ['Notice of Intention to Remove from Australia form'](#) (TRIM ADD2016/715315).

A detainee with ongoing judicial review proceedings must be given seven (7) days notice prior to any planned removal: *SZSPI v Minister for Immigration & Border Protection* [2014] FCAFC 140.

Whilst there is no statutory requirement that a 'notice of intention to remove from Australia' be given or a planned removal date nominated, removal officers should endeavour to provide a detainee with as much notification as operationally possible. Seven (7) days is recommended for notification of intention to remove and this time frame will allow the detainee time to raise any concerns about their planned removal. For circumstances in which less than seven days' notice is required see: [Notification exceptions](#) and [Notification of 48 hours or less](#).

Removal officers should consider any concerns raised by the detainee and, if necessary, escalate the case to their removal manager. Removal officers should also appropriately document the detainee's concerns and any resulting action on departmental systems.

Officers are to be mindful of the impact that the notice may have on a detainee and, during discussions with the detainee or their status resolution officer (SRO) or case officer, should identify and address any concerns about the detainee's reaction to delivery of the notice. The detention health service provider (DHSP) may organise counselling to support the detainee if requested by the detainee, the case manager or the facilities and detainee service provider (FDSP).

Removals that are not effected within a month of the initial notification are to be recorded in departmental systems. Officers should also ensure that information about the delay is communicated to the removee as soon as practicable and on an ongoing basis. Reasons for delay and communication with the removee are to be documented in CCMD and/or TRIM.

As a matter of good administration, removals officers are to provide re-notification of a removee where removal has been delayed in excess of one month and removal planning indicates that the removal will proceed within the next month. Where the removal is not likely to proceed, further notification should be delayed until removal planning has progressed sufficiently. Removal officers should refer any concerns regarding re-notification to a removals manager.

Removal officers may also need to advise other parties of the removal. Refer to [BE-5498](#) in PPCR (*Removal from Australia – Notifying stakeholders of removal*).

Limited notification

Notification of less than seven days (but more than 48 hours) may be appropriate to avoid unnecessarily extending time in detention. Seven day notification is not required if:

- The detainee is voluntary and removal is arranged within seven days of the detainee requesting removal, or
- the detainee was detained less than seven days prior to removal, or
- removal was organised within seven days of the travel document becoming available.

If circumstances (other than the three above) warrant a notification period of less than seven days, the EL2 compliance/removal manager may approve the reduced notification period. The removal officer should record the approval in the 'decision' section of the Removal Availability Assessment (RAA), noting that the requirement for a seven day notification period is waived. See [BE- 5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment*).

If notification is provided less than seven days prior to removal officers should note in the comment field within the RAA decision details screen that the removal can be effected within seven days and that reduced notification will be provided. Reviewing officers are to include comments in the 'Checked by' section of the online RAA (Mandatory Control Point (MCP)10 Form) providing the reason for the reduced notification.

Completing the Notice of Intention to Remove from Australia form

All removees will be subject to the subsection of [s198 of the Act](#) that is relevant to their individual circumstances. In completing the legislative power field (in the Notice of Intention to Remove from Australia form) only the section of the Act is required. For example, [s198](#), [s199](#), [s200](#) or [s205](#). However, the relevant subsection (legislative power) the removee is removed under must be accurately recorded and approved in the final RAA. Changes in the removees willingness to leave voluntarily must be documented in the CCMD portal. For example, a removee having invoked [s198\(1\)](#) by signing a request for removal withdraws their request. This removee is subsequently removed under an (involuntary) subsection [s198\(5\)](#). Refer to [BE- 5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment*).

4.3. Notification period exceptions

Judicial review

Note that a detainee who has filed judicial review proceedings must be provided with seven (7) days-notice prior to removal. Seven (7) days will allow time for the detainee to apply to the court for an injunction. A detainee who has lodged judicial review and becomes subsequently available for removal must be renotified and provided with a SZSPI letter. Contact the [AAT Removals and Injunctions](#) section regarding SZSPI letter and re-notification.

Removees with ongoing litigation

Removal officers should consult with [AAT Removals and Injunctions](#) section or [Civil Litigation](#) to ascertain if undertakings on behalf of the Minister have been given.

If a removee with ongoing litigation unrelated to a criminal or migration matter is issued a 'Notice of intention to remove from Australia', they are to be advised that:

- the litigation is not an impediment to their removal from Australia, and their removal will proceed unless they obtain a Court injunction preventing their removal (and ensure the details of this conversation are recorded in departmental record-keeping systems)
- it is open to the removee to seek their own independent legal advice.

In normal circumstances, policy would require at least seven (7) days notice of the removal date. However, removees with ongoing litigation must be provided with a minimum of five (5) clear working days notification.

The 'Notice of intention to remove from Australia' form includes the option for a removee to provide their contact details in their home country.

4.4. Notification of 48 hours or less (MCP12)

In exceptional circumstances only

Only in exceptional circumstances may removal officers give a removee less than 48 hours' notice. Requests for waiver of the 48 hour notification for involuntary removal must be recorded appropriately in the portal and include a strong justification for the significantly reduced notification period.

Involuntary removal

For involuntary removal (the detainee has not requested removal in writing) this waiver will be supported only in cases where there is a significant and real risk:

- of the removee self-harming, supported by clinical advice and other appropriate evidence such as detention incident reports, or
- that the removee would harm others or property, or
- of direct external intervention to disrupt the removal (that is, evidence of specific rather than general risks, including the risk that the removee will disrupt the aviation process)
- and these risks cannot be appropriately managed should the removee be provided with more than 48 hours' notice.

Removal officers are to request a waiver using the 'Waiver of 48 hour notice of removal – MCP12' in the CCMD portal. This form can be approved only by the relevant Commander.

Voluntary removal

For voluntary removal under [s198\(1\)](#), removal officers do not need to complete the 'Waiver of 48 hours' notice of removal – MCP12'. Instead, officers should record approval of the 48 hour waiver by the EL1 Compliance/Removal Inspector in the RAA (MCP10).

Officers should note under the 'Legislative basis' part of the RAA (MCP10) that the removee has requested removal under [s198\(1\)](#) and, as removal can be effected within 48 hours, they will be providing reduced notification. Officers are to include comments in the 'Checked by' section of the online RAA (MCP10 Form) explaining the reduced notification.

The RAA approving officer may subsequently approve the RAA (MCP10) and reduced notification in the 'Decision' section, noting that the requirement for 48 hour notification is waived.

Illegal foreign fishers

IFFs whose availability for removal may be assessed using MCP10 (Removal availability assessment guide – illegal foreign fishers) do not require a Waiver of 48 hour notice of removal.

However, if, despite being an IFF, a removee is subject to the standard compliance RAA form (MCP10), officers must follow the procedures for providing notice as outlined in ['Notice of date of removal'](#) and the procedures for waiving notice.

For guidance on which RAA is applicable to a particular IFF, refer to [BE-5503 in PPCR \(Removal from Australia – Removal Availability Assessment – Illegal foreign fishers\)](#).

Timeframe for notification

If the Commander has agreed to a notification period of less than 48 hours, removal officers and case managers should determine an appropriate timeframe for notification. The Commander should also approve the new proposed timeframe.

Officers should determine an appropriate timeframe for notification on a case-by-case basis, using credible professional advice on the timing of delivery and well considered risk assessments of the removee's likely reaction or behaviour. Officers should also consider:

- the specifics of the individual risks identified to waive the minimum 48 hours notice of the removal date
- any need for the removee to farewell family or friends prior to the removal
- the need for or intention of the removee to seek any professional service such as legal advice prior to the removal
- any other logistical matters, such as the removees need to speak with contacts in the home country, pack belongings and close Australian bank accounts.

Written approval and reporting

In exceptional cases where it is assessed that an involuntary removal requires less than 48 hours notification, the removal officer should discuss the Operational Departure Plan (ODP) or any amendment to the ODP with Removal Operations HQ as soon as possible and at least 72 hours before the planned removal date. It is mandatory to notify Removal Operations HQ of this reduced notification and removal officers are to copy [Removals Helpdesk](#) into all related email correspondence with Removal Operations HQ. This discussion should include the risks or complexities warranting the reduced notification. The justification for reduced notice should be based on credible professional advice and a well-considered risk assessment.

Approval to provide less than the minimum 48 hours notification of the date of removal for involuntary removal may be given only by the Commander, using MCP12 in the CCMD portal. The record must provide comprehensive documentation of the reasons for giving less than the minimum **48 hours** notification.

The removal officer should also note in the ROIB the consideration of the waiver of minimum **48 hours** notice.

4.5. Notice to immediate family in Australia

If a removee has immediate family in Australia (for example, a partner or parent), it is the removee's responsibility to notify their family of their removal and officers should facilitate any reasonable requests to contact their family (for example, by phone).

If a removee is unable to notify their family in Australia, officers may ask the removee if they would like their immediate family in Australia to be notified of the removal. If the removee asks that their family be notified, officers should notify the family as soon as practicable.

4.6. Notice to authorised recipients

The Department's policy is to provide the '*Notice of Intention to Remove from Australia*' form to the removee and, where one has been appointed, a copy of that notice to the authorised recipient. Providing the removee with the '*Notice of Intention to Remove from Australia*' regardless of whether an authorised recipient has been appointed is a matter of good practice and to mitigate the risk of the removee not being properly informed of the intention to remove where there are changes in circumstances between them and the authorised recipient.

Where the removee has appointed an authorised recipient, the removal officer should confirm whether the written notice appointing the authorised recipient specifies matters that relate to removal. If the authorised recipient is authorised to receive documents in relation to removal, the removal officer should give a copy of the departmental document '*Notice of intention to remove from Australia*' to the authorised recipient.

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4.7. Departing Australia superannuation payment claim

All removees who are subject to removal from Australia are to be provided with Form 1194 – Certification of Immigration Status and/or request to cancel a Temporary Resident visa as part of the standard removal process. Form 1194 can be used by those removees eligible to claim superannuation payments. Form 1194 is to be provided to all removees before departing Australia. Suggested timing is in conjunction with the Notice of Intention to Remove from Australia form. Consideration of the timing of Form 1194 can include circumstances for reduced notification decisions.

The removee should be advised (as indicated on the form) that further assistance or clarification are available from the ATO website. Form 1194 Certification of Immigration Status and/or request to cancel a Temporary Resident visa is available in LEGEND.

5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<p>The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met.</p> <p>Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures.</p> <p>Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives.</p> <p>Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review.</p> <p>Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.</p>
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<p>Clearance of Procedural Instruction.</p> <p>Approval of updates to policy.</p>
Inspector (EL1) DROP	<p>Ensures Procedural Instruction is updated to reflect current policy.</p> <p>Ensures support materials comply with Procedural Instruction.</p>

6. Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

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Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statements

[VM-5273](#) in PPCR, *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[BC-763](#) in PPCR, *(Status Resolution System Control Framework)* TRIM: ADD2019/1193028.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Field Operations (Field Compliance)	BE-5351	
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal and Detention Costs	DM-567	PCD2017/6030

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Document	PPCR	TRIM Number
Removal from Australia	BE-5488	ADD2018/19546150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to facilitate removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting Material

Document	PPCR	TRIM Number
<u>Form 1194</u> Certification of Immigration Status and/or request to cancel a Temporary Resident visa		LEGEND
<u>Notice of Intention to Remove from Australia</u>		ADD2016/715315

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Document	PPCR	TRIM Number
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Request for a Pre-removal Clearances or an Informed Request for Removal Statement		ADD2016/113318
Status Resolution System Control Framework Mandatory Control Points	BC-6186	ADD2019/2439257

8. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1 – Australian Privacy Principles*

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Complex Case Resolution
- Detention and Removal Operational Policy (Detention policy)
- Detention Health Operations Section
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- International Obligations and SHP Section
- Detention & Removal Operational Policy Section (Detention policy)
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations HQ, Enforcement Command

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- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
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10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	2 November 2018	Detention and Removal Operational Policy	PPCF Compliant
2	23 July 2019	Detention and Removal Operational Policy	Critical Control Point (CCP) replaced with Mandatory Control Point (MCP), minor edits to PPN references

10.2. Procedural Instruction approval

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Removal from Australia – Information disclosure to facilitate removal

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All twenty (20) Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in *PPCR Departure Policy (returns, removals and departure support)* Policy Statement (TRIM: PCD2018/1001).

2. Scope

2.1. In Scope

This PI sets out procedures and provides advice on:

- Interaction between disclosure and the removal powers in s198 of the Act
- The types of information that may be disclosed, including:
 - Identifying information
 - Personal information (including sensitive information)
 - Immigration and Border Protection information
- legislation and disclosure
 - under the Act
 - under the *Privacy Act 1988* (Privacy Act) i.e. Australian Privacy Principles (APP) 6.2 and 8.2
 - the *Australian Border Force Act 2015* (ABF Act)
- proving identity documents to foreign governments
- acceptable types of identity documents
- documents issued by a government authority
- providing non-national identity cards
- translation of documents
- inappropriate documents

- consent
- consular interviews
- certificates of identity (COI).

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information, refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNCs, who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However, non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions – Case resolution – Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution – Returns and removals – Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

4. Procedural Instruction

4.1. Disclosure for the purposes of s198 of the Act

In a removal context, disclosure of information is dependent on an unlawful non-citizen being subject to an enforcement activity and is considered to be on a pathway to removal under s198 of the Act.

As part of the role of a removal officer, there will be situations where it is necessary to disclose information about a removee in order to effect the removal. Commonly, removal officers consider disclosure of information for the purposes of obtaining a travel document and seeking uplift approval from airlines.

Consideration of the different 'types of information' that can be disclosed is subject to relevant provisions in the:

- *Migration Act 1958*
- Australian Privacy Principles (APP) set out in schedule 1 of the *Privacy Act 1988*
- *Australian Border Force Act 2015*.

Note: this instruction is intended for removal officers disclosing different types of information for enforcement related activity in preparation for removal from Australia.

4.2. Types of information

Removal officers must be aware of the various types of information that is collected, used and disclosed as part of removal planning. The legislative basis to disclose information will vary depending on the type of information.

Generally, removal officers will handle the following types of information:

- [Identifying information](#)
- [Personal information](#)
- [Sensitive information](#) (a subset of 'personal information')
- [Immigration and Border Protection Information](#) (IBP information).

Identifying information

Identifying information relates to personal identifiers obtained by the Department for certain purposes under the Act or any meaningful identifier derived from any such personal identifier, see [s336A](#) of the Act.

Identifying information is likely to include most:

- Fingerprints or hand prints
- Measurement of a person's height and weight
- A photograph or other image of a person's face and shoulders
- An audio or a video recording of a person
- An iris scan
- A person's signature.

Personal information

Personal information is defined in s6 of the Privacy Act as:

Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) Whether the information or opinion is true or not, and*
- b) Whether the information or opinion is recorded in a material form or not.*

The lawful basis under which the Department can collect, use and disclose personal information are outlined in the APPs, in Schedule 1 of the Privacy Act.

Sensitive information

Sensitive information, a subset of personal information, is defined in s6 of the Privacy Act as:

- a) Information or an opinion about an individual's
 - i. racial or ethnic origin, or
 - ii. political opinions, or
 - iii. membership of a political association, or
 - iv. religious beliefs or affiliations, or
 - v. philosophical beliefs, or
 - vi. membership of a professional or trade association, or
 - vii. membership of a trade union, or
 - viii. sexual orientation or practices, or
 - ix. criminal record

that is also personal information, or

- b) health information about an individual, or
- c) genetic information about an individual that is not otherwise health information, or
- d) biometric information that is to be used for the purpose of automated biometric verification or biometric identification, or
- e) biometric templates.

Immigration and Border Protection information

Immigration and Border Protection information (IBP information) is defined in s4 of the ABF Act. It is defined as information of any of the following kinds:

that was obtained by a person in the person's capacity as an entrusted person:

- a) information the disclosure of which would or could reasonably be expected to prejudice the security, defence or international relations of Australia*
- b) information the disclosure of which would or could reasonably be expected to prejudice the prevention, detection or investigation of, or the conduct of proceedings relating to, an offence or a contravention of a civil penalty provision*
- c) information the disclosure of which would or could reasonably be expected to prejudice the protection of public health, or endanger the life or safety of an individual or group of individual*
- d) information the disclosure of which would or could reasonably be expected to found an action by a person (other than the Commonwealth) for breach of a duty of confidence*

- e) *information the disclosure of which would or could reasonably be expected to cause competitive detriment to a person*
- f) *information of a kind prescribed in an instrument under subsection (7).*

Additionally in s4 (5) and (6), the following types of information is taken to be IBP information:

- information that has a security classification (Top Secret, Secret, Protected or Confidential)
- information that has originated with or been received from an intelligence agency, and
- information provided to the Commonwealth under a statutory obligation or by compulsion of law is also taken to be IBP information

As the definition of IBP Information is limited to certain high level categories of information, generally removal officers will not deal with IBP Information. However, it is important that removal officers turn their mind to whether the information, which they are intending on disclosing, is in fact IBP Information. If the information is IBP Information, Part 6 of the ABF Act will apply.

4.3. Legislation

Disclosure under the *Migration Act 1958*

Part 4A, Division 3 of the Act deals with the disclosure of identifying information. Under subsection 336E(1) of the Act, it is an offence to disclose identifying information unless a permitted disclosure in s 336E(2) of the Act applies.

Under s336E(2)(a)(vi) of the Act, disclosure of identifying information is permitted if it was for the purpose of data-matching to inform governments of foreign countries of the identity of non-citizens who are, or are to be removed, taken or deported from Australia. Subsection 336E(2) of the Act may permit the disclosure of identifying information depending on the facts of the particular case. For instance, identifying non-citizens that may be of either character or security concern and to inform foreign governments of the removees identity.

Additionally, under s336F(1) of the Act, the Secretary has issued an instrument which authorises specific officers to disclose identifying information. Note that this disclosure authorisation does not apply to protection visa applicants or UMAs claiming protection unless finally determined (visa applicant) or not found to be a person in respect of whom Australia owes protection.

For s336F(1) authorisations refer to Schedule 3 of ABF (S) No. 1 of 2018 in LEGEND. Another Instrument issued by the Secretary, Migration (Secretary) (Identification) Authorisation 2017 (DEL 17/086) authorises disclosure of identifying information by those officers (classes of person) whose duties include:

- arranging removal from Australia and
- liaising with airlines, foreign governments and with Australian and foreign law enforcement, border control intelligence and security agencies.

Under Schedule I of the Instrument, (DEL 17/086) officers whose duties include arranging for the removal of non-citizens from Australia are authorised to disclose identifying information to the prescribed countries.

Disclosure under the *Privacy Act 1988*

The APPs set out in schedule 1 of the Privacy Act regulates the collection, storage, use and disclosure of personal information. Specifically, APP6.1 provides that where an APP entity (the Department) has collected personal information for a particular purpose (the *primary purpose*), the Department must not use or disclose the personal information for another purpose (the *secondary purpose*) unless:

- the individual has consented to the use or disclosure of the information, or
- an exception in APP6.2 applies in relation to the use or disclosure of information.

Exceptions set out in APP6.2

Under APP6.2, there are a number of exceptions that permit the disclosure of personal information. These exceptions are:

- if the purpose for the disclosure were related to, the purpose of collection and the individual would reasonably expect that their personal information would be used or disclosed in this way (APP 6.2(a)(ii)). Refer to privacy notice 1442i.
- where the use or disclosure is required or authorised by law or a court/tribunal order (APP 6.2(b))
- where the Department reasonably believes that the disclosure of the information is reasonably necessary for enforcement related activities conducted by, or on behalf of an enforcement body (APP 6.2(e)).

Non-citizens who have been granted a Bridging visa on departure grounds are generally made aware that the information provided as part of the Bridging visa application may be used for a secondary purpose (that purpose being removal). If a non-citizen has been made reasonably aware that that information will be used for a secondary purpose, disclosure will be authorised by APP6.2(a). Refer to privacy notice form 1442i.

In relation to APP 6.2(b), s198 of the Act impliedly authorises the disclosure of limited biographical information if the disclosure of this personal information is reasonably necessary to progress removal of a UNC. In a removal context, if a UNC is liable for removal (that is, a removal power is enlivened), APP6.2(b) may be satisfied to allow the disclosure of relevant personal information. It is important to note that s198 of the Act only impliedly authorises the disclosure of personal information that is actually necessary to effect a person's removal. If the disclosure of some types of personal information was not necessary to effect removal, then it should not be disclosed.

Disclosure of personal information for travel document acquisition in the context of progressing a removal from Australia may also be permitted under APP6.2(e).

For non-citizens who are not subject to a removal power and are:

- unlawful in the community, or
- on a non-substantive visa that is not associated to a substantive visa application, or
- lawful or unlawful in criminal detention.

Under APP6.2(e), disclosure of personal information is permitted if it is reasonably necessary for one or more enforcement related activities conducted by the Department.

An enforcement related activity of the Department includes identifying and locating unlawful non-citizens and resolving their immigration status, including the removal of unlawful non-citizens from Australia. Once again, it is important to note that APP 6.2(e) can only be relied on to disclose personal information that is actually necessary to effect a person's removal from Australia and nothing more.

This may include situations where it is likely that the non-citizen will be on a removal pathway once their non-substantive visa has ceased. For example, a non-citizen who is a holder of a Bridging visa E on criminal grounds.

Exceptions set out in APP8.2

There may be circumstances in which a removal officer is required to provide personal information to overseas entities. For the purposes of the Privacy Act, this is referred to a 'cross-border disclosure'. When considering a cross-border disclosure, the removal officer must not disclose information to an overseas recipient unless an exception in APP8.2 is satisfied. The exception set out in APP8.2(c) allows disclosure when the information is required or authorised by or under an Australian law. Like APP 6.2(b), s198 of the Act impliedly authorises the disclosure of limited biographical information if the disclosure of this personal information is reasonably necessary to progress removal of a UNC.

It is important to note that when considering a cross-border disclosure, both APP6 and APP8 must be satisfied prior to making the disclosure.

Disclosure under the *Australian Border Force Act 2015*

Under s42(1) of the ABF Act, it is an offence for an entrusted person (includes all APS employees in the Department) to make a record of, or disclose information that is IBP information, unless an exception applies.

Disclosure of IBP information is permitted under s42(2) of the ABF Act if:

- a) the disclosure is authorised by sections 43, 44, 45, 47, 48 or 49, or
- b) the disclosure is in the course of the person's employment or service as an entrusted person, or
- c) the disclosure is required or authorised by or under a law of the Commonwealth, a State or a Territory, or
- d) the disclosure is required by an order or direction of a court or tribunal.

If IBP Information is being disclosed under s42(2)(a), (c), or (d) of the ABF Act, the disclosure of any personal information is also permitted under APP6.2(b) as it is 'required or authorised by or under an Australian law or a court/tribunal order'.

It is important to note that if the information that is being disclosed does not meet the definition of IBP information, the secrecy and disclosure provisions of Part 6 of the ABF Act do not apply. However, the disclosure must still comply with the APP6 and APP8 set out in the Privacy Act if any personal information is being disclosed and the Migration Act, if any identifying information is being disclosed.

Further Information on policy and procedure on access to, and disclosure of, identity documents, can be found in [IIB-1537](#) in PPCR (*Identifying information - Access and disclosure*).

4.4. Providing identity documents to foreign governments

Removal officers must not inform foreign government officials that the removee has applied, or been refused, a Protection visa (PV) or the details of their protection claims. This prohibition includes information about a removee's ongoing PV process, ongoing merits review following a determination on their PV application, and any information on failed asylum seekers. This is because these cases will be protection-related and contact with foreign missions or foreign government officials regarding the removee may give rise to new protection claims – especially if information is given that the removee has sought protection in Australia.

It is legitimate to provide identity documents to foreign governments where the removee is not found in need of Australia's protection. The limited sharing of personal information and identity documents with foreign governments is necessary to facilitate their return, with or without consent of the individual concerned. Such cases usually arise when nationality is in question and/or the individual has no national travel or identification documents.

The disclosure of information to foreign governments should go no further than is lawful and necessary (refer to 'Legislation' above for details) to obtain a travel document and to secure the removees readmission into the country of return.

4.5. Documents issued by a government authority

Before providing a document to a foreign government, removal officers should consider whether a government authority has issued the document. Removal officers should confirm the issuer of the document using relevant departmental sources - such as CISNET (if this information is available), the EDISON TD (Travel Documents) system and their local Document Examination Unit - or reliable external sources.

Removal officers should avoid unnecessarily providing documents such as association or other membership cards, except as set out in '[Providing non-national identity cards](#)'. It is possible that such documents could inadvertently provide information to the foreign government in relation to the removee's political, religious, social or other persuasions.

Identifying a removee to a foreign government as a member of a certain group could potentially lead to *sur place* protection claims from the removee. A removee may become a refugee through *sur place* claims due to the circumstances arising in the country of origin during the removee's absence because of:

- a person's own actions, such as associating with refugees already recognised or expressing political views in the country of residence and having these actions come to the attention of the authorities of the person's country of origin, or
- the actions of a third party, such as bringing the person's circumstances to the attention of the authorities of the person's country of origin.

4.6. Acceptable types of documents to support identity

Removal officers should generally provide necessary documentation that will sufficiently identify the person for the purposes of obtaining a travel document and assist the foreign government in a timely processing of the application for a travel document.

Removal officers are encouraged in the first instance to provide standard or universally recognised identity documents, such as:

- expired passports or other expired travel documents
- national identity cards
- drivers licences
- other government issued identity cards (for example, health care or social security cards).

4.7. Providing non-national identity cards

If standard documents are unavailable or the foreign government deems them insufficient, it may be necessary to consider presenting additional documents to help with determining the identity of the removee. In such cases, the removal officer must escalate the matter to their supervisor. Before any decision is made to release such documents, the removal officer must consider if the document:

- identifies or suggests the removee's ongoing or former alliance with a political, religious, social or other group, or
- links the removee to any matters raised in a previous PV application, or
- contains any other information that is superfluous to identifying the removee for the purpose of obtaining a travel document (for example, documents which discuss any criminal history accrued while in Australia such as charge sheets or sentencing remarks).

If the document meets any of the three criteria immediately above, the removal officer must not provide the document to the relevant foreign government. If it is not clear whether the document presents similar sensitivities to any of the three criteria, the removal officer should immediately seek advice by emailing s. 47E(d) [\[redacted\]@abf.gov.au](mailto:[redacted]@abf.gov.au) and copy this to the removee's case manager.

The Removals Helpdesk will seek advice via [email to s. 47E\(d\) \[redacted\]@homeaffairs.gov.au](mailto:[redacted]@homeaffairs.gov.au) or s. 47E(d) [\[redacted\]@homeaffairs.gov.au](mailto:[redacted]@homeaffairs.gov.au) and then advise the removal officer accordingly.

4.8. Translation of documents

In many cases, a removee will provide documents as proof of their claimed identity. These documents may have been issued in a language other than English and may not be officially translated into English. To ensure the document is the same as stated by the removee and that it contains no sensitive or superfluous

information see '4.6 Acceptable types of documents to support identity', the removal officer should request a NAATI-accredited translator to translate the document. This will allow the removal officer to verify the document before submitting the original version to the foreign government.

If a removee provides documents that have been marked by unofficial handwriting in a language other than English, the removal officer should have the writing translated by a NAATI-accredited translator.

4.9. Further action if inappropriate documents are provided

If a removal officer thinks that the Department may have provided a potentially sensitive or inappropriate document to a foreign government, they should immediately escalate the matter to their supervisor. They should also immediately email the concern to **s. 47E(d)** [@abf.gov.au](mailto:abf.gov.au) (and cc the removee's status resolution officer), which will liaise with National Office stakeholders regarding further action to address the issue.

4.10. Consent to provide documents

Removal officers may seek the removee's consent, using an accredited interpreter where necessary, before providing any document(s) to a foreign government. This may include a generic consent to the release of relevant document. The officers should record that consent, if obtained, in writing and document the communication with the removee in relevant departmental systems.

If the removee does not provide consent and the removal officer nonetheless decides to provide identity documents to a foreign country, the removal officer should also save the decision and reasons for doing this in TRIM and on the portal.

In either case, the removal officer must inform the removee that the Department will be making representations to their relevant foreign mission to obtain a travel document.

The removal officer should carefully consider records and act upon any concerns raised by the removee in relation to disclosure of identity documents in accordance with 'Further action if inappropriate documents are provided'.

4.11. Consular interviews

When obtaining travel documents the foreign government may require an interview with the removee in detention. For advice on the procedures to follow in these circumstances, refer to [DM-584](#) in PPCR (*Consular access in immigration detention*).

4.12. Certificate of identity

An Australian Certificate of Identity (COI) is a travel document issued by Department of Foreign Affairs and Trade (DFAT) to a person who is not an Australian citizen, who is about to leave Australia and who is stateless or unable to get a travel document from their country of nationality. A COI does not in itself provide a right of re-entry into Australia or entry to any State. It is acceptable to return a person on a COI if:

- removal officers do not have a valid travel document for the person issued by the country to which the person is being returned, or
- that country will accept return of the person on an Australian COI, or
- the person has the right of long term residence in the country.

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Issue of COIs is centralised in DFAT Canberra. Removal officers seeking to remove a person using a COI must email s. 47E(d) [@abf.gov.au](mailto:s.47E(d)@abf.gov.au) to initiate and coordinate the COI application process with DFAT.

COI applications are lodged with a note advising that the COI is being sought for a removal, which will also provide information on whether the person has been offered the opportunity to sign the COI application and/or has refused to sign the application form.

For country specific information on COI procedures, including when a COI may be appropriate, refer to the 'Removals Country Guide' on Bordernet or contact s. 47E(d) [@abf.gov.au](mailto:s.47E(d)@abf.gov.au).

5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removals Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

This PI under the PPCF sets out guidance and directions to workers on how to implement the Department's policy.

It is expected that all workers who are subject to this PI will have due regard to it and will only depart from it if:

- a) the departure is reasonable and justified in the circumstances

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- b) all risks have been considered and
- c) approval has been sought and responsibility accepted for documenting the justification for the decision.

Workers are required to comply with all reasonable and lawful directions contained in this PI. Failure to comply with a direction may be considered a breach of the *Australian Public Service Code of Conduct* (for APS employees) or the *Professional Standards Secretary's Direction* under section 55 of the *Australian Border Force Act 2015* (for non-APS employees).

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statement

[VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[TI-1149](#) in PPCR (*The Department's Privacy Policy*)

[BC-763](#) in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Consular access in immigration detention	DM-584	
Identifying information - Access and disclosure	IIB-1537	
<u>Pre-removal Clearances and Informed Request for Removal Statements</u>	VM-3226	LEGEND
Removal and Detention Costs	DM-567	<u>PCD2017/6030</u>
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866

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Document	PPCR	TRIM Number
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting Material

Document	PPCR	TRIM / Website
Document examination services page		on Bordernet
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Travel Document Reference Guide		on Bordernet

8. References and legislation

- *Australian Border Force Act 2015*
- *Australian Citizenship Act 2007*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988*
- *Privacy Act 1988 Schedule 1 – Australian Privacy Principles*

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9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Complex Case Resolution
- Detention and Removal Operational Policy (Detention policy)
- Detention Health Operations Section
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- International Obligations and SHP Section
- Detention and Removal Operational Policy (Detention policy)
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Privacy Operations Section
- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation

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10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	5 November 2018	Detention and Removals Operational Policy	PPCF Compliant
2	1 August 2019	Detention and Removals Operational Policy	References to 'Control Framework' updated and minor edits

10.2. Procedural Instruction approval

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Removal from Australia

Procedural Instruction

This Procedural Instruction (PI) contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

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1. Introduction

1.1. Removal overview

This Procedural Instruction sets out operational instruction and provides advice on:

- removal under [s198](#) of the *Migration Act (1958)* (the Act)
- deportation under [s200](#) of the Act
- removal under [s199](#) and [s205](#) of the Act
- types of removals
- the legislative basis for:
 - removal from Australia
 - liability for cost of removal
- administrative requirements for supporting materials, departmental systems, recordkeeping and use of interpreters.

This Procedural Instruction relates to and should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This Procedural Instruction articulates the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

This instruction is designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. It will assist officers in planning, managing and effecting a removal.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNC's who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. Non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or the Department.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions – Case resolution – Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution – Returns and removals – Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia - Glossary*), TRIM: ADD2018/1955777.

4. Procedural Instruction

4.1. Removal of illegal maritime arrivals

Removal of illegal maritime arrivals (IMAs) should generally be conducted in the same manner as any other type of removal. However, there are some procedures in relation to IMAs that differ slightly from other removal procedures and these are highlighted in the following Procedural Instructions:

- [BE-5508](#) in PPCR (*Removal from Australia – Voluntary removal*)
 - IMA crew requesting removal
 - Removal of unauthorised maritime arrivals who arrived after 13 August 2012
- [BE-5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment - RAA for IMAs*)
- [BE-5501](#) in PPCR (*Removal from Australia – Post removal support– Types of post-removal support*).

4.2. Removal of illegal foreign fishers

The non-legislated term Illegal foreign fisher (IFF) is used to describe a non-citizen who is suspected of committing an offence against the *Fisheries Management Act 1991* or the *Torres Strait Fisheries Act 1984*. Although a small removal cohort, IFFs inhabit a different legislative and policy environment to IMAs and other immigration detainees. In most cases, IFFs arrive in Australia without travel documents and as holders of enforcement visas for fisheries or environment matters ([s164B](#) and [s168BA](#) of the Act) after apprehension at sea for suspected breaches of fisheries or environment legislation.

On arrival at port, IFFs are detained and placed under fisheries detention (or potentially environment detention) by the ABF on behalf of the Australian Fisheries Management Authority (AFMA). IFFs cannot be held in fisheries detention and immigration detention at the same time.

Once the non-citizen's enforcement visa ceases, the IFF becomes a UNC subject to immigration detention and removal. Procedures in relation to IFFs that differ from other removal procedures are highlighted in the following documents:

- [BE-5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment*) procedural instruction
- [BE-5504](#) in PPCR (*Removal from Australia – Removal notification*) procedural instruction
- [DM-567](#) in PPCR (*Removal and detention costs*) procedural instruction
- Removal Availability Assessment Guide – illegal foreign fishers (TRIM ADD2018/2297400).

Note that in addition to fisheries and environment detention powers, suspected offenders (non-citizens) can be detained under [s250](#) of the Act when read in conjunction with [s189](#) of the Act. These sections when read in conjunction allow for the immigration detention (for a limited period of time) of non-citizens who:

- travelled, or were brought, to the migration zone and
- are believed on reasonable grounds to have been on board a vessel when it was used in connection with the commission of an offence against a law in force in the whole or any part of Australia.

Refer to:

- [DM-590](#) in PPCR (*Detention Services Manual – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*Detention Services Manual - Illegal Foreign Fishers - Enforcement visa*).

4.3. Types of removal

There are six types of removal:

Involuntary escorted

Removal under [s198](#) of UNC who have not requested in writing to be removed from Australia and who require a security escort under *Aviation Transport Security Regulations (2005)* (ATSR) and/or require medical, liaison or welfare escorts.

Involuntary unescorted

Removal under [s198](#) of UNC who have not requested in writing to be removed from Australia, are low risk and do not require a security escort under the ATSR and/or medical, liaison or welfare escorts.

Voluntary escorted

UNCs who have requested in writing to be removed from Australia (Request for removal) under [s198\(1\)](#) and who require a security escort under ATSR and/or require medical, liaison or welfare escorts.

Voluntary unescorted

UNCs who have requested in writing to be removed from Australia (Request for removal) under s198(1) and who do not require any escorts.

Accompanying family members

The partner and/or dependants of a removee/deportee who may be removed from Australia in accordance with s199/205 of the Act.

Criminal deportation

Non-citizens deported under [s200](#) of the Act.

4.4. Status resolution system control framework

The purpose of the Status Resolution System Control Framework (Control Framework) is to provide departmental and ABF officers with guidance on linkages across field operations, status resolution and removal in resolving the immigration status of a non citizen, including the exchange of information, specific program activities and the pathway of a non-citizen within the framework. High risk activities are addressed through the implementation of specific controls and oversight processes, including the application of Mandatory Control Points (MCPs). Refer to [BC-6186](#) in PPCR (*Status Resolution System Control Framework Mandatory Control Points*).

Removal program is one of five Home Affairs portfolio programs incorporated in the Control Framework. Control Framework directions provide transparency and auditability during removal planning activities and ensure the lawful and appropriate application of MCPs. Refer to [BE-5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment*).

The status resolution framework focuses on active and early engagement with the compliance caseload to manage non-citizens to a substantive immigration outcome in a timely and effective manner. Consistent with detention values, the framework places increased focus on providing community based options to resolve a person's immigration status.

4.5. Key service delivery principles

The following set of principles reflects the key status resolution and detention values and underpins the removal of all UNCs from Australia:

Early engagement with removees and key stakeholders

Removal officers will work collaboratively with status resolution partners to achieve timely and removee-focused solutions. Officers will engage with removees and stakeholders early and effectively to establish and maintain cooperative relationships. In some cases, it may be appropriate to engage before the person is taken into immigration detention. These principles are reinforced through a coordinated communication strategy that provides consistent, open and honest communication to removees and stakeholders. For information on stakeholders refer to [BE-5498](#) in PPCR (*Removal from Australia – Notifying stakeholders of removal*).

Emphasis on voluntary return

Removal officers will work collaboratively with individuals and status resolution partners to achieve removee-focused outcomes. Where possible, removal officers will:

- give consideration to community based options
- work to facilitate the voluntary removal of individuals in the first instance.

The control framework emphasises engagement with the person to ensure they are fully aware of the advantages of a voluntary return or removal. Removal officers should be aware of the suite of status resolution tools available to assist persons who choose to return or be removed voluntarily.

For further information, refer to [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions – Case resolution – Community Status Resolution Service*).

Support for a dignified return that considers the person's wellbeing

All persons should be treated with dignity and respect through the immigration process. All departmental officers must act within the boundaries of Australia's international legal obligations and work health and safety (WHS) laws - refer to [Work Health and Safety Information](#). In their planning, removal officers will consider, as early as possible, all of the circumstances pertaining to a person. This includes such aspects of the case as guardianship, family composition, health and/or welfare issues, and providing the person with as much notice of their removal from Australia as possible for their individual circumstances.

Removal plans should be tailored to address individual needs and consider post-return matters. To the extent possible, persons on a removal pathway are to be kept informed of the removal process and have access to relevant services and communication facilities, as required. Refer to [BE-5501](#) in PPCR (*Removal from Australia – Post-removal support*).

Fair and reasonable treatment

Officers should ensure all persons are dealt with in a fair and reasonable manner and ensure that persons on a removal pathway are treated:

- equally, without discrimination
- with dignity, having regard to individual identity and
- fairly, and free from arbitrary decision making processes.

Risk based removee management

Strategies to resolve a person's immigration status should be based on risk in accordance with [BC-763](#) in PPCR (*Status Resolution System Control Framework*) with a focus on resolving the person's status without delay. Officers should assess risk on a case by case basis.

4.6. C3 doctrine

C3 doctrine informs and guides how all operational activities are planned, coordinated, communicated and executed and is a mandated guide for use by ABF officers. C3 doctrine aligns with the ABF Operational Planning Framework, allowing a unified command approach to all planned and unplanned operations and when resolving incidents. In the context of removals, the C3 doctrine principles of command, control and coordination apply to a planned escorted removal operation and to the management and coordination of an incident during a removal. Refer to [C3 doctrine The Command, Control and Coordination doctrine for the Australian Border Force April 2018](#).

The principles of C3 provide a hierarchal approach to the analysis, planning, coordination, authorisation and conduct of operations, and importantly, creates a risk based responsibility and accountability framework. Guidance on C3 operational policy during an escorted removal operation is contained in Operational Departure Plan (ODP) Guide (ADD2011/1327425).

5. Legislative basis for removal

5.1. Departure - removal or deportation

Removal

The legislated powers under which a person can be removed from Australia are:

- removal under [s198](#) of the Act
- removal under [s199](#) of the Act of the partner/dependants of a removee
- removal under [s205](#) of the Act of the partner/dependants of a deportee
- deportation under [s200](#) of the Act.

'Removal' is the term used to describe the removal from Australia of non-citizens who do not hold a valid visa and so are unlawful. This includes non-citizens who have never held a visa, those who have applied for a visa but had their application refused, those whose visas have been cancelled and those whose visas have ceased.

Deportation

Deportation is concerned with persons who are leaving Australia subject to a deportation order under [s200](#) of the Act on the basis of the grounds at subsections 201 to 203 of the Act. When a person is deported from Australia they are a lawful non-citizen who holds a visa. Their visa ceases when they leave Australia – refer to [VM-993](#) in PPCR (*Character and security – Criminal deportations*).

Deportation is a rarely used power. In most cases, persons who have committed a crime serious enough to warrant removal from Australia will have their visa cancelled under [s501](#) of the Act and they will be removed from Australia as a UNC under [s198](#) of the Act.

Although the procedures set out in this instruction refer explicitly to removal under [s198](#) of the Act, they apply equally to planning and management (including travel arrangements, aviation procedures and escort arrangements) of deportation of non-citizens from Australia under [s200](#) of the Act.

5.2. Removal of unlawful non-citizens – s198

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC ([s13](#) of the Act and [s14](#) of the Act refer). If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia. Section [198](#) of the Act requires an officer to remove a UNC from Australia 'as soon as reasonably practicable', in a range of circumstances. This can include persons who:

- have overstayed their visa
- have had their visa cancelled/refused or
- have arrived in Australia without a visa.

5.3. Legislative grounds for removal

Section 198 of the Act

The power to remove a UNC is contained in [s198](#) of the Act. In all cases, the removal must be 'as soon as reasonably practicable'.

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Commonly used legislative provisions for the removal of a UNC are the following:

Section	Description of power
s198(1)	A UNC who asks the Minister (or delegate) in writing to be removed.
s198(2)	<p>Either:</p> <p>(1) A UNC who:</p> <ul style="list-style-type: none"> • is detained: <ul style="list-style-type: none"> - under s189(1) of the Act on being refused immigration clearance, or after bypassing immigration clearance, or after being prevented from leaving a vessel under s. 249 of the Act or - under s189(1) of the Act and who has entered Australia after 30 August 1994, and has not been immigration cleared since last entering or - under Sections 189(2), 189(3), 189(3A) or 189(4) of the Act and • has not subsequently been immigration cleared and • either: <ul style="list-style-type: none"> - has not made a valid application for a substantive visa that can be granted when the applicant is in the migration zone or - has made a valid application for a substantive visa that can be granted when the applicant is in the migration zone and that application has been finally determined. • For example, a UMA, an irregular air arrival or a turnaround removal - refer to s193(1)(a)(i), (ii) (iii) and s193(1)(b) of the Act; or <p>(2) A UNC who is detained under s189 of the Act and who:</p> <ul style="list-style-type: none"> • held an enforcement visa that has ceased to be in effect • has not been granted a substantive visa since the enforcement visa ceased to be in effect and • either: <ul style="list-style-type: none"> - has not made a valid application for a substantive visa that can be granted when the applicant is in the migration zone or - has applied for a substantive visa that can be granted when the applicant is in the migration zone, but the application has been finally determined. <p>For example, illegal foreign fishers (refer to s193(1)(d) of the Act).</p>
s. 198(2A)	<p>A UNC who:</p> <ul style="list-style-type: none"> • is detained under s189(1) of the Act because of a decision the Minister has made personally under s501, s501A, s501B or s501BA of the Act to refuse to grant a visa to the person or to cancel a visa that has been granted to a person and • since that decision (the original decision) the non-citizen has not made a valid application for a substantive visa that can be granted while the non-citizen is in the migration zone and

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Section	Description of power
	<ul style="list-style-type: none"> in a case where the non-citizen has been invited, in accordance with sections 501C or 501CA of the Act to make representations to the Minister about revocation of the original decision - either: <ul style="list-style-type: none"> the non-citizen has not made representations in accordance with the invitation and the time period for making representation has ended or the non-citizen has made representations but the Minister decided not to revoke the original decision.
s198(2B)	<p>A UNC if:</p> <ul style="list-style-type: none"> their visa has been cancelled by a delegate of the Minister (as opposed to the Minister personally cancelling) under s501(3A) of the Act and the non-citizen has not since the delegate's decision made a valid application for a substantive visa that can be granted when the non-citizen is in the migration zone and if the non-citizen was, in accordance with s501CA of the Act, invited to make representations to the Minister about revocation of the cancellation by the delegate either: <ul style="list-style-type: none"> the non-citizen has not made representations in accordance with the invitation and the period for making representations has ended or the non-citizen has made representations in accordance with the invitation and the Minister has decided not to revoke the cancellation by the delegate. <p>Note: the only visa that the non-citizen could apply for is a protection visa or a visa specified in the regulations for the purposes of subsection 501E(2) of the Act.</p>
s198(5)	<p>A UNC who:</p> <ul style="list-style-type: none"> is a detainee and neither applied for a substantive visa in accordance with s195(1) of the Act nor applied under s137K of the Act for revocation of the cancellation of a substantive visa <p>regardless of whether the non-citizen has made a valid application for a bridging visa.</p> <p>An officer must not remove a person who is an applicant for a protection visa, even if the application was made outside the time allowed by s195(1) – see s198(5A).</p>
s198(6)	<p>A UNC who:</p> <ul style="list-style-type: none"> is a detainee and has made a valid application for a substantive visa that can be granted while they are in the migration zone and either: <ul style="list-style-type: none"> the grant of the visa has been refused and the application finally determined or the visa could not be granted and has not made another valid application for a substantive visa that can be granted while they are in the migration zone.
s198(9)	<p>A UNC if:</p> <ul style="list-style-type: none"> the non-citizen is a detainee and

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Section	Description of power
	<ul style="list-style-type: none"> subdivision AK of Division 3 Part 2 of the Act (Non-citizens with access to protection from third countries) applies to the non-citizen and either: <ul style="list-style-type: none"> (i) the non-citizen has not been immigration cleared or (ii) the non-citizen has not made a valid application for a substantive visa that can be granted when the applicant is in the migration zone and either: <ul style="list-style-type: none"> (i) the Minister has not given a notice under s91Q(1) of the Act to the non-citizen or (ii) the Minister has given such notice but the period mentioned in that subsection has ended and the non-citizen has not, during that period, made a valid application for a substantive visa that can be granted when the applicant is in the migration zone. <p>Sections 91P(1) and 91P(2) of the Act invalidate a visa application or protection visa (PV) application respectively, made by a non-citizen who is a <u>national</u> of two or more countries if they are in the migration zone and not immigration cleared. The Minister may allow a person to lodge a new visa application under s91Q(1) of the Act, if it is in the public interest. The Minister's determination is valid for only seven (7) working days from the date of the notice.</p> <p>Non-citizens subject to removal under s198(9) include a UNC:</p> <ul style="list-style-type: none"> who has not reapplied for a PV within the seven (7) working day timeframe after a notice was given (s91Q) who has not been given a notice under s91Q who has not sought judicial review of a delegate's decision on an application that was erroneously treated as valid. <p>Removal officers should bring affected cases to the attention of the <u>AAT and Removals Injunctions section</u> as early as possible by including relevant information in the <u>Removal of Interest Brief</u> (ROIB). Removees who were excluded from merits review through the Fast Track process are brought to the attention of the Legal Division through advice from the <u>Legal Opinions Helpdesk</u>. For further direction on s91P and s91Q refer to ON2017-14 in TRIM:ADD2017/2704113.</p>

5.4. Reasonably practicable

Under [s198](#) of the Act, an officer must remove a UNC 'as soon as reasonably practicable'. Although the Act does not define a set time period in relation to the concept of 'as soon as reasonably practicable', removal officers must ensure that there are no unnecessary delays in progressing and effecting a removal, and that progress is recorded in Compliance, Case Management and Detention (CCMD) Portal. Supporting documents should be saved in TRIM.

Officers *must* progress removal planning without any undue delay or unnecessary prolonging of detention, on a case-by-case basis, taking into account all the available information relating to the individual or family group to be removed.

The Department has established a number of compulsory policy assessments which are to be carried out before a UNC may be removed. These are set out in [BE-5503](#) in PPCR (*Removal from Australia – Removal Availability Assessment*). The Removal Availability Assessment (RAA) is the key tool in determining whether

a UNC is liable and available for removal and also forms part of the BC-763in PPCR (Status Resolution System Control Framework, as Mandatory Control Point 10 (MCP10).

Removal must occur 'as soon as reasonably practicable'. This includes where there is a legal or practical impediment to removal (which can include a policy matter). Considerations to determine if a removal is reasonably practicable can include:

- physical considerations:
 - the physical and mental health of the person or
 - the ability of the receiving country to take them back (that is, an operational airport or visas) or
 - the condition of the country of return (that is, civil war, natural disasters) and
- non-physical considerations:
 - the willingness of the receiving country to allow the person into its territorial boundaries.

5.5. Partners or dependants of removees/deportees – s199/s205 of the Act

The Department's discretion

The Department has discretion to purchase airline tickets for partners or dependants who are citizens or lawful non-citizens, to accompany a person who is:

- to be removed or
- subject to a deportation order.

Should the Department choose to exercise this discretion to purchase partners/dependants tickets, the costs incurred will generate a debt to the Commonwealth.

s199 and s205 of the Act

Sections [199](#) and [205](#) of the Act allow for removal, on request, of a partner and dependent child/ren of the removee/deportee in the following circumstances:

- spouse/de facto partner of the removee/deportee requests removal – s199(1)/s205(1)(a) of the Act
- spouse/de facto partner of the removee requests removal with a dependant child or children of the removee/deportee – s199/s205(1)(b) of the Act
- removee/deportee requests removal of their dependant child/children – s199(3)/s205(2) of the Act.

This discretionary power to remove exists even where the partner and/or child are a citizen or a lawful non-citizen.

Note: *s199 and s205 of the Act apply only to biological or adopted children of the removee/deportee. Step-children are excluded from the scope of these removal powers.*

5.6. Exercise of removal powers under s199 and s205

Removal powers under [s199](#) and [s205](#) of the Act are discretionary and should be used only if individuals can demonstrate that they are unable to meet the costs of travel.

Removal officers must ensure that individuals seeking removal under s199 and s205 are well informed of the consequences of their decision (including applicable exclusion periods and Debt to the Commonwealth). Refer to '[Liability for removal/deportation costs under \(s212\) - debts to the Commonwealth](#)'.

Procedures relating to the removal of a family member under s199 or s205 are detailed in [BE-5505](#) in PPCR (*Removal from Australia – Removal of minors and families*).

If a removal also involves an Australian citizen spouse and their Australian citizen dependant child/children as defined in the Act, refer to [BE-5505](#) in PPCR (*Removal from Australia – Removal of minors and families – Removal of Australian Citizens under s199 or s205*).

Consideration of the exercise of s199/s205 includes any Family Court decisions which can impact on the removal or deportation of a child or children of a UNC. For more guidance, refer to [BE-5495](#) in PPCR (*Removal from Australia – Impediments to removal*) – *Family law matters*).

For further guidance refer to:

- [SM-5039](#) in PPCR (*Removal from Australia - Separation of families*)
- [SM-5038](#) in PPCR (*Removal of unaccompanied minors from Australia*)
- [BE-5505](#) in PPCR (*Removal from Australia – Removal of minors and families*)
- [VM-3065](#) in PPCR (*Relationships and family members – Child-parent relationships*)
- [VM-3057](#) in PPCR (*Relationships and family members – Best interests of minor children*)
- [BE-5495](#) in PPCR (*Removal from Australia – Impediments to removal– Family court directions*)
- [Liability for cost of removal.](#)

For further advice on removals under s199 and s205, email the [S. 47E\(d\)](#) [@abf.gov.au](#).

5.7. Liability for cost of removal

Payment for flights

Removee/deportee liable (s210) – Debts to the Commonwealth

[Section 210](#) of the Act sets out that a person who is removed or deported, other than a person who comes to Australia on a criminal justice visa, is personally liable to pay the Commonwealth the costs of their removal or deportation.

The costs become a debt to the Commonwealth. Having a debt to the Commonwealth can prevent the grant of a further visa. [PIC 4004](#) is a Schedule 2 criterion which must be satisfied for the grant of most visa subclasses. It requires that a visa applicant does not have outstanding debts to the Commonwealth unless the Minister is satisfied that appropriate arrangements are in place for payment.

It is departmental policy that where applicable:

- a '[Notice of detention costs](#)' (TRIM: ADD2017/2288471) be handed to a person as soon as possible after they are detained where they are liable to pay (convicted IFFs and people smugglers) the Commonwealth the total cost of immigration detention, transport to place of detention, transport between places of detention and/or return to vessel.
- a '[Notice of removal or deportation costs](#)' (TRIM: ADD2017/2288477) be handed to a person once estimated costs of removal or deportation are known, such as their passage and the passage of escorts required, passage of spouse/de factor and/or dependent child/ren, other travel, transit costs and/or accommodation costs.

Information on liability for debts to the Commonwealth, calculating liability and instructions on debt recovery are in [DM-567](#) in PPCR (*Removal and detention costs*). Removal officers are responsible for completing the

final liability in CCMD portal, debt waiver request and/or debtor pro forma and forwarding it to Debt Management Unit through CCMD portal workflow or by email to [debtors](#).

Although the person is legally responsible for the costs, their removal may be initially funded by:

- a ticket held by the person
- their own funds
- Commonwealth funds or
- the airline (only in cases of turnaround departures) - refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

Use of existing ticket/funds

Advice to removee

The removal officer is to advise the person that [s216](#) of the Act allows the Department's Secretary (or delegate) to arrange for an existing ticket to be applied for or towards the removal of the person, with or without the person's consent. The Act does not specify a written requirement, however, in line with good recordkeeping/accountability, the officer should use one of the following:

- **Removee/deportee consents**
 - [Consent to use ticket for removal](#) (TRIM: ADD2008/868573) template is completed by the person, authorising departmental use of the ticket for their removal.
- **Removee/deportee does not consent**
 - [Use of removee ticket without consent](#) (TRIM: ADD2008/868620) template is completed by an officer with [s216](#) delegation and is used to inform stakeholders (for example, travel agents, airline representative) of the Department's authority to use the person's ticket.

Relevant delegations instrument for the purpose of [s216](#) of the Act is located in [Delegations](#) – ABF delegations – ABF(S) No. 1 of 2018 – Schedule 3 in LEGEND.

Note: *If a person's ticket is used, the officer should not include the value of that ticket when calculating the person's debt to the Commonwealth.*

5.8. Liability for removal/deportation costs (s212 of the Act) – Debts to the Commonwealth

Section [212](#) of the Act deals with the liability for the costs of removal and deportation. Any discretionary decision to pay the removal/deportation costs of family members, under s199 or s205 of the Act, will result in a debt to the Commonwealth. Responsibility for the debt to the Commonwealth rests individually and jointly with the removee/deportee and the spouse or de facto partner. This means that each party is liable for the cost of their removal or deportation.

Costs associated with the removal of dependants of the removee/deportee and spouse/de facto are borne by these parties and not by any dependant children.

Family members who request removal under s199 of the Act should be made aware of the consequences of a debt to the Commonwealth as part of their request for removal, including (for non-citizens) the impact on their ability to return to Australia if they fail the public interest criterion 4004 that applies as a Schedule 2 criterion for most visa subclasses.

For further information, refer to [BE-5505](#) in PPCR (*Removal from Australia – Removal of minors and families*).

6. Forms, recordkeeping and interpreters

6.1. About the forms included in this instruction

This instruction includes a series of forms, some of which are **mandatory** for all types of removals, except for turnaround removals/departures that occur within 72 hours of the person being refused entry at the airport or seaport.

The forms are referred to throughout this instruction and are listed in '[supporting material](#)' together with related guidelines.

Officers must record copies of all completed forms in TRIM and link them to removee CCMD portal records where appropriate.

6.2. Recordkeeping

The Department is required to maintain accurate, up to date and detailed records about the circumstances surrounding all removals and deportations from Australia. On occasion, these records are required to be produced as evidence in courts or to other bodies to demonstrate that the Department attempted to remove a person 'as soon as reasonably practicable', or to demonstrate that the person was liable for removal or deportation under the Act.

A clear summary of all discussions and any reports, forms, events and case notes relating to a person's removal must be recorded promptly on TRIM and linked to the CCMD portal where appropriate. Officers may keep detailed handwritten notes or electronic reports as hardcopies on detainee files or as electronic documents. For further guidance on best practice refer to (via [Bordernet](#)) the Department's Record Management Policy.

Officers should ensure that individual identification numbers, for example, client ID, ICSE ID or CCMD portal ID, are clearly recorded and easily identifiable on all documents. It is particularly important that all documents signed by the removee, removal officers and decision making delegates are retained on file and, if possible, on relevant systems.

6.3. ABF Official Notebook

ABF official notebooks **must** be carried and used by all ABF officers undertaking operational activities to record pertinent information during the execution of their duties.

Removal officers are issued with and are required to maintain an ABF official notebook in accordance with training and relevant instructions. Notebooks are to be used to record events contemporaneously whilst undertaking any operational removal activity. As an officer's notes may be the primary reference to an event, original notes **must** be of a standard capable of withstanding the scrutiny of the courts.

ABF official notebooks are not intended to replace existing ABF processes such as interview templates, removal related forms or recordkeeping in departmental systems. In these circumstances it would be appropriate to record in your notebook the date, time, task, persons involved and any other detail that may assist in completing departmental system records if not done so contemporaneously.

Removal officers must keep clear, concise, complete and accurate notes to assist them to account for their actions. This will help clarify the circumstances in which, and the reasoning for, any actions taken while undertaking operational removal activity. Any issue, incident or event of a serious, contentious or significant nature **must** be recorded, for example:

- aggressive behaviour by a removee towards an ABF officer, escort or member of the public;

- any use of force undertaken or witnessed;
- complaints or incidents that may lead to a complaint;
- critical decisions and justification (i.e. why certain actions were taken (or not taken)); and;
- wherever an officer senses an event should be remembered, they should record the particulars in their ABF official notebook as a precautionary measure.

ABF official notebooks are an accountable commonwealth record and are open to scrutiny during a quality assurance process, Ombudsman report, judicial hearing, and official inquiry, or as part of a complaints process.

The National Repository is responsible for issuing and replacing ABF official notebooks.

Removal officers must complete the *Compile and Use of Official Notes* module as part of the Border Force Officers (BFO) Foundation Development training, prior to receiving their ABF official notebook.

For more detailed information on ABF official notebooks refer to Procedural Instruction [BE-2978](#) in PPCR (*Official Diaries and Notebooks*) TRIM ADD2018/6201760.

6.4. Recording of Compliance Departure types in the CCMD portal

For guidance in recording removals consistently on the CCMD portal, refer to:

- Portal step-by step guide (TRIM ADF2012/33976)
- Returns and Removals Service functional portal guide (TRIM:ADD2014/1019520)
- [BE-5500](#) in PPCR (*Removal from Australia – Post-removal procedures – Updating departmental systems post-removal*).

6.5. Personal health information

Personal health information is not recorded directly on the CCMD portal, however, officers may record health-related events without personal information on departmental systems. For example, officers may record that the health services provider completed a health discharge assessment and certified the person as fit to travel.

If required, the removal officer may place health information on an appropriately classified TRIM file and attach it to the portal. An example may be where the delegate requires the health discharge assessment to inform approval of an RAA. In all cases the file should have the appropriate security classification.

Personal health information is considered sensitive information under the *Privacy Act 1988*, and is required to be dealt with in a particular manner. Refer to [BE-5497](#) in PPCR (*Removal from Australia – Information disclosure to facilitate removal*).

6.6. Travel documents and documents of identity

It is important that officers keep copies of the person's travel and identity documents, whether current or expired, on the person's file and scan the documents into TRIM. Officers must secure and store original travel documents, including passports, in a safe at all times and must record the storage location on departmental systems. Officers are also to note the transfer of these documents, whether to the person or another body, on departmental systems. Travel document holdings should be reconciled no less than four times per annum with expired or damaged documents identified and managed in line with case progression and issuing country specific requirements.

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6.7. Refusal to sign

Should a person refuse to sign a form/document, officers should note the person's refusal on the form/document or accompanying papers and ensure it is recorded in the portal. Officers may also be required to communicate with persons authorised to act for, or on behalf of, a person in detention if the person has refused to sign forms and documents.

6.8. Recording cooperation/non-cooperation

Removal officers should note and record the person's level of cooperation during the removal process, for example, whether they provided identifying information or completed applications for a travel document. The notes should be a statement of fact and not based on opinions or assumptions.

6.9. Use of interpreters

For removal interviews, removal officers should offer persons with limited English language skills an accredited and independent interpreter. A removal interview will include matters such as removal options, legal matters or the handing down of a decision.

Accredited and independent interpreters are usually sourced from the Translating and Interpreting Service (TIS) or commercial interpreting service providers. A departmental officer with relevant language skills is **not** considered to be an independent interpreter. Officers should not use other unauthorised persons or friends and family to communicate complex, official and/or confidential information. The [DM-600](#) in PPCR (*Interpreting and Translating Services*) outlines the procedure for requesting and using translating and interpreting services when communicating with detainees.

When interacting with persons with limited English language skills, officers must note whether the services of an interpreter were offered and or used. If this information is not recorded on a relevant form, officers must record it on departmental systems and the removee file.

7. Supporting procedural instructions

Table 1 - The following list contains all related Removal from Australia PIs:

Document	PPCR	TRIM Number
Removal from Australia – Aviation security requirements <ul style="list-style-type: none"> - Aviation Transport Security (ATSR) requirements - Transport Security Operation travel types - Departmental aviation assessment (DAA) - Notification requirements - ATSR escort requirements - Requirements for non-dangerous persons - Movement of PIC – non-standard movement - Exception for family groups - Escort arrangements for flights involving non-standard movement - Airline refusal to carry removee/deportee 	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658

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<ul style="list-style-type: none"> - Engaging with the UNC for removal - Receiving a referral for removal - Removee management streams - Removals stream - Status Resolution stream - Planned removal date 		
Removal from Australia – Escort arrangements <ul style="list-style-type: none"> - Determining if a removal is to be an escorted removal - Security escorts - Sourcing security escorts for removal - Security escort guidelines - Non-security escorts - Airline's own escorts - Escort conditions – non-departmental employees - Escort standards - Security risk assessments for overseas escorts - Escort briefing - Use of force and restraints during removal operations 	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion <ul style="list-style-type: none"> - Establishing knowledge that a person is an unlawful non-citizen - Notification case law and statutory assessment - Australian citizenship assessment - Identity for the purpose of removal - Maintaining reasonable suspicion - Who holds reasonable suspicion for a person in immigration detention? 	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments <ul style="list-style-type: none"> - About FDSP assessments - Requesting the FDSP assessment 	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments <ul style="list-style-type: none"> - Health Discharge Assessments (HDA) - Health Discharge Summary (HDS) Fitness to Travel Assessment (FTTA) - Request a FTTA - Post discharge support - Supplies of medication - Removal of pregnant women - Medical escorts - Administration of medication - If a person has a communicable and/or notifiable disease 	BE-5494	ADD2018/1954834

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Removal from Australia – Impediments to removal <ul style="list-style-type: none"> - <i>Non-refoulement</i> obligations and removal processes - Protection assessments - Family law matters - Court orders from overseas jurisdictions - Criminal justice - Person's health prevents removal - Unfinalised merits review - Unfinalised judicial review in relation to substantive visas - Unfinalised judicial review in relation to non-substantive visas - Unfinalised ministerial intervention requests - Statelessness - External agency complaints - United Nations Interim Measures Request (IMR) 	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia <ul style="list-style-type: none"> - Access to legal representation - Access to family and visitors - Audio-visual recording of removal - Baggage and property - Transport of removee to departure point - Airport arrangements - Who holds travel documents and funds during the removal? - Authority to abort a removal - Completion of removal/deportation 	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to affect removal <ul style="list-style-type: none"> - Disclosure for the purposes of section 198 - Types of information - Legislation - Providing identity documents to foreign governments - Acceptable types of documents to provide identity - Documents issued by a government authority - Acceptable types of documents to prove identity - Providing non-national identity cards - Translation of documents - Further action if inappropriate documents are provided - Consent to provide documents - Consular interviews - Certificates of identity 	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal <ul style="list-style-type: none"> - Who and when to notify of removal - Notice to transit and destination countries 	BE-5498	ADD2018/1954896

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<ul style="list-style-type: none"> - Notice to the Department's litigation section - Notice to overseas posts - The projected removals list (PRL) - The 13 week schedule - Removal of interest brief (ROIB) - Notifications – aborted or postponed removal - Ministerial intervention (MI) - Court injunction 		
Removal from Australia – Operational planning and logistics <ul style="list-style-type: none"> - Operational Departure Plan (ODP) - Escort Operational Orders (EOO) - Removal destination and route - Organising travel 	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures <ul style="list-style-type: none"> - Reviewing the escort's removal report - Post-removal debriefing - Removal with post-removal handover assessments - Updating departmental systems post-removal 	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support <ul style="list-style-type: none"> - About post-removal support - Assessment of need to receive immediate post-removal support - Other support arrangements 	BE-5501	ADD2018/1954935
Refer to Pre-removal Clearances and Informed Request for Removal Statements VM-3226 – available in LEGEND from 18 August 2019. Policy owner: Protection Caseload Resolution -	VM-3226	LEGEND
Removal from Australia – Removal Availability Assessment <ul style="list-style-type: none"> - The Removal Availability Assessments (RAA) Mandatory Control Point 10 (MCP10) - RAA for illegal foreign fishers - RAA for IMAs - RAA sign-off level 	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification <ul style="list-style-type: none"> - Providing the person with the Notice of intention to remove - Notice of date of removal - Notification period exceptions - Notification of 48 hours or less (MCP12) - Notice to immediate family in Australia - Notice to authorised recipients - Departing Australia superannuation payment claim 	BE-5504	ADD2018/1954961

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Removal from Australia – Removal of minors and families <ul style="list-style-type: none"> - Removal of families - overview - Removal of families – International legal obligations including the best interest of the child - Removal of children and guiding principles - Removal of an Australian-born dependant child - one parent unidentified - Unaccompanied minors 	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments <ul style="list-style-type: none"> - Removal Pending Bridging visa (RPBV) holders - Removal from immigration detention facilities - Removal from criminal detention (prison) - Removal from community detention made under residence determination - Planning for removal while a person is in the community 	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes <ul style="list-style-type: none"> - Travel documents for removal purposes - Removee cooperation - Obtaining a travel document - Procedures for acquiring travel documents - When to seek a travel document - person in detention - Referral of travel document applications 	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal <ul style="list-style-type: none"> - Request for removal - If the person changes their mind about leaving voluntarily - UMA crew requesting removal - Removal of unauthorised maritime arrivals who arrived after 13 August 2012 	BE-5508	ADD2018/1954983

8. Accountability and responsibilities

Table 2 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> • Document owner • Approval of Procedural Instruction • Ensures Procedural Instruction aligns with strategic objectives
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> • Clearance of Procedural Instruction • Approval of updates to policy

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Position	Accountability and/or responsibility
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

9. Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (ABF Act), requires all Immigration and Border Protection workers (IBP) workers who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

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10. Related framework documents

10.1. Policy Statement

Document	PPN	TRIM / Website
Departure Policy (returns, removals and departure support)	VM-5273	PCD2018/1001
Removal from Australia – Separation of families	SM-5039	
Removal of unaccompanied minors from Australia	SM-5038	
Status Resolution System Control Framework	BC-763	ADD2019/2439251

10.2. Procedural Instructions

Document	PPN	TRIM / Website
Arrival, immigration clearance and entry - Immigration clearance at airports and seaports	BC-536	
Case Resolution – Returns and removals – Return services	BC-827	
Character and security – Criminal deportations	VM-993	
Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service	VM-1035	LEGEND
Detention Services Manual – Illegal Foreign Fishers – Illegal Foreign Fishers	DM-590	
Detention Services Manual – Illegal Foreign Fishers – Enforcement visas	BE-628	ADD2018/3461873
Exclusion periods	VM-990	
Interpreting and translating services	DM-600	LEGEND
Official Diaries and Notebooks	BE-2978	ADD2018/6201760
Pre-removal Clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Relationships and family members – Best interests of minor children	VM-3057	
Relationships and family members – Child-parent relationships	VM-3065	
Removal and detention costs	DM-567	PCD2017/6030

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10.3. Supporting Material

Document	PPN	TRIM / Website
Consent to use ticket for removal		ADD2008/868573
Notice of detention costs (<i>for IFFs</i>)		ADD2017/2288471
Notice of detention and removal or deportation costs (<i>for IFFs</i>)		ADD2017/2288479
Notice of removal or deportation costs (<i>for removees</i>)		ADD2017/2288477
Portal step-by step guide		ADF2012/33976
Removal Availability Assessment Guide - Illegal Foreign Fishers who request removal from Australia	BE-6156	ADD2018/2297400
Removal Availability Assessment Guide Illegal Maritime Arrival	BE-6158	ADD2017/2686591
Removal Availability Assessment Guide – Onshore Compliance	BE-6157	ADD2012/136167
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Returns and Removals Service functional portal guide		ADD2014/1019520
<u>Status Resolution Systems Control Framework - Mandatory Control Points</u>	BC-6186	ADD2019/2439257
Use of removee ticket with consent		ADD2008/868573
Use of removee ticket without consent		ADD2008/868620

11. References and legislation

- *Australian Border Force Act 2015*
- *Aviation Transport Security Regulations (2005)*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1 – Australian Privacy Principles*

12. Consultation

12.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- Complex Case Resolution

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- Detention & Removal Operational Policy (Detention policy)
- Detention Health Operations Section
- Enforcement Operations Central
- Field and Removal Operations Vic./Tas.
- Field and Removal Operations, Enforcement Command QLD
- Field Operations and Removals WA
- Health Policy and Performance
- Integrity Awareness
- International Obligations and SHP Section
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Protection Caseload Resolution
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Status Resolution Framework Section

12.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

13. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	8 November 2021

13.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	8 November 2018	Detention and Removal Operational Policy	PPCF Compliant
2	29 July 2019	Detention and Removal Operational Policy	Critical Control Point (CCP) changed to Mandatory Control Point (MCP), Control Framework update, addition of C3 doctrine

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Document owner	Commander ABF Governance
Approval date	8 November 2018



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Removal from Australia – Escort arrangements

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Document approval date	12 November 2018
Last PPCF review date	12 November 2018
Contact details	Detention and Removal Operational Policy Section S. 47E(d) @abf.gov.au
Document ID (PPN)	BE-5491
TRIM record number	ADD2018/1954741
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All twenty (20) Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement TRIM: PCD2018/1001.

2. Scope

2.1. In Scope

This PI sets out procedures and provides guidance on:

- Security escorts
- Removal liaison officers
- Medical escorts
- Welfare escorts.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry – Immigration clearance at airports and seaports*).

If UNCs who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions – Case resolution – Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution – Returns and removals – Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*).

4. Procedural Instruction

4.1. Overview

An escorted removal is the removal of any UNC who is required to be accompanied throughout the duration of travel from Australia to the receiving country. There are four types of escorts engaged to support a removal, which are:

- Security escorts
- Removal Liaison Officers
- Medical Escorts
- Welfare escorts

When conducting removal, the Department and ABF must ensure that it meets the international and domestic obligations to ensure the safety and wellbeing of the removee and community.

4.2. Determining if a removal is to be an escorted removal

There are several factors which may determine a removee's need to be escorted. These factors can be one or a combination of the following:

- the removee has a medical condition which requires support
- the removee has a mental health condition (including history of self-harm) which requires support
- the removee does not meet the definition of 'dangerous person' but is rated as a high risk and is assessed as requiring a security escort
- there are risks associated with the travel route or destination of removal
- the removee fits the *Aviation Transport Security Regulations* (ATSR) classification of 'dangerous person' (refer to [BE-5489](#) in PPCR (*Removal from Australia – Aviation security requirements* PI – Requirements for dangerous persons)).

The need for escorts is recommended though assessments undertaken by the Facilities and Detention Service Provide (FDSP) and Detention Health Service Provider (DHSP) (refer to [BE-5493](#) and [BE-5494](#)).

Once all assessments have been conducted for a removee the removal officer must determine whether escorts are required from the information available. The removal officer must determine the escorting requirements which will best address the removee's needs when planning the removal.

The ATSR specify the legislative requirements for the escorting of 'dangerous' and non-dangerous persons in immigration detention. Refer to [BE-5489](#) in PPCR (*Removal from Australia – Aviation security requirements* PI – ATSR escort requirements).

Other requirements for escorting that sit outside of the Australian Government's authority to enforce under Australian law come from the International Civil Aviation Organisation (ICAO) on offences and certain other acts committed on board aircraft ('Tokyo Convention').

4.3. Security escorts

Overview

The ABF is required to ensure that, when required by law or as a result of a risk assessment, security escorts are present during removal. The requirement for and role of security escorts in the aviation environment is governed by the *Aviation Security Transport Act*, the ATSR and by the ICAO convention framework. These requirements are outlined in the Departmental Aviation Assessment (DAA).

Security escort services must be delivered in a manner that takes into account:

- the Department's requirements,
- the needs and welfare of the removee,
- integration with other service providers,
- risk to the community and contingency situations and related risks.

The Department's contracted Facilities and Detainee Service Provider (FDSP) should be used for security escorted removal. In some circumstances, utilising the FDSP may not be appropriate due to particular operational requirements. If this is the case, the local removal manager should make the decision to employ non-FDSP security escorts and record their reasons for using non-FDSP escorts in CCMD and TRIM.

Escorts as 'officers' under the Act

Under the Act, an officer is required to maintain the immigration detention of a UNC while in the migration zone.

The term [officer](#) is defined in [s5\(1\)](#) of the Act: officers from the Department, Customs officers, Protective Services officers and Australian Federal, State/Territory (including external territory) police are officers for the purposes of the Act. The Act gives these officers authority to take custody of/escort a person in detention. Additionally, a person who is included in a class of persons authorised in writing by the Minister to be officers for the purposes of the Act (see also [4.8 Escort conditions – non-departmental employees](#)).

For a full list of persons authorised as officers for the purposes of the Act, refer to the [s5\(1\)](#) definition of [officer](#).

Other security escorts

Within the migration zone, if security escorts are not officers for the purposes of the Act, they must be directed by an authorised secretarial delegate to accompany and restrain the UNC. If a delegate does not provide this direction, any immigration detention of the person by the escort will not be lawful.

This situation may arise when private security escorts who do not fall under the definition of [officer](#) for the purposes of the Act are required to maintain immigration detention during removal such as commercial service providers contracted to correctional and forensic care facilities.

An authorised officer makes the direction to maintain immigration detention by providing the escort officer with a '[Direction to Accompany and Restrain for Removals](#)' form (TRIM ADD2017/1756004).

To identify authorised secretarial delegates for the purpose of directing a non-officer to accompany and restrain a particular detainee, refer to LEGEND – Delegations – ABF Delegations - [ABF\(S\) No. 1 of 2018](#) – Schedule 4, and [s5\(1\)](#) of the Act, definition of 'immigration detention' subparagraph (a)(ii).

For more advice on directing non-officers to accompany and restrain a person, refer [BC-554](#) in PPCR (*Field Compliance Operations – Immigration detention and the powers to detain*).

Roles and responsibilities of security escorts

Security escorts are responsible for all of the following:

- maintaining immigration detention within the migration zone as required by the Act
- managing the removee so that:
 - the requirements of the ATSR and ICAO are met and
 - airline safety is not compromised and
 - compliance with the aircraft operator's direction on storage and security of personal items, including personal electronic devices is achieved and
 - the removee arrives at their final destination in a safe and orderly manner.
- delivering services in accordance with pre-removal briefing and documented requests for service
- providing escort services consistent with established contractual arrangements.

Aircraft operators may direct a removee to store or secure personal items in accordance with their policy. Information on particular aircraft operator requirements may be available in a published ABF [operational notification](#). For further information, email the [removals helpdesk](#).

If a removee is uncooperative and disrupts, or threatens to disrupt, a removal, security escorts may be required to use reasonable measures to ensure the safety of both the removee and the general public.

While the removee is in Australia, these measures must be implemented in accordance with:

- [DM-623](#) in PPCR (*Safety and security – Use of reasonable force in immigration detention*)
- [DM-3308](#) in PPCR (*Transport and Escort Management*).

After the removee is on board an aircraft or other vessel, the use of force is governed by international conventions – refer to [‘Background – International conventions’](#).

For high risk removals, security escorts will need to proactively manage and monitor the behaviour of the removee and, while in flight, must follow the direction of the aircraft commander (the pilot). De-escalation techniques and communication are the preferred methods of resolving any disruptions involving the removee. The use of restraints may be required if escorts have exhausted all other means of carrying out the removal or the aircraft commander requests that restraints be used. Refer also to [BE-5496](#) in PPCR (*Removal from Australia – Implementing removal from Australia PI – Authority to abort a removal*).

4.4. Sourcing security escorts for removal

Who can act as a security escort

The Transport and Escort clauses within the Department’s FDSP Contract covers the provision of security escorts for removal. Requests for security escorts should be sought through this arrangement in the first instance. If the FDSP advises that they are not able to provide appropriate escorts, the Department may use other security escorts such as police or corrections staff.

If removal officers believe that the FDSP is not able to provide security escorts with the necessary capabilities to manage issues identified in a removee’s risk assessment, they should escalate this to the removal manager and Detention and Removal Operational Policy Section at [s. 47E\(d\)](#) [@abf.gov.au](#). For escort tasks assessed as high or extreme risk, the Department reserves the right to stipulate the number and composition of drivers and escorts for that escort task. The Department reserves the right to specify the number and composition of escorts for an international transport and escort task if it assesses any task requires additional operational support.

Use of police and corrections staff

In some circumstances, police or corrections officers can be engaged as security escorts through the use of a Memorandum of Understanding (MOU) or directly through the use of a deed in accordance with the Department’s procurement guidelines.

In considering contracting a non-FDSP security escort officers should consider the circumstances of the removal and the removees characteristics including:

- risk assessment and the result of the departmental aviation assessment
- gender
- criminal history and affiliations
- detention history
- physical attributes - height, weight, disposition, any disabilities to ensure the appropriate number of escorts are provided
- the ATSR requirements - refer to [BE-5489](#) in PPCR (*Removal from Australia – Aviation security requirements*)
- restrictions imposed by the carrier – see Airline’s own escorts
- Prohibitions on travel of Australian personnel to specific States/regions.

4.5. Security escort guidelines

Pre-removal briefing

Instructions for the escort are outlined in '[General information for escorts](#)' (TRIM ADD2008/932315). In addition to these instructions, the removal officer should make the following expectations clear in the pre-removal briefing.

Prior to departure

Expectations:

- The identity of the removee should be confirmed against their travel document and other departmental records
- Security escorts must keep a constant vigil and continually assess the removee's behaviour
- Removal officers and security escorts should keep the removee as separate from normal check-in arrangements as possible, to the extent allowed by the airport facility
- RLOs or security escorts should observe all applicable government-mandated security-screening requirements prior to departure
- Security escorts should identify themselves to the carrier's security personnel and flight attendants

If the removal is aborted at any stage, escort officers should contact the point of contact in the Operational Departure Plan (ODP) and, if required, escort the removee back to a place of detention - refer also to [BE-5496](#) in PPCR (*Removal from Australia – Implementing removal from Australia* PI – Authority to abort a removal).

Security escorts must, before seating the person, search the area surrounding the aircraft seat assigned to the removee for items that could be used to jeopardise flight safety.

During and after a removal

Expectations:

- Security escorts should conduct escort activities as unobtrusively as possible to avoid unduly alarming the travelling public
- Security escorts should observe the aircraft operators policy on securing and storing personal items, including personal electronic devices, belonging to either the removee or security escorts
- The removee (or the escorts) must not engage in shopping, including duty free shopping, during the removal and should not enter any private airline or airport lounges
- Security escorts may only use reasonable force to prevent potentially dangerous behaviour that could cause harm to the removee, an escort officer or another person or that could jeopardise safety on board a vehicle or damage property - refer to '[Use of force and restraints during removal operations](#)'.

Subject to the airline's discretion, the removee should:

- be boarded before and disembarked after all other passengers,
- be seated as far to the rear of the passenger cabin as possible but not in a lounge area or next to or across from an exit,
- be seated with the escort between the removee and the aisle,
- be accompanied and monitored at all times, including during visits to the toilet,
- be served food but not provided with glassware or metal utensils, and

- not be served any intoxicating beverages.

4.6. Non-security escorts

Non-security escorts

Under ATSR, a person is in custody if he or she is in custody under a specified Act. The Department is a specified custodial agency for Persons in Custody (PIC) under the *Aviation Transport Security Act 2004* (ATS Act) and ATSR. If a removee is accompanied by a security escort for the duration of the removals, they are considered to be a PIC under ATSR. If the removee is accompanied by a non-security escort (that is, an RLO, medical or welfare escort) they are not a PIC for the purposes of ATSR.

Removal liaison officer (RLO)

In some cases, the Department may consider it appropriate for a staff member, known as a Removal Liaison Officer (RLO), to accompany the escort party during a removal. The purpose of an RLO is to liaise with a range of internal and external stakeholders (including airline, airport and foreign government officials) during a complex or sensitive removal of a UNC.

An RLO is expected to produce the following outcomes:

- efficient and effective management of complex, sensitive or high risk removal cases within legal and policy frameworks
- accurate and complete records of the removal operation
- professional, fair and reasonable dealing with removees and other stakeholders in the removal process
- effective and professional management of relationships between the removal party and stakeholders during the removal.

Departmental officers engaged to assist with the issues related to the removee's well-being during removal undertake the role of welfare escort rather than RLO - refer to '[Welfare Escorts](#)'.

When to engage an RLO

An RLO may be engaged for a removal if the ABF Commander, Field Operations has agreed, following a pre-removal risk assessment, that the removal operation will be of a complex or sensitive nature and require a high level of liaison which security and other escorts cannot manage alone. An RLO may be needed if:

- engagement with foreign governments or other bodies is required during the removal which is likely to be sufficiently sensitive or complex to warrant departmental management, or
- possible significant media or third party interest in the removal that could disrupt the removal, or
- the removal is complex due to flight, transit or re-entry arrangements sufficient to warrant departmental management, or
- the destination country requires an RLO, for example, if removal relies upon the destination country accepting a Certificate of Identity (COI) issued by Australia.

The ABF Commander, Field Operations must approve all requests to engage an RLO. This approval may be given at the same time as approval of the International Travel Minute and Removal of Interest Brief (ROIB). If no RLO indicators are present in the ROIB but exceptional circumstances exist justifying the use of an RLO, the Commander's approval should document reasons for the decision and recorded in CCMD and TRIM.

RLO responsibilities

The primary role of an RLO is to liaise with external stakeholders, such as foreign government officials and airline and airport staff during a removal operation. The RLO is not the lead escort and is expected to work

collaboratively with other escorts to achieve a successful removal. For example, if a security situation arises with a removee, the RLO may seek assistance from airline or airport officials or keep them informed while security escorts directly manage the removee.

The role of the RLO commences prior to the removal of the removee from Australia and ends after the RLO returns to Australia and completes all post-removal procedures.

If an RLO is required for a removal, they will undertake the following:

- take part in the removal planning and pre-removal briefing process (as required) and familiarise themselves with the removee's case
- work together with the removal officer, during the final planning of the removal operation and accompany the removee to their final destination/handover
- work together with other escorts and manage any issues during the removal
- obey Aircraft Commander's instructions
- coordinate and liaise between removal stakeholder such as other escorts, foreign government officials, airline and airport staff, post-arrival support providers, removal manager, the media
- adhere to the agreed ODP, including reporting and escalation protocols
- debrief and liaise between the removee, escorts, and all relevant stakeholders
- provide an '[Escort's Removal Report](#)' (TRIM ADD2008/849043) and de-briefings to the department
- in case of unexpected changes in removal planning, organise travel and accommodation for the removee and escort party in transit
- adhere to the APS Code of Conduct at all times, including during stand down periods overseas.

If the removal party includes security, medical or welfare escorts, these escorts will have primary responsibility for the facilitation of the removal. An RLO should generally refrain from providing operational commands during a removal or directly managing removee's security, welfare or health issues without prior discussion with relevant escorts. Should an RLO be concerned that the actions of other members of the escort party are inconsistent with departmental policy and guidelines, they should raise their concerns with the relevant escort. The RLO may also include any concerns in the escort report and, if appropriate, escalate them on return with the departmental contract manager and service provider.

RLO selection and training requirements

Officers engaged to undertake the RLO duties are expected to possess skills and capabilities required to conduct high level stakeholder engagement, liaison and negotiation to mitigate reputational and operational risks.

ABF officers with relevant skills and work experience can apply through a merits-based exercise to join the National RLO Pool. RLOs are generally recruited at the Supervisor level but high performing Leading Border Force officers can be engaged on higher duties. Inspectors can also be engaged for assignment to complex removal requiring high level of representation and stakeholder liaison.

Those who are successful in the recruitment exercise must complete the formal RLO training course and undertake a minimum of two trainee deployments alongside an experienced RLO before they can be assigned for the RLO duties. RLOs for removal operations can only be drawn from the National RLO pool.

All RLOs must also obtain and maintain an Operational Readiness Assessment (ORA) which includes a medical and a Basic Fitness Assessment (BFA).

Number of RLOs to be used in a removal

If the duration of the removal is 10 hours or more, two RLOs should be engaged for the removal. The duration of the trip should take into account flight times and any pre-removal preparation.

Assigning two RLOs allows for appropriate rest breaks to be taken during the operation, ensuring one RLO is always alert and on duty.

If the trip is less than 10 hours, there may still be situations where more than one RLO is required. In these situations, the delegate should consider whether it is an appropriate expenditure of public funds and an appropriate debt to the Commonwealth for the removee to incur. They should record these reasons in the International Travel Minute. Situations where more than one RLO may be engaged include:

- managing groups with complicated travel arrangements
- if the circumstances of the case mean that the risks during removal are heightened, and additional resources are required to address those risks. This may include, for example, where the Departmental aviation assessment has concluded that the removee is likely to engage in inappropriate behaviour in-flight, or attract media attention in-flight, requiring on-going liaison by RLOs with airline officials, or
- where there are no other accompanying escorts (the RLO is engaged due to sensitivity of the case or need for liaison but there are no security or welfare issues) and prolonged or complex transit arrangements require an officer to remain with the removee while another liaises with appropriate officials.

A second RLO may participate in a removal as part of the mentoring arrangement following participation in the RLO Training Program. If a second RLO is deployed primarily to assist with their training needs, the removal officer should not attribute their costs to the removee's debt to the Commonwealth.

To request an RLO, contact Removal Operations HQ by email: [s. 47E\(d\) @abf.gov.au](mailto:s.47E(d)@abf.gov.au).

Passport requirements

All RLOs are required to travel on an Australian official passport with at least six (6) month's validity for the duration of the removal operation. This will assist in identifying the RLO as an officer of the Department on official duty, particularly in any dealings with foreign officials and airline staff.

Medical escorts

The Department may use medical professionals in situations where there are concerns about a removee's health.

The Health Discharge Summary (HDS) process will recommend whether a medical or mental health professional is required for the removal. The Department should only employ medical escorts on the advice of the Department's Health Services Provider (HSP) and should source them from the department's contracted health services provider. The Department must use medical escorts if they are recommended in the HDS.

Medical escorts should not at any stage be left to accompany a dangerous (as defined in the ATSR) removee by themselves or have any role in security matters.

Welfare escorts

If the removee requires support of a non-medical nature, a professional with appropriate welfare qualifications and/or experience may provide this support. A removal officer may choose to use a welfare escort if:

- removing a removee who may have difficulty coping with the logistics of a planned removal
- removing an unaccompanied child, or

- involuntarily removing a child where their accompanying parent's expected behaviour during the removal may cause distress to the child.

The removal officer must assess all available information concerning the removee to determine whether the removee requires a welfare escort. Only a suitably qualified person, such as a social worker or welfare escort, should provide non-medical assistance such as welfare support or counselling.

Officers should consider the appropriateness of welfare agencies on a case-by-case basis, having regard to the needs of the removee, the services provided by any agency and any advice or recommendations from the contracted FDSP, HSP and Case Management. If specialist training is not required (for example, when an unaccompanied child is voluntarily removed) the officer may consider using a credentialed departmental officer as a welfare escort.

As with medical escorts, welfare escorts should not at any stage be left to accompany a dangerous removees by themselves, or have any role in security matters.

4.7. Airline's own escorts

In some circumstances, an airline may insist on using its own escorts for a removal. If this is the case, removal officers should notify their managers and make a decision whether to travel with that airline. Although it is preferable to use escorts chosen by the Department, the removal officer may also use airline escorts although the officer should consider also sending an RLO. Prior to the removal, the removal officer should fully brief the relevant airline and escort officers on any specific risks and content of the removal plan.

Also note that other security escorts must be authorised by the secretarial delegate to accompany and restrain the UNC if there are no other officers (as defined) involved in the removal. See 19.3 above '[Other security escorts](#)'.

4.8. Escort conditions - non-departmental employees

Service requirements

Service requirements and conditions should be included in any MoU or Memorandum of Agreement with the escort service provider or a deed/agreement with a voluntary contractor.

Security escorts must not undertake recreation activities such as shopping and must not consume alcohol during the removal.

Rest periods for escorts

In removal operations that involve long international flights and extended transit stops, the removal officer must include rest periods for security and other escorts in the removal plan. Sufficient security escorts must be used to ensure that an adequate number of escorts are on duty at all times.

As outlined in [BE-5489](#) in PPCR (*Removal from Australia – Aviation security requirements PI – Requirements for non-dangerous persons*), three or more security escorts may be required for flights with transit stops and/or a total duration of more than 20 hours. During these removals, security escorts should rotate and take sufficient breaks. As a minimum, escorts must take a break every five hours for at least 30 minutes, or take breaks in accordance with contractual arrangements in a deed or other agreement with the Department. Additional rest breaks should be negotiated between the RLO or lead escort and the individual officer during the flight, in reference to the circumstances of the operation.

Unless specified by the escort service provider, overseas rest periods for escorts (after the final removal destination is reached) should correspond with the overseas conditions of service for short-term missions.

Escorts are not permitted to change the date or the route of return travel for personal reasons and are not authorised to contact QBT or airlines to amend travel arrangements.

If there is an operational requirement for the travel arrangements to be amended, the removal officer should make a decision to vary the return day or route in-line with the Department's obligations under public accountability standards and document the decision making process.

Overseas accommodation

This will usually be standard level (four star or equivalent) accommodation in the vicinity of the airport for the period between flights unless this option is not practical.

All service provider escorts are entitled to separate rooms. As per the transport and escort contract, ABF is responsible for booking and paying for domestic and international air transport and accommodation for escort and transport tasks.

Travel insurance

For insurance purposes there are three categories of security, medical and other escorts:

- escorts as contractors, whose employers are paid by the Department to carry out escort duties are expected to be covered by their own employers' insurance arrangements for compensable claims relating to those escort duties (for example, the escort service provider/other security firms)
- escorts as Officers, as defined under s5(1) of the Act and as authorised by the Minister under the Act, are covered for bodily injury, including death, as well as medical evacuation and other events under ComCover (through this Department) as long as the travel outside Australia is approved and funded by the Department.
- escorts as police are covered for bodily injury, including death, as well as medical evacuation and other events under ComCover (through this Department) as long as the travel outside Australia is approved and funded by Department of Home Affairs.

For translators and other members of the escort party not covered by ComCover or employer insurance or other insurance questions relating to removal escorts email [s. 47E\(d\) @abf.gov.au](mailto:s.47E(d)@abf.gov.au).

Passport and citizenship requirements

All non-departmental escorts (including security, medical or health and welfare escorts and interpreters) must have a current Australian Passport that is valid for the entry and exit requirements of the removal destination.

However, if the Department employs security escorts to work on a segment of a removal that begins in a transit point and ceases at the final destination, or if the airline provides the escorts, there is no requirement that the security escorts be Australian citizens or travel on Australian passports.

As part of the planning process, removal officers must ensure that security escorts have the appropriate visas, including transit visas.

Baggage allowance for escorts

The Department's preference is that escorts limit check-in baggage as much as reasonably possible. If escorts have check-in baggage, their handling of such baggage may distract their supervision of the removee.

For security escorts, the standard is the carry-on baggage allowance only (seven (7) kilograms). If security escorts require a check-in allowance the escort service provider needs to advise the Department in advance.

For all other escorts, removal officers should advise the escorts in advance to limit check-in baggage as much as possible.

4.9. Escort standards

Departmental standards

While working on an escorted removal, RLOs and other escorts must act in accordance with the Department's Professional Standards Framework and the *Australian Public Service Codes of Conduct*. RLOs must also be good communicators, of good character, properly qualified and must act in a professional manner.

General principles for escorted removal

Escorted removal must be safe, secure and respectful to the removee. Escorts are expected to:

- accord the highest priority to the safety and security of the removee, escort officers, transportation company staff and the travelling public at all times
- be mindful of the religious and cultural sensitivities of the removee
- conduct themselves in a professional and dignified manner that reflects well on the Department and the Commonwealth of Australia
- undertake removal in accordance with any relevant national or international laws and regulations
- provide each removee regular meals and refreshments, taking into account dietary and religious requirements where possible
- provide access to professional medical care when required
- not take the removee into any shops, including duty free shops, during the removal
- not take the removee into any airport or airline lounges
- not divulge personal information about the removee or any information about any migration-related applications (e.g. visa applications) the removee may have made in Australia, other than where the removee consents or the disclosure is otherwise authorised (refer to [BE-5497 in PPCR \(Removal from Australia – Information disclosure to effect removal\)](#)).

Escorting officers who exceed their powers may expose themselves and the Department to legal liability.

Lead security escort

The escort service provider should nominate a lead security escort who should take sufficient notes to complete an '[Escort's Removal Report](#)' (TRIM ADD2008/849043) after their return to Australia. The escort should return the ODP to the Department with the removal report.

Escort responsibilities

Should unforeseen difficulties occur during the removal that change the itinerary or increase the risk factors, escorts should immediately consult with the departmental removal contact listed in the ODP. Escorts should arrange to have the agreed itinerary amended only after consultation with, and approval of, the Department. Escorts must not make their own itinerary changes - refer also to [BE-5496 in PPCR \(Removal from Australia – Implementing removal from Australia – Authority to abort a removal\)](#). Any approved changes need to be recorded in TRIM.

If it is necessary to remain one night or more in a transit country, the escorts should provide the removee with appropriate food and lodgings. This should be arranged as part of the itinerary and escorts must arrange any unforeseen stopovers in consultation with the departmental removal officer.

All removee property should remain in the care of the FDSP or escort at all times. Escorts should also obtain a signed receipt for the property and any medication of a removee following arrival at the destination. Refer

to *Removal from Australia – Implementing removal from Australia (PPN: BE-5496) – Baggage management* for further details of these requirements.

4.10. Security risk assessments for overseas escorts

Security Overseas Travel section completes risk assessments for departmental officers and for escort officers engaged under an individual agreement (for example, off duty police officers) who travel to high risk destinations. High risk destinations are countries based on DFAT's Smartraveller advisories (www.smartraveller.gov.au) as 'Reconsider your need to travel' and 'Do not travel'.

The purpose of these assessments is to identify personal security and safety risks and put appropriate mitigation treatments in place for officers travelling to high risk destinations. Information from various sources is used to determine the risks that officers may face and what can be done to mitigate these risks. In this regard, officers should also refer to work health and safety (WHS) policy at '[Work Health and Safety information](#)'.

The removal officer must advise/email [s. 47E\(d\)](#) [@homeaffairs.gov.au](mailto:) as soon as the removal officer learns that the removal may require travel to a high risk country. Where possible, the officer should give at least one week's notice to allow the risk assessment to be conducted. Information provided to the Overseas Security and Risk Assessment Officer should include:

- the ROIB
- the ODP
- the itinerary for travel
- a travel approval minute.

Once the assessment is completed, it will be escalated to the senior officer identified in the risk assessment covering minute. The Department is not obliged to provide assessments for contracted services providers.

Overseas security risk assessments

The Overseas security team will prepare an overseas security risk assessment for work-related travel to destinations defined as 'Do Not Travel' or 'Reconsider Your Need to Travel' by DFAT Smartraveller advisories.

For more information about overseas security, email [s. 47E\(d\)](#) [@homeaffairs.gov.au](mailto:).

4.11. Escort briefing

Briefing escorts

Removal officers should brief escorts for involuntary removal, complex and sensitive removal operations, including those involving RLOs. Security, medical escorts and RLO briefing should take place several days prior to the expected removal date. If this is not possible because of complexities, sensitivities, uncertainty regarding flights, travel documentation or the fact that the removal can be achieved sooner than expected, the briefing should take place (by phone if necessary) at least 48 hours prior to removal.

If the removal has been classified as sensitive or complex, there may be several briefings in the weeks leading up to the removal date to communicate all relevant details, manage risks and advise escorts of contingency plans.

Departmental removal staff should arrange a thorough briefing with escorts in an appropriately secure and discreet environment prior to departure. The briefing must address the following:

- the Department's explicit expectations regarding conduct both in flight and in transit

- profile and history of the person to be removed including appropriate recent intelligence regarding their mood/behaviour/needs
- any information relating to a Post-arrival Care Plan and post-removal support payment, if applicable
- ODP (officers should email a copy to security escorts at least two days prior to departure)
- contingency arrangements that will apply should travel arrangements be adversely affected or the removee's health deteriorate
- escorts' reporting requirements during the process (hourly logs) and the final report requirements
- confirmation that the removal has been successfully completed. If the removal has an RLO, the RLO must immediately send a text message to their departmental contact in Australia. Security escorts should contact their head office in Australia to confirm successful completion who will relay the message to this Department. If there are significant issues with the removal, the escort or RLO should consider calling to brief and discuss.

The removal officer must provide security escorts with an oral overview of a removee's history and any relevant issues relating to behaviour and demeanour in the period preceding their departure. The overview should include the removees likely responses on the day of removal and progress made with preparations for the removee's removal (for example, assessment of baggage, update on involvement with litigation, assignment of a community advocate).

Escort reporting

All escorting parties are required to provide a completed Escort's removal report within 10 working days of removal completion. One report per escorting party is required, that is, one report from each type of escort present during the removal but not from each individual escort.

Removal officers must review the report (refer to [BE-5500](#) in *PPCR (Removal from Australia – Post removal procedures – Reviewing the escort's removal report)*). If the report reveals incidents during the removal (for example, use of force, administration of medication, possible inappropriate behaviour towards the removee), removal officers must advise their immediate supervisor and refer the issue to an Inspector (or higher) to consider an appropriate response.

Any further action is to be recorded on departmental systems.

Removal Officer reporting

Removal of Interest Brief – refer to [BE-5498](#) in *PPCR (Removal from Australia – Notifying stakeholders of the removal)*

Situational Reporting (SITREP) – refer to:

- Reporting Thresholds – Removals TRIM ADD2019/2377042
- Distribution list – Removal SITREPS TRIM ADD2019/2377048.

Recording procedures

The lead security escort must complete an escort log. They should record any incidents which cause, or threaten to cause, disruption during a removal in the escort log and report them to the removal officer as soon as possible after the removal is completed. The lead security escort should also record incidents in the '[Escort's Removal Report](#)' (TRIM ADD2008/849043) and should follow up with the departmental contract manager and service provider as necessary.

If the application of restraint on a removee is required during removal, the security escort must record a clear and detailed report of the event and must always document their reasons for using restraints. The security escort should provide the report to the responsible removal manager and the

s. 47E(d) [@abf.gov.au](#) as soon as practicable after the event. The report will describe the kind of

restraint used, the length of time restraints were used and the reasons why the escort considered use of restraints was necessary in the circumstances. The removal officer should save the report in TRIM.

It is particularly important that the records of the incident are correct and sufficiently detailed. The report may be required at a later stage for investigations and/or inquiries, or for judicial or Senate hearings. Officers should be aware that escort officer decisions and actions may be subject to external scrutiny.

The responsible Removal Inspector or Supervisor should examine the report and decide whether further action is required, for example briefing Communications and Media Branch or senior level management.

Removal officers must update departmental systems with the details accordingly.

Escort de-briefing

For complex or highly sensitive removal cases, ABF officers should arrange a formal de-brief to ensure a consistent understanding of what occurred, to obtain feedback and to ensure that processes and practices are reviewed for efficacy - refer to [BE-5500](#) in PPCR (*Removal from Australia – Post removal procedures PI – Post-removal debriefing*).

4.12. Use of force and restraints during removal operations

Background – International conventions

Once an escort party has boarded an aircraft and the aircraft door is closed, the provisions of the ICAO convention framework apply.

The ICAO conventions - namely:

- the *Convention on International Civil Aviation* ('the Chicago Convention')
- the *Convention on Offences and Certain Other Acts Committed On Board Aircraft* ('the Tokyo Convention')

enable escorts to use force and to restrain removees being removed on regular international flights and on charter aircraft (when authorised by the aircraft commander).

Under Article 6 of the Tokyo Convention, if the pilot has reasonable grounds to believe that a person (including a removee) has committed or is about to commit, on board the aircraft, an offence against penal law or an act that may jeopardise:

- the safety or the aircraft or of persons or property, or
 - good order and discipline on board
- the captain may impose on that person reasonable measures, including restraint, which are necessary to:
- protect the safety or the aircraft or persons or property on board the aircraft, or
 - maintain good order and discipline on board, or
 - enable the captain to deliver the person to competent authorities or disembark the person as allowed by the Tokyo Convention.

The captain may authorise crew members to assist or a passenger to restrain a person described above. Article 6 of the Tokyo Convention also allows for any passenger (including an escort) to take reasonable preventative measures without the authorisation of the captain if they have reasonable grounds to believe action is immediately necessary to protect the safety of the aircraft, persons or property on board the aircraft.

If escorts use restraints during an incident on an international flight, the Tokyo Convention also requires that the aircraft commander notify the authorities of the State (or 'country') in which the plane is to land at the disembarkation point that a removee on board is under restraint and of the reasons for that restraint. In

practice, if an incident occurs on board the aircraft that requires the use of restraints, before continuing the journey the escort party may have to liaise with immigration and other authorities of the State of transit or disembarkation.

Under Annex 9 of the Chicago Convention, security escort officers are required to remain with a removee during transit stops and to continue with them to their final destination unless other arrangements have been approved by the airline and local authorities at the transit point. Refer to '[Security escorts](#)'.

[Annex 17](#) to the Chicago Convention, provides contracting states such as Australia with standard procedure and guidance on how to safeguard against potential acts of unlawful interference. ICAO's Aviation Security Manual contains further guidance and measures in relation to Annex 17 on how to prevent and respond to acts of unlawful interference by special categories of passengers i.e. those subject to judicial or administrative proceedings. Special categories of passengers include persons subject to removal or deportation, their escorts and inadmissible persons.

Overview – Use of force and restraints

[DM-623](#) in PPCR (*Safety and security – Use of reasonable force in immigration detention*) provides policy and procedural guidance on the reasonable use of force and/or restraints to achieve lawful and operational outcomes. Escorts must adhere to these principles so that escorted removals are conducted in a manner that affords the highest regard to the safety and dignity of all persons involved in, or affected by, the removal.

Use of force/restraints in the migration zone can be either planned or unplanned. All planned use of force requires ABF Detention Superintendent authorisation.

As part of the process to seek uplift approval from the airline, removal officers advise the airline of risk mitigation strategies. This can include the escort service provider's intention to carry restraints. It will be up to the airline to allow the carriage of restraints.

Under the Tokyo Convention, the pilot of the aircraft can authorise and/or direct the use of restraints to protect the safety of the aircraft.

The following sections provide guidance on the use of restraint by security escorts when removing or deporting persons from Australia and have been developed to:

- recognise the Department's responsibilities regarding safety and security during removal operations, including that of all persons being removed, Departmental/ABF staff and escorts, airline staff and passengers
- provide guidelines and procedures pertaining to the use of restraints by removal and escort officers
- protect the rights and dignity of the removee
- provide an appropriate level of protection for officers in executing their duties
- ensure that restraints are used as a last resort and for the minimum time required
- address community expectations that a reasonable level of cooperation had been sought from the removee and that all other avenues have been exhausted before deciding to use restraint
- establish the forms of restraint that escort officers may and may not use
- ensure staff awareness of the consequences that may arise from unlawful and unnecessary use of restraints
- ensure that use of restraints is reported in the escort's report.

Legislative basis for use of force and restraint in Australia

The Act authorises the use of force in relation to the removal of UNC's under the following provisions:

- taking a person into and maintaining detention – [s5\(1\)](#) includes the ‘use of reasonable force’ in the definition of [detain](#) - this definition is relevant to a range of powers including [s189](#) (detention of UNCs)
- in [s198](#), implicit authority to use force in removal
- in [s252](#), searches of persons, in some circumstances, including where the person is detained in Australia.

These statutory provisions effectively provide authority for the lawful touching of a person which might otherwise constitute an assault and enable officers to protect themselves and others when safety issues arise in connection with the performance of their duties. In this regard, officers should also refer to WHS policy at ‘[Work Health and Safety information](#)’.

In most removal operations, officers should be able to achieve the removal and ensure that safety is upheld through means other than the use of force, even if it is permitted by law.

For more information on the general legal framework on use of force refer to [DM-623](#) in PPCR (*Safety and security – Use of reasonable force in immigration detention*).

The Act cannot authorise the use of force or restraints outside Australia. Authority for this must be derived from another source - refer to ‘[Background – International conventions](#)’.

Carrying restraints during removal

Removal officers and managers, in consultation with the escort service provider, should use discretion in deciding whether it is appropriate or necessary to carry restraints during a removal operation. In doing so, officers should have regard to the policies and requirements of the relevant airline or transit country, because some airlines/countries will not allow restraints to be carried without authority.

Officers should determine whether authorisation is required for offshore jurisdictions or airlines and, if so, contact the airline or local post at least one week prior to removal to obtain the necessary authority. If authority is obtained from another jurisdiction, the escort party should carry evidence of this authority.

For detail on the procedures for transporting restraints, refer to ‘[Transporting restraints](#)’.

Who provides restraints?

If security escorts are used for a removal, the escort service provider should provide mechanical restraints.

Police or other contractors should use the departmental kit for any restraint required and are responsible for collecting and returning the restraint equipment to the Department.

If the airline does not allow escorts to carry restraints, the removal officer should check with aircraft crew that they will provide restraints if required.

Types of restraints

For the types of restraint that escorts currently use please refer to the list of approved items, which includes plastic flexi cuffs, mechanical restraints, leg restraints and security belts.

Escorts must not use oral restraints (for example, mouth-taping).

Similarly, escorts must not use sedatives as a method of restraint. If a medical practitioner prescribes sedatives to a removee, the matter is one between the removee (as patient) and medical practitioner. Neither the Department nor security escorts are to request for restraint purposes the prescription and/or the administration of sedatives to a removee.

When to use restraints

Security escorts will be the primary applicants of any restraint as they are trained in the application and use of force. RLOs are not security escorts and must not apply any force or restraints or be placed in a position by security escorts to do so, including on the escort’s behalf.

The only exception to this is if, during a flight the aircraft captain orders an RLO (like they may order any other passenger) to use force or apply restraints in accordance with the Tokyo Convention.

Security escorts must only use restraints if required to maintain the safety and security of the removee, departmental staff, escorts, airline staff and passengers during a removal. When using a restraint, the restraint mechanisms should be discreet, to maintain the removee's dignity as much as possible.

Escorts may use restraints to prevent the removee from:

- attempting to escape, including in transit areas, or
- injuring themselves during transportation or during a flight, or
- injuring the escort officers or others, or
- injuring the crew and/or passengers of an aircraft during a flight, or
- damaging property, or
- causing disruption during the aviation process.

Security escorts may only use restraints only in exceptional circumstances, where the actions of the removee deem it necessary. In an exceptional circumstance, restraints may be used to control disruptive and/or non-compliant behaviour to the extent necessary to achieve a safe removal. Security escorts should not use restraints as a form of punishment.

The security escort must seek cooperation from the removee through negotiation and the use of de-escalation techniques where possible before using force, including restraints.

The lead security escort and RLO managing a removal (if present) must record any instances of force or use of restraints in their '[Escort's Removal Report](#)' (TRIM ADD2008/849043).

Monitoring appropriateness of restraints

As part of removal planning, the removal officer must research the background of the removee to determine possible risks the removee may present during flight, including risks to themselves, the escort group, aircraft crew and other passengers. The removal officer must provide information to the escorts about any history of non-compliance and incidents where restraint has been used. The removal officer must include this information in the ODP.

During the removal, security escorts must continually assess the level of risk presented by the removee and respond accordingly. This also involves monitoring the continued necessity of any restraints. Security escort officers must check the restraints regularly to ensure the safety and comfort of the removee.

If, during a removal in which they are involved, an RLO becomes aware that a security escort is using force or restraint inconsistently with the Department's principles, they are to immediately raise this concern with the lead security escort in reference to standards outlined in this instruction. RLOs must clearly document any concerns or questions and subsequent actions in the '[Escort's Removal Report](#)' (TRIM ADD2008/849043) and must also notify the Department's contract manager and relevant escort service provider on return to Australia.

Security escorts should only use restraints as a last resort and for the minimum time required. Once the removee is compliant and following the security escort's instructions, the escort should assess whether to remove the restraint. This should be done as soon as practicable.

Principles for use of restraints

Escorts must take all reasonable action to ensure that the removee does not suffer from physical harm whilst restrained.

Only security escorts with the appropriate qualifications and relevant training should apply restraints.

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Security escorts must apply restraints appropriately and as comfortably as practicable and should not use them in a manner that is likely to cause injury, serious discomfort or potential danger to the removee.

The security escort should monitor the comfort and health of a removee at all times, giving it priority over other considerations. If the removee appears to be in severe discomfort or pain, the escort should adjust or remove the restraint and arrange the appropriate medical attention if necessary and reasonable.

Prior to the removal commencing, the security escort should advise the removee of the powers of security escorts to use restraint and should clearly explain the potential consequences of causing disruption or in not cooperating during the removal operation.

Similarly, security escorts must be aware of their responsibility to apply restraints appropriately and be aware of potential for serious consequences for the removee, the Department and themselves. All escorts must understand that the use of force should be reasonable and proportionate to the perceived threat.

Transporting restraints – during the removal

If restraints are considered necessary, the lead security escort is responsible for carrying the restraint kit at all times during the removal. The restraints must be easily accessible, yet kept out of public sight within a secured bag which can pass for carry-on luggage.

The security escorts must advise airport staff, airport security and aircraft crew that the security escorts are Australian Immigration escort officers on official duty escorting a UNC and are carrying the restraints for that purpose. The escorts must at all times carry a signed letter of authority to carry restraints (refer to '[Authority to carry restraints](#)' (TRIM ADD2017/2288039)). They should present this letter to check-in staff in transit and explain the reason for carrying the equipment. This is especially important on the security escort's return journey.

Security escorts are authorised to carry restraints within Australian airports and prescribed aircraft under ATSR 4.59(3), (4), (5), and 4.65(4). Outside of Australia, officers must determine whether authorisation is required for offshore jurisdictions and airlines. For more information, refer to '[Carrying restraints during removals](#)'.

Transporting restraints – return journey

During any rest period at the completion of an escorted journey, restraints must be secured in the restraint kit bag and stored in a secure place.

On the return journey without a detainee, the security escort must secure the restraint kit inside their check-in luggage for placement in the aircraft hold. It is good practice to place a copy of the '[Authority to carry restraints](#)' (TRIM ADD2017/2288039) with the restraint kit bag, in case check-in luggage is opened and searched.

The Department must also advise escorts that some transit countries and/or destination countries do not allow for the transport or use of restraints. In such cases, the escort must secure the restraint kit in a storage locker at the airport to collect on departure.

5. Accountability and responsibilities

Table – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met.

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Position	Accountability and/or responsibility
	<ul style="list-style-type: none"> Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (the ABF Act), requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the termination of their engagement under section 57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

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IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statements

[VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001.

[BC-763](#) in PPCR *(Status Resolution System Control Framework)* TRIM: ADD2019/2439251.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Field Operations (Field Compliance)	BE-5351	ADD2018/4007117
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal and Detention Costs	DM-567	PCD2017/6030
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to facilitate removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904

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Document	PPCR	TRIM Number
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting Material

Document	PPCR	TRIM / Website
Authority to carry restraints		ADD2017/2288039
Direction to Accompany and Restrain for Removals form		ADD2017/1756004
DSM- Detainee entry and exit - Transport and escort management	DM-3308	ADD2018/5746285
DSM - Safety and security – Use of force	DM-623	ADD2018/5548985
Escort's Removal Report		ADD2008/849043
Field Operations (Field compliance)	BE-5351	ADD2018/4007117
General information for escorts		ADD2008/932315
Removal from Australia Glossary	BE-5509	ADD2018/1955777
DSM - Safety and Security Management - Use of force	DM-3291	ADD2018/5549614

8. References and legislation

- *Australian Border Force Act 2015*
- *Aviation Transport Security Act 2004*
- *Aviation Transport Security Regulations 2005*
- *Migration Act 1958*
- *Migration Regulations 1994*

- *Privacy Act 1988* Schedule 1 – Australian Privacy Principles

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Aviation Traveller NSW
- Civil Litigation and Compensation
- Comcover Manager
- Complex Case Resolution
- Detention and Removal Operational Policy (detention policy)
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- Humanitarian Contract Management Section
- Integrity Awareness
- International Obligations and SHP Section
- Legal Opinions
- Onshore Contracts
- Operation Sovereign Borders, Joint Agency Task Force
- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

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10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	12 November 2021

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	12 November 2018	Detention and Removal Operational Policy	PPCF Compliant
2	7 August 2019	Detention and Removal Operational Policy	Update reference to Control Framework. Addition and updates to links and minor edits
3	2 September 2019	Detention and Removal Operational Policy	Minor amendments to the "Transporting restraints – return journey" paragraph, removing the references around "locks"

10.2. Procedural Instruction approval

Document owner	Commander ABF Governance
Approval date	12 November 2018



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Removal from Australia – Aviation security requirements

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Approval Date	27 July 2019
Date of Review	27 July 2019
Contact	Detention and Removal Operational Policy Section
Document ID (PPN)	BE-5489
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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All twenty (20) Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement (TRIM: PCD2018/1001).

2. Scope

2.1. In Scope

This PI contains procedural requirements under the *Aviation Transport Security Regulations 2005* (the ATSR) for arranging the air travel of those 'persons in custody' (PICs) being removed or deported under the *Migration Act 1958*. In addition to ATSR requirements, it provides guidance on:

- transport security operation travel types
- departmental aviation assessments (DAA)
- notification
- escorts
- non-dangerous persons
- non-standard movement
- exceptions for family groups
- escorts for non-standard movement
- airline refusal to carry removee/deportee.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNCs who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or the Department.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Annex A – Removal from Australia Glossary*).

4. Procedural Instruction

4.1. ATSR requirements

The ATSR require the custodial agency (the Department) responsible for transporting PICs to:

- assess whether the PIC is dangerous as defined under the ATSR
- where the PIC is assessed as not dangerous, liaise with the operator of the prescribed air service to determine whether the PIC will be escorted
- provide written notice to the aircraft operators of intended PIC movements through Form 1, and
- seek the operator's agreement to carry these persons.

4.2. Transport security operation travel types

Before notifying aircraft operators of the proposed 'persons in custody' (PIC) travel and (if required) arranging escorts, officers must determine the appropriate travel type for the removee/detainee, namely:

- escorted domestic travel maintaining immigration detention
- supervised departure² (non-escorted)
- escorted international travel by non-dangerous persons
- escorted travel by dangerous persons (domestic or international).

The '[Travel type PIC summary](#)' guide (TRIM ADD2017/1702244) describes these travel types.

To determine the appropriate travel type, officers are required to:

- consult the removees file, departmental systems and the case manager regarding their behaviour, immigration history, criminal history (if any) and mental or physical health issues, and
- obtain a detention services provider assessment or a similar report/information for removees from correctional facilities, unless:
 - the removee has been detained for a short time (less than three days), or
 - the removee is not being removed from a secure/guarded detention environment (for example, community detention).

Once this information has been considered, officers should complete the online Departmental Aviation Assessment (DAA) in the Compliance, Case Management and Detention (CCMD) portal.

4.3. Departmental aviation assessment

The DAA completed in CCMD portal, ensures that officers consider relevant factors when determining the air travel type for a 'person in custody'. When completing the form, officers are directed to a recommended travel type for the removee/detainee, based on their answers. Officers have some discretion to choose a different travel type to that suggested in the form but before doing so should discuss this with their supervisors/managers.

Once they have determined the removee/detainees travel type, officers must notify the aircraft operator of their intended travel.

Refer also to [BE-5493](#) in PPCR (*Removal from Australia – Facilities and detainee service provider assessments*)

4.4. Notification requirements

Aircraft operators

Removal officers must notify all aircraft operators of the proposed PIC travel using [Form 1: Notice of proposed movement of a person in custody](#) (available in the Department of Home Affairs external [website](#)). To assist removal officers in completing the questions refer to '[Notice of Proposed Movement of Persons in Custody \(PIC\) Completion Guide](#)' (TRIM ADD2017/2275664).

² An ATSR term meaning a supervised departure involving the unescorted departure from Australia of non-citizens who are cooperating in the departure process *and* any associated domestic travel for the purpose of that departure.

This form is approved in the ATSR 4.9 and comprises Parts A to J. It requires the Department to provide further information and proposed risk mitigation strategies for the proposed movement of PICs, to enable aircraft operators to undertake their own risk assessment in agreeing to transport the PICs.

Once completed, the form should be checked by a removal supervisor or manager before the removal officer provides it to the airline/s. The form is generally emailed to the airline within timeframes specified in the ATSR, unless the aircraft operator agrees to less notice. For details of notification times, refer to the [‘Travel type PIC summary’](#).

If a removee will be travelling on more than one airline during their removal, officers must seek approval from each individual airline.

If an officer becomes aware that the Department has given incorrect or incomplete information to an aircraft operator, they must inform the aircraft operator as soon as practicable.

Once an aircraft operator has recorded approval by signing Part D (or by email) the returned [Form 1: Notice of proposed movement of a person in custody](#) (PIC), should be saved in TRIM and in CCMD portal work tasks as a record of uplift approval.

The aircraft operator may request additional information from the Department to conduct its own risk assessment. The ATSR state that the Department is not required to provide any additional information to an aircraft operator if doing so would constitute an offence under any Act (including a breach of the Privacy Act) or under a State/Territory law. Officers should email [s. 47E\(d\)](#) [@abf.gov.au](#) if there are concerns that the release of additional information to the aircraft operator may be unauthorised.

Airport operators

The ATSR require that operators of security controlled airports receive advance notice of the movement of dangerous persons in custody through their airport. Officers must send the aircraft operator endorsed copy of [Form 1: Notice of Proposed Movement of Persons in Custody \(PIC\)](#) to the airport operator(s) (including Australian transit airports) at least 12 hours before the PIC arrives at the airport (the airport operator may agree to less notice).

This information is provided to the airport operator so that it can institute any risk management procedures it considers necessary for the transit of dangerous persons. The airport operator does not determine whether the travel can proceed.

The Department is responsible for ensuring that notification is provided to the airport operator within the prescribed timeframes.

If a departmental officer realises the Department has provided incorrect or incomplete information, they must inform the airport operator as soon as practicable.

4.5. ATSR escort requirements

Requirements for dangerous persons

Under [ATSR 4.75](#), a person in immigration custody is defined as ‘dangerous’ if the Department:

- has assessed the person as being likely to attempt to commit an unlawful interference with aviation or likely to attempt to escape, or
- is aware that the person has been charged with, a crime involving violence against a person or serious damage to property and
- the charges is still to be resolved or
- that the person has been convicted of a crime involving violence against a person or serious damage to property.

The circumstances in which a charge for an offence is considered resolved in relation to a person, under [ATSR 4.75\(2\)\(a\)](#), are when the:

- charge is withdrawn, or
- charge is dismissed, or
- person is not committed on the charge following a committal hearing, or
- person is acquitted of the offence, or
- person is sentenced for the offence, or
- person is dealt with by being the subject of an order made as a consequence of a finding of guilt, or
- charge is otherwise finally dealt with.

Furthermore, a charge is considered resolved when:

- an appeal relating to the charge is not lodged within the period for lodging such an appeal – when that period ends. However, if an appeal is lodged after the lodgement period has ended, the charge ceases to be resolved until that appeal lapses or is finally determined.
- if an appeal relating to the charge is lodged – when the appeal lapses or is finally determined.

Officers must understand that the onus is on the Department to undertake assessment of whether the person is 'dangerous' under ATSR 4.75 taking into consideration all relevant information.

[ATSR 4.87](#) sets out the following escort requirements for flights involving a 'dangerous' PIC:

- the person must be escorted at all times, when on a prescribed aircraft or at a security controlled airport, by at least two escorts
- at least one of the escorts must be of the same sex as the PIC
- the escorts must be law enforcement officers or persons of a kind agreed to between the aircraft operator and the Department, and must not be crew members of the aircraft and
- the Department must provide the escorts unless the Department and the relevant aircraft operator agree that the operator will provide the escorts.

The roles and responsibility of security escorts are further explained in [BE-5491](#) in PPCR (*Removal from Australia – Escort arrangements – About escorted removals*).

4.6. Requirements for non-dangerous persons

[ATSR 4.80](#) provides that there is no set number of escorts required if the PIC is non-dangerous. However, the regulation also requires that the PIC must be escorted unless the Department and the aircraft operator have agreed, based on the risk assessment and risk mitigation strategies proposed by the Department, for the PICs travel to be unescorted.

Where a non-dangerous PIC is to be escorted, it is recommended that at least two escorts be used. Three or more escorts may be required for flights with transit stops and/or total duration of more than 10 hours.

Individual airline security policies vary and some airlines mandate that at least three escorts are required for removal. Officers should check specific airline requirements at the planning stage of a removal.

The '[Travel type PIC](#)' summary guide (TRIM: ADD2017/1702244) summarises travel types, notification and escort requirements.

4.7. Movement of PIC – non-standard movements

Under ATSR 4.88(1) a non-standard movement means a movement:

- of more than two escorted PICs on the same flight or
- of more than one 'dangerous' person or
- where an individual escort is responsible for both 'dangerous' PIC and at least one other PIC.

4.8. Exception for family groups

Non-standard movement requirements do not apply to family groups where the following requirements are met:

- the movement will not be more than 2 escorted persons travelling on the flight and
- the PICs are all members of a family unit and
- none of the persons are 'dangerous'
- the airline operator and the Department have agreed on the escort arrangements and
- no other escorted PIC are travelling on the flight considered non-standard.

4.9. Escort arrangements for flights involving non-standard movement

Agreement on escort arrangements for the PIC must be made between the aircraft operator and the Department as the custodial agency, if the aircraft is being used for a prescribed air service and the flight involves a non-standard movement. ATSR prescribes there is no set number of escorts required for non-standard movements.

4.10. Airline refusal to carry removee/deportee

If an aircraft operator refuses to carry a removee or deportee, officers are to clarify the concerns of the operator and then discuss with their departmental supervisors/managers.

The Department may make further approaches to the aircraft operator to attempt to resolve the operator's concerns. Resolution of an aircraft operator's concerns may include the removee complying with a request to store or secure personal items, such as personal electronic devices in accordance with aircraft operator policy. For further information refer to [BE-5491](#) in PPCR (*Removal from Australia - Escort Arrangements*).

If an operator continues to refuse to carry a person despite the Department proposing suitable escort arrangements, officers may wish to consider issuing the aircraft operator with a [s218](#) notice. This is a written notice requiring the controller of a vessel to transport the person from Australia to a destination of the vessel or one of the vessels specified in the notice.

Consideration of issuing a s218 notice should include the long-term effect on the ABFs relationship with the aircraft operator and ongoing ability to effect removal from Australia. Removal officers should consult Removal Operations HQ Section at [s. 47E\(d\)](#) [@abf.gov.au](#) for advice in such cases.

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5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

This PI under the PPCF sets out guidance and directions to workers on how to implement the Department's policy.

It is expected that all workers who are subject to this PI will have due regard to it and will only depart from it if:

- a) the departure is reasonable and justified in the circumstances
- b) all risks have been considered and
- c) approval has been sought and responsibility accepted for documenting the justification for the decision.

Workers are required to comply with all reasonable and lawful directions contained in this PI. Failure to comply with a direction may be considered a breach of the Australian Public Service Code of Conduct (for APS employees) or the *Professional Standards Secretary's Direction* under section 55 of the *Australian Border Force Act 2015* (for non-APS employees).

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

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7. Related Framework documents

7.1. Policy Statements

VM-5273 in PPCR, *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

BC-763 in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal and Detention Costs	DM-567	<u>PCD2017/6030</u>
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is a UNC and Maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to effect removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965

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Document	PPCR	TRIM Number
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting Material

Document	PPCR	TRIM / Website
Detention Service Provider Assessment: Aviation Security Risk		ADD2014/580380
Form 1: Notice of proposed movement of a person in custody		Department of Home Affairs
Notice of Proposed Movement of Persons in Custody (PIC) Completion Guide		ADD2017/2275664
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Travel type PIC summary guide		ADD2017/1702244

8. References and legislation

- *Australian Border Force Act 2015*
- *Aviation Transport Security Regulations 2005*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1 – Australian Privacy Principles*

9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT and Removals Injunctions Section
- ABF Operational Risk Management
- Aviation Traveller NSW
- Complex Case Resolution
- Detention Health Operations Section

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- Detention and Removal Operational Policy (Detention Policy)
- Enforcement Operations Central
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- International Obligations and SHP Section
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Protection Caseload Resolution
- Records Management
- Refugee and International Law
- Removal Operations Headquarters, Enforcement Command
- Removal Operations NSW
- Secrecy and Disclosure Unit – Information Governance Section
- Status Resolution Framework, Returns & Removals Policy Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	27 July 2021

10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	27 July 2018	Detention and Removal Operational Policy	Separation of Aviation security requirements topic
2	29 July 2019	Detention and Removal Operational Policy	New 'Control Framework' added and minor edits

For Official Use Only**10.2. Procedural Instruction approval**

Document owner	Don Smith, Commander ABF Governance
Approval date	27 July 2018

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Removal from Australia – Establishing that a person is an unlawful non-citizen and maintaining reasonable suspicion

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Document approval date	8 August 2018
Last PPCF review date	8 August 2018
Contact details	Detention and Removal Operational Policy Section Removal Operational Policy
Document ID (PPN)	BE-5492
TRIM record number	ADD2018/1954791
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach. PIs will assist officers in planning, managing and effecting a removal.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement (TRIM: PCD2018/1001).

2. Scope

2.1. In Scope

This PI sets out procedures and provides guidance on:

- establishing 'knowledge' that a person is a UNC
- establishing and maintaining reasonable suspicion that a person is a UNC.

Suspected Illegal Foreign Fishers (IFF) will become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

If UNCs who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either as a UNC or the holder of a Bridging visa managed by either ABF or Home Affairs.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*) TRIM: ADD2018/1955777.

4. Establishing that a person is an unlawful non-citizen

4.1. 'Knowledge'

For a person to be removed from Australia under [s198](#) of the Act, the removal officer must have knowledge that the person is a UNC. To ensure that a decision is well-formed, the removal officer must understand what information is required to move from a **reasonable suspicion** that the person is a UNC, to having **knowledge** that the person is a UNC and liable for removal from Australia.

4.2. Notification case law and statutory assessment

To confirm that the person is a UNC, the removal officer is to complete a comprehensive notification case law and statutory assessment. The [Comprehensive Assessment Tool \(CAT\) for Notification](#) (TRIM: ADD2011/1126995) has been designed to assist departmental and ABF officers to determine whether the person was correctly notified of any visa decisions in accordance with statutory requirements and is not affected by subsequent case law that revealed an error in the interpretation of those statutory provisions. If a notification error is found, it may affect the person's immigration status and they may need to be re-notified of the decision. They may also have access to review of the decision.

A CAT is essential where:

- a refusal notice that is relevant to (i) the person's immigration status or (ii) whether a substantive visa application has been finally determined
- a tribunal notice, that is relevant to the person's immigration status, has been issued before February 2009
- an Immigration Assessment Authority (IAA) notice, that is relevant to the person's immigration status, has been issued.

In completing a CAT, a removal officer should be mindful of events in the removee's immigration history that could affect their liability and availability for removal. For example:

- for any reason the officer considers there may be any risk of defective notification
- the person has a long or complex immigration history (that is, beyond simple visa refusal or cancellation decisions)
- there are inconsistencies between oral account of immigration history and systems records
- there are identity issues
- source records cannot be located/obtained from systems or physical files
- any one or more of the risks that are listed above, or any other contributing factor.

The **current** CAT version must be used and a copy of the notification case law and statutory assessment recorded in TRIM/Portal.

For additional guidance on case law assessment/notification issues, officers should liaise with their manager and their local Notification Contact Officer (NCO). Further support, if required, is available by emailing s. 47E(d) _____@homeaffairs.gov.au.

Officers should also refer to [LS-1818](#) in PPCR (*Notification requirements*) or [LEGEND](#).

4.3. Australian citizenship assessment

To establish that a person is a UNC liable for removal, it is essential to have acquired 'knowledge' that the person does not hold Australian citizenship. Australian citizenship can be acquired automatically by operation of law and/or by application. There are several ways to automatically acquire Australian citizenship and these can occur with or without the person being aware of their Australian citizenship status.

Most Australian citizens by birth are not recorded in departmental systems and investigation beyond systems review will be necessary to exclude this possibility. A set of citizenship related questions contained in Procedural Instruction [VM-5328](#) in PPCR (*Australian Citizenship Status Assessments for activities being undertaken under the Migration Act 1958*) are asked by Field or Status Resolution Officer (SRO) on detaining persons under [s189](#) of the Act.

Removal officers are also required to complete the Attachment A "*Citizenship Questions to assist in matters regarding citizenship status*" checklist. A tailored checklist for removal officers is located in TRIM: ADD2018/2310349.

Removal officers are to use the checklist in conjunction with the Removal Availability Assessment (RAA) and to demonstrate they are satisfied that the person is not an Australian citizen. Final documentation and evidence of a person's immigration status are recorded in the RAA. Matters that removal officers need to turn their minds to in answering immigration status RAA questions are discussed in the Common Facts section of the three Removal Availability Assessment Guides in TRIM container ADF2016/23189.

Any additional information which casts doubt on the person's citizenship is to be investigated, documented and relayed as soon as possible to a supervising removals officer. Further citizenship investigation includes conducting another citizenship check and referral to the [Citizenship helpdesk](#).

4.4. Identity for the purpose of removal

Satisfaction that the removee's identity is supported will assist in making the person available for removal. At a minimum the removal officer must be satisfied that the removee is a national of the country of return, or eligible for right of entry and stay. *IIB-5144* in PPCR (*Enterprise Identity*) provides guidance on what it means to be satisfied of a person's identity and what determines a supported identity.

Removal officers who require advice about identity and complex cases should contact Identity Business Support (IDBS) on s. 47E(d) or email s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au) or s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)

Complex identity matters can be referred to IDBS for action via the Department's '[Complex Identity Referral Form](#)' in the IMtel system. IDBS will advise the referring officer if a referral is accepted or if more information is required. See *IIB-5144* (*Enterprise Identity*).

5. Maintaining reasonable suspicion²

5.1. Who holds reasonable suspicion for a person in immigration detention?

If an officer knows or reasonably suspects that a person in the migration zone (other than an [excised offshore place](#)) is a UNC, the officer must detain the person under [s189\(1\)](#) of the Act. Similarly, if an officer knows or reasonably suspects that a person in an excised offshore place is a UNC, the officer must detain the person under [s189\(3\)](#) of the Act. Refer to: *BC-763* in PPCR (*Status Resolution System Control Framework* (TRIM: ADD2019/2439251) which sets out the establishment and transfer of responsibility for maintaining a reasonable suspicion that a person is a UNC.

Once a person is detained and a referral to Removals has been accepted in the CCMD portal, a removal officer assumes the role of detaining officer under [s189\(1\)](#) of the Act and is responsible for:

- establishing reasonable suspicion
- maintaining reasonable suspicion
- recording this determination when accepting the transfer of the case in the CCMD portal and
- forming knowledge that the person is a UNC and liable for removal from Australia

For further information regarding the decision to detain and maintaining reasonable suspicion, removal officers should refer to:

- *BE-5351* in PPCR, *Field Operations (Field Compliance)* PI.

² The Control Framework for Detention Related Decision Making is under review as part of the Policy and Procedure Control Framework. Departmental staff who are relying on this chapter should contact the Status Resolution Programme Section at s. 47E(d) [@homeaffairs.gov.au](mailto:s.47E(d)@homeaffairs.gov.au)

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6. Accountability and responsibilities

Table 2 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

7. Statement of Expectation

This PI under the PPCF sets out guidance and directions to workers on how to implement the Department's policy.

It is expected that all workers who are subject to this PI will have due regard to it and will only depart from it if:

- a) the departure is reasonable and justified in the circumstances
- b) all risks have been considered and
- c) approval has been sought and responsibility accepted for documenting the justification for the decision.

Workers are required to comply with all reasonable and lawful directions contained in this PI. Failure to comply with a direction may be considered a breach of the Australian Public Service Code of Conduct (for APS employees) or the *Professional Standards Secretary's Direction* under section 55 of the *Australian Border Force Act 2015* (for non-APS employees).

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

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8. Related Framework documents

8.1. Policy Statement

[VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[BC-763](#) in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251.

8.2. Procedural Instruction

Document	PPCR	TRIM Number
Australian Citizenship Status Assessments for activities being undertaken under the <i>Migration Act 1958</i>	VM-5328	ADD2018/1997953
Field Operations (Field Compliance)	BE-5351	
Notification Requirements	LS-1818	
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	
Removal and Detention Costs	DM-567	PCD2017/6030
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Commencing a removal	BE-5490	ADD2018/1954658
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to facilitate removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951

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Document	PPCR	TRIM Number
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

8.3. Supporting Material

Document	PPCR	TRIM / Website
Complex Identity Referral Form		IMtel Systems
Comprehensive Assessment Tool (CAT) for Notification		ADD2011/1126995
Citizenship questions to assist in determining citizenship status		ADD2018/2310349
Enterprise Identity	IIB-5144	
Notification requirements	LS-1818	
Removal from Australia Glossary	BE-5509	ADD2018/1955777
Removal Availability Assessment Guide – Onshore Compliance		ADD2012/136167
Removal Availability Assessment Guide – Illegal Foreign Fishers		ADD2018/2297400
Removal Availability Assessment Guide – Illegal Maritime Arrival		ADD2017/2686591

9. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1 – Australian Privacy Principles*

10. Consultation

10.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

Removal from Australia – Establishing that a person is an unlawful non-citizen and maintaining reasonable suspicion

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- AAT and Removals Injunctions Section
- Citizenship Operations
- Detention and Removal Operational Policy (Detention policy)
- Field and Removal Operations, Enforcement Command QLD
- Field and Removal Operations Vic./Tas.
- Field Operations and Removals WA
- Integrity Awareness
- International Obligations and SHP Section
- Legal Opinions - Legal Framework and Notifications Section
- Ministerial Intervention Unit and Complex Case Resolution
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Refugee and International Law
- Removal Operations HQ
- Removal Operations NSW
- Status Resolution Framework, Returns & Removals Policy Section

10.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

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11. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	8 August 2021

11.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	8 August 2018	Detention and Removal Operational Policy	Separation of Establishing that a person is an unlawful non-citizen and maintaining reasonable suspicion topic
2	30 July 2019	Detention and Removal Operational Policy	Addition of new 'Control Framework'

11.2. Procedural Instruction approval

Document owner	s. 22(1)(a)(ii) A/g Commander ABF Governance
Approval date	8 August 2018



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Removal from Australia – Commencing a removal

Procedural Instruction

This Procedural Instruction contains operational policy instruction to Department of Home Affairs and Australian Border Force officers engaged in removal of unlawful non-citizens from Australia.

Document approval date	29 October 2018
Last PPCF review date	29 October 2018
Contact details	Detention and Removal Operational Policy Section
Document ID (PPN)	BE-5490
TRIM record number	ADD2018/1954658
Primary influencing Legislation(s)	<i>Migration Act 1958</i>

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1. Introduction

1.1. Overview

Procedural instructions (PIs) relating to Removal from Australia articulate the principles and policies that guide Department of Home Affairs (the Department) and Australian Border Force (ABF) officers in the removal of unlawful non-citizens (UNCs) from Australia.

A non-citizen in the migration zone who does not hold a visa that is in effect is a UNC. If a UNC is unwilling or unable to resolve their visa status through visa grant or acquisition of citizenship the non-citizen will have no right to remain in Australia and will be liable for immigration detention under s189 of the *Migration Act 1958* (the Act) and removal from Australia under s198 of the Act.

Purpose

All Removal from Australia PIs are designed to assist departmental and ABF officers, contracted service providers and stakeholders in effecting the removal of UNCs from Australia in a lawful manner, consistent with the departmental status resolution approach.

Each Removal from Australia PI is listed by subject in related framework documents. All PIs for Removal from Australia should be implemented in conjunction with [VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* Policy Statement (TRIM: PCD2018/1001).

2. Scope

2.1. In Scope

This PI sets out procedures and provides guidance on:

- engaging with the UNC to be removed
- referral for removal
- removee management streams, and
- planning the removal date.

Suspected Illegal Foreign Fishers (IFF) who become liable for detention and removal on cessation of an enforcement visa¹. For further information refer to:

- [DM-590](#) in PPCR (*Detention Services Manual (DSM) – Illegal Foreign Fishers – Illegal Foreign Fishers*)
- [BE-628](#) in PPCR (*DSM – Illegal Foreign Fishers – Enforcement visas*).

2.2. Out of Scope

Border and arrival turnaround

This instruction does not apply to those persons removed within 72 hours of being refused entry at an Australian airport or seaport (turnaround or summary removal). For the management of such cases, refer to [BC-536](#) in PPCR (*Arrival, immigration clearance and entry - Immigration clearance at airports and seaports*).

¹ Non-citizens intercepted at sea for suspected breaches of fisheries or environment legislation are granted enforcement visas by operation of law, allowing entry into Australia during fisheries or environment detention.

If UNC's, who are subject to turnaround or the summary removal process, are not removed within 72 hours, they are streamed into extant status resolution and removal processing.

Maritime interceptions

This instruction does not apply to persons intercepted and detained under the *Maritime Powers Act 2013*, exclusion from this instruction continues throughout their return process. However, non-citizens intercepted for suspected breaches of fisheries or environment legislation can become subject to removal under specific circumstances. See In Scope: Suspected Illegal Foreign Fishers.

Returns

This instruction does not apply to voluntary returns from the community. A 'return' is the voluntary departure of a non-citizen from the community, either independently as a UNC or as the holder of a Bridging visa managed by either ABF or Home Affairs lines.

For further information on the types of services the Department offers to voluntary return requests, refer to:

- [VM-1035](#) in PPCR (*Compliance and Case Resolution Instructions - Case resolution - Community Status Resolution Service*)
- [BC-827](#) in PPCR (*Case Resolution - Returns and removals - Return services*).

3. Glossary

For a comprehensive list of the terms and their accompanying definitions that have specific meaning in the context of the suite of removal instructions, refer to [BE-5509](#) in PPCR (*Removal from Australia Glossary*).

4. Procedural Instruction

4.1. Engaging with the UNC for removal

With all removal plans, the Status Resolution officer (SRO) and/or the removal officer should engage with the person about the removal requirements of the Act and explain on an ongoing basis that the person is on a removal pathway.

Officers should encourage detainees to leave Australia voluntarily and provide advice about the types of assistance the Department can provide to facilitate the person's departure. Should the person indicate that they do not wish to leave Australia voluntarily; the officer should advise them that the Department will proceed to arrange their removal and discuss the implications with them.

In engaging with the person, the SRO and/or removal officer should ascertain any needs that the person may have during the removal process or upon arrival back home.

This engagement will assist officers to view the person's circumstances holistically and will inform removal planning and the completion of the required pre-removal assessments.

4.2. Receiving a referral for removal

A removal officer will begin preparing for a removal either when a person requests removal in writing or when a person is referred to the removal officer from another service.

Most referrals will come from either:

- The Community Status Resolution Service (CSRS), for persons who will not, or who are unlikely to, leave voluntarily, or
- The detaining field operation officer, once a person has been detained under s189 of the Act.

A referral may also originate from:

- National Character Consideration Centre, SROs, or direct contact from prisons or corrective services for non-citizens serving custodial sentences
- the Immigration Status Service for persons located by the police and found to be unlawful non-citizens
- Status Resolution for persons with health or welfare needs or long term detainees whose health requirements have meant that removal planning has been temporarily suspended, or
- borders/airports for persons who are not removed within 72 hours (summary removal) and no longer being managed as a summary removal.

4.3. Removee management streams

Streaming of detainees

When a UNC is detained, the detaining officer completing Detention Client Interview (DCI) Part A will place them in one of two streams according to [BC-763](#) in PPCR (*Status Resolution System Control Framework*) 'Control Framework'. A streaming decision is based on the level of risk involved in each case and allocates persons to less intensive management streams where there is likely to be less risk involved.

Removal Stream

Removal stream or rapid removals are low risk cases where it is highly probable that the person can be removed within 28 days. If a person is placed into the rapid removal stream, the removal officer will be responsible for planning, managing and implementing the removal.

Removal officers requiring further advice on any aspects of the Control Framework should contact the Status Resolution Programme Section at [s. 47E\(d\)](#) [@homeaffairs.gov.au](#).

Officers stream detainees into the 'Rapid removal' pathway if there is a high probability that the person can be removed within 28 days and all of the following are met:

- the person is an adult
- they are a voluntary removal
- there are no doubts as to their lawful status
- they have no matters before the Department, tribunals or court
- there are no doubts as to their identity (or their identity is likely to be established within 21 days)
- they have a valid travel document in place or may be able to obtain one within 21 days to facilitate their removal
- they have no known (and have not indicated any) health or medical reasons preventing their removal
- any criminal justice impediment to removal such as a criminal justice certificate, visa or warrant is likely to be resolved within 21 days. Refer to [VM-1030](#) in PPCR (*Criminal justice Visa Guidelines*).

Status Resolution Stream

Cases that have impediments preventing their case being resolved quickly (that is, outside 28 days) or have other vulnerabilities will be placed in the 'status resolution' stream (see 4.4 for more information). The SRO will then liaise with removal officers regarding the operational aspects of removal planning.

Officers stream detainees into the status resolution pathway if there are impediments to the resolution of the person's immigration status and/or the risks of not achieving a timely immigration outcome are assessed as high. Persons in the status resolution stream are generally those assessed as not meeting the requirements for the rapid removal stream.

If a person is placed in the status resolution stream, SROs will be responsible for progression of the case to an outcome but will liaise closely with removal officers regarding removal planning and execution. UNC's can move between streams depending on the change in their circumstances.

Where a detainee is in the status resolution stream and is liable for removal, the removal officer is to take steps to remove the detainee as soon as reasonably practicable.

4.4. Planned removal date

Removal officers, where possible, are to begin developing a removal plan prior to detention and should begin formulating a planned removal date when any of the following events occurs:

- immediately upon detention of a person
- when a referral for a person is made to removal officers in the CCMD portal with a Returns and Removals Service
- when a person is in the community and is likely to be referred for detention and removal (the removal date should be planned in consultation with the community SRO), or
- when they become aware of a person in other circumstances (such as criminal detention) who is to be removed from Australia. Removal officers should plan the removal with a SRO if the person is being case managed.

Planning a removal date

A person's planned removal date is the earliest estimated date that the person is likely to be available for removal, taking into account issues such as:

- whether the person has applied for a substantive visa in accordance with subsection 195(1) or applied for the revocation of the cancellation of a substantive visa under s137K of the Act
- in general terms (please refer to s198(6) of the Act for specific requirements), whether the person has validly applied for a substantive visa that can be granted when the person is in the migration zone and whether:
 - the grant of the visa has been refused and the application finally determined or
 - the visa cannot be granted and
 - the person has not made another valid application for a substantive visa that can be granted when they are in the migration zone.
- the time it may take to obtain a travel document for the person's country of return
- the need to consider relevant assessments (that is, health) and other clearances for the person.

Certain factors, such as the expiry of a travel document, may require removal officers and SROs to adjust a person's planned removal date.

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- Removal officers must remove a detainee as soon as reasonably practicable. To this end, they must plan efficiently and effectively to identify all barriers to removal and ensure these barriers have been addressed (see [BC-5495](#) in *PPCR Removal from Australia – Impediments to removal*).

5. Accountability and responsibilities

Table 1 – Procedural Instruction roles and responsibilities

Position	Accountability and/or responsibility
Commander (SES band 1) ABF Governance	<ul style="list-style-type: none"> The 'approving authority' for Procedural Instructions within their Branch and have responsibility for ensuring that Review Period deadlines for these Procedural Instructions are met. Accountable for ensuring that the systems and business practices – or control frameworks – are in place to ensure adherence to policies and procedures. Responsible for ensuring procedural instructions and standard operating procedures are aligned with strategic objectives. Responsible for providing assurance that areas responsible for developing PPCF documents have undertaken due diligence in relation to consultation, evaluation and review. Accountable for ensuring that during the development of the documents, risks are assessed, obligations considered, and requirements of workers are clearly set out.
Superintendent (EL2) Detention and Removal Operational Policy (DROP)	<ul style="list-style-type: none"> Clearance of Procedural Instruction Approval of updates to policy
Inspector (EL1) DROP	<ul style="list-style-type: none"> Ensures Procedural Instruction is updated to reflect current policy Ensures support materials comply with Procedural Instruction

6. Statement of Expectation

The APS Code of Conduct states that 'an APS employee must comply with any lawful and reasonable direction given by someone in the employee's Agency who has authority to give the direction' (subsection 13(5) of the *Public Service Act 1999* (Public Service Act)).

Failure by an APS employee to comply with any direction contained in a PPCF document may be determined to be a breach of the APS Code of Conduct, which could result in sanctions up to and including termination of employment, as set out in subsection 15(1) of the Public Service Act.

The Secretary's Professional Standards Direction, issued under subsection 55(1) of the *Australian Border Force Act 2015* (ABF Act), requires all Immigration and Border Protection workers (IBP workers) who are not APS employees (such as contractors or consultants) to comply with any lawful and reasonable direction given by someone in the Department with authority to issue that direction.

Failure by an IBP worker who is not an APS employee to comply with a direction contained in a PPCF document may be treated as a breach of the Professional Standards Direction, which may result in the

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termination of their engagement under s57 of the ABF Act. Non-compliance may also be addressed under the terms of the contract engaging the contractor or consultant.

For all other provisions of PPCF documents, the Secretary and the Commissioner expect all IBP workers to:

- consider whether a proposed departure from any provision set out in a PPCF document is reasonable and justified in the circumstances
- consider the risks of departing from any provision set out in a PPCF document
- be responsible and accountable for the consequences of departing from, or not adhering to the content of, all PPCF documents, including where such departure or non-adherence results in a breach of any legal or other obligations which lead to adverse outcomes for the Department and
- be responsible for documenting the reasons/justification for their decision to depart from, or not adhere to, any PPCF document.

IBP workers who make decisions or who exercise powers or functions under legislation have a duty to make these decisions or exercise these powers or functions in accordance with the requirements of the legislation and legal principle.

All records created as a result of this procedure must be managed in accordance with the Records Management Policy Statement. Records created as a result of this policy/procedure must be saved in TRIM RM8 or an approved business system.

7. Related Framework documents

7.1. Policy Statements

[VM-5273](#) in PPCR *Departure Policy (returns, removals and departure support)* TRIM: PCD2018/1001

[BC-763](#) in PPCR (*Status Resolution System Control Framework*) TRIM: ADD2019/2439251.

7.2. Procedural Instructions

Document	PPCR	TRIM Number
Criminal justice Visa Guidelines	VM-1030	
Pre-removal clearances and Informed Request for Removal Statements	VM-3226	LEGEND
Removal and Detention Costs	DM-567	PCD2017/6030
Removal from Australia	BE-5488	ADD2018/1956150
Removal from Australia – Aviation security requirements	BE-5489	ADD2018/1954574
Removal from Australia – Escort arrangements	BE-5491	ADD2018/1954741
Removal from Australia – Establishing that a person is an unlawful non-citizen and maintaining reasonable suspicion	BE-5492	ADD2018/1954791
Removal from Australia – Facilities and detainee service provider assessments	BE-5493	ADD2018/1954814

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Document	PPCR	TRIM Number
Removal from Australia – Health assessments	BE-5494	ADD2018/1954834
Removal from Australia – Impediments to removal	BE-5495	ADD2018/1954849
Removal from Australia – Implementing removal from Australia	BE-5496	ADD2018/1954866
Removal from Australia – Information disclosure to facilitate removal	BE-5497	ADD2018/1954878
Removal from Australia – Notifying stakeholders of the removal	BE-5498	ADD2018/1954896
Removal from Australia – Operational planning and logistics	BE-5499	ADD2018/1954904
Removal from Australia – Post-removal procedures	BE-5500	ADD2018/1954930
Removal from Australia – Post-removal support	BE-5501	ADD2018/1954935
Removal from Australia – Removal Availability Assessment	BE-5503	ADD2018/1954951
Removal from Australia – Removal notification	BE-5504	ADD2018/1954961
Removal from Australia – Removal of minors and families	BE-5505	ADD2018/1954965
Removal from Australia – Removing detainees from different environments	BE-5506	ADD2018/1954972
Removal from Australia – Travel documents for removal purposes	BE-5507	ADD2018/1954980
Removal from Australia – Voluntary removal	BE-5508	ADD2018/1954983

7.3. Supporting Material

Document	PPCR	TRIM / Website
Removal from Australia - Glossary	BE-5509	ADD2018/1955777
Status Resolution System Control Framework Mandatory Control Points	BC-6186	ADD2019/2439257

8. References and legislation

- *Australian Border Force Act 2015*
- *Migration Act 1958*
- *Migration Regulations 1994*
- *Privacy Act 1988 Schedule 1* – Australian Privacy Principles

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9. Consultation

9.1. Internal consultation

The following internal stakeholders were consulted in the development of this Procedural Instruction:

- AAT, Removals and Injunctions Section
- Complex Case Resolution
- Detention and Removal Operational Policy (Detention policy)
- Enforcement Operations Central
- Field and Removal Operations Vic/Tas.
- Field and Removal Operations, Enforcement Command QLD
- Field Operations and Removals WA
- Human Trafficking and Criminal Justice Programme
- Integrity Awareness
- International Obligations and SHP Section
- Legal Opinions
- Operation Sovereign Borders, Joint Agency Task Force
- Refugee and International Law Section
- Removal Operations HQ, Enforcement Command
- Removal Operations NSW
- Status Resolution Framework Section

9.2. External consultation

No external stakeholder were consulted in the development of this Procedural Instruction.

10. Document details

BCS Category/Function	Border enforcement
BCS Sub-Category/Sub-Function	Program management and evaluation
Period of Effect	29 October 2021

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10.1. Document change control

Version number	Date of issue	Author(s)	Brief description of change
1	29 October 2018	Detention and Removal Operational Policy	PPCF Compliant
2	25 July 2019	Detention and Removal Operational Policy	Critical Control Point (CCP) changed to Mandatory Control Point (MCP)

10.2. Procedural Instruction approval

Document owner	Commander, ABF Governance
Approval date	29 October 2018