

Chapter 59 – Index

59.	Members of Parliament (MP`s) representations
59.1.	MPs' representations when RDs are in place
59.2.	MP's representations when there are no RDs in place
59.3.	MP`s representations received during week-ends, public holidays and out of hours
59.4.	Time Limits and Detention
59.5.	Cases where there has been an in country right of appeal
59.6.	Cases where there has been no in country right of appeal
59.7.	MP`s request for deferral of removal in Deportation Cases

59. Members of Parliament (MP`s) representations

Where an MP considers that new and compelling information has emerged, they may contact the Border and Immigration Agency (BIA) or the Minister's Private Office directly. In some cases, representations that are made to the BIA and rejected might be repeated to the Minister's Private Office.

59.1. MPs' representations when RDs are in place

Where an MP chooses to contact the Minister's Private Office directly and RDs are in place for removal within the next 5 days, a decision on removal will be taken by the Minister's Private Office only after consultation with OSCU. OSCU will consider whether the information provided by the MP is both new and compelling.

Enforcement offices should handle all MPs' cases where RDs are in place urgently and refer the case immediately to OSCU where removal is to take place within the next 5 days to ensure that no delays occur. If the representations are made by phone the MP can be referred to the MP Removals Representation Desk in OSCU. Any written representations from an MP should be immediately faxed to OSCU.

In those urgent cases referred to above, OSCU will deal with any written representations in one of two ways:

- ◆ by drafting a reply for the Minister;
or in cases which do not require Ministerial sign off
- ◆ by sending an official reply.

In either event OSCU will *fax the LEO a copy of the signed reply and inform them that RDs can remain in place. If the Minister is unavailable to sign off a response prior to removal it is possible that RDs will have to be deferred. In such cases it may be possible to keep the individual detained and arrange for a reply to be signed off as soon as the Minister becomes available. This would enable RDs to be reset without delay. In these circumstances OSCU will keep the LEO apprised of the situation. Similarly, in those cases where it is considered that the information supplied by the MP is sufficiently compelling to justify deferring removal the LEO will be informed by fax by OSCU.

In all cases where MPs' representations are received and RDs are in place for removal within the next 5 days all correspondence **must** be relayed through OSCU. The LEO should not liaise directly with the Minister's Private Office. If the Minister's Private Office contacts the LEO they should be informed that they must first notify OSCU and OSCU will then notify the LEO. When RDs are in place it is very important that all information is channelled through one office i.e. OSCU. If OSCU are not informed of any barriers, decisions or undertakings the potential to miss an important piece of information is increased as are the chances of an illegal removal.

*It is the responsibility of the individual LEO to ensure they have a system in place whereby their fax machines are checked at shift start and end times and if appropriate, during out of office hours for any such correspondence.

59.2. MP's representations when there are no RDs in place

Written representations from MPs' are received by the BIA either directly or via the core Home Office. They are scanned onto the correspondence tracking system and allocated to the appropriate unit dealing with the case to reply.

MPs are instructed to phone the MPs' hotline Monday to Friday 0900hrs to 1800hrs and OSCU between 1800hrs and 2100hrs on weekdays and on the weekends and public holidays. A new out of hours service provided by the command and control unit in Manchester will deal with representation at other times.

Late representations are normally sent by Private Office directly to OSCU or the MPs' hotline to allocate.

59.3. MP`s representations received during week-ends, public holidays and out of hours

OSCU is open 365 days a year and its hours of operation are 0700hrs to 2100hrs on weekdays and 0700hrs to 1900hrs on weekends and public holidays. If an MP contacts an LEO by phone outside these hours about a case where removal is imminent they can be referred to the Command and Control Unit which is open 24 hours a day.

If written representations are received by an LEO outside these hours and the removal is due to take place before OSCU reopens, the RDs should normally be deferred.

59.4. Time Limits and Detention

If RDs are set and MPs` representations are received OSCU should advise the MPs Constituency Office immediately if it is considered appropriate to defer the removal. The LEO must also be informed if they were not the unit who received the representations.

There are no specific timescales set for the deferral period as the nature of the representations and the individual circumstances of the case will dictate how long this should be. In practice, this will mean exchanges by fax between the LEO, OSCU and the MPs Constituency Office to enable the representations to be considered quickly.

When the representations have been answered the MPs Constituency Office should also be advised if and when removal action will commence again. In cases where the representations do not necessitate the deferral of the removal the MPs Constituency Office should be advised immediately.

59.5. Cases where there has been an in country right of appeal

This would normally cover cases where there have been unsuccessful asylum applications or human rights allegations. In such cases the individual and/or their representatives will have had the opportunity to raise any compassionate or mitigating circumstances at any stage throughout the respective process. In such cases RDs will only be deferred when there is new and compelling information that has not been previously considered.

59.6. Cases where there has been no in country right of appeal

This would normally cover cases of illegal entry and administrative removal. In such cases the individual may not have had the opportunity to raise any compassionate or mitigating circumstances or any human rights allegations. In instances such as these removal directions may have to be deferred for consideration of the facts. However, each case will need to be considered on its individual circumstances.

59.7. MP`s request for deferral of removal in Deportation Cases

Once a DO has been signed, requests by an MP for deferral of removal will only be granted exceptionally and if there is new and compelling information which was not available at the time the order was signed. The circumstances of the case must be referred to CCD for consideration.