

# ‘Constantly on edge’: The expansion of GPS tagging and the rollout of non-fitted devices

Annual review of GPS tagging in the immigration system, 2023

Dr Jo Hynes & Mia Leslie  
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# Executive summary

This report provides an annual review of the use of GPS electronic monitoring (more colloquially referred to as ‘GPS tagging’) as a condition of immigration bail. It offers an update to our 2022 report, *‘Every Move You Make: The Human Cost of GPS Tagging in the Immigration System’*.<sup>1</sup>

Whereas our 2022 report focused on the use of fitted GPS ankle tags, this report focuses on their new, non-fitted counterpart – GPS enabled fingerprint scanners. These non-fitted devices were described by interviewees as making them ‘constantly on edge’ and creating ‘torture in the habits’ – they are less physically invasive than fitted devices but nevertheless prevent people from carrying out their everyday activities and create a pervasive sense of constant alertness which can be detrimental to mental wellbeing. They subtly dictate habits and are a constant physical and mental presence in people’s lives. Where fitted devices are physically heavy, non-fitted devices represent a heavy mental burden by requiring people to be constantly alert to the notifications requesting fingerprint scans. This report does not suggest that non-fitted devices are better or worse than fitted devices, but rather that they represent a continuation of many of the issues that fitted devices present, as well as generating some new issues specific to non-fitted devices.

## Key findings

- In 2023, there has been an expansion in the number of people GPS tagged as a condition of immigration bail. At the end of September 2023, 4,136 people were subject to electronic monitoring under the ‘immigration order type’ which relates to immigration bail cases, representing a 56% increase from 2022.<sup>2</sup>
- There has been a simultaneous expansion in the types of tags used as a result of the rollout of non-fitted devices since November 2022.<sup>3</sup> These devices request periodic biometric verification from the user and, so far, have been in the form of a fingerprint scanner. These are GPS enabled and collect the person’s location

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1 Schulkind, R., Brade, W., Hynes, J. & Allinson, K. (October 2022) *Every Move You Make: The Human Cost of GPS Tagging in the Immigration System*. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)

2 Ministry of Justice (October 2023) *Electronic Monitoring Statistics Publication, England and Wales: September 2023, Table 1\_4*. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023>

3 Ministry of Justice (October 2023) *Electronic Monitoring Statistics Publication, England and Wales: September 2023*. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023/electronic-monitoring-statistics-publication-england-and-wales-september-2023>



data at all times.

- Reviews of decisions to impose a GPS tag are a key safeguard but are not being conducted in sufficient volumes. As of July 2023, 622 quarterly reviews were overdue.
- Non-fitted devices affect the everyday experiences of those subjected to them. As with fitted devices, they impact people's ability to carry out everyday activities, generate perceived and actual social stigma, have a negative impact on mental wellbeing and can be faulty. In addition, the nature of non-fitted devices mean that people are in a constant state of alertness and in a heightened sense of being under constant surveillance.

## Recommendations

The Home Office justifies the use of electronic monitoring on the grounds that it 'encourages compliance with immigration rules and protects the public'.<sup>4</sup> However, the rate of absconding is exceptionally low; BID received data from a Freedom of Information Act request which showed consistently low rates of people released from detention absconding.<sup>5</sup> In this context, we maintain that GPS tagging is an inhumane and disproportionately invasive bail condition and call for the end of its use as a condition of immigration bail.

In the interim, we recommend some essential safeguards. Alongside the recommendations made in our 2022 report on the use of fitted devices and GPS tagging more broadly,<sup>6</sup> we suggest some additional recommendations based on the findings of this 2023 report.

1. **A full evaluation of the Home Office's electronic monitoring expansion pilot should be conducted promptly after the end of the pilot in December 2023 and made publicly available.** The evaluation should include the experiences of a representative sample of people who were part of the pilot scheme.

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4 Tom Pursglove MP, Nationality and Borders Bill Committee debate on 4th November 2021, discussion of New Clause 53 – Electronic monitoring: conditions and use of data. [https://www.theyworkforyou.com/psc/2021-22/Nationality\\_and\\_Borders\\_Bill/16-0\\_2021-11-04a.704.2](https://www.theyworkforyou.com/psc/2021-22/Nationality_and_Borders_Bill/16-0_2021-11-04a.704.2)

5 The rate of absconding for people released from immigration detention was 2.7% in 2021 and 1.3% in the first six months of 2022. Schulkind, Brade, Hynes & Allinson (October 2022) Every Move You Make: The Human Cost of GPS Tagging in the Immigration System. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)

6 Schulkind, Brade, Hynes & Allinson (October 2022) Every Move You Make: The Human Cost of GPS Tagging in the Immigration System. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)





2. **Reviews of electronic monitoring conditions should be conducted at the frequency required by Immigration Bail guidance and include meaningful involvement of a human decision-maker.** Home Office bail guidance states that the use of electronic monitoring must be reviewed on a quarterly basis, in addition to whenever a decision-maker in the Electronic Monitoring Hub receives any representations on the matter or is considering the response to immigration bail conditions being breached, and whenever another decision-maker makes a request for a review.<sup>7</sup> We are concerned that this important safeguard is currently not being implemented sufficiently.
3. **Non-fitted devices are a relatively untested technology and their use in the immigration context should be evaluated before any further contracts are awarded.** There remains an untested assumption in Home Office practice that non-fitted devices are significantly less intrusive than fitted devices. This may be true in some cases, but as evidenced here non-fitted devices represent a continuation of many of the issues that fitted devices present, as well as generating some new issues specific to non-fitted devices. The contract with Buddi Limited to supply non-fitted devices ends in December 2023.<sup>8</sup> This should provide a point of reflection on their use so far, taking into account in particular the experiences of people on non-fitted devices and the cost of the scheme's operation.

## Methodology

This report draws on data gathered from interviews and requests made under the Freedom of Information Act. We interviewed two people who had experience of being on both fitted and non-fitted devices. One person no longer had an electronic monitoring condition imposed as part of their grant of bail, and the other was still on a non-fitted device at the time of interview. We also interviewed two legal representatives with experience of representing clients on GPS tags. Interviews took place in October and November 2023.

In addition, we submitted several Freedom of Information Act requests across 2023. Seven of these were successful and yielded information relevant to this report. These

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<sup>7</sup> Home Office (November 2023) Immigration Bail Version 18.0. Available at: <https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf>

<sup>8</sup> Crown Commercial Service (May 2022) G-Cloud 12 Call-Off Contract. Available at: <https://www.contractsfinder.service.gov.uk/notice/60bb8854-257a-4c11-b3e0-efc733a87512>



Freedom of Information Act requests and their responses can be read in full via the cited 'What Do They Know' hyperlinks in the report. Two additional requests are awaiting a response and are cited here to allow future tracking of their responses.



## Acknowledgements

We would like to thank our interviewees for sharing their experiences and expertise, particularly those who shared difficult stories of life with a GPS tag. We are grateful to the funders of Public Law Project, Bail for Immigration Detainees and Medical Justice without whom this work would not be possible. This report was written by Dr Jo Hynes and Mia Leslie. The cover illustration was drawn by Daniel Rourke who retains copyright of the illustration and is contactable at [danielrourke.art](https://danielrourke.art).



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# Policy developments

## GPS tagging expansion

### Introduction

Electronic monitoring ('tagging') is used in the immigration system as a condition for granting immigration bail.<sup>9</sup> Anyone living in the UK and who is subject to either deportation proceedings or a Deportation Order may be electronically monitored as part of their immigration bail conditions. In the vast majority of cases this is a GPS tag which collects the wearer's location data ('trail data') at all times,<sup>10</sup> although '[i]n very limited cases' the Home Office may decide to use a Radio Frequency (RF) device.<sup>11</sup>

Since our 2022 report this use of GPS tagging has expanded.

- Firstly, more people are now subject to electronic monitoring as a condition of immigration bail, which can be granted by either the Home Office or a First-tier Tribunal (Immigration and Asylum Chamber) judge.
- Secondly, more types of GPS tag are now in use as a result of the rollout of non-fitted devices, currently in the form of fingerprint scanners. This is in addition to the pre-existing fitted devices, which are in the form of ankle tags.
- Thirdly, the Home Office has expanded its ongoing pilot scheme which involves some asylum claimants arriving in the UK through 'irregular' routes being considered for electronic monitoring.<sup>12</sup>

This report will focus on the first two areas of expansion. For the third area, we are waiting for the Home Office to publish an evaluation of the pilot upon its conclusion on 15 December 2023.

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<sup>9</sup> For details on the operation of electronic monitoring across all areas of government and some of the challenges it has faced, see a recent Public Accounts Committee report: House of Commons Committee of Public Accounts (October 2022) Transforming electronic monitoring services, Twenty-First Report of Session 2022–23. Available at: <https://committees.parliament.uk/publications/30446/documents/175605/default/>

<sup>10</sup> This report does not explore in detail the privacy concerns with the collection of this data, but for further detail on these concerns, see in particular Privacy International's test of two fitted devices: Privacy International (May 2023) Life under 24/7 GPS surveillance - A GPS ankle tag experiment. Available at: <https://privacyinternational.org/long-read/5064/life-under-247-gps-surveillance-gps-ankle-tag-experiment>

<sup>11</sup> Home Office (November 2023) Immigration Bail Version 18.0, p. 27. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee693000d60cb75/Immigration+bail.pdf>

<sup>12</sup> Home Office (June 2023) Immigration bail conditions: Electronic monitoring (EM) expansion pilot Version 2.0. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1165035/Immigration\\_bail\\_conditions\\_-\\_Electronic\\_Monitoring\\_EM\\_Expansion\\_pilot.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1165035/Immigration_bail_conditions_-_Electronic_Monitoring_EM_Expansion_pilot.pdf)





## Expansion in the number of people tagged

Since September 2021, government statistics have evidenced a sharp and steady increase in the use of electronic monitoring for immigration purposes and 2023 has continued this trend.<sup>13</sup> The most recently published statistics from the end of September 2023 note that 4,136 people were subject to electronic monitoring under the ‘immigration order type’ which relates to immigration bail cases.<sup>14</sup> At the end of September 2022, this figure was 2,652 people, representing a 56% increase in 2023.<sup>15</sup>

GPS tagging for the purposes of electronically monitoring people on immigration bail is a large and expanding cohort within the wider population of people subject to electronic monitoring. Since 31 August 2021 the Home Secretary has had a duty to electronically monitor people on immigration bail who live in England and Wales and who could be detained because they are subject to deportation proceedings or a Deportation Order (‘the duty’). From 31 August 2022 this duty was extended to Scotland and Northern Ireland.<sup>16</sup> There was a delay in implementing it in practice in Northern Ireland where it has only been in operation since December 2022.<sup>17</sup> As of 30 September 2023, 48% of all the people who were tagged with a GPS device were on immigration bail.<sup>18</sup>

## Expansion in the forms of GPS tagging device: the introduction of Non-Fitted Devices

The Home Office stated in a February 2023 Equality Impact Assessment that ankle tags are ‘not suitable for all of those the Home Office wish to monitor’, citing their impact on

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13 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023/electronic-monitoring-statistics-publication-england-and-wales-september-2023>

14 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023, Table 1\_4. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023>

15 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023, Table 1\_4. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023>

16 Home Office (November 2023) Immigration Bail Version 18.0. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

17 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023/electronic-monitoring-statistics-publication-england-and-wales-september-2023>

18 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023. Available at: <https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023/electronic-monitoring-statistics-publication-england-and-wales-september-2023>



certain medical conditions and the stigma surrounding ankle tags.<sup>19</sup> These were both issues raised by the people subjected to ankle tags that we spoke to as part of our 2022 report. The Equality Impact Assessment of non-fitted devices goes on to suggest that ankle tags ‘may not be appropriate for those individuals who do not pose significant risk of harm and who have been compliant with their immigration bail conditions’ and that biometric devices may be ‘more cost effective’.<sup>20</sup>

It is in this context that non-fitted devices have been rolled out since November 2022.<sup>21</sup> These devices request periodic biometric verification from the user, which so far has been in the form of a fingerprint scanner. Like the fitted devices, these non-fitted devices record trail data.<sup>22</sup> However, unlike the fitted devices, they fit in the palm of the hand and will make a sound and vibrate ‘on a random basis several times throughout the day’ to alert the person that they must scan their fingerprint on the device.<sup>23</sup> The device will then compare this fingerprint to the one submitted when the device was issued and verify that the GPS tracking device is being carried as required by the electronic monitoring condition.<sup>24</sup> A non-fitted GPS device stores ‘a representation of the biometric information within the memory of its fingerprint module’ and does not store an image of the fingerprint.<sup>25</sup>

Between 1 January 2023 to 2 November 2023, 3,335 people have been subjected to fitted devices and 543 people have been subjected to non-fitted devices as a part of an electronic monitoring condition.<sup>26</sup> The use of non-fitted devices in this context has been described by the Independent Chief Inspector of Borders and Immigration as ‘a new

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19 Home Office (February 2023) Equality Impact Assessment: GPS non-fitted devices, p.1. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1139360/Equality\\_impact\\_assessment-\\_GPS\\_non-fitted\\_devices.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139360/Equality_impact_assessment-_GPS_non-fitted_devices.pdf)

20 Home Office (February 2023) Equality Impact Assessment: GPS non-fitted devices, p.2. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1139360/Equality\\_impact\\_assessment-\\_GPS\\_non-fitted\\_devices.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139360/Equality_impact_assessment-_GPS_non-fitted_devices.pdf)

21 Ministry of Justice (October 2023) Electronic Monitoring Statistics Publication, England and Wales: September 2023. Available at:

<https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-september-2023/electronic-monitoring-statistics-publication-england-and-wales-september-2023>

22 Home Office (November 2023) Immigration Bail Version 18.0. Available at:

<https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

23 Home Office (November 2023) Immigration Bail Version 18.0, p. 26. Available at:

<https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

24 Home Office (November 2023) Immigration Bail Version 18.0. Available at:

<https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

25 Freedom of Information Act Request 77436.

26 Freedom of Information Act request 04964, Number of people on GPS FDs and NFDs under immigration bail. Available at:

[https://www.whatdotheyknow.com/request/1042782/response/2479382/attach/3/4964%20Hynes.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/1042782/response/2479382/attach/3/4964%20Hynes.pdf?cookie_passthrough=1)



technology that the Home Office has not used previously in the manner proposed'.<sup>27</sup>

A private company called Buddi Limited supply the non-fitted devices under a major contract worth £6 million<sup>28</sup> which commenced on 2 May 2022 and is due to end on 30 December 2023.<sup>29</sup> Buddi Limited has not previously manufactured fingerprint scanning devices.<sup>30</sup> This contract suggests that non-fitted devices may be preferable as they 'will provide a more proportionate way of monitoring specific cohorts over extended periods of time than fitted tags'.<sup>31</sup>

### Moving between device types

A person may be moved between device types when subject to an electronic monitoring condition and is expected to 'spend a minimum period on both a fitted and non-fitted device'.<sup>32</sup> The minimum period is determined by the 'tier' the person falls into. There are five tiers set out in the Immigration Bail guidance, corresponding to the person's offending history, with the threshold for each tier set specifically by the person's sentence length and 'harm score'. The harm score is said to relate to the offence committed, which the Home Office states is necessary as the risk of harm 'may not automatically be reflected by the sentence imposed'. It is not clear from the guidance exactly what factors contribute to the harm score, however there are a few indications of what might be considered and how it is determined.

First, decision makers within the Electronic Monitoring Hub 'may have access to a decision support tool which utilises automated business rules to provide decision recommendations' in areas such as 'whether it is appropriate to consider moving an electronically monitored person between a fitted device, a non-fitted device and no

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27 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders, p.23. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March__April_2022.pdf)

28 The cost of fitted and non-fitted devices, as well as the cost of installing and maintaining them, is the subject of a recently submitted Freedom of Information Act request, which the Ministry of Justice is due to respond to by 13 December. See: Freedom of Information Act request, Cost of GPS Electronic Monitoring under immigration bail. Available at: [https://www.whatdotheyknow.com/request/cost\\_of\\_gps\\_electronic\\_monitorin\\_2](https://www.whatdotheyknow.com/request/cost_of_gps_electronic_monitorin_2)

29 Crown Commercial Service (May 2022) G-Cloud 12 Call-Off Contract. Available at: <https://www.contractsfinder.service.gov.uk/notice/60bb8854-257a-4c11-b3e0-efc733a87512>

30 For a detailed review of Buddi Limited's engagement with electronic monitoring, see Privacy International (November 2022) Buddi Limited - Immigration Enforcement's favourite tracking buddy. Available at: <https://privacyinternational.org/long-read/4991/buddi-limited-immigration-enforcements-favourite-tracking-buddy>

31 Crown Commercial Service (May 2022) G-Cloud 12 Call-Off Contract. Available at: <https://www.contractsfinder.service.gov.uk/notice/60bb8854-257a-4c11-b3e0-efc733a87512>

32 Home Office (November 2023) Immigration Bail Version 18.0, p. 52. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/immigration+bail.pdf>



device’.<sup>33</sup> This decision support tool is called the Electronic Monitoring Review Tool (EMRT) and was first used to provide decision recommendations from the week commencing 7 November 2022.<sup>34</sup> The EMRT is used to assist all reviews for individuals with an Electronic Monitoring condition,<sup>35</sup> and uses information held by the Home Office relating to an individual’s particular circumstances to make a recommendation on the suitability of continued monitoring. The data fed into the EMRT includes but is not limited to:

- ‘a person’s age – are they 18 or over
- are they identified as a mentally disordered offender as defined in Immigration bail conditions: electronic monitoring (EM) duty
- the overall time spent on EM (where that EM was imposed by the Home Office)
- compliance with immigration bail
- the risk of harm posed to the public’.<sup>36</sup>

In providing a decision recommendation the EMRT produces a score, which relates to the harm score.<sup>37</sup> A combination of the harm score taken alongside the sentence length indicates the tier the person should be placed in and therefore how long in months they should be on the devices. The spectrum of advised time on devices is vast, with those in tier one expected to spend 24 months on a fitted device and indefinitely on a non-fitted device and those in tier five expected to spend three months on a fitted device and 18 months on a non-fitted device.<sup>38</sup>

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33 Home Office (November 2023) Immigration Bail Version 18.0, p. 48. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

34 Freedom of Information Act request 72858, Immigration bail - electronic monitoring decision support tool. Available at: [https://www.whatdotheyknow.com/request/immigration\\_bail\\_electronic\\_moni#incoming-2246678](https://www.whatdotheyknow.com/request/immigration_bail_electronic_moni#incoming-2246678) and Freedom of Information Act request 75193, Electronic Monitoring Review Tool (EMRT). Available at [https://www.whatdotheyknow.com/request/electronic\\_monitoring\\_review\\_tool#incoming-2383681](https://www.whatdotheyknow.com/request/electronic_monitoring_review_tool#incoming-2383681).

35 Freedom of Information Act request 72858, Immigration bail - electronic monitoring decision support tool. Available at: [https://www.whatdotheyknow.com/request/immigration\\_bail\\_electronic\\_moni#incoming-2246678](https://www.whatdotheyknow.com/request/immigration_bail_electronic_moni#incoming-2246678) and Freedom of Information Act request 75193, Electronic Monitoring Review Tool (EMRT). Available at [https://www.whatdotheyknow.com/request/electronic\\_monitoring\\_review\\_tool#incoming-2383681](https://www.whatdotheyknow.com/request/electronic_monitoring_review_tool#incoming-2383681).

36 Home Office (November 2023) Immigration Bail Version 18.0, p. 48. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

37 Home Office (November 2023) Immigration Bail Version 18.0, p. 52. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

38 Home Office (November 2023) Immigration Bail Version 18.0, p. 52 - 53. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>



Second, when considering risk of harm the EMRT also uses data on the criminal offence the person committed, which the Immigration Bail guidance set out under four categories of harm: low harm types, medium harm types, high harm types, and very high harm types.<sup>39</sup> The crimes listed under the four categories are broad: very high harm types can include everything from possession of an offensive weapon to genocide/war crimes, whilst low harm types include motoring offences. Where the person has no criminal convictions, the decision is said to be based on the 'remaining factors' and will be considered to fall into tier five.

However, the tiers are viewed as 'purely indicative thresholds' with the time spent on either open to variation from that indicated in tiers. The time spent on each device, and ability to move between them will be based on circumstances, including compliance with bail conditions, as well as the availability of devices.

## Electronic monitoring review process

Quarterly<sup>40</sup> reviews of electronic monitoring conditions have been required as part of Immigration Bail guidance on immigration bail since the use of GPS tags was introduced in November 2020.<sup>41</sup> However, in the context of the trends of increasing numbers of people tagged and types of tags used, the review process requires greater scrutiny.

- Firstly, with the expansion of the number of people being GPS tagged, concerns have been raised about the ability of the Home Office's Electronic Monitoring Hub<sup>42</sup> to conduct reviews as frequently as the guidance requires.
- Secondly, with the introduction of non-fitted devices, these reviews are also one of the main mechanisms by which people are moved onto a non-fitted device after a period on a fitted device.

Consequently, understanding how reviews are conducted is vital to better

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<sup>39</sup> See the table of 'Risk of Harm Types – Offences' in Home Office (November 2023) Immigration Bail Version 18.0, p. 48 - 50. Available at: <https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/immigration+bail.pdf>

<sup>40</sup> In the bail guidance these reviews are described interchangeably as on a 'quarterly' and '3 month' basis, which we infer as meaning they take place every three months from the start of a GPS tagging condition being imposed, rather than every quarter of the financial year.

<sup>41</sup> Home Office (November 2020) Immigration Bail Version 6.0. Available at: <https://webarchive.nationalarchives.gov.uk/ukgwa/20201125000635/https://www.gov.uk/government/publications/offender-management>

<sup>42</sup> The Electronic Monitoring Hub sits within the Home Office and is part of the Foreign National Offender Returns Command, Borders and Enforcement. See: Home Office (January 2023) Electronic Monitoring Devices: Installation & Removal. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1134419/DSO\\_05-2014\\_Removal\\_of\\_electronic\\_tags\\_.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1134419/DSO_05-2014_Removal_of_electronic_tags_.pdf)





understanding the policy of greater use of non-fitted devices.

The Home Office bail guidance states that the use of electronic monitoring must be reviewed on a quarterly basis, in addition to whenever a decision-maker in the Electronic Monitoring Hub receives any representations on the matter or is considering the response to immigration bail conditions being breached, and whenever another decision-maker makes a request for a review.<sup>43</sup> From information obtained under the Freedom of Information Act, we know that there are three possible outcomes to a review of electronic monitoring conditions: electronic monitoring being ceased, maintained or varied from a fitted device to a non-fitted device.<sup>44</sup> Standard reviews are signed off by a Higher Executive Officer in the Electronic Monitoring Hub in the Home Office and any proposal to cease tagging is signed off or escalated by a Senior Executive Officer.<sup>45</sup> As an indication of the relative frequency of these outcomes, in the 12 weeks between 22 May 2023 and 14 August 2023, 1,768 reviews were conducted and 87% resulted in electronic monitoring being maintained.<sup>46</sup>

#### Review outcomes (22 May 2023 – 14 August 2023)

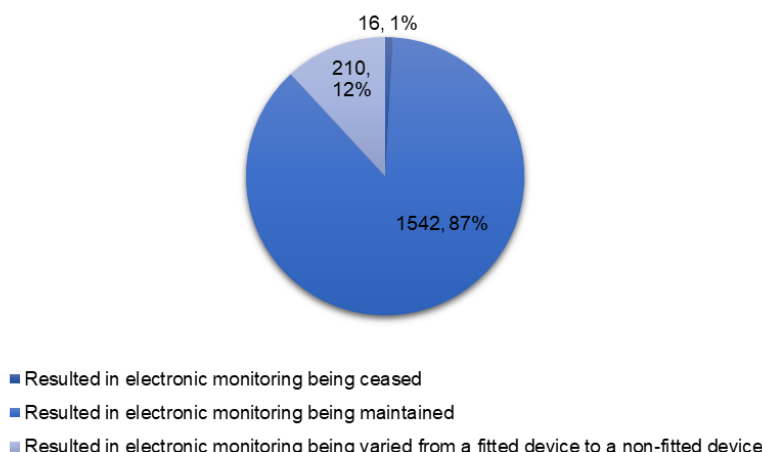


Figure 1: Review outcomes (22 May 2023 - 14 August 2023)

43 Home Office (November 2023) Immigration Bail Version 18.0. Available at:

<https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/Immigration+bail.pdf>

44 Freedom of Information Request 78221, Reviews of decisions to impose GPS Electronic

Monitoring immigration bail conditions. Available at:

<https://www.whatdotheyknow.com/request/1017094/response/2422269/attach/html/3/78221%20Hynes.pdf.html>

45 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March__April_2022.pdf)

46 Freedom of Information Request 78221, Reviews of decisions to impose GPS Electronic

Monitoring immigration bail conditions. Available at:

<https://www.whatdotheyknow.com/request/1017094/response/2422269/attach/html/3/78221%20Hynes.pdf.html>



## Review shortfall

The Independent Chief Inspector of Borders and Immigration expressed concerns about the review process in a 2022 report. They highlighted a ‘significant backlog of EM [Electronic Monitoring] reviews of those subject to the tagging requirement, with these only being conducted in response to legal representations’, which suggests that the requirement for routine quarterly reviews was not being met at that time.<sup>47</sup>

More recent information obtained under the Freedom of Information Act supports this concern about a review backlog. From January 2023 to 24 July 2023, 3,657 Electronic Monitoring reviews were conducted.<sup>48</sup> Yet Ministry of Justice statistics published in June 2023 indicate that at any one time between January and July 2023, between 3,133 and 3,893 people (an average of 3,547 people across the period) were tagged as part of an immigration bail condition.<sup>49</sup> This is an average of 1.03 reviews in the period per person tagged, yet within this seven month period the entire population of people on GPS tags as part of a condition of bail should have had at least two automatic reviews conducted, totalling 7,094 reviews. This is in addition to the reviews that are triggered by any other circumstances outlined by the guidance, including when an individual or their legal representative makes representations to cease or vary the condition. This strongly suggests that reviews are not occurring at the regularity required by the Immigration Bail guidance, generating a significant shortfall of reviews. According to information obtained under the Freedom of Information Act, as of 18 July 2023 there were 622 quarterly reviews overdue.<sup>50</sup> We consider that even this may be an underestimate of the total shortfall of reviews as it only reflects reviews triggered by the quarterly review route and does not account for reviews triggered by other routes, including an individual making representations.

Resourcing of the Home Office Electronic Monitoring Hub potentially contributes to this shortfall. The Independent Chief Inspector of Borders and Immigration suggested that inadequate staffing levels in the Hub have meant that certain tasks, including

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47 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders, p.11. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March__April_2022.pdf)

48 Freedom of Information Request 77274, Electronic Monitoring Review Process. Available at:

[https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie_passthrough=1)

49 Ministry of Justice (July 2023) Electronic Monitoring Statistics Publication, June 2023. Available at:

<https://www.gov.uk/government/statistics/electronic-monitoring-statistics-publication-june-2023>

50 Freedom of Information Act Request 77436.



conducting reviews, have been de-prioritised.<sup>51</sup> Information obtained under the Freedom of Information Act shows that a ‘bespoke team of 7.57 FTE [Full Time Equivalent] conduct EM Reviews as their sole task, while other members of the EM Hub are trained in conducting reviews and can be brought in to assist where demand requires it’.<sup>52</sup> It specifies that all electronic monitoring reviews are conducted by people at the Executive Officer grade.

From a Freedom of Information Act request we know that the current number of Executive Officers in the Electronic Monitoring Hub stood at 29.68 FTE on 13 November 2023.<sup>53</sup> The Independent Chief Inspector of Borders and Immigration report notes that as of November 2021 there was a projected staff requirement of 17.2 FTE Executive Officers.<sup>54</sup> This staff requirement is likely to be higher in 2023 due to the increased numbers of people on GPS tags, but a Freedom of Information Act request only yielded that as of 13 November 2023 the ‘Home Office is currently reviewing the staffing requirement levels for the EM Hub’.<sup>55</sup> It is therefore unclear whether this increase in Executive Officer staffing levels has been sufficient. However, the shortfall in the number of reviews being conducted indicates that it is likely that the staffing shortages identified in 2022 by the Independent Chief Inspector of Borders and Immigration persist into 2023.

The review process is an important safeguard because it offers a crucial point of oversight to a decision to impose an electronic monitoring condition. As the Independent Chief Inspector of Borders and Immigration highlights, if reviews are not occurring at the frequency demanded by Immigration Bail guidance, there is ‘a risk that a person may remain on a tag even though there may be evidence to suggest that this is

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51 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March___April_2022.pdf)

52 Freedom of Information Act request 78765, Electronic Monitoring Hub, FNO RC unit. Available at:

[https://www.whatdotheyknow.com/request/1028765/response/2446415/attach/3/78765%20Hynes.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/1028765/response/2446415/attach/3/78765%20Hynes.pdf?cookie_passthrough=1)

53 Freedom of Information Act request 04556, Cost of GPS Electronic Monitoring under immigration bail. Available at:

[https://www.whatdotheyknow.com/request/cost\\_of\\_gps\\_electronic\\_monitorin#incoming-2468157](https://www.whatdotheyknow.com/request/cost_of_gps_electronic_monitorin#incoming-2468157)

54 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders, p.22. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March___April_2022.pdf)

55 Freedom of Information Act request 04556, Cost of GPS Electronic Monitoring under immigration bail. Available at:

[https://www.whatdotheyknow.com/request/cost\\_of\\_gps\\_electronic\\_monitorin#incoming-2468157](https://www.whatdotheyknow.com/request/cost_of_gps_electronic_monitorin#incoming-2468157)



no longer appropriate, for example due to a vulnerability or medical condition.’<sup>56</sup>

In carrying out reviews, ‘[d]ecision makers must consider:’<sup>57</sup>

- the need for continued monitoring
- whether the device type continues to be appropriate
- the continued necessity of the supplementary condition or conditions [...]
- the proportionality of the supplementary condition – whether the current restrictions imposed by that condition are still appropriate [...]
- any challenge to the supplementary conditions or conditions – whether there has been a challenge to the supplementary condition or conditions from the individual or legal representatives, whether an argument has been made and how strong this is.’<sup>58</sup>

### Automated decision support tool in the review process

The EMRT (see page 11 for further detail) is used to assist all reviews for individuals with an electronic monitoring condition and makes a recommendation on the suitability of continued monitoring, based on a number of factors set out in the Immigration Bail guidance.<sup>59</sup> The EMRT also auto-populates the information in the ‘review outcome form’.<sup>60</sup>

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56 Independent Chief Inspector of Borders and Immigration (July 2022) An inspection of the global positioning system (GPS) electronic monitoring of foreign national offenders, p.22. Available at:

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1088880/An\\_inspection\\_of\\_the\\_global\\_positioning\\_system\\_\\_GPS\\_\\_electronic\\_monitoring\\_of\\_foreign\\_national\\_offenders\\_March\\_\\_\\_April\\_2022.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1088880/An_inspection_of_the_global_positioning_system__GPS__electronic_monitoring_of_foreign_national_offenders_March___April_2022.pdf)

57 Home Office (November 2023) Immigration Bail Version 18.0, p.47. Available at:

<https://assets.publishing.service.gov.uk/media/6568977d2ee69300d60cb75/immigration+bail.pdf>

58 Until the most recent version of the Immigration Bail guidance (version 18, published on 30 November 2023), previous versions, including version 17 published on 20 November 2023, have made reference to a ‘3 month EM Review pro-forma’. See the EM Review pro forma at Annex B of Freedom of Information Act request 77274, Electronic Monitoring Review Process. Available at:

[https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie_passthrough=1)

59 See response to Qs 5 and 6 of Freedom of Information Act request 75193, Electronic Monitoring Review Tool (EMRT). Available at:

[https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie_passthrough=1).

60 See response to Q1 of Freedom of Information Act request 75193, Electronic Monitoring Review Tool (EMRT). Available at:

[https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie_passthrough=1). It is not clear whether the ‘review outcome form’ is the same as the ‘3 month EM Review pro-forma’ as disclosed in Annex B of Freedom of Information Act request 77274, Electronic Monitoring Review Process. Available at: [https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/992257/response/2372925/attach/3/77274%20Hynes.pdf?cookie_passthrough=1). PLP has submitted a



Despite the involvement of the automated EMRT in all reviews of electronic monitoring conditions, immigration and data protection legislation requires that decisions be made by a person when it has a legal or similarly significant effect on the individual.<sup>61</sup> Therefore, the decision recommendations made by the EMRT regarding the suitability of continued monitoring are to be used by the decision maker as a ‘starting point’ and the decision maker must make a final recommendation for approval.<sup>62</sup>

Meaningful human involvement in the review process is important to the fairness and appropriateness of electronic monitoring conditions. Although the EMRT is intended to provide only decision recommendations, without increased transparency around the operation of the tool or how decision-makers in the Electronic Monitoring Hub are trained to use it, or consider the decision recommendations it provides,<sup>63</sup> it is difficult to determine the extent of the EMRT’s role in the review process. The distinction between decision-support tools that assist human decision-making processes and fully autonomous decision-making systems that trigger outcomes without human intervention cannot be settled entirely at design stage. The reality of the decision support tool’s role emerges ‘as a result of how a system gets interpreted, embedded and shaped by the people who use it over time’.<sup>64</sup>

Automation bias describes the phenomenon where human decision-makers defer to, or rely on, the outputs of decision-support tools beyond what is intended. The decision maker might be merely rubber-stamping a score, rating, categorisation, or decision determined by an automated system.<sup>65</sup> Human involvement in decision-making processes is necessary, as automated decision-support tools are not infallible and may produce decision recommendations that contain error or bias. It is therefore not only important to ensure that the decision-making within the review process for electronic

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further Freedom of Information request seeking clarification, see Freedom of Information request (05851), available at: [https://www.whatdotheyknow.com/request/electronic\\_monitoring\\_review\\_out?nocache=incoming-2476780#incoming-2476780](https://www.whatdotheyknow.com/request/electronic_monitoring_review_out?nocache=incoming-2476780#incoming-2476780).

61 Home Office (November 2023) Immigration Bail Version 18.0, p. 48. Available at: <https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf> and Article 22(1) UK GDPR.

62 Home Office (November 2023) Immigration Bail Version 18.0, p. 48. Available at: <https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf>

63 See Q3 of Freedom of Information Act request 75193, Electronic Monitoring Review Tool (EMRT). Available at: [https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie\\_passthrough=1](https://www.whatdotheyknow.com/request/959230/response/2281853/attach/3/75193%20Leslie.pdf?cookie_passthrough=1).

64 Edwards, Williams & Binns (July 2021) Legal and regulatory frameworks governing the use of automated decision making and assisted decision making by public sector bodies. The Legal Education Foundation, p. 56. Available at: <https://research.thelegaleducationfoundation.org/wp-content/uploads/2021/07/FINAL-Legal-and-Regulatory-Frameworks-Governing-the-use-of-Automated-Decision-Making-and-Assisted-Decision-Making-by-Public-Sector-Bodies-1.pdf>.

65 See, for example, Skitka et al (1999) Does automation bias decision-making? *International Journal of Human-Computer Studies*. 51 (5), 991-1006; Kazim & Tomlinson (2023) Automation Bias and the Principles of Judicial Review. *Judicial Review*. Available at: <https://www.tandfonline.com/doi/epdf/10.1080/10854681.2023.2189405?needAccess=true&role=button>.





monitoring conditions includes human involvement to safeguard against unlawfulness,<sup>66</sup> but also to safeguard against incorrect decisions being made that risk a person having to remain on a tag even though there may be evidence to suggest that it is no longer appropriate.

However, meaningful human oversight is lacking within the whole electronic monitoring system. First, the Immigration Bail guidance states that ‘the First-tier Tribunal must impose an EM condition on a person subject to the duty unless the Secretary of State has stated that it should not be imposed’.<sup>67</sup> Judicial oversight is an important safeguard in the operation of immigration bail, but this duty limits judges’ discretion to ‘impose the minimum conditions needed’ based on their own assessment, as outlined in the Guidance on Immigration Bail for Judges of the First-tier Tribunal (Immigration and Asylum Chamber).<sup>68</sup> Second, as previously outlined, there are a significant number of overdue quarterly reviews, reducing the frequency at which there are opportunities for human oversight. Both of these factors exacerbate the risks associated with the presence of an automated decision-support tool in the review process, particularly the risk of automation bias, and emphasise the importance of meaningful human involvement in the review process.

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<sup>66</sup> Article 22 of the UK GDPR prohibits solely automated decision-making where the decision has legal or similarly significant effects.

<sup>67</sup> Home Office (November 2023) Immigration Bail Version 18.0, p. 34. Available at: <https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf>

<sup>68</sup> Plimmer (March 2023) Guidance on Immigration Bail for Judges of the First-tier Tribunal (Immigration and Asylum Chamber) (Presidential Guidance Note No 1 of 2023), p. 3. Available at: <https://www.judiciary.uk/wp-content/uploads/2023/06/Guidance-on-Immigration-Bail-for-Judges-of-the-First-tier-Tribunal-Immigration-and-Asylum-Chamber-Presidential.pdf>



# The everyday experience of non-fitted devices

The expansion of GPS tagging and the operation of the review process has had significant impacts on people with GPS tags. In particular, the rollout of non-fitted devices has affected the everyday experiences of those subjected to them. Non-fitted devices represent both a continuation of many of the issues identified with fitted devices, as well as several new issues specific to the nature of non-fitted devices.

## Continuation of existing issues

### Impact on carrying out everyday activities

The people we spoke to as part of this research told us that non-fitted devices were 'still highly intrusive'. They prevented people from carrying out their normal everyday activities because they knew they had to always be ready to scan their fingerprint. This meant playing sport, for example, was impossible.

'I couldn't do some things like before, you know, planning doing something. [...] If I go to play football, you can't play with this device on you. And then you can't focus on playing, you know, like with your team and enjoy the game.'

As with fitted devices,<sup>69</sup> non-fitted devices curtailed people's ability to carry out normal everyday activities. They remained a physical and mental presence in people's lives, disrupting the rhythm of their days and preventing them from doing activities they could reasonably expect to be able to do whilst on immigration bail.

### Social stigma

In the Equality Impact Assessment for non-fitted devices, the Home Office recognises that fitted devices 'can be covered by clothing [but] the wearer may be conscious that it is noticeable to others and concerned with how this may be perceived by members of the public.'<sup>70</sup> They suggest non-fitted devices may help address this stigmatisation.

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69 Schulkind, Brade, Hynes & Allinson (October 2022) Every Move You Make: The Human Cost of GPS Tagging in the Immigration System. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)

70 Home Office (February 2023) Equality Impact Assessment: GPS non-fitted devices, p.1. Available at: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/1139360/Equality\\_impact\\_assessment\\_-\\_GPS\\_non-fitted\\_devices.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1139360/Equality_impact_assessment_-_GPS_non-fitted_devices.pdf)



However, our findings suggest that non-fitted devices also create social stigma.

Non-fitted devices are generally less visible but often more audible than fitted devices. The people we interviewed told us that this generated both perceived and actual social stigma. If people were out in public with a non-fitted device, they felt extremely self-conscious and ashamed of the alerts from the device and their need to quickly scan their fingerprint wherever they were.

'Sometimes in the public place sometimes you're in the shop, or in the underground, you're in middle of doing shopping and those things... And you have to stop doing everything and put the finger you know. People are watching you, they don't know what's that, you know, I hope they don't know what it is. They think you're a criminal.'

One interviewee told us that sometimes members of the public would ask what the device was, which made them feel ashamed as they rushed to hide the device.

'It was also disturbing people around me as well, you know. So like when I'm on bus or somewhere, if someone see this, they will start to be like, 'Oh, what's going on with you? Now what's that vibrating on you?' [...] I had to hide it like before they see it, but they realised something strange is going on with me. So I was feeling like, I don't know, shamed. So I didn't want anyone to see this.'

As with fitted devices, non-fitted devices were hard for people to explain what they were, not least because of the associations that exist in the public mind between electronic monitoring and the criminal justice system.

'When someone asked me, I had to explain this to them. I told them, like my close friends, they knew it. And I told them like this is the second tag they put on me, so sorry for the disturbance. Friends will understand, but strangers, someone who would want to get close to you, if they realise it, they will definitely step away from me.'

For one interviewee, this social stigma was particularly severe and made them feel 'like a lower type of human because [of being] a foreign nationality.'



## Mental health and emotional wellbeing

Both fitted and non-fitted devices have a detrimental effect on people's mental health and emotional wellbeing.<sup>71</sup> One interviewee we spoke to told us that their client experienced significant deterioration in their mental health, exacerbating their long-standing anxiety and depression, causing them to become 'constantly on edge' and to have recurrent nightmares.

As a result of the need to be ready for the device's alerts, non-fitted device caused interviewees significant stress.

'It's the stressing, it's no good for anybody. You know, and maybe you're going to live shorter because of the stress.'

For this reason, another interviewee told us that being in prison was preferable to being on a non-fitted device because they felt like they had more freedom. When their tag was removed they reflected that:

'I'm really very grateful to [their legal representatives] for their support for the removal of this pain, I will not say device, the removal of pain.'

One interviewee had experience of being on both a fitted and subsequently a non-fitted device. The effect the tags had on their mental health and emotional wellbeing were severe, making them feel like a 'zombie' and driving them to the point of suicidal ideation. It was not until both tags were removed that their mental health improved to the point where they felt like themselves again.

'After they've taken [the tag] away, I start to feel that I am a human and I have a free mind. I start to realise that life is more beautiful. It is worth living. And yeah, I start to feel myself, like other people, and became like a real person was hiding inside me. So that real person came out after these tags were taken away.'

## Inadequate safeguards

Both of the legal representatives we interviewed raised concerns about the safeguards in place to ensure GPS tagging is only used where necessary. One said that they did not

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<sup>71</sup> For an insight into the lived experiences of those subject to fitted devices, see: Bhatia (2021). Racial surveillance and the mental health impacts of electronic monitoring on migrants. *Race & Class*, 62(3), 18–36. Available at: <https://doi.org/10.1177/0306396820963485>



think that the clients they had seen had quarterly reviews and where their clients had reviews prompted by them making representations, these representations were not always properly considered. Another said that, in their experience, when faced with possible litigation, reviews were being conducted fully and their representations taken into account, although there was a 'lack of proper individualised consideration in relation to the non-fitted tag'. These experiences echo the data gathered by Freedom of Information Act requests<sup>72</sup> showing that significant numbers of reviews are taking place, but there is a shortfall when compared to the number of reviews that should be being conducted.

### Technical issues

As with fitted devices, we received information to suggest that non-fitted devices also experienced technical issues which were not fixed promptly. One interviewee said that their non-fitted device was not working properly, but the electronic monitoring supplier was not responsive when they reported that it was faulty.

'You have to be very, very gentle with this tag, because you've got the screen up there, you know. But sometimes when you keep that in your pocket and you're doing something, it quickly gets damaged, you know, and then it's like now, it's beeping, it's doing the signal but I can't see nothing on the screen. So I've just put the finger but we don't know if it's working, [or] if it's not working. I call them to report the damage. They[re] saying that they come in 2-3 days and it's like over a month. You know, they don't know what's going on.'

## New issues specific to non-fitted devices

### Constant alertness

Pervading both interviews with people with experience of non-fitted devices were strong feelings of needing to be constantly alert to listen out for the non-fitted device requesting a fingerprint scan. This sustained watchfulness underpinned all the issues outlined already here and had a severe impact on people's everyday lives.

This alertness applies particularly to non-fitted devices because of the way they operate

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<sup>72</sup> Freedom of Information Request 78221, Reviews of decisions to impose GPS Electronic Monitoring immigration bail conditions. Available at: <https://www.whatdotheyknow.com/request/1017094/response/2422269/attach/html/3/78221%20Hynes.pdf.html>





– people with one must be able to scan their fingerprint everyday at any point within a twelve hour period and do this within a window of around one minute.<sup>73</sup> One interviewee told us that the tag requested scans up to 10 times a day, although it was a different frequency and at different times each day which meant they had to be constantly alert to the notifications.

'You got to be, like focused on this click and immediately it has to be like a part of you. It needs to be very close to you all the time. Even if you like, for example, go to shower. [...] It has still to be close to you. Because you don't know when it might come, there is no certain appointments for this. So you can't even have a chilled out, relaxed shower when you're wearing this. How could they think of doing this to people.'

Interviewees expressed similar concerns about how needing to be on constant alert affected their everyday life and prevented them from being able to enjoy normal activities.

'Sometimes when you go to sleep late because you're nervous, in the morning maybe you don't hear the tag or you don't put your finger then you worry about it you know. If you [...] sometimes, you know, you have to go to [the] bathroom or to use the toilet. You know, it's like you have to carry on, everywhere that thing's with you.'

'It would like prevent any activity from going ahead. Like you meet someone, you can't enjoy it. You play something, you can't enjoy.'

The intrusive nature of non-fitted devices led one interviewee to suggest that the devices amounted to 'not a severe extreme torture, but it's a type of torture'. They said that the non-fitted device created 'torture in the habits', because of the way that the non-fitted device notifications had such a strong hold over people's minds and how they conducted their lives.

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<sup>73</sup> These estimations come from the experiences of our interviewees. Immigration Bail guidance states that 'requests for fingerprints are made on a random basis several times throughout the day'.

Home Office (November 2023) Immigration Bail Version 18.0, p.26. Available at:

<https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf>



For one interviewee, this constant alertness even pervaded their dreams:

'I saw an insect in my dream, a vibrating insect, because of the device that was really affecting my mind. [...] So that's psychological pressure. I had this psychological pressure on me. Yeah, it was really very bad time.'

### **Feelings of being watched**

Related to these feelings of constant alertness, both interviewees with experience of non-fitted devices also felt that they were being constantly watched and the device notifications were a regular reminder of this location tracking. For one interviewee, this feeling of being watched made them feel powerless and like a caged animal:

'I felt like an animal. You know these tags I watch on documentaries, they are tagging animals and they are controlled. They are watched from everywhere. [...] The animal is the one who is suffering, but they are tongueless, they can't express their pain. So this has really, this tag like sank in me so bad. I couldn't raise my voice until I met [legal representative].'

This interviewee felt that being constantly watched sometimes made them feel paranoid, as if they were being physically followed.

'I felt like someone is always following me, behind me. [...] It's like, imagine you're walking outside and someone is like walking behind you. Following you, like wherever you go that person is following you. [...] You will start to panic. You will start to say like, wow, someone is trying to kill me or [...] going to do something bad. So I knew that behind these devices someone is watching me wherever I go. Whatever I do like, I'm being watched. [...] You shouldn't be harming the person you are watching. That is really very bad, like I said, being watched is horrible.'

Both fitted devices and non-fitted devices collect location data, but for the interviewees the regular notifications from the non-fitted device reminded them of this tracking and the constant state of alertness that they demanded gave them a heightened sense of being under constant surveillance.



# Recommendations

The Home Office justifies the use of electronic monitoring on the grounds that it ‘encourages compliance with immigration rules and protects the public’.<sup>74</sup> However, the rate of absconding is exceptionally low; BID received data from a Freedom of Information Act request which showed consistently low rates of people released from detention absconding.<sup>75</sup> In this context, we maintain that GPS tagging is an inhumane and disproportionately invasive bail condition and call for the end of its use as a condition of immigration bail.

In the interim, we recommend some essential safeguards. Alongside the recommendations made in our 2022 report on the use of fitted devices and GPS tagging more broadly,<sup>76</sup> we suggest some additional recommendations based on the findings of this 2023 report.

1. **A full evaluation of the Home Office’s electronic monitoring expansion pilot should be conducted promptly after the end of the pilot in December 2023 and made publicly available.** The evaluation should include the experiences of a representative sample of people who were part of the pilot scheme.
2. **Reviews of electronic monitoring conditions should be conducted at the frequency required by Immigration Bail guidance and include meaningful involvement of a human decision-maker.** Home Office bail guidance states that the use of electronic monitoring must be reviewed on a quarterly basis, in addition to whenever a decision-maker in the Electronic Monitoring Hub receives any representations on the matter or is considering the response to immigration bail conditions being breached, and whenever another decision-maker makes a request for a review.<sup>77</sup> We are concerned that this important safeguard is currently not being implemented sufficiently.

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<sup>74</sup> Tom Pursglove MP, Nationality and Borders Bill Committee debate on 4th November 2021, discussion of New Clause 53 – Electronic monitoring: conditions and use of data. [https://www.theyworkforyou.com/pbc/2021-22/Nationality\\_and\\_Borders\\_Bill/16-0\\_2021-11-04a.704.2](https://www.theyworkforyou.com/pbc/2021-22/Nationality_and_Borders_Bill/16-0_2021-11-04a.704.2)

<sup>75</sup> The rate of absconding for people released from immigration detention was 2.7% in 2021 and 1.3% in the first six months of 2022. Schulkind, Brade, Hynes & Allinson (October 2022) Every Move You Make: The Human Cost of GPS Tagging in the Immigration System. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)

<sup>76</sup> Schulkind, Brade, Hynes & Allinson (October 2022) Every Move You Make: The Human Cost of GPS Tagging in the Immigration System. Available at: [https://publiclawproject.org.uk/content/uploads/2022/10/GPS\\_Tagging\\_Report\\_Final.pdf](https://publiclawproject.org.uk/content/uploads/2022/10/GPS_Tagging_Report_Final.pdf)

<sup>77</sup> Home Office (November 2023) Immigration Bail Version 18.0. Available at: <https://assets.publishing.service.gov.uk/media/654382c0d36c910012935c2a/Immigration+bail.pdf>



3. **Non-fitted devices are a relatively untested technology and their use in the immigration context should be evaluated before any further contracts are awarded.** There remains an untested assumption in Home Office practice that non-fitted devices are significantly less intrusive than fitted devices. This may be true in some cases, but as evidenced here non-fitted devices represent a continuation of many of the issues that fitted devices present, as well as generating some new issues specific to non-fitted devices. The contract with Buddi Limited to supply non-fitted devices ends in December 2023.<sup>78</sup> This should provide a point of reflection on their use so far, taking into account in particular the experiences of people on non-fitted devices and the cost of the scheme's operation.

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<sup>78</sup> Crown Commercial Service (May 2022) G-Cloud 12 Call-Off Contract. Available at: <https://www.contractsfinder.service.gov.uk/notice/60bb8854-257a-4c11-b3e0-efc733a87512>



# About us

## About Public Law Project

Public Law Project is an independent legal charity. We are researchers, lawyers, trainers, and public law policy experts. Our aim is to make sure state decision making is fair and lawful and that anyone can hold the state to account.

For over 30 years we have represented and supported people marginalised through poverty, discrimination, or disadvantage when they have been affected by unlawful state decision-making. Public Law Project's research and publications are available at:

<https://publiclawproject.org.uk/resources-search/>

## About Bail for Immigration Detainees

Bail for Immigration Detainees ('BID') is an independent charity that exists to challenge immigration detention in the UK. Our vision is of a world free of immigration detention, where people are not deprived of their liberty for immigration purposes. We challenge immigration detention by providing free legal advice, information and representation to thousands of people held in detention across the UK. Through our research and policy work, we challenge existing detention policy and practice as well as pressing for an end to detention. You can find out more about BID's work on their website: [www.biduk.org](http://www.biduk.org)

## About Medical Justice

Medical Justice is a charity enabling independent medical-legal assessments by volunteer clinicians for clients in immigration removal centres in the UK. Medical Justice is the only charity in the UK to send independent clinicians into all the Immigration Removal Centres (IRCs) across the UK. Our medical reports document scars of torture, serious medical conditions, deterioration of health in detention, injuries sustained during violent removal attempts and challenge instances of medical mistreatment. We receive around 500 - 1,000 referrals for people in detention each year. We help clients access competent lawyers to harness the strength of the medical evidence we generate. Evidence from our casework guides our policy work, research, parliamentary advocacy and strategic litigation. The British Medical Association believes that the use of detention should be phased out; Medical Justice agrees. The only way to eradicate endemic healthcare failures in immigration detention is to end immigration detention. You can find out more about Medical Justice's work on their website:

<https://medicaljustice.org.uk/>





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