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## 1 Introduction

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### 1.1 Purpose

This instruction provides guidance on how to handle and refer cases where fingerprints of the requisite standard cannot be taken and should be read and followed by:

- Officers responsible for taking fingerprints from asylum applicants in the Asylum Screening Units (ASU), ports or Local Enforcement Offices (LEOs)
- Officers in the Sector 8 Compliance Team
- Case owners in the regional Asylum Teams
- Routing and Initial Accommodation Team

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### 1.2 Application of this instruction in respect of children and those with children

Section 55 of the Borders, Citizenship and Immigration Act 2009 requires the UK Border Agency to carry out its existing functions in a way that takes into account the need to safeguard and promote the welfare of children in the UK. It does not impose any new functions, or override existing functions.

Officers must not apply the actions set out in this instruction either to children or to those with children without having due regard to Section 55. The UK Border Agency instruction 'Arrangements to Safeguard and Promote Children's Welfare in the United Kingdom Border Agency' sets out the key principles to take into account in all Agency activities.

Our statutory duty to children includes the need to demonstrate:

- Fair treatment which meets the same standard a British child would receive;
- The child's interests being made a primary, although not the only consideration;
- No discrimination of any kind;
- Asylum applications are dealt with in a timely fashion;
- Identification of those that might be at risk from harm.

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### 1.3 Background

All asylum applicants are liable to have their fingerprints taken for identification purposes (Sections 141 and 142 of the Immigration and Asylum Act 1999). Fingerprints are normally taken by Immigration Officers at port, operating from an LEO or in the ASU. Additional fingerprints will be taken at the Application Registration Card (ARC) Event Centres and used for RepARC events.

The purpose of fingerprinting asylum applicants is twofold: positive identification and the identification and deterrence of multiple asylum claims at national and international level. Fingerprinting also establishes if the applicant's claim should be considered by another European country (Member States of the European Union, Iceland or Norway). The fingerprints of all applicants over the age of fourteen are recorded on, and checked against, the Eurodac Central Unit database of fingerprint images. The fingerprints of those over the age of five are recorded and checked against the UK database, the Immigration Asylum Fingerprint System (IAFS). For guidance on fingerprinting and further information on Eurodac see [chapter 24](#) of the Enforcement Instructions and Guidance and the Asylum Instructions [Fingerprinting](#) and [Safe Third Country Cases](#).

Through self-inflicted damage, accidental trauma or an existing skin condition it is not always possible to take fingerprints of the requisite standard at the time the asylum application is made.

However, all applicants must be fingerprinted even when it is apparent that the applicant's fingerprints will not yield prints sufficient for Eurodac purposes. This is because they may be of adequate quality for IAFS and they can also be used for comparison against subsequent prints. In the majority of cases, after a period of recovery, fingerprints will heal or improve sufficiently, allowing for the capture of high quality fingerprints that can be saved, transmitted and checked against the databases. Officers should also ensure that all other checks are completed. **A specialist team in the London and South East Region, Sector 8 Compliance Team is responsible for handling all cases (nationwide) where an asylum applicant with poor quality fingerprints is encountered.**

The Sector 8 Compliance Team will manage the case until the applicant's identity is established to their satisfaction, which will normally be when the applicant's fingerprints are accepted by the Eurodac database. If the applicant's fingerprints return a Eurodac hit, the case will then be transferred to the Third Country Unit (TCU).

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## 2 Asylum Screening Unit – action to take where fingerprints of the required standard cannot be taken

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Where it has not been possible to make a successful transmission to the Eurodac Central Unit, the Eurodac failure will be notified to the ASU by the Immigration Fingerprint Bureau (IFB). IFB should also inform the Sector 8 Compliance Team of any failures. The IFB may request that the applicant is fingerprinted again or discuss with the officer whether the applicant's fingerprints appear damaged. As the IFB is located in Croydon, ASU Croydon can request that an IFB fingerprint expert assist in the capture of the prints.

Where a set of fingerprints of the required standard cannot be captured, the file must be passed to the ASU Detention Co-ordinator (CIO).

The ASU Detention Co-ordinator must refer the case by phone to the Sector 8 Compliance Team admin support, who will decide if detention is the appropriate course of action.

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### 2.1 Applicant is detained

If detention is deemed appropriate standard detention procedures must be followed and the applicant transferred to the detention accommodation as directed by the Sector 8 Compliance Team. Instructions found in [Chapter 55](#) of the Enforcement Instructions and Guidance should be referred to and followed.

### 2.2 Applicant is not detained but the Sector 8 Compliance Team retain an interest

If the Sector 8 Compliance Team decides against detention the case **must not** be routed to a regional Asylum Team. ASU must instead contact the Routing and Initial Accommodation Team and follow instructions set out in the section [onward routing actions where the applicant is not being detained](#).

### 2.3 Sector 8 Compliance Team has no current interest

If the Sector 8 Compliance Team does not have an interest in the case the applicant should be referred as normal to either the Routing and Initial Accommodation Team or the Asylum Intake Unit, if the case is considered suitable for the Detained Fast Track/Detained Non Suspensive Appeals process. For further guidance, see the instruction DFT and DNSA Intake Selection (AIU instruction)

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## 3 Local Enforcement Office and Port – action to take where the applicant’s fingerprints are of poor quality

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The scenarios below set out what the LEO/port should do when an applicant has or appears to have damaged fingerprints and what to do if this cannot be immediately discussed/confirmed with the Sector 8 Compliance Team due to differing operational hours and/or differing methods of sending fingerprints to IFB and Eurodac.

### In hours Livescan or Cardscan referrals

#### In hours applications where the IFB1 is to be posted to the IFB

#### Out of hours - where the LEO/port are satisfied that they are unable to take prints of suitable quality

There are three possible outcomes following the referral of the case to the team:

#### Applicant is detained

#### Applicant is not detained

Sector 8 Compliance Team has no current interest

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### **3.1 In hours Livescan or Cardscan referrals**

If the fingerprints are taken in hours and the IFB do not consider the fingerprints to be viable or the fingerprints have been rejected by Eurodac on the grounds of poor quality, they will contact the LEO/port referring officer immediately and ask either that the applicant is fingerprinted again or discuss with the officer if the applicant’s fingerprints appear damaged.

If the applicant’s fingerprints appear damaged, the LEO or port should contact the Sector 8 Compliance Team who will decide if they are taking responsibility for the case and discuss if detention is appropriate.

Return to: LEO and Port – action to take where the applicant’s fingerprints are of poor quality

### **3.2 In hours applications where the IFB1 is to be posted to the IFB**

Fingerprints must be sent to the IFB as normal on an IFB1; this should be within 24 hours of the applicant being fingerprinted. However, where it is clear that the applicant has presented with poor quality fingerprints the referring officer must contact the Sector 8 Compliance Team who will decide if they are taking responsibility for the case and discuss if detention is appropriate. Return to: LEO and Port – action to take where the applicant’s fingerprints are of poor quality

### **3.3 Out of hours - where the LEO/port are satisfied that they are unable to take prints of suitable quality**

Where the LEO/port referring officer suspects that the prints will not be of a suitable quality and the claim is made out of hours, they should consider whether the applicant is suitable to be held in local detention accommodation until the following day. If the applicant is to be transported to overnight accommodation or given temporary admission to their own accommodation, reporting should be set for the applicant to return to the LEO for the next working day. The applicant should not be referred to the Routing and Initial Accommodation Team until after the Sector 8 Compliance Team has commented on the case.

Where there is no reason to suspect that the applicant will not yield good quality prints the LEO/port should route the case as normal.

The Sector 8 Compliance Team should then be contacted during their operational hours and be given a summation of the case by the LEO/port referring officer. This should include that the applicant was not referred to the Routing and Initial Accommodation Team because they claimed asylum out of hours and that their fingerprints were of poor quality. They should also be advised whether the applicant's fingerprints were sent to IFB by electronic transfer or by post. If sent by electronic transfer the Sector 8 Compliance Team will then contact the IFB to find out if the prints are of suitable quality

The Sector 8 Compliance Team will make a decision as to whether they are taking responsibility for the case and if so whether detention is appropriate.

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### **3.4 Applicant is detained**

Detention procedures should be followed and arrangements made for transfer to an allocated bed. Instructions on detention can be found in Chapter 55 of the Enforcement Instructions and Guidance.

If a decision is made not to detain, the guidance under the non-detained route should be followed.

Return to: LEO and Port – action to take where the applicant's fingerprints are of poor quality

### **3.5 Applicant is not detained but the Sector 8 Compliance Team retain an interest**

If the Sector 8 Compliance Team decides against detention the case **must not** be routed to a regional Asylum Team. LEOs/ports must instead contact the Routing and Initial Accommodation Team and follow instructions set out in the section onward routing actions where the applicant is not being detained.

Return to: LEO and Port – action to take where the applicant's fingerprints are of poor quality

### **3.6 Sector 8 Compliance Team has no current interest**

If the Sector 8 Compliance Team does not have an interest in the case the applicant should be referred as normal to either the Routing and Initial Accommodation Team or if the case meets the Detained Fast Track detention criteria the Asylum Intake Unit. For further guidance, see the instruction DFT and DNSA Intake Selection (AIU instruction).

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## 4 Asylum Team – action to take where applicant has not been fingerprinted or re-fingerprinting is required

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Case owners must follow the guidance in the Asylum Instruction (Interim) Case Owners Handling Referrals to the Third Country Unit. If there is no indication on CID or from the case file that fingerprints have been taken the case owner **must** arrange for the applicant to be fingerprinted on an IFB1 and the IFB1 to be sent to the IFB.

Case owners may also be allocated cases where the applicant was routed before the Eurodac failure was sent to the LEO/port. Where this happens, the LEO/port should forward the Eurodac Failure Notification (printed on orange paper) to the case owner. Additionally, the Sector 8 Compliance Team will have been notified of the rejection and will have updated the notes field on CID with their recommended course of action.

If IFB confirm that the applicant needs to be re-fingerprinted, the case owner should arrange for a further set of prints to be taken. If IFB confirm that the applicant has poor quality fingerprints, the case owner must contact the Sector 8 Compliance Team, who will make a decision as to whether to take the applicant into their detained or non detained process.

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## 5 Onward routing actions where the applicant is not being detained

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### 5.1 Initial actions when transferring cases to Sector 8 Compliance Team

If the Sector 8 Compliance Team advises that the case is to be treated as a non-detained case the point of claim (ASU/LEO/port) or, if the case has already been routed, the case owner and workflow manager must:

If accommodation is required:

1. Ask the Routing and Initial Accommodation Team to arrange for the applicant to be transferred to Initial Accommodation allocated to Sector 8. (It should be noted that this accommodation is limited and advice from the Sector 8 team should be sought before this accommodation is utilised. If there is no space then the applicant will need to be allocated to a region where there is capacity).
2. Update CID with the details of the Initial Accommodation address provided by the Routing and Initial Accommodation team.
3. If the applicant is to reside in Sector 8 Compliance Team Initial Accommodation, amend the applicant's address details to the allocated Initial Accommodation, which will unless advised otherwise be Brigstock House, 57 Brigstock Road, Thornton Heath, CR7 7JH and send an email to the Croydon Enforcement Unit advising them of the transfer and that it is a damaged fingerprint case. The email must contain the Home Office reference number, the name and nationality of the applicant and the date the applicant is being transferred.
4. If the applicant is not residing in the Sector 8 Compliance Team Initial Accommodation, but is nonetheless accommodated by the UK Border Agency, ensure that CID is updated with the appropriate address and that the LEO closest to where the applicant lives is aware of the transfer and that it is a damaged fingerprint case.
5. Set a diary action under Event Type on the Calendar Events Screen (IS-CID) (this will enable the Reporting Centre to pick up the case and send a revised IS96 to the applicant).
6. Insert the appropriate Reporting Centre in the 'Centre' field.
7. Insert the day after the applicant's expected transfer to Sector 8 Compliance Team Initial Accommodation as the 'booked for date/time'.
8. Insert the Reporting Centre under 'Unit Responsible'.
9. In the comments field insert the following text: **Sector 8 Compliance Team case, please set up on reporting and fingerprint on a weekly basis.**
10. Issue the applicant with an IS96 with a date to next report of the day after the applicant's expected transfer to Initial Accommodation.

If the applicant does not require accommodation:

1. Ensure that CID is updated with the applicant's address.
2. Set a diary action under Event Type on the Calendar Events Screen (IS-CID) (this will enable the Reporting Centre to pick up the case and send a revised IS96 to the applicant).
3. Insert the appropriate Reporting Centre in the 'Centre' field.
4. Set 'booked for date/time', this should allow adequate time for the applicant to get to their accommodation but should normally be a maximum of 2 days.
5. Insert the Reporting Centre under 'Unit Responsible'.
6. In the comments field insert the following text: **Sector 8 Compliance Team case, please set up on reporting and fingerprint on a weekly basis.**
7. Issue the applicant with an IS96 with a date and time that has been booked at point 4.

In all cases:

1. Minute the file and CID to reflect that the Sector 8 Compliance Team have taken responsibility for the case.
2. Insert Sector 8 in the 'allocated to' field on CID.
3. Depending on at what stage of the process the case is, inform the applicant of the

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cancellation of any events (such as the asylum interview, if this has already been scheduled) and any changes to accommodation.

**Consideration should also be given at this stage to a condition requiring the applicant to submit to Electronic Monitoring.**

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## 6 Reporting

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Although it will be the responsibility of the referring officer to set the initial reporting event, once the case has transferred to the Sector 8 Compliance Team it will be the responsibility of the LEO to set the reporting regime. The LEO can vary the regime but should call the applicant for fingerprinting on a weekly basis. The Sector 8 Compliance Team should then liaise with the IFB to see if the fingerprint event was successful and notify the LEO of the outcome and what further action is required.

Where an applicant is not initially detained this does not prevent the Sector 8 Compliance Team at a later date detaining an applicant on the basis that the individual's identity needs to be established. Any decision to detain must be in line with the instructions on detention found in Chapter 55 of the Enforcement Instructions and Guidance. See also: 1.2 Application of this instruction in respect of children and those with children

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## 7 Sector 8 Compliance Team action following case referral

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Referrals should be made to the Sector 8 Compliance Team by telephone during office hours. They will as appropriate accept the applicant into their Eurodac Failure fingerprint work stream and decide if it is currently appropriate to detain the applicant. Eurodac failure fingerprint cases are recorded on the Eurodac Failure spreadsheet within the Sector 8 Compliance Team. Once a case is accepted the admin team should prepare the Eurodac Failure/poor quality fingerprint cover sheet and attach it to a plastic wallet. This should then be passed to the assigned IO who will call for the file. A further spreadsheet for IFB, the DFP Referrals spreadsheet, should then be updated.

The file should then be passed to the reviewing CIO to complete, if appropriate, the Acceptance Detention Review, create a 'T' card of future detention reviews and log this on the detention board. The spreadsheet should be updated as necessary.

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## 8 Detention

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Any officer considering the detention of an applicant must be familiar with the instructions on detention in Chapter 55 of the Enforcement Instructions and Guidance. Detention is only lawful if it is for one of the permitted purposes in the Immigration Act 1971. In the context of an asylum applicant having damaged fingerprints the applicant may be detained on the basis that the individual's identity needs to be established, not on the basis that the subject has damaged fingerprints. An additional factor for detention will be if it is considered based on the information known about the applicant that there is a risk of the applicant absconding if not detained.

If an applicant is detained in order to establish their identity, normal detention criteria will apply. Applicants should be advised at the earliest point in the process of the possibility of seeking medical advice in relation to their damaged fingerprints.

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### 8.1 Fingerprinting

The CIO responsible for reviewing the case should make arrangements with the removal centre to have the applicant fingerprinted. To minimise the time an applicant remains in detention the applicant should be fingerprinted on a weekly basis. The applicant should be informed that they can seek medical assistance at the removal centre medical facility to assist in their fingerprints healing. The medical facility will if appropriate refer the applicant to a consultant dermatologist. If, after two months in detention, the applicant's fingers have not recovered from their trauma, nor has the applicant sought medical intervention for the trauma, they will be asked to sign a consent form to attend the removal centre medical facility and be referred to a consultant dermatologist. If the applicant seeks medical intervention to assist with the healing of their fingerprints, consideration should be given to fingerprinting the applicant on a more regular basis. This will be agreed between the Sector 8 Compliance Team and the detention facility on a case by case basis.

If there is evidence that the applicant has *deliberately* damaged their fingerprints it may be appropriate to interview the applicant regarding the condition of their fingerprints and to warn them that they may be prosecuted or initiate prosecution action. Officers from the IFB and the reviewing CIO may periodically attend the removal centres to obtain both fingerprints and palm prints and conduct an examination of the subject's fingers.

The Sector 8 Compliance Team should liaise closely with the detention facility and IFB to ensure an appropriate regime is implemented in order that the applicant's prints can be filed to Eurodac and, if previous sets were not of sufficient quality, to the IAFS.

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### 8.2 Detention Reviews

Detention Reviews must be carried out in accordance with the procedure set out in chapter 55.8 of the Enforcement Instructions and Guidance. The subject may be visited by the reviewing CIO and interviewed on a periodic basis.

If the applicant is still detained after a 3 month period the DAU Section 8 HMI will carry out a critical review to consider whether to maintain detention or whether the case should be forwarded to an asylum case owner. If detention is maintained reviews will continue in line with instructions in the Enforcement Instructions and Guidance and a critical review will be carried out on a fortnightly basis by the HMI or Assistant Director of Section 8.

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Should the applicant be detained for more than 6 months, the case must be referred to the Deputy Director.

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### **8.3 Bail**

There are two types of bail that a detainee may apply for: CIO bail and Immigration Judge's bail. If either is applied for, the case must be referred to the Detention Allocation Unit HMI or appointed deputy.

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## 9 Sector 8 Compliance Team no longer has an interest in a case

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Although the case may initially be of interest to the Sector 8 Compliance Team, some cases will drop out of the Third Country procedures e.g. if application of the criteria in the Dublin Regulation identifies the UK as the state responsible for examining the asylum claim. Cases not suitable for further action must be allocated to an asylum case owner for consideration of the asylum claim.

If the applicant is non-detained, the case owner within the Sector 8 Compliance Team should follow the Asylum Instruction (Interim) Case Owners Handling Referrals to the Third Country Unit and the section Cases not suitable for Third Country Action - Non-detained cases.

If the applicant is detained, the Sector 8 Compliance Team officer should follow the Asylum Instruction (Interim) Case Owners Handling Referrals to the Third Country Unit and the section Cases not suitable for Third Country Action - Detained cases

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## 10 File Creation

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Where the applicant claimed asylum in the ASU, the HO file will be generated by the ASU.

Where the applicant claims at a port or LEO the LEO/port file must either accompany the applicant to detention or, if the applicant is not being detained, be forwarded to the File Creation Unit (FCU) who will make up the HO file.

If the file is being transferred to the Sector 8 Compliance Team, a minute must be placed on file by the ASU/port/ LEO to inform the FCU to send the HO file to the Sector 8 Compliance Team.

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<b>Term</b>	<b>Meaning</b>
IS96	Immigration Service document that details the terms of an applicant's TA/TR
IFB1	Form on which fingerprints are recorded

*This glossary is for the insertion of any letters or minute sheets referred to in the Instruction*

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Change Record

Version	Authors	Date	Change Reference
1.0	GT	26 Sept 08	New instruction
2.0	M-A.M	27 Jan 09	Update of contact details
3.0	G,L	01/10/09	Update Children's Duty
4.0	GL	23/10/09	Further update to Children's Duty

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