



Home Office

Detention Services Order 03/2017

Care and management of detainees refusing food and/or fluid

September 2019



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Document Details

Process: To provide instructions and guidance for Home Office staff, suppliers and healthcare staff, on how to deal with any adult foreign national, detained under immigration powers in an Immigration Removal Centre (IRC), who meets the definition of a food and/or fluid refuser.

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Version: 2.0

Contains Mandatory Instructions

For Action: All Home Office staff and suppliers operating in immigration removal centres, and pre-departure accommodation, including Detention and Escorting Services Compliance Teams, Detention Engagement Teams and UK Visas and Immigration staff.

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Processes Affected:

Assumptions: All staff will have the necessary knowledge to follow these procedures.

Notes: This DSO replaces DSO 14/2012 version 1.0

Instruction

Introduction

1. This instruction sets out the procedures to be followed by Home Office and service provider staff, including healthcare staff, in the case of any adult foreign national detained under immigration powers in an Immigration Removal Centre (IRC) who meets the definition of a food and/or fluid refuser set out below.
2. It identifies what action is required depending on the circumstances encountered and the extent the individual's food and/or fluid refusal has reached. For the purposes of this instruction an 'adult' is considered to be someone whom the Home Office has accepted as being aged 18 years or over. This instruction must be read in conjunction with the Home Office guidance on the [Adults at risk in immigration detention](#) policy.
3. This instruction does not apply to Short Term Holding Facilities (STHF) as a result of their more limited medical facilities. Instead, where an adult detained in a residential STHF meets the definition of a food and/or fluid refuser set out above, consideration must be given to transferring them to an immigration removal centre so their case can be managed in line with this instruction.
4. Cases covered by this instruction must be dealt with as a matter of the highest priority at all points.
5. A decision to refuse food and/or fluids will not automatically entitle an individual to be released from detention.
6. For the purposes of this instruction 'the strategic director' means the Director of Returns (or, if absent, the person deputising for them).
7. All actions specified in this instruction which are undertaken by IRC healthcare professionals must be taken in line with their respective professional codes of conduct.
8. It is acknowledged that dealing with individuals who are refusing food and/or fluid is likely to be stressful for the IRC staff concerned. Appropriate welfare support will therefore be available, where necessary.
9. Two different **Home Office teams** operate in IRCs:
 - Detention and Escorting Services Compliance team (Compliance team)
 - Immigration Enforcement Detention Engagement team (DET)

The **Compliance team** are responsible for all on-site commercial and contract monitoring work. The **DETs** interact with detainees face-to-face on behalf of responsible officers within the detention centres. They focus on communicating and engaging with people detained at IRCs, helping them to understand their cases and detention. DETs are managed by an on-site Home Office DET manager.

There are no DETs at residential STHFs, functions which are the responsibility of the DET in RSTHFs are carried out by the Detainee Escorting Population Management Unit (DEPMU).

Definitions

10. For the purposes of this instruction a food and/or fluid refuser is a person who (all apply):
 - a) is an adult detained under immigration powers in an immigration removal centre
 - b) has refused meals prepared and provided by the supplier (for 48 hours) and/or fluids (for 24 hours) as a form of protest (the protest may be against a range of factors, including ongoing detention or proposed removal from the UK, or for a reason or reasons not known to staff)
 - c) there is no evidence or reasonable grounds for believing them to be eating or drinking from other sources (such as food or drink bought from the IRC shop or provided at hospital appointments) or, if there is such evidence or reasonable belief, that there are nevertheless serious medical concerns arising from the limited quantities of food and/or fluid being consumed
11. Detainees who fall outside this definition because they do not like the food on offer within in an IRC will not be included in the processes set out in this instruction.
12. Where a detainee is refusing food and/or fluid for any other reasons, but not as a form of protest, for example because of pre-existing psychiatric problems, they must be managed in line with safeguarding procedures and policies, including but not limited to: the [Adults at Risk in Immigration Detention policy, DSO 08/2016](#) [Management of Adults at Risk in Immigration Detention](#) and DSO 06/2008 ACDT.

Detainee consent to sharing of their personal healthcare information

13. This instruction is predicated on the assumption that IRC healthcare staff will, where necessary, share detainees' personal healthcare information with the Home Office IRC teams in IRCs and with Home Office caseworkers (and their line managers) to inform decision making in relation to the individual's case.
14. Advice to medical practitioners from the General Medical Council on disclosing information for administrative purposes (defined as purposes other than the provision

of their care or local clinical audit) states that, as a general rule, they must seek a patient's express consent before disclosing identifiable information. **In seeking consent, it is essential that the purpose of the information sharing is made explicit and the person understands what will happen to their information.**

15. Express consent necessitates a person understanding the purpose of the information sharing, what information would be shared, confirmation that the information being shared would not go beyond the current agreed purpose and that the information would be stored appropriately and for an agreed period of time, see the consent form (Form C). The person must also be advised that they can withdraw consent at any time. It is important to recognise that where someone is judged to lack capacity there is a duty to make best interest decisions on their behalf, it is important that capacity is assessed as people have a right to make decisions for themselves which others may view as potentially deleterious. Nursing staff must adhere to guidance on information sharing set out in the Nursing and Midwifery Council (NMC) code.
16. If a person refuses to give consent for information to be shared, healthcare staff must continue to check this with the person at each appointment. 'Blanket' consent to share information cannot be requested. It is not, for example, possible for a person to be asked to give consent to share unspecified health information with unspecified organisations for an unspecified period of time.
17. This instruction must be read in conjunction with Detention Services Order (DSO) 1/2016 on the protection, use and sharing of medical information relating to people detained under immigration powers.

Mental capacity and consent in England and Wales

18. Under the [Mental Capacity Act 2005](#) any individual over the age of 18 years in England and Wales has the legal right to refuse food and/or fluid. The act assumes that a person has mental capacity to make their own decisions to refuse food and/or fluid unless it is established they lack that capacity.
19. Before a healthcare practitioner provides medical treatment for a detainee who is refusing food and/or fluid, they must ensure that they have the detainee's consent to do so. For the detainee's consent to be valid, the person must have the mental capacity to take that particular decision, in line with the Mental Capacity Act 2005. **Mental capacity in respect of medical treatment, which must be reviewed on a daily basis, will be established by the treating healthcare professional.**
20. Seeking consent for medical examination or treatment must be seen as a process, not a one-off event. Detainees who have given consent to a particular intervention are entitled to change their minds and withdraw their consent at any point if they still have the mental capacity to do so. Similarly, they can change their minds and consent to an intervention which they have earlier refused. It is important to let each detainee

know this, so that they feel able to tell the healthcare practitioner if they change their mind.

21. As long as a detainee **retains** mental capacity, legally it makes no difference whether detainees sign a form to indicate their consent, or whether they give consent verbally or even non-verbally. However, it is important in practice that a written record is made of the detainee's instructions by healthcare staff. Healthcare staff will send a copy of this record to the local DET team. The local DET team will send a copy to the caseworker and note this action on the CID case notes. This is separate to issues around [advance decisions](#), in which an individual is making their wishes known in advance about refusing treatment at a later point where they lack capacity to give consent.
22. Detainees with mental capacity to take a particular decision are entitled to refuse treatment being offered, even if this will clearly be detrimental to their health. Administering medical treatment to a person with full mental capacity, or forcing them to take food and/or fluid against their will, in the absence of consent may amount to common assault.
23. Where a detainee refusing food and/or fluids is judged to lack mental capacity and has not made an advance decision doctors and other healthcare professionals must consider administering whatever treatment is in the detainee's best interests, in line with the requirements of [section 4 of the Mental Capacity Act 2005](#) and relevant best interests and best practice guidance.
24. The healthcare practitioner must ensure that they make as objective a judgement as possible, based on the principle that the person should be assisted to make their own healthcare decision, if at all possible.

Mental capacity and consent in Scotland

25. The [Adults with Incapacity \(Scotland\) Act 2000](#) (the 2000 Act) sets out the framework for regulating intervention in the affairs of those aged 16 years and over who have impaired capacity. This Act overlaps with the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#), which provides a framework for treatment and support of people with mental disorders. The 2000 Act works alongside the common law of 'necessity' which provides for treatment in an emergency.
26. An individual over the age of 16 years in Scotland has the right to refuse food and/or fluid. The 2000 Act assumes that a person has capacity to make their own decisions to refuse food and/or fluid unless it is established they lack that capacity.
27. Seeking consent for medical examination or treatment must be seen as a process, not a one-off event. Detainees who have given consent to a particular intervention are entitled to change their minds and withdraw their consent at any point if they still

have the mental capacity to do so. Similarly, they can change their minds and consent to an intervention which they have earlier refused. It is important to let each detainee know this, so that they feel able to tell the doctor or other healthcare professional if they change their minds.

28. Where an individual does not have capacity, medical treatment may be given in accordance with the provisions of the 2000 Act. Section 47 provides authority for a designated person who has issued a section 47 certificate to do what is reasonable in the circumstances, to safeguard or promote the physical or mental health of the adult. This only authorises the use of force where it is immediately necessary and only for so long as is necessary in the circumstances, and does not authorise any action which would be inconsistent with a decision of a competent court. A 'designated person' who may give an opinion that an adult is incapable in relation to a decision includes the medical practitioner primarily responsible for the medical treatment of the adult or a registered nurse.
29. The power to provide medical treatment without consent is restricted where there are current court proceedings concerning authority to consent to treatment.
30. Where a welfare guardian or welfare attorney or a person authorised under an intervention order in respect to the proposed treatment is appointed, the consent of that person must be obtained, where it is reasonable and practicable to do this.
31. Under Scots law where it is clear that a patient is competent to refuse treatment, doctors may not provide treatment against the patient's wishes. Administering medical treatment to a person with full mental capacity, or forcing them to take food and/or fluid against their will, in the absence of consent may amount to assault.

Notification of food and/or fluid refusers

IRC Supplier actions

32. The IRC supplier must keep a record of all detainees who have refused meals prepared and provided by the supplier for over 48 hours (6 meals) or refused fluid for over 24 hours. This log must also include details of any detainees previously on a refusal who have resumed eating and/or drinking in the last 24 hours. Where a detainee is refusing both food and fluid this must be recorded separately.
33. Records of this log must be kept by the IRC supplier and shared daily with the local Healthcare team by completing the form at Form A1 with the details of the detainee, details of any Assessment Care in Detention and Teamwork (ACDT) plan already in place (see paragraph 78) and any evidence found of alternative eating and drinking.

Healthcare actions

34. When healthcare staff receive form Form A1 and are notified by the IRC supplier that a detainee has refused food for 48 hours, or fluid for 24 hours, they must offer the detainee a routine medical appointment with a doctor, in line with usual procedures that apply to non-urgent medical matters. A record must be kept that the detainee has been offered such an appointment, and whether they took up that offer. If the detainee appears unwell, an urgent appointment must be offered on clinical grounds. If the detainee prefers an appointment with a nurse this must be arranged.
35. The purpose of the initial appointment, which in most cases will not be an urgent appointment, is to ensure that the detainee:
- has no undiagnosed mental illness causing the refusal
 - has no physical illness causing the refusal
 - has no food allergies or dietary requirements causing the refusal
 - understands the consequence of their action
 - is offered appropriate care from any source where it is considered this might be helpful, such as counselling from the relevant IRC chaplain
 - has base line weight recorded and is advised of any interference the refusal of food and/or fluid refusals may cause to other medical problems or medication
36. Where an individual refuses the offer of a medical appointment, they must be monitored as far as possible in line with the limitations imposed by the refusal to accept the offer of such an appointment.
37. Informed decision-making by the detainee is central to the consent process. Therefore, the healthcare professional at this initial stage must outline the risks and consequences of refusing food and/or fluids over time. Consideration must be given to obtaining a psychiatrist's assessment, particularly if there is any uncertainty over the individual's mental state. If a psychiatrist's assessment is considered appropriate, the healthcare professional must ensure that the DET team are aware of this so that it can be taken into account in the management of the case concerned, particularly in terms of any impact on expected timescales.
38. If the detainee is found to be physically or mentally unwell at the routine (or urgent) appointment, they will be managed by the healthcare professionals in line with normal practice.
39. Detainees who are refusing food and/or fluid will be fully entitled to confidentiality, to retain responsibility for their own health wherever possible and their ability to give informed consent will be assessed by appropriately trained healthcare staff.
40. IRC Healthcare providers must provide the local DET team and the IRC supplier with a daily list of all detainees who have commenced or are continuing a food and/or fluid refusal in line with the definition set out at the beginning of this instruction, provided

that the detainees concerned give their consent to the sharing of this information. Healthcare staff should use the form at Form A2 to notify the local DET team and IRC supplier. All detainees included on Form A2 must be risk assessed by IRC healthcare providers using the black, red, amber, green BRAG ratings.

Immediate next steps

41. Following notification by healthcare staff that a detainee has refused food and/or fluid for 24 hours or food only for 48 hours:

- a. The local DET team must check the completed Form A2 log, complete any additional information regarding previous and/or planned interviews with DET staff, confirm previous or planned service of the letter in Form E; and notify the caseworker responsible for the case to inform them of the food and/or fluid refusal and establish the background to it, as per paragraph 44.
- b. the IRC supplier must ensure that the welfare and faith teams are informed and actively engage with the detainee.

42. The local DET team must:

(1) Email the completed Form A2 log by 5pm each day to:

- (a) The relevant central contact point or email inbox for the business area or command responsible for the detainee (see below)
- (b) Detention Services FFR case management inbox
- (c) relevant caseworker

In the absence of any of these individuals the log must be emailed to their nominated deputy; and:

(2) Copy the email to the relevant Compliance Team Delivery Manager, area manager and the senior 'on call' manager for Detention and Escorting Services.

43. Central contact points are:

- Criminal Casework (CC):
 - CC ADs - distribution list
 - CC SEO - distribution list
 - CC Food and Fluid Refusals referrals Inbox (create FFR inbox to reflect NRC process)
 - CC Liverpool Food and Fluid Refusals Inbox (create FFR inbox to reflect NRC process)
 - Relevant caseworker
- National Removals Command (NRC) to the:
 - NRC Croydon Food and Fluid Refusal referrals inbox
 - NRC Solihull HO Food and Fluid Refusal Referrals Inbox
 - NRC London FFR inbox
 - NRC Birmingham FFR inbox
 - NRC Glasgow Inbox TCU
 - NRC Detained Casework SEO/G7 - distribution list

Please note that the completed log may be copied more widely than set out above, where specified by individual business areas.

44. There is no central 'in box' for TCU cases. Instead, the completed log must be sent to the NRC Glasgow Third Country Unit at DetentionScotNI@homeoffice.gov.uk.

Establishing detainee's motivation for engaging in a food and/or fluid refusal protest

45. In all cases the local DET team must speak to the detainee at the point of notification by healthcare and in the presence of a second member of Immigration Enforcement staff to establish, if possible, the reason for the refusal and explain the impact this will have on the individual's case management, using the interview record (Form D), including that continued food and fluid refusal:

- will not lead to the progress of the detainee's immigration or asylum case being halted or delayed
- will not lead to removal directions being deferred
- will not lead to permission to stay in the UK
- will not lead to release from detention

46. It is important that this information is provided in a form that the detainee can understand. This may involve using an interpreter and every effort must be made to expedite this. Should the detainee wish to use a fellow detainee to interpret then this would be acceptable.

47. The interview must be conducted by DET staff and followed up by the service of letter using the letter template (Form E), signed by both members of staff who spoke to the detainee to try and establish their motives for engaging in the refusal protest. Direct communication with the detainee must take place on a regular basis dependent on the stage of the food and/or fluid refusal or as circumstances change. All interactions with the detainee, including observations of behaviour and physical appearance, and conversations must be recorded on CID, and updated on the daily return of Form A2 by the DET team. Any original documents produced must be kept on the local file, copied if requested to the caseworker and forwarded to the Home Office file at case closure.

48. A detainee who is refusing food and/or fluids may be using this as a way of pursuing a grievance about the way in which their case is being handled, their conditions of detention or other matters. It is for the DET team at the IRC to establish whether there is a grievance and what this may be. They must ensure that the detainee is supported in pursuing a grievance through all legitimate channels (such as the established complaints process as set out in the relevant Detention Services Order on complaints handling, legal representatives, the centre manager or the relevant Independent Monitoring Board). Detainees using food and/or fluid refusal as a means of protest

may be prepared to eat and drink once they have access to an alternative means of pursuing a grievance. The local DET manager **must** check regularly that the detainee's grievance or concern is being pursued.

Transfer of food and/or fluid refusers

49. Male food and/or fluid refusers who are **clinically assessed** as requiring full-time or frequent nursing care must be considered for transfer to a centre with enhanced care unit facilities. This does not apply to female detainees refusing food and/or fluid at Yarl's Wood as they cannot be transferred to a centre with enhanced care facilities elsewhere in the detention estate.
50. In cases where this clinical assessment has been made, the DET manager must contact the relevant Compliance Team Delivery Manager to discuss the transfer requests in conjunction with both caseworker and the Detention and Escorting Population Management Unit (DEPMU). Centres without such facilities are advised to request the transfer of fluid refusers at the 48 hour point and food refusers at the 14 day point, or at an earlier point in either case if such a transfer is considered necessary on clinical grounds. Transfers must not be sought for individuals who do not require such nursing care and the expectation is that they will continue to be managed in their current location. Transfers must be requested only on the basis of clinical need and must be arranged by the relevant healthcare providers. Before requesting a transfer of this type, the originating IRC healthcare provider must complete a healthcare to healthcare referral to agree the treatment required and provide detailed case notes. Form IS.91RA Part C must be completed giving full details of the food and/or fluid refusal so that DEPMU can arrange the most appropriate accommodation.
51. In the event that a detainee is non-compliant with an agreed move, the IRC supplier staff, in conjunction with the Compliance Team manager, will need to consider whether it would be appropriate to use force to effect the transfer, taking into account advice from IRC healthcare as to the detainee's state of health. As with any use of force, where it is considered necessary, the force applied must be reasonable and proportionate. Where a transfer is effected consideration must be given as to whether medical escorts are required as part of the escort team.
52. When a move is agreed, the discharging IRC supplier staff must forward copies of any relevant local records to the receiving IRC, in particular any previous interview records, details of interactions and information from the daily log. The DET team of the discharging centre must contact the DET team of the receiving IRC and complete a full handover of the case. Where a food and fluid refusal assessment record (Form B) has been completed for the detainee, this must be shared by the healthcare team from the discharging IRC to the healthcare team at the receiving IRC. Transfer of records must take place in a timely fashion to ensure that they are available on the detainee's arrival at the receiving IRC.

53. On arrival at the receiving centre the detainee refusing food and/or fluid will be clinically assessed. A detailed medical history must be taken and an examination conducted if appropriate. If a transferred detainee is assessed as not immediately in need of full-time or frequent nursing care they will be managed in the main centre until admission to the centre's healthcare beds is clinically indicated. On arrival at the receiving centre, if an individual is assessed as not requiring full time or frequent nursing care, consideration may, if appropriate, be given to a return to their previous centre.

Advance decisions in England and Wales

54. A detainee in England and Wales who is currently mentally competent may wish to make an 'advance decision' under the provisions of the [Mental Capacity Act 2005](#). This enables someone aged 18 and over, at a time when they have mental capacity to determine their future treatment, to refuse specified medical treatment, nutrition or hydration when they lack capacity to consent to or refuse it. Where a detainee refusing food and/or fluids wishes to make such an advance decision they may want their own legal adviser to draw it up. The detainee must be advised that this is acceptable. Alternatively, they can use the model advance decision (Form F).

55. To be valid, advance decisions must be signed and witnessed. If the detainee is unable to sign their advance decision themselves it may be signed by another person, provided this takes place in the detainee's presence and under the detainee's direction.

56. Detainees are unlikely to be aware of the ability to make an advance decision. It will be for IRC healthcare staff to identify the point or points at which they consider it would be appropriate to explain to a detainee that they are able to make an advance decision and, if appropriate, invite the detainee to make one. The IRC healthcare professional must lead on any discussion with the detainee about advance decisions. The purpose of an advance decision must be fully explained to the detainee, as well as the fact that once an advance decision is made the detainee has the right to alter, or withdraw it, at any time during which they retain mental competence.

57. The advance decision must be made in writing, signed by the detainee and by a person acting as witness to the detainee's signature. It must be reviewed by healthcare staff on a daily basis.

58. Other forms of care, provided they are consistent with the terms of the advance decision, must continue to be provided. Basic or essential care includes keeping the detainee warm, clean and free from distressing symptoms such as breathlessness, vomiting and severe pain. However, some detainees may prefer to tolerate some discomfort if that means they remain more alert and able to respond to family and friends.

59. As a general principle, healthcare professionals must not administer treatment to a detainee refusing food and/or fluid who has made a valid advance decision refusing treatment at the time they still had mental capacity.
60. However, if the circumstances giving rise to the advance decision no longer apply, the advance decision is likely to no longer be relevant and thus no longer valid. Healthcare staff must seek advice and guidance from their respective professional bodies as to whether this applies.

Advance decisions in Scotland

61. Advance directives, especially refusals of treatment, do not have a formal status under the [Adults with Incapacity \(Scotland\) Act 2000](#) (the 2000 Act). However, the general principles of the 2000 Act include the duty to take into account the past and present wishes of the adult. This includes taking account of an advance statement. It is also important to be aware of past wishes.
62. Under the [Mental Health \(Care and Treatment\) \(Scotland\) Act 2003](#) (the 2003 Act) which provides the framework for treatment and support of people with mental disorders, advance directives do have a legal status. The 2003 Act sets out the procedures for giving treatment that is in conflict with the statement.

IRC ongoing management and reporting

63. Provided they consent to a healthcare appointment, detainees who are refusing both food and fluid must be seen by healthcare staff on a daily basis. Detainees who are refusing food only do not, however, necessarily require to be seen by healthcare staff on a daily basis in the first instance. Additional healthcare appointments will be made available to food and/or fluid refusers whenever they wish to make one. Such appointments are made in the usual way as any other appointments within the IRC. Detainees who decline to receive treatment or undergo examination in connection with their food and/or fluid refusal remain fully entitled to access healthcare in relation to other health matters.
64. Healthcare professions must use the food and fluid refusal assessment record (Form B) both to record information relating to the food and/or fluid refusal and to report it to the local DET team. Not all parts of the form will be relevant in every case.
65. The form must be completed at the outset of food and/or fluid refusal (to allow for baseline observations to be recorded) and updated as appropriate where the information it contains changes significantly, particularly in relation to the detainee's state of health. It is likely that more frequent updates will be necessary in cases BRAG rated **black** or **red** than in those rated amber or green (see [BRAG ratings](#)).

66. The completed form will contain confidential medical information and consent for its release to the Home Office must therefore be obtained from the detainee concerned, using the consent form (Form C). The process of gaining consent is an ongoing one, a detainee's consent **must** therefore be re-sought, and a new form completed, on **each** occasion that new information on a detainee's state of health is shared.
67. Provided the detainee consents to their healthcare information being shared, the local DET team will need to be kept informed of any significant changes in the state of health of a food refuser after food has been refused for more than 48 hours. More frequent updates may be required on any significant changes in the state of health of any detainee who has been refusing food **and** fluid for more than 24 hours. Caseworkers need not make repeated requests for information from IRC healthcare where an initial assessment has been provided and they have not been notified of a significant change in the detainee's state of health. It is important that the local DET team at the centre maintain a full written record of events and information passed on to them is stored in the detainee's case files and update CID.
68. When a detainee refusing food and/or fluid becomes physically unwell as a consequence of their food and/or fluid refusal their health needs will be met by the healthcare staff as far as the detainee allows.
69. At no time may coercion to eat or drink be applied to a detainee refusing food and/or fluid. However, although detainees must not be coerced into resuming eating and/or drinking, it is entirely appropriate for them to be actively encouraged to do so (provided this is not inconsistent with medical advice). Such encouragement must take the form of ensuring that detainees are fully aware of both the practical and medical consequences of their action, but also include more positive encouragement, such as ensuring that food and drink are made readily available.
70. Detainees who are refusing food and/or fluid must be encouraged to maintain family contact through telephone calls, letters or emails (where applicable) and must be assisted to do so where necessary.
71. It may be unlawful to treat a detainee should they lose consciousness if their previous, clearly stated intention was to continue food and/or fluid refusal to death. There are exceptions to this position, see [advance decisions](#).
72. Where a detainee with mental capacity who is refusing food and/or fluids is also refusing medical treatment, at a time when a healthcare professional judges it is becoming necessary, the healthcare professional may wish to consider explaining the consequences of these refusals to the detainee, in the presence of another healthcare professional. These explanations may include information that:
- the deterioration in their health will be allowed to continue without medical intervention unless they request it
 - continuing food and/or fluid refusal will lead to death (this must include a clinical description of the symptoms that may be experienced in terms of pain, what can

be offered to ameliorate those symptoms and the physical effects of refusal of nutrition)

- prolonged food and/or fluid refusal which does not result in death may lead to permanent disability and organ damage

73. It is important that this information is provided in a way that the detainee can understand. This may involve using an interpreter and every effort must be made to obtain the services of an interpreter as soon as possible. Should the detainee wish to use a fellow detainee or member of their family to interpret the healthcare professional's explanation then this would be acceptable.

74. The healthcare professional must write a full record of what has been said to the detainee, which they must also sign. If an interpreter was used they must also sign to say that they were present when this advice was given. The healthcare professional must consider repeating this procedure at appropriate intervals.

Ongoing monitoring by healthcare staff in all food and/or fluid refusal cases

75. In all cases where an individual has been identified as refusing food and/or fluid healthcare staff must:

- continue to monitor each food and/or fluid refusal case closely as required and provide updates to the local DET team whenever a significant change in health is observed, provided the detainee gives their consent to this
- lead on speaking to the detainee about completing an advance decision at whatever point or points they consider this to be appropriate:
 - where this is possible, such conversations must be witnessed by staff from the local DET team and the outcome noted on CID
 - where this is **not** possible, the local DET team staff must be updated on the outcome of the conversations promptly and the outcome noted on CID
- provided the detainee consents, provide a daily assessment of health to the DET team in the IRC when a detainee is BRAG rated as **black** or **red** (see [BRAG ratings](#)), the DET team must pass this information on to the caseworker as soon as possible
- where a detainee declines to accept medical treatment or assessment, healthcare must advise the local DET team of this as part of the daily return
- healthcare assessments must be completed on the food and fluid refusal assessment record (Form B) and contain as much detail as is available, including outcomes of tests, visual observations and any other evidence which has led to the conclusion of the assessment, detainees must give their consent to sharing of information set out in this form, to complete the form correctly:
 - healthcare must advise in writing what medical interventions might be needed to enable the detainee to travel safely (regardless of someone's

willingness or otherwise to accept these interventions) and any special arrangements that might need to be put in place to enable them to travel (such as specialist medical escorts), including use of alternative transport methods

- healthcare must advise in writing the seriousness of the detainee's medical condition, as much evidence as possible must be provided in support of the conclusions, including whether the individual is cooperating with medical examination, and what would help provide a more accurate assessment, regardless of whether the individual submits to medical examination

Observation and monitoring

76. Consideration must be given to opening an Assessment Care in Detention and Teamwork (ACDT) (DSO 06/2008) plan where a detainee refusing food and/or fluid is also assessed to be a risk of suicide or self-harm. Whether or not an ACDT plan is opened, the IRC supplier duty manager must ensure that a daily log is kept of all food and fluids offered to or taken by the detainee.
77. In addition, the Supplier Centre Manager must ensure that all staff coming into contact with, or observing the detainee, are required to note whether there is any evidence or indication of food and/or fluid being consumed (from whatever source) which would indicate that the person concerned would fall outside the definition of a food and/or fluid refuser set out at the start of this instruction (subject to the caveat about serious medical concerns).
78. IRC supplier staff must also note any behaviour or activity by the detainee which might be relevant in assessing their general well-being. All such relevant information must be included in the daily food and fluid refusal observation log (Form G) and submitted to the local DET team.
79. For detainees not considered to be in need of an ACDT plan it nevertheless remains important to ensure that they are monitored closely. To achieve this, the IRC supplier duty manager must arrange for multi-disciplinary case review meetings to be set up. The purpose of the case review is to establish a plan of action to manage the detainee's food and/or fluid refusal. The plan must specify who needs to be involved in that plan and with what responsibility and must ensure good inter-communication within the IRC to support a consolidated approach. The plan must be regularly reviewed to decide whether it needs to be changed based on developments in the detainee's case or the outcome of regular conversations with the detainee.
80. The IRC supplier should arrange multi-disciplinary meetings to discuss individual cases, with attendees from the onsite Compliance Team, IRC supplier representatives, healthcare supplier representatives and the caseworker where possible. If expedited removal is being progressed consideration must be made to

include attendees from removals logistics and complex removals representatives in order to plan a safe and successful removal. Decisions about the frequency of meetings must be guided by the [BRAG rating](#) of the detainees concerned, with at least weekly meetings for every **black** or **red** rated case. The daily food and fluid refusal observation log (Form G) includes a case review record template which must be used to record the details and outcome of case review meetings. In addition the IRC supplier, onsite DET team, caseworker, relevant senior caseworker and relevant Compliance Team Delivery Manager must undertake daily teleconferences on working days to discuss individual **black** and **red** rated cases (see [BRAG rating](#)).

Supplier reporting and monitoring

81. Suppliers must use the information contained within the daily escalation log to compile a monthly report setting out the number of individuals who refused:
- food (over 48 hours) and the number of instances that each of these individuals have refused food (each separate period over 48 hours)
 - fluid (over 24 hours) and the number of instances that each of these individuals have refused fluid (each separate period over 24 hours)
82. The monthly report must be submitted to the Home Office IRC team and the DES FOI mailbox by the 5th working day of the month. This report must be shared monthly with the Detention Services FFR Management Inbox and the local Compliance and DET teams.

Immigration Enforcement reporting and monitoring

83. Upon receipt from the healthcare team, the DET team in the IRC must record the details of any contact with food and/or fluid refusers in the daily escalation log (Form A2) and disseminate it as per paragraphs 44 and 45. The log must:
- be headed with the name of the IRC and the date
 - be saved as '<Date> <Name of IRC> <FFR Daily Update Log>'
 - include sections on:
 - detainees who have resumed eating or drinking in the last 24 hours
 - food and/or fluid refusal cases transferred to another IRC in the last 24 hours
 - those who have been granted bail in the last 24 hours
 - ensure entries have a BRAG rating and that detainees are listed in order from black to green (this rating will be done by IRC healthcare)
 - the DET manager, or person deputising for them in their absence, must quality assure the log before forwarding to check that the log has been saved in the correct format (see paragraph 42).
84. For the purpose of completing this form the definitions of the BRAG ratings are as follows.

Black: Imminent

Immediate risk of developing, or has developed, healthcare needs that cannot be met within an IRC.

Includes anyone causing concern and therefore admitted to Healthcare. This will include all those already declared unfit to remain in an IRC but also those for whom the observations and medical assessments indicate a strong likelihood of death or serious permanent damage to health.

Red: Close

Threat of developing healthcare needs that cannot be met within an Immigration Removal Centre in the next 3 to 5 days.

Includes anyone causing concern but who may not require to be admitted to Healthcare or require 24 hour health care. Their observations may still be noted as normal as the results are within normal range. However, they are in red as their observations are lower than those taken on their arrival.

Amber: Approaching

Threat of developing healthcare needs that cannot be met within an Immigration Removal Centre in the next 6 to 8 days.

Includes anyone becoming a concern or causing concern but who remains on normal location, such as those refusing observations who therefore cannot be adequately assessed.

Green: Distant

Threat of developing healthcare needs that cannot be met within an Immigration Removal Centre materialising.

Includes those on food and/or fluid refusal that are not yet causing concern and are compliant with having their observations taken.

85. The DET manager, or person deputising for them in their absence, must check the log to make sure the:

- reference section contains the Home Office or port reference as well as the CID Person ID;
- findings of the healthcare review provide all the details available, including the date of the assessment and the reason for its conclusions, along with confirmation that the detainee has consented to this information being shared;

- caseworker informed section includes the name and contact details for the caseworker, the date they were advised and whether they are Criminal Casework, or National Removals Command (NRC) cases; and
- reason for not eating and/or drinking is provided, if reasons have not been given, enter 'No reason provided'

86. The DET manager must add any further comments, including observations made from relevant interactions, such as any physical signs of starvation or dehydration, ability to speak and dried lips.

Casework consideration and escalation

Criminal Casework

87. The "CC ADs" inbox (a central CC inbox) is notified by the DET team each day with a combined list of CC detainees refusing food and/or fluid, updated to include new cases and updating circumstances for existing cases. This list is copied to the caseworker dealing with the case, where identifiable. The CC Assistant Directors (ADs)/grade 7 for Criminal Casework operational commands will copy it to the caseworker and relevant team leader.

88. Where a CC case is transferred to Asylum Casework Directorate to consider an asylum claim, CC retain responsibility for managing the person's detention and, as such, will continue to be responsible for managing the food and fluid refusal aspects of the case in line with this instruction.

Non - CC Detained Asylum Cases

89. The detention of non-CC cases, with outstanding asylum claims are managed by NRC London Asylum Team. The 'NRC London FFR Inbox' are notified by DET each day of a list of detainees refusing food and/or fluid cases, updated to include new cases and updating circumstances for existing cases. These notifications will be copied to the caseworkers and their line managers, with the overall food and fluid refusal special point of contact copied in to ensure action is taken. This log is also issued to the AD/grade 7 for NRC London Asylum Team.

NRC Third Country Unit (TCU)

90. The 'NRC Glasgow TCU Detained' Inbox is notified by DET each day of a list of detainees refusing food and/or fluid cases, updated to include new cases and updating circumstances for existing cases. These notifications will be copied to the caseworkers and their line managers, with the overall food and fluid refusal special point of contact copied in to ensure action is taken. This log is also issued to the AD/grade 7 for NRC Third Country Unit.

National Removals Command (NRC)

91. All other NRC casework hubs are notified by DET each day of detainees refusing food and/or fluid. The list includes new cases and updates on the circumstances of existing cases. Once received by the NRC hub these notifications will be copied to the relevant case worker and their line managers. In all NRC cases (including NRC London Asylum Team and NRC Third Country Unit) the AD/grade 7 for each NRC hub may also decide to add escalated cases to the NRC Risk Log to be discussed at the weekly performance management call. A high profile case summary should be drafted for these cases.

Those in immigration detention in prison

92. Foreign nationals detained in prison who are serving a custodial sentence and are refusing food and/or fluid are outside the scope of this instruction. Whilst individuals detained in prison under immigration powers who are refusing food and/or fluid are subject to the relevant Prison Service Instruction, the casework consideration arrangements set out in this instruction would nevertheless still apply to such cases (Casework consideration and escalation onwards refers).

93. The relevant prison establishment will inform DEPMU about the case of any detainee who refuses food and/or fluid whilst in immigration detention in prison. DEPMU will, in turn, inform the Criminal Casework caseworker responsible for the case or, where they are absent, the person covering their work during their absence, as well as the Detention Services FFR Management Inbox. These cases will follow the same process as other food and/or fluid refusal cases laid out in this instruction.

Caseworker action following notification of a case of food and/or fluid refusal

94. On receipt of notification that an individual is refusing food and/or fluid the caseworker must:

- immediately flag the case to business area or command AD for discussion
- update CID notes to indicate that the individual is refusing food and/or fluids:
 - CID notes must continue to be updated with relevant details whilst the individual continues to refuse food and/or fluids or if they resume eating and/or drinking
- consider whether any additional actions can be taken to expedite case progression
- undertake a prompt review of the individual's continued detention

95. Reviews must be undertaken when first notified and thereafter in line with existing detention review schedules. The case of a detainee who is refusing food and/or fluid must follow the normal pattern of detention reviews for the business area responsible. The schedule and required levels of authority for each area are set out in tables in section '55.8 Detention reviews' of Detention – general guidance.

96. Additional ad hoc detention reviews are also likely to be required. For example, if a medical assessment or independent medical evidence deeming a person unfit to be detained is received, or if there has been a noted deterioration in the detainee's health or mental well-being. All relevant factors must be considered before considering whether a release referral is necessary. If such ad hoc reviews take place, they are in addition to the normal scheduled reviews and not in place of those reviews. The review must be authorised by the relevant grade as set out in section '55.8 Detention reviews' of Detention – general guidance.
97. As part of the process of reviewing detention, caseworkers will receive regular updates from IRC healthcare through the local DET team at the relevant IRC. The case will be monitored and [BRAG rated](#) by IRC healthcare, with DET teams providing daily updates on **black** and **red** rated cases with a medical assessment where the individual is compliant and observations where the individual is non-compliant. Cases rated Amber and Green do not require daily updates and caseworkers must not request updates from healthcare outside of the standard reporting requirements set out in this DSO.

Role of the AD/grade 7

98. Although the normal expectation is that the [FFR tactical group](#) will inform decisions on the ongoing detention or tactical release planning of a detainee refusing food and/or fluid, to support this process the relevant AD/grade 7 must ensure they are fully aware of any food and/or fluid refusal cases in their command. They must ensure caseworkers complete the food and fluid refusal form comprehensively and quality assure it before submission to the [FFR tactical group](#).
99. Where an individual's detention has been reviewed, and urgent consideration of release has been deemed necessary but it has not been possible to consult the FFR tactical group because of time constraints, the relevant AD/G7 will be responsible for referring the case to the relevant Strategic Director for a decision, in line with guidance set out in Detention – general guidance.

The role of the Immigration Enforcement Food and Fluid Refusal (FFR) tactical group

100. The FFR tactical group is a multi-disciplinary team that meets on a weekly basis, or more frequently depending at the discretion of the group, to discuss food and/or fluid refusal cases that are Black or Red BRAG rated, or have referred to the group due to particular concerns about an individual refusing food and fluid. The group will only convene when there are such cases, but members should be available to attend in the event of case escalation.
101. The membership of the FFR tactical group consists of representatives from the relevant case working areas, the local IRC DET and Compliance teams, plus invited

representatives of IRC supplier staff. FFR tactical group meetings are chaired by representatives from the Detained Casework Oversight and Improvement Team, where this is not possible, a representative from the local DET will chair tactical meetings. It is likely that the attendance of IRC healthcare or doctors from those IRCs with individual cases being discussed in the group, will assist group discussion. IRC healthcare or doctors from those IRCs with individual cases being discussed are encouraged to attend tactical group meetings at least once per week, providing meetings are being held. This does not preclude consideration of individual cases outside of this group, as required by a detainee's particular circumstances. Not all cases will be considered by the FFR tactical group, which focuses on the most serious cases.

102. The following cases must be put forward for discussion, progression and tactical planning (where required) at the FFR tactical group meeting:

- rated **black** or **red** by the IRC (see [BRAG rating](#))
- rated as serious by the prison (given that the BRAG rating is not provided by the prison at this time)
- other cases not rated as **black**, **red** or serious at the relevant AD/G7's request if particular concerns arise, but not as a matter of routine

103. The FFR tactical group will:

- discuss each case and agree actions that can be taken to expedite removal
- consider if there is anything additional that could be done to expedite the case or manage it more effectively, including:
 - possible release plans (should release be considered appropriate or necessary)
 - any alternative options including proposals for re-detaining
- direct action that must be prioritised by the caseworker and the nominated point of contact before the next meeting of the tactical group, in particular in relation to expediting removal, as well as any tactical plan or liaising with family or others to identify and agree sureties for Chief Immigration Officer or Secretary of State bail
- identify strategic issues such as risk to business reputation, media interest and legal challenges which are relevant to any proposal to strategic directors
- record and communicate agreed actions to the caseworker by the attending nominated point of contact (usually an AD/grade 7) from their business area or command, agreed actions from the group must be recorded on the file and in the notes on CID
- determine if submission for consideration of release is required

104. In order to provide comprehensive advice and information to support the decisions of the FFR tactical group, the caseworker must consider closely information received about their flood and/or fluid refusal cases. As outlined in [Caseworker action following notification of a case of food and/or fluid refusal](#), where the medical assessment

template has been completed as comprehensively as circumstances allow (depending on the degree of cooperation by the detainee) and regular updates from the IRC have been received (either healthcare or DET team staff) it should not be necessary to request further information from IRC healthcare. On any occasion it is necessary to request further information from IRC healthcare this may only be provided when **the detainee has consented to this information being shared**. Only where there is a clear gap in the medical assessment may further enquiries be made through the local DET team in the relevant IRC. Further enquiries must not be made where there is no realistic likelihood of additional information being available, such as where the detainee is refusing to cooperate with medical examinations or observations.

105. Once a case has been raised with the FFR tactical group, it will continue to be discussed on a weekly basis, or more frequently at the discretion of the group, until the individual is either removed, released, has had the BRAG status downgraded or has resumed eating and/or drinking. The caseworker must continue to provide weekly updates to the meeting on the food and/or fluid refusal record form.

Possible release from detention of individuals refusing food and/or fluid

106. For guidance on the possible release from detention of those refusing food and/or fluid please see the Detention-General Guidance.

107. All cases which are BRAG rated as Red or Black must be notified to the Strategic Director of Casework and Returns using Part 1 (Case Notification) of the standard food and/or fluid refusal template form (Form I) to inform them in advance that a referral requesting authority for release from detention is likely to be forthcoming.

108. All cases in which release from detention is being proposed must be put to the Strategic Director of Casework and Returns for a decision using Part 2 (Release referral) of the same standard template form.

109. The Strategic Director of Casework and Returns is responsible for release decisions in all food and/fluid cases, irrespective of which business area is managing the case.

Weekly update of food and/or fluid refusal cases

110. Immigration Enforcement Detained Casework Oversight and Improvement Team will provide a weekly update on all food and/or fluid refusal cases across the IRC estate and within prisons to strategic directors and nominated points of contact within each business area by close of play every Monday. Where it is not possible to provide a weekly update on a Monday, the weekly update will be provided on the next possible working day. This will also include information on cases which have been released or granted bail during the previous week.

111. The weekly update must include the specific reasons and justification for deciding to maintain detention in cases rated **black** or **red** (see [BRAG rating](#)) in which IRC doctors have indicated that the person concerned is unfit to be detained in an IRC and which have not been referred to the Strategic Director.

Summary of casework process for food and/or fluid refusal cases

1. DET teams notifies caseworker of food and/or fluid refusal at 48 or 24 hour point (depending on whether they are refusing food or fluids or both).
2. On receipt of a notification that a detainee is refusing food and/or fluids the caseworker will review the individual's continued detention promptly. Assuming that the decision is taken to maintain detention, detention must continue to be reviewed regularly in line with published Home Office policy and additionally on an ad hoc basis, for example, in response to a deterioration in the individual's condition.
3. The caseworker continues to receive regular updates from the IRC and weekly updates from the Detained Casework Oversight and Improvement Team
4. **Black** and **red** rated cases (see [BRAG rating](#)), or any others causing concern, are discussed in Immigration Enforcement Food and Fluid Refusal tactical group meetings until food and/or fluid refusal BRAG rated is downgraded, the detainee is released or removal takes place.
5. **All** cases where release is being considered or proposed purely as a result of food and/or fluid refusal must be referred to strategic director (the Director of Casework and Returns) level for approval.

Forms

Form A1 – Supplier Daily escalation log

Form A2 – Healthcare Daily escalation log

Form B – Assessment record

Form C – Authority for release of medical information (consent form)

Form D – Interview record

Form E – Letter template

Form F – Model advance decision

Form G – Daily food and fluid refusal observation log

Form I- Case Notification and Release referral form