

DFT & DNSA – Intake Selection (AIU Instruction)

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Glossary

1. Introduction

1.1 Audience

This instruction provides guidance to the persons listed below:

- Referring officers (at ASU/LEO/port), responsible for identifying cases which may be suitable for Detained Fast Track (DFT) and Detained Non-Suspensive Appeals (DNSA) processes, and for referring such cases to the Asylum Intake Unit (AIU);
- Officers in the AIU, responsible for assessing the suitability of cases referred for Detained Fast Track (DFT) and Detained Non-Suspensive Appeals (DNSA) processes; for assessing relevant operational factors connected to the potential entry, and for selecting the cases for entry to the appropriate process.

1.2 Purpose

This instruction is strictly limited to AIU intake process and policy. The focus is on *which* cases are entered into DFT and DNSA processes, and the process for *how* such cases are entered.

1.3 Key Points

Entry to DFT/DNSA processes is determined by strict adherence to the policy outlined in this instruction, subject to operational considerations.

Referring officers must be aware that a case may meet the DFT/DNSA suitability policy, but may nonetheless be rejected for entry to DFT/DNSA by AIU because of prevailing operational considerations.

1.4 Standards

Officers performing either the identification or the assessing and selection roles (as described above) must be fully familiar with the entirety of UK Border Agency policy on DFT/DNSA selection, laid out in the Suitability Assessment section in this document. Officers must also be fully familiar with the process sections relevant to their responsibilities.

2. Policy

2.1 Suitability Criteria (Suitability Assessment)

UK Border Agency policy is that admission to and ongoing management of a case within DFT and DNSA processes is subject to a suitability assessment, which requires an examination of the applicant and case against “Suitability Inclusion Criteria” and “Suitability Exclusion Criteria” (detailed below).

If reliable information or evidence comes to be known indicating that an individual is not or is no longer suitable for DFT/DNSA processes, his referral to or ongoing management within that process will not be appropriate. There may however be other factors which mean that detention is/continues to be appropriate in respect of such an individual.

2.2 Suitability Inclusion Criteria

It is UK Border Agency policy that any asylum claim, whatever the nationality or country of origin of the claimant, may be considered suitable for DFT/DNSA processes where it appears, after screening (and absent of suitability exclusion factors), to be one where a *quick decision* may be made. This assessment must be made on a case by case basis.

There is no requirement that an application be late and opportunistic in order to be suitable for DFT/DNSA processes.

2.2.1 Quick Decisions – Indicative Timescales

There are *indicative* timescales for DFT/DNSA processes, and **in ordinary circumstances a quick decision would be one which can reasonably be expected to be made within these timescales.**

For DNSA cases, the time from entry to the process in the appropriate IRC to decision service will be around 10-14 days, whereas for DFT cases, the respective timescale will usually be significantly quicker.

Baroness Scotland of Asthal commented on decision timescales for all processes described as Detained Fast Track in a ministerial statement given on 16/09/04 ([WS129-WS131, Hansard](#)). The emphasis is that **the period in detention for the purpose of deciding the claim must be reasonable in all the circumstances.** This point is given added emphasis in the [Detained Fast Track Flexibility Document](#) (as drafted, applicable only to DFT timescales, but in principle generalisable).

The important principle is that any assessment of whether a quick decision is possible in a case must be made in light of all of the facts in a case. It would be wrong to apply the indicative timescales rigidly in isolation of other relevant information.

2.2.2 What is likely to be a Quick Decision?

There is a general presumption that the majority of asylum applications are ones on which a quick decision may be made, unless there is evidence to suggest otherwise.

2.2.3 What is not likely to be a Quick Decision?

As stated above, evidence may exist to suggest that a quick decision is not likely in a case. Cases where a quick decision *may* not be possible *may* include (but are not limited to):

- Cases where it is foreseeable that further enquiries (whether by the UK Border Agency or the applicant) are necessary to obtain clarificatory or corroborative

evidence, without which a fair and sustainable decision could not be made, where those enquiries cannot foreseeably be concluded to allow a decision to take place in the normal indicative timescales;

- Cases where it is foreseeable that translations are required in respect of documents presented by an applicant, without which a fair and sustainable decision could not be made, where the necessary translations cannot foreseeably be obtained to allow a decision to take place in the normal indicative timescales.

2.3 Suitability Exclusion Criteria

UK Border Agency policy is that certain individuals are unlikely to be suitable for entry or continued management in the DFT or DNSA processes. These persons are:

- Women who are 24 or more weeks pregnant;
- Family cases (families with at least one minor child, where that child is solely or principally dependent on the main applicant);
- Those who are unaccompanied asylum-seeking children, whose claimed date of birth is accepted by the UK Border Agency (see Age Dispute Cases section, below);
- Those with a medical condition requiring 24 hour nursing or medical intervention*;
- Those presenting with physical and/or learning disabilities requiring 24 hour nursing care*;
- Those with a disability, except the most easily manageable*;
- Those presenting with acute psychosis, e.g. schizophrenia, who require hospitalisation*;
- Those with an infectious/contagious disease which cannot be effectively and appropriately managed within a detained environment*;
- Those for whom there has been a reasonable grounds decision taken [and maintained] by a competent authority stating that the applicant is a potential victim of trafficking or where there has been a conclusive decision taken by a competent authority stating that the applicant is a victim of trafficking;
- Those in respect of whom there is independent evidence of torture.

** To be determined based upon the information available regarding the nature of the medical issue, and – in cases of doubt at the time of assessment - on reference to DEPMU, who will be able to ascertain capacity of the appropriate IRC to manage the specific issue.*

2.3.1 Age Dispute Cases

It is UK Border Agency policy that unaccompanied asylum-seeking children whose claimed date of birth is accepted by the UK Border Agency will not be suitable for DFT/DNSA processes. If however the claimed age is disputed by the Home Office, the case may be suitable.

Applicants claiming to be under the age of 18 should be accepted into and managed in DFT/DNSA processes only if one or more of the following descriptive criteria apply:

- Those for whom there is credible and clear documentary evidence that they are 18 years of age or over;

- Those in respect of whom Social Services provide written confirmation stating that a full “Merton-compliant” age assessment has been undertaken, which also states that the subject is 18 years of age or over. (Please note that assessments completed by Social Services Emergency Duty Teams are not acceptable evidence of age.);
- Those whose physical appearance/demeanour very strongly indicates that they are **significantly** over 18 years of age and no other credible evidence exists to the contrary.

3. Process: Assessing General Suitability for DFT/DNSA Processes (Port/LEO/ASU Actions)

When receiving asylum applications, the relevant officer (who may be an immigration officer, a non-warranted officer in an enforcement office, an officer in a screening unit, etc.) must perform an initial assessment of the suitability of the individual for DFT/DNSA processes, and refer suitable cases onward.

Actions:

- The applicant must be fully screened, according to the guidance notes on the screening form (ASL.3211), with follow-up questions asked to ascertain further detail as required;
- The applicant and his claim must be considered against all points in the Suitability Criteria by the referring officer (although no assessment must be made by referring officers as to whether a Quick Decision is possible). This assessment must be based on all information and evidence held on file and otherwise known about the applicant, whether from a written statement presented by the applicant/representative; documentary evidence presented by the applicant or his representative; statements made during the screening interview or previously, etc.;
- If the case clearly does not satisfy the Suitability Criteria, the referring officer must refer the applicant for routing under non-detained processes according to established procedures;
- If the case appears to satisfy the Suitability Criteria, or if the referring officer is unsure as to whether the case satisfies the Suitability Criteria, the referring officer must make an initial referral to the Asylum Intake Unit (AIU) by telephone, and clearly detail why the applicant is considered suitable, or what uncertainties are held as to suitability;
- If on the basis of the initial telephone referral the AIU are content that the case appears suitable for DFT/DNSA processes, the referring officer must formally refer the case, by faxing the screening interview record to AIU. If AIU ask for any other documents held to be faxed, referring officers must do this also;
- Where it is considered that a case meets the Age Dispute Cases section of the Suitability Criteria, the referring officer must at the time of the formal suitability referral, also fax to AIU forms Annex 3, BP7 and IS97M. The CIO signatory to the IS97M must have seen the age dispute subject him/herself. If the referral is dependent on a Merton-compliant age assessment having been completed, written confirmation from the local authority stating that a Merton compliant assessment has been conducted and that the individual is regarded as 18 or over must also be faxed to AIU. AIU will not accept an age dispute referral without this documentation;
- If AIU ask for further clarification on *any points at any stage*, the referring officer must undertake to answer those points, speaking again to the applicant if required and feasible, and speaking again and faxing documents to AIU where appropriate;
- Detention of someone confirmed for entry by AIU must follow standard detention procedures. Particular attention must be taken in completing form IS91R, where boxes "F" and "4" must be completed in every case (in addition to any other reasons for

detention which may apply to the specific case). If logistical issues are likely to result in a short delay before detention in the appropriate IRC can be affected, consideration must be given to the completion of a 24 hour detention review. Such arrangements are likely to be exceptional;

- If at any stage of the referral process the case is considered unsuitable for DFT/DNSA, the referring officer must refer the applicant for routing under non-detained processes according to established procedures.

4. Process: Assessing General Suitability for DFT/DNSA Processes (AIU Actions)

When AIU receive the details of the case (as described in Process: Assessing General Suitability for DFT/DNSA Processes (Port/LEO/ASU Actions), above), a formal assessment of the suitability of the case for DFT/DNSA processes must be conducted.

Actions:

- At each stage of the referral process, AIU must carefully consider the suitability of the case referral according to the Suitability Criteria and current Operational Considerations (detailed later in this instruction). All information and evidence held on file and otherwise known about the applicant and his claim must be considered in this assessment, and in the case of any doubt as to the appropriateness of the referral or the materiality or consequence of particular information or evidence, advice must be sought from DFT/DNSA senior caseworkers. (In practice, most cases where information and evidence extends beyond just the screening interview will need to be referred to DFT/DNSA senior caseworkers, particularly where there is a question as to a case's amenability to a quick decision.);
- AIU will receive an initial telephone referral from a referring area;
- AIU must complete the *DFT/DNSA Referral Sheet* for each referral, asking any clarificatory questions necessary to be satisfied that the relevant facts of the case are fully understood;
- If the subject appears to be suitable for DFT/DNSA processes on this initial assessment, the screening interview record must be requested by AIU from the referring officer, and used to complete the Suitability Assessment and the *DFT/DNSA Referral Sheet*;
- In age dispute cases, the referral must meet the Age Dispute Cases section of the Suitability Criteria, and AIU must ensure that the referring officer faxes Annex 3, BP7 and IS.97M. The CIO signatory to the IS.97M must have seen the age dispute subject himself. If the referral is dependent on a Merton-compliant age assessment having been completed, written confirmation from the local authority stating that a Merton compliant assessment has been conducted and that the individual is regarded as 18 or over must also be faxed to AIU. AIU must not accept an age dispute referral without this documentation;
- If any doubt remains as to suitability for the process, AIU must discuss the case with DFT/DNSA senior caseworkers and resolve those doubts. The final decision as to entry to DFT/DNSA processes rests with AIU;
- If the case referral does not satisfy the Suitability Criteria or a decision is taken to not enter the case into DFT/DNSA processes due to Operational Considerations, AIU must:
 - Update CID notes with a brief minute detailing why the case was not accepted into the process;
 - Inform the referring officer by telephone that the referral has been refused,

- giving reasons;
- Inform the referring officer to refer the applicant for routing under non-detained processes according to established procedures.
- If AIU are fully satisfied that the case referral satisfies the Suitability Criteria and Operational Considerations such that a decision is taken to enter the case into DFT/DNSA processes, AIU must:
 - Update CID notes with a brief minute confirming the suitability of the subject to the process. In most cases this may simply be a note to say that absent of information to the contrary, the case appears to be one on which a quick decision can be made, and which satisfies the other suitability criteria. In cases where there is information which might have an influence on the Suitability Assessment but where the case is on the facts nonetheless suitable (manageable health issues, translations to be obtained, etc.) this must be noted;
 - Inform the referring officer by telephone that the referral has been accepted;
 - Liaise with DEPMU regarding the individual's transport, and ensure that the individual is taken to the appropriate location;
 - Fax the *DFT/DNSA Referral Sheet* to the appropriate process duty office, to inform them of the intake.

5. Process: Operational Considerations (AIU Actions)

5.1 Definition and Background

Operational considerations are the factors in the operational environment within which UK Border Agency must ensure effective and fair processing of asylum claims, whilst limiting the opportunity for abuse of the asylum system.

There may be occasions when one operational consideration will be determinative as to whether or not it is right for a case satisfying the Suitability Criteria to enter DNSA/DFT processes, but on other occasions a balance of operational factors will determine entry. It is important therefore that consideration be given in the round to the applicability of all relevant factors when examining operational considerations.

5.2 Operational Considerations – In Detail

AIU must examine all relevant factors before making a decision that operational considerations merit the entry to DFT/DNSA processes of a case satisfying the Suitability Criteria.

Operational considerations will change over time, and according to the individual circumstances of the applicant and their claim. **Because of this, operational considerations cannot be definitively or exhaustively listed**, however some of the common considerations are listed below.

5.2.1 Optimum Use of Detention Space

Detention space is limited, and so detention resources must be used carefully to achieve the best outcome, according to the prevailing operational conditions and priorities.

Considerations relevant to optimising use of detention resources include:

- **Travel Documentation for Removal**

It is important to consider the means by which an individual, if unsuccessful in his application, may be removed.

The law and detention policy (including the [Enforcement Guidance, Chapter 55](#); the [written ministerial statement of 16/09/04](#); and the ECtHR case of [Saadi](#)) allows the UK Border Agency to detain for the purpose of examining an individual to decide his application for asylum under accelerated processes. Once a decision is made however, detention policy requires that removal be imminent. The decision may be regarded as including the time during which an individual has extant appeal rights (therefore DFT cases only in this respect). There is an operational priority consideration to follow this point, but the legal requirement to properly assess final removability in respect of detention must be stressed here.

A case where obtaining travel documentation is a lengthy process will generally be *operationally suitable* for DFT/DNSA processes only if there is another factor relevant to the case with higher operational priority.

To give correct weight to the availability of travel documentation in the overall consideration of operational considerations, an assessment must be made of the time expected to obtain a travel document, based upon the subject's specific circumstances and any documents he holds. This assessment does not prejudice the outcome of the

decision, but does enable better planning of onward resource use in the event that the application is later refused.

- **Operational Experience**

If operational experience identifies certain case types which are at a particular time being judged to be unsuitable for the process, despite having been found suitable at the time of entry, it may be appropriate for such cases to be avoided as an operational consideration in the short term. Any pattern emerging in the longer term might need to be reflected in the suitability criteria.

Any patterns in this regard will be notified by the operational lead.

- **Legal Bars to Removal**

From time to time, enforced removals to particular countries are suspended, such as when a key piece of country guidance caselaw is awaited. An individual from such a country (or someone liable to removal to such a country) could quite conceivably be suitable for the DFT/DNSA processes as far as satisfying the Suitability Criteria, but their *operational suitability* may depend upon the weight given to other factors, in the round.

5.2.2 Security Considerations

The detention estate needs to be maintained at a secure and calm level. This means that from time to time one or more IRC's may require certain detainee profiles be avoided, in order to avoid the presence of that profile or a concentration of that profile in a given area. The operational priority due will be made clear in each situation.

5.2.3 Profile Targeting

Situations may arise where particular applicant profiles are *prioritised* for DFT/DNSA processes. The operational priority due will be made clear in each situation.

The use of harm reduction assessments may also be factors important to profile targeting as an operational consideration. Any particular considerations to take in this regard will be notified by the operational lead.

6. Process: DFT or DNSA? (AIU Actions)

6.1 Determining Whether a Case is Routed to the DNSA or DFT Process

AIU must determine whether a case should be routed to either the DNSA or DFT process, based upon the factors outlined below.

6.1.1 Routing to DNSA

A case may enter the DNSA process provided it satisfies the following conditions:

- It satisfies the Suitability Criteria;
- It satisfies Operational Considerations;
- The applicant is from an “NSA country” (see [Certification under section 94 of the NIA Act 2002](#) for details of the NSA process, and a list of countries to which section 94(3) of the 2002 Act applies);
- There is sufficient administrative capacity within the appropriate DFT unit (case owners, etc.);
- There is capacity within the appropriate DNSA process detention ringfence.

6.1.2 Routing to DFT

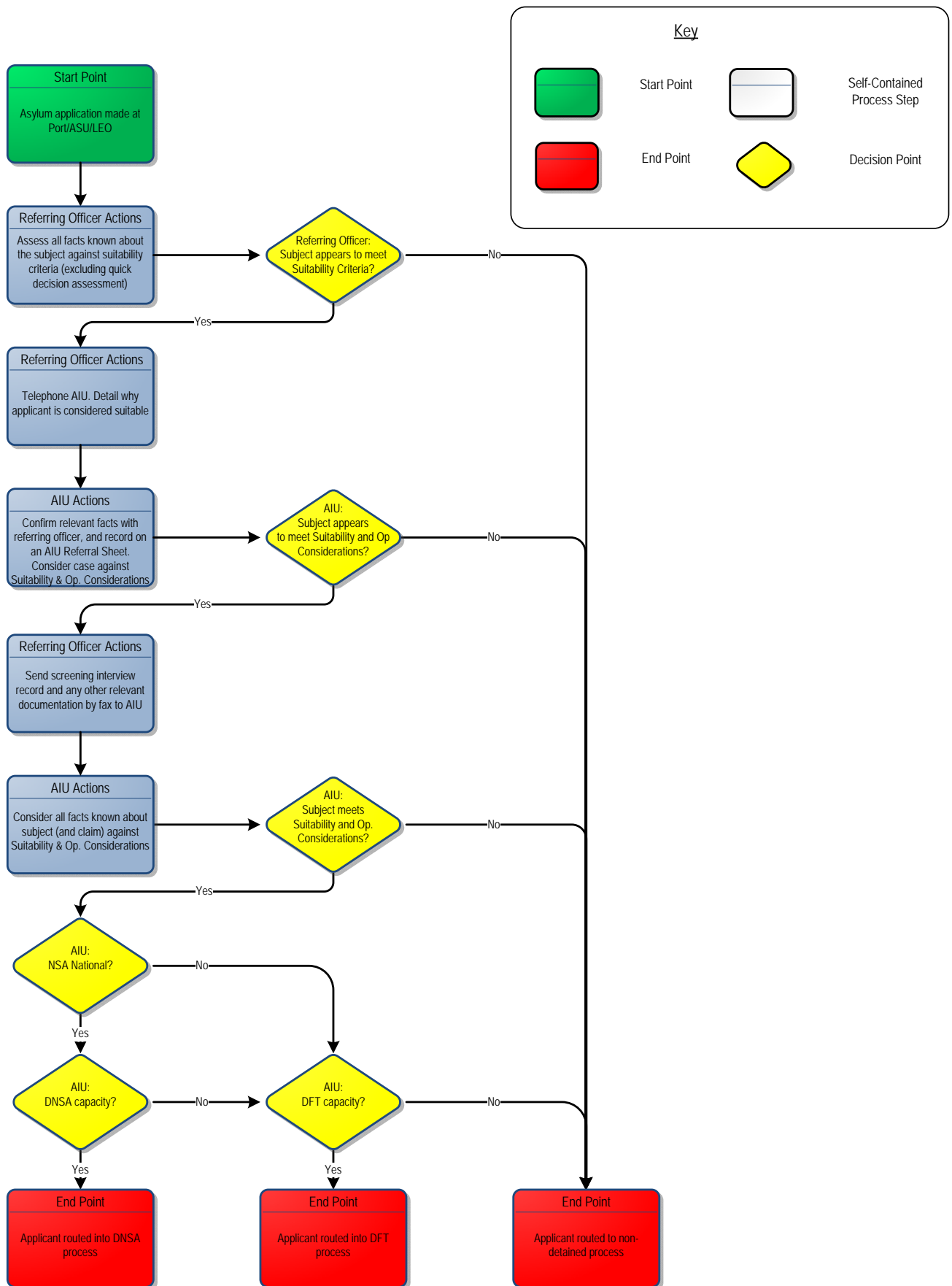
A case may enter the DFT process provided it satisfies the following conditions:

- It satisfies the Suitability Criteria;
- It satisfies Operational Considerations;
- There is sufficient administrative capacity within the appropriate DFT unit (case owners, etc.);
- There is capacity within the appropriate DFT process detention ringfence.

6.2 Priority to DNSA Cases

The Secretary of State is required by [section 94\(3\) of the 2002 Act](#) to certify any asylum or human rights application made by someone entitled to reside in an “NSA country”, unless satisfied that the application is not clearly unfounded. Consequently, a case suitable for both processes **must** be processed as a DNSA case in the first instance.

Annex A - DFT and DNSA Intake Selection Process Map



Glossary

| Term | Meaning |
|-------------------------|--|
| AIU | <p>Asylum Intake Unit Unit based at Bedford Technology Park, near IRC Yarl's Wood, Bedford, Bedfordshire. Responsible for assessing case suitability for DFT and DNSA processes at the time of referral.</p> <p>Opening times 8a.m. – 8p.m. Monday to Friday 10a.m. – 5p.m. Weekends</p> |
| Annex 3 | <p>Age Dispute Referral Form for DFT/Oakington Processes A checklist for referring officers to complete to ensure and document to AIU that appropriate checks have been made when referring age disputed adults to DFT/DNSA.</p> |
| BP7 | <p>Screening Officer's Report: Disputed Age Contention Checklist for referring officers to complete to ensure and document to AIU and file that appropriate checks have been made when referring age disputed adults to DFT/DNSA.</p> |
| Campsfield House | <p>IRC in Kidlington, Oxfordshire One of the IRCs where Detained Fast Track males may be detained.</p> |
| Colnbrook | <p>IRC in West Drayton, near Heathrow, West London One of the IRCs where Detained Fast Track males may be detained.</p> |
| DEPMU | <p>Detainee Escorting and Population Management Unit DEPMU is the principal detention co-ordinator in the detention estate. It has the responsibility to support the detention estate and the ring-fenced bed system through the effective use of bed space and the efficient management of accommodation and escorting bookings.</p> |
| DFT | <p>Detained Fast Track The processes running mainly at IRC Harmondsworth and IRC Yarl's Wood, whereby suitable asylum applicants are detained while a decision is taken on their case, and where – if refused asylum – they will have an in country right of appeal.</p> <p>“Detained Fast Track Processes”, “Fast Track” and “Detained Fast Track” are terms also used to describe the general processes including both Detained Fast Track (as above) and DNSA.</p> |
| DNSA | <p>Detained Non-Suspensive Appeals The processes running at IRC Oakington, IRC Harmondsworth and IRC Yarl's Wood, whereby asylum applicants are detained while a decision is taken on their case, and where – if refused asylum with a certificate under Section 94 of the 2002 Act – they will not have an in country right of appeal.</p> |
| Harmondsworth | <p>IRC in West Drayton, near Heathrow Main IRC for male Detained Fast Track, where increasing numbers of DNSA cases are processed.</p> <p>Opening times 8am – 8pm Monday to Friday 10am – 5pm on weekends</p> |
| IS.97M | <p>Age Dispute Letter Doc Gen letter, issued to asylum applicants claiming to be</p> |

| | |
|-------------------------|---|
| | minors but believed to be and treated as an adult. |
| IRC | Immigration Removal Centre Detention facilities used by the UK Border Agency, either directly managed or operated under contract with the UK Border Agency. (Previously and colloquially still called detention centres, but renamed IRCs by Section 66 of the 2002 Act.) |
| Merton Compliant | Merton Compliant Age Assessment An assessment by a local authority of the age of an asylum seeker claiming to be under the age of 18 years that complies with guidance as to the requirements of a lawful assessment, handed down <u>The Queen on the application of B v London Borough of Merton [2003] EWHC 1689 (Admin) (14th July 2003).</u> |
| NSA | Non-Suspensive Appeals The processes whereby asylum applicants – if refused asylum with a certificate under Section 94 of the 2002 Act – will not have an in country right of appeal. |
| Oakington | IRC in Longstanton, Cambridgeshire IRC where decreasing numbers of male DNSA cases are processed. |
| Yarl's Wood | IRC near Bedford, Bedfordshire Main IRC for female Detained Fast Track and female DNSA. Opening times 8am – 8pm Monday to Friday During weekends advice can be sought from Harmondsworth. |

Document Control

Change Record

| Version | Authors | Date | Change Reference |
|---------|---------|------------|------------------|
| 1.0 | MK | | |
| 2.0 | BN | 15/04/2009 | Minor amendment |